

PUBLIC REVIEW DRAFT

**THE SANTA FE COUNTY
SUSTAINABLE LAND USE CODE**

CHAPTERS ONE THROUGH FIVE

ROBERT H. FREILICH

NEIL M. POPOWITZ

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**Freilich & Popowitz LLP
10580 Wilshire Blvd., Suite 56
Los Angeles, CA 90024
T: 310.729.3638
F: 310.475.7410**

CHAPTER ONE – GENERAL PROVISIONS

1.1. SHORT TITLE. This Ordinance, as amended from time to time, shall be cited as “The Santa Fe County Sustainable Land Development Code.” It is hereinafter referred to as “the SLDC.”

1.2. AUTHORITY. The SLDC is promulgated pursuant to the authority set forth in Art. IX, X and XIII of the New Mexico Constitution (1912); NMSA 1978 § 4-37-1 (1975), NMSA 1978 §§3-21-1 et seq. (1965), NMSA 1978 §3-18-7 (2003); NMSA 1978 §§3-19-1 et seq. (1965); NMSA 1978 §§3-18-1 et seq. (1965), and NMSA 1978 §§ 19-10-4.1, 4.2 and 4.3 (1985), NMSA 1978, § 3-20-1 et seq. (1973), NMSA 1978, § 3-33-1 et seq. (1965), NMSA 1978, § 3-35-1 et seq. (1965), NMSA 1978, § 3-45-1 et seq. (1965), NMSA 1978, § 4-37-1 et seq. (1975), NMSA 1978, § 5-11-1 et seq. (2001), NMSA 1978, § 5-11-1 et seq. (2001), NMSA 1978, § 6-27-1 et seq. (2004), NMSA 1978, § 7-91-1 et seq. (2005), NMSA 1978, § 11-3A-1 et seq. (1994), NMSA 1978, § 47-5-1 (1963), NMSA 1978 §§ 47-6-1(1973), NMSA 1978, § 58-18-1 et seq. (1975), NMSA 1978 §60-13-1; Federal Insurance Regulation 1910. The SLDC constitutes an exercise of the County’s independent and separate but related police, zoning, planning, environmental, fiscal and public nuisance powers for the health, safety and general welfare of the County and applies to all areas within the exterior boundaries of the County that lie outside of the incorporated boundaries of a municipality without exception.

1.3. APPLICABILITY. The SLDC shall apply within the exterior boundaries of Santa Fe County. The SLDC shall not apply within the exterior boundaries of a municipality. The SLDC shall apply to property owned by the United States and held in trust for a federally-recognized Indian tribe or Pueblo, or to property owned by a member of a federally-recognized Indian Tribe, Reservation or Pueblo and within the exterior boundaries of such federally-recognized Indian Tribe, Reservation or Pueblo, unless expressly exempted from County land use regulation by state or federal law.

1.4. ENACTMENT AND REPEALS. This SLDC was passed, approved and adopted by the Board of County Commissioners of Santa Fe County (“Board”) as Ordinance [NUMBER] on [EFFECTIVE DATE]. Upon the adoption of the SLDC, the following are hereby repealed in their entirety: The Oil and Gas Ordinance 2008-19 (adopted December 10, 2008); the Flood Prevention and Stormwater Management Ordinance 2008-__ (adopted __ ____, 2008); Ordinance 1988-1 (Development in Flood Hazard Areas; Ordinance 2005-8 (U.S. 285 South Highway Corridor Zoning District); the Santa Fe County Land Development Code, Ordinance 1996-10 adopted Sept. 10, 1996; together with all amendments thereto; the original Santa Fe County Land Development Code, effective January 1, 1981. *[Steve, please add all 12 or 13 traditional community zoning ordinances. The numbers we have so far are Ordinance 2006-10 (Tres Arroyos de Poniente Zoning District); Ordinance 2000-13 (Tesuque Community Zoning District); and Ordinance 2000-12 (Community College District)]*

1.5. SCOPE. The SLDC applies to all privately owned buildings, structures, lands and uses over which the County of Santa Fe has jurisdiction under the Constitution and Laws of the State of New Mexico and the Constitution and Laws of the United States. All buildings, structures, lands and uses of public entities, including but not limited state, federal, regional, city, County, school, assessment or public improvement district, public or private utility land

leased to a private person or entity, and every capital facilities project of the County, of any city located in the unincorporated portion of the County, and of any public or private utility, school, assessment or public improvement district shall be subject to the SLDC.

1.6. CONSISTENCY. The SLDC, any amendments to the SLDC and all development approvals and development orders issued or granted pursuant to the SLDC, shall be consistent with: (1) the General Plan and; (2) any Area, Specific and Community Plans, to the extent that such Plans are consistent with the General Plan. An amendment of the SLDC or any development approval or development order issued pursuant to the SLDC shall be consistent with the General Plan if it fully complies with the goals, objectives, policies and standards of the General Plan.

1.7. COORDINATION WITH OTHER REGULATIONS.

1.7.1. Generally. The use of buildings, structures and land within the County of Santa Fe is subject to all other County, state or federal statutes, ordinances or regulations as well as the SLDC, whether or not such other provisions are specifically referenced in the SLDC. References to other ordinances, statutes or regulations or to the provisions of the SLDC are for the convenience of the reader. The lack of a cross-reference does not exempt a land, building, structure, or use from other ordinances, statutes or regulations.

1.7.2. Land Development Code as Paramount Regulation. Where a regulation contained within the SLDC imposes higher standards than those required under another statute, County ordinance or regulation, the regulation adopted under the SLDC controls. If the other statute, County ordinance or regulation imposes higher standards, that statute, ordinance, or regulation controls so long as it is consistent with the purposes, findings and intent of the SLDC and with the goals, objectives, policies and strategies of the General Plan.

1.7.3. Rules of Construction. Interpretation and application of the SLDC are the basic and minimum requirements for the protection of public health, safety, comfort, morals, convenience, prosperity, and welfare. The SLDC shall be liberally interpreted in order to further its underlying purposes, intent and standards and to implement the goals, objectives, policies and strategies of the General Plan. The meaning of any and all words, terms, or phrases in the SLDC shall be construed in accordance with Appendix A, Definitions and Rules of Interpretation of the SLDC, which are incorporated herein by reference. The SLDC contains numerous tables, graphics, pictures, illustrations and drawings in order to assist the reader in understanding and applying the SLDC. To the extent there is any inconsistency between the text of the SLDC and any such table, graphic, picture, illustration or drawing, the text controls unless otherwise provided in the specific section.

1.7.4. Minimum Requirements. The issuance of any development approval pursuant to this Code shall not relieve the recipient from the responsibility to comply with all other County, state or federal laws, ordinances or regulations.

1.7.5. Transitional Provisions.

1.7.5.1. Any application for a development approval, a conditional or special use, variance, building or grading permit or road construction permit for which a complete application was submitted before the first reading of this SLDC by the Board, may be approved and completed in conformance with the terms and conditions applicable at the time of submittal. If the building, development or sign is not completed within the time allowed under the original development approval or permit, then the building, development or sign shall be constructed, completed or occupied only in strict compliance with the SLDC as adopted herein.

1.7.5.2. Any subdivision for which a Preliminary Plat was approved before the first reading of this amended SLDC may be granted Final Plat approval if the Planning Commission and Board find that the final plat is in substantial compliance with the previously approved preliminary plat.

1.7.6. Concurrent Processing. One of the principal purposes of the SLDC is to encourage applicants to concurrently submit for multiple development approvals for a single project in order to speed up and make more efficient the development approval process. Any application which includes requests for two or more development approvals shall cumulatively comply with the requirements of the SLDC for each type of development and development approval applied for prior to engaging in that type of development. The County may issue a development order denying, approving, approving with conditions and mitigation requirements, approving any part of an application and approving other parts in phases or denying other parts.

1.7.7. Periodic Review. The Board shall review the SLDC and make appropriate amendments. The Administrator, the Planning Commission, other interested persons or groups may make recommendations to the Board for amendments to the SLDC.

1.7.8. Severability. If any court of competent jurisdiction decrees that any specific provision of the SLDC is invalid or unenforceable, that determination shall not affect any provision not specifically included in the order or judgment. If any court of competent jurisdiction determines that any provision of the SLDC cannot be applied to any particular property, building, structure or use, that determination shall not affect the application of the SLDC to any other property, building, structure or use not specifically included in the order or judgment.

1.8. PURPOSE AND INTENT.

1.8.1. The SLDC and all development approvals and development orders issued pursuant to the SLDC are designed to implement and be consistent with the goals, objectives, policies, and strategies of the General Plan through comprehensive, concurrent, consistent, integrated, effective, and concise land development regulation. The SLDC is designed to protect and promote the health, safety and general welfare of the present and future residents of the County. The SLDC is a police power, public nuisance, environmental and land use regulation designed to establish separate land use, growth management, environmental, fiscal, adequate public facility, traffic, police and fire,

school, library, storm water management, emergency service and preparedness, health and safety, protection of cultural, historical and archeological resources, lessening of air and water pollution, assurance and conservation of water resources, prevention of global warming, promotion of sustainability, green development and new urbanism, and to provide standards to protect from adverse public nuisance or land use effects and impacts resulting from public or private development within the County. No development activity shall occur on any public or private property within the jurisdiction of the SLDC until and unless all applicable development approvals for the development activity have been granted.

1.8.2. The SLDC shall:

1.8.2.1. Require that no new development approval shall be granted unless there is adequate provision of capital facilities and services available to the development at levels of service established in the General Plan and any Capital Improvement and Services Program (“CIP”) and Official Map established pursuant to the General Plan;

1.8.2.2. Utilize a development agreement process, where appropriate, to assure that properties receiving development approvals are granted vested rights to completion of the project through all stages and phases under the provisions of the SLDC as they existed at the time of submission of a complete application for development approval, without fear of being overridden by newly adopted regulations, in exchange for commitments to advance adequate public facilities and services for needs generated by new development, to eliminate existing deficiencies and to partially meet county and regional facility and service needs;

1.8.2.3. Establish sustainable design and improvement standards and review processes by which development applications shall be evaluated, including the preparation of environmental, fiscal impact, traffic, water availability, emergency service and response, and adequate public facility and services studies, reports and assessments (“SRAs”)

1.8.2.4. Require that development and administrative fees; dedications; public improvement district rates, charges and fees; homeowner association assessments; public and private utility rates, fees and charges; impact fees; and other appropriate mitigation, conditions and exactions be proportionately conditioned upon new development to meet the need for adequate public facilities and services at adopted levels of service, the need for which is generated by the development at the time of development approval;

1.8.2.5. Designate appropriate zoning districts as priority growth areas and identify appropriate regulations and incentives to encourage development within such priority growth areas through joint public-private endeavors;

1.8.2.6. Formulate guidelines to implement growth management, sustainable and new urbanism standards, strategies, techniques, and action programs and adopt appropriate budgets and capital facility improvement and service programs to implement them;

1.8.2.7. Enhance the physical, cultural, social, traditional and environmental values treasured by County residents;

1.8.2.8. Provide for objective and fair administrative and quasi-judicial processes, findings and recommendations through establishment of a Hearing Officer process;

1.8.2.9. Establish rights for community planning organizations, acequias, Indian Pueblos, adjoining property owners, neighborhood and homeowner associations and non-profit organizations with respect to attendance at pre-application meetings with applicants for development approval, standing rights in administrative and quasi-judicial hearing processes, appeals and judicial proceedings and to participate in the preparation of the General Plan, and any area, specific and traditional community plans;

1.8.2.10. Accommodate within appropriate zoning districts, regulations for protection and expansion of local small businesses, professions, culture, art and handicrafts including live/work, home occupations and appropriate accessory uses;

1.8.2.11. Assure that a diversity of housing choices to enable residents within a wide range of economic levels and age groups is available in all zoning districts by requiring that each new development shall provide its fair share of the County and regional need for affordable housing, the need for which the development generates;

1.8.2.12. Express and reflect the highly unique sense of place and the desirable qualities of Santa Fe County through innovative and sustainable design and architectural standards for development compatible with new urbanism, traditional neighborhood and historic communities;

1.8.2.13. Restrict development in areas of agricultural or ranch lands; or within lands containing environmental, ecological, archaeological, historical or cultural sensitivity; and utilize mandatory clustering, use of purchase and transfer of development rights, preferential taxation, federal and state income tax credits and deductions from granting of development and conservation easements, development of solar and wind farms and other incentives to maximize economic return and to preserve such resources to the maximum extent feasible;

1.8.2.14. Control the rate and timing of growth to the assured, sustainable and available long term future water supply;

1.8.2.15. Place high regard for the protection of individual property rights in appropriate balance with the community’s need to implement the goals, objectives, policies and strategies of the General Plan;

1.8.2.16. Reconstitute the County Development Review Committee (“CDRC”) as the County’s statutorily authorized Planning Commission to carry out the statutory and SLDC duties and responsibilities for preparing general, area, specific and traditional community plans, official maps, capital improvement and service programs, reviewing and recommending on amendments to the SLDC and County plans as specified above and for the hearing of applications for development approval;

1.8.2.17. Provide for special review of developments of countywide impacts (“DCIs”).

1.8.2.18. Require all new development to provide, as best technology is available at reasonable cost, utilizing County, state and federal grants, loans, tax credits and deductions, for placement of: solar and wind turbine facilities for all residential and non-residential buildings and structures; and for rainwater capture facilities to assure rainwater capture from all buildings, structures, streets, swales and driveways for the filtering, treatment and reuse of the water;

1.8.2.19. Create zoning districts that reflect development patterns that promote walk-able mixed use sustainable traditional neighborhood communities as conditional uses without the need for multiple variances or waivers from area, height or use requirements;

1.8.2.20. Provide a procedure for mandatory pre-application review of development projects, to afford the public and Community Planning Organizations the opportunity to review and comment on the project, in order to assess the project’s impacts on its surroundings and on the County’s resources, to reach mutual consensus on issues and solutions and to identify necessary mitigation measures;

1.8.2.21. Ensure that building projects are planned, designed, constructed, and managed to minimize adverse global warming, environmental impacts; to conserve natural resources; to promote sustainable development; and to enhance the quality of life in the County of Santa Fe;

1.8.2.22. Prescribe green and sustainable building and neighborhood requirements for all public and private buildings, structures and land uses;

1.8.2.23. Develop strategies to encourage infill development over outlying sprawl expansion;

1.8.2.24. Establish zoning districts and patterns of use that allow for new development to establish mixed use walk-able neighborhoods

contiguous to urban boundaries and integrated with the existing urban pattern where appropriate;

1.8.2.25. Respect historical patterns, precedents, and boundaries in the development approval process for new development and redevelopment;

1.8.2.26. Require that new development reflect the transportation network of the region and provide within each development a framework of transportation alternatives and inter-connectivity. Transit, pedestrian, and bicycle systems should be provided to maximize access and mobility throughout the region while reducing dependence upon the automobile;

1.8.2.27. Condition development upon the establishment of an improvement or assessment district and homeowner associations to finance the capital improvements necessary to meet adequate public facilities and service requirements, including the ongoing maintenance and operation of such facilities and services;

1.8.2.28. Provide appropriate building densities and land uses within walking distance of transit stops, permitting public transit to become a viable alternative to the automobile;

1.8.2.29. Require that development provide a range of parks, from tot-lots and village greens to ball fields and community gardens within neighborhoods. Conservation areas, inter-connected trails and roads and open lands should be conditionally required in granting development approvals to define and connect neighborhoods and districts; and

1.8.2.30. Set a community standard of sustainable building by financing, planning, designing, constructing, managing, renovating, maintaining, and decommissioning facilities and buildings to be sustainable.

1.8.3. Discretionary development approval projects, as defined by the SLDC, shall be required to provide the following as a pre-condition to development approval:

1.8.3.1. A General, Area, Specific and Community Plan Consistency Report demonstrating consistency with such plan goals, objectives, policies and strategies and with applicable state and federal statutes and regulations;

1.8.3.2. An Environmental Impact Report (“EIR”) analyzing adverse effects and impacts to: wildlife and vegetation natural habitats and corridors; flood plains, floodways, stream corridors and wetlands; steep slopes and hillsides; air and water pollution; global warming, traffic safety and congestion; excessive energy consumption from vehicle miles traveled; archeological, historical and cultural artifacts and resources reflecting Hispanic, Anglo and Indian civilizations; toxic chemical pollution and related diseases and conditions

affecting the health and safety of current and future residents; open space and scenic vistas;

1.8.3.3. A Fiscal Impact Assessment (“FIA”) describing the effects and impacts of the project upon County revenue and costs necessitated by additional public facilities and services generated by the development project and the feasibility for financing such facility and service costs;

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

1.8.3.5. A Water Availability and Quality Assessment to determine the permanent availability of and impacts to groundwater and surface water resources;

1.8.3.6. A Traffic Impact Assessment, providing information necessary to assess adverse transportation effects and impacts of traffic generated by proposed development projects, including isolated and cumulative adverse effects and impacts to the traffic shed and traffic capacity, the passage of public safety and emergency response vehicles and any contribution to hazardous traffic conditions by vehicles going to and from the project site;

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

1.8.3.8. In the case of DCIs, a Geo-hydrologic Report, describing any adverse impacts and effects of development with respect to groundwater resources located within geological formations in sufficient proximity to a development project; identifying fractured, faulted and any other formations that would permit extraneous oil, gas, dirty or gray water, mud or other chemicals, toxic minerals and pollutants to degrade the ground or subsurface water resources, or allow ground or subsurface water resources to be reduced, polluted and unavailable for public or private water supplies.

1.8.4. Beneficial Use and Value Determination (BUD). In order to evaluate whether, and if so, the extent to which, application of the SLDC unconstitutionally creates a regulatory taking without just compensation, each applicant for a development project, once denied development approval or granted conditional development approval, shall be

required to exhaust all administrative remedies, and apply for a beneficial use and value determination, the application for which shall describe:

1.8.4.1. The extent of diminution of use and value with respect to the entirety of the owner's, or lessee's real property interests in common ownership;

1.8.4.2. The distinct and reasonable investment backed expectations of the owner, lessee, or predecessors in interest, in common ownership;

1.8.4.3. The availability of cluster development, phased development, tax incentives, or transfers of development rights; and

1.8.4.4. Any variance or relief necessary or available to relieve any unconstitutional hardship or regulatory taking created.

1.9. FINDINGS. The Board hereby finds, declares and determines that the SLDC:

1.9.1. Promotes the health, safety, and welfare of the County, its residents, and its environment by regulating development activities to assure that development does not create land use and public nuisance impacts or effects upon surrounding property, the County and the region;

1.9.2. Promotes the purposes of planning and land use regulation by assuring that adequate public facilities and services as defined by the General Plan including roads, fire, police and emergency response, storm water detention, parks and recreation, schools, libraries, open space, trails, public sewer and water will be available at the time of development approval ;

1.9.3. Protects the County's priceless, unique, and fragile ecosystem and environmentally sensitive lands including but not limited to waterways and streams, wetlands, floodways and flood plains; hillsides and steep slopes; flora and fauna habitats and habitat corridors, air and water quality; eco-tourist sites and scenic vistas, natural resources, archaeological, cultural, and historical resources;

1.9.4. Requires vertical and horizontal consistency of the SLDC and related land use, building, housing; public and private utility and environmental codes, with the General Plan, area, specific, and traditional community plans ; the Capital Improvement and Services Program; the Official Map; and related regional, state and federal plans and programs; and

1.9.5. Promotes sustainable, new urbanism and green building and energy practices.

CHAPTER TWO – PLANNING

2.1. PLANS AND PLAN AMENDMENTS. This chapter establishes the authority to adopt certain County land use plans in addition to providing a uniform procedure for the amendment of such plans. This section also establishes the requirements and procedure for proposed amendments to the General Plan or to the preparation or amendment of an area plan, specific plan or traditional community plan. Any amendment or approval relating to any of the plans discussed in this chapter requires legislative Board approval, except where such amendment or approval applies solely or predominantly to a single parcel of land in common ownership, in which event the amendment or approval shall be processed as a quasi-judicial determination.

2.2. APPLICABILITY.

2.2.1. General Plan. The General Plan adopted by the County shall serve as the constitution to the SLDC and all other environmental, building, construction, housing, or utility codes and regulations within the County, and every development approval shall be consistent with all elements of the General Plan, or any applicable area, specific or community plan. Within the General Plan are subjects relating to particular planning areas:

- 2.2.1.1. Land Use and Growth Management;
- 2.2.1.2. Sustainability, Environment and Conservation;
- 2.2.1.3. Facilities and Services;
- 2.2.1.4. Official Map;
- 2.2.1.5. Transportation;
- 2.2.1.6. Capital Improvement and Services Program;
- 2.2.1.7. Parks, Recreation, Open Space and Trails;
- 2.2.1.8. Community Character, New Urbanism, Historic, Archaeological and Cultural Resources; and
- 2.2.1.9. Implementation.

2.2.2. Specific Plans. A specific plan is a plan for development approval, accompanying the development of individual property or properties that provides a bridge between the General, and area or community plans. A specific plan shall be required to permit mixed-use or higher density infill development, traditional neighborhood development, transit-oriented development at major transportation corridor intersections and development of rural, community, regional or opportunity centers. A specific plan is considered an amendment to, and a part of, the General Plan and the SLDC. Approval of a specific plan requires that the applicant meet all requirements as specified in the SLDC for the approval of a text or map amendment of the SLDC. A

specific plan shall include text and a diagram or diagrams that specify all of the following in detail:

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

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

2.2.2.3. A program of implementation and action measures, including all of the development approvals and land use techniques that will be needed to achieve build out of the area, including but not limited to zoning, subdivision approval, conditional use permit (CUP), new urbanism planned districts, supplemental and accessory uses, variances, transfers of development right (TDRs), creation of homeowner associations, assessment and public improvement districts, providing affordable housing, providing public improvements and services, impact fees, dedications and other financing measures, utilization of a Capital Improvement and Services Program (CIP) and Official Map techniques, development agreements, and conditions, covenants, and restrictions necessary to carry out the goals, objectives, policies and standards of the General Plan or any area or community plan and the purposes, intent, findings and requirements of the SLDC and other applicable state and federal law; and

2.2.2.4 . An analysis of the consistency of the specific plan to the General Plan, and any applicable area or community plans, and all of the Studies, Reports and Assessments (“SRAs”) required pursuant to Chapter 5 of the SLDC.

2.2.2.5. Specific plan zoning shall conform to the base zoning district and all allowable overlay and planned districts permitted by the base zoning district for the land contained within the specific plan area. No amendment to the text or map of a base zoning district shall be approved unless it meets the standards for plan amendments set forth in §2.2.5.2 of this Chapter. Plan amendments and zoning, text and map amendments may be included within a specific plan provided they comply with the standards of §§2.2.5 and 3.20.7 of the SLDC. The adoption of a specific plan does not eliminate the need for obtaining all other SLDC required discretionary and ministerial development approvals, prior to any construction, land alteration or use of the property as authorized in the specific plan.

2.2.2.6. Amendments to the text or maps of a specific plan shall be processed in the same manner as for initial adoption of the plan. Amendments to a site plan contained within the specific plan shall be processed as major or minor amendments pursuant to §§3.10.4 and 3.22 of the SLDC.

2.2.3. Area Plans. An area plan is a plan contained within, and consistent with, the General Plan, that provides specific planning, design and implementation for a defined geographic area of the County, to guide development applications, development of governmental facilities and services, official maps, capital improvement and services programs, utility, assessment and improvement district infrastructure and service plans, annexation, and creation of improvement or assessment districts.

2.2.4. Community Plans. A community plan is a plan contained within, and consistent with, the General Plan, that provides specific planning, design and implementation for any traditional, historic or other community as designated by the Board by ordinance pursuant to NMSA 1978, §3-7-1.1 (1995). A community plan shall adopt such detailed requirements as are applicable to specific plans in the discretion of the Planning Commission. Amendments to a community plan may be initiated by the applicable Community Participation Organization (“CPO”), the Board, Planning Commission or by an owner of property within the Community Plan Area, provided they comply with the standards set forth in §2.2.5.3 of this Chapter.

2.2.5. Initiation of Plan Amendments.

2.2.5.1. An owner, a CPO, the Board, Planning Commission or Administrator, may initiate proposed amendments to the General Plan, area, or community plan or future land use maps. The owner may combine an application for a plan or amendment with an application for development approval and the applications shall be processed concurrently.

2.2.5.2. No amendment to the future land use maps of the General Plan, area or community plans shall be made upon application of an owner of property unless the owner-applicant demonstrates that there has been a substantial change in the condition of the area surrounding the owner’s property, the amendment is consistent with the applicable General, area or community plan, or there was a clerical error or mistake made in the adoption of the future land use plan.

2.2.5.3. Before any application for a future land use plan amendment is made by an owner or an applicable CPO, the Administrator shall schedule a pre-application conference to discuss the procedures and requirements for a plan amendment application pursuant to the SLDC and schedule a pre-application meeting pursuant to §2.5 of the SLDC.

2.2.5.4. An application for a general, area, or community plan or future land use map amendment shall be filed with the Administrator and shall contain the information set forth in Appendix B of the SLDC.

2.2.5.5. The Board, Planning Commission the Administrator or a CPO shall initiate a review of future land-use maps of the General Plan, area plan, or

community plans every three (3) to five (5) years. General, area, specific and community plan future land-use map amendments shall be considered only two times a year. The Administrator shall collect all applications for such plan amendments from January 1 until June 30, and from July 1 until December 31 of each calendar year, and submit them to the Planning Commission for consideration beginning with the regular meetings of the Planning Commission held in July and January, respectively, for processing. During the period of accumulation of plan amendment applications the Administrator shall continue to schedule pre-application neighborhood meetings and forward the applications as they are received to the appropriate Community Planning Organization or other County, regional, state or federal agencies for review of the application and forwarding of recommendations to the Planning Commission.

2.2.6. Completeness Review. The Administrator shall review the application for a General Plan, area, specific, or community plan amendment and shall determine if the application is complete pursuant to the provisions of §3.10 of the SLDC. The Administrator shall inform the applicant of the status of the completeness of the application. If the Administrator determines that the application is incomplete, the application shall be returned to the applicant. The applicant shall be instructed in writing as to the reasons for the incompleteness of the application.

2.2.7. Development Order. The Planning Commission shall hold either a legislative or quasi-judicial public hearing upon the proposed plan amendment depending upon whether the proposed amendment is applicable only to a single development tract, parcel or lot or to a single parcel of land under common ownership which constitutes the majority of land affected by the proposed amendment. The Planning Commission shall issue a development order in accordance with the procedures set forth in §3.17 of the SLDC. Any party that could have proposed a plan amendment under this chapter may appeal the decision of the Planning Commission to the Board within thirty (30) days of the date of the Planning Commission's development order.

2.2.8. Criteria. In determining whether the proposed amendment shall be approved, the Planning Commission and Board shall consider the factors set forth in New Mexico statutes. No area, specific plan or traditional community plan will be approved unless it is consistent with the General Plan.

2.2.9. Scope of Approval. The approval of an amendment to the General Plan, area, specific or community plans does not authorize the use, occupancy, or development of property. The approval of a plan amendment shall require the applicant to apply for development approval pursuant to the provisions of the SLDC, which may occur concurrently with the plan amendment process.

2.3. CONSISTENCY. The SLDC shall be consistent with the General Plan, and with regard to development approvals, applicable area, specific and community plans. An amendment to the text or map of the SLDC is consistent and in accordance with the General Plan, area, specific or community plans, if it complies with the goals, objectives, policies, and strategies contained in the General Plan, or applicable plan. Any amendments to the SLDC, including but not limited to development approvals, shall be consistent with the following:

2.3.1. The adopted General Plan, as it may be amended from time to time, in effect at the time of the request for amendment;

2.3.2. An adopted area, specific or traditional community plan;

2.3.3. The Official Map; and

2.3.4. The CIP.

2.4. COMMUNITY PARTICIPATION

2.4.1. Community Planning Organizations.

2.4.1.1. All Local Development Review Committees (“LDRCs”) in existence at the date of adoption of the SLDC are hereby reconstituted as CPOs. Other CPOs may be created pursuant to the provisions of §2.4.2 of the SLDC, provided they do not overlap geographically with any other authorized CPOs. The representatives of a CPO shall be proposed by owners, residents and associations (as defined in §2.4.3 of the SLDC) within the geographic area of the CPO, subject to approval by the Board. The Board shall approve, modify or disapprove the proposed boundaries of the CPO, the bylaws and organizational documents and the community representation plan of the CPO. The Administrator shall prepare a set of administrative regulations governing the structure, membership, method and term of appointment of a CPO and officers thereof. The County shall not be obligated to provide a member of the County’s planning, development review, or other staff at any CPO meeting.

2.4.1.2. CPO Functions and Responsibilities. Each CPO shall have the following functions and responsibilities:

2.4.1.2.1. Establishing a Coordinating Committee to assist in creating a community representation plan to be included in the bylaws and organizational documents and upon completion, receiving formal recognition by resolution of the Board;

2.4.1.2.2. Establishing the boundaries of the CPO as follows:

2.4.1.2.2.1. Utilizing the boundaries designated for Traditional Communities in the 1980 and 1999 General Plan;

2.4.1.2.2.2. Utilizing the boundaries of any other community that has an adopted plan or zoning ordinance, integrated into the SLDC;

2.4.1.2.2.3. Creating a new CPO for communities and areas having common geography, history, land use or cultural activities; and

2.4.1.2.2.4. Any CPO may re-draw its boundaries upon approval of the Board.

2.4.1.2.3. Initiating recommendations to the Board, Planning Commission and Administrator with respect to the General Plan, community plans, specific plans and any area plans;

2.4.1.2.4. Preparing comments and recommendations for General, area, specific and community plans and SLDC text or zoning map amendments proposed by an owner, the Board, Planning Commission or Administrator;

2.4.1.2.5. Working with the Administrator as the official contact between a CPO and the County;

2.4.1.2.6. Preparing a Strategic Work Plan (“SWP”) for County infrastructure and service projects for consideration by the Administrator, County Manager, Planning Commission and Board, with respect to inclusion within the County CIP, or for consideration as conditions of mitigation for development approval;

2.4.1.2.7. Recognition as a required link to public participation with respect to the three (3) to five (5) year review and amendment process of the General Plan and the SLDC.

2.4.1.2.8. Working with registered organizations, owners and residents within the boundaries of the CPO on matters relating to the development approval of discretionary applications and with other functions of the CPO; and

2.4.1.2.9. Working with the Administrator to establish:

2.4.1.2.9.1. County organized leadership training sessions;

2.4.1.2.9.2. a SWP community database to organize and track priority community projects identified in the SWP and CIP;

2.4.1.2.9.3. providing County technical staff support for specific planning projects recommended by the CPO and approved by the Planning Commission;

2.4.1.2.9.4. hosting quarterly regional meetings of all CPOs and an annual Congress of Community Planning Organizations.

2.4.2. With regard to an application for discretionary development approval of property within the planning area, as defined in the General Plan, of a CPO, and subject to §§ 2.4.3 through 2.4.5 of this Chapter, a CPO shall have the following privileges, duties and obligations:

2.4.2.1. standing to appear before the Board, the Planning Commission, a Hearing Officer or County official charged with presiding over a public hearing or meeting for which notice is required;

- 2.4.2.2. the right to participate in any community pre-application meeting involving an application for a discretionary development approval;
- 2.4.2.3. standing to request a rehearing of, or appeal from, a discretionary development order, to the Board or to any court with general jurisdiction;
- 2.4.2.4. the right to receive timely notice of any application for discretionary development approval, or notice of any public hearing or public meeting concerning such application;
- 2.4.2.5. the right to present evidence and witnesses at a quasi-judicial hearing before the Board, Planning Commission or Hearing Officer, or at a legislative hearing of the Board;
- 2.4.2.6. the right to participate, as deemed appropriate by County officials and staff, in the preparation of the General Plan, the SLDC, an area, specific or community plan or amendment, and to make recommendations with respect to such SLDC or plan amendments; and
- 2.4.2.7. the right to prepare recommendations of approval, approval with conditions or mitigation, or denial with respect to any application for discretionary development approval for consideration of a Hearing Officer, Planning Commission, Board or other County official charged with issuing a development order on such application. A CPO shall have no authority to hear, review or render a development order with respect to any development application.

2.4.3. Registered Organization. Registered organizations are established by the SLDC in order to provide notification of interested acequias, assessment and public improvement districts, public or private utilities, school districts, homeowner associations, neighborhood associations, CPOs and other non-profit associations (cumulatively referred to as “organizations”) with respect to an application that requests discretionary development approval within the established area of a CPO. In order to be included as a registered organization, the organization shall provide the following information to the Administrator:

- 2.4.3.1. a map or written description of the organization’s geographical boundaries;
- 2.4.3.2. a list of the officers of the organization, including their addresses and phone numbers;
- 2.4.3.3. a signed copy of the adopted by-laws or other relevant organizing documents;
- 2.4.3.4. a regular meeting location and a regular meeting date;
- 2.4.3.5. the date the organization was founded;
- 2.4.3.6. the number of organization members; and

2.4.3.7. with regard to neighborhood and homeowner associations, the approximate number of housing units in the area or development;

2.4.4. The organization shall contact the Administrator in the event of a change in any of the information required pursuant to §2.4.3. An owner and the Administrator shall be entitled to rely on the above-referenced information for purposes of preparing any notices or otherwise contacting organizations where required by this Chapter.

2.4.5. Effect of Registration. Upon an organization registering as provided herein, the Administrator shall notify the organization of any application for discretionary approval filed within the organization's geographical boundaries as described in subsection 2.4.3.1 of this Chapter. Individual citizens who reside outside of the statutory 200-foot notice area required by law, but within the boundaries of a registered organization, are considered notified when any such notification is sent to the organization. Notice under this section constitutes a privilege and not a right. Lack of notice shall not constitute a denial of statutory or constitutional due process if such statutory or constitutional notice has been otherwise given pursuant to law.

2.5. MANDATORY PRE-APPLICATION MEETING.

2.5.1. Purpose and findings. The purpose of the pre-hearing meeting is to:

2.5.1.1. require owners to pursue early and effective communication with the affected public in conjunction with discretionary development approval applications, giving the applicant, registered organizations, the CPO and the community an opportunity to understand and attempt to mitigate any documentable adverse impact of the proposed project on the adjoining community, to educate and inform the public and to give suggestions to the applicant as to the improvement of the project consistent with community character and sense of place;

2.5.1.2. provide citizens and property owners of affected areas with an opportunity to learn about applications and to work with applicants to resolve concerns at an early stage of the process; and

2.5.1.3. facilitate ongoing communication between the applicants, interested citizens, registered organizations, public or private utilities, assessment and public improvement districts, school districts, CPOs, acequias, property owners, County staff, the Board, Planning Commission and officials throughout the application approval process.

2.5.2. Applicability. It is the policy of the County to require owners to meet with the CPO, any organization registered pursuant to §2.4 of the SLDC and all property owners entitled to statutory notice, prior to filing an application for a discretionary development approval. The owner, at its option, may elect to include citizen participation as a preparatory step in the development process for a ministerial development approval. This section requires that community meetings take place not more than three (3) weeks subsequent to the Administrator's receipt of the owner's sketch plans, provided pursuant to §2.5.3.2 of the SLDC. An application shall require documentation of efforts that have

been made to resolve all potential issues, concerns or recommendations that have been raised at the meeting.

2.5.3. Recommended Procedures.

2.5.3.1. Meetings. The Administrator shall facilitate at least one meeting between the owner and any organization registered pursuant to §2.4 of the SLDC, the applicable CPO and all property owners entitled to statutory notice, prior to filing of an application for discretionary development approval. The meeting shall be held at a designated County office that is nearest to the development site. Suggestions and recommendations made at the meeting shall, if mutual consensus is reached, be reflected in the contents of the application.

2.5.3.2. Materials for the Pre-Application Meeting. The Owner shall prepare two (2) sketch plans of the proposed development in rough format and file the sketch plans with the Administrator not less than five (5) days prior to the date when notice of the pre-application meeting will be sent out by the Administrator. The Administrator shall forward the sketch plans to each applicable CPO, all persons entitled to statutory notice and to all registered organizations, with the notice of the meeting.

2.5.3.2.1. One sketch plan shall show the boundary lines of the development and the approximate location of any significant features, such as roadways, utilities, wetlands, floodways, hillsides and existing buildings or structures.

2.5.3.2.2. The second sketch plan shall show the proposed uses for the property; the number of dwelling units and floor area ratio (“FAR”) for non-residential uses; the proposed layout, including open space, location of buildings, roadways, schools and other community facilities, if applicable.

2.5.3.3. Target Area. The target area of the mandatory pre-application neighborhood meeting shall include the following:

2.5.3.3.1 Property owners within the public hearing notice area required by statute;

2.5.3.3.2 An organization registered pursuant to §2.4 of this Chapter in which the subject property is located or is within 200 feet of the subject property; and

2.5.3.3.3. The boundaries of the applicable CPO.

2.5.3.4. Pre-Application Meeting Documentation. The Administrator shall prepare and distribute at the meeting the information required in §2.5.3.2 of the SLDC. The County shall also make three (3) copies of each of the sketch plans available at the meeting and at the office of the Administrator.

2.5.3.5. Report on Implementation of Pre-Application Meeting. The owner shall furnish the Administrator a written report on the results of its citizen participation efforts with the filing of the application. At a minimum, the report shall include:

2.5.3.5.1. dates and locations of all meetings where organizations registered pursuant to §2.4 of this Chapter, the applicable CPO and all property owners entitled to statutory notice prior to filing an application for a discretionary development approval, were invited to discuss the owner's proposal;

2.5.3.5.2. content, dates mailed, a list of persons, the CPO and the organizations pursuant to §2.4 of this Chapter mailed to, and number of mailings, including letters, meeting notices, newsletters, and other publications;

2.5.3.5.3. location of residents, property owners, and interested parties receiving notices, newsletters, or other written materials;

2.5.3.5.4. the number of people who participated in the process;

2.5.3.5.5. a summary of concerns, issues, and problems expressed during the process;

2.5.3.5.6. a summary of all concerns, issues and problems that were resolved at the meeting including any conditions or mitigating actions agreed to; and

2.5.3.5.7. a summary of how the owner has addressed or intends to address concerns, issues, and problems expressed but not resolved during the process including those that the applicant is unable to address; and

2.5.3.5.8. an affidavit and acknowledgement, sworn to before a notary public, certifying compliance with this section.

2.5.3.6. Any CPO, registered organization or person entitled to notice of the application shall also have the right to furnish a written report to the Administrator on the results of the owner-applicant's citizen participation meeting.

