

# **ROOSEVELT COUNTY**

## **Subdivision Regulations**

**ORDINANCE # 97 - 2**

**ADOPTED**

**June 16, 1997**

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## **ARTICLE 1. GENERAL PROVISIONS**

### **Section 1.1. Title**

**This ordinance shall be known and may be cited as the Roosevelt County Subdivision Regulations" and shall be referred to elsewhere herein as "these Regulations."**

### **Section 1.2. Authority**

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

### **Section 1.3. Purpose**

**These Regulations are adopted to guide development in the unincorporated areas within Roosevelt County for the following purposes to:**

- A. Provide for and protect the public health, safety, and general welfare of the County.**
- B. Guide the future growth and development of the County.**
- C. Provide for adequate light, air, and privacy; to promote safety from fire, flood, and other danger.**
- D. Establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.**
- E. To provide basic infrastructure, maintain and protect the County's resources, provide community facilities and services, promote economic development and employment opportunities, encourage affordable housing and a variety of housing types; and improve inter-governmental relations.**

### **Section 1.4. Jurisdiction**

**These Regulations shall govern all subdivision of land within the County but not within the boundaries of municipalities. The County and a municipality shall exercise concurrent jurisdiction over the extraterritorial subdivision and platting jurisdiction of the municipality.**

### **Section 1.5. Written Decisions**

**Whenever the Board of County Commissioners, the County Planning Board or County Manager is required by these Regulations to make a decision, the decision shall be in writing and supported by findings of fact and conclusions of law which are sufficient for meaningful review.**

### **Section 1.6. Interpretation**

**The provisions of these Regulations are held to be minimum requirements. Whenever any provisions of these Regulations conflict with other laws, rules, regulations, or ordinances, the more restrictive shall govern. These Regulations shall be construed broadly to promote the purposes for which they were adopted. The County Manager or his designee shall interpret the meaning of the provisions of these Regulations. Disagreement with an interpretation may be appealed to the County Planning Board. The Board's decision may be appealed to the Board of County Commissioners. The Board of County Commissioners' decision may be appealed to District Court.**

### Section 1.7. Grandfather Clause

All subdivisions previously approved by the Board of County Commissioners or which have a completed application and all fees paid prior to June 30, 1997, shall not be subject to the provisions of this ordinance, but are subject to the provisions of the previous decision of the Board of County Commissioners, prior statute, case law, or previously applicable subdivision ordinance.

However, any further lots added to the approved subdivision and any further splits of existing lots within the approved subdivision will be governed by the terms and conditions of these Regulations.

### Section 1.8. County Planning Board Created

There is hereby created, pursuant to law, a planning board to be known and designated as the Roosevelt County Planning Board.

- 1.8.1 **Composition.** The Roosevelt County Planning Board shall consist of five (5) members.
- 1.8.2 **Appointment.** The members of the Roosevelt County Planning Board shall be appointed by the Roosevelt County Board of Commissioners.
- 1.8.3 **Terms.** Three (3) of the members of the planning board shall be appointed for one (1) year terms and two (2) of the members shall be appointed for two (2) year terms. Each subsequent term of a member on the planning board shall be for two (2) years or less in order to maintain the original staggering of terms of membership.
- 1.8.4 **Filling Vacancies.** A vacancy occurring in the membership of the planning board shall be filled for the remainder of the unexpired term.
- 1.8.5 **Ex Officio Members.** Administrative officials of the county may be appointed by the Board of Commission as ex officio, nonvoting members of the planning board. Ex officio members of the planning board shall serve for terms of one year each.
- 1.8.6 **Powers, duties generally.** The planning board shall have all of the power, authority, jurisdiction and duty conferred or permitted to be conferred by law and such other power, authority, jurisdiction and duty as may be conferred by the laws of the state or the ordinances of the county.

**ARTICLE 2. DEFINITIONS:**

<b>absorption field</b>	<b>A subsurface area used for the purpose of distributing the effluent discharged from a tank used as a part of an individual liquid waste disposal system for absorption into the soil.</b>
<b>aerobic disposal system</b>	<b>A tank where air is introduced to liquid waste by mechanical means, together with a means of effluent disposal.</b>
<b>applicant</b>	<b>The owner of land proposed to be subdivided or their representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the land to be subdivided.</b>
<b>arroyo</b>	<b>A dry wash or draw that flows only occasionally</b>
<b>Board</b>	<b>The Board of County Commissioners of Roosevelt County or its designee.</b>
<b>body of water</b>	<b>All water situated wholly or partly within or bordering upon this State, whether surface or subsurface, public or private.</b>
<b>community sewerage system</b>	<b>A community sewer system including collection and treatment facilities constructed to serve a subdivision.</b>
<b>community water system</b>	<b>Any existing or proposed water supply system which consists of common storage and/or distribution facilities operated for the delivery of water to multiple service connections.</b>
<b>common promotional plan</b>	<b>Any plan or scheme of operation, undertaken by a single subdivider or a group of subdividers acting in concert, to offer for sale or lease parcels of land where such land is either 1) contiguous to or part of the same area of land or 2) is known, designated or advertised as a common unit or by a common name.</b>
<b>community liquid waste system</b>	<b>A liquid waste system which serves more than one household or residence and receives a design flow of more than two thousand (2,000) gallons of liquid waste per day.</b>
<b>condominium</b>	<b>Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.</b>
<b>contiguous</b>	<b>Lots are contiguous when at least one boundary line or one lot touches a boundary line or lines of another lot. Refers to adjacent parcels sharing a boundary line or separated only by a local or collector road, right-of-way or easement.</b>

<b>County County Clerk</b>	<b>County of Roosevelt. The elected Clerk of the County or the Clerk's authorized representative.</b>
<b>County Manager or his designee</b>	<b>The Person responsible for administering these Regulations</b>
<b>design criteria</b>	<b>Standards that set forth specific improvement requirements.</b>
<b>developer</b>	<b>Any person creating, or having created, a subdivision individually or as part of a common promotional plan, or any person engaged in the sale or lease of subdivided land which is being sold or leased by the owner in the ordinary course of business; however, developer does not include any duly licensed real estate broker or salesperson not acting on personal account.</b>
<b>disclosure statement</b>	<b>Statement required to be given to persons acquiring an interest in subdivided land; this statement complies with the requirement of §47-6-17 NMSA 1978.</b>
<b>drainage channel</b>	<b>Any depression into which storm water flows along a defined course.</b>
<b>double penetration asphalt paving</b>	<b>A two layer surface treatment consisting of crushed and screened gravel, rock, or selected material with bituminous material as specified in Section 334 of the New Mexico Standard Specifications for Public Works Construction 1987 Edition.</b>
<b>dwelling unit</b>	<b>Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation for not more than one family.</b>
<b>easement</b>	<b>A property owner's grant of specific purpose use or uses on that owner's land which does not abridge the right of the fee owner to the use and enjoyment of that land. An easement may be for use by the general public, a corporation or a certain person or persons.</b>
<b>engineer</b>	<b>A person who is engaged in the practice of engineering and is qualified to so practice as attested by a legal registration as a Professional Engineer in the State of New Mexico.</b>
<b>engineering interpretation</b>	<b>The evaluation of properties that might affect intended uses.</b>
<b>erosion</b>	<b>Soil movement due to wind or water;</b>
<b>erosion control structure</b>	<b>Any man-made device preventing or controlling erosion.</b>
<b>final plat</b>	<b>A survey plat prepared by a Professional Surveyor licensed to practice in the State of New Mexico which contains a description of the subdivided land with ties to permanent monuments prepared in a form suitable for filing of record, meeting the requirements of this ordinance.</b>



<b>floodway</b>	<b>Any area which will be flooded by high water from a 25-year frequency storm.</b>
<b>flood fringe</b>	<b>Any area which will be flooded by high water from a 50-year frequency storm.</b>
<b>flood plain</b>	<b>Any area susceptible to inundation by water from a 100 year storm or any flood map prepared by the Federal Emergency Management Agency or any other state or federal agency.</b>
<b>immediate family member</b>	<b>Husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew and niece, whether related by natural birth or adoption, as defined in Section 47-6-2, NMSA.</b>
<b>improvements</b>	<b>Includes infrastructure such as streets, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, bike paths, trails, water, sewer, electric, telephone, cable and gas systems or parts thereof.</b>
<b>individual liquid waste disposal system</b>	<b>A disposal system which receives waste from one parcel or lot and includes, but is not limited to, septic tank systems and aerobic disposal systems.</b>
<b>lease</b>	<b>A contract by which one conveys lands, or tenements for life, for a term of years, or at will or for any less interest than that of the lessor, usually for a specified rent or compensation</b>
<b>lessee</b>	<b>A tenant, or any person to whom land is leased.</b>
<b>lessor</b>	<b>A landlord, or any person who leases land to another.</b>
<b>liquid waste</b>	<b>Domestic wastewater containing human excreta or other water-carried waste.</b>
<b>lot</b>	<b>See definition of parcel.</b>
<b>master plan</b>	<b>That portion of a preliminary plat submitted in connection with a multi phase or phased subdivision application which provides the information and graphics meeting the requirements of this ordinance for the purpose of implementing an integrated development scheme for all phases of the proposed subdivision over a period of years.</b>
<b>may</b>	<b>When a requirement in these Regulations uses the word "may" instead of "shall", the requirement will be necessary only if directed by the County Planning Board or the Board of County Commissioners.</b>
<b>off-site</b>	<b>Any premises not located within the boundaries of the property to be subdivided, whether or not in the ownership of the applicant for subdivision approval.</b>

<b>open range</b>	<b>Any unfenced rangeland that is currently used or could potentially be used for the grazing of livestock.</b>
<b>owner</b>	<b>Any person or successor in interest having a legal or equitable interest in a given property.</b>
<b>parcel</b>	<b>Unit of land capable of being described by location and boundaries and not dedicated for public or common use.</b>
<b>pavement structure</b>	<b>The combination of sub-base and/or base course and surface courses placed on a sub-grade to support and distribute traffic loads.</b>
<b>person</b>	<b>Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity.</b>
<b>phase</b>	<b>Refers to a portion of a multi-unit subdivision which is intended to be developed as a unit.</b>
<b>Planning Board</b>	<b>The officially appointed County Planning Board of Roosevelt County, New Mexico.</b>
<b>plat</b>	<b>A scaled drawing, developed from a survey performed by a licensed surveyor in the State of New Mexico, meeting the requirements of the Surveyors Practice Act, and the “Minimum Standards for Surveying in New Mexico”.</b>
<b>potable ground water</b>	<b>Water, contained in sub-surface strata, which meets the drinking water quality standards of the New Mexico Environment Department.</b>
<b>preliminary plat</b>	<b>Map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it; the map which must be based upon an accurate and detailed survey of the land.</b>
<b>public hearing</b>	<b>An proceeding held by the Board of County Commissioners or the County Planning Board preceded by notice at which time applicants and other members of the public may be heard on matters listed on the Board’s agenda.</b>
<b>purchaser</b>	<b>Any person who buys land within a subdivision.</b>
<b>right-of-way (dedicated)</b>	<b>Land deeded, reserved by plat or otherwise acquired by the County, which is dedicated to the public for use as a road or drainage channel or other public use.</b>
<b>roadway</b>	<b>That portion of the street right of way available for vehicular traffic.</b>
<b>sell</b>	<b>To give up property to another for money or any other valuable consideration and to hand over or transfer title to.</b>

<b>septic tank system</b>	<b>A tank and attached absorption field which is designed and constructed to separate solids from liquids in the effluents from a lot or lots, and which is designed to digest organic matter through anaerobic processes, and disperse the liquid excess into the soil.</b>
<b>shall</b>	<b>The word "shall" is mandatory and not permissive.</b>
<b>sketch plan</b>	<b>A map showing proposed street layout, lots, drainage structures, arroyos, and land proposed for public use, with estimated dimensions. A sketch plan shall include a general vicinity map showing the location of the proposed subdivision with reference to existing roadways, municipalities, and other landmarks.</b>
<b>solid waste</b>	<b>Any solid or semi-solid discarded material which results from household, commercial, industrial, or other operations which is not waterborne in a sewage system.</b>
<b>street</b>	<b>A public way which affords the principal means of access from a lot, parcel, or area of land to other lots, parcels, or areas of land, and which has been dedicated or reserved by plat. A street may be maintained by the County, or may be privately maintained.</b>
<b>street grade</b>	<b>The slope of a road, street or other public way specified in percentage terms.</b>
<b>substantial completion/ compliance</b>	<b>A certification by the County that work within a subdivision is sufficiently completed in accordance with plans and specifications so that it can be used for the purposes for which it is intended.</b>
<b>surveyor</b>	<b>A person who is engaged in the practice of surveying and is qualified to so practice as attested by legal registration as a professional surveyor in the State of New Mexico.</b>
<b>subdivide</b>	<b>To divide a surface area of land into a subdivision.</b>
<b>subdivider</b>	<b>Any person/agent 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</b>
<b>subdivision</b>	<p><b>Division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease, or other conveyance; or for building development, whether immediate or future; however, "subdivision" does not include:</b></p> <ol style="list-style-type: none"> <li><b>1) 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</b></li> </ol>

continuously for agricultural purposes, in accordance with §7-36-20 NMSA 1978, for the preceding three (3) years;

- 2) sale or lease of apartments, offices, stores or similar space within a building;
- 3) division of land within the boundaries of a municipality;
- 4) division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;
- 5) division of land created by court order where the order creates no more than one parcel per party;
- 6) division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities;
- 7) 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) division of land to create burial plots in a cemetery;
- 9) 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) 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) sale, lease, or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres;
- 12) 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) 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.

**terrain management**

Control of floods, drainage and erosion, and measures necessary to adapt proposed development to existing soil characteristics and topography.

**time of purchase, lease or other conveyance**

Time of signing any document obligating the person signing the document to purchase, lease, or otherwise acquire a legal interest in land.

**tract**

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

**triple penetration asphalt paving**

A three layer surface treatment consisting of crushed and screened gravel, rock, or selected material with bituminous material as specified in Section 334 of the New Mexico Standard Specifications for Public Works Construction 1987 Edition.

**Type One subdivision**

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

**Type Two subdivision**

Any subdivision containing twenty-five (25) or more, but not more than four hundred ninety-nine (499) parcels, any one of which is less than ten (10) acres in size.