CHAPTER THREE – DEVELOPMENT APPROVALS

3.1. PURPOSE AND FINDINGS. The purpose of this chapter is to establish the authority of the Board, Planning Commission, Administrator and Hearing Officer and to designate the procedures for filing and processing applications for development approval. The format is designed to allow users to quickly and efficiently ascertain the various steps involved in obtaining development approval — from the initiation and filing of an application, administrative completeness review, and review for compliance with SLDC standards, through public hearings, determination and appeal. The provisions of this chapter are designed to implement and be consistent with the General Plan, and any applicable area, specific and other community plan.

3.2. PROCEDURAL REQUIREMENTS. No construction, land alteration, land use or development activity is permitted unless all applicable development approvals are issued in accordance with this Chapter. Development approvals are required for all construction, land alteration, land use or development activity, to ensure compliance with the SLDC, other County ordinances and regulations and applicable state and federal laws and regulations. This Chapter describes the procedural elements common to all development approval applications. The specific procedures followed in reviewing various applications for development approval differ. Reference shall be made to the appropriate section in this Chapter, which addresses the procedures and requirements of each particular application. Generally, the procedures for all applications have these common elements:

3.2.1. Submittal of a complete application, including required fees and containing appropriate affidavits, data, information, reports, assessments and studies;

3.2.2. Review of the application by the Administrator, County staff, applicable CPO, Hearing Officer, the Planning Commission, the Board or other applicable, regional, state or federal agencies;

3.2.3. A development order shall be issued approving, approving with conditions, or denying the application, together with written findings describing and supporting the action adopted;

3.2.4. Any appeal of the development order; and

3.2.5. Any application for a variance or beneficial use or value determination (BUD).

3.3. BOARD OF COUNTY COMMISSIONERS.

3.3.1. Specific Powers and Responsibilities. The Board shall have the responsibilities set forth in the SLDC as well as all powers and duties conferred upon it by State Law. The Board shall have the following powers and duties:

3.3.1.1. To initiate legislative amendments to the General Plan, an area, or community plan;

3.3.1.2. To initiate legislative amendments to the text and map of the SLDC after a recommendation from the Planning Commission;

3.3.1.3. Except where a final development order has been authorized to be issued by the Planning Commission, to approve, approve with conditions or deny specific property owner applications for quasi-judicial discretionary development approval, including but not limited to establishment of new urbanism planned development districts, overlay zone district classifications, rezoning, any application relating to a development of county-wide impact and beneficial use and value determinations;

3.3.1.4. To approve development agreements;

3.3.1.5. To legislatively adopt and amend an Official Map and CIP;

3.3.1.6. To legislatively establish assessment and public improvement districts and public utilities;

3.3.1.7. To legislatively establish and amend schedules for administrative and consultant fees, dedications, impact fees, money-in-lieu of land, affordable housing fees, other exactions and security instruments, including but not limited to bonds, letters of credit and cash escrow deposits, for payment and performance of obligations;

3.3.1.8. To initiate litigation and seek equitable and legal remedies to enforce violations of the SLDC, development agreements and the terms and conditions of development approval and take such any other actions, including the settlement of actions, as is authorized by the SLDC, other ordinances, regulations and statutes;

3.3.1.9. To take such other action not expressly delegated exclusively to any other agency or official by the SLDC as the Board may deem desirable and necessary to implement the provisions of the SLDC and the General Plan;

3.3.1.10. To appoint members of the Planning Commission, Hearing Officers, and other Boards and Commissions that it may create;

3.3.1.11. To delegate to the Planning Commission the power, authority, jurisdiction and duty to enforce and carry out the provisions of law relating to planning, platting and zoning as it has delegated to the Planning Commission in the SLDC; as well as to retain as much of this power, authority, jurisdiction and duty to the Board as it has retained in the SLDC, pursuant to NMSA (1978), §3-19-1; and

3.3.1.12. To hear and rule on appeals from quasi-judicial decisions of the Planning Commission as set forth in §3.3.2 of this Chapter.

3.3.2. Final Action and Appeals. The Board shall hold public hearings, and issue development orders, on applications for legislative or quasi-judicial discretionary development approval, except where a final development order is authorized to be issued by the Planning Commission. Where the Planning Commission has authority to issue a development order, determining a matter, the Board shall have appellate authority to

review such development order if an appeal is properly undertaken by the Board, the Administrator, the owner/applicant, a CPO, a registered association, or any other person or entity with standing to review the development order, pursuant to §3.14 of this Chapter, no more than thirty (30) days from the date of the development order.

3.3.3. Conflict of Interest: Quasi-Judicial Proceedings. A Commissioner shall not vote or participate in any quasi-judicial development approval, pending before the Board, if the Commissioner has any interest in the application, whether such interest is direct or indirect, financial or otherwise. In any case, where the question of a Commissioner's interest is raised, the chair shall rule on whether the member should be disqualified, and if the chair's interest is raised, by vote of the remaining members of the Board. Where any quasi-judicial development approval is pending before the Board, no member shall discuss the pending application with any member of the public or any party to the proceedings. If an ex parte contact is made to a member by a member of the public, the owner/applicant or any party to the proceedings, such member shall disclose such contact and the content of such contact, to the Board, on the record, prior to the commencement of any public hearing on the development approval application. No member shall, without authority from the Board itself, visit any site or conduct any personal investigation or study with regard to any quasi-judicial development approval pending before the Board.

3.4. PLANNING COMMISSION.

3.4.1 Creation and Responsibilities. There is hereby created a County Planning Commission ("Planning Commission") which shall have the responsibilities and duties specified in the SLDC and in NMSA 1978, §3-19-1 et seq. and NMSA 1978, §3-21-1 et seq.

3.4.2. Duties and Powers of the Planning Commission. The duties of the planning commission are as follows:

3.4.2.1. To perform the functions specified in NMSA 1978 §3-21-7 (1965);

3.4.2.2. To prepare and recommend to the Board, for adoption, General Plan amendments and the adoption and amendment of area, specific and traditional community plans, an Official Map, and a Capital Improvements and Services Program ("CIP") and other programs for public improvements and services and their financing;

3.4.2.3. To hold public hearings and prepare written recommendations for adoption and amendment of the text and maps of the SLDC;

3.4.2.4. To hold public hearings and prepare a written recommendation to the Board on all discretionary development approvals, including but not limited to, development agreements, rezoning, overlay zoning district classifications, new urbanism planned development districts, and beneficial use determinations;

3.4.2.5. To hold public hearings and issue concept plan, preliminary and final development orders for the approval, approval with conditions or denial of

quasi-judicial discretionary development applications consisting of conditional use permits, site plans, subdivisions, variances, and appeals from the Administrator, relating to the completeness of an application. All final development orders of the Planning Commission shall be subject to appeal to the Board pursuant to §3.4.2 of the SLDC; and

3.4.2.6. The Planning Commission, its members and County employees and consultants designated by the Planning Commission, in the performance of the Planning Commission's functions, shall have the authority, pursuant to NMSA § 3-19-4, upon reasonable notice of not less than seventy two (72) hours to the owner/applicant or designated agent of the land to be entered, to enter upon any land, make examinations and surveys, and place and maintain necessary monuments and markers upon the land. No entry or site examination of land shall be conducted by the Planning Commission, any member, or County employee or consultant, until the Planning Commission adopts a resolution authorizing the time, place and location of the entry onto land or site examination. The Administrator, owner/applicant, , an applicable CPO, or other person or association with standing, shall have the right to accompany the persons making the site visit. Minutes of the site visit shall be taken by the Secretary or Administrator.

3.4.3. Membership and Terms.

3.4.3.1. Number; Appointments; Residency. The Planning Commission shall consist of seven (7) members, who shall be appointed by the Board. Planning Commission members must be registered voters of the County. One member shall reside within the City of Santa Fe and the other six (6) members shall be residents of diverse areas of the County. One Planning Commissioner shall at all times be a resident of the City of Santa Fe.

3.4.3.2. Terms and Removal. The initial members of the Planning Commission shall be the current members of the County Development Review Committee, who shall serve out their remaining terms. Thereafter, terms of members of the Planning Commission shall be for two (2) years or until their successors are appointed. Four (4) members shall be appointed in even numbered years and three (3) members shall be appointed in odd numbered years. Members may be removed by the Board after a public hearing solely for reasonable cause set forth in writing and made part of the public record.

3.4.3.3. Term Limits. No Planning Commission member shall serve more than three (3) consecutive two (2) year terms or more than six (6) consecutive years.

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

3.4.4. Conduct of Planning Commission Business.

3.4.4.1. Officers; Quorum; Rules of Order. The Planning Commission shall follow the established Board rules of order governing the selection of a chair and vice-chair and other rules of order. The Planning Commission shall not act on any matter unless a quorum of not less than four (4) members is present. A minimum affirmative vote of three (3) members, constituting a majority of the quorum present, shall be authorized to adopt any development order, recommendation or resolution. The chair shall be counted as any other member when establishing a quorum. Any question of order or procedure not covered by the established Board rules shall be decided according to the latest edition of Henry M. Robert III et al., *Robert's Rules of Order*, 10th ed. (Cambridge, MA: Perseus Publishing 2000), insofar as they may be applicable.

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

3.4.4.3. Minutes and Other Records. The Secretary to the Planning Commission, or if none is appointed, the Administrator, shall keep minutes of its proceedings, which shall reflect the vote on each matter put to a vote or, a member is absent or fails to vote, reflect such fact; and such other records as are necessary to memorialize its transactions, findings, recommendations, resolutions, determinations and development orders, all of which shall be filed in the office of the County Clerk and in the Administrator's office.

3.4.4.4. Conflict of Interest. A Planning Commission member shall not vote or participate as a member in any matter before the Planning Commission if the member has any interest in the matter, whether such interest is direct or indirect, financial or otherwise. In any case, where the question of a member's interest is raised, the chairperson shall rule on whether the member should be disqualified, and if the chairperson's interest is raised, by vote of the remaining members of the Planning Commission. On any quasi-judicial development approval process pending before the Planning Commission, no member shall discuss the pending application with any member of the public or any party to the proceedings. If an ex parte contact is made to a member by a member of the public or any party to the proceedings, such member shall disclose such contact and the content of such contact, to the Planning Commission, on the record, prior to the commencement of any public hearing on the development approval application. No member of the planning commission shall, without authority from the Planning Commission itself, visit any site or conduct any personal investigation or study with regard to any quasi-judicial proceeding pending before the Planning Commission.

3.4.4.5. Recommendations and Development Orders. The Planning Commission shall take no final action on any matter without first considering any recommendation received from the Administrator, planning staff,

the Hearing Officer, a CPO, a registered organization specified in §2.4.3 of the SLDC, or owner/applicant, reports of the pre-application meeting, other owners of land with standing, Pueblos, and other County, regional, state or federal departments or agencies, as determined by law.

3.5. ADMINISTRATOR.

3.5.1. Appointment. A person shall be appointed by the Board to serve as the Administrator. Where the SLDC assigns a responsibility to the Administrator, the Administrator may delegate that responsibility to any other official, employee or consultant of the County.

3.5.2. Responsibilities. The Administrator shall have the responsibility to administer and enforce the provisions of the SLDC. The Administrator shall make all final decisions as to the interpretation and definitions of the SLDC, the amount and applicability of administrative and consulting fees, the administrative enforcement of the SLDC, the adequacy of security instruments and escrow deposits and issuance of ministerial development approvals, subject to appeal to the Planning Commission. No action shall be taken to litigate any matter arising from any application for development approval, or under the enforcement of the SLDC without express approval of the Board, upon recommendation of the County Attorney.

3.6. TECHNICAL ADVISORY COMMITTEE.

3.6.1. Appointment; Responsibilities. A Technical Advisory Committee (TAC) is hereby created, the members of which shall be appointed by the Administrator. The TAC shall serve as a review and recommending body, assisting the Administrator, the Board and the Planning Commission and where appropriate, the Hearing Officer with the review of applications for development approval. The TAC shall provide advice and recommendations on environmental, planning, fiscal, design, engineering, transportation, utility, geo-hydrological, water availability, sustainability, environmental and technical issues, and to assess the comments and reports of reviewing County departments, regional, state and federal agencies and officials, interested parties with standing, registered organizations, the applicable CPO and owner/applicants. The TAC shall make recommendations to the Administrator, the Board, the Planning Commission and the Hearing Officer for approval, conditional approval or denial of applications for development approval.

3.6.2. Members. The TAC shall include representatives from the following County departments, including but not limited to, the Fire, Sheriff, Public Works, Growth Management, Open Space, Environmental, Utilities, Financial and Water Resources departments. In addition and as appropriate, the TAC may include, for a specific development approval application, representatives of other County departments, school districts, cities, public and private utilities, assessment or public improvement districts, acequias, regional, state or federal agencies.

3.6.3. Meetings. The TAC shall meet at least monthly and shall also meet at the request of the Administrator, Board, Planning Commission, and where appropriate, the Hearing Officer. The TAC shall analyze applications and submittals for development approval, adoption and amendment of the SLDC, the CIP, the Official Map, the General Plan, or any area, specific or traditional community plan as specified by the Administrator and the SLDC. An owner/applicant may be invited to attend meetings of the TAC only at the discretion of the Administrator.

3.7. HEARING OFFICER.

3.7.1. Establishment. The SLDC hereby establishes the position of Hearing Officer for the purpose of assisting in the adjudication of quasi-judicial applications for discretionary development approval, including but not limited to:

- 3.7.1.1.** Owner/applicant initiated site specific amendments to the General Plan, area, specific or traditional community plan, SLDC zoning map or text;
- 3.7.1.2.** Zoning Text or Map Amendments;
- 3.7.1.3.** Overlay zoning district classifications;
- 3.7.1.4.** Planned development districts;
- 3.7.1.5.** Conditional use permits;
- 3.7.1.6.** Major site plans; or
- 3.7.1.7.** BUDs.

3.7.2. Authority; Appointment. In all cases involving quasi-judicial discretionary development approvals, including but not limited to applications for site specific General Plan, area, specific and community plan amendments; rezoning; applications involving developments of county-wide impact; overlay zoning district classifications; new urbanism planned development districts; conditional use permits; major variances; BUDs or major site plans, the Administrator shall, following the pre-application neighborhood meeting and approval of the concept plan, if one is required, refer the applications to the Hearing Officer to conduct public hearings, make written findings of fact, conclusions of law and recommendations, and file written reports with such findings, conclusions of law and recommendations to the Planning Commission for further action.

3.7.3. Term and Removal. The Hearing Officer shall be appointed by the Board for a definite term of office, not to exceed four (4) years, and may be re-appointed at the conclusion of any term. The Hearing Officer may be removed by the Board solely for reasonable cause. Reasonable cause for removal of the Hearing Officer shall include, but not be limited to, violations of the standards set forth in the New Mexico Code of Judicial Conduct, as adopted by the New Mexico Supreme Court.

3.7.4. Qualifications. A Hearing Officer shall have a J.D. degree from a law school certified by the American Bar Association or Association of American Law Schools, with not less than six (6) years of legal experience, and shall be licensed to practice law in New Mexico for a period of not less than three (3) years. A Hearing Officer shall not hold other appointive or elective office or position in government during his/her term.

3.7.5. Powers and Duties. The Hearing Officer shall have all powers necessary to conduct the quasi-judicial hearings assigned to the Hearing Officer by the Administrator.

3.8. CATEGORIES OF DEVELOPMENT APPROVALS. There are three basic categories of development approvals pursuant to this chapter:

3.8.1. Legislative Development Approval. Legislative development approvals involve a change in land-use policy by the Board, upon recommendation of the Planning Commission, including adoption of any change in the General Plan or adoption of any change to an area, specific, or community plan; adoption of or any amendment to the text or zoning map of the SLDC, the CIP or the Official Map; creation of a new urbanism planned development (PD) district; an overlay zoning district classification; and approval of any development agreements that apply either countywide or to a large number of properties under separate ownership. A public hearing is required but the procedural requirements of a quasi-judicial hearing do not apply.

3.8.2. Quasi-Judicial Development Approval. A quasi-judicial development approval involves the use of a discretionary standard, as required by the SLDC, to an application for discretionary development approval that is applicable to specific land in common ownership or to an area of land in which the predominant ownership lies in lands in a single common ownership, including, but not limited to, amendments to the General Plan or an area, specific, or community plan; amendment to the text or map of the SLDC; site plans; subdivision approvals; conditional use permits (CUPs); development agreements; variances; BUDS; overlay zoning district classifications for developments of countywide impact; and administrative appeals. Quasi-judicial discretionary development approvals require a public hearing providing procedural due process as established in §3.10 and §3.12 of the SLDC.

3.8.3. Ministerial Development Approval. Ministerial development approvals involve nondiscretionary application of the standards of the SLDC to an application and typically occur late in the development approval process. Examples include but are not limited to issuance of building permits, grading permits, minor land use disturbance permits, road construction and driveway permits, utility hook-up permits, floodplain

development permits, NPDES permits, administrative interpretations of the SLDC, LEED construction and neighborhood development permits, certificates of completion and certificates of occupancy. A public hearing is not required for any ministerial development approval.

3.9. COMPLETENESS REVIEW. This section applies to any development application for concept plan, preliminary plat, final plat, major or minor site plan, final approval or ministerial development approval, unless otherwise provided in the SLDC for the specific application.

3.9.1. Scheduling Conference. Before the first required application for legislative or quasi-judicial development approval is filed with the Administrator, the owner/applicant shall attend a scheduling conference with the Administrator. The purpose of the scheduling conference is to discuss the schedule, procedures and substantive requirements for the application in order for the owner/applicant to meet the completion requirements of the SLDC.

3.9.2. Application Materials. No application, at any stage, or for any development approval, is complete until a complete application upon the forms and with the information required by Appendix B of the SLDC is filed with the Administrator and all application and administrative fees have been paid. An application, upon the proper form, that includes all required information shall be determined by the Administrator to be complete pursuant to §3.9.3 of this Chapter. All complete applications shall be placed on file and made available to the public.

3.9.3. Completeness Review Procedures. These procedures shall be used to review any application for completeness unless a more specific procedure is established elsewhere in the SLDC.

3.9.3.1. All applications shall be reviewed by the Administrator for completeness; and

3.9.3.2. The final determination of the Administrator on completeness of an application constitutes a final development order and is appealable to the Planning Commission. The development order on completeness, issued by the Planning Commission upon any appeal, shall be final and not be appealable to the Board.

3.9.4. Time Limits for Review of Development Approval Applications. Whenever the SLDC or state law establishes a time period for approving, conditionally approving or denying a development approval application, such time period shall not commence until the Administrator has reviewed such application for completeness, the owner/applicant has corrected all deficiencies in the application, and the Administrator has issued a certificate of completeness to the owner/applicant. Review for completeness of applications is solely for the purpose of determining whether preliminary information required for submission with the application is sufficient to allow processing of the application, and shall not constitute a development order as to whether the application substantively complies with the provisions of the SLDC. Nothing in this section precludes an owner/applicant and the Administrator from mutually agreeing to an extension of any time limit provided by this section.

3.9.4.1. Review by Administrator. Not later than ten (10) working days after the Administrator has received an initial application, the Administrator shall determine in writing whether the application is incomplete and shall transmit such determination to the owner/applicant. If a development order deeming an application incomplete is not made within the applicable time period, set forth in §3.9.4.1.3 of this Chapter, after receipt of the application, the application shall be deemed complete for purposes of the SLDC.

3.9.4.1.1. Unless the application requires completeness review by a regional, state, or federal agency or entity, the Administrator shall, within five (5) working days, transmit the application to every applicable County department, agency or official, the TAC and the applicable CPO requesting written comments within five (5) working days. The Administrator shall have fifteen (15) working days to issue the development order on completeness.

3.9.4.1.2. Where the application requires regional, state or federal review, the Administrator shall transmit the application within five (5) working days to the required reviewing agencies and request such review and recommendation to be returned within thirty (30) days, pursuant to NMSA §47-6-22(A). If the Administrator does not receive a requested opinion within the thirty (30) day period, the Administrator shall proceed in accordance with his or her best judgment concerning the completeness of the application. The Administrator shall make a final determination of the completeness of the application within ten (10) working days from the time that the responses are received or the lapse of the thirty (30) day period, whichever is longer.

3.9.4.1.3. If the application, together with the submitted materials, is determined to be incomplete, the Administrator shall issue a development order specifying the information required. The owner/applicant may resubmit the application with the information required by the Administrator or may appeal the development order to the Planning Commission within thirty (30) days from the date the Administrator's development order is filed and mailed to the owner/applicant. The owner/applicant shall not be required to pay any additional fees.

3.9.4.2. Review by the Planning Commission. The Planning Commission shall issue a final development order on any appeal of a completeness determination of the Administrator not later than thirty (30) working days after receipt of the owner/applicant's written appeal, or the next available meeting, whichever is later.

3.9.5. Further Information Requests. After the Administrator or the Planning Commission accepts a development application as complete, the Administrator, the Hearing Officer, the Planning Commission or the Board may, in the course of processing the application, request the owner/applicant to clarify, amplify, correct, or otherwise

supplement the information required for the application, if such is required to render a final development order on the merits.

3.10. NOTICE PROVISIONS.

3.10.1. Generally. The notice requirements for each type of development approval application are prescribed in the subsections of this Chapter and by state law.

3.10.2. Contents of Notice. The notice shall state the time, date, and place of the public hearing and include a description of the property site in common ownership that includes at a minimum:

3.10.2.1. The street or road address or, if the street or road address is unavailable, a legal description by metes and bounds;

3.10.2.2. The current zoning classification(s);

3.10.2.3. The type of development approval requested and a brief description of the proposed development, including proposed density or building intensity, zoning classifications and uses requested; and

3.10.2.4. The real property tax assessment roll parcel number.

3.10.3. Action to Be Consistent with Notice. The Administrator, Hearing Officer, Planning Commission or Board shall only take action, including approval, conditional approval or denial of the application that is consistent with the notice given.

3.10.4. Minor Amendments Not Requiring Re-notification. The Administrator, Hearing Officer, Planning Commission or Board may allow minor amendments to the application without re-submittal of the entire application. For purposes of this section, “minor amendments” are amendments that do not:

3.10.4.1. Increase the number of dwelling units, floor area, height, impervious surface development, or require any additional land-use disturbance;

3.10.4.2. Introduce different land uses than that requested in the application;

3.10.4.3. Request consideration of a larger land area than indicated in the original application;

3.10.4.4. Request a greater variance than that requested in the application;

3.10.4.5. Request any diminution in buffer or transition area dimensions, floor area ratios (FAR), reduction in required yards, setbacks or landscaping, increase of maximum allowed height, or any change in the design characteristics or materials used in construction of the structures; or

3.10.4.6. Reduce or eliminate conditions attached to a legislative or quasi-judicial development order unless a new application is filed.

3.11. LEGISLATIVE PUBLIC HEARING.

3.11.1. Applicability. This section applies to applications requesting legislative development approval.

3.11.2. Planning Commission. The Planning Commission shall hold regularly scheduled public hearings to receive and review public input on applications for a development order. The Planning Commission shall send written recommendations to the Board that an application be approved, approved with conditions, or denied. If an application for a legislative development approval requiring final approval of the Board has been duly submitted to the Planning Commission, and the Planning Commission has failed to convene a quorum or to make a recommendation approving, approving with conditions or denying such development approval at two consecutive meetings, such action, at the option of the owner/applicant, shall be deemed to be a negative recommendation. The Administrator shall then submit the application to the Board for its consideration.

3.11.3. Records. The County Clerk shall prepare written minutes and retain the evidence submitted at the hearing. The Administrator shall prepare a summary of the considerations and recommendations of the Planning Commission, which shall be transmitted to the Board not more than ten (10) working days after the Planning Commission recommendation has been issued.

3.11.4. Board Meetings. The Board shall hold a noticed public hearing to act upon any legislative matters required by this Chapter to be considered.

3.12. QUASI-JUDICIAL PUBLIC HEARINGS.

3.12.1. Generally. This section applies to review of applications for discretionary development approvals that are considered quasi-judicial under the SLDC, state law, or state or federal constitutional procedural due process judicial decisions. In making quasi-judicial decisions, the Board, Planning Commission and Hearing Officer shall investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, make written findings of fact, conclusions of law and recommendations and exercise discretion of a judicial nature. In the land-use context, these quasi-judicial decisions generally involve the application of land-use policies to individual properties in common ownership as opposed to the creation of policy. These decisions involve two key elements:

3.12.1.1. Findings of fact regarding specific applications; and

3.12.1.2. The exercise of discretion in applying the requirements and standards of the SLDC, state and federal law.

3.12.2. Procedural Due Process. Procedural due process constitutional provisions for quasi-judicial decisions require that owner/applicants be provided with a fair evidentiary hearing with the right of the parties to offer documentary evidence; cross-examine witnesses; inspect documents; offer sworn testimony; and have written findings of fact prepared that are supported by competent, relevant, non-prejudicial, substantial and material evidence.

3.12.3. Conduct of Quasi-judicial Hearing. Any person or persons may appear at a quasi-judicial public hearing and submit evidence, either individually or as a representative. Each person who appears at a public hearing shall take a proper oath and state, for the record, his/her name, address, and, if appearing on behalf of an association, the name and mailing address of the association. The hearing shall be conducted in accordance with the procedures set forth in this subsection. At any point, members of the Board, the Planning Commission or the Hearing Officer conducting the hearing may ask questions of the owner/applicant, staff, or public, or of any witness, or require cross-examination to be conducted through questions submitted to the chair of the Board, Planning Commission or to the Hearing Officer, who will direct questions to the witness. The order of proceedings is as follows:

3.12.3.1. The Administrator, or other County staff member, as designated by the Administrator, shall present a description of the proposed development, the relevant sections of the General Plan, area, specific or traditional community plans, the SLDC, and state and federal law applicable, and set forth the legal or factual issues to be determined. Any recommendation by County staff, consultant, or the Administrator, written or oral, shall not be given at the opening of the hearing, but shall be reserved until the close of the hearing in order to take into account the testimonial and documentary evidence offered at the hearing, giving assurance to all parties, the public and the owner/applicant that the evidence is being considered prior to any definitive recommendation. The recommendation shall address each factor required by the SLDC, other County ordinances and regulations, and state or federal law to be considered;

3.12.3.2. The owner/applicant shall offer the testimony of such expert, consultant or lay witnesses and documentary evidence that the owner/applicant deems appropriate, subject to cross examination by adverse interested parties with standing, County staff, consultants or the Administrator, within reasonable time limits established by the Board, Planning Commission or Hearing Officer;

3.12.3.3 Public testimony, including expert, consultant or lay witnesses and relevant documentary evidence for or against the application shall be received, subject to reasonable time limits established by the Board, Planning Commission or Hearing Officer, from the County, other governmental agencies or entities and interested parties with standing, subject to cross examination by the owner/applicant, any adverse interested party with standing, or by the County;

3.12.3.4. The owner/applicant may reply to any testimony or evidence presented, subject to cross examination;

3.12.3.5. The Administrator or County consultant or staff member shall have the opportunity to present a recommendation and respond to questions from the Board, Planning Commission or Hearing Officer concerning any statements or evidence, after the owner/applicant has had the opportunity to reply;

3.12.3.6. The Board, Planning Commission or Hearing Officer may pose questions to the owner/applicant, the County, any consultant or lay witness at any

time during the hearing concerning any statements, evidence, or applicability of policies and regulations from the General Plan, the SLDC, other County ordinances and regulations, any applicable area, specific or traditional community plan, or other governmental law or recommendations.

3.12.3.7. The Board, Planning Commission or Hearing Officer conducting the hearing shall close the public portion of the hearing and conduct deliberations. The Board or Planning Commission may elect to deliberate in a closed meeting pursuant to the Open Meetings Act, NMSA 1978, §§10-15-1 et seq.

3.13. LEGISLATIVE HEARINGS.

3.13.1. Purpose and Findings. The purpose of a legislative hearing is to provide the public, the owner/applicant, the County, the applicable CPO, registered organizations and other owners of land required to receive notice, with an opportunity to be heard. Unlike quasi-judicial hearings, a legislative hearing does not require due process protections, such as the right to cross-examination, to present sworn testimony, or to have the legislative body issue written findings of fact. Similar to quasi-judicial hearings, legislative hearings are public hearings preceded by notice to the owner/applicant and other governmental entities and interested parties, as provided by law. Public hearings are required for legislative actions, including but not limited to adoption or amendments to the General Plan, an area, specific or traditional community plan, the Official Map, the CIP and amendments to the SLDC, provided such amendments are not site-specific to a parcel of land under common ownership.

3.13.2. Conduct of Hearing. The order of the proceedings for a legislative hearing shall be as set forth in §3.12 of this Chapter. Testimony may be presented by the owner/applicant, any member of the public, and by the County or other affected governmental entities but need not be submitted under oath or affirmation. The Planning Commission or Board may establish a time limit for testimony and may limit testimony where it is repetitive. The Planning Commission or the Board may adopt more specific procedures by rule or resolution.

3.13.3. Record of Proceedings. The County Clerk shall record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with state law. Such record shall be provided at the request of any person upon application to the Administrator and payment of a fee, as established by the County pursuant to the Open Records Act.

3.14. APPEALS.

3.14.1. Applicability. Any person, governmental entity, an applicable CPO or association with standing, the owner/applicant, the County or the Administrator, aggrieved by a final development order relating to an application for development approval may appeal such development order to the Planning Commission or Board, as designated in this Chapter.

3.14.2. Notice of Appeal. A notice of appeal shall be filed with the Planning Commission or Board, as appropriate, within thirty (30) days after the

development order is filed in the office of the Administrator and mailed to the owner/applicant. The appeal shall contain a written statement of the reasons as to why the appellant claims the final decision is erroneous. The appeal shall be accompanied by the fee established by Appendix C of the SLDC.

3.14.3. Time Limit. The Board or Planning Commission shall hear and decide the appeal no more than sixty (60) days after the filing of the appeal, except appeals from a development order approving, approving with conditions or denying a final plat pursuant to NMSA 1978, § 47-6-22(B) and (C), in which case the Planning Commission shall approve, approve with conditions or deny the final plat within thirty (30) days from the date the Administrator determines that the application for final approval is complete. Any appeal to the Board shall be decided within thirty (30) days from the time the appeal is filed with the Administrator.

3.15. FAMILY TRANSFERS, PARCEL AND LOT DIVISIONS. Any family transfer, lot or parcel division created through exemption pursuant to NMSA 1978, § 47-6-2(J) shall, prior to receiving ministerial or discretionary development approval for construction or use, on any tract, parcel or lot of land, be required to meet all of the non-subdivision standards of the SLDC through the major or minor site plan discretionary zoning approval process. No discretionary or ministerial development approval shall be granted for any tract, parcel or lot of land created by an exemption pursuant to NMSA 1978, §47-6-2(J) until it is demonstrated that such tract, parcel or lot meets all of the requirements of site plan approval pursuant to § 3.22 of the SLDC and additionally meets the requirements of the base zoning district, including but not limited to the zoning uses permitted, minimum lot size, area and yard minimums, and maximum height as set forth in Chapter 9 of the SLDC; the affordable housing requirements set forth in Chapter 9 of the SLDC; the requirements of Chapter 5; and the requirements of Chapter 8; the Official Map, impact fees, exactions, dedications, public and private utility fees, charges and rates, and assessments, fees, charges and taxes of assessment and public improvement district.

3.16. MINISTERIAL DEVELOPMENT APPROVAL. A ministerial development approval consists of a building permit, grading permit, zoning certificate, certificate of completion, certificate of occupancy, a minor area variance, certificate of registration of a nonconforming use, and approval of a home occupation. No land shall be disturbed, no use shall be made and no building or structure shall be erected, added to, or structurally altered, or occupied within the jurisdiction of the SLDC until development orders granting all required discretionary and ministerial approval development applications have been issued.

3.17. DEVELOPMENT AGREEMENTS.

3.17.1. Upon an application being filed for approval of a development agreement concurrently with the filing of another application or applications for development approval, the Board may, in its legislative discretion, adopt an ordinance, authorizing the Administrator to enter into a development agreement in connection with such concurrent application or multiple applications for development approval, with the owner/applicant and interested third party governmental entities. If the concurrent application or applications require discretionary development approval, the adoption of the development agreement ordinance by the Board shall be concurrent with final approval of the concurrent application or applications. Where the concurrent application or applications

require only ministerial development approval, the Administrator shall forward the proposed development agreement to the Board for adoption prior to granting a development order for ministerial development approval.

3.17.2. Criteria for Entering into a Development Agreement. A development agreement is not a substitute for, nor an alternative to, any other required development approval and shall not be approved as a stand-alone document.

3.17.2.1. The Board may enter into a development agreement pursuant to this section only if it finds that:

3.17.2.1.1. the development agreement has been duly processed concurrently with the application or applications for development approval to which it is attached, in accordance with the processing provisions of the SLDC;

3.17.2.1.2. the development project to which the development agreement pertains has been determined to be consistent with the SLDC, the General Plan, and applicable area, specific and traditional community plans; the Official Map and the CIP;

3.17.2.1.3. the development project, subject to the development agreement, contains outstanding features that substantially advance the growth management goals, objectives and policies of the General Plan and SLDC beyond mere consistency; or

3.17.2.1.4. the owner voluntarily agrees to make contributions of capital facilities and services for county, public or private utility, school, assessment or public improvement district needs in order to meet the adequate public facility and services requirements of the SLDC, including existing deficiencies and countywide needs that are in excess of the development's proportionate share of the costs of the facilities and services, the need for which is generated by the development; or which advance provision of such facilities and services to serve the community, beyond the year in which the facilities are shown as being constructed or provided in the CIP, subject to reimbursement from future developments, if applicable.

3.17.2.2. The purpose for entering into a development agreement is to:

3.17.2.2.1. provide a mechanism for the County, owner/applicants and third party governmental entities to form agreements, binding on all parties, successors and assigns, regarding implementation of development orders granting concurrent applications for development approval, including but not limited to:

3.17.2.2.1.1. resolution of potential legal disputes prior to civil litigation;

3.17.2.2.1.2. resolution of pending civil litigation through settlement development agreements;

3.17.2.2.1.3. vesting;

3.17.2.2.1.4. land uses;

3.17.2.2.1.5. green development design and improvement standards;

3.17.2.2.1.6. conditions and mitigation requirements;

3.17.2.2.1.7. financing mechanisms, including dedication, exactions, impact fees, public and private utility rates, charges and fees, dedication of land for public schools, creation of assessment and public improvement districts for the construction, operation and ongoing service and maintenance of infrastructure and public services;

3.17.2.2.1.8. provision and the preservation of sustainable open space, scenic vistas, trails, environmentally sensitive lands, solar and wind renewable energy systems and rainwater capture.

3.17.2.2.2. promote land development regulation by allowing the County to adopt development agreements that include terms, conditions, mitigation requirements and other provisions that may not otherwise be able to be implemented without the use of a development agreement;

3.17.2.2.3. promote stability and certainty in regulation by providing for the vesting of rights in the project and for the mutual enforceability of development agreements by all parties;

3.17.2.2.4. provide a procedure for the adoption of such agreements that ensures the participation and comment of the owner/applicant, interested parties with standing, CPOs, registered organizations, acequias, Pueblos, public and private utilities, assessment and public improvement districts, County and other governmental agencies and officials;

3.17.2.2.5. provide mechanisms for the financing of all capital facilities and public services as provided for in the development order granting development approval of the concurrent application or applications;

3.17.2.2.6. provide a mechanism for assuring that the service, operation and maintenance costs of all facilities required by the County's development approvals are proportionally assessed to the development project owner, successors, assigns or to the owner/applicant on an annual basis;

3.17.2.2.7. implement all of the remaining purposes set forth in §3.17.2.2 of the SLDC and the financing purposes authorized for development agreements in NMSA §5-11-2 E and M; and

3.17.2.2.8. provide for expedited processing of development approval applications by avoiding duplication of hearings and repetition of information through the concurrent processing of development agreements with the underlying applications for development.

3.17.3. Force and Effect of Development Agreements. A development agreement shall be entered into and adopted only pursuant to this section and shall have the force and effect of a duly adopted provision of the SLDC.

3.17.3.1. Unless a development agreement provides for requirements greater than those required by the SLDC and other ordinances, plans and regulations; development and use of the land that is the subject of a development agreement shall occur according to the terms, conditions, and other provisions of the agreement, consistent with the SLDC and other ordinances, plans and regulations.

3.17.3.2. The term of a development agreement shall not exceed ten (10) years, except where the development order approving the application for development approval authorizes phased development, in which case the duration of the agreement shall not exceed fifteen (15) years.

3.17.3.3. A development agreement will not take effect until it is recorded in the office of the County Clerk. A development agreement not recorded in the office of the County Clerk within sixty (60) days after its adoption and execution by all parties shall be void. The development agreement shall also be filed in the office of the Administrator.

3.17.4. A development agreement shall be initiated by the owner/applicant concurrently with the application or multiple applications for development approval, upon the forms set forth in Appendix “B”. The Administrator shall review the application for completeness, concurrently with the accompanying concurrent development application or applications, as required by §3.9 of the SLDC, and upon the issuance of a certificate of completeness, shall process the application for the development agreement pursuant to the procedure applicable to concurrent application or applications for development approval.

3.17.5. A development agreement shall be:

3.17.5.1. consistent with the County General Plan and any applicable area, specific or traditional community plan; the requirements of the SLDC and the provisions of other County ordinances and regulations and applicable state and federal law;

3.17.5.2. adopted by an ordinance of the Board after notice and hearing as required for the adoption of amendments of the SLDC;

3.17.5.3. enforceable by the County and other governmental units that are third parties to the development agreement, and by the owner/applicant of the land who are parties to the development agreement. and their assigns and successors in interest; by civil judicial action, except that if an administrative revocation or enforcement action for violation of the development agreement has been initiated by the County and is still pending, any and all enforcement or disputes shall be determined in the administrative proceedings prior to appeal or commencement of a civil action;

3.17.5.4. in writing and include the following terms:

3.17.5.4.1. the names of all parties to the development agreement;

3.17.5.4.2. a description of the project which is the subject of the development agreement;

3.17.5.4.3. a statement detailing how the development agreement is and is not consistent with the General Plan and any applicable area, specific or traditional community plan, the provisions of the SLDC, Official Map, CIP, or other County ordinances or regulations, or state or federal law;

3.17.5.4.4. the effective date of the development agreement;

3.17.5.4.5. the duration of the development agreement;

3.17.5.4.6. any other agreed terms concerning enforcement, including but not limited to, a mandatory provision within the development agreement requiring the parties to submit disputes to land use mediation prior to commencement of an administrative enforcement or civil action. Revocation or termination of a development agreement shall be in accordance with the procedures set forth in this Chapter, which shall be incorporated into the terms of the development agreement;

3.17.5.4.7. the following provisions with respect to the financing of adequate public facilities and services:

3.17.5.4.7.1. the phasing of the project in coordination with the provision of adequate public facilities and services;

3.17.5.4.7.2. the identification of land or public facilities to be dedicated, constructed or financed by the owner/applicant; and the designation of such land and facilities as CIP, public or private utility, school, affordable housing, assessment and public improvement district projects, systems or subsystems improvements;

3.17.5.4.7.3. the determination of the development project's proportionate share of the total system and subsystem

improvements required to be dedicated, constructed or financed by the owner/applicant or the development project;

3.17.5.4.7.4. the determination of offsets to dedications, impact fees, money-in-lieu of land, affordable housing fees, assessments, excise taxes, utility rates, fees or charges otherwise due from the project;

3.17.5.4.7.5. the County's; school, assessment or public improvement district's; or public or private utility's share of the costs of system or subsystem improvements to be paid, dedicated, constructed or financed pursuant to the development agreement; and

3.17.5.4.7.6. reimbursements, from future development projects, if applicable, to the owner, successors or assigns, for the amount of any contribution in excess of the proportionate share of needs generated by the development project.

3.18. ZONING CERTIFICATES.

3.18.1. Purpose and Findings. The purpose of this section is to allow for an owner of any parcel or lot of land to obtain a zoning certificate verifying the current zoning status of any parcel or lot of land, whether or not accompanied by an application for development approval.

3.18.2. An owner/applicant may accompany any application for a zoning certificate with any other development approval application for the same parcel in common ownership.

3.18.3. Initiation. An owner/applicant shall file a complete application for a zoning certificate with the Administrator, accompanied by a deposit of application and administrative fees as set forth in Appendix C of the SLDC. The application shall include the required information, and be prepared on the form set out in Appendix B of the SLDC.

3.18.4. Completeness Review. The Administrator shall review an application for a zoning certificate for completeness within ten (10) working days. The appellate agency for purposes of completeness review is the Planning Commission.

3.18.5. Recommendation. The Administrator shall review the application for a zoning certificate for conformance with the SLDC. Within ten (10) working days of the Administrator's determination that a zoning certificate application is complete, the Administrator shall recommend to the Planning Commission that the Planning Commission approve or deny the application for a zoning certificate. The Planning Commission shall issue a development order relating to the application for a zoning certificate at its first public meeting subsequent to receipt of the Administrator's recommendation. The owner/applicant and the County may mutually agree to extend the response time contained in this section.

3.18.6. Approval Criteria. The development order approving a zoning certificate shall be issued by the Planning Commission only if the application complies with all applicable provisions of the SLDC and any prior development order relating to the parcel or lot of land for which the application was made.

3.18.7. Amendments. Any revision to an application for a zoning certificate shall be processed in the same manner as the original application, subject to a further fee as specified in Appendix C of the SLDC.

3.18.8. Duration of Approval. Any subsequent change to the text or map of the SLDC, or any amendment to the General Plan or applicable area, specific, or traditional community plan, except for matters relating to County health or safety, shall not affect the legal status of the zoning certificate for a period of one hundred and eighty (180) days, unless an interim development ordinance or resolution, or any proposed amendment to the General Plan, an area, specific, or traditional community plan, or to the text, appendices or maps of the SLDC, or any administrative violation proceeding, is pending at or before the date of filing the application with the Administrator, that would affect a change in the SLDC regulations, County plans, the CIP or the Official Map with respect to the owner/applicant's property. Any development order issuing a zoning certificate shall not affect the rights of any regional, state or federal agency enforcement of a regional, state or federal statute, regulation or administrative order, adopted subsequent to the date of issuance of the zoning certificate.

3.18.9. Recording. An application for, and any development order issuing a zoning certificate shall be recorded with the County Clerk and filed in the office of the Administrator.

3.19. BUILDING PERMITS, GRADING PERMITS AND CERTIFICATES OF OCCUPANCY.

3.19.1. Requirements. Prior to construction of any building or structure, grading of less than one hundred (100) cubic feet of soil or use of land, and subsequent to the obtaining of a discretionary development approval, the owner or developer of land shall apply to the Administrator for approval of a building and grading permit for each individual parcel or lot upon which a building or structure shall be constructed or for any land use for the parcel or lot.

3.19.1.1. The building and grading permit applications shall be filed on forms set forth in Appendix B of the SLDC and shall be accompanied by the required administrative, inspection and application fees.

3.19.1.2. The Administrator shall review the application for completeness and conformance with the zoning and other design and improvement standards of the SLDC, the New Mexico Building Code (Uniform Building Code or International Building Code), the New Mexico Fire Code (International Fire Code), and the Urban Wildland Interface Code (Fire Code) or other applicable code as required by state law.

3.19.1.2.1. If no prior development order granting discretionary development approval for the parcel or lot has been issued, the application for a building or grading permit shall be accompanied by a major or minor site plan, the required SRAs, and the consultant fees to cover the costs of preparing the SRAs. The owner/applicant shall obtain approval of the required site plan from the Planning Commission pursuant to the procedures set forth in §3.22 of the SLDC.

3.19.1.3. Upon certification of the work by the Administrator, after inspections of the site, that all of the work required by the building and grading permits has been satisfactorily completed, the Administrator shall issue a certificate of occupancy for the parcel or lot. All of the requirements and conditions contained in any prior development approvals applicable to the development site that have not been met at the time of the issuance of the development order, shall be required to have been met before the issuance by the Administrator of any certificate of occupancy.

3.19.2. Records. A record of all ministerial development orders shall be maintained in the Administrator's office. Copies of all records in the Administrator's office shall be furnished to any person, upon request and pursuant to law, upon the payment of a fee as set forth in Appendix C of the SLDC.

3.20. SLDC ZONING MAP OR TEXT AMENDMENTS. This section provides uniform procedures for amendments to the SLDC text or a zoning map.

3.20.1. Applicability. The provisions of this section shall apply to any application to:

3.20.1.1. Amend the text of the SLDC;

3.20.1.2. Amend the zoning map of the SLDC by reclassifying the zoning district of a tract, parcel or lot from one zoning district to another; or by reclassifying the zoning districts for areas, communities or countywide.

3.20.2. Initiation.

3.20.2.1. SLDC text or map amendments may be initiated by the Board, the Planning Commission, the applicable CPO, an owner/applicant or the Administrator for specific tracts, parcels or lots requiring quasi-judicial hearings; or for area, community or countywide zoning map or SLDC text changes requiring legislative hearings.

3.20.2.2. Owner/applicant initiated SLDC text or map amendments may be proposed only by an owner/applicant seeking a concurrent discretionary development approval.

3.20.2.3. All owner/applicant initiated applications for SLDC text or map amendments shall be filed with the Administrator and shall be filed concurrently with one or more discretionary development approval applications.

3.20.2.4. No text or map amendments to the SLDC may be proposed by an owner/applicant unless accompanied by a concurrent application for discretionary development approval on the same land, together with a major site plan, preparation of SRAs and meeting all requirements of the SLDC for such discretionary development approvals.

3.20.2.5. No amendment to the SLDC text or zoning map requiring a quasi-judicial hearing shall be granted unless the Board, Planning Commission, Administrator, CPO, and owner/applicant demonstrates that there has been: a substantial change in the conditions of the area surrounding the owner's property; a clerical error or mistake in the SLDC text or zoning map; or the amendment is consistent with the applicable General, Area or Community Plans for the property.

3.20.3. Hearing Officer. Where the SLDC text or map amendment has been initiated by an owner/applicant, the Administrator, upon the filing of the report of the pre-application meeting, certification that the application is complete, all SRAs have been filed and all required fees have been paid, shall refer the application to the Hearing Officer to hold a quasi-judicial public hearing.

3.20.4. Type of Hearing. The Administrator shall place the proposed amendment on the agenda of the Planning Commission and shall forward the Hearing Officer's written findings, conclusions of law and recommendations to the Planning Commission to hold a public hearing and forward a recommendation to the Board.

3.20.4.1. Legislative Hearings. The public hearings before the Planning Commission and Board shall be conducted as legislative hearings where the SLDC text or map amendment does not concern a single tract, parcel or lot under common ownership, or the land affected by the text or map amendment is not predominantly owned by a single person or entity under common ownership.

3.20.4.2. Quasi-Judicial Hearings. The public hearings before the Planning Commission and Board shall be quasi-judicial where the proposed SLDC text or map amendment has been filed by an owner/applicant; the text or map amendment concerns a single tract, parcel or lot under common ownership; or the land affected by the text or map amendment is predominantly owned by a single person or entity under common ownership.

3.20.5. Board. After receipt of the Planning Commission's recommendation, the Board shall approve, conditionally approve or deny the map or text amendment. If the proposed map or text amendment is inconsistent with the General Plan, an area, specific or traditional community plan, the proposed amendment shall be denied unless a concurrent application for an amendment to the General Plan, area, or traditional community plan has been submitted by the owner/applicant, the Board, the Planning Commission or the Administrator, and has been concurrently approved to eliminate any inconsistency.

3.20.6. Approval Criteria. In reviewing of an application or County proposal for an SLDC text or map amendment, the Hearing Officer, Planning Commission or Board shall consider the criteria set forth in §3.20.8 through §3.20.14 of the SLDC. No single factor is controlling; each must be weighed in relation to the other. The Board, Planning Commission or Hearing Officer may attach to the development order approving or conditionally approving the application, any and all applicable conditions and mitigation requirements.

3.20.7. Consistency. An SLDC text or map amendment shall be consistent with the General Plan, any applicable area, specific or community plan, the Official Map and the CIP.

3.20.8. Adverse Impacts on Neighboring Lands. The Board, Planning Commission or Hearing Officer shall consider the nature and degree of any adverse impacts upon neighboring lands. Tracts, parcels or lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. The Board finds and determines that vast acreages of contiguous single-use zoning produces uniform sprawl with adverse consequences, such as traffic congestion, air pollution, increased energy usage, global warming effects, fiscal impact, inadequate provision of public facilities and services, loss of environmentally sensitive land and ground water pollution. Accordingly, SLDC text or map amendments shall be granted primarily to promote compact development, economic, commercial and residential mixed uses, traditional neighborhood and transit oriented development planned districts, sustainable design and higher densities within the General Plan's urban tier.

3.20.9. Suitability as Presently Zoned. The Board, Planning Commission or Hearing Officer shall consider the suitability or unsuitability of the tract, parcel or lot for its use as presently zoned. This factor shall however, be weighed in relation to proof of a clerical mistake in the text or map dimensions and uses of the SLDC zoning district, substantially changed conditions in the area surrounding the property, or to effectuate the important findings of §§3.20.8 and 3.20.11 of the SLDC, and is supported by the goals, objectives, policies, and strategies of the SLDC, the General Plan, and the applicable area or community plan.

3.20.10. Health, Safety, and Welfare. The Board, Planning Commission or Hearing Officer shall consider whether the application bears a substantial relationship to the public health, safety, morals, or general welfare, or protects and preserves historical, archaeological and cultural places and environmentally sensitive land areas.

3.20.11. Public Policy. Important public policies in favor of the SLDC text or map amendment shall be considered, including but not limited to:

3.20.11.1. the provision of a greater amount of affordable housing than the minimum established by the SLDC;

3.20.11.2. economic, non-residential and renewable energy development;

3.20.11.3. advancement of public facilities and services and elimination of deficiencies through use of development agreements;

3.20.11.4. traditional neighborhood, transit oriented, infill, opportunity center and higher density mixed-use development;

3.20.11.5. substantial preservation of open space beyond the minimum requirements of the SLDC;

3.20.11.6. sustainable LEED rated construction and neighborhood design; and

3.20.11.7. Consistency with the General, Area, Specific or Community Plan goals, objectives, policies and strategies applicable to the property.

3.20.12. Subsequent Applications.

3.20.12.1. Applicability. The provisions of this subsection do not apply to any SLDC text or map amendment that is initiated by the County.

3.20.12.2. Withdrawal after Planning Commission Hearing. No SLDC text or map amendment application shall be received or filed if, during the previous twelve (12) months, an application was received or filed and withdrawn after a public hearing has been held by the Hearing Officer; unless the owner/applicant acknowledges with a sworn affidavit that new, relevant, and substantial evidence is available, that could not have been secured at the time set for the original hearing. The Administrator shall receive and process the new application subject to compliance with all of the provisions of this Section.

3.20.12.3. Denial. No application for an SLDC text or map amendment shall be received or filed with the Administrator within two (2) year after the County has denied an application for an SLDC text or map amendment with regard to any portion of the same property.

3.20.12.4. Amendments. Any subsequent amendment to the SLDC text or map requires a new application and a new fee pursuant to Appendix C of the SLDC, and shall be processed as set forth in this section.

3.20.13. Scope of Approval. A text or map amendment to the SLDC does not supersede any SLDC requirement for applying for all required development approvals, nor authorizes the development of land. No construction of a building or structure, grading, occupancy or use of the land shall be commenced without the owner/applicant obtaining all further required development approvals.

3.20.14. Recording Procedures. When the amendment involves map changes to existing zoning district boundaries, the form of the amending ordinance shall contain a narrative description of the land to be reclassified or reference to an accompanying plat of such land, showing the new zoning classifications and designating the new boundaries. The Administrator shall refer to the attested ordinance as a record of the current zoning status until such time as the zoning map is physically changed.

3.21. CONDITIONAL USE PERMIT (CUP).

3.21.1. Purpose and Findings. This section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right but which may, under appropriate standards and factors set forth in the SLDC, be approved. These uses shall be permitted through the issuance of a CUP accompanied by a major site plan.

3.21.2. No inherent right exists to receive a CUP. Each application and situation is unique. Every CUP application shall be, at a minimum, required to comply with all requirements contained in the SLDC. Upon approval of a CUP, additional standards, conditions and mitigating requirements may be attached to the development order in addition to the generally applicable requirements set forth in the SLDC.

3.21.3. Conditional Applicability. The provisions of this section apply to any application for approval of a CUP. Conditional uses are those uses that are generally compatible with the land uses permitted by right in a zoning district but that require individual review of their location, design and configuration, and the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as conditional uses in a zoning district, as set forth in the zoning regulations, shall be authorized by the Planning Commission. A CUP is not required for a use permitted by right in a given zoning district.

3.21.4. Initiation. An owner of real property, or that owner's authorized representative, may apply for a CUP for that property by filing an application for discretionary development approval with the Administrator. The application shall include the material required in Appendix B of the SLDC. The application shall be accompanied by a major site plan pursuant to §3.22 of the SLDC, the SRAs prepared, whether prepared by the owner/applicant's consultants or by the County, pursuant to Chapter 5 of the SLDC, and the payment of all application and administrative fees, pursuant to Appendix C of the SLDC.

3.21.5. Completeness Review. The Administrator shall review the application for the CUP for completeness in accordance with §3.9 of this Chapter and shall make the application available for the pre-application neighborhood meeting.

3.21.6. Approval. When the Administrator has certified that the application is complete, all fees have been paid and the report of the pre-application meeting has been received, the Administrator shall refer the application, the pre-application meeting report, the SRAs and other concurrent applications for discretionary approval to the Hearing Officer, for the holding of a quasi-judicial public hearing. The Hearing Officer shall, at the close of the public hearing, forward a written report to the Administrator and the Planning Commission containing findings of fact, conclusions of law and a recommendation as to approval, approval with conditions or denial of the application. The Planning Commission, after receipt of the Hearing Officer's report, after public notice in accordance with the SLDC and applicable state law, shall hold a quasi-judicial public hearing on the application, the major site plan and other concurrent applications.

3.21.7. **Conditions.** In approving any CUP, the Planning Commission may:

3.21.7.1. Impose such reasonable standards, conditions, or mitigation requirements, in addition to any general standard specified in the SLDC or the General Plan, as the Planning Commission may deem necessary. Such additional standards, conditions, or mitigation requirements may include, but are not be limited to:

- 3.21.7.1.1.** financing and availability of adequate public facilities or services;
- 3.21.7.1.2.** reservation and dedication of land;
- 3.21.7.1.3.** payment of exactions and impact fees;
- 3.21.7.1.4.** establishment of assessment and public improvement districts;
- 3.21.7.1.5.** adoption of restrictive covenants or easements;
- 3.21.7.1.6.** special buffers or setbacks, yard requirements, increased screening or landscaping requirements;
- 3.21.7.1.7.** area requirements;
- 3.21.7.1.8.** development phasing;
- 3.21.7.1.9.** standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, or preservation of archaeological, cultural and historic resources; and
- 3.21.7.1.10.** provision of sustainable design and improvement features, solar, wind or other renewable energy source, rainwater capture, storage and treatment or other sustainability requirements, as set forth in Chapter 9 of the SLDC.

3.21.7.2. Require that a payment and performance guarantee, similar to the requirements set forth in §4.36.4 of the SLDC, be delivered by the owner/applicant to the Administrator to ensure compliance with all conditions and mitigation measures as are set forth in the development order; and

3.21.7.3. Require that a development agreement be entered into by the owner/applicant to carry out all requirements, conditions and mitigation measures.

3.21.8. **Approval Criteria.** A conditional use is permitted only if the owner/applicant demonstrates that:

3.21.8.1. The proposed conditional use complies with all applicable requirements of the SLDC, regulations of the applicable zoning district, any

applicable supplemental use regulations set forth in Chapters 7 and 8 of the SLDC;

3.21.8.2. The proposal has no adverse effect on the health, safety, or comfort of persons living or working in the neighborhood, or is no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to:

3.21.8.2.1. the location, type, and height of buildings or structures;

3.21.8.2.2. the type and extent of landscaping and screening on the site; and

3.21.8.2.3. whether the proposed use is consistent with the goals, objectives, policies or strategies of the General Plan or any applicable area, specific or traditional community plan.

3.21.8.3. Public or private utilities will be provided as set forth in Chapter 7 of the SLDC;

3.21.8.4. Adequate measures are being taken to design and provide ingress and egress so as to minimize traffic hazards and congestion;

3.21.8.5. The proposed use will not be noxious or offensive by reason of light, vibration, noise, odor, dust, smoke, visual obstruction or gas;

3.21.8.6. The proposed use will not injure the use and enjoyment of the property in the immediate vicinity; and

3.21.8.7. The establishment, maintenance, or operation of the proposed use will not constitute a public or private nuisance or be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

3.21.9. Expiration of CUPs.

3.21.9.1. The development order granting approval of the CUP application shall fix a maximum duration of twenty (20) years for any CUP that involves a development of countywide impact. The duration of such CUP may be extended by the Planning Commission, subsequent to construction or operation of the building, structure, or use authorized, upon good cause shown, in compliance with the then current provisions of the SLDC and state or federal law.

3.21.9.2. The development order granting a CUP shall be void after two (2) years, but may be renewed by the Planning Commission for up to one (1) additional year, unless substantial construction or operation of the building, structure or use authorized by the CUP has commenced. No further extension shall be granted under any circumstances, and any

changes in the requirements of the SLDC, or federal or state law shall apply to any new CUP development approval application.

3.21.10. Subsequent Applications. An application for a CUP may be withdrawn by the owner/applicant at any time. However, if an owner/applicant withdraws the application after a public hearing has been noticed in compliance with the SLDC and state law, an application requesting substantially the same use on all or part of the same described land shall not be reconsidered within twelve (12) months of withdrawal. No application for a CUP for any tract, parcel or lot in common ownership that requests substantially the same use on all or part of the land shall be considered within 24 (24) months of a development order denying the application.

3.21.11. Amendments. An amendment is a request for any enlargement, expansion, greater density or intensity, relocation, or modification of any condition of a previously approved and currently valid CUP.

3.21.11.1. Minor Amendments. Shifts in on-site location and changes in size, shape, intensity, or configuration of less than five (5) percent, or a five (5) percent or less increase in either impervious surface or floor area over what was originally approved, may be authorized by the Administrator, provided that such changes comply with the following criteria:

3.21.11.1.1. No previous minor amendment has been granted pursuant to this section;

3.21.11.1.2. Nothing in the currently valid CUP precludes or otherwise limits such expansion or enlargement; and

3.21.11.1.3. The proposal conforms to the SLDC and is consistent with the goals, objectives, policies and strategies of the General Plan or any area, specific or traditional community plan.

If the Administrator determines that there may be any detrimental impact on adjacent property caused by the minor amendment's change in the appearance or use of the property or other contributing factor, the owner/applicant shall be required to file a major amendment.

3.21.11.2. Major Amendments. Any proposed amendment, other than minor amendments provided for in §3.21.11.1 of this Chapter, shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original CUP development approval.

3.21.12. Nonconforming CUPs. For an existing and currently valid CUP that is no longer allowed as a conditional use in the zoning district in which it is located, the Planning Commission, may review and approve an application for amendment to the existing CUP development approval, provided that such amendment does not allow the use to be enlarged, expanded, increased in intensity, relocated, or continued beyond any limitation specified in the existing CUP development approval, and the owner/applicant shall, to the extent feasible, conform the building, structure or land use to all of the

design, improvement and sustainability standards in Chapter 9, as are in place at the time of the application.

3.21.13. Recording Procedures. A certified copy of the development order granting a CUP discretionary development approval shall be recorded at the expense of the owner/applicant in the office of the County Clerk, and filed in the office of the Administrator.

3.22. SITE PLANS.

3.22.1. Purpose and Findings. The site plan is intended to provide the detailed layout, information, graphics, data, maps, plans and SRAs to accompany applications for discretionary or non-discretionary development approval. The site plan will be used to determine if the proposed development application meets the requirements of the SLDC, the General Plan, any area, specific or traditional community plan, other applicable County ordinances and regulations, regional requirements and state and federal law. The approval of a major or minor site plan constitutes a quasi-judicial discretionary zoning development approval under the SLDC.

3.22.2. Applicability.

3.22.2.1. A major or minor site plan shall accompany any application for discretionary or non-discretionary development approval, except that a major or minor site plan is not required to support an application for the discretionary approval of a major subdivision, nor an application for ministerial development approval of any lot contained within a major subdivision that has received final plat approval. All development activities, construction of buildings or structures, grading or other land use shall conform to the approved site plan and any conditions, mitigation requirements or restrictions contained in the development order approving or conditionally approving the site plan and accompanying development approval applications. Any deviation from the approved site plan, unless approved in advance and in writing by the Administrator or Planning Commission, as applicable, is deemed a violation of the SLDC.

3.22.2.2. The site plan shall be provided to the Administrator in the format set out in the specifications for documents contained in Appendix B of the SLDC. A minor site plan shall be delivered to the Administrator with the ministerial development approval application. A major site plan shall be delivered to the Administrator with the delivery of the concept plan for the development approval application. A site plan, together with the accompanying underlying application for development approval, is subject to the completeness requirements of §3.9 and the pre-application meeting requirements of §2.9 of the SLDC.

3.22.3. Minor Site Plan. A minor site plan is required only where no prior discretionary subdivision approval, CUP or planned district development approval has been obtained. A minor site plan is to accompany an application for ministerial

development approval seeking a building permit for construction of a principal residential dwelling unit. An application for any accessory use or structure, including but not limited to: garage, carport, shed, addition, driveway, swimming pool, recreational facility, fence or barn shall not require a minor site plan.

3.22.4. Major Site Plan. The provision for a minor site plan in §3.22.3 shall not apply and a major site plan is required for any application for discretionary or non-discretionary development approval, including but not limited to the following circumstances:

3.22.4.1. The underlying development approval application will generate (upon build-out) more than twenty (20) vehicle trips per day;

3.22.4.2. The underlying development approval application contains land designated for nonresidential or mixed residential-nonresidential use;

3.22.4.3. The underlying development approval application requires regional, state, or federal review pursuant to state or federal law;

3.22.4.4. The land contains resources consisting of historic, cultural, archaeological, agricultural, ranch or environmentally sensitive lands; or

3.22.4.5. The application is for a development of countywide impact.

3.22.5. Initiation. The site plan shall be submitted concurrently with the underlying application for development approval.

3.22.6. Completeness Review. Site plan completeness review shall be governed by the completeness review requirements for the underlying development approval application. The Administrator shall review the site plan for completeness in accordance with §3.9 of the SLDC. The appellate agency for purposes of completeness review shall be the Planning Commission.

3.22.7. Approval Criteria. Any major or minor site plan shall be subject to all of the requirements of the SLDC for the development approval being sought and the approval of a site plan shall require:

3.22.7.1. implementation and compliance with the recommendations of the SRAs required under Chapter 5 of the SLDC;

3.22.7.2. all design, improvement, environmental, water availability and sustainability standards required under Chapter 9 of the SLDC;

3.22.7.3. the requirements of the base zoning district, any new urbanism planned district and any overlay zoning district classification for developments of countywide impact, including but not limited to the zoning uses permitted, minimum lot size, area and yard minimums, and maximum height as set forth in Chapter 9 of the SLDC;

3.22.7.4. the affordable housing requirements set forth in Chapter 9 of the SLDC; the requirements of Chapter 10 with regard to adequate public facilities and services pursuant to the CIP, fiscal impact, preservation of rights of way and lands shown on the Official Map, impact fees, exactions, dedications, public and private utility fees, charges and rates, and assessments, fees, charges and taxes of assessment and public improvement districts. Review of the site plan shall be undertaken concurrently with the review of the underlying, and any concurrent development approval application. If review of the site plan reveals that the project fails to meet the requirements and standards set forth in this section and such failure cannot be rectified through conditions or mitigation requirements attached to the development order, then the site plan and the underlying development approval application shall be denied. Where such failure can be rectified through conditions or mitigation requirements, a development order may be granted conditionally approving the site plan and the underlying and other concurrent applications for development approval, provided all other requirements of the SLDC, the General Plan, an area, specific or traditional community plan, other County ordinances and regulations, state and federal law have been met.

3.22.8. Subsequent Applications. If the site plan is denied, a new site plan proposing the same development for the same property shall not be filed within six (6) months after a final decision.

3.22.9. Amendments. Amendments to a previously approved site plan shall be classified as a minor or major revision. Minor amendments may be approved by the Administrator, subject to review by the Planning Commission. Within twenty (20) working days after filing of the proposed amendments, required items, and information, the Administrator shall provide a written response indicating whether the revised site plan has been accepted as a minor or major amendment.

3.22.9.1. Minor Amendments. Minor amendments include the following:

3.22.9.1.1. Changes to the timing or phasing of the proposed development, provided that the use and overall geographic land area remains the same;

3.22.9.1.2. Adjustment of unit boundaries within tracts or parcels adjoining the outer boundaries of the site plan, provided that the use and overall geographic land area remains the same;

3.22.9.1.3. A reduction in the number of proposed platted lots, provided that the use and overall geographic land area remains the same;

3.22.9.1.4. A decrease in overall residential density;

3.22.9.1.5. Updating of ownership or consultant information;

3.22.9.1.6. A decrease in the overall land area, provided that the initial design is maintained;

3.22.9.1.7. Site plan or subdivision plat name change; and

3.22.9.1.8. Change in internal street circulation pattern not increasing the number of lots or lowering the connectivity ratio.

3.22.9.2. Major Amendments. All other revisions shall be classified as major amendments and shall be processed in the same manner as the initial site plan submittal.

3.22.10. Scope of Approval.

3.22.10.1. Minor Site Plan. For minor site plans the County will conduct all (SRAs) required pursuant to Chapter 5 of the SLDC for the property. The County may elect to use cumulative data for an area or it may perform a site specific study. The owner/applicant shall pay the County for the administrative and application fees for the review of the site plan and reimburse the County for the cost of preparing the SRAs pursuant to Chapter 5 of the SLDC and the schedule contained in Appendix C of the SLDC.

3.22.10.2. Major Site Plan. For major site plans, the owner/applicant may opt to either prepare the SRAs, or to have the County prepare the SRAs and reimburse the County for the consultant fees, staff time and other expenses pursuant to Chapter 5 of the SLDC. The owner/applicant shall also pay all application and administrative fees pursuant to Appendix C of the SLDC.

3.22.11. Expiration. A site plan shall expire unless:

3.22.11.1. A final plat or other final development approval covering at least twenty-five (25) percent of the net area of the site plan area is approved within two (2) years from the approval of the site plan;

3.22.11.2. Fifty (50) percent of the net area within the approved site plan is the subject of final plats or other final development approvals within four (4) years from the date of approval of the site plan; or

3.22.11.3. The remaining fifty (50) percent of the net area within the approved site plan obtains final plat or other final development approvals and construction is completed on the first fifty (50) percent within eight (8) years after the initial fifty (50) percent of the net area within the site plan has been platted or developed.

3.22.12. Recording Procedures. The site plan shall be maintained in the permanent files of the Administrator and shall be recorded with the County Clerk.

3.23. NONCONFORMING USES.

3.23.1. Purpose and Findings. The requirements of this article govern uses, structures, lots and other situations that came into existence legally but that do not comply with one or more current requirements of this SLDC. This section applies to nonconformities created by initial adoption of, or amendments to, the SLDC; and to nonconformities that were legal nonconformities under previously applicable ordinances even if the type or extent of nonconformity under the SLDC is different than the original nonconformity.

3.23.2. Continuation Permitted. Any nonconformity that legally existed on the date of adoption of this SLDC or the original Santa Fe County Land Development Code, effective January 1, 1981, together with all amendments thereto; or that becomes nonconforming upon the adoption of any amendment to this SLDC may be continued in accordance with the provisions of this article.

3.23.3. Non-conforming Status. The use of land, use of a structure, or a structure itself, including but not limited to substandard parcels or structures not complying with applicable dimensional standards, shall be deemed to have nonconforming status when each of the following conditions are satisfied:

3.23.3.1. The use, structure or land:

3.23.3.1.1. does not conform to the current regulations prescribed in the district in which such use, structure or land is located; or

3.23.3.1.2. does not conform to the minimum lot size and use by right to develop under the base zoning district in which such lot, parcel or division is located; and

3.23.3.1.3. was in existence and lawfully constructed, platted, located and operating prior to, the regulations that made such use, structure or land nonconforming.

3.23.3.2. The event that made such use, structure or land nonconforming was the adoption of the Santa Fe County Land Development Code (1980, 1996 as amended); and

3.23.3.3. The nonconforming use, structure or land has been operating since the time that the use, structure or land first became nonconforming without abandonment, as that term is defined in Appendix A of the SLDC.

3.23.4. Determination of Nonconformity Status. The burden of establishing the nonconformity status of a use, structure or land shall be upon the owner of the claimed nonconformity and not upon the County.

3.23.5. Repairs and Maintenance. Incidental repairs and normal maintenance of nonconforming structures or land shall be permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by this SLDC. Nothing in this Chapter shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

3.23.6. Tenancy and Ownership. The status of a nonconformity is not affected by changes of tenancy, ownership or management.

3.23.7. Nonconforming Uses.

3.23.7.1. Change of Use. A nonconforming use shall not be changed to any use other than to a use that is:

3.23.7.1.1. Similar to the previously established use;

3.23.7.1.2. Less intensive and nonconforming than the previously established use; or

3.23.7.1.3. Allowed in the zoning district in which it is located.

3.23.7.2. Reuse and Expansion. A nonconforming use shall not be enlarged or expanded unless such expansion eliminates or reduces the nonconforming aspects of the use.

3.23.7.2.1. This section shall not be construed as prohibiting additions to any dwelling regardless of the zoning district in which such dwelling is located, nor shall any provision of this article be construed as prohibiting the construction of any use that is accessory to a dwelling unit regardless of the zoning district in which the dwelling is located.

3.23.7.2.2. Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a Development Permit.

3.23.7.2.3. Any nonconforming use may be changed to a conforming use by securing a Development Permit and once such change is made, the use shall not thereafter be changed to a nonconforming use.

3.23.7.2.4. Expansion for the sole purpose of complying with off-street parking standards of this SLDC shall not be considered expansion of a nonconforming use.

3.23.7.2.5. No Temporary Use Permit shall be issued for a site containing a nonconforming use, if the proposed temporary use or event has the potential to generate additional traffic, noise or other adverse impacts upon the surrounding area.

3.23.7.3. Expansion of Nonresidential Uses. Nonconforming, nonresidential uses of a structure or land, or a nonconforming, nonresidential structure may be changed or expanded by up to fifty (50) percent under a CPU, provided that the owner/applicant complies with all of the following conditions:

3.23.7.3.1. The re-use or expansion does not increase the intensity of development or alter the character of the nonconforming use on the site, according to any limitations set by this SLDC relating to development

standards for lot coverage, height, waste disposal, water use, setbacks, traffic generation, parking needs, landscaping, buffering, outdoor lighting, access or signage;

3.23.7.3.2. The change or expansion does not confer a privilege upon the owner/applicant;

3.23.7.3.3. The change or expansion is compatible with the surrounding uses of land and is beneficial to the health, welfare and safety of the community;

3.23.7.3.4. All nonconforming signs shall be brought into compliance with the requirements of Chapter 7 of the SLDC;

3.23.7.3.5. Where conformance with site development standards of the SLDC (e.g., setbacks, slope disturbance, parking number or dimensions, landscape island number or dimensions, or maximum height) is physically impossible, a variance may be granted by the Planning Commission pursuant to §3.25 of this Chapter;

3.23.7.3.6. Expansion or re-use of unsightly or unsafe conditions associated with certain nonconformities, including but not limited to junk yards, mine sites, or industrial uses shall not be permitted; and

3.23.7.3.7. Expansion of any nonconforming nonresidential uses that contribute to strip development along highways or other public rights-of-way shall not be permitted.

3.23.7.4. Loss of Nonconformity Status.

3.23.7.4.1. Abandonment. If a nonconforming use ceases for any reason for a period of more than one (1) year, the use shall be considered abandoned. Once abandoned, the use's nonconforming status shall be lost and re-establishment of the use shall be prohibited. Any subsequent use shall comply with the regulations of the zoning district in which it is located.

3.23.7.4.2. Accessory Uses. No use that is accessory to a principal nonconforming use shall continue after such principal use has ceased or terminated.

3.23.8. Nonconforming Structures. A nonconforming structure may be used for any use allowed in the underlying zoning district, subject to all applicable standards of the SLDC.

3.23.8.1. Reuse and Expansion. A nonconforming structure may be enlarged or expanded if the expansion does not increase the extent of nonconformity. Otherwise, reuse and expansion shall be subject to the requirements of §3.23.7.3 of this Chapter.

3.23.8.2. Moving. A nonconforming structure may be moved if the movement or relocation eliminates the nonconformity. This provision shall not be interpreted as prohibiting the elevation of a nonconforming structure for the purpose of flood-proofing or repair.

3.23.8.3. Nonconforming Residential Structures. A residential structure that was established in accordance with all regulations in effect at the time of establishment shall not be deemed nonconforming solely due to the fact that it does not comply with the maximum density standards of the SLDC. If such a structure is destroyed by accidental means, it may be rebuilt provided that the number of dwelling units does not exceed the number that existed prior to destruction or the maximum density limit of the subject zoning district, whichever is greater.

3.23.9. Nonconforming (Legal) Lots of Record.

3.23.9.1. Procedure for Qualifying Nonconforming Lots. The owner/applicant shall submit evidence demonstrating the lawful existence of the lot on the effective date of the Santa Fe County Land Development Code [January 1, 1981].

3.23.9.2. If the owner/applicant has a notarized document or a document with the surveyors signature and seal demonstrating compliance with §3.23.9.1 of this Chapter, the owner/applicant shall submit the document to the Administrator. The Administrator shall determine if the notarized document establishes the existence of the lot on the effective date of the SLDC.

3.23.9.3. If the owner/applicant cannot submit a document in compliance with §3.23.9.2 of this Chapter, but has other evidence demonstrating compliance with §3.23.9.1 of this Chapter, the evidence shall be submitted to the Planning Commission. The Planning Commission shall determine if the evidence establishes the existence of the lot on the effective date of the SLDC.

3.23.10. Uses for Nonconforming Lots.

3.23.10.1. Single-family Dwellings. Vacant nonconforming lots may be developed with one single-family dwelling and accessory structures, provided that such development complies with all applicable requirements of this SLDC or a variance is obtained from the Planning Commission.

3.23.10.2. Other Uses. Vacant nonconforming lots may be developed with uses other than single-family dwellings as may be allowed in the underlying zoning district, provided that such development complies with all requirements of this SLDC.

3.23.10.3. Prohibition on Reduction of Size. A nonconforming lot may not be further reduced in size.

3.23.11. Nonconforming Signs. A nonconforming sign is a sign that was legally established but which no longer complies with the sign regulations of this SLDC.

3.23.11.1. Expansion and Improvement. A nonconforming sign shall not be enlarged, expanded or otherwise improved, except for change of text or sign panels, routine maintenance or repair.

3.23.11.2. Moving. A nonconforming sign shall not be moved in whole or in part to any other location unless the move results in the entire sign being brought into compliance with all applicable regulations of this SLDC.

3.23.11.3. Loss of Nonconforming Status. If a sign is destroyed by any means, by more than 50 percent, it shall not be reestablished except in compliance with all applicable regulations.

3.23.11.4. Completion. In the event that the information submitted on the application form is incomplete, the Administrator shall, within fifteen (15) working days of receipt of the application, notify the owner/applicant in writing requesting specific further information to be furnished. If a second application form is incomplete, the application shall be denied by the Administrator and shall not be revisited for a period of one (1) year.

3.23.12. Nonconforming Lighting.

3.23.12.1. Change and Replacement. Nonconforming lighting shall only be changed or replaced with conforming lighting, except for the periodic replacement of bulbs, as necessary.

3.23.12.2. Moving. Nonconforming lighting shall not be moved to any other location unless the move results in the entire light being brought into compliance with all applicable regulations of this SLDC.

3.23.12.3. Loss of Nonconforming Status. If a light is destroyed or rendered inoperable for any reason other than failure of the bulb it shall not be repaired unless such repair will bring the light into compliance with all applicable regulations of this SLDC.

3.24. VARIANCES.

3.24.1. Applicability. This section applies to applications for beneficial use and value determinations (BUD) and to variances and modifications for area.

3.24.2. Contents of application. The application shall be submitted in the form established in Appendix B of the SLDC and shall include the following:

3.24.2.1. Contact information. The names, addresses, and telephone numbers of each owner or contract owner, owner of subsurface rights, lessee of subsurface rights, person, corporation, trust, partnership, association or other

entity of all lands in common ownership, with the subject property, the owner/applicant and the agent designated to receive notice and service of process;

3.24.2.2. Legal description. A legal description and the real estate or parcel number for the property and all property in the same ownership;

3.24.2.3. Letter of agency. If a person other than the owner/applicant is requesting relief pursuant to this division, a notarized letter of agency from the owner or lessee authorizing the person to represent them with respect to the application shall be produced. The owner or lessee will be bound by the representations, obligations and agreements made by the owner's or lessee's agent in the course of the variance application process. The term "owner/applicant" as used in this Chapter refers to the owner or lessee, or the owner's or lessee's agent, as applicable.