**Type Three A subdivision**

Any subdivision containing not more than four (4) parcels any one of which is less than ten (10) acres in size.

**Type Three B subdivision**

Any subdivision containing five (5) parcels or more, but not more than twenty four (24) parcels, any one of which is less than ten (10) acres in size.

**Type Four subdivision**

Any subdivision containing twenty-five (25) or more parcels, each of which is ten acres (10) or more in size.

**Type Five subdivision**

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 A	2 to 4	Less than 10 acres

<b>Three B</b>	<b>5 to 24</b>	<b>Less than 10 acres</b>
<b>Four</b>	<b>25 or more</b>	<b>10 acres or more</b>
<b>Five</b>	<b>2 to 24</b>	<b>10 acres or more</b>

<b>unit</b>	<b>A distinct subdivision identified as a component of a master plan.</b>
<b>vacation</b>	<b>The act of rescinding (canceling) all or part of a recorded subdivision plat, including legal descriptions and grants of easements.</b>
<b>variance</b>	<b>Deviation from these regulations approved by the county Planning Board and the Board of County Commissioners.</b>
<b>vicinity map</b>	<b>A map used to locate the subdivision showing relationship to existing roadways, municipalities and other landmarks.</b>
<b>water control structure</b>	<b>Any device for containing or channeling water.</b>
<b>watercourse</b>	<b>Any river, arroyo, creek, stream or other channel having definite banks and evidencing the regular or occasional flow of water.</b>
<b>water supply system</b>	<b>A system to provide potable water for domestic or commercial use.</b>

**ARTICLE 3. PRE-APPLICATION PROCESS (OPTIONAL)**

**Section 3.1. Pre-Application Procedure**

- 3.1.1. Conference. For the purpose of expediting applications and reducing subdivision design and development costs, a subdivider may 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 6 of these Regulations may begin with a pre-application conference.**
- 3.1.3. Scheduling. At the request of the subdivider, the County Manager shall schedule a pre-application conference in order for the subdivider to meet with appropriate County representatives 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 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 Plan.** A sketch plan may 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 plan and location map, the subdivider may provide the following information:
- A. Name and mailing address of the subdivider and designated agent, if any.
  - B. Name of owner or owners of land to be subdivided.
  - C. Property tax code and accompanying "Jacob's" map from the Roosevelt County Assessor's Office.
  - D. A description of surrounding land uses.
  - E. Accessibility of site to roads and utilities.

## **ARTICLE 4. PRELIMINARY PLAT REVIEW PROCESS**

### **Section 4.1. Preliminary Plat Submittal**

- 4.1.1. **Preliminary Plat Required.** Preliminary plats shall be submitted for Type One, Type Two, Type Three B, and Type Four subdivisions. Type Three A and all Type Five subdivisions are subject to review under the summary procedure set forth in Article 6 of these Regulations.
- 4.1.2. **Application/Fees.** A subdivider shall prepare a preliminary plat and supporting documentation in accordance with the requirements provided in these Regulations. Preliminary plat submittal is initiated by completing an application on a prescribed form available from the County Manager, and upon payment of the required administrative fees.
- 4.1.3. **Plat Deemed Complete.** On receipt of the application, fees, preliminary 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 preliminary plat is deemed complete for review by written notice to the subdivider within thirty (30) working days after the date of application. If the preliminary plat is incomplete or does not comply with the submittal requirements provided herein, the subdivider shall be notified and be given time to correct the deficiencies and return the preliminary plat for consideration. If the additional information is not received by the County within sixty (60) days of the date of the notification, resubmittal of a new

**application accompanied by a entirely new subdivision package will be required.**

**Section 4.2. Agency Review**

**4.2.1. Plat Transmittals. Within ten (10) working days after the date that the preliminary plat is deemed complete, the County Manager shall forward a copy of the preliminary plat and supporting documentation to the following state and local agencies by certified mail "return receipt requested" with a request for review and opinions:**

- A. New Mexico State Engineer Office, to determine:
  - (1) whether the subdivider can furnish sufficient water quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses; and
  - (2) whether the subdivider can fulfill the proposal in his/her disclosure statement concerning water, excepting water quality.
  
- B. New Mexico Environment Department, to determine: (1) whether the subdivider can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations promulgated pursuant to the Environmental Improvement Act (74-1-1 to 74-1-10 NMSA 1978); (2) whether there are sufficient liquid and solid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations promulgated pursuant to the Environmental Improvement Act, the Water Quality Act (Section 74-1-6 NMSA 1978) and the Solid Waste Act (Section 74-9-1 NMSA 1978); and (3) whether the subdivider can fulfill the proposals contained in the disclosure statement concerning water quality and concerning liquid and solid waste disposal facilities.
  
- C. New Mexico Highway and Transportation Department, to determine whether the subdivider can fulfill state highway access requirements in conformity with state regulations promulgated pursuant to Section 67-3-16 NMSA 1978.
  
- D. Soil and Water Conservation District in which the proposed subdivision is located, to determine: (1) whether the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage and erosion; and (2) whether the subdivider can fulfill the proposals contained in the disclosure statement concerning terrain management.
  
- E. Any other public agencies the county considers necessary to determine whether there are adequate facilities to accommodate the proposed subdivision.



- 4.2.2. 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.
- 4.2.3. Hearing Deadlines. If the opinions received from all agencies are favorable, the County shall schedule a public hearing for consideration and action on the preliminary plat within thirty (30) days following the receipt of such favorable opinion. If the County does not receive a requested opinion within the specified thirty (30) days, it shall proceed with the required public hearing.
- 4.2.4. Adverse Opinion. If any opinion from a public agency is adverse, the reason for the denial shall cite the law or regulation for the basis of denial, and shall state why and/or how the proposal does not comply with the regulation. 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.
- 4.2.5. Revised Opinion. The County staff 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.

#### Section 4.3. Public Hearings on Preliminary Plats

- 4.3.1. Scheduling. The County Planning Board shall conduct a public hearing after receipt of all requested opinions, either favorable or revised, within the time periods specified in these Regulations. 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 before the County Planning Board 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.
  - 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 by first class mail 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.
  - D. Owners of property contiguous to the 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 after the public hearing by the County Planning Board, the Board of County Commissioners shall approve, approve with conditions, or disapprove the preliminary plat at a public meeting. 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 preliminary plat, 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 twelve (12) months, for a total of thirty (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. Preliminary Plat Data Requirements

- 4.5.1. Purpose. At a minimum, the supporting documentation required for the preliminary plat review is intended to provide sufficient information for the County Planning Board and the Board of County Commissioners to determine that:
- A. Water quantity is sufficient to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses.
  - B. Water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination.
  - C. There is a means of liquid waste disposal for the subdivision.
  - D. There is a means of solid waste disposal for the subdivision.
  - E. There are satisfactory roads to each parcel, including entry and exit for emergency vehicles, and there are appropriate utility easements to each parcel.
  - F. Terrain management protects against flooding, inadequate drainage, and erosion.
  - G. There are protections for cultural properties, archaeological sites and unmarked burials that may be directly affected by the subdivision, as required by the Cultural Properties Act.
  - H. The subdivider can fulfill the proposals contained in the disclosure statement for the subdivision.
  - I. The subdivision will conform with the New Mexico Subdivision Act and these Regulations.
- 4.5.2. Minimum Documentation. Supporting documentation, as a minimum, shall include:
- A. Water supply plan including water quantity demand, conservation, water quality, and fire protection components.
  - B. Liquid waste disposal plan.
  - C. Solid waste disposal plan.
  - D. Documentation of legal status, and general description of condition of the accessibility of site to roads and utilities.
  - E. Terrain management plan.
  - F. Cultural properties protection.
  - G. Disclosure statement.
- 4.5.3. Application Specifications. The subdivider shall submit ten (10) copies of the preliminary plat and supporting documentation for review and distribution to public agencies. Preliminary plat maps shall be prepared at a scale of three-hundred (300) feet to one (1) inch or larger, and printed on sheets no larger than eighteen by twenty-four (18 x 24) inches. Sheets shall be numbered in sequence if more than one sheet is used.
- 4.5.4. Map Specifications. At a minimum the preliminary plat map shall show the following elements.

- A. The name of the subdivision, scale, north arrow, and date;
- B. Existing topography and any regrading plans, indicating contour intervals sufficient for planning purposes;
- C. Existing and proposed boundary lines, in bearings and distances, for the subdivision;
- D. Proposed lot lines, with lot and block numbers, and approximate acreage of each lot;
- E. The location, dimensions, and purpose of existing and proposed easements;
- F. Names and right-of-way widths of existing and proposed streets on and adjacent to the subdivision;
- G. Existing and proposed utilities on and adjacent to the site;
- H. Locations, dimensions, and purpose of any land to be dedicated to the public use, including any improvements to be made to that land;
- I. Area map showing relation to highways, roads, existing commercial areas, and cities, towns, or villages within a three (3) mile radius. The area map shall also show the record owner of the adjoining tracts of land, except in cases where it joins another subdivision, then the name of the adjoining subdivision;
- J. Location of archaeological, historical, or culturally significant features on the site;
- K. Delineation, if applicable, of any 100-year flood plain ;
- L. Names and addresses of the owner or owners of land to be subdivided, the subdivider if other than the owner, and the land surveyor; and
- M. Legal description indicating the range, township, and section within which the subdivision is located.

**4.5.5. Phased Subdivisions.** Subdivisions which are proposed to be phased and filed in multiple final plats shall include an anticipated phasing schedule for the final plats and a schedule of improvements.

**4.5.6. Disclosure Statement.** The preliminary plat shall be accompanied by a draft disclosure statement in accordance with the standardized format provided in the Appendix of these Regulations. A disclosure statement shall be required for all subdivisions. The purpose of the disclosure statement is to permit the prospective purchaser, lessee, or other person acquiring an interest in subdivided land to make an informed decision about the purchase, lease, or other conveyance of the land.

## **ARTICLE 5. FINAL PLAT REVIEW PROCESS**

### **Section 5.1. Final Plat Submittal**

**5.1.1. Conformity.** Following approval or conditional approval of a preliminary plat, and before the expiration of the plat, the subdivider shall prepare a final plat in substantial conformity with the approved or conditionally approved preliminary plat.

- 5.1.2. **Application/Fees.** A subdivider shall prepare a final plat and supporting documentation in accordance with the requirements provided in these Regulations. Final plat submittal is initiated by completing an application on a prescribed form available from the County Manager, and upon payment of the required administrative fee.
- 5.1.3. **Plat Deemed Complete.** The County Manager shall review all materials in order to determine whether the final plat is complete. If there are no deficiencies, the final plat will be deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. If the final plat is incomplete or does not comply with the submittal requirements provided herein, the subdivider shall be notified and will be given time to correct the deficiencies and return the final plat for consideration. Subject to the preliminary plat expiration requirements of Article 4, Section 4.1 of these Regulations, if the resubmittal is not received by the County within six months of the date of the notification, a new application and new final plat submittal package will be required.

#### **Section 5.2. Decision on Final Plat**

- 5.2.1. **Action.** Final plats submitted to the County for final 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.
- 5.2.2. **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/completion 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.
- 5.2.3. **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 as required by these Regulations, 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.
- 5.2.5. **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 5.3. Final Plat Requirements**

- 5.3.1. **Filing Specifications.** The final subdivision plat drawn at a scale of no less than 1" = 300', drawn by a professional surveyor licensed in New Mexico, on 18" x 24" durable reproducible stock with north orientation shall include the following information:
- A. All final subdivision plats presented for filing shall be drawn on good quality linen or polyester film ("Mylar" or equivalent material) and be accompanied by good quality reproductions of same size. All data and lettering thereon shall be in India ink, sufficiently clear and distinct to permit duplication thereof. The copies shall be on good quality paper with the same restrictions as to size.
  - B. The subdivider will file an original final plat with the County Clerk. The subdivider shall also submit fifteen paper copies of the final plat map and accompanying information. The original and each copy must not be smaller than 18x24 inches. The drawing itself shall not exceed 18x21 inches. However, in case the property covered is so extensive that it would be impractical for the plat to be drawn to the above size, then it may be drawn on a 26x34 inch sheet. The drawing itself shall not exceed 26x31 inches. There shall also be a blank space not less than 3½x3½ inches on the drawing, in the lower right hand corner, for the impression of the clerk's filing stamp. The plats and maps shall be compatible in size with the areas covered but shall not be less than one (1) inch to three hundred (300) feet. Sheets shall be numbered in sequence if more than one sheet is used.
  - C. Restrictive covenants shall not be made a part of the plat or dedication but shall be filed and recorded with the County Clerk as a separate instrument.

- 5.3.2 **Map Specifications.** The final plat map shall include the following information:
- A. The name of subdivision, scale, north arrow, and date;
  - B. Permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
  - C. Tract boundary lines, easement and right-of-way lines, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves;
  - D. An accurate description of legal access to, roads to, and utility easements for each parcel, and if the access or easement is based upon an agreement, the recording data in the land records for the agreement;
  - E. The name, right-of-way width, and centerline data of each road or other right-of-way;
  - F. The location, dimensions, and purpose of all easements and dedicated public sites;
  - G. The number of each parcel in progression, with its dimensions, and the dimensions of all land dedicated for public use or for the use of the owners of parcels fronting on or contiguous to the land;
  - H. The names of owners of contiguous unplatted land;
  - I. Delineation of any 100-year flood plain with base flood elevation for all lots within the flood hazard zone;
  - J. The names of the owner or owners of the subdivision, and the developer if other than the owner;

- K. Certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and
- L. A legal description indicating the range, township, and section within which the subdivision is located.
- M. Certificates of Approval shall be placed on the face of the plat such as the Roosevelt County Board of Commissioners, Roosevelt County Planning Board, and, where the proposed subdivision falls within the planning and platting jurisdiction of a municipality, the city planning board and the city commission of such municipality.
- N. Minimum building set-back lines on all parcels.
- O. Statement of agreement by utilities involved as to sizes and locations of utility easements. Minimum width of any utility easement shall be fifteen (15) feet.

**5.3.3 Reservation of Jurisdiction.** Every action of the Roosevelt County Board of Commissioners approving a subdivision plat, in part or in full, shall contain an express condition reserving jurisdiction for the purpose of a subsequent determination whether any material misstatement or error of fact in the disclosure statement or any document required by this ordinance, upon which the commission relied, or a subsequent failure to comply with a material provision of the disclosure statement or a subsequent failure to comply with County regulations, has been made to appear, and whether such misstatement, error or failure requires suspension or revocation of plat approval.

- A. Upon approving a subdivision plat, the commission expressly reserves jurisdiction to subsequently determine whether or not plat approval should be suspended or revoked because of:
  1. Any material misstatement or error of fact in the disclosure statement or any information upon which the commission relied; or
  2. A subsequent failure to comply with a material provision of the disclosure statement or a subsequent failure to comply with county regulations.

**5.3.4 Enforcement.** A final plat shall not be approved until the subdivider has submitted and the commission has approved each of the following items as they are applicable to a particular subdivision:

- A. A engineers' certificate that all roads have been constructed in accordance with the approved design plans and County and State regulations;
- B. Disclosure Statement
- C. Restrictive Covenants
- D. Schedule of Compliance
- E. Phased Development Plan
- F. State Engineer's Opinion
- G. Engineer's Road Plans
- H. Environmental Improvement Division Opinion
- I. Soil and Water Conservation District Opinion
- J. State Highway Department Opinion
- K. Performance Bond, Letter of Credit, or Other Collateral
- L. Financial Statement
- M. Statement of availability and estimated cost to serve customers by the following utility services:
  1. Electric

- 2. Gas
- 3. Telephone
- 4. Water
- 5. Liquid Waste Disp.
- 6. Solid Waste Disp.
- N. Contracts Conveying Interest (sale or lease)
- O. Advertising Materials
- P. Proof of payment of all property Taxes for the land proposed to be subdivided
- Q. Such other agreements as may reasonably be required by the Roosevelt County Board of Commissioners.

**5.3.5. 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 at the time of plat filing 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 their 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 by the subdivider to every purchaser, lessee, or other person acquiring an interest in the subdivided land before sale, lease, or other conveyance.

**5.3.6. 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.

- A. Included in each dedication shall be the following:  
All areas of land shown for public use, including streets and alleys, are hereby dedicated to the public use and fee vests in Roosevelt County. The Subdivider agrees to construct at his own expense, all roads, streets, and alleys within, and provide access to, the subdivision in full conformance with the requirements of the Roosevelt County Subdivision Regulations and the approved schedule of compliance and, if required, phased development plan; and to sell or lease parcels only in accordance therewith.
- B. The fact that certain roads (streets or alleys) within a subdivision will become public property by virtue of the dedication for public use does not mean necessarily that the roads within the subdivision have been accepted for maintenance by the county. Neither does it follow that the county automatically accepts for maintenance any other land within a subdivision which has been dedicated for public or common use.
- C. Acceptance for maintenance of roads within an approved subdivision by the county shall not occur until roads have been completed in full compliance with county regulations and subdivider's registered professional engineer has certified by affidavit to the Board of County Commissioners that such roads have been constructed in accordance with approved design plans.
- D. 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



pursuant to these Regulations or a resolution of acceptance by the Board of County Commissioners is filed in that office.

- 5.3.7. **Disclosure Statement.** For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided in the Appendix of these Regulations. 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 the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement by the subdivider accompanied by a readable copy of the final plat.
- 5.3.8. **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/her disclosure statement or if the subdivider has not conformed with the New Mexico Subdivision Act and the County's Subdivision Regulations.
- 5.3.9. **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.
- 5.3.10. **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.
- 5.3.11 **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.

#### Section 5.4. Advertising Standards

- 5.4.1. **Filing Requirements.** Copies of all brochures, publications, and advertising relating to subdivided land shall be filed with the County Clerk, the Attorney General, and the Planning Division within fifteen (15) days after initial use by the subdivider.
- 5.4.2. **Requirements/Restrictions.** 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. Accurately portray, if subdivision illustrations are used, 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 labeled as such, and shall not contain maps unless accurately drawn to scale with the scale indicated.
- 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.
- H. Refer to the location where the subdivider's disclosure statement may be obtained.

#### Section 5.5. 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:

- 5.5.1. 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.
- 5.5.2. Relevant Documents Disclosed. The subdivider shall furnish the Board of County Commissioners a sample copy of sales contracts, leases and any other documents that will be used to convey an interest in the subdivided land.
- 5.5.3. Permanent Marks. All corners of all parcels and blocks within a subdivision shall be permanently marked with metal stakes in the ground and a reference stake placed beside one corner of each parcel.
- 5.5.4. Construction or Financing Improvement. The improvements required on the final plat must be in place, inspected and approved by the County Road Superintendent or the subdivider must enter an improvement agreement satisfactory to the County.

#### Section 5.6. Recording Parcels

- 5.6.1. Authority. §47-6-9(A)(17) NMSA 1978 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."
- 5.6.2. 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 these Regulations by making all conveyances of parcels matters of public record.

- 5.6.3. **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, 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. A memorandum of lease may be recorded in lieu of recording the lease itself, as provided in §14-9-1 NMSA 1978.
- 5.6.4. **Form and Certification.** Any deed, lease for an initial term plus option terms in excess of five (5) years, 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 §14-8-4 NMSA 1978.

#### Section 5.7. Water Permits

- 5.7.1. **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.

### **ARTICLE 6. SUMMARY REVIEW PROCESS**

#### Section 6.1. Summary Review Procedure

- 6.1.1. **Qualifications.** The following types of subdivisions shall be submitted to the County for approval under summary review procedure:
- A. All Type Three A subdivisions containing four (4) or fewer parcels of land.
  - B. All Type Five subdivisions.

- 6.1.2. 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 these Regulations.
- 6.1.3. Application/Fees.** A subdivider shall prepare a summary review plat and supporting documentation in accordance with the requirements provided in these Regulations. 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 a prescribed form obtainable from the County Manager, and upon payment of the required administrative fees.
- 6.1.4 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 time to correct the deficiencies and return the summary review plat for consideration. If the additional information is not received by the County within thirty (30) days of the date of the notification, resubmittal of a new application accompanied by a entirely new subdivision package will be required.
- 6.1.5. Review and Approval.** Summary review plats submitted to the County for approval shall be approved or disapproved by the County Manager within thirty (30) working days of the date the summary review plat is deemed complete. The County Manager has the authority to approve any subdivision under summary review. Review shall be afforded to all county and outside agencies listed herein, as the County Manager deems necessary to ensure complete review.
- 6.1.6. 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 these Regulations, the County Manager 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.
- 6.1.7. Failure to Act.** If the County Manager or his designee 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 6.2. Summary Review Data Requirements**

**6.2.1. Application Specifications.** The original drawing of the summary review plat shall meet all requirements of Section 5.3.1. The subdivider shall also submit fifteen (15) paper copies of the final plat map and accompanying information.

**6.2.2. Plat Specifications.** The summary review plat map shall meet all requirements for final plats pursuant to Section 5.3.2.

**6.2.3 Reservation of Jurisdiction.** Every action of the Roosevelt County Board of Commissioners approving a subdivision plat, in part or in full, shall contain an express condition reserving jurisdiction for the purpose of a subsequent determination whether any material misstatement or error of fact in the disclosure statement or any document required by this ordinance, upon which the commission relied, or a subsequent failure to comply with a material provision of the disclosure statement or a subsequent failure to comply with County regulations, has been made to appear, and whether such misstatement, error or failure requires suspension or revocation of plat approval.

A. Upon approving a subdivision plat, the commission expressly reserves jurisdiction to subsequently determine whether or not plat approval should be suspended or revoked because of:

1. Any material misstatement or error of fact in the disclosure statement or any information upon which the commission relied; or
2. A subsequent failure to comply with a material provision of the disclosure statement or a subsequent failure to comply with county regulations.

**6.2.4. Enforcement.** A final plat shall not be approved until the subdivider has submitted and the commission has approved each of the following items as they are applicable to a particular subdivision:

- A. A engineers' certificate that all roads have been constructed in accordance with the approved design plans County and State regulations;
- B. Disclosure Statement
- C. Restrictive Covenants
- D. Schedule of Compliance
- E. Phased Development Plan
- F. Engineer's Road Plans
- G. Performance Bond, Letter of Credit, or Other Collateral
- H. Financial Statement
- I. Statement of availability and estimated cost to serve customers by the following utility services:
  1. Electric
  2. Gas
  3. Telephone
  4. Water
  5. Liquid Waste Disp.
  6. Solid Waste Disp.
- J. Contracts Conveying Interest (sale or lease)
- K. Advertising Materials
- L. Proof of payment of all property Taxes for the land proposed to be subdivided
- M. Such other agreements as may reasonably be required by the Roosevelt County Board of Commissioners.

- 6.2.3. 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 their 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 their 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.
- 6.2.4. 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.
- A. Included in each dedication shall be the following:**
- All areas of land shown for public use, including streets and alleys, are hereby dedicated to the public use and fee vests in Roosevelt County. The Subdivider agrees to construct at his own expense, all roads, streets, and alleys within, and provide access to, the subdivision in full conformance with the requirements of the Roosevelt County Subdivision Regulations and the approved schedule of compliance and, if required, phased development plan; and to sell or lease parcels only in accordance therewith.
- B. The fact that certain roads (streets or alleys) within a subdivision will become public property by virtue of the dedication for public use does not mean necessarily that the roads within the subdivision have been accepted for maintenance by the county. Neither does it follow that the county automatically accepts for maintenance any other land within a subdivision which has been dedicated for public or common use.**
- C. Acceptance for maintenance of roads within an approved subdivision by the county shall not occur until roads have been completed in full compliance with county regulations and subdivider's registered professional engineer has certified by affidavit to the Board of County Commissioners that such roads have been constructed in accordance with approved design plans.**
- D. 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 pursuant to these Regulations or a resolution of acceptance by the Board of County Commissioners is filed in that office.**
- 6.2.5. Disclosure Statement.** For all subdivisions covered under this Article, a disclosure statement shall be prepared in accordance with the standardized format provided in the Appendix of these Regulations. 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 the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement by the subdivider.

- 6.2.6. **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 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.
- 6.2.7. **Advertising Standards.** The advertising standards covering the sale, lease, or other conveyance of subdivided land provided in Article 5, Section 4 of these Regulations shall be applicable to summary review plats.

## **ARTICLE 7. SPECIAL PROCEDURES**

### **Section 7.1. Succeeding Subdivisions**

Unless subject to a variance approved pursuant to Article 7 Section 7.4, any proposed subdivision shall 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.

- 7.1.1. For any subdivision approved prior to the effective date of this ordinance only that portion which is added onto it, thus creating a succeeding subdivision, shall be subject to the standards of this ordinance.

### **Section 7.2. Replats, Corrected and Amended Plats**

- 7.2.1. **Minor Amendment.** Any replat, corrected or amended plat for the purpose of correcting an error on a previously approved and filed subdivision plat, in which no additional lots are created and all of the existing lots, dedicated rights-of-way, and easements are not materially affected, will be considered a minor amendment. Minor amendments will be processed and approved by the County Manager or his designee. The original filed plat document can be used in the minor amendment only if the surveyor who prepared the original plat prepares the amendment, and only if the lot and/or lots affected by the replat be owned by the same owner who acknowledged the original document.

- 7.2.2. **Major Amendment.** Any replat, corrected or amended plat for the purpose of altering lots, dedicated rights-of-way, and easements but in which no additional lots are created, and no lot is reduced in size below the minimum lot size approved for the subdivision, will be considered a major amendment. Major amendments must meet the requirements of Article 6, Section 6.2, and will be processed and approved under the summary review process described in Article 6.

### Section 7.3. Vacation of Plats

- 7.3.1. **Cause.** Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if:
- A. The owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board of County Commissioners; or
  - B. The Board of County Commissioners finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.
- 7.3.2. **Request for Vacation.** The vacation of all or a portion of a final plat shall be initiated by submittal of a request for vacation to the County Manager or his designee, along with the names of all owners of record of property within the subdivided land to be vacated, the names of all owners of record of property contiguous to the subdivided land to be vacated, and statements of acceptance by public utilities. The authorized representatives of all utility companies that have easements within the subdivision's proposed vacation of the plat, must sign a notarized statement agreeing to the proposed vacation.
- 7.3.3. **Scheduling and Notification.** Within sixty (60) days after the date of receipt of the statement of vacation and payment of appropriate review fees, 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.
- 7.3.4. **Action.** In approving the vacation of all or a part of a final plat, the Board of County Commissioners shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a final plat, the Board of County



Commissioners may require that roads dedicated to the County in the final plat continue to be dedicated to the County.

- 7.3.5. **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. 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.
- 7.3.6. **Utilities.** The rights of any utility existing before the total or partial vacation of any final plat are not affected by the vacation of a final plat.

#### Section 7.4. Variances.

Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of these Regulations would result in a substantial or unreasonable hardship to the subdivider because of exceptional topographic, soil or other surface or subsurface conditions, or that strict compliance with these Regulations would result in inhibiting the achievement of the objectives of these Regulations, the County may vary, modify, or waive a requirements.

No variance shall be granted simply because the developer disagrees with or does not wish to meet the goals and objectives of these Regulations. In no case shall a variance be granted which will cause the County to absorb costs over and above those typically associated with subdivision approval. Also, no variance shall be granted contrary to the mandatory requirements of State law. Requests for variances must be submitted in writing with the preliminary plat. Variance requests shall be reviewed by the County prior to approval or denial of a preliminary plat. Variance requests shall also be examined by the reviewing agencies with expertise relating to the subject of the requested variance. Variances may be granted for time periods and under conditions consistent with reasons for granting them.

- 7.4.1. **Planned Development Area.** The County may grant a variance from the standards and requirements of these Regulations if it is presented with a plan and program for a new town, a complete community, or a neighborhood unit, which, in the judgment of the County provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants and other legal provisions as will assure conformity to and achievement of the plan.
- 7.4.2. **Required Findings.** Before recommending approval of a Variance to the Board of County Commissioners, the County Planning Board shall make the following findings of fact. These same findings must be made by the Board of County Commissioners before it may act on an appeal regarding a Variance. Granting of the Variance:
- A. Shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the area of notice.

- B. Shall not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice.
- C. Is justified because there is a physical hardship for the applicant resulting from size, shape or existing structures thereon, or from topographic or physical conditions on the site or in the area of noticed.
- D. Upholds the spirit and intent of these Regulations, public safety and welfare secured, and substantial justice done.