3.24.2.4. Date of acquisition, offers to purchase, and attempts to sell. Documentation of the date of acquisition of the subject property and all land acquired in common ownership, the price incurred to acquire the property, the date and amount of any offers by any person, corporation, governmental entity, or association to acquire the property, and any attempts by the owner to sell or assign the property or to sell transferable development rights.

3.24.2.5. SLDC or General, Area, Specific or Traditional Community Plan Policy. A statement describing the SLDC regulations by section number, the sections of the General Plan, area, specific or traditional community plan or final developmental order, with their effective dates, which the owner/applicant believes necessitates relief under §3.24.

3.24.2.6. Description of land. A description of the property's physical, topographical and environmental features, total acreage, current use, use at the time of acquisition and, where appropriate, use on the effective date of the development order the owner/applicant asserts necessitates relief.

3.24.2.7. Improvements to land. Evidence of any investments made to improve the property and the date, cost and nature of the improvements made.

3.24.2.8. Description of allowable uses. A description of the type and extent of land uses allowed on the surface and subsurface of the property, from the time the owner/applicant acquired the property until the date of application under this section, including:

3.24.2.8.1. allowable density;

3.24.2.8.2. FAR, area, yard, open space and buffer allowed;

3.24.2.8.3. permitted, supplemental, accessory and conditional uses;

3.24.2.8.4. overlay zoning district classifications and transfers of development rights affecting the property's development potential.

3.24.2.9. Requested relief. A statement describing the form of relief requested by the owner/applicant.

3.24.2.10. Maps. Maps shall be attached to the application, which show the property presently, at the time of acquisition, and upon the effective date of the development order of the County the owner/applicant asserts requires relief under this section. Maps shall indicate the land use designation, future land use designation, aerial photographs, and environmentally sensitive lands, cultural, historical or archaeological sites on the property.

3.24.2.11. Previous development applications and appeals. A description of all efforts to seek approval to develop the property including date of application; name of the local, state, or federal agency; nature of approval, denial, or appeal sought; disposition; and the date of disposition.

3.24.2.12. Agency approvals. Evidence of whether the owner/applicant has received approvals from governmental agencies other than the County, which are required in order to undertake development of the property.

3.24.2.13. Additional materials. Appraisals, studies, or evidence supporting the owner/applicant's contention that relief under this division is appropriate, including appraisals related to any alleged diminution of all or substantially all fair market value of the property.

3.24.2.13.1. Where appropriate, the Board's development orders and the findings on all of the assessments, plans, reports and studies required for the application for an Oil and Gas Overlay Zoning District Classification, or for the application for the Special Use and Development Permit.

3.24.2.14. Signature of owner and agent. The signature of owner(s), lessee(s) and agent(s), attesting to the accuracy of the statements and representations made in the application

3.24.3. Applicable Standards. The owner/applicant shall file a memorandum setting forth the legal basis asserted for relief under this section.

3.24.3.1. The signature upon the application by the owner/applicant shall constitute a certification that they have undertaken due diligence in the filing of the application, that to the best of their joint and individual knowledge the application is supported by good grounds under applicable law, and that the application has been filed in good faith, consistent with the purpose and intent of this section.

3.24.3.2. The owner/applicant shall have a continuing obligation throughout the proceedings to correct any statement or representation found to have been incorrect when made or which becomes incorrect by virtue of a change in circumstances.

3.24.3.3. The Administrator shall deny any registration if it appears that the documents relied thereon are not valid, or that the documents produced do not show compliance in accordance with the criteria set forth in this Chapter. The owner/applicant may appeal this determination to the Planning Commission within thirty (30) days of the denial of registration.

3.24.3.4. If the Hearing Officer finds that the claim for relief pursuant to this section is based upon facts the owner/applicant knew or should have known were inaccurate, the application shall be dismissed.

3.24.4. Beneficial Use and Value Determination (BUD) Application.

3.24.4.1. Findings. The intent of the SLDC is to provide, through this section, a BUD process to resolve any claims that the application of the SLDC constitutes an unconstitutional regulatory taking of property. This section is not intended to provide relief related to regulations or actions promulgated or undertaken by agencies other than the County. The provisions of this section are not intended to, and do not, create a judicial cause of action.

3.24.4.2. Generally. An application for a BUD shall be within one (1) year subsequent to a final development order denying or conditionally approving an application for development approval. The application shall be filed with the Administrator together with the application and administrative fees as set forth in Appendix C of the SLDC.

3.24.4.3. Actions by the Administrator. The Administrator shall determine if the BUD Application is complete and includes all required materials and information. In determining completeness the Administrator shall follow the process set forth in §3.9 of the SLDC.

3.24.4.3.1. If the Administrator determines the application is not complete, a written notice shall be mailed to the owner/applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied. If the owner/applicant fails to correct the deficiencies within thirty (30) calendar days the application shall be considered withdrawn.

3.24.4.3.2. When the application is determined to be complete, the Administrator shall notify the owner/applicant in writing and, within thirty (30) calendar days, forward the application to the Hearing Officer and set a quasi-judicial public hearing date on the application. The Administrator shall provide notice of the Hearing Officer's public hearing pursuant to the notice requirements in §3.10 of the SLDC.

3.24.4.4. Actions by the Hearing Officer.

3.24.4.4.1. Establishment of date for hearing and notice. The Hearing Officer shall schedule and hold a hearing on a BUD application

within sixty (60) calendar days of receipt of the complete application from the Administrator.

3.24.4.4.2. Hearing. The public hearing shall be conducted as a quasi-judicial hearing as set forth in §3.12 of the SLDC. At the hearing, the owner or lessee or the owner's or lessee's representative shall present the owner's or lessee's case and the County Attorney or County Attorney's representative shall present the County's case. The Hearing Officer may accept briefs, evidence, reports, or proposed recommendations from the parties.

3.24.4.4.3. Intervention. Any party receiving notice of the public hearing shall be entitled to intervene in the proceedings provided:

3.24.4.4.3.1. the intervenor shall be an organization or association registered to receive notice under this Ordinance;

3.24.4.4.3.2. any public or governmental agency;

3.24.4.4.3.3. any owner of land within five hundred (500) feet of the site perimeter, or any person aggrieved or with standing to intervene.

3.24.4.4.4. Findings. Within sixty (60) calendar days of the close of the hearing, the Hearing Officer shall prepare and transmit in writing to the Administrator, the Board, County Attorney, owner, lessee, and owner's or lessee's representatives, and all other represented parties, a summary of all the evidences, testimonial or documentary submitted, rulings on objections to evidence, and a written recommendation regarding the relief to be granted based on the evidence submitted and the standards set forth in § 3.12 of this Chapter.

3.24.4.4.5. Recommendations.

3.24.4.4.5.1. If the Hearing Officer's recommendation is that relief is not appropriate, the recommendation shall specify the factual and legal basis for the recommendation, including whether the development requested for the site, taking into account all of the findings, constitutes an as applied public nuisance or creates adverse public nuisance effects or impacts, for which no relief can be recommended.

3.24.4.4.5.2. If the Hearing Officer's recommendation is that some form of relief is appropriate, the recommendation shall recommend a form of relief and indicate the basis for the recommendation, including, as applicable:

3.24.4.4.5.2.1. Identification of the SLDC regulation, general or area plan policy, development order or other action that resulted in the recommendation for relief; and

3.24.4.4.5.2.2. The date the SLDC regulation, general or area plan policy, or other final action of the County affected the property so as to necessitate relief.

3.24.4.5. Actions by the Board.

3.24.4.5.1. The Board shall, within thirty (30) calendar days of receipt of the Hearing Officer's recommendation, set the matter for a public hearing. The Administrator shall provide notice pursuant to §3.10 of the SLDC and the owner/applicant and any other interested party shall be provided an opportunity to be heard prior to the decision of the Board.

3.24.4.5.2. The recommendation of the Hearing Officer is not binding on the Board. At the hearing, the Board shall grant a development order by resolution, approving, modifying, reversing, or approving with conditions, the recommendations of the Hearing Officer, based on the standards of this section. The development order shall:

3.24.4.5.2.1. State a date, if any, upon which a development order granting relief will cease to be in effect;

3.24.4.5.2.2. State that neither the Board's development order nor any process or evidence constitutes an admission of taking of property, or other unconstitutional deprivation;

3.24.4.5.2.3. Direct County staff to undertake any additional steps necessary to implement the development order; and

3.24.4.5.2.4. Address other matters as necessary to implement the purpose and intent of this section.

3.24.4.5.3. Granting Relief. If the Development Review Board determines that relief is appropriate under this division, relief may be granted, as provided in this section and consistent with the general plan, or applicable area plan.

3.24.4.5.3.1. Forms of Relief. In order to avoid an unconstitutional result and to provide a owner with an economically viable use and value of property pursuant to this section, the Hearing Officer may recommend and the Board may allow for the minimum additional use(s), density, or relief necessary to alleviate any unconstitutional taking or deprivation.

3.24.5. Granting Variances and Modifications for Area.

3.24.5.1. This section pertains specifically to the provisions of the SLDC relating to height, area and yard requirements. No water variance or use variance is permitted under this section. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize the owner to establish a use of land that is otherwise prohibited in that zoning district.

3.24.5.2. Actions by the Administrator. The Administrator shall determine if the Area variance application is complete and includes all required materials and information. In determining completeness the Administrator shall follow the process set forth in §3.9 of the SLDC.

3.24.5.2.1. If the Administrator determines the application is not complete, a written notice shall be mailed to the owner/applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied. If the owner/applicant fails to correct the deficiencies within thirty (30) calendar days the application shall be considered withdrawn.

3.24.5.2.2. When the application is determined to be complete, the Administrator shall notify the owner/applicant in writing and, within thirty (30) calendar days, forward the application to the Planning Commission and set a quasi-judicial public hearing date on the application. The Administrator shall provide notice of the Planning Commission's public hearing pursuant to the notice requirements in §3.10 of the SLDC.

3.24.5.2.3. The Administrator shall submit a report to the Planning Commission and the owner/applicant so that the Planning Commission may evaluate the application based on the criteria required by this section. The Administrator may refer an application to the Fire Marshal, Public Works, TAC, or any other public agencies that the Administrator considers necessary to determine compliance with this and other relevant Codes.

3.24.5.3. Actions by the Planning Commission. The Planning Commission shall hold a public hearing to carefully consider the opinions of any persons or agency requesting to review and comment on the variance request. Notice of such hearing shall be provided as set forth in the Code. The Planning Commission shall render a decision and deny, approve, or approve with conditions the variance after considering the evidence presented at this hearing or agreed on by the parties.

3.24.5.4. In granting area variances and modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified. The Planning Commission shall not approve a variance unless it finds that special circumstances or conditions exist that are peculiar to the land,

buildings, or other structures for which the variance is sought and do not apply generally to lands, buildings, or other structures in the same district.

3.24.5.5. Special circumstances or conditions to be considered for variances shall include, but not be limited to, the circumstances described as follows:

3.24.5.5.1. Redevelopment. The proposed project involves the redevelopment or utilization of an existing development or partially developed site.

3.24.5.5.2. Substandard Lot(s). The proposed project involves the utilization of an existing legal nonconforming lot(s).

3.24.5.5.3. Preservation Area. The proposed project site contains a designated preservation area.

3.24.5.5.4. Historic Resources. The proposed project site contains areas of historical or archeological significance, cultural places or environmentally sensitive land.

3.24.5.5.5. Significant Vegetation or Natural Features.
The proposed project site contains significant vegetation or other natural features.

3.24.5.5.6. Neighborhood Character. The proposed project promotes the established historic or traditional development pattern of a block face, including setbacks, building height, and other dimensional requirements.

3.24.5.6. Additionally, the Planning Commission must make positive findings of fact concerning each of the following:

3.24.5.6.1. A literal interpretation of the SLDC would deprive the owner/applicant of rights commonly enjoyed by other properties in the same district under the terms of the SLDC;

3.24.5.6.2. There are special conditions and circumstances which are not the result of actions by the owner/applicant, and that the hardship is not self-imposed or self-created;

3.24.5.6.3. Granting the variance requested will not confer on the owner/applicant any special privilege that is denied by the SLDC to owners of other lands, buildings or structures in the same district;

3.24.5.6.4. The variance will not set a precedent which conflicts with the policies of the Santa Fe County Growth Management Plan, the Extraterritorial Plan or the SLDC.

3.25. ENFORCEMENT.

3.25.1. Administrative Enforcement.

3.25.1.1. The Administrator shall investigate any written signed complaint addressed to the Administrator, or any County official, Board, Planning Commission, Hearing Officer or employee, alleging a violation of the SLDC or of the terms and conditions of any development order issued pursuant to the SLDC, and shall inform the complainant in writing of the actions which have been, or will be taken in response to the complaint. The Administrator shall, when required, inspect a site, buildings or structures where provisions of the SLDC have been alleged to have been violated. The Administrator shall conduct periodic area-wide visual off-site inspections and upon discovery of potential violations may enter and inspect such property upon two (2) days written notice personally delivered to the owner, lessee, occupant or agent designated to receive service of process.

3.25.1.2. The owner, tenant or occupant of any building, structure or land, and any owner/applicant, architect, builder, developer, contractor or other person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary the requirements of the SLDC or the terms or conditions of any development order issued pursuant to the SLDC shall be held responsible for the violation and be subject to the institution of administrative, civil or criminal judicial action, injunctive relief and other equitable and legal remedies.

3.25.1.3. If the Administrator finds that any provision of the SLDC or of the terms and conditions of any development order has been or is being violated, the Administrator shall serve by personal service and send by certified or express mail, return receipt requested, a written notice of violation to the person or persons responsible for such violation, including any agent designated to receive service of process, indicating the nature of the violation and ordering such action necessary to correct or abate it. If the person or persons responsible for the violation fail to correct the violation within ten (10) working days, or such longer period as the Administrator determines is reasonably required to effect compliance, the Administrator may issue an order staying further development approval processing, or, revoking or suspending any existing development approval, or issue an administrative order imposing a fine or penalty, pursuant to NMSA 1978, §3-21-13, in an amount not to exceed three hundred (300) dollars, or the statutory maximum, if greater, for each day a violation continues; and may refer the matter to the County Attorney, to institute a civil action requesting equitable or legal relief, or to the District Attorney or Sheriff to institute a criminal proceeding, requesting fines, penalties or imprisonment pursuant to NMSA 1978, §3-21-13, for up to ninety (90) days, or the statutory maximum, if greater. Notwithstanding the foregoing, the Administrator, in cases when delay

would pose a serious threat or danger to the public health or safety, may seek enforcement without prior written notice by invoking any of the remedies of this section.

3.25.2. Appeals. Any person aggrieved by an administrative order or by the issuance of a notice of violation may appeal such administrative order or notice of violation to the Board within thirty (30) days after such administrative order is issued or notice of violation is served.

3.25.2.1. The Board shall send the appeal to the Hearing Officer, who shall conduct a quasi-judicial public hearing on the appeal with notice to the appellant(s), and to all persons owning property and registered organizations, applicable CPO, acequias, or Pueblos, regional, state and federal agencies and other governmental entities entitled to receive notice of an application for discretionary development approval on the appellant(s)' property pursuant to §3.10 of the SLDC.

3.25.2.2. Upon the receipt of the Hearing Officer's report, including findings of fact, conclusions of law and recommendation, which shall be forwarded to the Board following the close of the public hearing, the Board shall issue a development order adopting, modifying or revoking the Administrator's order or notice of violation.

3.25.2.3. During the pendency of the appeal, the Administrator shall suspend enforcement of the administrative order or notice of violation except to the extent the Administrator determines that the continuation of the violation(s) constitutes a serious threat to the public health or safety. In such a case the County may institute an action for injunction seeking such relief as is necessary to protect the public health or safety until the Board issues a development order on the appeal.

3.25.3. Judicial Enforcement. The County Attorney or any person with standing may institute a civil action seeking one or more of the following together with costs, expenses and attorney's fees:

3.25.3.1. legal relief including but not limited to fines, penalties, fees, enforcement of payment and performance bonds, cash escrows or letters of credit, costs, expenses and attorney's fees;

3.25.3.2. equitable declaratory and injunctive relief against the owner, occupant, lessee, agent or trespasser to restrain nuisances, violations or threatened violations of the SLDC, or violations of a development agreement, a subdivision improvement agreement, or the conditions and terms of a development order granting development approval; or

3.25.3.3. affirmative injunctive, equitable or declaratory relief or specific performance to compel compliance with the SLDC, the terms and conditions of any development order and any development agreement or subdivision improvement agreement.

CHAPTER 4 - SUBDIVISIONS

4.1. TITLE AND AUTHORITY. These subdivision regulations are adopted pursuant to NMSA 1978 § 47-6-9 (1995).

4.2. PURPOSE. This section establishes the general rules and regulations governing plats, the subdivision of land and the procedures for the extension of the County's streets, roads, major thoroughfares, public and private utilities. This Chapter is adopted to promote the purposes, intent, findings and substantive provisions of the SLDC and to implement the goals, objectives, policies and strategies of the General Plan and any applicable area, specific or traditional community plan.

4.3. JURISDICTION. This Chapter shall govern all platting or replatting of land within the external boundaries of Santa Fe County outside the boundaries of a city.

4.4. APPLICABILITY AND GENERAL RULES. The owner of any tract of land who desires to subdivide the land shall submit an application for major or minor subdivision approval to the Administrator.

4.4.1. Recordation of Unapproved Plat Prohibited. The County Clerk shall not file or record any final plat until it has been approved by the Board and executed by the Administrator in accordance with the regulations of this Chapter.

4.4.2. Except as provided in NMSA 1978, § 47-6-2(J), no person shall divide or subdivide any tract, parcel or lot of land without making and recording a final plat and complying fully with the requirements of the SLDC.

4.4.2.1. No person shall sell, lease or transfer ownership of any tract, parcel or lot of land by reference to a plat or subdivision map before a final plat has been duly recorded with the County Clerk. Any subdivision created prior to the effective date of adoption of subdivision regulations in the County shall be subject to the antiquated subdivision provisions of the SLDC.

4.4.2.2. No development order issued pursuant to the SLDC shall grant final approval for a previously approved preliminary plat where the preliminary plat approval was granted more than two (2) years prior to the application for final plat approval; and no disturbance of land or construction of any building, structure, street, road, major or minor thoroughfare, or other infrastructure whether public or private, or any other public or private improvement, shall be commenced subsequent to the adoption of the SLDC, unless a development order granting final subdivision approval has been issued by the Board in conformity with the requirements of the SLDC and the approved final plat has been executed by the Administrator and recorded with the County Clerk.

4.4.3. No land within the jurisdiction of the County may be subdivided through the use of any legal description other than with reference to a final plat approved by the Board on in accordance with the SLDC.

4.4.4. Antiquated Subdivisions. No ministerial or discretionary development approval shall be issued for any principal residential dwelling unit on any tract, parcel or lot shown on an antiquated subdivision plat, map, or plan that was created prior to the effective date of subdivision regulation by Santa Fe County, or that was created prior to the adoption of the SLDC, which contains contiguous tracts, parcels or lots in common ownership where two or more of the contiguous tracts, parcels and lots are undeveloped unless:

4.4.4.1. The contiguous tracts, parcels or lots are merged to meet the minimum lot size and dimensional requirements of the base zoning district in which the land is located, and

4.4.4.2. Studies, Reports and Assessments (SRAs) prepared pursuant to Chapter 5 of the SLDC demonstrate that the merged tracts, parcels or lots meet the adequate public facilities and services, environmental protection, traffic, water availability, fiscal, emergency response requirements of the SLDC and are consistent with the goals, objectives, policies and standards of the General Plan or any area, specific or traditional community plan.

4.4.5. Sec. 4.4.4. of this Chapter shall apply whether the tracts, parcels or lots are owned by the original subdivider or assignees or grantees from the original subdivider. The applicant for development approval shall submit the application to the Administrator, upon the form prescribed in Appendix “B” of the SLDC, together with the administrative and application fees as established in Appendix “C” of the SLDC. Upon compliance with the pre-application neighborhood meeting pursuant to Chapter 2 , the completion requirements of § 3.9 and the preparation of the SRAs pursuant to Chapter 5, the Administrator shall send the application to the Planning Commission for a quasi-judicial hearing for the issuance of a recommendation approving, approving with conditions or denying the application. The recommendation of the Planning Commission shall be sent to the Board for a quasi-judicial public hearing and a final development order approving, approving with conditions or denying the application.

4.4.6. Defaulting Final Subdivisions.

4.4.6.1. Where an original subdivider or successor in interest has failed to complete subdivision improvement requirements pursuant to a subdivision improvement agreement entered into when the final plat for the subdivision was approved, a new application for a concept plan, preliminary plat and final plat development approval shall be required to be filed to meet the adequate public facilities and services, environmental, traffic, water availability, emergency response, fiscal impact, area and consistency requirements and standards of the SLDC. This subsection shall apply, at the option of the County, even if the County was provided sufficient security from the subdivider with which to complete construction of public improvements on or off site of the subdivision.

4.4.6.2. Where the defaulting subdivision contains two or more vacant contiguous lots in common ownership, such lots shall be required to merge where necessary to meet the minimum lot size and all other dimensional zoning

requirements of the SLDC for the base zoning district in which subdivision is located. This subsection applies whether the lots are owned by the original subdivider or an immediate or remote assignee or grantee from the original subdivider.

4.4.7. Exemptions. A subdivision development approval is not required for any of the following:

4.4.7.1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots meet or exceed the adequate public facilities and services, environmental, traffic, water availability, fiscal impact, emergency response, zoning and consistency requirements and standards of the SLDC;

4.4.7.2. Public acquisition by purchase or condemnation of lands or strips of land for the widening or opening of streets, trails, parks, sites for public facilities, scenic vistas, open space, environmentally sensitive lands, archaeological, cultural or historic sites or for purchase of development rights.

4.4.7.3. As specifically exempted by NMSA 1978, § 47-6-2(J).

4.5. GENERAL PROCEDURES.

4.5.1. Classification of Subdivisions. Major and minor subdivisions, including type-one, type-two, type-three and type-four subdivisions, pursuant to NMSA 1978, § 47-6-2, are subject to the standards for approval of subdivision plats, unless a specific provision indicates that it does not apply to minor subdivisions. Different time limits are prescribed for the review and processing of major and minor subdivisions in order to reflect the level of complexity involved in review of the applications. Before any land is subdivided, the owner of the property shall apply for and secure approval of the proposed subdivision in accordance with the following procedures:

4.5.1.1. In the case of minor subdivisions, the procedure shall include two principal steps: (i) a concept plan and (ii) a final subdivision plat.

4.5.1.2. In the case of major subdivisions, the procedure shall include three principal steps: (i) a concept plan, (ii) a preliminary plat and (iii) a final subdivision plat.

4.5.2. Official Final Plat Submission Date. The date when the Administrator issues a development order, pursuant to § 3.9 of Chapter 3 of the SLDC, certifying the completeness of the application for final plat approval, shall constitute the date which commences the thirty (30) day period for approving or disapproving the final plat by the Board pursuant to NMSA 1978, § 47-6-22(B).

4.5.2.1. If the Board fails to approve, conditionally approve or reject the final plat within thirty (30) days from the date the Administrator receives the applicant's written notice, the Board shall, upon written demand from the

applicant to the Administrator, issue a certificate to the applicant stating that the final plat has been approved.

4.5.2.2. The Board shall hold a public hearing and issue a development order approving, or reversing the Planning Commission’s development order within thirty (30) days from the date the appeal is lodged.

4.5.2.2.1. If the Board does not act upon the application for final plat approval within the required thirty (30) day period of time, the applicant shall give to the Administrator, written notice of the Board’s failure to act, pursuant to NMSA 1978, § 47-6-22(C).

4.5.2.2.2. If the Board fails to approve, conditionally approve or reject a final plat within thirty (30) days from the date the Administrator receives the applicant’s written notice, the decision of the Board shall be deemed final.

4.5.3. Coordination with Other Development Approvals. In order to expedite integrated and single step processing of development projects, whenever the SLDC authorizes other discretionary development approvals, in addition to subdivision approval, the Administrator shall process all of the other development applications, together with the subdivision application, jointly with the Hearing Officer, Planning Commission and Board at single, integrated public hearings with integrated recommendations and findings. Hearing Officer review is not required where the sole discretionary development approval application is for subdivision approval. Where other application(s) are filed concurrently with an application for subdivision review that require Hearing Officer review, the Hearing Officer shall hold a public hearing with respect to concept plan approval of the subdivision application. Upon the closing of the hearing, the Hearing Officer shall, within thirty (30) days, send his report to the Planning Commission on the concurrent applications.

4.6. CONCEPT PLAN PROCEDURES.

4.6.1. It is the intent of the SLDC that land to be subdivided shall be of a character that can be used safely for building purposes without danger to health or peril from fire, flood, or other menace; furthers environmentally sensitive area protection and sustainability; that a major or minor subdivision concept plan shall not be approved until adequate public facilities and improvements exist or proper provision has been made for regional, state and federal land, facilities and services, including but not limited to:

- 4.6.1.1.** storm water drainage;
- 4.6.1.2.** water, sewerage and capital improvements;
- 4.6.1.3.** schools;
- 4.6.1.4.** libraries;
- 4.6.1.5.** administrative facilities;

- 4.6.1.6. parks and recreation;
- 4.6.1.7. scenic vista;
- 4.6.1.8. police, fire and emergency response;
- 4.6.1.9. public transportation;
- 4.6.1.10. pedestrian, equestrian and bicycle trails;
- 4.6.1.11. assessment and public improvement districts; and
- 4.6.1.12. streets, roads and major or minor arterials; and
- 4.6.1.13. the standards and requirements set forth in §§ 4.6.3 through 4.6.4 of this Chapter.

4.6.2. Discussion Requirements. Concept plan approval is required for all major and minor subdivisions. Prior to preparing the concept plan, the applicant shall schedule an appointment with the Administrator to discuss the procedures and substantive requirements for the approval process. At this meeting, the Administrator shall advise the applicant with regard to:

- 4.6.2.1. the requirements for application submittal;
- 4.6.2.2. requirements for the pre-application community meeting pursuant to Chapter 2;
- 4.6.2.3. consistency with the SLDC, the General Plan and applicable area, specific and community plans;
- 4.6.2.4. provision of the studies, reports and assessments (SRAs) required by Chapter 5;
- 4.6.2.5. the sustainable design and improvement standards required by Chapter 8; and
- 4.6.2.6. all other requirements of the SLDC, other County ordinances and regulations and state and federal law.

4.6.3. Prior to approval of a concept plan, the County and the applicant shall prepare the SRAs required under Chapter 5 of the SLDC, the impacts and effects that development of the property will have on the site itself as well as on adjacent properties, the County and region with respect to:

- 4.6.3.1. global warming;
- 4.6.3.2. sustainability;
- 4.6.3.3. green construction and neighborhood design and improvement standards;

- 4.6.3.4. renewable energy;
- 4.6.3.5. air and water pollution;
- 4.6.3.6. protection of environmentally sensitive land;
- 4.6.3.7. public infrastructure and service systems; and
- 4.6.3.8. all other impacts and effects upon the public health, safety and welfare.

4.6.4. Approval of a concept plan and all conditions and mitigation requirements attached to such approval, shall take into account:

4.6.4.1. the applicable zoning of the subdivision site including but not limited to:

- 4.6.4.1.1. the land-use mix and development intensity,
- 4.6.4.1.2. water availability,
- 4.6.4.1.3. road patterns and traffic congestion,
- 4.6.4.1.4. environmental impacts,
- 4.6.4.1.5. protection of environmentally sensitive and archaeological, cultural and historic lands;

4.6.4.2. the provision of adequate public facilities including but not limited to:

- 4.6.4.2.1. schools
- 4.6.4.2.2. libraries,
- 4.6.4.2.3. roads,
- 4.6.4.2.4. storm water drainage,
- 4.6.4.2.5. parks and recreation,
- 4.6.4.2.6. open space,
- 4.6.4.2.7. scenic and eco-tourist vista sites,
- 4.6.4.2.8. the layout of pedestrian, equestrian and bicycle trails,
- 4.6.4.2.9. fire, police, and emergency response facilities and services,
- 4.6.4.2.10. assessment and public improvement district facilities and services,
- 4.6.4.2.11. regional, state and federal facilities,

4.6.4.2.12. the fiscal and traffic impact on the County, and

4.6.4.2.13. consistency with the General Plan and any applicable area, specific or traditional neighborhood plan.

4.6.5. Any conditions or mitigation requirements attached at concept plan approval shall be modified at preliminary or final plat approval if additional information reveals development constraints that were not disclosed during concept plan approval, subsequent changes in state or federal law and any change in, on or off site conditions that substantially affect the health and safety of the County.

4.6.6. Application Procedure and Requirements. After meeting with the Administrator, and attending the pre-application neighborhood meeting, pursuant to the requirements of Chapter 2, the applicant shall file an application for approval of a concept plan, together with any other applications for development approval requested by the applicant to be concurrently processed. The application shall comply in all respects with the SLDC and shall:

4.6.6.1. Be made on forms set forth in Appendix “B,” Specifications for Documents to be Submitted, available at the office of the Administrator, and shall include the proposed disclosure statement required by NMSA 1978, § 47-6-11;

4.6.6.2. Identify the name, address, and telephone number of the Owner, applicant, attorney, licensed professional engineer, surveyor and an agent residing within the jurisdiction of the County who shall be authorized to receive all notices required by the SLDC and to receive service of process with regard to judicial proceedings;

4.6.6.3. Be accompanied by non-refundable administrative and application fees, pursuant to Appendix “C” of the SLDC; the SRAs required by Chapter 5 of the SLDC, and the documentation required pursuant to NMSA 1978, § 47-6-11 and by the SLDC for the purpose of identification of:

4.6.6.3.1. a sufficient quantity of water to fulfill the one hundred (100) year annual water requirements of the subdivision, including water for indoor domestic use and outdoor landscaping and yards;

4.6.6.3.2. water meeting an acceptable Environmental Protection Agency (“EPA”) drinking water quality standard for human consumption and measures to protect surface and ground water supplies from contamination and from unacceptable draw down;

4.6.6.3.3. the means of sewage waste disposal;

4.6.6.3.4. satisfactory roads to each parcel, including ingress and egress for emergency vehicles and utility easements to each parcel;

4.6.6.3.5. the means of liquid and solid waste disposal for the subdivision;

4.6.6.3.6. protection for cultural properties, archaeological sites and unmarked burials that may be impacted directly by the subdivision, as required by the Cultural Properties Act; and

4.6.6.3.7. terrain management to protect against flooding, inadequate drainage and erosion.

4.6.6.4. Identify all contiguous land holdings of the owner, including all land held in common ownership, with an indication of the portion proposed to be subdivided.

4.6.6.5. Be accompanied by an affidavit of ownership, which shall include:

4.6.6.5.1. The dates the respective holdings of land, including all lands in common ownership, were acquired;

4.6.6.5.2. A citation to the book and page where each conveyance to the present owner is recorded in the County Clerk's office; and

4.6.6.5.3. The identifying name and address of the legal owner of the property, any contract owner of the property, the date any contract of sale was executed and where any other land is held in common ownership by the same or different person, firm, entity, partnership, trust or unincorporated association a complete list of the names and addresses of all such entities and all partners, directors, members, trustees, beneficiaries, officers, and stockholders owning more than five percent (5%) of the value of the land;

4.6.7. Be accompanied by not less than twelve (12) copies of the concept plan, drawn at a scale of not more than 1" = 100'; identifying and including the following property features and descriptions:

4.6.7.1. Location of property lines, existing easements, rights-of-way, burial grounds, railroad right-of-ways, watercourses, forest or wooded areas, individual trees eight (8) inches or more in diameter measured four (4) feet above ground level, and existing permanent buildings or structures;

4.6.7.2. Location, width, and names of all existing or platted streets, roads, connectors, arterials or other public highways within or immediately adjacent to the tract;

4.6.7.3. The approximate locations, dimensions, and areas of all proposed lots;

4.6.7.4. Location of property boundaries and names of adjoining property owners from the latest assessment rolls within five hundred feet (500') of any perimeter boundary of the subdivision;

4.6.7.5. Connections with existing water supply and sanitary sewer systems; provisions for collecting and discharging surface water drainage; the

locations, sizes, elevations, and slopes of existing sewers, water mains, culverts and other underground structures within the tract and immediately adjacent thereto;

4.6.7.6. The location of temporary stakes to enable the Planning Commission to find and evaluate features of the concept plan in the field;

4.6.7.7. The location of utility poles on or immediately adjacent to the site and utility right-of-way;

4.6.7.8. The approximate locations, dimensions, and areas of all parcels of land proposed to be set aside for roads and road rights-of-way, utility easements, school sites, parks, recreation facilities, open space, scenic vista view sites, habitat corridors, trails, archaeological, cultural and historic sites, all lands to be reserved or dedicated pursuant to the Official Map or for any other public use or for the use of property owners in the proposed subdivision;

4.6.7.9. A vicinity map showing streets, roads and other developments adjacent to the proposed subdivision, utility service areas, school, assessment and public improvement district lines and zoning district lines with the zoning classifications properly described; and

4.6.7.10. Approximate topography, at the same scale as the concept plan.

4.6.8. Endorsement by the legal owner:

4.6.8.1. Identifying an agent authorized to submit the application on behalf of the legal owner, the agent authorized to receive notices pursuant to the SLDC and judicial process from any court of competent jurisdiction and authorizing County access to the subject property for site inspection purposes;

4.6.8.2. Providing proof that all taxes due on the property have been paid in full; and

4.6.8.3. Providing proof of legal access to the property from a County road.

4.6.9. Classification and Approval Procedure. The application shall be completed and submitted to the Administrator not less than thirty (30) days prior to any desired agenda or approval date. An application shall not be considered to be officially submitted until the Administrator has found it to be complete, with all the information required by § 4.6 of this Chapter.

4.6.9.1. The Administrator, as part of completion review shall determine whether the concept plan constitutes a minor or major subdivision and notify the applicant of the classification and completeness within twenty (20) days of the date the concept plan application was submitted to the Administrator..

4.6.9.2. Notice of Completeness.

4.6.9.2.1. If the Administrator determines that the concept plan is complete, pursuant to § 3.9 of Chapter 3 and § 4.6 of this Chapter and fully complies with the SLDC and all other applicable County ordinances and regulations and state and federal laws, the Administrator shall issue a certificate of completeness authorizing the applicant to proceed to concept plan development approval.

4.6.9.2.2. If the Administrator determines that the application for the concept plan is not complete or does not comply with the SLDC and all other applicable County ordinances and state or federal law, the Administrator shall issue a development order denying the application, or ordering the application to be refiled with the required information. The Administrator's development order shall be appealable to the Planning Commission within thirty (30) days from the date of the development order. The Planning Commission shall hold a quasi-judicial public hearing on the appeal within thirty (30) days and shall issue a development order approving, approving with conditions or denying the Administrator's development order. An appeal shall lie to the Board from the Planning Commission's development order, pursuant to NMSA § 47-6-15A.

4.6.9.3. Referral of Concept Plan. Subsequent to the issuance of the certificate of completeness, the Administrator shall publish and mail a notice soliciting comments and recommendations from appropriate officials or agencies of the County, adjoining counties or cities, the applicable CPO, registered associations, persons owning land within five hundred (500) feet of any boundary of the proposed subdivision, school, assessment and public improvement districts, including any regional, state or federal agencies, departments or officials where review or notice is required under applicable state or federal statute or regulation. Any person or entity receiving such a notice under this section shall submit any report or comments to the Administrator within thirty (30) days after the certificate of completeness is filed.

4.6.10. Placing Concept Plan on Agenda of the Planning Commission. Once the concept plan application is determined to be complete, the Administrator shall gather all the reports, opinions or comments submitted by any local governmental, state or federal entity, and any person receiving notice of the filing of the concept plan application, including the report of the pre-application meeting and shall submit such information to the Planning Commission and shall place approval of the concept plan on the agenda of the next Planning Commission meeting, no earlier than thirty (30) days after the date the Administrator sends the notice to the applicable state or federal agencies.

4.6.11. Planning Commission Action. The Planning Commission shall provide notice and hold a quasi-judicial public hearing on the concept plan in the same manner as required for preliminary plats. The Planning Commission shall approve, conditionally approve or disapprove the concept plan within thirty (30) days from the date the public hearing is closed.

4.6.11.1. In acting on approval of the concept plan, the Planning Commission shall analyze all of the comments, opinions and recommendations gathered by the Administrator, the SRAs required by Chapter 5 of the SLDC, the documentation required pursuant to NMSA 1978, § 47-6-1, and the testimony and documentary evidence submitted at the hearing, and determine whether the concept plan meets the requirements of the SLDC, including but not limited to the effects that development of the property will have on the site itself as well as on adjacent properties, the County and region with respect to:

4.6.11.1.1. consistency of the proposed land uses with the General Plan and any applicable area, specific or traditional community plan.

4.6.11.1.2. assurance that the proposed subdivision conforms with all other provisions of the SLDC and meets:

4.6.11.1.3. all use and dimensional requirements with respect to the zoning of the property in the base zoning district in which the property is located, pursuant to Chapter 9 (zoning) of the SLDC;

4.6.11.1.4. all of the requirements of the SLDC for mitigation pursuant to the findings and recommendations of the SRAs conducted under Chapter 5 of the SLDC;

4.6.11.1.5. all provisions of Chapter 8 (finance and adequacy of infrastructure and services) of the SLDC;

4.6.11.1.6. all supplemental use regulations pertaining to the proposed subdivision's uses as set forth in Chapter 9 and all requirements in Chapter 8 of the SLDC;

4.6.11.1.7. all other applicable provisions of the SLDC and other County ordinances and regulations and state and federal law;

4.6.11.1.8. the requirement that the soils, topography, aquifers and water tables have been adequately studied so that all lots are developable for their designated purposes and in a manner consistent with the SLDC;

4.6.11.1.9. the requirement that any land shown on the currently adopted flood boundary and floodway maps of the SLDC is suitable for its intended use; the proposed subdivision adequately mitigates the risks of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, or any other floodplain-related risks to the health, safety or welfare of the future residents of the proposed subdivision, in a manner consistent with the SLDC;

4.6.11.1.10. the requirements of the Official Map with respect to prohibiting construction of any building, structure or use of land within the right-of-way for school sites; existing and future road rights-of-way;

pedestrian, equestrian and bicycle trails; open space; scenic vista sites; parks; recreational facilities; public and community facilities; public utility facilities and easements; and archaeological, cultural and historic sites;

4.6.11.1.11. all storm water drainage requirements of the SLDC and any applicable storm water drainage plan adopted by the County;

4.6.11.1.12. all sustainable design and improvement standards in Chapter 7 of the SLDC;

4.6.11.1.13. The applicant has furnished documentation of all the matters set forth in NMSA 1978, §§ 47-6-11(B) and 47-6-11(C), and reasonably demonstrates that these requirements can be fulfilled pursuant to NMSA 1978, § 47-6-11(D).