**7.4.3. Procedures. The following procedures and requirements shall apply to all requests for variances under these Regulations.**

- A. Requests for variances shall be submitted in writing prior to or at the time of request for preliminary plat approval on a form provided by the County for that purpose.
- B. Variance requests shall be reviewed by the County Planning Board in public hearings prior to or concurrent with public hearings that are held for recommendations for approval or denial 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 these Regulations 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 with respect to the subject matter for which the variance is sought, and shall be governed by the same time limits.
- E. The County Planning Board shall make written findings of fact regarding each of the requirements of these Regulations and shall produce those findings of fact and a recommendation on each request for variance. The record shall be submitted to the Board of County Commissioners for a final decision.
- F. Notice of the final decision and order shall be prepared, signed and filed with the County Manager's Office within five (5) working days after the final approval is obtained from Board of County Commissioners at the public hearing at which the variance is considered.

**Section 7.6. Exemptions**

**7.6.1. 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 these Regulations or files and obtains approval for a Claim of Exemption as provided in this Article.**

**7.6.2. Verification of Exemption.**

- A. Any person claiming entitlement to an exemption under the provision of these Regulations shall file a written claim of

exemption on the form prescribed in the Appendix of these Regulations with the County Manager before making the land division for which the claim of exemption is made.

- B. The County Manager or his designee shall review the claim of exemption and supporting documents and shall mail written notice of whether the exemption has been approved or denied to the person claiming the exemption within ten (10) working days after receipt of the completed claim of exemption; provided, however, that the ten (10) working 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 or his designee.
- C. If the claim of exemption is approved, or if the County Manager or his designee fails to mail written notice to the claimant within ten (10) working 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 these Regulations.
- D. If the claim of exemption is denied, the person claiming the exemption may appeal the denial as provided in Article 10 of these Regulations or may submit an application for subdivision as provided in these Regulations.

**Section 7.7. Protection of Cultural Properties, Archaeological Sites, and Unmarked Burials**

**7.7.1. Registered Cultural Properties.** Any person desiring to subdivide land in the County shall demonstrate that they have reviewed the latest edition of the New Mexico Register of Cultural Properties (the Register) that has been provided to the County by the State Historic Preservation Office, and

- A. If there are no such properties entered in the Register that are within the boundaries of the proposed subdivision, the subdivider shall provide a signed affidavit to that effect in the application package for subdivision approval; or
- B. If any such properties entered in the Register exist within the boundaries of the proposed subdivision, the subdivider shall provide a signed affidavit to that effect in the application package for subdivision approval. The county will then consult with the Historic Preservation Division pursuant to the Cultural Properties Act 18-6-1 through 18-6-17 NMSA 1978.

**7.7.2. 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 §18-6-11.2 NMSA 1978, 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.

## **ARTICLE 8. REQUIRED IMPROVEMENTS**

### **Section 8.1. Construction of Required Improvements**

- 8.1.1. Improvement Requirements.** The subdivider shall install and construct such improvements, as are required by these Regulations in the manner and to the Design and Construction Standards provided in these Regulations. Approval of the preliminary plat is authorization for the subdivider to proceed with the minimum improvements required by these Regulations. Before the construction of any improvements or the submission of any bond or other improvement guarantee, the subdivider shall furnish the County with all plans necessary for the construction of such improvements. These plans shall be reviewed by the County Road Superintendent and, if in accordance with these Regulations, shall be approved by the County, allowing the subdivision development to proceed.
- 8.1.3. Improvement Agreement.** The County may enter into a subdivision improvement agreement with a subdivider. This agreement shall constitute a binding contract between the subdivider and the County and shall contain those terms and conditions agreed to by the subdivider and the County.

### **Section 8.2. Road Development**

- 8.2.1. Construction Schedule.** Roads within a subdivision shall be constructed only on a schedule approved by the Board of County Commissioners. In approving or disapproving a subdivider's road construction schedule, the Board of County Commissioners shall consider the:
- A. Proposed use of the subdivision.**
  - B. Period of time before the roads will receive substantial use.**
  - C. Period of time before construction of homes will begin on the portion of the subdivision serviced by the road.**
  - D. County regulations governing phased development.**
  - E. Needs of prospective purchasers, lessees and other persons acquiring an interest in subdivided land in viewing the land within the subdivision.**
- 8.2.2. Safety.** All proposed roads shall conform to all applicable safety standards.
- 8.2.3. Demonstration of Use/Access.** The Board of County Commissioners shall not approve the grading or construction of roads unless and until the subdivider can reasonably demonstrate that the roads to be constructed will receive use and that the roads are necessary to

provide access to parcels or improvements within twenty-four (24) months after the date of construction of the road. It is unlawful for the subdivider to grade or otherwise commence construction of roads unless the construction conforms to the schedule of road development approved by the Board of County Commissioners, and a construction permit has been secured.

- 8.2.4. **Fencing, Cattle Guards and Gates.** In areas that are determined to be in "open range" areas, the subdivider shall be required to provide fencing, cattle guards and gates around the perimeter of the Subdivision to be in accordance with all applicable state or federal standards and the requirements of these regulations.

**Section 8.3. Improvement Guarantees**

- 8.3.1. **Assurance.** In order for the County to be assured of the completion of required improvements, the subdivider shall agree to either:

- A. Complete installation of the required improvements before approval of the final plat; or
- B. Assure construction of required improvements after final plat approval.

- 8.3.2. **Alternatives.** If the subdivider wishes to submit the final plat for review, approval, and recording before completion of required improvements, the subdivider shall post a suitable improvements guarantee in an amount approved by the County. The guarantee shall be not less than 125 percent of the estimated cost of the required improvement. This guarantee may be by bond, letter of credit, escrow deposit, or other method acceptable to the Board of County Commissioners.

**ARTICLE 9. ADMINISTRATIVE FEES**

Any person desiring to subdivide land in the County shall pay the administrative fees set by the County for:

Preliminary plat	<u>\$ 100.00</u>
Final Plat	<u>\$ 100.00</u> , plus \$15.00/lot
Summary review plat	<u>\$ 200.00</u>
Variance/each request	<u>\$ 100.00</u>
Appeal	<u>\$ 100.00</u>
Claim of Exemption	<u>\$ 25.00</u>

**ARTICLE 10. APPEALS**

**Section 10.1. Appeal of a Decision**

- 10.1.1. **Planning Board.** Any person who is adversely affected by a decision of the County Planning Board in approving or disapproving a preliminary or final plat or any other decision may

appeal to the Board of County Commissioners within thirty (30) days after the date of the action of the County Planning Board. Said appeal shall be de novo.

**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 preliminary or final plat or other decision made pursuant to these Regulations, may appeal to the District Court within thirty (30) days after the date of the action of the Board.

#### **Section 10.2. Appeals to District Court**

**10.2.1.** The appeal shall set forth the reasons for the appeal in writing, and shall also be submitted to the County Manager or his designee. The appeal shall consist of a whole record review pursuant to these Regulations. The District Court shall only set aside the action of the Board of County Commissioners if it is found to be:

- A. Arbitrary, capricious or an abuse of discretion;
- B. Not supported by substantial evidence; or
- C. Otherwise not in accordance with law.

**10.2.2.** 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.** The appeal shall be initiated 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.

### **ARTICLE 11. ENFORCEMENT, PENALTIES, AND REMEDIES**

#### **Section 11.1. Purpose and Authority**

Violations of the provisions of these Regulations shall be prosecuted in the manner provided by law to protect the health, safety, and welfare of the public according to the County's authority under the New Mexico Subdivision Act, 47-6-1 et seq. NMSA 1978. The remedies provided in these Regulations shall be cumulative and not exclusive.

#### **Section 11.2. Investigation of Alleged Violations**

All written, signed complaints alleging one or more violations of the provisions of the New Mexico Subdivision Act or these Regulations shall be referred to the County Attorney for investigation. The County Attorney shall investigate the complaint and take such action as is warranted, or make a written recommendation to the Board of County Commissioners of what action is warranted. .

#### **Section 11.3. Penalties and Remedies**

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

**11.3.1. 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 §47-6-27.2 NMSA 1978 be disconnected.

**11.3.2. 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.

**11.3.3. 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 these Regulations:

- 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 these Regulations;
- B. Injunctive relief to compel compliance by any person with the provisions of the New Mexico Subdivision Act and these Regulations;
- 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 these Regulations; 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 these Regulations.

**11.3.4. 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.

**11.3.5. Criminal Penalties**

A. § 47-6-27 NMSA 1978 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.

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 these Regulations 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 §4-37-3 NMSA 1978.

**11.3.6 Private Remedies. Pursuant to §47-6-27.1 NMSA 1978:**

- A. Any sale, lease or other conveyance of land within a subdivision subject to the Act, which subdivision has not been approved by the Board of County Commissioners, shall be voidable at the option of the purchaser, lessee or other person acquiring an interest in the subdivided land. The purchaser, lessee or other person acquiring an interest in the subdivided land may recover restitution of all money, property or other things paid to or received by the seller, lessor, or other conveyor of the subdivided land. the action shall be brought within six years from the time of purchase, lease or other conveyance, in accordance with Section 37-1-3 NMSA 1978.
- B. Any purchaser, lessee or other person acquiring an interest in the subdivided land who suffers any loss of money or property, real or personal, as a result of any violation of the Act or any county subdivision regulation may bring an action to recover actual damages. The action shall be brought within six years from the time of purchase, lease or other conveyance, in accordance with Section 37-1-3 NMSA 1978.
- C. Any purchaser, lessee or other person acquiring an interest in the subdivided land who has purchased, leased or otherwise acquired an interest in land within an approved subdivision may bring an action in district court to compel specific performance of any proposed improvement set forth in a subdivider's disclosure statement or in any document obligating the person signing the document to purchase, lease or otherwise acquire an interest in subdivided land or set forth in any advertising or promotional materials relating to the subdivided land. The action shall be brought within six years from the time of purchase, lease or other conveyance, in accordance with Section 37-1-3 NMSA 1978.
- D. Costs shall be allowed to the preliminary party unless the court otherwise directs. the court, in its discretion, may award reasonable attorneys' fees to the prevailing party.
- E. The remedies provided in this section are in addition to remedies otherwise available under common law or other statutes of this state.
- F. This section shall apply to all purchases, leases or other conveyances of subdivided land in approved or unapproved subdivisions that occur after the effective date of this section.



## **ARTICLE 12. SEVERABILITY**

The provisions of these Regulations are severable, and if any provision, sentence clause, section, or part hereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of these Regulations or their application to other persons or circumstances. It is hereby declared to be the intent of the County that these Regulations would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included herein, and if the person or circumstances to which these Regulations or any part thereof are inapplicable had been specifically exempted therefrom.

## **ARTICLE 13. REPEAL AND EFFECTIVE DATE**

These Regulations repeal the Roosevelt County Subdivision Regulations, Resolution #73 - 1, as of July 17,1997. These Regulations shall also become effective on the 17th day of July, 1997.

## **ARTICLE 14. AMENDMENTS**

These Regulations may be amended from time to time as conditions warrant. Amendments shall be made by ordinance adopted by the Board of County Commissioners in accordance with §4-37-1 et seq. NMSA 1978 compilation as amended, and in accordance with §47-6-1 et seq. NMSA 1978 compilation as amended.

## **ARTICLE 15. RESERVATION OF JURISDICTION**

Upon approving a subdivision plat, the Board of County Commissioners expressly reserves jurisdiction to subsequently determine whether or not plat approval should be suspended or revoked because of:

1. Any material misstatement or error of fact in the disclosure statement or any information upon which the Board relied or;
2. Any subsequent failure to comply with a material provision of the disclosure statement or a subsequent failure to comply with county regulations.

## **ARTICLE 16. DESIGN AND CONSTRUCTION STANDARDS**

### **Section 16.1.0. Terrain Management Plan.**

The Board of County Commissioners may approve a terrain management plan only if it determines:

1. The plan conforms with the requirements of the New Mexico Subdivision Act and Roosevelt County's Subdivision Regulations;
2. The subdivider can fulfill the proposals for terrain management contained in his disclosure statement; and
3. The plan and disclosure statement have been reviewed by the local Soil and Water Conservation District and the local district representative has made an on-site inspection.

A. Terrain management plans for subdivisions Types-One, Two, and Four shall contain:

1. The subdivider's name and mailing address;
2. The date the plan is submitted;
3. A copy of the subdivider's disclosure statement;
4. A schedule of compliance, together with a phased development plan, if required, for meeting the county's subdivision regulations;
5. Maps, including the following information:
  - (a) A vicinity map drawn to a scale of not more than two thousand (2,000) feet to one (1) inch showing a minimum of two (2) contours at five (5) foot intervals or less (Refer to USGS 7.5 Minute Topographic Quadrangle map of subdivision area), the relationship of the site to its general surroundings, and the location of all existing drainage channels, water and erosion control structures, watercourses and bodies of water within three (3) miles of the subdivision;
  - (b) A subdivision map drawn to a scale of not more than three hundred (300) feet to one (1) inch showing:
    - (1) The boundaries of the area subdivided;
    - (2) At least two (2) existing contours at five (5) foot intervals or less, certified by a registered professional engineer, licensed in New Mexico or a registered professional land surveyor, licensed in New Mexico.
    - (3) An overlay showing the location of all proposed lots, roads, bridges, water and erosion control structures and utility easements in relation to the existing contours;
    - (4) An overlay showing the finished contours of the subdivision after the subdivider's proposals have been implemented using contours at five (5) foot intervals or less;
    - (5) The location of all cuts and fills;
    - (6) The location of all buffer strips, drainage channels, watercourses, bodies of water, flood ways, flood fringes, and flood plains;
    - (7) The location of all areas which the subdivider intends to revegetate; and
    - (8) The location of all areas in which the subdivider intends to preserve vegetation.
6. A soil survey for the subdivision including an overlay of the various soil types drawn to the scale of the subdivision map showing the location of each different soil type;
7. A surface drainage description including:
  - (a) Sufficient runoff information on the areas contributing runoff to the subdivision to show existing drainage patterns and drainage channels that may affect the subdivision or be affected by the subdivision; and
  - (b) All appropriate design details necessary to clearly explain the construction of all necessary water control structures.
8. The types of utilities to be provided as well as a statement indicating whether or not the utilities are to be installed above or underground.
9. A general grading proposal setting forth the means for stabilizing all cut and fill slopes;
10. An estimated schedule of construction including:
  - (a) The start and finish of all clearing and grading operations;
  - (b) Duration of exposure of disturbed areas;
  - (c) Stabilization dates for disturbed areas;

- (d) Installation dates for storm drainage systems;
  - (e) Installation dates for all roads and alleys;
  - (f) Surfacing dates for roads and parking areas;
  - (g) Installation date of each utility to be provided;
  - (h) Installation dates for homes, recreation structures, and other community improvements.
11. The legal description of the subdivision, including the range, township and section within which the subdivision is located where such information is available; and
  12. The number of parcels within the subdivision and the number of acres in the smallest parcel.
- B. Terrain management plans for subdivision Types-Three A and B and Five shall contain:
1. The subdivider's name and mailing address;
  2. The date the plan is submitted;
  3. A copy of the subdivider's disclosure statement;
  4. A schedule of compliance, together with a phased development plan, if required, for meeting the county's regulations;
  5. Maps including the following information:
    - (a) A vicinity plat drawn to a scale of not more than two thousand (2,000) feet to one (1) inch showing a minimum of two (2) contours at five (5) foot intervals or less. (Refer to USGS 7.5 Minute Topographic Quadrangle map of subdivision areas), the relationship of the site to its general surroundings, and the location of all drainage channels, water and erosion control structures, watercourses and bodies of water within one thousand (1,000) feet of the subdivision;
    - (b) A subdivision map drawn to a scale of not more than three hundred (300) feet to one (1) inch showing:
      - (1) The boundaries of the area to be subdivided;
      - (2) A minimum of two (2) contours at five (5) foot intervals or less;
      - (3) A layout in simple sketch form showing the location of all proposed lots, roads, bridges, and water and erosion control structures;
      - (4) The location of all cuts and fills;
      - (5) The location of all buffer strips, drainage channels, watercourses, bodies of water, flood ways, flood fringes and flood plains;
      - (6) The location of all areas which the subdivider intends to revegetate; and
      - (7) The location of all areas in which the subdivider intends to preserve vegetation.
  6. A soil survey for the subdivision including an overlay of the various soil types drawn to the scale of the subdivision map showing the location of each different soil type;
  7. A surface drainage description including:
    - (a) Sufficient information on the areas contributing runoff to the subdivision to show existing drainage patterns and the drainage courses that may affect the subdivision or be affected by the subdivision; and
    - (b) All appropriate design details necessary to clearly explain the construction of all necessary water control facilities.

### Section 16.1.1 Soils.

- A. All lands to be developed must be composed of soils suitable for at least the following uses:
  - 1. Building foundation support;
  - 2. Fill;
  - 3. Road location;
  - 4. Underground utilities;
  - 5. Water control structures; and
  - 6. Erosion control structures.
- B. 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 demonstrate in his terrain management plan that the inherent soil limitations may be overcome.
- C. Soil may be transported to the subdivision from other locations where the soil within the subdivision is not suitable for the intended use. However, borrowing for fill shall be prohibited unless a revegetation proposal for the borrow area is approved by the local Soil and Water Conservation District.

### Section 16.1.2. Grading Plan.

- A. All grading, filling and clearing operations, including road development, shall be fully described in subdivider's terrain management plan and shall be designed to:
  - 1. Preserve, match or blend with the natural contours of the land;
  - 2. Retain or replace trees and other native vegetation to stabilize hillsides, retain moisture, reduce erosion, runoff, and preserve the natural scenic beauty;
  - 3. Minimize scars from cuts and fills;
  - 4. Reduce the amount of cuts and fills and round off sharp angles at the top, toe and sides of all necessary cut and fill slopes; and
  - 5. Be compatible with the soil survey engineering interpretations and the current local soil and water conservation district technical guide, as amended.
- B. Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on the site, the exposed surface shall be treated to the extent necessary to eliminate dust arising from the exposed material.
- C. All grading and filling operations shall proceed according to work schedule included in the grading plan. The schedule shall be drawn up to limit, to the shortest possible period, the time that soil is exposed and unprotected.
- D. Vegetation removed during clearing operations shall be disposed of in an acceptable manner and place.
- E. Earth and any debris removed during operations shall be disposed of in an acceptable manner and place.
- F. The maximum cut or fill slope shall be determined on the basis of the risk of instability or soil erodability as shown by the soil survey.
- G. Slopes shall not be subject to erosion or subsidence.
- H. If the material of the slope is of such composition and character as to be unstable under the maximum moisture content

anticipated, the subdivider shall employ such measures as are necessary to insure the stability of the slope. These measures may include, but are not limited to, reduction of the slope angle and mechanical stabilization of the slope.

- I. Where mechanical stabilization or containment of the slope by other than the use of native material is employed, the stabilization devices shall be at least partially screened by vegetation, where practical.
- J. Organic material, such as vegetation or rubbish or any other material not subject to proper compaction or otherwise not conducive to its stability, shall not be permitted in fills. No rock or similar irreducible material with a maximum diameter greater than eight (8) inches shall be buried or placed in the top two (2) feet of fills.
- K. Borrowing for fill is prohibited unless a revegetation proposal for the borrow area is approved by the local Soil and Water Conservation District.
- L. Each layer of top soil for fill to be used at construction sites shall be compacted not less than ninety (90) percent of the in-place density of undisturbed adjacent land.
- M. Fills made by the subdivider which settle by more than ten (10) percent of the height of the original fill within three (3) years of the date of contract completion are to be reopened and properly back-filled at the subdivider's expense.
- N. Mechanical equipment shall not be operated in watercourses except in a manner approved by the local Soil and Water Conservation District.
- O. During construction, appropriate barriers around all native vegetation proposed for retention shall be required. No vehicles of any kind shall pass over areas to be left in their natural state according to the approved plat.
- P. During and following completion of any construction within a subdivision, all unused materials, debris or other deleterious materials shall be removed from the subdivision by the subdivider or by parcel owners or lessees, whichever is responsible for such construction.

### Section 16.1.3. Flood Plain Management Plan.

- A. Storm Drainage Plan. All subdivisions shall be planned, constructed and maintained to:
  - 1. Protect and preserve existing natural drainage channels except where erosion and water control measures are approved by the Board of County commissioners;
  - 2. Protect structures and other works from flood hazards;
  - 3. Provide a system by which water within the subdivision will be removed without causing damage or harm to the natural environment, or to property or persons within the subdivision or in other areas;
  - 4. Assure that waters drained from the subdivision do not contain pollutants or sedimentary materials of any greater quantity than would occur in the absence of the subdivision; and
  - 5. Assure that waters are drained from the subdivision in such a manner that they will not cause erosion outside the

- subdivision to any greater extent than would occur in the absence of the subdivision.
- with:
- B. All storm drainage systems shall be constructed in accordance
    - 1. Current specifications of the local Soil and Water Conservation District, as amended; and
    - 2. Engineering interpretations of the soil survey.
  - C. The Board of County Commissioners may require that design and construction of a drainage system that will insure that the inlet flowline elevations and the capacity are such that is capable, or may be extended as necessary, to serve adequately the entire drainage basin within which the subdivision is located when such basin is ultimately developed.
  - D. Buffer strips may not be developed except for planting of trees, vegetation, or other like improvements. The following legend shall appear on the face of the plat in each buffer strip:

"THIS STRIP IS RESERVED FOR THE DEVELOPMENT OF TREES, OTHER VEGETATION OR OTHER LIKE IMPROVEMENTS BY THE SUBDIVIDER OR ANY OWNER."

#### **Section 16.2.0. Minimum Road Design and Construction Requirements**

- A. **Prior to the consideration by the Board of County Commissioners for approval of roads, streets or alleys, the subdivider shall submit detailed design plans and specifications certified by a New Mexico Registered Professional Engineer, licensed in New Mexico.**
- B. **Roads (streets and alleys) shall be located, aligned, and designed to:**
  - 1. **Preserve natural features, vegetation and topography and protect the natural environment;**
  - 2. **Protect public health and safety;**
  - 3. **Require the least amount of road surface necessary to adequately serve the type and intensity of the proposed uses within the subdivision; calculating future traffic demand according to vehicle type and anticipated volume, and providing adequate access for public service vehicles;**
  - 4. **Require the creation of the minimum feasible amounts of land coverage and the minimum feasible disturbance to the soil;**
  - 5. **Provide, to the extent feasible, for the separation of motor vehicular, bicycle, pedestrian, and equestrian traffic;**
  - 6. **Create conditions of proper drainage;**
  - 7. **Provide for proper landscaping;**
  - 8. **Protect against erosion of road surface and adjacent areas;**
  - 9. **Be compatible with the engineering interpretations of the soil survey.**
- C. **The subdivider or owner of the land to be subdivided shall construct all roads and alleys in the subdivision at his own expense in strict compliance with approved design plans. Prior to grading, location and drainage of all roads and alleys shall be staked by a registered professional land surveyor, licensed in New Mexico. Following completion of any subdivision road or alley, subdivider shall submit to the Board of County Commissioners an affidavit by a registered professional engineer, licensed in New Mexico, certifying that the road or alley had been constructed in full compliance with approved plans.**

- D. Within the extraterritorial jurisdiction area of each given town, all streets within a proposed subdivision shall be chipsealed as per Section 16.2.0 (H) (6).**
- E. County Improvement Districts (ARTICLE 55A, 4-55A-1 to 4-55A-39 NMSA 1978). Whenever, following acceptance of roads within a subdivision for maintenance by the Board of County Commissioners, owners of sixty-six and two-thirds percent or more of the front-feet of any tracts or parcels of land which abuts on a street or road, petition the Board in writing to create an improvement district and construct improvements such as paving or other improvements in excess of ordinary maintenance, the Board may do so and assess the cost of the improvement against the abutting tract or parcel of land. Paragraph E. above shall be included in full in each disclosure statement.**
- F. The Roosevelt County Board of Commissioners requires a minimum sixty (60) foot right-of-way, dedicated to the public use with fee vesting in Roosevelt County, for all streets. A minimum twenty (20) foot right-of-way, dedicated to the public use with fee vesting in Roosevelt County for all alleys, and minimum fifteen (15) foot, dedicated to the public use with fee vesting in Roosevelt County for utilities easements. At any utilities easement dead-end, a 60 foot radius turnaround shall be provided and dedicated to the use of the public with fee vesting in Roosevelt County. Building set-back distance from street right-of-way lines shall be a minimum of twenty-five (25) feet, except where streets are situated on quarter-section lines, building set-back shall be thirty-five (35) feet minimum, and where situated on section lines, building set-back shall be forty-five (45) feet minimum. No part of any building shall extend forward of the above set-back limits nor nearer than five (5) feet to parcel lines on sides of building excepting corner or end parcels where set-back distances shall comply with frontal restrictions as specified above.**
- G. Block lengths shall not exceed thirteen hundred twenty (1320) feet and cross streets shall match adjoining streets wherever practicable.**
- H. Streets in subdivisions shall be constructed as follows, with all materials and construction procedures conforming with the New Mexico Standard Specifications for Public Works Construction 1987 Edition. In the event that State or Federal monies are used in with the construction of the Subdivision the construction materials and procedures shall be in conformance with the New Mexico State Highway and Transportation Standard Specifications for Highway and Bridge Construction, 1994 Edition.**
- 1. Street preparation shall result in the removal of all sod, other vegetation, and deleterious materials from the roadway;**
  - 2. Top six (6) inches of all areas within the road right-of-way shall be compacted to not less than ninety-five (95) percent of maximum standard proctor density. The roadway, side ditches, and cut and fill slopes shall conform with grade and typical section as designed by subdivider's engineer and as approved by the Board of County Commissioners. Side and borrow ditches shall be designed and constructed to grade to provide adequate drainage and prevent ponding of water;**
  - 3. Base course shall consist of not less that a six (6) inch compacted caliche strip twenty-eight (28) feet wide, centered at the center of the right-of-way. Caliche material shall be compacted to not less than ninety-five (95) percent of maximum standard proctor density;**

4. Completed grade of the base course shall be free from irregularities, shall be within plus or minus 0.1 foot of the grade line specified by the subdivider's engineer, and shall have a uniform crown. The slope each direction from the roadway centerline shall be 0.02 foot/foot. The tolerance of the horizontal distance from the centerline to the edge of the shoulder shall be zero to 0.05 foot;
  5. Subdivider may use any type of compacting equipment necessary to obtain the required densities specified above, except that where pit-run caliche is used, compaction shall be by grid roller;
  6. When asphalt paving is required by these regulations, within the extraterritorial areas of a town, the subdivider shall provide asphalt paving, the following specifications shall apply:
    - (a) The top or driving surface shall consist of a centered twenty-eight (28) foot strip of prime and a twenty-six (26) foot strip of double-penetration asphalt paving. All such paving shall be constructed in strict accordance with standard typical cross sections and intersection design and The New Mexico Standard Specifications for Public Works Construction, 1987 Edition. When a roadway is constructed and/or improved that is to be part of a subdivision that lies on a section line, the subdivider shall provide a triple-penetration asphalt paving.
  7. Side slope shall extend eight (8) feet beyond edge of base course and shall not be steeper than six (6) to one (1), horizontal to vertical. Back slope to right-of-way line will be variable, dependent upon terrain.
  8. Where side slope and base course are joined, there shall be no vertical variation.
- I. All dead-end streets within a subdivision shall be terminated in a turning circle on land dedicated to the use of the public with fee vesting in Roosevelt County and with not less than a sixty (60) foot radius, the entire surface of which shall be completed in same manner as driving surface.
- J. Alleys shall be designed by a registered professional engineer, licensed in New Mexico, and constructed so that adequate drainage will exist upon completion of subdivision development. A ten (10) foot center strip of caliche compacted to six (6) inch thickness and to ninety-five (95) percent maximum density, shall be installed in alleys. Dead-end alleys shall not be approved, unless a minimum fifty (50) foot radius turning circle is provided on land, dedicated to the use of the public with fee vesting in Roosevelt County, at the dead-end of the alley. Where alleys intersect to form a "tee", "ell", or a cross, a corner shall be cut across twenty (20) feet back from intersection of alley lines providing room for vehicles. This triangle area shall be a part of the dedicated alley and shall not be fenced off or built upon.
- K. Where a subdivision is adjacent to a controlled access highway or bounds a state or federal highway, the following New Mexico Highway Department requirements will apply:
1. Each subdivision, regardless of type or class, and regardless of what county it is located in, shall be contained within a perimeter fence of sufficient character so as to prevent any and all livestock from escaping through any portion of the fence where it is shown that the subdivision shall be contiguous to the state highway;
  2. Any perimeter fence shall be tied to state right-of-way fence presently in existence, or any such fence constructed in the future,



where such right-of-way fence is outside the corporate limits of a city or town;