4.6.11.2. The subdivision name and the name of all streets, roads and public places shall be the determination of the Planning Commission. No first names shall be used. All streets or roads shall carry the name of any existing street or road to which the subdivision street or road is interconnected.

4.6.11.3. If the concept plan is disapproved or conditionally approved by the by the Planning Commission, the applicant or any other person with standing may appeal the Planning Commission's development order to the Board.

4.6.12. Subsequent to an approval or conditional approval by the Planning Commission, the applicant may proceed directly to the filing of an application for Planning Commission approval of a final plat for a minor, type 3 or 5 subdivision; or to the filing of an application to the Board for preliminary plat approval for a major subdivision, as provided in the § 4.7 of this Chapter. The applicant shall incorporate all conditions and mitigation requirements from the concept plan approval in all subsequent applications for preliminary and final plat approval.

4.6.13. The applicant shall have one (1) year from the date that the concept plan is approved or approved with conditions by the Planning Commission or upon appeal, approved or approved with conditions by the Board, to submit an application for preliminary or final plat approval, after which time the concept plan approval or approval with conditions shall expire and a new concept plan shall be required to be submitted for approval.

4.7 PRELIMINARY PLATS

4.7.1. Applicability. Approval of a preliminary plat is required where the platting of the property involves a major subdivision or a type 1, 2, 3 (as specified in NMSA § 47-6-11I) or 4 subdivision (§ 47-6-11 subdivisions).

4.7.2. Initiation and Completeness Review. An application for preliminary plat approval shall be filed with the Administrator and contain the information required by Appendix B of the SLDC and shall be accompanied by all administrative and application fees required pursuant to Appendix C of the SLDC. An application shall not be

considered to be officially submitted until the Administrator has found it to be complete, pursuant to § 3.9 of Chapter 3 of the SLDC.

4.7.3. Development Order.

4.7.3.1. The Board shall process all preliminary plat applications through a quasi-judicial public hearing process. The development order for preliminary plat approval shall be in writing and shall contain findings of fact, conclusions of law and the reasons for approval, disapproval, or approval with conditions and mitigating requirements. The development order shall be filed in the office of the Administrator.

4.7.3.2. The Board shall issue its development order on a preliminary plat not more than sixty (60) days after the preliminary plat is officially submitted to the Board by the Administrator, or such further time if the applicant requests a tabling, an adjournment, or by mutual consent.

4.7.3.3. An application for preliminary plat approval may be withdrawn provided that a written notice of withdrawal is submitted to the Administrator.

4.7.3.4. An application for preliminary plat approval may be processed concurrently with a plan amendment, SLDC text or map amendment, CUP, overlay zoning district classification, planned development zoning district classification, major or minor site plan, registration of a nonconforming use or area variance.

4.7.4. Preliminary Plat Approval Standards and Requirements. The Planning Commission shall not approve an application for preliminary plat approval unless all of the following written findings with respect to the proposed development are made:

4.7.4.1. The proposed land uses are consistent with the General Plan and any applicable area, specific or traditional community plan.

4.7.4.2. The proposed subdivision conforms to all relevant conditions and requirements of the concept plan approval and all other provisions of the SLDC as follows:

4.7.4.2.1. Meets all use and dimensional requirements with respect to the zoning of the property in the base zoning district in which the property is located, pursuant to Chapter 9 of the SLDC;

4.7.4.2.2. Complies with all of the requirements of the SLDC for mitigation pursuant to the findings and recommendations of the SRAs conducted under Chapter 5 of the SLDC;

4.7.4.2.3. Meets all provisions of Chapter 8 (CIP, finance and adequacy of infrastructure and services) of the SLDC;

4.7.4.2.4. Meets all supplemental use regulations pertaining to the proposed use(s) as set forth in Chapter 9 and all requirements in Chapter 6 (developments of countywide impact) of the SLDC;

4.7.4.2.5. Meets all other applicable provisions of the SLDC and other County ordinances and regulations and state and federal law;

4.7.4.2.6. Assures that the soils, topography, aquifers and water tables have been adequately studied so that all lots are developable for their designated purposes and in a manner consistent with the SLDC;

4.7.4.2.7. Determines that any land shown on the currently adopted flood boundary and floodway maps of the SLDC is suitable for its intended use; the proposed subdivision adequately mitigates the risks of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, or any other floodplain-related risks to the health, safety or welfare of the future residents of the proposed subdivision, in a manner consistent with the SLDC;

4.7.4.2.8. Conforms to the Official Map with respect to prohibiting construction of any building, structure or use of land within the right-of-way for school sites; existing and future road rights-of-way; pedestrian, equestrian and bicycle trails; open space; scenic vista sites; parks; recreational facilities; public and community facilities; public utility facilities and easements; and archaeological, cultural and historic sites;

4.7.4.2.9. Conforms to all storm water drainage requirements of the SLDC and any applicable storm water drainage plan adopted by the County;

4.7.5. The applicant shall furnish documentation of all the matters set forth in NMSA 1978, §§ 47-6-11(B) and 47-6-11(C), and has reasonably demonstrated that these requirements can be fulfilled pursuant to NMSA 1978, § 47-6-11(D).

4.7.6. Conditions on Approvals. In considering an application for a preliminary plat, the Planning Commission shall consider and may impose mitigation requirements or conditions to the extent that such mitigation requirements or conditions are necessary to insure compliance with the standards, requirements or criteria of this Chapter, Chapter 5 and Chapter 6 of the SLDC. The plat shall not be approved if it does not comply with the SLDC policies, standards and requirements necessary to:

4.7.6.1. protect environmentally sensitive, archaeological, cultural and historic lands;

4.7.6.2. reduce global warming;

4.7.6.3. reduce air and water pollution;

- 4.7.6.4. assure adequate public facilities and services;
- 4.7.6.5. avoid sprawl and mitigate traffic congestion;
- 4.7.6.6. require sustainable green design and improvements;
- 4.7.6.7. avoid negative fiscal impacts;
- 4.7.6.8. be consistent with the goals, objectives, policies and standards of the General Plan and any applicable area, specific or traditional community plan;
- 4.7.6.9. ensure future water availability; and
- 4.7.6.10. protect surface and ground water supplies.

4.7.7. Subsequent Applications. Any preliminary plat application withdrawn by the applicant or denied by the Planning Commission or the Board upon appeal, shall be ineligible for reapplication for subdivision approval for one (1) year from the date of denial or withdrawal.

4.7.8. Amendments. Amendments to an approved preliminary plat prior to filing an application for final plat approval shall be approved in the same manner as the original preliminary plat, except as otherwise provided for amending plats or re-plats. Amendments to preliminary plats may be initiated by the owner of property within the preliminary plat area subject to the following:

4.7.8.1. Minor amendments may be approved by the Board without a public hearing and without the filing of a new preliminary plat. Minor amendments are limited to the following:

- 4.7.8.1.1. Changes in the internal alignment of streets that do not affect external properties or the connectivity of roads or streets;
- 4.7.8.1.2. Changes in internal parcel or lot boundaries that do not abut external property lines;
- 4.7.8.1.3. Changes in setbacks along internal property lines;
- 4.7.8.1.4. Changes in the routing of trails and pedestrian ways; or
- 4.7.8.1.5. Changes in the orientation of buildings on internal parcels.

4.7.8.2. No minor amendment authorized by this section may cause any of the following:

- 4.7.8.2.1. Change in the permitted uses;
- 4.7.8.2.2. Increased intensity of use as measured by the number of dwelling units or square feet of nonresidential building area;

4.7.8.2.3. Increased need for environmental mitigation, adequate public facilities or services, trip generation or demand for public utilities;

4.7.8.2.4. Decreased public or private open space area; or

4.7.8.2.5. Increased volume or velocity of storm water runoff from the development.

4.7.8.3. All changes to an approved preliminary plat other than those set forth in §4.7.8.1 of this Chapter shall constitute major amendments that require the filing and approval of a new application for concept plan approval..

4.7.9. Scope of Approval. The preliminary plat governs the preparation of the final plat, which must be submitted for final approval and recordation upon fulfillment of the requirements of this Chapter.

4.7.9.1. Expiration of Preliminary Plat. The development order granting preliminary plat approval is valid so long as the applicant obtains a development order granting approval of the final plat within two (2) years from the date of the preliminary plat approval, or for one (1) additional year extension pursuant to a Planning Commission development order. Prior to the expiration of the approved or conditionally approved preliminary plat, the applicant may submit an application for extension of the preliminary plat for a period of time not to exceeding a total of three years, in addition to the period of time described in the previous sentence, pursuant to NMSA 1978, § 47-6-11.1(B). No further extension shall be granted under any circumstances and the preliminary approval development order shall become null and void upon expiration of the preliminary plat. No application for final plat approval shall be allowed to be submitted after the preliminary plat has expired. If a development order granting final plat approval has not been issued within two (2) years, or upon extension, three (3) years of preliminary plat approval, any changes in the requirements of the SLDC shall apply to any new subdivision approval application.

4.7.9.2. Sectionalizing. The Board may approve a sectionalized phasing plan extending the effective period of the preliminary plat approval for up to five (5) years where it is the intent of the applicant to proceed to a final plat covering only a section or phase of the site at any one time. In the case of sectionalized or phased development, where the time of construction has exceeded five (5) years, the Board may in its discretion allow a two (2) year extension. Beyond that period, the sectionalized or phased preliminary plat approval development order shall be null and void. The owner of the property shall submit a new application for preliminary plat approval to the Planning Commission which shall, to the extent feasible, be in compliance with the provisions of the SLDC in existence at the time of the new application, and with all other applicable County ordinances and regulations, and state and federal law.

4.7.10. Recording Procedures. An executed original preliminary plat shall be filed in the Office of the County Clerk and in the Administrator's office.

4.8. FINAL PLAT PROCEDURES.

4.8.1. Applicability. Final plat approval is required for each subdivision that has received preliminary plat approval. No final plat shall be recorded until a final plat has been approved as provided in this section.

4.8.2. Minor, § 47-6-11(I)(1) or (2) and Type 5 Subdivisions. The applicant shall comply with all aspects of § 4.8 and its subsections of this Chapter in its application for final plat approval. Upon submittal of twelve (12) copies of the application and accompanying materials for final plat approval on the form required by Appendix B, the Administrator shall review the application for completeness pursuant to § 3.9 of the SLDC, in order to determine substantial compliance with the approved concept plan for minor subdivisions.

4.8.3. Major Subdivisions.

4.8.3.1. Completeness Review for Plat Approval. Upon submittal of the copies of the application for final plat approval on the form required by Appendix B, the Administrator shall review the application for completeness pursuant to § 3.9 of the SLDC, in order to determine substantial compliance with the approved concept plan and the approved preliminary plat.

4.8.3.2. Initiation. Twelve (12) copies of the application and accompanying materials required by Appendix B of the SLDC, together with six full sets of construction plans shall be submitted to the Administrator for a determination as to whether the proposed final plat shall be approved, conditionally approved or denied. If the approved preliminary plat required phasing or sectionalizing, the applicant shall submit final plat copies for only that section of the approved preliminary plat that the applicant proposes to record and develop at that time. The final plat shall conform to the approved concept plan or preliminary plat, including all conditions and mitigation requirements contained within the development order approving the concept plan or preliminary plat. No deviation from the approved concept plan or preliminary plat, together with all conditions and mitigation requirements, shall be authorized to be granted at final approval. Any deviation from the development order granting the concept plan or preliminary plat approval shall require an amendment as provided in § 4.8.8 of this Chapter.

4.8.4. Criteria. The final plat shall comply in all respects with the conditions and mitigation requirements of the development order approving the concept plan for minor subdivisions, or the concept plan and preliminary plat for major subdivisions.

4.8.5. Offers of Dedication.

4.8.5.1. The final plat application shall be accompanied by formal, irrevocable offers of dedication either pursuant to a development agreement entered into between the applicant and the County or as required by the development orders issued with respect to final plat approval granting to the public deeds and easements , in a form approved by the County Attorney, for all:

- 4.8.5.1.1. roads;
- 4.8.5.1.2. utility easements;
- 4.8.5.1.3. affordable housing sites;
- 4.8.5.1.4. fire corridors;
- 4.8.5.1.5. parks and recreation lands;
- 4.8.5.1.6. school and library sites;
- 4.8.5.1.7. open space, scenic vista sites and easements;
- 4.8.5.1.8. transfers of development rights;
- 4.8.5.1.9. archaeological, cultural and historic sites;
- 4.8.5.1.10. wetlands, floodways, streams, hillsides and environmentally sensitive areas; and
- 4.8.5.1.11. bicycle and pedestrian trails and lands to be set aside for other public improvements and services,.

4.8.5.2. The final plat shall be marked with a notation indicating the formal offers of dedication as follows:

The Owner does hereby irrevocably offer for dedication to the County or other designated governmental or non-profit association, shown on the final plat and construction plans as required by the development order approving the final plat in accordance with an irrevocable offer of dedication dated _____, and recorded in the County Clerk's office.

By _____ Date _____
Owner

4.8.5.3. The owner shall deliver a title insurance policy insuring full covenant and warranty deeds to all dedicated lands and improvements.

4.8.5.4. **Scope of Approval.** Approval of the final plat by the Board shall not be deemed to constitute acceptance by the County of any offer of dedication, or deposit of any deed or grant of easement until all improvements have been constructed and satisfactorily completed by the developer in accordance with the development order approving the final plat, the approved construction plans and any development or subdivision improvement agreement entered into between the applicant and the County.

4.8.6. To assure that all construction to be performed by the developer for public improvements will be properly paid for and completed within the time frame and in accordance with the requirements of the Subdivision Improvement Agreement,

Development Agreement and the development order approving the final plat, the Board shall not issue a development order approving a final plat unless and until:

4.8.6.1. satisfactory evidence is furnished that the final plat and all documents required are in a form acceptable for recording with the County Clerk;

4.8.6.2. that all development and subdivision improvement agreements have been signed by the applicant; and

4.8.6.3. all administrative and final plat application fees, impact fees, exactions, fees in lieu of affordable housing, payment of all consultant, design, construction and engineering fees have been deposited with the Administrator, together with proper security for performance and payment by way of escrow cash deposit, letter of credit or surety bond.

4.8.7. Monuments. The applicant shall place reference monuments in the subdivision as required by law.

4.8.8. Construction Plans.

4.8.8.1. Construction plans shall be submitted to the Administrator for review and approval, prior to final plat approval.

4.8.8.2. Together with the application for final plat approval the applicant shall have prepared, by a professional engineer registered in New Mexico, or other state certified professional for solar, wind or rainwater harvesting systems, construction plans consisting of complete construction drawings and specifications, as required by the development order approving the concept plan and preliminary plat for all applicable:

4.8.8.2.1. utility, County, state, assessment and public improvement districts;

4.8.8.2.2. sidewalks, streets, roads, swales, traffic control devices and streetlights;

4.8.8.2.3. sanitary sewers and storm water facilities;

4.8.8.2.4. water system facilities;

4.8.8.2.5. solar and wind turbine systems;

4.8.8.2.6. rainwater capture;

4.8.8.2.7. pedestrian, equestrian and bicycle paths and trails;

4.8.8.2.8. open space and scenic vistas;

4.8.8.2.9. school and library facilities;

4.8.8.2.10. parks and recreation facilities;

4.8.8.2.11. preservation of wetlands, floodplains, floodways and hillsides;

4.8.8.2.12. fire corridors;

4.8.8.2.13. preservation of environmentally sensitive land, archaeological, cultural and historic sites; and

4.8.8.2.14. all other facilities and improvements required by the SLDC.

4.8.8.3. All required improvements shall be constructed in accordance with the applicable requirements of Chapter 8 of the SLDC and any applicable design and improvement standards required by federal or state agencies, public or private utilities, schools, assessment or public improvement districts or other applicable entities.

4.8.8.4. The Administrator shall review and act on all construction plan applications in consultation with the Technical Advisory Committee.

4.8.8.5. Timing of Improvements. No land alteration or grading, removal of trees or other vegetation, land filling, construction of improvements, or other material change, except for location of surveying stakes for purposes of aiding in preparation of final engineering drawings or plans, shall commence on the subject property until the applicant has:

4.8.8.5.1. Received a development order from the Planning Commission, or the Board upon appeal, approving the construction plans and granting final plat approval;

4.8.8.5.2. Entered into a development agreement and a subdivision improvement agreement; and

4.8.8.5.3. Deposited with the Administrator escrow funds, a payment and performance surety bond or a letter of credit, sufficient to cover 125% of the cost of completion of all improvements, together with costs, expenses and attorney's fees in the event of default, required to be made pursuant to the conditions of the development order granting final plat approval, the development and subdivision improvement agreements executed pursuant to § 4.8.11 of this Chapter and the approved construction plans. The issuance of any surety bond or letter of credit shall be subject to the approval of the County Manager and County Attorney.

4.8.9. Modification of Construction Plans. All installations of improvements and all construction shall conform to the approved construction plans. If the applicant chooses to make minor modifications in the construction plans' specifications after the recording of the final plat and during construction, such changes shall be made only with the written approval of the Administrator with the advice of the TAC.

4.8.9.1. It shall be the responsibility of the applicant to notify the Administrator in advance, of any changes to be made from the approved drawings.

4.8.9.2. In the event that actual construction work deviates from that shown on the approved construction plans, and such deviation was not approved in advance by the Administrator, the applicant shall be required to correct the installed improvements to conform to the approved construction plans. In addition, the Administrator shall recommend to the Planning Commission that it take such other actions as may be deemed appropriate, including, but not limited to, revocation or suspension of development approvals already issued or withholding of future development approvals.

4.8.10. No ministerial development order shall be issued or approved until the expiration of two weeks after a final plat has been recorded. The purpose of this time period is to permit digital entry of all addresses, personal identification numbers, applications, documents, opinions from state agencies, state and federal permits and documents, studies, reports and assessments, development and subdivision improvement agreements, notices, development orders, recommendations, enforcement and violation notices, registrations, hearing transcripts, construction plans, as built drawings and all other required information be in digital format and entered into the data base and land records for the subdivision and each lot in the subdivision, in the office of the Administrator.

4.8.11. Final Plat.

4.8.11.1. Execution of the final plat shall be noted on all copies of the final plat to be retained as required for recording with the County Clerk and filing in the office of the Administrator and with other applicable regional, state or federal agencies.

4.8.11.2. Following execution of the final plat, the applicant shall record it with the County Clerk.

4.8.11.3. The Board may introduce conditions or mitigation requirements not applied to the preliminary plat for major subdivisions, and the concept plan for minor subdivisions, only upon finding that:

4.8.11.3.1. new information reveals a lack of good faith factual disclosure by the applicant, that directly affects the subdivision's ability to satisfy the criteria established in §4.35;

4.8.11.3.2. there is a change in state or federal law; or

4.8.11.3.3. approval of the final plat will create conditions substantially affecting the health or safety of the County.

4.9. As-Built Drawings.

4.9.1. Submittal. Prior to final inspection of the required improvements, and prior to the issuance of any ministerial development approval for any tract, parcel or lot in the subdivision, the applicant shall submit to the Administrator a digital disk and two prints of as-built engineering drawings for each of the required improvements that have been completed. Each set of drawings shall be recertified by the applicant's professional engineer, indicating the date when the as-built survey was made.

4.9.2. Sewer and Storm Drainage. As-built drawings shall show the constructed vertical elevation, horizontal location and size of all sanitary and storm sewers; rainwater capture swales, pervious pavements, filtering and treatment facilities; manholes, inlets, junction boxes, detention basins, and other appurtenances or elements of the sewerage and storm drainage systems constructed to serve the subdivision. The applicant shall cause all grading, excavations, open cutting, and similar land surface disturbances to be mulched or otherwise protected.

4.9.3. Water. As-built drawings shall depict water lines, valves, fire hydrants, and other appurtenances or elements of the water distribution system constructed to serve the project. Such information shall include the horizontal location and size of water lines and the location and description of valves with dimensional ties.

4.9.4. Roads, Sidewalks, Bicycle and Equestrian Trails and Paths. As-built drawings shall depict the location, street right-of-way, width, materials and vertical elevation.

4.9.5. Control Points. As-built drawings shall show all control points and monuments.

4.10. Inspection and Acceptance of Improvements.

4.10.1. Inspection Required. During the preparation of land and the installation of general improvements, periodic inspections shall be made by the Administrator to ensure conformity with all conditions and mitigation requirements in the development order approving the final plat, the development and subdivision improvement agreements and the specifications and standards of the approved construction plans. Other appropriate governmental agencies, and public and private utilities, may make inspections at any time during the progress of work. All improvements required by this Chapter shall be inspected prior to acceptance by the Administrator. Where inspections are made by governmental agencies and public and private utilities or agencies other than the Administrator, the applicant shall provide a written report of each inspection to the Administrator.

4.10.2. Inspection Schedule. The applicant shall notify the Administrator of the commencement of construction of improvements not less than 24 hours prior thereto. Inspections are required at each of the following stages of construction or

as otherwise determined in the development and subdivision improvement agreements:

- 4.10.2.1. Site grading/erosion control completion;
- 4.10.2.2. Underground utility, rainwater capture, filtration and treatment facilities or other public improvement installation;
- 4.10.2.3. Subgrade preparation prior to aggregate base installation;
- 4.10.2.4. Aggregate base installation and compactness;
- 4.10.2.5. Curb and gutter or swale installation;
- 4.10.2.6. Binder placing; and
- 4.10.2.7. Final porous material surfacing prior to seal coat.

4.10.3. Compliance with Standards. The applicant and any third party construction contractor engaged by the applicant shall bear joint and several liability and responsibility for the installation and construction of all required improvements according to the provisions of the development order approving the final plat, the development and subdivision improvement agreements, the sustainable design and construction standards of the SLDC, and the standards and specifications of other governmental entities, public or private utilities, school, assessment or public improvement districts or non-profit associations.

4.10.4. Acceptance of Improvements. Approval of the installation and construction of improvements by the Administrator shall not constitute acceptance by the County of the improvements or offers of dedication. The installation of improvements in any subdivision shall in no case serve to bind the County to accept such improvements for maintenance, repair, or operation thereof. Such acceptance shall be subject to the requirements of the SLDC concerning the acceptance of each type of improvement and any offer of dedication, deed or easement.

4.10.5. Acceptance of Land and Improvements. The County shall not have title to or responsibility for, any improvements until the improvements have been accepted as provided in this Section.

4.10.5.1. When improvements have been constructed in accordance with the standards and requirements of the SLDC, the conditions of approval in the final plat development order, and the adopted development and subdivision improvement agreements and the Administrator has approved the as-built plans, the Administrator shall place the acceptance of the improvements and land dedications on the regular agenda of the Board, which may accept the dedication of the land and improvements for operation and maintenance. County acceptance shall not apply to improvements to be operated and maintained by another governmental

entity, public or private utility, school, assessment or public improvement district or non-profit association, which shall be required to be separately accepted by that governmental, utility, district or association.

4.10.5.2. The provisions in § 4.10.5.1 of this Chapter shall not relieve the applicant or the applicant's contractor of any responsibility for notifying the Administrator or other governmental entity, public or private utility, school, assessment or public improvement district of the completed work accompanied by a formal request for inspection of same, prior to acceptance. The Administrator and other approving authorities having jurisdiction shall inspect and approve all completed work prior to the release of any escrow funds, payment and performance bonds, letters of credit or other sureties.

4.10.6. Site Cleanup. The applicant and applicant's contractor shall be responsible for removal of all equipment, material, and general construction debris from the subdivision and from any lot, street, public way, or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property, or onto other land in the County is prohibited.

4.10.7. Failure to Complete Improvements. If the applicant or the applicant's contractor fails to install and construct the public improvements pursuant to the terms and conditions of the final development order, the construction plans and the development and subdivision improvement agreements, the Administrator shall:

4.10.7.1. Declare the agreements and final plat approval to be in default and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreements are declared to be in default;

4.10.7.2. Obtain the escrow funds deposited for security, enforce the performance and payment surety bond or letter of credit and complete the public improvements by the County or through a third party contractor;

4.10.7.3. Assign the County's right to receive funds pursuant to the deposit of escrow funds, any performance and payment bond or letter of credit, in whole or in part to any third party, in exchange for an agreement of the third party to provide a new performance and payment bond, escrow funds or a letter of credit in sufficient amount to complete the required public improvements; or

4.10.7.4. Exercise any other rights available under the SLDC, the development agreement, the subdivision improvement agreement and state law.

4.11. Subdivision Improvement Agreement.

4.11.1. The final plat shall not be recorded until the applicant enters into a subdivision improvement agreement with the County, utilizing the forms provided in Appendix B of the SLDC, accompanied by a deposit with the Administrator of sufficient escrow funds, a payment and performance surety bond or letter of credit, by which the applicant covenants and agrees to secure the County and other governmental entities, public or private utilities, school, assessment or public improvement districts, or non-profit associations for which an improvement is being constructed, for the completion and payment of all required on-site and off-site public improvements, for the entire subdivision or any section where the final plat is approved for a section. The County Attorney shall approve any subdivision improvement agreement as to form.

4.11.2. All required improvements shall be completed no later than two (2) years, or an additional year upon approval of an extension by the Planning Commission, following the date upon which the final plat is recorded after the execution of the subdivision improvement agreement.

4.11.3. Covenants to Run with the Land. The subdivision improvement agreement shall provide that the covenants contained therein shall run with the land and bind all successors, heirs, and assignees of the owner. The subdivision improvement agreement shall be recorded by the County Clerk within the applicant's chain of title.

4.11.4. Base Course to Be Installed. Where no other access is available, the first priority of the subdivision improvement agreement shall require installation of a base course for the roads or streets within the final plat or a section of the final plat necessary to provide such emergency access. No land use alteration or grading, construction of any building or structure or improvement shall be undertaken until such emergency access is provided, unless necessary to construct emergency access.

4.12. Payment and Performance Security. The owner shall be required to provide sufficient security to ensure completion of the required public improvements. The performance security shall reflect 125 percent of the cost of the improvements in the approved construction plans, and shall be sufficient to cover all the mitigation requirements and conditions contained in the development order granting final plat approval and the development and subdivision improvement agreements. Where the County, or other governmental entity, public or private utility, school, assessment or public improvement district, or non-profit association participates in the cost of an improvement, the applicant shall provide an escrow deposit, a payment and performance surety bond or letter of credit from the applicant and contractor, with the County and the other government, utility, district, or association as a co-obligee. The issuance of any surety bond or letter of credit and the form thereof shall be subject to the approval of the County Manager and County Attorney.

4.12.1. Type of Security. The security shall be in the form of a payment and performance surety bond, a letter of credit, or cash escrow. The guarantees shall conform to the following standards:

4.12.1.1. Payment and Performance Surety Bond. The applicant shall provide a payment and performance surety bond executed by a surety company licensed to do business in New Mexico in an amount of 125% of the cost to complete the work in order to guarantee all uncompleted and unaccepted improvements, (other than gas and electric lines), required by the SLDC or in the development order granting final plat approval, that the applicant shall complete such improvements and have them accepted by the Board, or other governmental entity, public or private utility, school, assessment or public improvement district, or non-profit association within two (2) years from the date of final plat approval, unless extended pursuant to § 4.8.9.2 of this Chapter. The Administrator shall execute the bond instrument on behalf of the County and the County Attorney shall approve the bond as to form.

4.12.1.2. Letter of Credit. The applicant or owner shall provide an irrevocable letter of credit in an amount equal to 125% of the cost estimate to complete all required improvements, as approved by the Administrator, required by the development order granting final plat approval, the development and subdivision agreements and the approved construction plans. The Administrator shall sign the agreement on behalf of the County, and the County Attorney shall approve the letter of credit as to form.

4.12.1.3. Cash or Cashier's Check. The applicant shall provide to the Administrator cash or a cashier's check, to be placed in escrow in an amount equal to 125% of the estimated cost for all uncompleted on or offsite improvements required by the development order granting final plat approval, the development and subdivision agreements and the approved construction plans. Upon completion of the improvements, as approved by the Administrator, the proper pro-rated amount will be refunded to the applicant.

4.12.2. Releases and Guarantees. When an applicant has given payment and performance security in any of the forms provided in § 4.8.10.1 of this Chapter, and when fifty (50%) percent of the required site improvements have been completed and accepted by the Administrator, the owner may substitute for the original guarantee a new guarantee in an amount equal to 125% of the cost for completing the remaining site improvements. Such new guarantee need not be in the same form as the original guarantee so long as such guarantee is one that is listed in § 4.8.10.1 of this Chapter. However, in no event shall the substitution of one security for another in any way alter or modify the obligation of the owner under the performance and payment agreement.

4.12.3. Reimbursement. Where oversized County, regional, federal or state facilities are required, or when public facilities are advanced by the owner, a special reimbursement procedure shall be provided for in the development order approving the final plat and in the development and subdivision improvement agreements, to reimburse the owner from funds received from subsequent developers utilizing a portion of the capacity of the public improvements in order to meet their adequate public facility and service requirements under the SLDC.

4.12.4. Maintenance Bond. The applicant shall guarantee the improvements against defects in workmanship and materials for a period of five years from the date of acceptance of such improvements. At the time the improvements have been completed and accepted, a maintenance guarantee shall be provided by a letter of credit, payment and performance surety bond or cash escrow in an amount reflecting 50% of the cost of the completed improvements.

4.13. CLUSTER OR CONSERVATION SUBDIVISION; TRANSFERS OF DEVELOPMENT RIGHTS.

4.13.1. Applicability. The Board hereby finds and determines that certain development projects, if approved, may prove to be inconsistent with the growth management, new urbanism and sustainability goals, objectives, policies and standards of the General Plan, where protection of designated official map areas, agricultural and ranch lands, acequias, rural open space, environmentally sensitive lands, habitats and habitat corridors, hillsides, wetlands, floodplains and floodways, archaeological, cultural and historical resources, and unique scenic vistas, can be best accomplished by the use of mandatory cluster and conservation subdivision or where a cluster or conservation subdivision is not feasible, through transfers of development rights (TDRs) of the owner's land to other lands in zoning districts authorized to receive TDRs, or to a County Land Bank. In such circumstances the Planning Commission, or the Board upon appeal, shall require cluster or conservation subdivision.

4.13.2. Initiation by the Applicant. A request for use of a cluster or conservation subdivision or TDRs may also be made by the applicant as part of the application for subdivision approval.

4.13.3. Approval Criteria. TDRs shall be granted if the Planning Commission finds and determines that the use of TDRs will implement:

4.13.3.1. the goals, objectives, policies and standards of the General Plan and any area, specific or traditional community plan;

4.13.3.2. the findings, purposes and intent of the SLDC;

4.13.3.3. under the circumstances, the public interest underlying the proposed use of TDRs is clearly benefitted; and

4.13.3.4. the transfer and acceptance of the TDRs is authorized by the base zoning district of the transferring and receiving tracts, parcels or lots and complies with all other applicable standards of the SLDC.

4.14. ACCEPTANCE OF OFFERS OF DEDICATION. The approval of a final plat shall not be considered an acceptance of any proposed offer of dedication shown on the final plat and does not impose on the County any duty regarding operation, maintenance or improvement of any dedicated lands or improvements parts until the Board adopts a resolution or ordinance to formally accept the dedication. Denial of subdivision approval shall be considered a refusal by the Board to accept the dedication indicated on the plat.

4.15. VACATION OF SUBDIVISIONS.

4.15.1. Applicability. The provisions of this section establish a process for the vacation of an approved final plat, in whole or in part. The record owner of land within a final plat proposed to be vacated shall sign an acknowledged statement declaring the the final plat or a portion of the final plat to be vacated. The Board shall review the statement for approval, approval with conditions or denial. The plat shall be vacated if the signed, acknowledged instrument declaring the plat vacated is approved by the Board and recorded in the manner prescribed for the approval and recording of the original final plat.

4.15.2. Initiation. The owners of all or a portion of the lots in any approved subdivision, including the original owner, assigns or successors in interest, shall initiate a plat vacation by filing an application, together with the acknowledged signed statement, with the Administrator. The application shall conform to the requirements of Appendix B, of the SLDC. The application requesting vacation of the plat and an application requesting a re-subdivision of the plat may be filed concurrently. The filing fee for vacation of the plat shall be waived if a filing fee is paid for the application for re-subdivision.

4.15.3. Completeness Review. The Administrator shall review an application for plat vacation as provided in § 3.9 of Chapter 3 of the SLDC.

4.15.4. Development Order. The application for plat vacation may be approved, conditionally approved, or disapproved at a regular public meeting of the Board subject to § 4.15.5 of this Chapter. An application for re-subdivision shall be processed as an application for a new major or minor subdivision and shall comply with all provisions and requirements of the SLDC in force at the time the re-subdivision application is filed with the Administrator.

4.15.5. Approval Criteria. The Board shall approve the applications for vacation on such terms and conditions as are reasonable to protect the public health, safety, and welfare. The Board shall not approve an application for vacation if:

4.15.5.1. It will adversely affect the interests of persons on contiguous land or persons within the subdivision being vacated pursuant to NMSA 1978, § 47-6-7(B);

4.15.5.2. It will materially impact or affect the rights of the County or any public or private utility, or other governmental entity's rights in dedicated land or proposed or built public improvements; or

4.15.5.3. The plat vacation would cause harm within the subdivision or on contiguous land to the subdivision to environmentally sensitive land, hillsides, wetlands, flood plains or flood ways, archaeological, cultural or historic sites, habitats and habitat corridors, alter a mixed use or traditional neighborhood development, increase block lengths or decrease lot dimensions, or eliminate lots set aside for affordable housing.

4.15.6. Scope of Approval. Upon the execution and recording of the vacating instrument, the vacated plat shall be legally vacated. A plat may be re-subdivided upon vacation of the original plat. The re-subdivision of the land covered by a plat that is vacated shall be platted in the same manner as is prescribed by this Chapter for an original plat.

4.15.7. Recording Procedures. The County Clerk shall write legibly on the vacated plat the word "vacated" or the phrase "partially vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

4.15.8. Utilities. The rights of any utility existing prior to the vacation, total or partial, of any final plat are not affected by the vacation of a final plat. See NMSA 1978, § 47-6-7(D).

4.15.9. Roads. The Board may require that roads and streets dedicated to the County in the final plat continue to be dedicated to the County pursuant to NMSA 1978, § 47-6-7(B).

4.15.10. Adjoining Landowners. The owners of parcels on the vacated portion of the final plat may enclose in equal proportions the adjoining streets and alleys that are authorized to be abandoned pursuant to NMSA 1978, § 47-6-7(B).

4.16. AMENDMENT OF PLATS.

4.16.1. Purpose and findings. This section provides a streamlined and efficient process for the combination of parcels pursuant to NMSA 1978, § 47-6-11.

4.16.2. Applicability. A final plat may be amended by the Board for one or more of the following purposes:

4.16.2.1. correct an error in a course or distance;

4.16.2.2. add a course or distance that was omitted;

4.16.2.3. correct an error in a real property description;

4.16.2.4. locate monuments set after the death, disability, or retirement from practice of the professional engineer or surveyor responsible for setting monuments on the plat;

4.16.2.5. designate the correct location or character of a monument that is shown incorrectly;

4.16.2.6. correct any other type of scrivener or clerical error on the previously approved final plat, including lot numbers, acreage, road or street names, and identification of adjacent recorded plats;

4.16.2.7. correct an error in courses and distances of lot lines between two adjacent lots where:

4.16.2.7.1. both lot owners join in the application,

4.16.2.7.2. neither lot is abolished,

4.16.2.7.3. the amendment does not attempt to remove recorded covenants or restrictions; and

4.16.2.7.4. the amendment does not have a material adverse effect on the property rights of the other owners in the plat;

4.16.2.8. relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

4.16.2.9. relocate one or more lot lines between one or more adjacent lots if:

4.16.2.9.1. the owners of all those lots join in the application for amending the plat,

4.16.2.9.2. the amendment does not attempt to remove recorded covenants or restrictions, and

4.16.2.9.3. the amendment does not increase the number of lots.

4.16.3. Initiation. An applicant wishing to amend an approved final plat shall file with the Administrator the amending plat, together with a copy of the final plat being amended and a statement detailing the basis for the amendments being proposed. The Administrator shall circulate the amending plat to the TAC at the time of plat filing.

4.16.4. Completeness Review. The Administrator shall review an application for an amending plat in accordance with § 3.9 of Chapter 3 of the SLDC.

4.16.5. Processing. The amending plat shall be processed by the Administrator in the same manner as a minor subdivision, and shall require a pre-application neighborhood meeting. Upon receipt by the Administrator of the reports of the pre-application neighborhood meeting and from the TAC, the application for the amending plat shall go directly to the Planning Commission for final plat approval. If the plat being amended has been recorded, the amending plat shall be clearly marked as follows: *Amending plat of (_____ [PLAT NUMBER] and _____ [NAME]). This plat amends the plat previously recorded in the County Clerk's records of Santa Fe County, at Volume _____, Page _____.*

4.16.6. Recording Procedures. The amending plat shall be recorded as in the manner prescribed for the approval and recording of the original final plat. Once recorded, the amending plat is controlling over the original plat. The original plat shall be vacated by the Planning Commission in the development order granting approval of the amended final plat.

CHAPTER 5 – STUDIES, REPORTS, AND ASSESSMENTS (SRA)

5.1. General. Where SRAs are required, the applicant shall provide, with the application, all information set forth below necessary to prepare the SRAs as required by this Chapter 5. The County shall prepare the SRAs unless the applicant opts to prepare the SRAs at the applicant’s own cost and expense as set forth in § 5.4.1 of this Chapter. The SRAs shall be prepared and certified, together with the application for preliminary or final plan or plat approval, as complete by the Administrator, before any public hearing is held by a Hearing Officer, the Planning Commission or the Board. The pre-application meeting required by Chapter 2 of the SLDC shall be held prior to the preparation of the SRAs.

5.2. When Required. Except as exempted in § 5.3 of this Chapter, SRAs shall accompany, at the preliminary or final approval stage, whichever is earlier, every application for a discretionary development approval on:

5.2.1. private property;

5.2.2. state, federal, regional, city, County or school, assessment or public improvement district land leased to a private person or entity; or

5.2.3. every capital facilities project of the County, of any city located in the unincorporated portion of the County, and of any school, assessment or public improvement district.

5.3. When Not Required. SRAs shall not be required for:

5.3.1. an application for ministerial development approval for any land, lot or parcel of land, which has been subject to a prior discretionary development approval process;

5.3.2. an area variance;

5.3.3. the registration of a non-conforming use; or

5.3.4. an application for ministerial development approval for any accessory use or structure, including but not limited to: garage, carport, shed, addition, driveway, swimming pool, recreational facility, fence or barn.