3. There shall be only "main access driveways" directly entering state roadways. Local streets may connect with state frontage roads at intervals deemed proper by New Mexico Highway Department Engineers or other appropriate highway representatives, and only at such intervals as are deemed in accordance with the law and deemed safe and viable for the traveling public. The "main access driveways" shall be placed at only those intervals allowed by law and only at such intervals deemed safe and viable for the traveling public;
  4. No residential lots within the subdivision shall front directly on the highway right-of-way. Where the State Highway Department right-of-way fence is cut to provide access to state roadway, the subdivider shall install a cattle guard at the point of the cut and subdivider shall have the responsibility of keeping the state right-of way fence intact;
  5. Subdivider shall be held responsible for all damages that might occur to the right-of-way fence and any and all damages to the roadway adjacent to and contiguous with the subdivision;
  6. Each disclosure statement, where one is required, shall fully outline the access from the subdivision to state roadways;
  7. Subdividers shall work with the State Highway Department section in each district in order to obtain any permit required prior to the actual commencement of development;
  8. Preliminary and final subdivision plans and/or plats will be submitted via the Roosevelt County Manager to the New Mexico State Highway Department and reviewed by the planning division. The planning division may refer these plans and plats to its traffic design, technical service and drainage units;
  9. In order to minimize acquisition costs for adequate future right-of-way needs, it is recommended that minimum set-backs for lots adjoining highway rights-of-way shall be twenty-five (25) feet from right-of-way lines of state roads and local service federal-aid secondary roads, fifty (50) feet from right-of-way lines of arterial federal-aid secondary roads, and seventy-five (75) feet from right-of-way lines of federal-aid primary roads. Where a frontage road separates the lots from the highway right-of-way, the set-back should provide for relocation of the frontage road should it be necessary to take the recommended set-back for highway improvement purposes. In most cases, maximum right-of-way requirements for the highest type road construction in the state are not expected to exceed three hundred (300) feet. Minimum set-back along existing four-lane divided and heavily traveled facilities should assure future availability of one hundred fifty (150) feet of right-of-way on each side of the center line of the existing facility. The set-back will also act as a control measure for noise.
- L. The County Commissioners may or may not require cattle guards and/or fencing in subdivisions joining public roads other than those covered in paragraph K. above.

M. The above guidelines apply to streets which will eventually act as the direct access roads leading to the highway. The main street, or the street(s) in the subdivision with the heaviest volume of traffic leading to the highway are defined as "Main Access Driveways".

- N. Should it be necessary that subdivider obtain access road(s) between a proposed subdivision and dedicated and publicly maintained road(s), then subdivider, at his own expense shall acquire any rights-of-way needed and dedicate and construct such access road(s) in conformance with county regulations.
- O. Streets and alleys within subdivision shall intersect other streets and alleys within, or adjacent to, subdivisions at right angles, or nearly so, or in a straight line.
- P. Where streets intersect at right angles, the traveled or driving surface of the intersecting road shall be widened or flared within lines drawn from the right-of-way line of the intersected road to the right-of-way line of the intersecting road.
- Q. Subdivider shall furnish and install, at his expense, all street markers (signs and posts) complying with the following requirements:
1. Street name signs shall be erected at all subdivision intersections;
  2. Lettering on street name sign shall be at least four (4) inches high. Supplementary lettering to indicate the type of street (e.g., street, avenue, road, etc) may be in smaller lettering, at least two (2) inches high. Conventional abbreviations are acceptable except for the street name itself;
  3. The street name sign shall be reflectorized or illuminated. The legend and background shall be on contrasting colors and shall have a white message border on a green background;
  4. In residential subdivision, at least one street name sign shall be mounted at each intersection;
  5. Signs shall be mounted with their faces parallel to the streets they name;
  6. Sign posts and their foundations and sign mountings shall be so constructed as to hold signs in proper and permanent position, to resist swaying in the wind or displacement by vandalism. If channel posts are used they shall be not less than three (3) pounds per foot in weight and hot dip galvanized. Round tubing posts shall be hot dip galvanized, at least two and three-eighths (2 3/8) inches O.D. with not less than three-sixteenths (3/16) inch wall thickness. Square tubular posts shall be hot dip galvanized, be not less than two and one-half (2 1/2) inches to the side and have a wall thickness of not less than three-sixteenth (3/16) inches. All sign posts shall be of new material.
  7. Signs erected at the side of the road shall be mounted at a height of at least five (5) feet, measured from the bottom of the sign to the level of the near edge of the traveled roadway.
  8. Lateral clearance of sign shall not be less than twelve (12) feet from the edge of the traveled roadway.
- U. Street names and parcel address numbers shall be approved by the Board of County Commissioners. Existing street name should be matched or continued wherever practical and duplication of street names shall be avoided.

**Section . Requirement for Driveways.**

- A. No driveway shall be constructed on any subdivision or other county road right-of-way until the subdivider or owner or lessee of parcel, or of any other area of land, has been granted a county permit. Application

for permit to construct driveway on right-of-way shall be filed with the Roosevelt County Manager from whom forms may be obtained. Before a permit may be granted, or any work begun, applicant shall agree to the following conditions:

1. The location, construction, and maintenance of driveways are under the supervision of the Board of County Commissioners at all times, and that in granting such permit under these regulations the Commission waives none of its powers or rights to direct the removal, relocation and/or proper maintenance in the future of any driveway within the right-of-way of the dedicated road. Any permit granted will be construed as regulatory and not contractual. Such permits are revocable by the Board of County Commissioners whenever the use and presence of a driveway or approach interferes with the required use of that portion of the right-of-way occupied by the driveway or constitutes a hazard to traffic, or the driveways are not built in compliance with the permit issued under these regulations.
2. The applicant shall perform all work in accordance with permit, and shall indemnify and save harmless the Roosevelt County Board of Commissioners, its planning board, county officers, and employees from all liability, judgements, costs, expenses and claims growing out of damages, or alleged damages, of any nature whatsoever, to any person or property arising out of performance or non-performance of said work or the existence of said driveways, or for any other act by parcel owner or lessee within right-of-way included within parcel frontage.
3. No part of the dedicated road right-of-way shall be used for servicing of vehicles, displays or the conduct of private business. The buffer area (the border area along the parcel frontage between the traveled way and the right-of-way line) is to be kept clear of buildings, sales exhibits, business signs, parking areas, service equipment and appurtenances thereto. Any grading and landscaping within the buffer area shall be only as approved by the Board of County Commissioners.
4. No driveway shall be considered complete until surfaced as specified in the application. All driveways shall be surfaced with caliche (compacted to ninety-five (95) percent maximum standard proctor density), crushed stone, gravel, bituminous material, concrete or other material meeting the approval of the Board of County Commissioners. No surfacing shall be placed upon a driveway until an inspection is made and the grading work approved by the county road superintendent. Drainage on roadside ditches shall not be altered or impeded, and applicant must provide such suitable and approved drainage structures as required by the county.
5. Width of driveway at right-of-way line shall be not less than ten (10) feet nor more than twenty-two (22) feet on residential parcels and shall be not less than thirty (30) feet nor more than forty (40) feet on commercial parcels.
6. All portions of the driveway shall be within the parcel boundary with minimum edge clearance of five (5) feet.
7. Maximum of two (2) driveways shall be approved on any single parcel having a frontage of less than six hundred (600) feet.

8. Combined driveways may be approved where it is impossible to properly located driveways on adjacent properties ten (10) feet apart. Combined driveways shall not exceed two thirds (2/3) the width of the total individual driveway maximums. Utility installations shall pre-empt use of space within the right-of-way in case of conflict for space.
9. Driveway profile: (cut section)
  - (a) From edge of traveled way to outer edge of shoulder, gradient to be same as shoulder pitch;
  - (b) From outer edge of shoulder to low point at ditch line or over a culvert maximum downward gradient to be five (5) to eight (8) percent;
  - (c) Beyond ditch line, maximum gradient to be five (5) to eight (8) percent for commercial driveways or ten (10) to fifteen (15) percent for others:
10. Driveway profile: (fill section)
  - (a) Slope across shoulder, same as 9(a) above;
  - (b) Beyond outer edge of shoulder, maximum gradient to be five (5) to eight (8) percent for commercial driveways or ten (10) to fifteen (15) percent for others. Whenever culvert pipe is needed, corrugated metal pipe, or its equivalent, shall be of sufficient size that existing drainage is not interrupted.
11. Driveway should be so located as to result in no undue interference with or hazard to the free movement of normal traffic, and so that areas of traffic congestion will not be created on subdivision roads. Driveways should be located where there are no sharp curves nor steep grades, and where sight distance with the driveway access would be adequate for safe traffic operation. Locations that would interfere with the placement and proper functioning of road signs, signals, lighting, utility poles or guys, or other devices that affect traffic operation will not be permitted.
12. Single driveways should be positioned at right angles, or nearly so, to the roadway. Where two driveways are used on one frontage, and are to be used for access to and from both directions of travel on the roadway, they may be placed at an angle other than a right angle with the roadway edge but the driveway angle should be not less than forty-five (45) degrees.
13. The curvature of driveway established by the radius of curvature shall not encroach upon a frontage boundary line, right-of-way line, or curvature of intersection corners. Radius of curvature for residential driveway at right angle to roadway shall be five (5) feet minimum and thirty (30) feet maximum. Radius of curvature for residential driveway at less than right angle to roadway shall be five (5) feet minimum and fifteen (15) feet maximum.
14. No person or entity shall remove, injure, tamper with, destroy, or deface in any way public property or property of a public utility lawfully placed in dedicated right-of-way or in any way interfere with the lawful use thereof by said utility without first having obtained the written consent of the appropriate public authority or public utility.

- B. Subdivider shall include in all disclosure statements the entire text of Section A. above.**

**Section 16.3.0 Water Supply Guidelines**

**16.3.1. 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.**

**16.3.2. Quantification of Annual Water Requirements.** The following procedures shall be used to quantify the maximum, annual water requirements for all subdivisions:

- A. The maximum annual water requirement for both indoor and outdoor purposes, for each parcel in a residential subdivision shall be 0.6 acre-feet per year, unless a detailed water demand analysis approved by the State Engineer's Office justifies the use of a different figure. The total annual water requirement for the subdivision in acre-feet per year, is computed by multiplying the number of parcels by 0.6.**
- 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 Technical Report.**

**16.3.3. Final Plat Approval Requirements.** Until July 1, 1997, before approving the final plat for a subdivision containing twenty or more parcels, any one of which is two acres or less in size, the Board of County Commissioners shall require that the subdivider provide a copy of a permit obtained from the state engineer, issued pursuant to Section 72-5-1, 72-5-23, 72-5-24, for the subdivision water use; or pursuant to 72-12-3 or 72-12-7 NMSA 1978, if the subdivision is located within a declared underground water basin. In acting on the permit application, the state engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses.

**16.3.4. Community Water System Requirements.**

- A. A community water system shall be required for all subdivisions which create more than one hundred (100) lots, any one of which is less than one (1.0) acre in size. For all subdivisions in which all lots created are greater than one**

(1.0) acre in size, community water systems shall not be required, except under the following conditions.

- B. A community water system shall be required for all other subdivisions containing six or more parcels, where groundwater would be supplied from geologic formations where wells have been determined to produce at a rate of two (2.0) gallons per minute or less, or where available information suggests the likelihood of low yielding wells. In lieu of a community water system, the subdivider shall provide alternative means of supplying potable water to each lot in sufficient quantities to meet the maximum annual water requirements of each lot, and shall fully disclose the means and methods for providing such water supply. Acceptable alternative methods of supplying potable water shall include individual wells drilled by the subdivider or other means of water delivery, combined with storage systems provided by the subdivider for each lot. Such storage systems shall be capable of storing an amount of water equal to twice the average daily water consumption for the household, as computed in accordance with Part 2, subsection B, and must be capable of delivering water at a minimum rate of two (2) gallons per minute.
- C. If water will be supplied from a community water system, the subdivider shall submit a plat of the proposed subdivision, and preliminary plans for the water production, storage, and distribution facilities prepared by or under the supervision of a registered professional engineer. The site plans shall show the topography, parcel boundaries, streets, wells, and water storage and distribution system, including hydrants. The size or capacity of the water system components should also be indicated on the site plans. Preliminary well plans shall include casing diameter, total depth, screened interval, and proposed pump setting.
- D. Residential service connections to community water systems shall be required where such systems have been designed and constructed for use within the subdivision.
- E. If a community water system is proposed or required, the subdivider should consult with the New Mexico Public Utilities Commission regarding the applicability of the Public Utility Act to that community water system.

#### **16.3.5. Water Availability Assessment Requirements**

- A. If the source of water supply will be an existing community water system or municipal water system, the subdivider shall submit a water availability assessment containing the following information:
  - 1. Name of the utility proposed as the source of supply.
  - 2. Documentation from the utility that they are ready, willing, and able to provide the maximum annual water requirements for the subdivision. For subdivisions with more than six (6) lots, such documentation may include information meeting the requirements of subsection C of these Requirements,

as well as additional information demonstrating system capabilities and existing and proposed infrastructure improvements that may be required to furnish water to the subdivision in sufficient quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor uses.

- B. If the subdivider proposes that the source of water shall be individual domestic wells or shared wells to be approved by the State Engineer pursuant to Section 72-12-1 NMSA 1978, the subdivider shall submit a water availability assessment containing the following information:**
- 1. At least one well log from an on-site well or from an existing nearby well completed in geologic conditions representative of the conditions within the proposed subdivision.**
  - 2. A description of the water bearing formation including a statement of the maximum and minimum depths to water in the subdivision and the basis for these statements.**
  - 3. A statement of the estimated yield of wells in gallons per minute based upon well logs from existing nearby wells.**
  - 4. Any additional information which is required by the State Engineer's Office that will enable it to determine whether or not the subdivider can furnish water in sufficient quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor uses, and whether the subdivider can fulfill the proposals in his/her disclosure statement concerning water, excepting water quality. For subdivisions containing more than six (6) lots, in locations which the State Engineer has determined that geohydrologic conditions are such that the aquifer has not been demonstrated to be capable of furnishing water in sufficient quantity to fulfill the maximum annual water requirements of the subdivision, such additional information may include a geohydrologic report conforming to the requirements of subsection C of these Requirements.**
- C. For new community water systems, the subdivider shall submit a water supply plan and geohydrologic report which meets the following requirements:**
- 1. Geohydrologic reports shall demonstrate that groundwater sufficient to meet the maximum annual water requirement of the subdivision is physically available and can be practically recovered to sustain the development for a continuous period of 40 years. These analyses shall take into account the production of existing wells and shall demonstrate that the subdivision wells, as proposed or as designed, will be capable of producing the full annual demand for at least 40 years.**

- 2. The subdivider shall drill sufficient exploratory wells within the boundaries of the proposed subdivision to adequately characterize the aquifer, unless the subdivider can demonstrate that existing wells in the area are representative of general aquifer conditions within the subdivision. Where existing wells are not adequate to demonstrate aquifer conditions, aquifer parameters required to demonstrate the availability of water should be obtained from aquifer tests, performed on site, which are adequate for predicting long-term water availability or from tests conducted on nearby wells. Alternately, tests can be conducted on nearby off-site wells if the subdivider can demonstrate that these wells are representative of general aquifer conditions within the subdivision.**
- 3. The assessment shall include a calculated 40 year schedule of effects on the proposed subdivision's production well(s) which may result from existing demands and from the increase of groundwater withdrawals for the subdivision. Analyses shall be performed to assess whether future water level declines will be within the limits of allowable drawdown in the subdivision production wells as provided in Subsection C(4). Predicted drawdowns shall be calculated in a conservative manner (which estimates maximum drawdown). These calculations shall include estimates of future water uses.**
- 4. The subdivider shall calculate the lowest practical pumping water level in the proposed subdivision pumping wells by any of the following methods as appropriate, provided there shall be no presumption made as to additional available water below the bottom of the proposed production well, and further provided that the total available drawdown shall be reduced by a factor of 20 percent as a margin of safety to account for seasonal fluctuations, drought allowance, reduction of well efficiency over time, and peak production requirements:**

  - a. by using the results of acceptable on-site aquifer pump tests. The lowest allowable pumping level may be the lowest water level reached during the test,**
  - b. by setting the level at the top of the uppermost screened interval,**
  - c. in wells completed in fractured aquifers, the lowest practical pumping water level may be above the top of the fracture zone,**
  - d. in wells completed in alluvial aquifers, the lowest practical pumping water level may be defined by a maximum allowable drawdown equal to 70% of the initial water column.**
- 5. The geohydrologic report should present all hydrologic information pertinent to the study area including that available from past geohydrologic studies. All sources of information used in the report**



should be identified including basic data collected by the consultant who prepared the report. The report shall contain maps and cross-sections showing geology, depth to the water bearing formation, water level contours, and estimated thickness of saturation in the aquifer. Basic data for the immediate area of the subdivision must be current, with the date of collection noted and the location identified on a map. The report on the investigation should be in the format of a technical narrative; spreadsheets, tables, graphs, maps and cross-sections shall be included.

#### **16.3.6. Fire Protection.**

##### **A. Fire Protection Plan.**

- 1. A fire protection plan shall be a condition of preliminary plat approval for all subdivisions containing over 100 lots.**
- 2. For all subdivisions required to have a fire protection plan, the subdivider shall submit a plat of the proposed subdivision, preliminary plans of the proposed water supply, storage and distribution system, and calculations demonstrating that the proposed fire protection facilities will meet the requirements of these guidelines, prepared by or under the supervision of a registered professional engineer.**
- 3. For all subdivisions to be supplied by existing utilities, the letter of intent from the utility to provide water shall disclose fire flows and pressures which will be provided and fire flow storage, if any, which may be available to the subdivision.**
- 4. If fire fighting services are available, the subdivider shall disclose the local fire authority having jurisdiction, the rate in gallons per minute that water may be delivered to the fire by tanker service from the fire authority, if available, and the distance and anticipated time of travel from the fire station to the center of the subdivision.**

#### **Section 16.4.0. Water Quality, Liquid and Solid Waste Disposal**

##### **16.4.0 Definitions. Apply only to these water quality, liquid and solid waste disposal guidelines:**

**Alternative disposal system - an individual liquid waste disposal system which is not a conventional disposal system. It is commonly used where limiting soil conditions exist. Some examples of alternative disposal systems are deep trench, seepage pit, fill, sand filter, sand mound, evapotranspiration, and land application.**

**Arroyo - a dry wash or draw which flows only occasionally.**

**Bedrock** - consolidated earth materials. It includes fractured and cavernous rock.

**Body of water** - all constrained water including water situated wholly or partly within or bordering the state, whether surface or subsurface, public or private.

**Canal** - a man-made ditch or channel that carries water for purposes other than domestic consumption.

**Community liquid waste system** - a liquid waste system which serves more than one household or residence and receives a design flow of more than two thousand (2,000) gallons of liquid waste per day. It is subject to the Water Quality Control Commission Regulations.

**Conventional disposal system** - an individual liquid waste disposal system that is a below grade soil absorption system with an excavated depth no deeper than four (4) feet from the ground surface. Some examples of conventional disposal systems are absorption trenches and seepage beds.

**Degrade a body of water** - to reduce the physical, chemical, or biological qualities of a body of water. It includes the release of material which could result in the exceeding of standards established in the Water Quality Standards for Interstate and Intrastate Streams, by the Water Quality Control Commission Regulations, and by the Drinking Water Regulations.

**Design flow** - the liquid waste flow rate for which a liquid waste system must be designed in order to assure acceptable system performance. It is generally governed by regulations, standards, codes, and accepted references.

**Edge of a watercourse, canal or arroyo** - that point of maximum curvature at the upper edge of a definite bank or, if no definite bank exists, the highest point where signs of seasonal high water flow exist.

**Engineer** - a person authorized to practice professional engineering in the State of New Mexico.

**Flood plain** - any area which will be inundated by high water from a one hundred (100) year frequency storm.

**Ground water** - interstitial water which occurs in saturated earth material. It is capable of entering a well in sufficient amounts to be utilized as a water supply.

**Hazard to public health** - the indicated presence in water or soil of chemical, biological or other agents under such conditions that they may adversely impact human health.

**Individual liquid waste system** - a liquid waste system that serves only one residence or business and which receives a design flow of two thousand (2,000) or less gallons of liquid waste per day. It is subject to the Liquid Waste Disposal Regulations.

**Liquid waste** - domestic wastewater (sewage). It includes non-liquid-carried excreta.

**Liquid waste disposal system** - a component of a liquid waste system which disposes of the discharge from a liquid waste treatment system.

**Liquid waste system** - a system which is designed, constructed, operated, and maintained to receive, treat, and dispose of liquid wastes. It usually consists of collection, treatment, and disposal components.

**Liquid waste treatment system** - a component of a liquid waste system which removes, reduces, or alters the objectionable constituents of liquid waste.

**Net lot size** - the area of a lot excluding any area dedicated by easement or use to provide ingress and egress for vehicular passage to more than one lot or more than five (5) residential or commercial units on a single lot.

**Percolation rate** - the rate of entry of water into soil. It is determined from a standard percolation test performed on the soil at the depth of the proposed soil absorption system.

**Potential source of contamination** - any source which could release substances resulting in the degradation of a body of water and a hazard to public health.

**Private water supply system** - a water supply system that has less than fifteen (15) service connections or serves less than twenty-five (25) individuals.

**Privy** - a receptacle for non-liquid-carried excreta. It allows direct discharge to the soil.

**Public water supply system** - a water system which has at least fifteen (15) service connections or serves at least twenty-five (25) individuals. It is subject to the Drinking Water Regulations.

**Representative water sample** - a water sample which can be expected to reflect the current quality of the water proposed for use within the subdivision. A water sample (and water quality analysis) more than three (3) years old, or from a source that is more than two-thousand five hundred (2,500) feet from the proposed subdivision, is not considered representative.

**Seasonal high ground water table** - the highest level to which the upper surface of the ground water may be expected to rise within a one (1) year period.

**Soil survey** - a national cooperative soil survey conducted by the USDA, Natural Resources Conservation Service in cooperation with the state agricultural experiment station and other federal and state agencies, or any other survey containing information of comparable quality and detail following the national standards for an Order 2 survey.

**Solid waste** - means any garbage, rubbish, or other discarded material which results from residential, commercial, institutional, industrial or recreational activities. Systems for the collection, transportation, and disposal of solid waste are subject to the Solid Waste Management Regulations.

**Total design flow** - the sum of liquid waste design flows for all liquid waste systems on a lot. The maximum total design flow (gallons per day) permitted on any lot is determined by multiplying the net lot size (acres) by five hundred (500).

**Water supply source** - a well, spring, infiltration gallery, surface water intake structure, or other source of water used to furnish water to a public or private water supply system.

**Water supply system or water system** - a system which is designed, constructed, operated, and maintained to provide water suitable for domestic uses. It usually consists of source, treatment, transmission, storage, pumping, and distribution facilities.

**Watercourse** - any river, creek, arroyo, draw, wash, or any other channel having definite banks and bed with visible evidence of at least an occasional flow of water.

**16.4.1. Water Quality Documentation.** For a subdivider to document conformance with the water quality requirements of these guidelines and the New Mexico Subdivision Act, a water quality documentation package shall accompany the preliminary plat submittal.

- A. The water quality documentation package shall:**
  - 1. state the subdivider's name and mailing address;**
  - 2. state the date the package was completed;**
  - 3. state the subdivider's proposal for meeting the water quality requirements of these guidelines;**
  - 4. be accompanied by a copy of the subdivider's disclosure statement on water quality;**
  - 5. be accompanied by the information listed in Subsections B, C, or D of this section as applicable to the water supply proposal; and**
  - 6. be accompanied by other relevant information as may be necessary for the determination of compliance with the water quality requirements of these guidelines.**
- B. If a new public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:**
  - 1. a water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;**
  - 2. for areas where contamination of the proposed source water has been documented, a water quality analysis of a representative water sample for other water quality parameters listed in Section 3 of these guidelines as may be required;**
  - 3. the location and description of the source of water sampled for the water quality analysis;**
  - 4. an engineer's report and preliminary plans for the proposed public water supply system; and,**

5. maps identifying and showing the location of all identifiable potential sources of contamination and the flood plain of all watercourses and surface bodies of water within one thousand (1000) feet of the proposed water supply system source.
- C. If a connection to and extension of an existing public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:
1. a water quality analysis of a representative water sample for alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;
  2. a statement of availability of water service signed by an official of the existing public water supply system; and
  3. an engineer's report and preliminary plans for the proposed extensions to the existing water system.
- D. If a private water supply systems are proposed, the following information shall be submitted as part of the water quality documentation package:
1. a water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc;
  2. for areas where contamination of the proposed source water has been documented a water quality analysis of a representative water sample for other water quality parameters listed in Section 3 of these guidelines may be required by the State Environment Department;
  3. the location and description of the source of water sampled for the water quality analysis;
  4. preliminary plans for the private water supply systems if the system will serve more than one (1) connection; and
  5. maps identifying and showing the location of all identifiable potential sources of contamination and the flood plain of all watercourses and surface bodies of water within the subdivision and within five hundred (500) feet of the proposed subdivision boundaries.
- E. Documentation of approval for the construction or modification of a public water supply system from the New Mexico Environment Department will be required for final plat approval.

**16.4.2. Water Quality Requirements.** Conformance with the water quality requirements of this section is required for preliminary plat approval.

- A. The level of a contaminant in water which is delivered to any user of a public or private water supply system shall not exceed the maximum contaminant level (MCL) for any of the contaminants listed in Table 4**
- B. The level of a contaminant in water which is delivered to any user of a public or private water supply system should not exceed the secondary maximum contaminant level (SMCL) for any of the contaminants listed in Table 5.**
  - 1. If the level for any of the contaminants listed in Table 5 exceeds the SMCL, the subdivider must state in the disclosure statement on water quality the name of the contaminant exceeded; the contaminant level; the SMCL of the contaminant; the expected adverse effects of the contaminant for domestic water use; and, the recommended treatment method to reduce the contaminant level to or below the SMCL.**
- C. A water supply source shall not be located at less than the setback distances shown in Table 6.**
- D. The disclosure statement for the subdivision shall contain a statement describing the quality of water available for domestic use within the subdivision.**

**Table 4.-- PRIMARY (HEALTH RELATED) CONTAMINANTS**

<b>Inorganic (IOC)</b>		<b>Microbiology</b>	
<u>Contaminant</u>	<u>MCL</u>	<u>Contaminant</u>	<u>MCL</u>
Antimony	0.006 mg/l	<i>Giardia lamblia</i> <sup>(d)</sup>	TT <sup>(e)</sup>
Arsenic	0.05 mg/l	<i>Legionella</i> <sup>(d)</sup>	TT <sup>(e)</sup>
Asbestos	7 MFL <sup>(a)</sup>	Standard plate count <sup>(d)</sup>	TT <sup>(e)</sup>
Barium	2 mg/l	Total coliforms	Absent
Beryllium	0.004 mg/l	Turbidity <sup>(d)</sup>	PS <sup>(f)</sup>
Cadmium	0.005 mg/l	Viruses <sup>(d)</sup>	TT <sup>(e)</sup>
Chromium (total)	0.1 mg/l	Disinfection Byproduct	
Copper	1.3 mg/l	<u>Contaminant</u>	<u>MCL</u>
Cyanide	0.2 mg/l	Total trihalomethanes	0.10 mg/l
Fluoride	4.0 mg/l	Volatile Organic (VOC)	
Lead	0.015 mg/l	<u>Contaminant</u>	<u>MCL</u>
Mercury (inorganic)	0.002 mg/l	Benzene	0.005 mg/l
Nickel	0.1 mg/l	Carbon tetrachloride	0.005 mg/l
Nitrate (as N)	10 mg/l	Dibromochloropropane	0.0002 mg/l
Nitrite (as N)	1 mg/l	o-dichlorobenzene	0.6 mg/l
Nitrate+Nitrite (both as N)	10 mg/l	p-dichlorobenzene	0.075 mg/l
Selenium	0.05 mg/l	1,2-dichloroethane	0.005 mg/l
Thallium	0.002 mg/l	1,1-dichloroethylene	0.007 mg/l
Radionuclide		cis-1,2-dichloroethylene	0.07 mg/l
<u>Contaminant</u>	<u>MCL</u>	trans-1,2-dichloroethylene	0.1 mg/l
Gross $\alpha$ particle activity <sup>(b)</sup>	15 pCi/l	Dichloromethane	0.005 mg/l