5.4. Preparation and Fees. Upon submittal of development approval applications requiring SRAs, applicants shall pay to the Administrator such administrative and consultant fees as set forth in Appendix C of the SLDC, in order to cover the costs of the County in preparing the SRAs, including but not limited to, staff time and the employment of independent consultants retained by the County. Where an applicant engages its own consultants to prepare the SRAs, the applicant shall pay a fee, as described in Appendix C, to the County for reviewing the SRAs,

including, at the discretion of the Administrator, the retaining of outside consultants for such review in complex cases, or the mixed use of County staff and outside consultants.

5.4.1. Applicants for discretionary development approval may prepare their own SRAs as required in this Chapter, provided that all consultants engaged by the applicant are approved by the Administrator as certified by the State of New Mexico, or other state, as experts in the field. All such consultants shall disclose any information as to conflict of interest or other disqualifying interest that would prevent their ability to provide to the County fair and independent SRAs.

5.4.2. Applicants for development approval requiring only the preparation of minor site plans or minor subdivision approval for residential development shall not have the option of preparing SRAs and the required SRAs shall be prepared by the County. Each such applicant shall reimburse the County a fee, as set forth in Appendix C of the SLDC, equal to its pro-rata share of County staff and consultant costs, as represents the application's number of dwelling units divided by the annual number of dwelling units permitted by the County during the average of the immediately preceding five year period.

5.4.3. SRA Presumption of Validity in Quasi-judicial Proceedings. The written findings, conclusions and recommendations of the SRAs shall be become part of the record of the public hearings of the Hearing Officer, Planning Commission and Board and shall be utilized as substantive standards with a presumption of validity for the findings, conclusions, recommendations and terms of the development orders issued by such agencies as to:

5.4.3.1. Whether the application for development approval meets the requirements of the LDC and should be approved, approved with conditions and mitigation requirements, or denied;

5.4.3.2. The burden of proof in overturning any SRA findings, conclusions or recommendations prepared by the County in quasi-judicial proceedings shall lie with the applicant or any other interested party with administrative standing to intervene in the application proceedings, and such burden of proof shall be met only if substantial evidence is introduced in the record as to the reasonableness of such findings, conclusions and recommendations.

5.4.3.3. The Hearing Officer, Planning Commission and Board shall adopt the findings, conclusions and recommendations of the County prepared SRAs in all quasi-judicial proceedings unless there is substantial evidence in the record of the public hearings to set aside or modify such findings, conclusions and recommendations in full or in part.

5.4.3.4. Where the applicant has prepared the SRAs, the Hearing Officer, Planning Commission and Board shall adopt the findings, conclusions and recommendations of the County consultants reviewing the applicant prepared SRAs in all quasi-judicial proceedings unless there is substantial evidence in the record of the public

hearings to set aside or modify such findings, conclusions and recommendations in full or in part.

5.4.3.5. Where the County prepares the SRA the County shall maintain an area-wide cumulative database of all SRAs prepared in order to simplify the cost and process for property owners seeking discretionary development approvals.

5.5. INFORMATION TO BE SUPPLIED FOR PREPARATION OF SRAs. An applicant making an application for development approval requiring SRAs shall submit, with the application for concept plan approval, the following information necessary to prepare the SRAs:

5.5.1. an accurate map of the project site and of all property in common ownership, depicting: existing topography; public or private buildings, structures and land uses; irrigation systems, including but not limited to acequias; public or private utility lines and easements, under, on or above ground; public or private roads or streets; public or private water wells; parks, trails, open space and recreational facilities; fire, police, emergency response facilities; schools or other public buildings, structures, uses or facilities; nonconforming building, structures or uses; environmentally sensitive lands; archaeological, cultural or historic resources; scenic vistas and eco-tourist sites; agricultural and ranch lands; and all other requirements of the Administrator as established at the Administrator's pre-application meeting with the applicant;

5.5.2. a detailed description of the development uses and activities proposed for the project site and of all property in common ownership;

5.5.3. the planning objectives and the character of the development to be achieved through the project;

5.5.4. the approximate location of all neighboring development areas, subdivisions, residential dwellings, neighborhoods, traditional communities, public and private utility lines and facilities, public buildings, structures or facilities, community centers, and other non-residential facilities and structures within five (5) miles of the concept plan site perimeter;

5.5.5. the approximate location, arrangement, size, FAR of any buildings and structures and parking facilities proposed for construction within the development project;

5.5.6. the proposed traffic circulation plan, including the number of daily and peak hour trips to and from the site and the proposed traffic routes to the nearest intersection with a major arterial, state highway or Interstate Highway I-25;

5.5.7. the approximate location of all fire, police, and emergency response service facilities and all roads and public facilities and utilities shown on the capital improvement and services plan; floodways, floodplains, wetlands, or other environmentally sensitive lands and natural resources on the applicant's property; location of historic, cultural and archeological sites and artifacts, slopes greater than 11%, wildlife and vegetation habitats and habitat corridors within five (5) miles of the concept plan site perimeter;

5.5.8. a statement explaining how the proposed project complies with the goals, objectives, policies and strategies of the General Plan and any area, specific or traditional community plan covering, adjacent to, or within five (5) miles of the concept plan site perimeter;

5.5.9. a statement or visual presentation of how the project will relate to and be compatible with adjacent and neighboring areas, within a five (5) mile radius of the project site perimeter;

5.5.10. all information required by the Administrator for the preparation of SRAs, necessary to evaluate the effects and impacts, if any, of the proposed development project as follows:

5.5.10.1. an Environmental Impact Report (EIR);

5.5.10.2. an Adequate Public Facilities and Services Assessment;

5.5.10.3. a Water Availability Report (WAR);

5.5.10.4. a Traffic Impact Assessment (TIA);

5.5.10.5. a Fiscal Impact Study (FIS);

5.5.10.6. an Emergency Service Study (ESS) (for DCIs only); and

5.5.10.7. a General Plan, area, specific plan and traditional community plan Consistency Report;

5.5.10.8. all other application requirements set out in this SLDC; and

5.5.10.9. such other information as the Administrator may require, including any additional information necessary to determine compliance with the SLDC.

5.6. ENVIRONMENTAL IMPACT REPORT.

5.6.1. Scoping Process. The EIR shall consist of a series of elements which shall contain the information outlined in this section. Each required element shall be covered, and when these elements are not separated into distinct sections, the document shall state where in the document each element is discussed.

5.6.1.1. Prior to the preparation of an EIR, the applicant's consultant, if applicable, shall meet with the Administrator and the County's environmental staff person or consultant to scope out the issues, elements and methods of study required to prepare the EIR.

5.6.1.2. The EIR shall be prepared as a separate document apart from any other document required to be submitted by application of this Chapter.

5.6.1.3. No EIR or other SRA prepared pursuant to this Chapter that is available for public examination shall require the disclosure of a trade secret, except where the preservation of any trade secret involves a significant threat to

health and safety. No specific location of archaeological, historical or cultural sites or sacred lands shall be released to the public, but the EIR must thoroughly discuss all environmental issues relating to a proposed project and affecting any such sites.

5.6.1.4. The applicant shall deposit, as determined in Appendix “C” of the SLDC, cash, a certified check, bank check or letter of credit, with the Administrator to cover all of the County’s expenses in reviewing the EIR, engaging staff or consultants, and for a Hearing Officer to conduct the first public hearing on the EIR.

5.6.2. The EIR as an Informational Document. The EIR shall inform the County, the public and the applicant of the significant environmental effects and impacts of a project, identify possible ways to minimize the significant adverse effects or impacts, and describe reasonable alternatives to the project. The County shall consider the information in the EIR along with other information which may be presented to the County by the applicant or interested parties.

5.6.2.1. While the information in the EIR does not control the County’s ultimate discretion on the project, the County shall respond to each significant effect and impact identified in the EIR by making findings.

5.6.2.2. The information in the EIR shall constitute substantial evidence in the record to support the County’s action on the project if its development order is subsequently challenged in court.

5.6.3. Table of Contents, Summary and Index. The EIR shall contain a table of contents, summary and index to assist readers in finding the analysis of different subjects and issues.

5.6.4. Summary. The EIR shall contain a summary, not to exceed 15 pages, of the proposed actions and their consequences. The language of the summary should be as clear and simple as reasonably practical. The summary shall identify:

5.6.4.1. Each significant adverse effect and impact with proposed mitigation measures and alternatives that would reduce or avoid that effect or impact;

5.6.4.2. Areas of controversy known to the County, including issues raised by agencies and the public; and

5.6.4.3. Issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects.

5.6.5. Project Description. The description of the project shall contain the following information but shall not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

5.6.5.1. The precise location and boundaries of the proposed development project. Such location and boundaries shall be shown on a detailed topographical map. The location of the project shall also appear on a regional map.

5.6.5.2. A statement of the objectives sought by the proposed development project. Clearly written statements of objectives that will help the County develop a reasonable range of alternatives to evaluate in the EIR and aid the Board in preparing findings. The statement of objectives should include the underlying purpose of the project.

5.6.5.3. A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.

5.6.5.4. A statement briefly describing the intended uses of the EIR. This statement shall include, to the extent that the information is known to the County: a list of the state, regional and federal agencies that may be expected to use the EIR in their decision-making; a list of permits and other governmental approvals required to implement the project; and a list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. All the development approvals required for the project shall be listed in the order in which they will occur.

5.6.6. Environmental Setting. The EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time environmental analysis is commenced, from both a County, area, traditional community, regional, and state perspective. This environmental setting will constitute the baseline physical conditions by which the County determines whether an adverse effect or impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.

5.6.6.1. Knowledge of the County and the regional setting is critical to the assessment of environmental impacts. Special emphasis shall be placed on environmental, archaeological, cultural, historic, habitat and scenic resources that are rare or unique to the County and region and would be affected by the project. The EIR must demonstrate that the significant environmental effects and impacts of the proposed project were adequately investigated and discussed and it must permit the significant adverse effects or impacts of the project to be considered in the full environmental context.

5.6.6.2. The EIR shall discuss any inconsistencies between the proposed project and the General Plan and any applicable area, specific or traditional community plans. Regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan, area-wide waste treatment and water quality control plans, regional transportation-land use plans, habitat conservation plans, natural community conservation plans, historic, cultural and archaeological site and preservation plans.

5.6.6.3. Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions at the time environmental analysis is commenced as well as the potential future conditions discussed in the plan.

5.6.7. Consideration and Discussion of Environmental Impacts. All phases of the development project must be considered when evaluating its effect and impact on the environment: planning, entitlement, development and operation. The EIR shall include a table showing where each of the following subjects is discussed:

5.6.7.1. significant environmental effects of the proposed project;

5.6.7.2. significant environmental effects which cannot be avoided if the proposed project is implemented;

5.6.7.3. significant irreversible environmental changes if the proposed project is implemented;

5.6.7.4. growth-inducing adverse effects or impacts of the proposed project;

5.6.7.5. the mitigation measures proposed to minimize or eliminate the significant environmental effects or impacts; and

5.6.7.6. all alternatives to the proposed project, including no development.

5.6.8. The Significant Environmental Effects of the Proposed Project. The EIR shall identify and focus on the significant environmental effects of the proposed development project. In assessing the impact of a proposed project on the environment, the County shall limit its examination to changes in the existing physical conditions in the affected areas as they exist at the time environmental analysis is commenced. Direct and indirect significant effects and impacts of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects and impacts. The discussion shall include relevant specifics of the area, the resources involved, physical changes and alterations to geo-technical soil conditions, water conservation, availability of sustainable and green development opportunities, environmentally sensitive lands and ecological systems, changes induced in the human use of the land, health and safety problems caused by physical changes, and other aspects of the resource base such as water, historical, cultural and archaeological resources, scenic vistas, availability of hard surface roads to create access for emergency response, fire and police and adequacy of public facilities and services. The draft EIR shall also analyze any significant environmental effects the facility might cause by bringing development into the area affected.

5.6.8.1. Significant Environmental Effects Which Cannot be Avoided if the Proposed Project is Implemented. Describe significant adverse effects and impacts, including those which can be mitigated but not reduced to a level of insignificance. Where there are effects and impacts that cannot be alleviated

without imposing an alternative design, their implications and the reasons why the development project is being proposed shall be described.

5.6.8.2. Significant Irreversible Environmental Changes Which Would be Caused by the Construction of the Proposed Project. Uses of nonrenewable resources during the initial and continued phases of the development project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary effects and impacts and, particularly, secondary effects and impacts (such as highway improvements required to provide access to a previously inaccessible area) generally commit future generations to similar uses. Irreversible damage can result from environmental and other accidents associated with the development project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified. Any and all potential effects on global warming attributable to the development project must be thoroughly analyzed, including necessary mitigation to minimize such effects and impacts. Applicant must comply with all federal and New Mexico statutes and regulations regarding global warming. In addition, Applicant must use the best available technology to analyze, report and mitigate any global warming effect associated with the development project.

5.6.8.3. Other Adverse Effects or Growth-Inducing Impacts of the Proposed Project. Discuss other characteristics of the project which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. Discuss the characteristics of the project which may decrease the area's suitability for other uses, such as mixed use, industrial, residential, commercial, historical, cultural, archaeological, environmental, public and non-profit facilities, eco-tourism or scenic uses.

5.6.9. Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.

5.6.9.1. Mitigation Measures in General. The EIR shall describe feasible measures which could minimize significant adverse effects and impacts, including but not limited to: inefficient and unnecessary consumption of water and energy, lack of adequate public facilities and services, and irreversible pollution attributable to the project that contributes to global warming, water and air pollution degradation of environmentally sensitive lands, traffic congestion, sprawl, noise, vibration, excessive lighting, odors or other nuisance type impacts.

5.6.9.2. The discussion of mitigation measures shall distinguish between the measures which are proposed by the development project's proponents to be included in the project and other measures proposed by the County or other interested persons which are not included, but the County determines could reasonably be expected to reduce adverse effects and impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

5.6.9.3. Where several measures are available to mitigate an effect or impact, each shall be discussed and the basis for selecting a particular measure shall be identified. Formulation of mitigation measures shall be identified at the first discretionary approval following concept plan approval and under no circumstances deferred until the ministerial development process. Measures shall specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

5.6.9.4. Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant.

5.6.9.5. If a mitigation measure would cause one or more significant effects and impacts in addition to those that would be caused by the project as proposed, the adverse effects and impacts of the mitigation measure shall be discussed.

5.6.9.6. Mitigation measures must be fully enforceable through the development order conditions, a development agreement, or other legally-binding instruments.

5.6.9.7. Mitigation measures are not required for effects or impacts which are not found to be significant.

5.6.9.8. Mitigation measures must be consistent with all applicable constitutional requirements.

5.6.9.9. Mitigation Measures Related to Effects and Impacts on Historical, Cultural and Archaeological Resources. In some circumstances, documentation of a historical, cultural, or archaeological resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the adverse effects and impacts of demolition of the resource will not serve to mitigate the effects and impacts to a point where clearly no significant effect or impact on the environment would occur. The County shall, whenever feasible, avoid adverse effects and impacts on any historical, cultural or archaeological resource. The following factors shall be considered and discussed in the draft EIR for a development project involving such a cultural, historic or archaeological site:

5.6.9.9.1. Preservation in place is the preferred manner of mitigating impacts to historic, cultural or archaeological sites. Preservation in place maintains the relationship between artifacts and the historical, cultural, and archaeological context. Preservation shall also avoid conflict with religious or cultural values of Indian communities associated with the site.

5.6.9.9.2. Preservation in place may be accomplished by, but is not limited to, planning construction to avoid all historical, cultural or archaeological sites; and incorporation of sites within parks, green-space, or other open space;

5.6.9.9.3. When data recovery through excavation is the only feasible mitigation, a data recovery plan which makes provision for adequately recovering the scientifically consequential information from and about the historical, cultural, or archaeological resource, shall be prepared and adopted prior to any excavation being undertaken. If an artifact must be removed during project excavation or testing, storage of such artifact, under proper supervision, may be an appropriate mitigation.

5.6.9.9.4. Data recovery shall not be required for an historical, cultural or archaeological resource if the County determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the draft EIR.

5.6.10. Consideration and Discussion of Alternatives to the Proposed Project.

5.6.10.1. Alternatives to the Proposed Project. The EIR shall describe a range of reasonable alternatives to the project, or to the location, which would feasibly attain some of the basic objectives of the project but would avoid or substantially lessen the significant and adverse impacts or effects of the project, and evaluate the comparative merits of the alternatives. An EIR is not required to consider alternatives which are infeasible. The County shall select the range of project alternatives for examination and shall publicly disclose its reasoning for selecting those alternatives.

5.6.10.2. Purpose. Since the EIR must identify ways to mitigate or avoid the significant and adverse impacts and effects that a development project may have on the environment, the discussion of alternatives shall focus on those alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if those alternatives would impede the attainment of the project objectives, or would be more costly.

5.6.10.3. Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish some of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR shall briefly describe the rationale for selecting the alternatives to be discussed. The EIR shall also identify any alternatives that were considered by the County but were rejected as infeasible during the scoping process with the applicant's consultant, or the County's consultant and briefly explain the reasons underlying the County's determination.

5.6.10.4. Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant or adverse environmental effects and impacts of each alternative may be used to summarize the comparison. If an alternative

would cause one or more significant or adverse effects or impacts in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed.

5.6.10.5. “No project” alternative. The specified alternative of “no project” shall be evaluated along with its effects and impacts. The purpose of describing and analyzing a “no project” alternative is to allow the County to compare the adverse effects and impacts of approving the proposed project with such effects and impacts of not approving the proposed project. The “no project” alternative analysis is not the baseline for determining whether the proposed project’s environmental effects or impacts may be significant or adverse, unless it is identical to the existing environmental setting analysis which does establish that baseline.

5.6.10.5.1. The “no project” analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the development project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally superior alternative is the “no project” alternative, the draft EIR shall also identify an environmentally superior alternative among the other alternatives.

5.6.10.5.2. A discussion of the “no project” alternative shall proceed as follows:

5.6.10.5.2.1. The “no project” alternative is the circumstance under which the development project does not proceed. Discussion shall compare the environmental effects of the property remaining in its existing state against the environmental and adverse public nuisance effects and impacts which would occur if the project were to be approved.

5.6.10.5.2.2. If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other development project, this “no project” consequence should be discussed. In certain instances, the no project alternative means “no build” so the existing environmental setting is maintained. However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project’s non-approval.

5.6.10.5.3. After defining the “no project” alternative using one of these approaches, the County shall proceed to analyze the effects and impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not

approved, based on current plans and consistent with available infrastructure and community services.

5.6.10.6. Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic use and value viability, availability of infrastructure, general plan and area, specific and traditional community plan consistency, jurisdictional boundaries (projects with a significant effect or impact should consider the county wide context), and whether the applicant can reasonably acquire, control or otherwise have access to an alternative site in the common ownership. No one of these factors establishes a fixed limit on the scope of reasonable alternatives.

5.6.10.7. Alternative locations. The essential issue for analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location within common ownership. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

5.6.10.7.1. If the County concludes that no feasible alternative locations within the same ownership exist, it must disclose the reasons for this conclusion, and should include the reasons in the EIR.

5.6.10.7.2. The EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

5.6.11. Organizations and Persons Consulted. The EIR shall identify all federal, state, or local agencies, Indian communities, or other organization, and interested persons consulted in preparing the draft.

5.6.12. Discussion of Cumulative Impacts. The EIR shall discuss cumulative effects and impacts of a project when the project's incremental effect and impact is cumulatively considerable. A cumulative effect and impact is created as a result of the combination of the project evaluated in the EIR together with other development projects causing related effects and impacts. An EIR should not discuss other project effects and impacts which do not result in part from the project being evaluated.

5.6.12.1. The discussion of cumulative effects and impacts shall reflect the severity of the effects and impacts and their likelihood of occurrence. The discussion should focus on the cumulative effects and impacts to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative effect and impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

5.6.12.1.1. A list of past, present, and probable future development projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the County (When determining whether to include a related development project, factors to consider

should include, but are not limited to, the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue or when an impact is specialized, such as a particular air pollutant or mode of traffic);

5.6.12.1.2. A summary of projections of other residential, commercial, industrial, agricultural or mining development contained in the General Plan Growth Management Element describing the Galisteo Basin area conditions contributing to the cumulative impact;

5.6.12.1.3. The County shall define the geographic scope of the area affected by the cumulative effect and impact and provide a reasonable explanation for the geographic scope utilized;

5.6.12.1.4. A summary of the expected environmental effects to be produced by those projects with the specific reference to additional information stating where that information is available; and

5.6.12.1.5. A reasonable analysis of the cumulative impacts of the relevant projects. A draft EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects or impacts.

5.6.12.2. Approved land use documents, including the General Plan, the General Plan Growth Management Element, Area Plans, including but not limited to the Galisteo Basin Area Plan, shall be used in cumulative impact analysis. A pertinent discussion of cumulative effects and impacts, contained in one or more previously certified final EIR development projects may be incorporated by reference.

5.6.13. Procedures for Adopting the EIR.

5.6.13.1. The first public hearing shall be held by the Hearing Officer, who shall make findings and a recommendation with respect to the EIR submission of the EIR to the Planning Commission for review at a public hearing. The public hearing held by the Hearing Officer shall be held early in the process of gathering data and information, so that the public has the opportunity to input into the EIR process.

5.6.13.2. The second public hearing shall be held by the Planning Commission, upon the consultants' completion of the EIR. Upon receiving public comments, testimony and evidentiary exhibits at the public hearing, the Planning Commission shall prepare a revised draft of the EIR with a recommendation to the Board for consideration and adoption at a public hearing as the Final EIR.

5.6.13.3. The Planning Commission shall forward the EIR to the Board for a third public hearing and adoption of the Final EIR. The three public hearings shall be held concurrently with public hearings on the other SRAs, and the public

hearings on all of the other concurrent development approval applications. The final EIR shall include the EIR recommended by the Planning Commission and comments and recommendations received from the public, County departments, registered associations, the CPO, Indian Pueblos, other governmental agency recommendations or from the applicant.

5.7. ADEQUATE PUBLIC FACILITIES & SERVICES ASSESSMENTS.

5.7.1. Purpose and Implementation. Adequate public facilities and services assessment (“APFA”) ties development approval of an application for a project to the present availability of infrastructure and public service capacity measured by levels of service (“LOS”) adopted in the Capital Improvement and Services Plan, Budget and Program (“CIP”). The provision of adequate public facilities in a timely manner is a necessary precondition to development approval in order to prevent urban sprawl, assure a positive fiscal impact for the County, provide a high quality of life through infrastructure and service provision, implement the goals, objectives, policies and strategies of the General Plan, and any applicable area, specific or traditional community plan, and protect the public health, safety and general welfare of the community.

5.7.2. Development Agreement. The APFA shall be used to approve or deny applications or to conditionally approve applications by phasing development approval of the project over a period of years based on the scheduled availability of public facilities and services as shown in the adopted, funded and prioritized CIP. Every applicant obtaining development approval shall enter into a development agreement with the County, and any other applicable public utility, school, assessment or public improvement district or service provider to implement the conditions of development approval for adequate public facilities and services (“APF”).

5.7.2.1. The development agreement shall, in part, be used to implement the CIP and the conditions of development approval related to adequate public facilities for the imposition of assessments, rates, taxes, charges, impact fees, exactions and dedications for the financing of on and off-site infrastructure and public services attached to development approvals, either, directly by the County as provided in the agreement, or, through the creation or extension of public improvement or assessment districts.

5.7.2.2. The review of adequacy of public facilities and services for the application shall compare the capacity of public facilities and services to the maximum projected demand that may result from the proposed project based upon the maximum density in the project and relevant affected areas.

5.7.2.3. Nothing in this section authorizes a development approval that would otherwise be inconsistent with the General Plan or any Area Plan.

5.7.3. Deposit of Expenses. The applicant shall deposit, as determined in Appendix “C” of the SLDC, cash, a certified check, bank check or letter of credit, to cover the County’s expenses for staff or consultant time in preparing the APFA.

5.7.4. Requirements. An APFA is required for any ministerial or discretionary development approval, except for a ministerial development approval where a prior discretionary development approval has been granted for the project, as follows:

5.7.4.1. An APFA shall be required for sewers, water, transit and roads, stormwater drainage, police, fire, emergency response, solid waste, schools, libraries, parks and recreation, trails and open space;

5.7.4.2. Adopted levels of service, as set forth in the General Plan, any applicable area, specific or traditional community plan, the CIP or Chapter 9 of the SLDC, shall provide the basis for determining the APF for a project;

5.7.4.3. In determining whether APF capacity[?] exists for a proposed development project, [?] the capacity of public facilities and services reserved for projects which have been granted final development approval, but have not been fully or partially constructed (“Pipeline Capacity”) and the facilities and services included in the CIP, shall be fully counted. towards the project’s APF capacity.

5.7.4.4. When a proposed development project is approved, the amount of pipeline capacity the project utilizes shall be debited against available capacity for future projects.

5.7.4.5. If APF capacity is not met, development approval shall either be denied or the development shall be divided into initial and future sections so that the future sections shall be approved only when APF at the adopted LOS become available.

5.7.5. Determination of Adequacy of Public Facilities and Services. The APFA shall determine whether the application for development approval:

5.7.5.1. meets APF standards where adequate public facilities and services are available at the time of development approval at the adopted LOS;

5.7.5.2. shall be denied because adequate public facilities and services are not available at the adopted LOS; or

5.7.5.3. the application shall be conditionally approved where adequate public facilities and services are not immediately available or presently adequate to meet the adopted LOS for the entire project consistent with the requirements of Table 3-1 in § 3.9 of this Chapter, but will be available for the initial or subsequent sectionalized phases of the project for a future year in which the CIP shows that APF will be built and available.

5.7.6. Duration. A development order determining that public facilities and services are adequate is valid until the earlier of one of the following:

5.7.6.1. The expiration of the development order or development agreement; or

5.7.6.2. Where no expiration period is provided for in the development order or development agreement, and in order to make APF capacity reserved for the project available to other projects within a reasonable period of time, the APF determination expires unless construction commences within three years after approval, and is at least 25% complete within four years, 50% complete within five years, 75% complete within six years and 100% complete within seven years after final development approval.

5.7.7. Advancement of Public Facilities and Services Capacity. In order to avoid denial or conditional approval through phasing of the development project, the applicant may voluntarily propose a development agreement with the County to construct or to secure funding for the public facilities and services necessary to provide capacity to accommodate the proposed development at the adopted LOS at the time of development approval as an alternative to the denial or deferral of development consistent with the requirements of this Chapter. The development agreement may require an applicant to pay more than its roughly proportional share of infrastructure needs generated by the proposed project, subject to subsequent reimbursement by additional new development that utilizes a portion or all of the excess capacity provided by the applicant's project. The commitment for construction or advancement of public facilities and services within a development agreement shall be included as a condition of the development approval.

5.7.8. Standards. No advancement of capacity for public facilities and services shall be accepted by the County unless:

5.7.8.1. The proposed public facility is a prioritized and funded capital improvement as shown in the adopted CIP pursuant to the provisions of Chapter 9 of the SLDC; or

5.7.8.2. Appropriate conditions shall be included in the development agreement to ensure that the applicant will obtain all necessary approvals for construction of the public facilities from any agency other than the County.

5.7.9. The commitment for construction or advancement of public facilities and services prior to the project's approval shall be included as a condition of the development approval and in the development agreement with the County. The commitment shall contain, at a minimum, the following:

5.7.9.1. For planned capital improvements or services, either a finding that the planned capital improvement or service is included within the CIP for the year in which construction of the project is scheduled or the applicant commits to advancing the facilities and services;

5.7.9.2. An estimate of the total financial resources needed to construct or expand the proposed public facilities and services, and a description of the incremental cost involved;

5.7.9.3. A schedule for commencement and completion of construction or expansion of the planned capital improvement and service with specific target dates for multiphase or large-scale capital improvements projects;

5.7.9.4. A finding that the planned capital improvement and service is consistent with the General Plan, any area, specific or traditional community plan and the CIP;

5.7.9.5. A finding that the planned capital improvement and service is consistent with the design and improvement standards of the SLDC or any other ordinance, statute or regulation relating to the construction and design of the public facility and service; and

5.7.9.6. If the planned capital improvement and public service proffered by the applicant provides capacity exceeding the demand generated by the proposed project, but is needed to meet past deficiencies reflected in the lack of overall capacity needed for APF for the project, reimbursement shall be offered to the applicant for the pro rata cost of the excess capacity for the year in which the capital facility or service would have been built as shown in the prioritized CIP from any impact fee funds paid by subsequent development projects.

5.7.10. Partial Construction or Funding. The construction or funding of only a portion of a public facility or service needed to meet APF for the adopted LOS shall be approved only where:

5.7.10.1. The public facility provide the capacity needed to meet the adopted LOS, and will be fully usable and operational, due to the characteristics of the facility; or

5.7.10.2. The construction or funding of the balance of the public facility that is needed to meet the APF's adopted LOS will be generated from other identified and secured sources.

5.7.11. Financing of Adequate Public Services. The applicant for a development project shall provide for annual funding of all fire, police and emergency response services and county road maintenance and repair, the need for which is generated by the development project through the creation of a public improvement or assessment district. Such annual funding and the creation of the district shall be provided for in the development agreement to be entered into between the County and the applicant as a condition of development approval of the project. If additional development projects are approved within the district, the annual funding contribution shall be apportioned among all projects so approved. If additional development projects are approved that are located outside of the district, the district shall be expanded to take in the development projects, if legally feasible and subject to the approval of the property owners or residents in the district pursuant to law and the annual funding contribution shall be apportioned among all the projects so approved.

5.7.12. Methodology to Determine Compliance. The APFA shall make a determination that adequate public facilities and services are available at the adopted level of service set forth in Table 5-1 as follows:

Facilities & Services	Level of Service (LOS) per 1,000 Residents*
Fire Department and Emergency Response	
Vehicles (Number)	1.55
Building (GSF)	1,977
Personnel (Number, Career & Volunteer)	4.27
Average Response Time (2006; approx)	10 mins
Fire Station Service Area (est)	4 miles
ISO Rating	7/9
Police	
Vehicles (Number)	1.82
Building (GSF)	91
Personnel (Number, Career)	1.44
Average Response Time (2007; approx):	
Priority 1	26 mins
Priority 2	24 mins
Priority 3	41 mins
Priority 4	27 mins
Priority 5	21 mins
Priority 6	36 mins
Roads	
Road Capacity	LOS "C"

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5.7.12.1. Level of Service Standards. Compliance with LOS standards shall be measured for each public facility and service set forth in Column (A) of Table 5-1 in accordance with the corresponding standards set forth in Column (B) of Table 5-1. Other APF LOS not set forth in Table 5-1 shall be the LOS established in the General Plan Capital Facilities and Services Element, the CIP and in any more rigorous standard found in an adopted area, specific or traditional community plan.

5.7.12.2. Adequacy of Public Facilities. Public facilities and services shall be adequate if it is demonstrated that they have available capacity at the adopted LOS to accommodate the demand generated by the proposed development project in accordance with the following calculation methodology:

5.7.12.2.1. Calculate total capacity by adding together the total capacity of each public facility and service; and

5.7.12.2.2. Calculate available capacity by subtracting from the total capacity the sum of the demand for each public facility and service created by existing development project; and the demand for each public facility created by the anticipated completion of the proposed development project under consideration for determination.

5.7.13. Mitigation. The APFA shall consider mitigation measures for alleviating public facility and service inadequacy:

5.7.13.1. Phasing, timing and sequencing the project so that no development order is issued before APF needed to achieve the LOS standard are constructed; and

5.7.13.2. Measures that allow the road network to function more efficiently by adding sufficient capacity to the off-site road system. Such mitigation measures may include, but are not limited to, pavement widening, turn lanes, median islands, access controls, or traffic signalization. All private roads must meet the same standards as provided for public roads in as provided in Chapter 8, Design and Improvement Standards. Private roads will only be permitted if the Applicant enters into a development agreement which establishes an assessment or public improvement district to construct, repair, replace, operate and maintain the road pursuant to the standards and financial terms provided for in the development agreement.

5.7.14. Fire, Police, and Emergency Services. Needed fire flow shall be determined in accordance with the Insurance Services Office, “Fire Suppression Rating Schedule” (June 1980 or latest edition). In determining the effect and impact of the

proposed development on fire, police, and emergency service LOS, the County shall primarily take into consideration response times, and the number and location of available apparatus and fire, police, and emergency service stations that are manned by full time professional service personnel. Calculation of response time shall include the time it takes volunteer emergency personnel to get to the station.

5.8. WATER AVAILABILITY AND QUALITY REPORT.

5.8.1. All applications for development approval, including applications for ministerial development approval, for which no prior discretionary development approval has been granted for the same project, shall be analyzed with respect to the availability of adequate potable water, and shall be determined pursuant to the following information obtained from the required Water Availability Report to determine: system capacity; capacity of a well field, stream, spring, or other source of raw water supply; historical average flow of potable water; and historical peak flow of potable water; the number of hook-ups and the estimated potable water demand per hook up; and the number of hook-ups for which contractual commitments have been made.

5.8.2. The development order granting development approval shall provide findings based on substantial evidence that the project is within its designated service area and that it has the capacity to serve the project as proposed. If the ability of a public or private utility or service provider to serve a proposed development is contingent upon planned facility expansion in accordance with a CIP, details regarding such planned improvements shall be submitted.

5.8.3. A Water Availability Report required for an application for development approval shall include:

5.8.3.1. An evaluation of a 50-year water supply for the development project, including but not limited to, all application materials, findings of the state engineer and, in the case of a proposed final plat approval, a copy of the water permit issued by the State Engineer pursuant to NMSA 1978, §§ 72-1-5, 72-5-23, 72-5-24 or if the proposed development is within a declared underground water basin, §§ 72-12-3 or 72-12-7.

5.8.3.2. An assessment of water supplies which addresses whether total projected water supplies available during normal, single-dry and multiple-dry water years during a 50-year projection will meet the projected water demand associated with the proposed project, taking into account existing and projected future planned use from the identified water supplies.

5.8.3.3. Identification of, and request to, any public or private water utility, system or company that has the capacity to supply water for the project for an assessment from each. The governing body of the water supplier must approve the assessment at a regular or special meeting. The water supplier shall provide the assessment not later than thirty (30) days after receiving the request from the applicant or the Administrator.

5.8.3.4. If there is no public water system, or if the public water system supplier identified in § 5.8.3.3 of this Chapter fails to deliver an assessment within the thirty (30) day period provided, then the County shall prepare the assessment after consulting with any domestic water supplier whose service area includes the project site, the State Engineer any public or private utility, system or company adjacent to the project site and the County's cost of preparation shall be charged to the applicant.

5.8.3.5. The Water Availability Report shall identify relevant, existing water supply entitlements, water rights, or water service contracts, and describe the quantities of water received in prior years. The identification shall be demonstrated by the applicant providing information related to all of the following:

5.8.3.5.1. written contracts or other proof of entitlement to an identified water supply;

5.8.3.5.2. copies of a capital outlay program for financing the delivery of a water supply that has been adopted by the public water system;

5.8.3.5.3. federal, state, and local permits for construction of necessary infrastructure associated with delivering the water supply;

5.8.3.5.4. any necessary regulatory approvals that are required in order to be able to convey or deliver the water supply; and

5.8.3.5.5. lists of all supply wells, production rates, and storage capacity of all water sources.

5.8.3.6. If no water has been received in prior years under an existing entitlement, right, or contract, the assessment must identify other public water systems, water companies, or water service contract holders that receive a water supply or have existing entitlements, rights, or contracts, to the same source of water.

5.8.3.7. Supplies to Remedy Insufficiency. If the public water system's total projected water supplies available during a 50-year projection are insufficient, then the applicant must identify plans to acquire additional supplies that may include, but are not limited to:

5.8.3.7.1. The estimated total costs, and the proposed method of financing the costs, associated with acquiring the additional water supplies for the development project;

5.8.3.7.2. All federal, state, and local permits, approvals, or entitlements that are anticipated to be required in order to acquire and develop the additional water supplies; and

5.8.3.7.3. The estimated timeframes within which the public water system or water company expects to be able to acquire additional water supplies.

5.8.3.8. Groundwater. If a water supply for a proposed project includes groundwater, the following additional information shall be included in the water supply assessment:

5.8.3.8.1. A review of any information contained in a water management plan (“WMP”) relevant to the identified water supply for the proposed project;

5.8.3.8.2. A description of any groundwater basin or basins from which the proposed project will be supplied;

5.8.3.8.3. For those basins for which a court or the Board has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court or the Board and a description of the amount of groundwater the public water system has the legal right to pump under the order or decree;

5.8.3.8.4. For basins that have not been adjudicated, information as to whether the State Engineer, pursuant to NMSA 1978, §§ 47-6-11.2, 72-5-1, 72-5-23, 72-5-24, 72-12-3 and 72-12-7, has identified the basin or basins as over-drafted or has projected that the basin will become over-drafted if present management conditions continue, in the most current information of the State Engineer that characterizes the condition of the groundwater basin, and a detailed description by the public water system of the efforts being undertaken in the basin or basins to eliminate the long-term overdraft condition;

5.8.3.8.5. A detailed description and analysis of the amount and location of groundwater pumped by the public water system for the past five years from any groundwater basin from which the proposed project will be supplied. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records;

5.8.3.8.6. A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the public water system, from any basin from which the proposed project will be supplied. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records; and

5.8.3.8.7. An analysis of the sufficiency of the groundwater from the basin or basins from which the proposed project will be supplied to meet the projected water demand associated with the proposed project.

5.8.3.9. County’s Ability to Override Public Water Agency’s Determination. The County shall include an evaluation of water quality, quantity and potential pollution of surface or underground water assessments in the EIR and in the Water Availability and Quality Report. The County shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses. If the County determines that water supplies will not be sufficient, the County shall include that determination in its findings for the Water Availability and Quality Report.

5.8.3.10. If the project has been the subject of an assessment that complies with the requirements of this section, then no additional water supply assessment shall be required for subsequent projects that were part of a larger development project for which water supplies were found sufficient. Exceptions include:

5.8.3.10.1. Changes in the development project that will substantially increase water demand;

5.8.3.10.2. Changes in circumstances that substantially affect the ability to provide a sufficient water supply, and

5.8.3.10.3. Significant new information as it becomes known.

5.8.4. Water Quality. The applicant shall provide:

5.8.4.1. an analysis of all single or multiple units or aquifers within a two (2) mile radius of the project site;

5.8.4.2. an analysis of all contaminant pathways leading from the project site to the aquifers in §5.8.4.1 of this Chapter, including saturated sandy units within the aquifers and unsaturated or vadose zone map;

5.8.4.3. an unsaturated or vadose zone map; and

5.8.4.4. an analysis of baseline water quality relating to existing water wells.

5.9. TRAFFIC IMPACT ASSESSMENT.

5.9.1. Purpose and Intent. The purpose of the traffic impact assessment is to identify the impacts on capacity, adopted LOS and safety, which are likely to be created by the proposed development project. The information in the Traffic Impact Assessment will be coordinated with the APFSA and the EIR. The isolated and cumulative adverse effects and impacts of the proposed project to the traffic shed need to be understood in relation to the existing and future required capacity of the County and State road system, and to ensure that traffic capacity will be provided at established levels of service so as not to hinder the passage of police, fire and emergency response vehicles, construction vehicles to and from the project site, degrade the quality of life, or contribute to hazardous traffic conditions. The intent of this section is to establish requirements for the analysis and

evaluation of adverse transportation effects and impacts associated with proposed development projects in order to provide the information necessary to allow the Board to assess the transportation effects and impacts of site-generated traffic associated with a proposed development project.

5.9.2. Fees. The applicant shall deposit, as determined in Appendix “C” of the SLDC, cash, a certified check, bank check or letter of credit, to cover all of the County’s expenses in reviewing the Traffic Impact Assessment, engaging consultants, and for a Hearing Officer to conduct the first public hearing on the Traffic Impact Assessment.

5.9.3. General Requirements. The traffic impact assessment shall identify the improvements needed to:

5.9.3.1. Ensure safe ingress to and egress from the site;

5.9.3.2. Maintain adequate road capacity on the County and State road system to accommodate all traffic to and from the site generated by the project;

5.9.3.3. Ensure safe and reasonable traffic operating conditions on roads and at intersections through which traffic to and from the site passes;

5.9.3.4. Avoid creation of, or mitigate, unsafe and hazardous traffic conditions from heavy weights of trucks traveling to and from the site;

5.9.3.5. Minimize the impact of nonresidential traffic on residential neighborhoods in the County;

5.9.3.6. Protect the substantial public investment in the existing road system;

5.9.3.7. Provide a basis for approving, modifying, or denying an application based upon the adequacy or deficiency of the County and State road systems to handle the needs generated by the project;

5.9.3.8. Provide a basis for applicant financing of all County and State road improvements as shown on the CIP through use of development agreements or Improvement District Assessments for capacity needs;

5.9.3.9. Evaluate whether adequate traffic capacity exists or will be available at the time a development order is granted for the application to safely and conveniently accommodate the traffic generated by the project on the County and State road system;

5.9.3.10. Evaluate traffic operations and impacts at site access points under projected traffic loads;

5.9.3.11. Evaluate the impact of site-generated traffic on affected intersections in the County;

5.9.3.12. Evaluate the impact of site-generated traffic on the safety, capacity and quality of traffic flow on public and private roads within the County;

5.9.3.13. Evaluate the impact of the proposed project on residential roads from the traffic to and from the site;

5.9.3.14. Ensure that site access and other improvements needed to mitigate the traffic impact of the development utilize County and State accepted engineering design standards and access management criteria;

5.9.3.15. Establish the monetary contribution that the applicant will be required to provide to the County or to any established assessment or improvement district for the provision of all roads and highways shown on the CIP, the need for which is generated by the project;

5.9.3.16. Ensure that the proposed road layout is consistent with the public roadway design standards;

5.9.3.17. Ensure the proper design and spacing of site access points and identify where limitations on access should be established;

5.9.3.18. Ensure that potential safety problems on all roads to be used within the County have been properly evaluated and addressed; and

5.9.3.19. Ensure that internal circulation patterns will not interfere with traffic flow on the existing County and State road system;

5.9.4. Traffic Service Standards. The standards for traffic service that shall be used to evaluate the findings of traffic impact assessment are as follows:

5.9.4.1. Capacity. A volume-to-capacity (V/C) ratio of 0.80 shall not be consistently exceeded on any freeway or expressway as designated on the thoroughfare plan, and a V/C ratio of 0.90 shall not be consistently exceeded on any arterial or collector street as designated on the thoroughfare plan. “Consistently” means that the V/C ratios are exceeded based on average daily peak-hour traffic counts, projections, or estimates.

5.9.4.2. Level of service. For corridors, including mainline, merging areas, and ramp junctions, a LOS C shall be maintained on any highway, freeway, or arterial, and a LOS C on any other designated non-local road on the transportation plan. At all intersections, an LOS C shall be maintained on any arterial or higher-order road and an LOS C on any other nonresidential road. Where the existing LOS is below these standards, the traffic impact report shall identify those improvements or transportation demand management techniques needed to maintain the existing LOS, and what additional improvements would be needed to raise the LOS to the standards indicated for the development project to be approved.

5.9.4.3. Number of access points. The number of access points provided shall be the minimum needed to provide adequate access capacity for the site. Evidence of LOS C operations for individual County and State road movements at access locations is a primary indication of the need for additional access points. However, the spacing and geometric design of all access points shall be consistent with the access management criteria of the SLDC.

5.9.4.4. Residential road impact. Average daily traffic impinging on residential roads shall be within the ranges spelled out in the transportation plan for the class of road involved. No development project traffic shall increase the traffic on a residential road with at least 300 average daily trips by more than 15%, and shall contribute no more than 10% of the traffic on any road segment providing residential access.

5.9.4.5. Traffic flow and progression. The location of new traffic signals or proposed changes to cycle lengths or timing patterns of existing signals to meet LOS standards shall not interfere with the goal of achieving adequate traffic progression on major public roads in the County.

5.9.4.6. Vehicle storage. The capacity of storage bays and auxiliary lanes for turning traffic shall be adequate to insure that turning traffic will not interfere with through traffic flows on any public road.

5.9.4.7. Internal circulation. On-site vehicle circulation and parking patterns shall be designed so as not to interfere with the flow of traffic on any public road and shall accommodate all anticipated types of site traffic.

5.9.4.8. Safety. Access points and travel along all County and State roads within the County shall be designed to provide for adequate sight distance and appropriate facilities to accommodate acceleration and deceleration of site traffic. Where traffic from the proposed development project will impact any location with an incidence of high accident frequency, the accident history should be evaluated and a determination made as to whether the proposed site access or increased traffic will mitigate or aggravate the situation. The applicant shall be required to design the site access in order to mitigate any impact on location safety.

5.9.4.9. Access Roads. Access roads shall equal or exceed 1.08 miles per section of road and shall contain a minimum width of twenty (20) feet paved surface based upon County road construction standards for heavy vehicles. Access roads shall be sited in a manner that mitigates or minimizes the impact on the environment and neighboring land uses.

5.9.4.10. Private Roads. All private roads must meet the same standards as provided for public roads in the Santa Fe County Growth Management Element. Private roads will only be permitted if the applicant enters into a development agreement for which construction, operation, maintenance standards and financial terms will be provided in the development agreement.

5.9.5. Contents. A traffic impact assessment shall contain the following information:

5.9.5.1. Site Description. Illustrations and narratives that describe the characteristics of the site and adjacent land uses as well as future development projects for all transportation to and from the site to the nearest interchange on I-25, I-40, or State Roads 14, 41, 84, 285 or 502. A description of potential uses and traffic generation to be evaluated shall be provided. A description of the proposed development project, including access and staging plans shall be provided.

5.9.5.2. Study Area. The geographic area under study and shall identify the roadway segments, critical intersections, and access points to be analyzed for all transportation routes from the site to the nearest I-25, I-40, or State Road 14, 41, 84, 285 or 502 interchanges.

5.9.5.3. Existing Traffic Conditions. A summary of the data utilized in the study and an analysis of existing traffic conditions, including:

5.9.5.3.1. Traffic count and turning movement information, including the source of and date when traffic count information was collected;

5.9.5.3.2. Correction factors that were used to convert collected traffic data into representative design-hour traffic volumes;

5.9.5.3.3. Roadway characteristics, including the design configuration of existing or proposed roadways, existing traffic control measures (e.g., speed limits and traffic signals), and existing driveways and turning movement conflicts in the vicinity of the site; and

5.9.5.3.4. Identification of the existing LOS for roadways and intersections without project development traffic, using methods documented in the Highway Capacity Manual or comparable accepted methods of the latest International Traffic Engineers (ITE) evaluation. LOS should be calculated for the weekday peak hour and, in the case of uses generating high levels of weekend traffic, the Saturday peak hour.

5.9.5.4. Horizon Year(s) and Background Traffic Growth. The horizon year(s) that were analyzed in the study, the background traffic growth factors for each horizon year, and the method and assumptions used to develop the background traffic growth. For each defined horizon year, specific time periods are to be analyzed. In the case of construction and development operations, this time period shall be the weekday peak hours. The impact of the project shall be analyzed for the year after the project is completed and 10 years after the development is completed.

5.9.5.5. Trip Generation, Reduction, and Distribution. A summary of the projected peak hour and average daily trip generation for the proposed project, illustrating the projected trip distribution of trips to and from the site to the nearest

interchanges on I-25, I-40 or State Roads 14, 41, 84,285 or 502, and the basis of the trip generation, reduction, and distribution factors used in the study.

5.9.5.6. Traffic Assignment. The projected design-hour traffic volumes for roadway segments, intersections, or driveways in the study area, with and without the proposed development, for the horizon year(s) of the study.

5.9.5.7. Impact Analysis. The impact of traffic volumes of the projected horizon year(s) relative to each of the applicable traffic service standards and identification of the methodology utilized to evaluate the impact. The weekday peak-hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.

5.9.5.8. Mitigation/Alternatives. In situations where the traffic LOS standards are exceeded, the traffic impact assessment shall evaluate each of the following alternatives for achieving the traffic service standards by:

5.9.5.8.1. Identifying where additional rights-of-way are needed to implement mitigation strategies;

5.9.5.8.2. Identifying suggested phasing of improvements where needed to maintain compliance with traffic service standards; and

5.9.5.8.3. Identifying the anticipated cost of recommended improvements.

5.9.5.9. If the applicant fails to advance the improvements sought pursuant to § 5.9 of this Chapter, the application for the development approval shall be denied for lack of adequate transportation system capacity, safety, and design.

5.9.5.10. At a minimum, the applicant shall be required, at the time of development approval, to pay for applicant's roughly proportional share of the cost for construction, operation and maintenance of all roads in the CIP for transportation facilities for the area in which development project is located. If such roughly proportional share is insufficient to meet traffic adequacy, the applicant may, through a development agreement, voluntarily advance the cost of additional roadway system improvements and shall be reimbursed when and as additional development projects are approved.

5.9.6. Process for the Review and Preparation of a Traffic Impact Assessment. This section provides an outline of the steps to be included in the preparation and review of a traffic impact assessment.

5.9.6.1. The traffic impact assessment shall take into account the CIP for State and County road system improvement.

5.9.6.2. The traffic consultant shall meet with the applicant and the public to identify study issues, assumptions, horizon years, and time periods to be

analyzed; analysis procedures; available sources of data; past and related studies; assessment requirements; and other topics relevant to study requirements.

5.9.6.3. Following its initial completion, the traffic impact assessment shall be submitted to the Administrator for distribution to the County and State highway staffs involved in the construction and maintenance of public roadways serving the project.

5.9.6.4. Within 15 working days, County and State staff shall complete initial reviews to determine the completeness of the study and shall provide a written summary to the traffic consultant outlining the need for any supplemental analysis to adequately address the traffic service standards.

5.9.6.5. Following a determination that the technical analysis is complete, the traffic consultant shall prepare a report outlining recommendations that have been developed to address the findings and conclusions in the study, regarding the proposed development's needs and impacts on the transportation system.

5.9.6.6. The traffic consultant's recommendations will be presented to the Board as part of the proceedings for approval of the application for development.

5.9.6.7. Mitigation based on the conclusions and findings resulting from the traffic impact report or analysis shall be required of the applicant. A development agreement, detailing the applicant's responsibilities and the County's responsibilities for implementing identified mitigation measures, shall be prepared following receipt of the traffic impact report.

5.9.7. Traffic Impact Assessment Findings. If the traffic consultant finds that the proposed project will not meet applicable service-level standards, the traffic consultant shall recommend one or more actions by the County or the applicant, including but not limited to:

5.9.7.1. Reduce the size, scale or scope of the development to reduce traffic generation;

5.9.7.2. Divide the project into phases and authorize only one phase at a time until traffic capacity is adequate for the next phase of development;

5.9.7.3. Dedicate a right-of-way for street improvements;

5.9.7.4. Construct new roads;

5.9.7.5. Expand the capacity of existing roads;

5.9.7.6. Redesign ingress and egress to the project to reduce traffic conflicts;

5.9.7.7. Reduce background (existing) traffic;

5.9.7.8. Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;

5.9.7.9. Integrate design components to reduce vehicular trip generation;

5.9.7.10. Implement traffic demand management strategies (e.g., carpool or vanpool programs, flex time, and staggered work hours), to reduce vehicular trip generation; or

5.9.7.11. Recommend denial or conditional approval of the application for the development project.

5.10. FISCAL IMPACT ASSESSMENT.

5.10.1. Generally. The fiscal impact assessment involves a study of the fiscal implications of development in the County. Development will be permitted only after a determination of the adequacy and financial provision for public facilities and services including but not limited to public works and operational costs for additional public works, park, police, fire and emergency response service full time employees and technicians to construct, operate, service and maintain roads, storm water management systems, fire, police, emergency response trails, parks, open space, scenic vista sites, environmentally sensitive areas and historic, cultural and archeological artifacts and sites.

5.10.1.1. The fiscal impact assessment shall project adopted levels of service for police, fire and emergency response service to affected areas of the County. The assessment shall estimate the threshold minimum number of full time paid public service workers necessary to provide fire, police, emergency response service, road, drainage, environmentally sensitive areas and historic, cultural and archaeological artifacts and site necessary for maintenance and operation of the facilities and services.

5.10.1.2. The fiscal impact assessment shall estimate the public service costs for new workers and worker families brought into a development project area.

5.10.2. Fees. The applicant shall deposit, as determined in Appendix “C” of the SLDC, cash, a certified check, bank check or letter of credit, to cover all of the County’s expenses in reviewing the Fiscal Impact Assessment, engaging consultants, and for a Hearing Officer to conduct the first public hearing on the Fiscal Impact Assessment.

5.10.3. Determination of Costs and Revenues. The fiscal and economic effects of development shall be determined using nationally accepted and longstanding fiscal and economic models. The fiscal and economic models shall project what shall be needed in terms of public operating and maintenance services and provision of capital facilities and determine what funds will be available to pay for these facilities and services.

5.10.3.1. Costs shall be determined using current budgets, both operating and capital interviews with service providers to determine areas of deficient capacity and service where additional expenditures will be necessary.

5.10.3.2. Revenues shall be determined using budgets and formulas for calculating additional taxes, infrastructure and service fees, licenses, administrative fees, grants and improvement district assessments.

5.10.3.3. The fiscal impact assessment shall determine whether, and to the extent, a development project is fiscally and economically positive, meaning forthcoming revenues (operating and capital) exceed the forthcoming costs (operating and capital) of the development project.

APPENDIX A

DEFINITIONS AND RULES OF INTERPRETATION

A.1. Words, phrases, and terms defined in the LDC shall be given the meanings set forth below. Words, phrases, and terms not defined in the LDC shall be given their usual and customary meanings except where the context clearly indicates a different meaning.

A.1.1. The text shall control captions, titles, and maps.

A.1.2. The word “shall” is mandatory and not permissive; the word “may” is permissive and not mandatory.

A.1.3. Words used in the singular include the plural; words used in the plural include the singular. Words used in the present tense include the future tense; words used in the future tense include the present tense.

A.1.4. Within the LDC, sections prefaced “purpose” and “findings” are included. Each purpose statement is intended as an official statement of legislative purpose or findings. The “purpose” and “findings” statements are legislatively adopted, together with the formal text of the LDC. They are intended to be the legal guide to the administration and interpretation of the LDC and shall be treated in the same manner as other aspects of legislative history, intent, purpose, findings and intent.

A.1.5. In interpretation and application, the provisions of this LDC are considered minimal in nature. Whenever the provisions, standards, or requirements of any other applicable chapter of the LDC are greater, or any other County Ordinance more restrictive, the latter shall control.

A.1.6. In computing any period of time prescribed or allowed by this Appendix, the day of the notice or final application, after which the designated period of time begins to run, is not to be included. Further, the last day is to be included unless it is not a working day, in which event the period runs until the next working day.

A.2. Words with specific defined meanings are as follows:

A.2.1. *Abandonment*: The discontinuance of a nonconformity voluntarily for a period of 12 months with an intent to abandon, or the commission of an overt act of substantial discontinuance for a period of 12 months with or without voluntary intent.

A.2.2. *Abandonment or Abandoned (Oil and Gas)*: The permanent abandonment of a well or an Oil or Gas Facility, as established by filings of the operator with the state OCD, from production records maintained by the OCD, and from information gathered by the Administrator. The County may presume abandonment of an Oil or Gas Facility based upon: (i) nonuse or the lack of any production for one (1) year plus ninety (90) days, as established from records of

the OCD; (ii) plugging and abandonment of a well pursuant to OCD Rule 19.15.4.202 NMAC; or (iii) any other evidence that the well has been abandoned or plugged and abandoned as established by filings of the Operator with the OCD or other records maintained by the OCD, or independent observations of the Administrator.

A.2.3. *Abut or abutting:* Having property lines in common, or meeting at a point.

A.2.4. *Adjacent:* Two properties, lots, or parcels are “adjacent” where they abut, even if separated by a roadway or street, right-of-way, or railroad line, or any stream, river, canal, lake, or other body of water.

A.2.5. *Accessory:* a use, activity, structure, building, or a part of a structure or building that is subordinate and incidental to the main activity or use of the structure or building.

A.2.6. *Accessory attached apartment:* a second residential unit attached to an existing single family detached dwelling for use as a complete, independent living facility with provision for cooking, eating, sanitation and sleeping

A.2.7. *Accessory detached residential dwelling unit:* A residential dwelling unit located on the same lot as a single family dwelling unit but in a detached building that is accessory, supplementary, and secondary to the principal single family dwelling unit. ..

A.2.8. *Accessory dwelling:* An accessory detached dwelling unit or an accessory apartment.

A.2.9. *Accessory dwelling standards:* See Chapter 7, Supplemental Use Regulations, of the LDC.

A.2.10. *Accessory use or building:* A subordinate use or building customarily incidental to and located on the same lot with the main use or building.

A.2.11. *Accessory use regulations:* See Chapter 7, Supplemental Use Regulations, of the LDC.

A.2.12. *Addition:* A completely new structure or new component attached to an existing building or structure.

A.2.13. *Adequate public facility and services:* A public facility or system of facilities, including but not limited to: roads and streets; sewer and water systems; public and private utilities; storm water management; parks and recreation facilities; schools and libraries; fire, police and emergency response; open space; parking; bicycle, equestration and pedestrian trails and administrative offices, together with the public services for operation, maintenance and repair of facility or system of facilities, that has sufficient available capacity to service the physical area and designated intensity and

A.2.14. *Adjacent:* Two properties, lots, or parcels are “adjacent” where they abut, or touch at a point, even if separated by a road or street, right-of-

way, railroad line, trail, public lands, arroyo, stream, river, canal, lake, or other body of water.

A.2.15. *Administrator:* the Director of the Building and Permits Division of the Growth Management Department, Santa Fe County, or any person subsequently assigned or delegated to perform some portion of the functions exercised by the Director, or in absence of the Director, by the County Manager.

A.2.16. *Adopted level of service (LOS):* The LOS standards adopted for Adequate Public Facilities and Services. All applications are evaluated for the purposes set forth in this ordinance in accordance with the adopted LOS.

A.2.17. *Adverse effect impact tor effect:* A negative change in the quality of the county, communities within the county, environmentally sensitive lands, floodplains, floodways, streams, wetlands, hillsides and steep slopes, wildlife or vegetation habitats and habitat corridors,, air and water quality, public facilities and services, transportation capacity, health and safety, historical, architectural, archaeological, or cultural significance of a resource and effecting global warming, overutilization of nonrenewable energy and lack of sustainability.

A.2.18. *Affordable housing:* Housing that is affordable to very low- income, low-income, or moderate-income persons as defined by regulation of the U.S. Department of Housing and Urban Development for the County, and is maintained for occupancy exclusively for such very low- income, low-income, or moderate-income person or persons for a period of at least 30 years, through the use of a covenant or deed restriction, by a development agreement, or by transferring an interest to a state or municipal housing agency or nonprofit housing organization.

A.2.19. *Affordable unit:* A designated unit of affordable housing that is sold or rented to a household of very low, low, or moderate income.

A.2.20. *Agricultural:* Property currently used for farming or ranching purposes, including pasture.

A.2.21. *Airport:* Any area of land whether of public or private ownership, designed and set aside for the landing and taking off of aircraft, including all contiguous property that is held or used for airport purposes.

A.2.22. *Airport hazard:* Any building, structure, tree, or use of land that obstructs the air space required for the flight of aircraft. The term “obstructs” includes any interference with or any situation that creates a hazard to the control of tracking and/or data acquisition in handling, taking off, or flight at any airport, or any installation or facility relating to flight and tracking and/or data acquisition of flight craft that is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

A.2.23. *Airport hazard area:* Any area of land upon which an airport hazard might be established if not prevented as provided in this appendix, and

for the purposes hereof, in that area underlying or within the lateral limits of the imaginary surfaces that are within the controlled area of these regulations.

A.2.24. *Alley*: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

A.2.25. *Alteration*: Generally, as applied to a building or structure, a change or rearrangement in the structural parts or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

A.2.26. *Americans with Disabilities Act*: 42 U.S.C. Subsection 1281 et seq., Pub. L. 101-336 and implementing regulations at 28 C.F.R. parts 35 and 36.

A.2.27. *Amortization*: The required removal of a nonconformity after a stated period of time without compensation.

A.2.28. *Ancillary appurtenances*: Equipment associated with a wireless communications facility, including, but not limited to, antennas, attaching devices, transmission lines, and all other equipment mounted on or associated with a wireless communications facility. An ancillary appurtenance does not include structure or building enclosing or partially enclosing appurtenances or equipment.

A.2.29. *Annexation*: The addition of unincorporated territory of the County to an incorporated city.

A.2.30. *Antenna*: Any apparatus designed for the transmitting and/or receiving of electromagnetic waves for telephonic, radio, or television communications. This includes omni-directional (whip) antennas, sectorized (panel) antennas, microwave dish antennas, multibay or single bay (frequency modulation and television), yaggy, or parabolic (dish) antennas, but does not include satellite earth stations.

A.2.31. *Antenna, dish*: A parabolic, spherical, or elliptical antenna intended to receive wireless communications.

A.2.32. *Antenna, flush-mounted*: An antenna that is attached flush to an antenna supporting structure, without the use of sidearms or other extension devices.

A.2.33. *Antenna, panel*: A directional antenna designed to transmit and/or receive signals in a directional pattern that is less than 360 degrees and is not a flush-mounted or dish antenna.

A.2.34. *Antenna supporting structure*: A vertical projection, including a foundation, designed and primarily used to support one or more antennae or that constitutes an antenna itself. This does not include stealth wireless communications facilities, but does include roof-mounted, antenna supporting structures that extend above the roof lines by more than 20 feet, or that have an overall height of greater than 50 feet. An antenna supporting structure does not include utility equipment.

A.2.35. *Antenna supporting structure, broadcast:* An antenna supporting structure, including replacements, that contains antennae that transmit signals for radio and television communications.

A.2.36. *Antenna supporting structure, replacement:* The construction of an antenna supporting structure intended to replace an antenna supporting structure in existence at the time of application.

A.2.37. *Antenna supporting structure, roof-mounted:* An antenna supporting structure mounted on the roof of a building that extends above the roof line by 20 feet or less and that has an overall height of 50 feet or less.

A.2.38. *Antenna, surface-mounted:* An antenna that is attached to the surface or façade of a building or structure other than an antenna supporting structure.

A.2.39. *Antenna, whip:* A cylindrical, omni-directional antenna designed to transmit and/or receive signals in a 360-degree pattern.

A.2.40. *Antiquated subdivision:* Any subdivision, partition or division of land into lots, parcels, or building sites including but not limited to premature subdivisions as defined under NMSA § 3-33-2 (1991) that was recorded prior to the adoption of land development regulations by the County requiring governmental planning and regulatory approval pursuant to the state enabling act, and that has two or more contiguous or non-contiguous vacant undeveloped lots, parcels, or building sites, or lacks: adequate public facilities and services as defined in the LDC; adequate street right-of-way or street access; drainage easement right-of-way; adequate park, recreation or open space area; an overall grading and drainage plan; or lacks adequate subdivision grading both on or off the public right-of-way.

A.2.41. *Antique:* An object of art or household furnishing that was not mass produced and was characteristic of a specific historic period, whether in the U.S. or another country.

A.2.42. *Apartment:* See *dwelling, multifamily*.

A.2.43. *Appeal:* An appeal to the Board where it is alleged that there is an error of law or erroneous finding of fact in any development order, requirement, decision, or determination made by the Administrator, Hearing Officer or Planning Commission.

A.2.44. *Applicant:* The owner or developer of land seeking a development approval, including all persons and lands in common ownership with the owner or developer or the duly appointed representative who shall have express written authority to act on behalf of the owner or developer. If the applicant is a duly appointed representative, consent shall be required from the legal owner, or developer, including all persons in common ownership.

A.2.45. *Applicant (Oil and Gas):* The owner or lessee of a mineral estate, oil and gas lease or a production right, of lands, leases, or mineral estates proposed to be developed or duly designated representative who shall have express written authority to act on behalf of the owner. Consent shall be

required from the legal owner of the premises and any person, corporation, partnership, trust, business entity in the same ownership. Applicant may also be a unit operator who is appointed under a unit agreement or pooling arrangement, including working interest, royalty interest, and overriding interest owners or lessors.

A.2.46. *Application*: an application for a development order granting a discretionary or ministerial development approval.

A.2.47. *Approach departure path*: a path for flight in a plane leading outward and upward from the end of the take-off and landing area, under which adequate areas are located to permit a safe landing in the event of a malfunction.

A.2.48. *Appurtenance*: an accessory or ancillary building, object, structure, fence, street furniture, fixture, vending machine, fountain, public artwork, or bicycle rack located on the grounds of an historic landmark, in an historic district, on public property, or in the public right-of-way.

A.2.49. *Archaeology*: the science or study of the material remains of past life or activities and the physical site, location, or context in which they are found, as delineated in the U.S. Archaeological Resources Protection Act of 1979, as amended.

A.2.50. *Architect*: a professional architect holding a valid registration by the State of New Mexico, or holding a valid registration from another state or country, who acts under the direction of a New Mexico registered architect.

A.2.51. *Area of benefit*: an area of land that is designated by the Planning Commission as receiving benefits from or creating the need for the construction, acquisition, or improvement of a public facilities or services project.

A.2.52. *Area of flood inundation*: sites that are subject to flooding as a result of water ponding in the controlled storage areas of dams and detention and retention ponds.

A.2.53. *Area of shallow flooding*: a Federal Emergency Management Agency-designated AO, AH, or VO zone on a community's Flood Insurance Rate Map with a 1% chance or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

A.2.54. *Area of special flood hazard*: land in the floodplain, or floodway, within a community subject to a 1% or greater chance of flooding in any given year. The area is designated as a Federal Emergency Management Agency Zone A, AE, AH, AO, A1-99, VO, V1-30, VE, or V on the Flood Insurance Rate Maps. See *flood or flooding, floodplain, and 100-year floodplain*.

A.2.55. *Area plan:* a plan encompassing a specific defined geographic area of the County, which is prepared for the purpose of specifically implementing the General plan by refining the policies of the General plan to a specific geographic area. An area plan may consist of goals, objectives, policies, and implementing strategies for capital improvement and service programs, zoning, subdivision regulation, official map, the level of service required for adequate public facilities and services; physical and environmental conditions; environmentally sensitive areas; cultural, historic and archeological resources, land-use characteristics of the area; and maps, diagrams, and other appropriate materials showing existing and future conditions. An area plan shall further provide specific planning, design, and implementation, for the defined geographic area of the County to guide development applications, provision of governmental facilities and services, and to implement the official map, capital improvement and services programs, public and private utility and infrastructure plans, annexations, and creation of assessment and public improvement districts.

A.2.56. *Area variance:* a departure from the bulk or area requirements of the LDC relating to height, setbacks, Official Map designations and rights of way, buffers, yards and FAR, based upon practical difficulty due to conditions peculiar to the property, not owing to the actions of the applicant or any prior assignors or owners, where a literal enforcement of the LDC would result in unnecessary hardship. An area variance shall not be granted for any change in use or to a reduction of minimum lot size as required by the base zoning district in which the property is located,

A.2.57. *Area-related facility or service:* a capital improvement or service that is designated in the capital improvements and service program as meeting needs generated by new development whether on or offsite of the development. Implementation of provision of a facility or service may include land dedication, impact fees, exactions, mitigation or construction of an oversized capital improvement, whether located off site or within or on the perimeter of the development site.

A.2.58. *Assessment district:* an improvement district created by the County pursuant to NMSA § 3-33-1 et seq. (1978) which has the power to levy assessments, for the construction, repair, maintenance and operation of public facilities and improvements as defined in NMSA §§ 3-33-3 to 3-33-6 (1978); and for fire stations, fire hydrants, firefighting equipment, or water, pursuant to NMSA §§3-35-2 et seq. (1965).

A.2.59. *Association:* a CPO, acequia, neighborhood, non-profit or homeowner association entitled to register under the provisions of Chapter 2 of the LDC.

A.2.60. *Auto wrecking yard:* see wrecking yard.

A.2.61. *Average density:* see *cluster zoning*.

A.2.62. *Base density*: the total number of permitted dwelling units computed by dividing the minimum lot size by the gross acreage for conventional subdivisions, or the maximum density applied to gross acreage for cluster or conservation subdivisions.

A.2.63. *Base flood*: the flood having a 1% chance of being equaled or exceeded in any given year (also called “100-year frequency flood”).

A.2.64. *Base flood elevation*: the elevation for which there is a 1% chance in a given year that flood levels will equal or exceed it.

A.2.65. *Basement*: an area of a building or structure having its floor below ground level.

A.2.66. *Base zoning district*: any of the zoning districts established pursuant to Chapter 9 of the LDC.

A.2.67. *Best management practices*: an effective integration of storm- water, sewer and water , environmentally sensitive land preservation and mitigation systems, with appropriate combinations of landscape conservation, enhancement, structural controls, pervious and impervious cover, swales, storm and rainwater capture, filtration, treatment and reuse, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices that provide an optimum way to convey, store, and release run-off, sewer and water ,and protect environmentally sensitive lands, in order to reduce peak discharge, remove pollutants, and enhance a sustainable environment.

A.2.68. *Bicycle facility*: a bicycle path, trail, lane, or route.

A.2.69. *Bicycle lane*: a designated portion of a street pavement for the exclusive use of bicycles. Bicycle signs and pavement markings designate the presence and limits of a bicycle lane.

A.2.70. *Bicycle path*: a designated paved travel way intended for bicycle use, to the exclusion of motor vehicle use. A bicycle path may be used by two-way bicycle traffic.

A.2.71. *Bicycle route*: a street that is used by motor vehicles and contains specific bicycle route signing, for use by bicycles, with or without any designated bicycle path, lane or trail..

A.2.72. *Bicycle trail*: see *bicycle path*.

A.2.73. *Block*: a tract of land bounded by highways, streets, roads or by public parks, cemeteries, railroad rights-of-way, bicycle and pedestrian trails, walls, arroyos, sewer, water or irrigation ditches, pipes or culverts, streams, waterways, or the boundary lines of an adjacent city or other county.

A.2.74. Board: the Board of County Commissioners of Santa Fe County, State of New Mexico.

A.2.75. Bond: a form of surety instrument n an amount and form satisfactory to the County Attorney. All bonds shall be approved by the County Attorney whenever security is required by the LDC.

A.2.76. Boundary street: a public or private street that is adjacent to and that abuts one or more sides of the proposed site.

A.2.77. Broken-back curve: A curve consisting of two curves in the same direction joined by a short tangent.

A.2.78. Buffer yard: The required installation of landscaping and screening materials between zoning districts and between buildings, structures or uses. No construction or operating land use is permitted within a buffer yard.

A.2.79. Buildable Area: That portion of land upon which buildings, structures, wells or equipment may be placed, limited by floodplain, slope or other terrain constraints required buffer zones and setbacks. For oil and gas projects, the maximum number of wells and co-location of wells or other design and development standards set forth in the LDC.

A.2.80. Building: A structure completely enclosed designed, built, or occupied for industrial, commercial, residential, public, recreational, community, religious, fraternal or civic use. including but not limited to:

A.2.81. Building attached: a building which has at least part of a wall in common with another building, or is connected to another building by a roof or common garage, parking structure, stairway or elevator.

A.2.82. Building elevation: the view of any building or other structure from any one of four sides showing features, such as construction materials, design, height, dimensions, windows, doors, other architectural features, and the relationship of grade to floor level.

A.2.83. Building footprint: the horizontal area measured within the outside of the exterior walls of the ground floor of the main structure.

A.2.84. Building inspector or building official: see *Administrator*.

A.2.85. Building permit: see *Ministerial development approval*.

A.2.86. Building permit (Oil and Gas): A ministerial development approval required by the LDC after a Special Use and Development Permit for an Oil or Gas Facility has been approved.

A.2.87. Building setback line: See *setback line*.

A.2.88. *Building site:* The lot or portion of a lot that is designated on the development approval application and any existing buildings and appurtenant parking on the lot.

A.2.89. *Build-out:* Development of land to its fullest potential or capacity as permitted under the General Plan, area, specific or traditional community plan, subject to the specific limitations of the LDC.

A.2.90. *Bulk plant:* A facility where flammable or combustible liquids are received by , pipelines, tank car, or tank vehicle, and which are stored or blended in bulk for the purpose of distributing such liquids by , pipeline, tank car, tank vehicle, portable tank, or container. See *terminal*.

A.2.91. *Bus shelter:* A roofed structure with at least three walls located on or adjacent to the right-of-way of a street, and which is designed and used primarily for the protection and convenience of bus passengers.

A.2.92. *Business:* *see also commercial, industrial, trade, technical or vocational school;* Any lawful commercial or industrial activity to engage in the manufacturing, wholesale or retail purchase, sale, exchange or lease of goods, products or the provision of services, or the training or education of students conducted for compensation or profit.

A.2.93. *Business park:* A development with a common theme and name intended to be used primarily for offices, office accessory retail, showrooms, service, warehouse, light industrial, and/or distribution purposes.

A.2.94. *Business services:* Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, building maintenance, employment services, management and consulting services, protective services, equipment rental and leasing, commercial research, development and testing, and photo finishing.

A.2.95. *Busway:* A bus route, as designated in the Official Map, with an existing or projected peak-hour headway not exceeding 26 minutes.

A.2.96. *Caliper:* The minimum diameter of a tree measured 6 inches above the ground for trees up to and including 4 inches in diameter, and 12 inches above the ground for trees having a larger diameter.

A.2.97. *Canopy:* Any structural protective cover that is not enclosed on any of its four sides and is provided for a service area designated for the dispensing or installation of gasoline, oil, antifreeze, headlights, wiper blades, and similar products.

A.2.98. *Capacity:* The maximum demand that can be accommodated by a public facility or service without exceeding the adopted level of service (LOS). For roads and highways, “capacity” shall be measured by the

maximum number of vehicles that can be accommodated by an intersection or road link, during a specified time period, under prevailing traffic and control conditions at that road's adopted LOS or road link, during a specified time period, under prevailing traffic and control conditions at that road's adopted LOS service response.

A.2.99. *Capital improvement:* A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the County, a public or private utility, or a public improvement district, which shall also include equipment for the operation, repair, maintenance or improvement of sewer facilities, water facilities, roads, highways, fire, police, stormwater, liquid material detention, schools, libraries, parks, recreation facilities, trails or emergency service response.

A.2.100. *Capital improvements and services b:* The list of recommended public capital improvements and public services to be constructed and/or provided during the forthcoming five-year period ("CIP").

A.2.101. *Capital improvements and services program ("CIP"):* A program setting forth, by category of public facilities and public services, those capital improvements and public services and that portion of their costs that is attributable to serving new development or resolving existing infrastructure deficiencies within designated service areas for such public facilities and public services for a twenty year period. The CIP shall consist of a five year capital improvement and services budget and a six (6) to twenty (20) year capital improvement and services plan.

A.2.102. *Carrying capacity:* A measure to determine environmental infrastructure or fiscal criteria upon which to ground discretionary development approval. Refers to the extent to which land in its natural or current state can be developed without degrading the environment's infrastructure, level of service, or fiscal impact.

A.2.103. *Carrying capacity (Oil and Gas):* A measure to determine environmental infrastructure, water availability, traffic capacity, police, fire and emergency service and response capacity, or fiscal criteria upon which to ground development approval of Oil and Gas projects, without degrading the adopted level of service.

A.2.104. *Car wash, automatic:* A structure where chairs, conveyors, blowers, steam cleaners, or other mechanical devices are used for the purpose of washing motor vehicles and where the operation is generally performed by an attendant.

A.2.105. *Car wash, self-service:* A structure where washing, drying, and polishing of vehicles is generally on a self-service basis without the use of chain conveyors, blowers, steam cleaning, or other mechanical devices.

A.2.106. Cemetery: Any site containing at least one burial, marked or previously marked, dedicated to and used or intended to be used for the permanent interment of the human dead, including perpetual care and nonperpetual care cemeteries.

A.2.107. Centerline (waterway): The centerline of the waterway refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by the “low flow line” whenever possible; otherwise, it shall be determined by the centerline of the two-year floodplain.

A.2.108. Central sewer system: A community sewer system, including collection and treatment facilities.

A.2.109. Central water system: A private water company formed by a developer to serve new subdivisions in an outlying area. Includes water treatment and distribution facilities.

A.2.110. CDRC: The former County Development Review Committee of Santa Fe County, replaced by the Planning Commission of Santa Fe County.

A.2.111. Certificate of completion (Oil and Gas): A certificate indicating that the Oil or Gas Facility complies with all the provisions of the LDC and the building code. The certificate of completion is issued after development approval for Oil and Gas Overlay Zoning District Classification, a Special Use and Development Permit, building or grading permits, and construction has been completed pursuant to all development approvals, conditions and requirements. Oil and Gas operations, drilling, exploration, extraction, and transportation may not be conducted until a Certificate of Completion is obtained.

A.2.112. Certificate of occupancy: A certificate indicating that the premises comply with all the provisions of the LDC and the building code. (Note: The certificate of occupancy is issued after approval of a development approval and construction has occurred pursuant to the development approval.)