**TABLE 4.-- PRIMARY (HEALTH RELATED) CONTAMINANTS (continued)**

<b>VOC (continued)</b>	<b>SOC (continued)</b>	<b>Contaminant</b>	<b>MCL</b>
<b>Contaminant</b>	<b>MCL</b>	<b>Contaminant</b>	<b>MCL</b>
<b>Radium-226 &amp; -228 °</b>	<b>5 pCi/l</b>	<b>1,2-dichloropropane</b>	<b>0.005 mg/l</b>
<b>Strontium-90</b>	<b>8 pCi/l</b>	<b>Ethylbenzene</b>	<b>0.7 mg/l</b>
<b>Tritium</b>	<b>20000 pCi/l</b>	<b>Ethylene dibromide</b>	<b>0.00005 mg/l</b>
<b>Monochlorobenzene</b>	<b>0.1 mg/l</b>	<b>Di (2-ethylhexyl) phthalate</b>	<b>0.006 mg/l</b>
<b>Styrene</b>	<b>0.1 mg/l</b>	<b>Dinoseb</b>	<b>0.007 mg/l</b>
<b>Tetrachloroethylene</b>	<b>0.005 mg/l</b>	<b>Diquat</b>	<b>0.02 mg/l</b>
<b>Toluene</b>	<b>1 mg/l</b>	<b>Endothall</b>	<b>0.1 mg/l</b>
<b>1,2,4-trichlorobenzene</b>	<b>0.07 mg/l</b>	<b>Endrin</b>	<b>0.002 mg/l</b>
<b>1,1,1-trichloroethane</b>	<b>0.2 mg/l</b>	<b>Glyphosate</b>	<b>0.7 mg/l</b>
<b>1,1,2-trichloroethane</b>	<b>0.005 mg/l</b>	<b>Heptachlor</b>	<b>0.0004 mg/l</b>
<b>trichloroethylene</b>	<b>0.005 mg/l</b>	<b>Heptachlor epoxide</b>	<b>0.0002 mg/l</b>
<b>Vinyl chloride</b>	<b>0.002 mg/l</b>	<b>Hexachlorobenzene</b>	<b>0.001 mg/l</b>
<b>Xylenes (total)</b>	<b>10 mg/l</b>	<b>Hexachlorocyclopentadiene</b>	<b>0.05 mg/l</b>
<b>Synthetic Organic (SOC)</b>		<b>Lindane</b>	<b>0.0002 mg/l</b>
<b>Contaminant</b>	<b>MCL</b>	<b>Methoxychlor</b>	<b>0.04 mg/l</b>
<b>Alachlor</b>	<b>0.002 mg/l</b>	<b>Oxamyl (Vydate)</b>	<b>0.2 mg/l</b>
<b>Atrazine</b>	<b>0.003 mg/l</b>	<b>Pentachlorophenol</b>	<b>0.001 mg/l</b>
<b>Benzo[a]pyrene</b>	<b>0.0002 mg/l</b>	<b>Picloram</b>	<b>0.5 mg/l</b>
<b>Carbofuran</b>	<b>0.04 mg/l</b>	<b>Polychlorinated biphenyls</b>	<b>0.0005 mg/l</b>
<b>Chlorodane</b>	<b>0.002 mg/l</b>	<b>Simazine</b>	<b>0.004 mg/l</b>
<b>2,4-D</b>	<b>0.07 mg/l</b>	<b>2,3,7,8-TCCD (Dioxin)</b>	<b>3x10<sup>-8</sup> mg/l</b>
<b>Dalapon</b>	<b>0.2 mg/l</b>	<b>Toxaphene</b>	<b>0.003 mg/l</b>
<b>Di(2-ethylhexyl)adipate</b>	<b>0.4 mg/l</b>	<b>2,4,5-TP</b>	<b>0.05 mg/l</b>

Notes to Table 4:



**(a) Million Fibers longer than 10  $\mu\text{m}$  per Liter, (b) Gross alpha particle activity including radium-226 but excluding radon and uranium, (c) Combined radium-226 and radium-228, (d) For systems using surface water, (e) Treatment Technique (filtration and disinfection) required, (f) Performance Standard 0.5 NTU to 1.0 NTU**

**TABLE 5.-- SECONDARY (ESTHETIC RELATED) CONTAMINANTS**

<u>Contaminant</u>	<u>SMCL</u>	<u>Contaminant</u>	<u>SMCL</u>
Aluminum	0.05 to 0.2 mg/l	Manganese	0.05 mg/l
Chloride	250 mg/l	Odor	3 TON
Color	15 CU	pH	6.5 to 8.5
Copper	1.0 mg/l	Silver	0.1 mg/l
Corrosivity	Non-corrosive	Sodium	100 mg/l <sup>(a)</sup>
Fluoride	2.0 mg/l	Sulfate	250 mg/l
Foaming Agents	0.5 mg/l	TDS	500 mg/l
Hardness	250 mg/l	Turbidity	5 NTU
Iron	0.3 mg/l	Zinc	5 mg/l

Notes to Table 5:

(a) Sodium concentration exceeding 20 mg/l must be noted in the disclosure statement.

**TABLE 6.-- SETBACK DISTANCES FOR WATER SUPPLY SOURCES**

Potential Source of Contamination	Public Water Supply System	Private Water Supply System
	Required Minimum Setback Distance	
(feet)		
Water Tight Sewers	50	25
Other Sewers	100	50
Community Liquid Waste Treatment System	300	150
Individual Liquid Waste Treatment System	100	50
Community Liquid Waste Disposal	600	300
Individual Liquid Waste Disposal System	200	100
Flood Plain	Outside	Outside

**16.4.3. Liquid Waste Disposal Documentation. For a subdivider to document conformance with the liquid waste disposal requirements of these guidelines and the New Mexico Subdivision Act, a liquid waste disposal documentation package shall accompany the preliminary plat submittal.**

- A. The liquid waste disposal documentation package shall:**
  - 1. state the subdivider's name and mailing address;**
  - 2. state the date the package was completed;**
  - 3. state the subdivider's proposal for meeting the liquid waste disposal requirements of these guidelines;**
  - 4. be accompanied by a copy of the subdivider's disclosure statement on liquid waste disposal;**
  - 5. be accompanied by the information required in Subsections B, C, or D of this section as applicable to the subdivider's liquid waste disposal proposal; and,**
  - 6. be accompanied by other relevant information required by the State Environment Department as may be necessary for determination whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations promulgated pursuant to the Environmental Improvement Act, the Water Quality Act, and the Solid Waste Act.**
- B. If the subdivider proposes a new community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package:**
  - 1. an engineer's report and preliminary plans for the proposed community liquid waste system;**
  - 2. maps showing the location of all water supply sources and the flood plain of all watercourses and surface bodies of water within one thousand (1000) feet of the proposed liquid waste treatment and liquid waste disposal site; and,**
  - 3. documentation of the filing of a "Notice of Intent to Discharge" with the New Mexico Environment Department in accordance with the Water Quality Control Commission Regulations.**
- C. If the subdivider proposes a liquid waste system by connection to and extension of an existing community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package:**
  - 1. a statement of availability of liquid waste service signed by an official of the existing liquid waste system; and**
  - 2. an engineer's report and preliminary plans for the proposed extension to the existing liquid waste system.**
- D. If the subdivider proposes a subdivision utilizing individual liquid waste systems, the following information shall be submitted as part of the liquid waste disposal documentation package:**
  - 1. a soils investigation report (soil survey, soil borings to a minimum depth of eight (8) feet, soil**

test results and analysis of the soil survey, soil boring, and soil tests) defining soil depth to bedrock, seasonal high water ground water table or other limiting soil layer, and percolation rate for the soils present within the proposed subdivision;

2. maps showing the location of all water supply sources and the flood plain of all watercourses and surface bodies of water within the proposed subdivision and within five hundred (500) feet of the proposed subdivision boundaries;
3. a liquid waste system feasibility map, superimposed on the subdivision plat, delimiting the areas of suitable, limited, and prohibitive soil categories as described in Table 5-2; and,
4. preliminary plans for the individual liquid waste systems if a system will serve more than one (1) connection.
5. other relevant information required by the State Environment Department as may be necessary for determination whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations promulgated pursuant to the Environmental Improvement Act, the Water Quality Act, and the Solid Waste Act.

- E. Documentation of approval for the **discharge from a community liquid waste system** from the New Mexico Environment Department will be required for final plat approval.

16.4.4. Liquid Waste Disposal Requirements. Conformance with the liquid waste disposal requirements of this section is required for preliminary plat approval.

A. **Community Liquid Waste Systems.**

1. A community liquid waste system shall be permitted, designed, and constructed, by the time of first occupancy within the subdivision, to comply with the Water Quality Control Commission Regulations; and, operated, maintained, and expanded as necessary to insure that the system will comply with the Water Quality Control Commission Regulations.
2. **The subdivider shall disclose and covenant that all lots within the subdivision must connect to the community liquid waste system at the time of occupancy.**

B. **Individual Liquid Waste Systems.**

1. **Individual liquid waste systems shall be located, installed, operated, and maintained in a manner which will not cause a hazard to public health or degrade any body of water.**
  2. **Individual liquid waste systems shall not be installed:**
    - a. **where an existing community liquid waste system is available;**
    - b. **in subdivisions or on lots with sizes less than shown in Table 7;**
    - c. **installed in prohibited soils as shown in Table 8;**
    - d. **at less than the setback distances shown in Table 9;**
    - e. **consisting of privies (outhouses) or cesspools; and**
    - f. **consisting of holding tanks if an individual water supply system is to be used.**
- C. **The disclosure statement for the subdivision shall contain a description of the means of liquid waste disposal for the subdivision.**

**TABLE 7  
LOT SIZES FOR INDIVIDUAL LIQUID WASTE SYSTEMS**

<b>Minimum average lot size for Subdivision</b>	<b>Minimum lot Size</b>
<b>2.00 Acres</b>	<b>1.00 Acres</b>

**TABLE 8  
SOIL CATEGORY FOR INDIVIDUAL LIQUID WASTE SYSTEMS**

**Soil Category <sup>(a)</sup>**

<b>soil characteristics</b>	<b>suitable <sup>(b)</sup></b>	<b>limiting <sup>(c)</sup></b>	<b>prohibitive <sup>(d)</sup></b>
<b>Percolation Rate</b> <i>(minutes per inch)</i>	<b>5-60</b>	<b>less than 5 or 61-120</b>	<b>more than 120</b>
<b>Slope (percent)</b>	<b>0 to 8%</b>	<b>9 to 15%</b>	<b>more than 15%</b>
<b>Soil Depth to Seasonal High Ground Water Table or Bedrock or Other Limiting Soil Layer (feet)</b>	<b>8 or more</b>	<b>4-8</b>	<b>Less than 4</b>
<b>Flood Plain</b>	<b>outside</b>	<b>outside</b>	<b>within</b>

Notes to Table 7:

- (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 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 9  
SETBACK DISTANCES FOR INDIVIDUAL LIQUID WASTE SYSTEMS**

<b>Object</b>	<b>Required Minimum Setback Distance (feet)</b>	
	<b>Treatment Unit</b>	<b>Disposal System</b>
<b>Lot Line (Lea)</b>	<b>5</b>	<b>5</b>
<b>Individual Water Supply System Source</b>	<b>50</b>	<b>100</b>
<b>Public Water Supply System Source</b>	<b>100</b>	<b>200</b>
<b>Edge of Watercourses Except Canals and Arroyos</b>	<b>50</b>	<b>100</b>
<b>Edge of Unlined Canals and Arroyos</b>	<b>15 + depth of channel</b>	<b>25 + depth of channel</b>
<b>Edge of Lined Canals</b>	<b>10 + depth of channel</b>	<b>10 + depth of channel</b>
<b>Public Lakes</b>	<b>50<sup>(a)</sup></b>	<b>100<sup>(a)</sup></b>

Notes to Table 8: (a) Setback distance to artificially controlled lakes and reservoirs is measured from the closest projected shoreline at the maximum controlled water level.

**16.4.5. Solid Waste Disposal Documentation.** For a subdivider to document conformance with the solid waste disposal requirements of these guidelines and the New Mexico Subdivision Act, a solid waste disposal documentation package shall accompany the preliminary plat submittal.

- A. A solid waste documentation package shall:**
  - 1. state the subdivider's name and mailing address;**
  - 2. state the date the package was completed;**
  - 3. state the subdivider's proposal for meeting the solid waste disposal requirements of these guidelines;**
  - 4. be accompanied by a copy of the subdivider's disclosure statement on solid waste disposal;**
  - 5. be accompanied by the information required in Subsection B of this section as applicable to the subdivider's solid waste collection and disposal proposal; and**
  - 6. be accompanied by other relevant information required by the State Environment Department as may be necessary for determination whether there are sufficient solid waste disposal facilities to fulfill the requirements of the subdivision in conformity with state regulations promulgated pursuant to the Environmental Improvement Act, the Water Quality Act, and the Solid Waste Act.**
  
- B. If the subdivider proposes solid waste collection by use of an existing solid waste collection service, the following information shall be submitted as part of the solid waste disposal documentation package:**
  - 1. a statement of availability of solid waste collection and disposal service signed by an official of the solid waste collection service;**
  - 2. the name, location and owner or operator of the solid waste disposal site used by the collection service.**
  
- C. If the subdivider proposes solid waste disposal by use of an existing solid waste disposal site, the following information shall be submitted as part of the solid waste disposal documentation package:**
  - 1. a statement of availability of solid waste disposal service signed by an official of the disposal site;**
  - 2. the travel distance from the center of the subdivision to the disposal site.**

**ADOPTED this 16th day of June, 1997, in open meeting, to be effective thirty (30) days after this Ordinance has been recorded in the book kept by the Roosevelt County Clerk for that purpose.**

**APPROVED:**

**ATTEST:**

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

**Joyce Lee Frazee, County Clerk**

**Herschel Caviness, Chairman**

**B.C. "Blonnie" Rea, Member**

**Jimmy Parrish, Member**

**Jake Lopez, Member**

**David Sanders, Member**