A.2.113. Certify: Whenever this Ordinance requires that an agency or official certify the existence of some fact or circumstance such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.

A.2.114. Child care facility: A facility that provides care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

A.2.115. Child care institution (basic): A child care facility licensed by New Mexico that provides care for more than 12 children for 24 hours a day. Does not include a 24-hour a day program offered by a specialized child care institution.

A.2.116. *Child care institution (specialized):* A child care facility licensed by New Mexico that provides specialized care for more than 12 children for 24 hours a day. Includes residential treatment centers, emergency shelters, halfway houses, therapeutic camps, and institutions serving mentally retarded children.

A.2.117. *Church:* Any place of worship, including any church, synagogue, temple, mosque, or other building or facility, primarily engaged in religious worship. The term “church” includes uses, such as schools, recreational facilities, day care or child care facilities, kindergartens, dormitories, or other facilities, for temporary or permanent residences, which are connected or related to the church or the principal buildings on the site, or are located on the same site.

A.2.118. *CIP:* see capital improvement and services program

A.2.119. *Civic uses:* Any of the following uses, as defined in the use matrix (Table 3-4, Use Matrix, in Chapter 3, Zoning, of the LDC) and which uses are found to provide, but not limited to focal points for community interaction and foster citizen participation in civic activities: churches, temples, synagogues, mosques, and other religious facilities; clubs or lodges; college or university facilities; day care centers; exhibitions and art galleries; grade schools; library buildings; meeting halls or clubhouses; movie theaters; museum, exhibition, or similar facilities; performance theaters; postal; public administration; school or university buildings; and trade or specialty school facilities.

A.2.120. *Clear vision area:* The triangular area adjacent to the intersection of any road within which no obstruction may be placed that blocks the sight lines for vehicular traffic.

A.2.121. *Clinic, dental or medical:* A building in which one or more physicians and/or dentists or their allied professional assistants carry on their profession; a building that contains one or more physicians, dentists, and their assistants, and a laboratory and/or an apothecary limited to the sale of pharmaceutical and medical supplies. Shall not include inpatient care or operating rooms for major surgery.

A.2.122. *Close:* A front space for building’s interior to the block that includes a roadway loop around a green area. An alternative to the cul-de-sac, as the focus is a green space rather than vehicular paving. Provides additional frontage for deep squares and organic blocks.

A.2.123. *Closed Loop System:* A system for oil and gas drilling that utilizes a series of completely enclosed above ground tanks instead of a Reserve Pit that are used for the management of drilling, workover, or other fluids.

A.2.124. *Club:* A group of people organized for a common purpose to pursue common goals, interests, or activities. Usually characterized by certain

membership qualifications, payment of fees and dues, regular meetings, a constitution, and by-laws.

A.2.125. *Clubhouse:* A building and related facilities used by a club, fraternal organization, or a membership organization.

A.2.126. *Cluster:* A group of cultural, historical, architectural, or archaeological resources with compatible buildings, objects, artifacts or structures geographically or thematically relating to and reinforcing one another through design, setting, materials, workmanship, congruency, and association.

A.2.127. *Cluster zoning:* A zoning technique where the maximum number of dwelling units on a site is determined by density levels instead of minimum lot size, and where dwelling units are gathered together on smaller lot sizes than authorized by right in the zoning district to create open space, a site for environmental mitigation, or for civic or public uses or structures

A.2.128. *Code:* means Santa Fe County Land Development Code and any subsequent amendments.

A.2.129. *Collector street/road:* See *road, collector*.

A.2.130. *Co-location (Oil and Gas):* The placement of two or more well bores on a single drilling site, or the placement of two or more drilling sites contiguous to each other.

A.2.131. *Co-location (Telecommunications):* A situation in which two or more providers place an antenna on a common antenna supporting structure, or the addition or replacement of antennas on an existing structure. Includes combined antennas but does not include roof- or surface-mounted wireless communications facilities, or the placement of any personal wireless service antenna on an amateur radio antenna within a residential district.

A.2.132. *Combined antenna:* An antenna designed and utilized to provide services by more than one provider.

A.2.133. *Commercial driveway approach:* A driveway that provides access to property on which an office, retail, or industrial use is located; a building having more than five dwelling units that is located on any driveway approach that accesses property primarily used for a nonresidential purpose.

A.2.134. *Commercial/industrial developments:* Any land area zoned or devoted primarily to commercial or industrial use, including areas zoned as “O” (Office), “CG” (Commercial General), “CN” (Neighborhood Commercial), “IL” (Industrial Light), or “IH” (Industrial Heavy).

A.2.135. *Commercial living unit:* A building that includes commercial uses on the first floor and residential dwelling units above the first floor.

A.2.136. *Commercial rehabilitated property:* A building, site, or structure whose use after rehabilitation or restoration (for ad valorem tax exemption) will be for other than residential use (i.e., for a single-family, duplex, or a three- or four-family dwelling).

A.2.137. *Commercial trade:* See *trade school, trade business, or commercial trade.*

A.2.138. *Commercial urban design standards:* See § 5.13.6 Civic Buildings in Chapter 5, Development Standards, of the LDC.

A.2.139. *Committed development:* A proposed development that has received final subdivision plat approval or, for a proposed development that does not involve the subdivision of land, an approved major site plan or minor site plan.

A.2.140. *Comment element:* That portion of condominium property that lies outside all owners' units and is owned, maintained, and operated by the condominium association.

A.2.141. *Commission:* The New Mexico Oil Conservation Commission.

A.2.142. *Common area:* A parcel or parcels of land, and/or developed facilities and complementary structures and improvements, including, but not limited to, areas for vehicular and pedestrian access, parks, trails, open space, civic and community buildings, plazas, environmentally sensitive lands and mitigation areas and recreational facilities within the site.

A.2.143. *Common interest unit:* A designated unit contained within a condominium, stock cooperative, timeshare, trust, or other legal or equitable instrumentality or entity that creates a legal or equitable title in the common interest entity

A.2.144. *Common ownership:* Ownership by the same person, corporation, firm, trust, entity, partnership, or unincorporated association, or ownership by different corporations, firms, trusts, partnerships, entities, or unincorporated associations, in which a stockholder, partner, associate, beneficiary, trustee, or a member of his/ her family owns an interest in each corporation, firm, trust, partnership, entity, or unincorporated association that has an interest in the land, buildings or structures.

A.2.145. *Community improvement district:* See Public Improvement District

A.2.146. *Compatible (Oil and Gas):* A situation where an Oil or Gas Facility or Facilities can co-exist or act together harmoniously, considering adverse effects or impacts on environmentally sensitive habitats, wetlands, flood areas, steep slopes, historic, cultural and archaeological artifacts and sites, noise levels, odors, glare, potential fire hazards, explosions, visual impacts, effects to surface water and groundwater quality/quantity, adequacy of the road and highway system,

stormwater detention, fire, police and emergency response services, air quality and surrounding land uses.

A.2.147. *Completion of drilling, re-drilling and re-working:* The date the work is completed for the drilling, re-drilling or re-working and the crew is released by completing their work or contract or by their employer.

A.2.148. *Compressor:* A device designed to increase the pressure of gas for transmission through a gathering system or transmission line.

A.2.149. *Concentrated Animal Feeding Operation (“CAFO”):* See 40 C.F.R. Part 122.

A.2.150. *Concept Plan (Oil and Gas):* The preliminary development plan required to be submitted with an application for an Oil and Gas Overlay Zone District Classification.

A.2.151. *Concurrency:* A requirement that development applications demonstrate that adequate public facilities will be available at prescribed levels of service concurrent with the impact or occupancy of development buildings. See *adequate public facility*.

A.2.152. *Conditional Letter of Map Revision:* A letter to be submitted for Federal Emergency Management Agency approval for all proposed physical changes to the floodplain that will result in a change to the floodplain boundary.

A.2.153. *Conditional use permit:* a discretionary development approval of the Planning Commission, or the Board upon appeal, after a hearing by the Hearing Officer, with findings of fact and conclusions of fact that the conditional use approved meets all of the conditions and requirements of Chapter 3 of the LDC.

A.2.154. *Conditions of approval:* a discretionary use permitted in a zoning district that must comply with all of the conditions, requirements and standards set forth in the particular zoning district and in the general requirements of the LDC before for approval is granted.

A.2.155. *Conditional zoning:* the attachment of special conditions and mitigation requirements to a discretionary development approval not expressly delineated in the specific zoning district requirements but imposed to meet other requirements of the LDC including but not limited to issues identified in and the recommendations contained in the studies, assessments and reports required to be prepared pursuant to Chapter 5 of the LDC. and any particular staff or community comments resulting from the pre-application meeting with the applicant. Conditional zoning is distinguished from contract zoning because the conditions and mitigation imposed is not a result of bargaining between the County and the applicant.

A.2.156. Condominium: A unit available for sale in fee simple contained in a multi-occupancy project subject to covenants, conditions, and restrictions placing control over the common facilities owned by the condominium. Condominium shall mean a condominium, cooperative, trust, partnership, or other similar association.

A.2.157. Connectivity standards: The standards for the connectivity of proposed streets, as set forth in the transportation standards (§ 5.23 Street Design and Transportation in Chapter 5, Development Standards, of the LDC).

A.2.158. Conservation easement: A non-possessory interest of a holder in real property that imposes limitations or affirmative obligations designed to: retain or protect natural, scenic, or open space values of real property or assure its availability for agricultural, forest, recreational, or open space use; protect natural resources; maintain or enhance air or water quality; or preserve the historical, architectural, archeological, or cultural aspects of real property.

A.2.159. Construction: The act of adding an addition to an existing building or structure; the erection of a new principal or accessory building or structure on a lot or property; the addition of walks, driveways, or parking lots; or the addition of appurtenances to a building or structure.

A.2.160. Construction drawings: The maps or drawings and engineering specifications accompanying a final plat or final site plan and showing the specific location and design of public and private improvements to be completed as a condition of a development order.

A.2.161. Construction plan: The maps or drawings accompanying a subdivision plat or site plan showing the specific location and design of improvements to be installed in accordance with the requirements of the planning commission as a condition of development approval.

A.2.162. Contiguous: Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot. Contiguity includes touching at a point.

A.2.163. Contract zoning: ad hoc negotiations between an applicant for discretionary development approval and the County Board, Planning Commission, Hearing Officer or Administrator in which the County agrees to grant approval of the application prior to the required public hearing in exchange for concessions from the applicant. Contract zoning is not authorized under the LDC. Contract zoning is to be distinguished from conditional zoning and the use of development agreements accompanying a development order granting development approval.

A.2.164 Contractor: Any person doing work within the building trades or construction professions, either licensed or unlicensed.

A.2.165. Control joint: A continuous groove or vertical joint in a masonry wall or concrete slab that is designed to control cracking.

A.2.166. Controlled area, airport: That area within which the airport zoning regulations are effective, and which includes all airport hazard areas that are within the corporate limits of the County and the area outside the corporate limits of the County, which is within a rectangle bounded by lines located 1.5 statute miles (7,920 feet) from the centerline and lines located 5 statute miles (25,400 feet) from each end of the paved surfaces of each of the runways.

A.2.167. County: Santa Fe County, New Mexico.

A.2.168. County Assessor: The County Assessor of Santa Fe County, State of New Mexico.

A.2.169. County Attorney: The County Attorney or his Deputy designated by the Board to furnish legal assistance for the administration, interpretation, enforcement and implementation of this LDC.

A.2.170. County Clerk: The County Clerk of Santa Fe County, State of New Mexico.

A.2.171. County Manager: The County Manager of Santa Fe County, State of New Mexico.

A.2.172. Courtyard: A space, open and unobstructed to the sky, located at or above grade level on a lot, and bounded on three or more sides by the walls of a Building.

A.2.173. Craftsman: A practitioner of a trade or handicraft, generally recognized by critics and peers as a professional of serious intent and recognized ability, who produces artwork.

A.2.174. Credit: The amount of the reduction of an impact fee, fees, rates, assessments, charges, or other monetary exaction for the same type of capital improvement for which the monetary exaction has been required.

A.2.175. Critical area: Any natural resource or environmentally sensitive area subject to the standards set forth in *Division 4: Greenspace (Landscaping, Tree Preservation, Screening, and Environmental Protection) Standards* in Chapter 5, Development Standards, of the LDC in order to protect the public health, safety, and general welfare.

A.2.176. Critical root zone: A circular region measured outward from a tree trunk, representing the essential area of the roots that must be maintained for the tree's survival; 1 foot of radial distance for every inch of tree diameter breast height with a minimum of 8 feet.

A.2.177. Crosswalk: That part of a street at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the

street (public, private, or safety lane) measured from the curbs, in the absence of curbs from the edges of the traversable roadway; any portion of a street (public, private, or safety lane) at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the street surfaces.

A.2.178. *Crown:* The upper mass or head of a tree, shrub, or vine, including branches with foliage.

A.2.179. *Cul-de-sac:* A local street with only one outlet that terminates in a vehicular turnaround, having an appropriate terminal for the safe and convenient reversal of traffic movement.

A.2.180. *Cultural facilities:* Establishments, such as museums, art galleries, Indian Pueblo sites, botanical and zoological gardens, and other facilities of an historic, an educational, or a cultural interest.

A.2.181. *Cultural resources:* Those resources that possess qualities of significance in American, state, or city history, architecture, archaeology, and culture present in districts, sites, structures, and objects that possess integrity of location, design, setting, materials, workmanship, congruency, and association.

A.2.182. *Cumulative impact:* The impact of a series of development projects taken together to measure the joint and several impacts on the level of service and capacity of a public facility, or environmental impact.

A.2.183. *Curtain wall:* An exterior building wall that carries no roof or floor loads, and consists entirely or principally of metal or a combination of metal, glass, and other surfacing materials supported by a metal frame. A curtain wall that consists of glass has the appearance and function of a solid wall.

A.2.184. *Cut-off angle:* The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.

A.2.185. *Day care center:* A child care facility that provides care for more than 12 children under 14 years of age for less than 24 hours a day.

A.2.186. *Deciduous:* Plants that lose their leaves annually.

A.2.187. *Deciduous tree:* A tree that sheds or loses foliage at the end of the growing season.

A.2.188. *Deck:* A platform extending horizontally from the rear or side yard of the structure, located to the rear of the front building line of the lot and not within the front yard.

A.2.189. *Dedication*: The transfer of fee simple title to, or grant of an easement over lands and improvements to the County subject to the conditions of a development order requiring such transfer and acceptance.

A.2.190. *Degradation*: Pollution of water that unreasonably reduces the quality of such water. The quality of a representative sample of water is unreasonably reduced when such water is rendered harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

A.2.191. *Demolition*: Any act or process that destroys or razes in whole or in part, or permanently impairs the structural integrity, or allows deterioration by neglect of a building or structure or land, wherever located, or a building, object, site, or structure, including interior spaces, of cultural, archeological or historic artifacts, or external sites.

A.2.192. *Demolition business*: A business that demolishes structures, including houses and other buildings, in order to salvage building materials, and that stores those materials before disposing of them.

A.2.193. *Density*: An objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre.

A.2.194. *Density, gross*: The number of dwelling units divided by the total land area subject to an application for development approval, stated as dwelling units per acre.

A.2.195. *Density, maximum*: The maximum number of dwelling units that may be constructed stated as gross density unless otherwise indicated.

A.2.196. *Density, minimum*: The minimum number of dwelling units that must be constructed stated as gross density unless otherwise indicated.

A.2.197. *Density, net*: The number of dwelling units divided by the net developable area. The “net developable area” means the land area of the site after deducting unbuildable areas, including road rights-of-way, buffers, open space, and environmentally sensitive areas, stated as dwelling units per net acre.

A.2.198. *Derrick*: Any portable framework, tower, mast, and/or structure which is required or used in connection with drilling or re-working a well for the production of oil or gas.

A.2.199. *Design consideration/criteria*: Guidelines by the Planning Commission, and subsequently adopted by the Board, which preserve the historical, architectural, archaeological, or cultural character of an area or of a building,

object, site, or structure; standards that set forth specific improvement requirements.

A.2.200. *Design enhancements:* Uniquely crafted and decorative art work in a variety of media that are an integral part of eligible capital improvement projects, and are produced by professional craftspeople, or craftspeople in collaboration with an architect, landscape architect, or professional engineer. Art work shall be permanent, whether functional, or nonfunctional.

A.2.201. *Designer:* The person or entity responsible for preparing site plans, subdivision plats that are part of an application for development approval.

A.2.202. *Destination resort:* Lodging accommodations and complementary recreational or entertainment facilities that are comprehensively planned and integrated in order to provide a variety of activities, services, and amenities that comprise a visitor attraction in and of themselves.

A.2.203. *Detached structure:* A structure having no party wall or common wall with another structure unless it is an accessory structure.

A.2.204. *Detention:* The temporary storage of stormwater run-off, which is used to control the peak discharge rates, and which provides gravity settling of pollutants.

A.2.205. *Detention facility:* A facility that provides temporary storage of storm water run-off and controlled release of this run-off.

A.2.206. *Detention time:* The amount of time a parcel of water is actually present in a storm water basin. Theoretical detention time for a run-off event is the average time a parcel of water resides in the basin over the period of release from the best management practice.

A.2.207. *Developer:* An individual, corporation, partnership, trust, association, or other entity, and its successors or assigns, which owns property, or has common ownership of property, or which finances, manages, designs, administers, or invests in the development or redevelopment of the owned property, that is subject to the standards and regulations of the LDC; or proposes any building, construction, land use, undertaking or project that requires a development approval. See applicant, owner.

A.2.208. *Development:* a man-made change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, diking, berming, excavation, drilling operations, or storage of equipment or materials.

A.2.209. *Development (Oil and Gas):* a man-made change in improved and unimproved sub-surface mineral and surface estates, including, but not limited to: buildings or other structures; oil and gas drilling, dredging, filling,

extraction or transportation or oil and gas, grading, paving, diking, berming, excavation, exploration, or storage of equipment or materials, whether in pits, structures, ponds, containers, land fills, any other detention facility, or significant land disturbance.

A.2.210. *Development Approval:* an authorized action by the Board, CDRC, Administrator, or other officer or agency of the County that approves, approves with conditions, or denies applications for development of a parcel, tract, building, or structure, including any of the following: oil and gas overlay zoning district classification; concept and detailed development plans; beneficial use or value determination; transfers of development rights; special use and development permits, grading or building permits; certificate of completion or appeals.

A.2.211. *Development agreement:* an agreement between the County and a developer, owner or applicant establishing the obligations and rights of the owner, developer, applicant, County, or other governmental entity, assessment or public improvement district, in connection with the granting of discretionary development approval, including but not limited to the cumulative authority established under NMSA § 5-11-1 through 5-11-27, regarding the development and use of the property, after the discretionary development approval has been granted. Under the terms of a development agreement, the County may agree to vest the development approval, use or intensity, or refrain from overriding the terms of the development approval, with regard to the initial or subsequent phases of development by the enactment of new overriding legislation. The applicant, owner or developer may agree to providing public facilities, services or amenities in excess of the needs generated by the development, for existing deficiencies, regional or countywide needs, operation, maintenance and service costs, including but not limited to subdivision or site plan improvements, impact fees, dedications, exactions, other financial responsibilities, environmental protection and mitigation and other matters relating to the development, improvement or use of real property within the County and any public improvement or assessment district.. A development agreement may not agree to grant approval of an application for discretionary development approval, or otherwise constitute contract zoning.

A.2.212. *Development agreement (Oil and Gas):* An agreement between the County and an applicant for an Oil and Gas Overlay Zone District Classification, Special Use and Development Permit regarding the development and use of the property through which the County agrees to vest development use density or intensity, or refrain from adopting new regulations affecting subsequent phases of development, in exchange for the provision of public facilities or services by the applicant and satisfaction of conditions incorporated into a development order granting a Special Use and Development Permit or Oil and Gas Overlay Zoning District Classification.

A.2.213. *Development approval:* Any authorized action by an officer or agency of the County that approves, conditions, or denies a development of a parcel, tract, building, or structure, including any of the following: master site plan; zoning map amendment; concept plan; conditional zoning; conditional use permit; grading or other permit; certificate of occupancy; subdivision plat; certificate of appropriateness; site plan; sketch plan; landscape plan; tree preservation development approval; variance; appeal; and development plan.

A.2.214. *Development approval (Oil and Gas):* Any authorized action by the Board, CDRC, Administrator, or other officer or agency of the County that approves, approves with conditions, or denies applications for development of a parcel, tract, building, or structure, including any of the following: oil and gas overlay zoning district classification; concept and detailed development plans; beneficial use or value determination; transfers of development rights; special use and development permits, grading or building permits; certificate of completion or appeals.

A.2.215. *Development of countywide impact (“DCI”):* Any residential or non-residential development project which contains ten (10) or more dwelling units or equivalent dwelling units; and including, but not limited to, the following: an airport; brownfield; greyfield; reclamation site; oil or gas facility; solid or liquid waste treatment plant; water treatment plant; solar, wind or renewable energy freestanding facility; adult or sexually oriented business facility or use; mining, mineral or rock extraction; wireless or telecommunication facility; industrial or commercial building or structure; mixed use projects; and pipes, pipelines and storage facilities.

A.2.216. *Development order:* The official ordinance, resolution, or decision of the Board, Planning Commission or Administrator of the County with respect to the granting, granting with conditions, or denial of an application.

A.2.217. *Development plan:* A proposal for development approval, including such drawings, documents, and other information necessary to illustrate completely the proposed development. Shall specifically include such information as required by this LDC.

A.2.218. *Development project (Oil and Gas):* Any Oil or Gas Facility subject to the approval of an Oil and Gas Overlay Zoning District Classification, Special Use and Development Permits, Grading and Building Permits, and a Certificate of Completion.

A.2.219. *Development rights (Oil and Gas):* The rights of a subsurface or surface mineral, gas or oil estate owner and/or lessee to develop such property, dependent on the type of leasehold or ownership interest, and subject to the constraints of applicable law. Under certain circumstances, development rights may be transferred to other owners or lessees of mineral, oil or gas fee or leasehold

interests thus permitting the recipient to develop more intensely than otherwise permitted; see Transfer of Development Rights (defined below) and Section 9.7.

A.2.220. *Development site:* The geographic boundaries of a parcel of land that is the subject of a development approval application.

A.2.221. *Development site (Oil and Gas):* The designated and approved oil or gas surface drill site within a Buildable Area upon which an approved Oil or Gas Facility may be constructed. The development site of a lot, tract or parcel includes buildings and/or structures, accessory uses, retention facilities and landscape, buffer and screening areas.

A.2.222. *Development standards:* Standards and technical specifications for improvements to land required for development approval, including specifications for the placement, dimension, composition, and capacity of: streets and roadways; sidewalks and pedestrian and bicycle paths; signage for traffic control and other governmental purposes, including street name signs, and other traffic control devices on streets, roadways, and pedestrian and bicycle paths; lighting of streets, pedestrian, and bicycle paths; water mains and connections, including facilities and connections for the suppression of fires; sanitary sewer facilities, mains, and connections; utility lines and poles, conduits, and connections; off-street parking and access; landscaping and contouring of land, and other provisions for drainage, sedimentation, and erosion control; open space, parks, recreational facilities, and playgrounds; public elementary and secondary school sites; and storm drainage culvert facilities, including drains, conduits, and ditches.

A.2.223. *Development standards (Oil and Gas):* Standards and technical specifications for improvements to land required for an Oil or Gas Facility approval, including specifications for the placement, dimension, composition, and capacity of: derricks, drilling equipment, oil and gas wells, streets and roadways; signage for traffic control and other governmental purposes, including road signs, and other traffic control devices on roadways; highways, lighting of roads; water mains and connections, including facilities and connections for the suppression of fires; off-street parking and access; landscaping, screening and contouring of land, drainage, sedimentation, and erosion control; open space and storm drainage culvert facilities, including drains, conduits, and ditches; environmental, air and water quality, global warming, historic, cultural and archeological site and artifact preservation.

A.2.224. *Diameter breast height:* The average cross-sectional measurement of the trunk of an existing tree at 4-1/2 feet above grade. If the tree is on a slope, it shall be measured from the high side of the slope. Newly planted trees shall be measured 6 inches above grade.

A.2.225. *Diameter inches:* See *diameter breast height*.

A.2.226. Directional drilling: Any method of drilling for oil or gas that can reach a subsurface reservoir containing oil or gas resources at a significant horizontal distance from the surface location of the bore or wellhead. For purposes of this Ordinance, directional drilling includes without limitation related current technologies variously called slant drilling, horizontal drilling, extended-reach drilling, multi-lateral drilling (branched directional techniques), coiled tube drilling, and any future oil or gas technology that can span horizontal distance between surface and subsurface locations.

A.2.227. Disabled person: A person who has a physical or mental impairment, or both, that substantially limits one or more major life activities, including caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

A.2.228. Discontinuance: See *abandonment*.

A.2.229. Discretionary approval: Any development approval in which an official or official body of the County exercises legislative, administrative, or quasi-judicial authority involving the exercise of discretion and which is subject to a public hearing.

A.2.230. Discretionary development approval or development order: Any development approval or development order that involves a legislative, quasi-judicial or discretionary administrative process leading to the issuance of a development order; including but not limited to a plan amendment, amendment of the LDC, a major or minor subdivision, a conditional use permit, a variance, a beneficial use and value determination, a land use alteration, a development of countywide impact, a supplemental use, a major or minor site plan; or, any application for a building or grading permit, a zoning certificate, or a certificate of occupancy for a lot or parcel of land where no prior development order granting discretionary development approval has been issued.

A.2.231. District: A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of buildings, objects, sites, or structures united by past events or aesthetically by plan or physical development, which may also comprise individual elements separated geographically but thematically linked by association or history.

A.2.232. Drainage system: All streets, gutters, inlets, swales, storm sewers, channels, streams, or other pathways, either naturally occurring or man-made, which carry and convey storm water during rainfall events.

A.2.233. Drilling: Digging or boring a new oil or gas well or reentering an existing well for the purpose of exploring, drilling, developing, constructing, injecting gas, water, or any other fluid or substance, producing, transporting, abandoning or remediating oil, gas, or other hydrocarbon facilities, whether on, above or below the surface.

A.2.234. *Drill Site:* The premises used during the drilling or re-working of an oil and gas well or wells and subsequent life of a well or wells or any associated operation. The area of land in which oil and gas derricks, equipment, buildings, structures, improvements, wells, excavations, dumps, waste piles, ponds and other features normally utilized in oil and gas operations are located.

A.2.235. *Drilling Equipment:* The derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery, or equipment used or erected or maintained for use in connection with drilling of a water or oil and gas well.

A.2.236. *Drip line:* A vertical line of a tree canopy or shrub branch extending from the outermost edge to the ground.

A.2.237. *Drive-through use:* An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, to obtain goods, or to be entertained while remaining in their motor vehicles.

A.2.238. *Driveway:* Entrance to and exit from premises where it is possible to park completely off the street, and which is not open for vehicular traffic except by permission of the owner of such private property.

A.2.239. *Driveway approach:* A way or place, including paving and curb returns, between the street travel lanes and private property, which provides vehicular access between the roadway and such private property.

A.2.240. *Driveway, front-loaded:* A driveway that begins at, or abuts, the front property line of a lot or parcel.

A.2.241. *Duplex:* See *dwelling, two-family (duplex)*.

A.2.242. *Dwelling:* One or more rooms providing complete living facilities for one family, including kitchen facilities or equipment for cooking or provisions for same, and including a room or multiple rooms for living, sleeping, bathing, and eating. Also known as a “dwelling unit.”

A.2.243. *Dwelling, attached:* Two or more dwelling units with common walls between the units.

A.2.244. *Dwelling, four-family (quadraplex):* A detached house with common walls between the units, designed for and occupied exclusively as the residence of not more than four families, each living as an independent housekeeping unit.

A.2.245. *Dwelling, multifamily:* A dwelling or group of dwellings on one lot containing separate living units for five or more families, but which may have joint services or facilities.

A.2.246. Dwelling, single-family: A single structure occupied exclusively by not more than one family.

A.2.247. Dwelling, single-family attached: Two or more dwelling units with common walls between the units.

A.2.248. Dwelling, single-family detached: A single-family dwelling that is not attached to any other dwelling by any means and is surrounded by open space or yards.

A.2.249. Dwelling, three-family (triplex): A detached house designed for and occupied exclusively as the residence of not more than three families, each living as an independent housekeeping unit.

A.2.250. Dwelling, two-family attached: Any two dwelling units with a common wall between the units, under single ownership, which may be attached by a common wall to the units.

A.2.251. Dwelling, two-family (duplex): A detached house designed for and occupied exclusively as the residence of not more than two families, each living as an independent housekeeping unit.

A.2.252. Dwelling unit: See *dwelling*.

A.2.253. Earth change: Excavating, grading, regrading, landfilling, berming, or diking of land.

A.2.254. Easement: Authorization by a property owner for another to use the owner's property for a specified purpose.

A.2.255. Easement, utility: An easement granted for installing and maintaining utilities across, over, or under land, together with the right to enter the land with machinery and other vehicles necessary for the maintenance of utilities.

A.2.256. Easement, vehicular non-access: An easement established on a lot for the purpose of prohibiting ingress and egress to vehicular traffic.

A.2.257. Economic return: A profit or capital appreciation from the use or ownership of a building, object, site, or structure that accrues from investment or labor.

A.2.258. Effect: A change in the quality of the historical, architectural, archaeological, or cultural significance of a resource, or in the characteristics that qualify the resource as historically important.

A.2.259. Elevated building: A non-basement building built, in the case of a building in Federal Emergency Management Agency Zones A 1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zone V 1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the

ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water, and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A 1-30, AE, A, A99, AO, AH, B, C, X, and D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zone V 1-30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building,” even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

A.2.260. *Emergency, utility-related:* A break or leak in an underground utility line or a disruption in a utility service.

A.2.261. *Emergency vehicle:* A vehicle of the police or fire departments or ambulances, and vehicles conveying an airport official or airport employee in response to any emergency call.

A.2.262. *Enclosure ratio:* The ratio of building height to the distance between buildings facing across a street. The distance between buildings shall be measured from the front façade, including any porch, stoop, or other area integral to the building.

A.2.263. *Engineer:* See *professional engineer*.

A.2.264. *Environmental impact assessment:* A process to examine the adverse on- and off-site environmental impacts to the ecosystem by a development project.

A.2.265. *Environmental impact report:* An assessment examining adverse on- and off-site environmental effects or impacts.

A.2.266. *Equipment enclosure:* An enclosed structure, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communications signals, but not primarily to store equipment or to use as a habitable space.

A.2.267. *Equivalent dwelling unit:* Any non-residential service unit or townhouse, duplex, condominium or multifamily residential service unit, whether owned or leased, that consumes 750 gallons per day of peak wastewater flow and 300 gallons per day of average wastewater flow, so as to be equivalent in service use to a single family detached residential unit. (EDU).

A.2.268. *Equitable estoppel:* The right to initiate or continue the use, occupancy or construction of land under a prior lawful discretionary approval, despite becoming unlawful under a subsequent change in the provisions of the LDC, where the a contract for the purchase of land was made contingent upon

the Board or Planning Commission, with notice of the contingency in the contract, issuing a development order granting discretionary development approval. Equitable estoppel, contrary to vested rights, does not require substantial construction under a valid ministerial development approval, nor any proof of fraud or reliance. Equitable estoppel shall not apply to any reliance upon an erroneous or unlawful statement of a County official

A.2.269. *Erosion:* Soil movement due to wind or water.

A.2.270. *Escrow:* A deposit of cash with the County or escrow agent to secure the promise to perform some act.

A.2.271. *Estoppel:* See *equitable estoppels*.

A.2.272. *Exaction:* A requirement for development to dedicate a portion of land or a payment in lieu of land, an impact fee, a public improvement district or utility charge, fee or rate, to defer the costs of public facilities or services generated by the development as a condition of a development approval.

A.2.273. *Existing structure:* A structure that is built and completed as of the effective date of the LDC.

A.2.274. *Expenditure:* A sum of money paid out in return for some benefit or to fulfill some obligation. Expenditure includes binding contractual commitments, whether by development agreement or otherwise, to make future expenditures as well as any other substantial change in position.

A.2.275. *Expenses:* Those expenses that shall include consultant and engineering costs, exactions, application fees, costs of obtaining a bond, trust agreement, or irrevocable letter of credit posted with the County to assure compliance with conditions of a development approval.

A.2.276. *Exploration:* Geologic or geophysical activities related to the search for oil, gas, or other subsurface hydrocarbons, minerals, rocks including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation.

A.2.277. *Exploratory well:* A well drilled for the purpose of discovering oil, gas, or mineral reserves in unproven or under utilized areas, used to extract geological or geophysical information about an area with a view to exploiting untapped oil, gas, or mineral reserves.

A.2.278. *External buffer:* A naturally vegetated area or a vegetated area along the exterior boundaries of an entire development which is landscaped and maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

A.2.279. Fabrication: The manufacturing, excluding the refining or other initial processing of basic raw materials, such as metal ores, lumber, or rubber. Relates to assembling, stamping, cutting, or otherwise shaping the processed materials into useful objects.

A.2.280. Façade: The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

A.2.281. Fair share: A properly balanced and well-ordered plan to meet the housing needs of the county and region.

A.2.282. Family: One or more persons occupying a dwelling and living together as a separate housekeeping unit in one or more rooms with complete living facilities, including kitchen facilities or equipment for cooking or provisions for same, and including a room or rooms for living, sleeping, bathing, and eating.

A.2.283. Fenestration: Window treatment in a building or façade.

A.2.284. Filtration basin: Secondary treatment structures that follow sedimentation basins and release stormwater run-off through a filter media to remove additional pollutants.

A.2.285. Final subdivision plat: A map of a subdivision to be recorded after approval by the planning commission and any accompanying material as described in these regulations.

A.2.286. Fire Department: The Santa Fe County Fire Department – County professionally employed fire fighters, excluding volunteer personnel.

A.2.287. First flush: At least the first 1/2 inch of run-off from a storm event that flushes off and contains a disproportionately large loading of the accumulated pollutants from impervious and nonimpervious surfaces.

A.2.288. Fiscal impact analysis: The process of assessment of land development proposals as to the positive or negative impact they will have on the community's revenues and expenditures for public improvements, delivery of services, and net cash flow.

A.2.289. Fiscal impact assessment The process of assessment of development approval applications as to the positive or negative effects or impacts they will have on the county's revenues and expenditures for public improvements, delivery of services and net cash flow.

A.2.290. Flea market: See *outdoor resale business*.

A.2.291. Flexible zoning: Zoning that permits uses of land and density of buildings and structures different from those that are allowed as of right within the zoning district in which the land is situated. Flexible zoning applications shall include, but not be limited to, special development approvals

and special uses, floating zones, planned developments, and average density, or cluster zoning projects.

A.2.292. *Flex space:* A building designed to accommodate a combination of office, wholesale, and warehousing functions, the exact proportions of each use being subject to user needs over time. Flex-space buildings are typically located in business or industrial parks, which usually have a footprint exceeding 10,000 square feet, and which are usually designed with loading docks to the rear and parking in the front. The front façade is often treated with a higher quality of architectural finish than the rear and sides.

A.2.293. *Flood or flooding:* A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of run-off of surface waters from any source.

A.2.294. *Flood fringe:* That portion of the floodplain outside of the floodway.

A.2.295. *Flood Insurance Rate Map:* An official map of the County on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones.

A.2.296. *Flood Insurance Study:* The official report provided by the Federal Emergency Management Agency, which contains flood profiles, water surface elevation, or the base flood, as well as the Flood Boundary Map.

A.2.297. *Floodplain:* Any land area susceptible to being inundated by water from any source. See *area of special flood hazard, flood or flooding, and 100-year floodplain*.

A.2.298. *Floodplain, 100-year:* See *100-year floodplain*.

A.2.299. *Floodway:* A channel, river, stream, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood; the 100-year floodplain.

A.2.300. *Floor area:* The sum of the gross horizontal areas of all floors of a structure, including interior balconies and mezzanines, measured from the exterior face of exterior walls or from the centerline of a wall separating two structures. Shall include the area of roofed porches having more than one wall and of accessory structures on the same lot. Stairwells and elevator shafts shall be excluded.

A.2.301. *Floor area ratio:* The ratio of the total building floor area in square feet to the total land area in square feet, based upon a 1:0 ratio, constituting a one-story building or structure occupying 100 percent of the underlying land.

A.2.302. *Forest land:* A tract or tracts of contiguous trees, tree stands, or other wood plants covering a land area of one acre or more, including areas that have been cut but not cleared, consisting of areas that have twenty (20) or more trees or wood plants per acre with fifty per cent (50%) having a two (2) inch or greater diameter at 4.5 feet above ground level; or any tract or tracts of trees, tree stands or wood plants regardless of diameter or height which are located within canyons or on hillsides that pose a fire safety threat.

A.2.303. *Foster family home:* A child care facility certified or licensed by the State of New Mexico that provides care 24 hours a day for not more than six children.

A.2.304. *Foster group home:* A child care facility licensed by the State of New Mexico that provides care 24 hours a day for seven to 12 children.

A.2.305. *Fracturing or fracing:* The use of water or other fluids as a stimulant injected into an oil or gas well to split or fracture subsurface geological formations to improve the productivity of the oil or gas well.

A.2.306. *Frontage:* That distance where a property line is common with a street right-of-way line.

A.2.307. *Frontage street:* Any street to be constructed by the developer or any existing street where development shall take place on both sides.

A.2.308. *Front yard:* An area extending the full width of a lot between the front lot line and the nearest principal structure.

A.2.309. *Fuel pump:* Any device that dispenses automotive fuel and/ or kerosene. A fuel pump may contain multiple hoses or be capable of serving more than one fueling position simultaneously.

A.2.310. *Gabion:* A wire basket containing primarily stones deposited to provide protection against erosion.

A.2.311. *Garage, private:* A building or building appendage that is accessory to a main building, providing for the storage of automobiles and in which no occupation or business for profit is carried on, and enclosed on all four sides and pierced only by windows and customary doors.

A.2.312. *Gas:* Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas; whenever “gas” is used in this Ordinance it includes “natural gas” and/or “methane.”

A.2.313. *Gas Well:* A well having a pressure and volume of natural gas; specifically, producing methane, often in combination with a variety of other

substances such as butane, propane and carbon dioxide, or an Oil well with a (gas-oil ratio) in excess of 100,000 cubic feet of gas per barrel of oil.

A.2.314. *Gated community:* A residential area in which access to the subdivision streets is restricted by the use of a guard house or electronic arms, and in which residents may gain entry by using electronic cards, identification stickers, codes, or remote control devices.

A.2.315. *Gathering system:* A system of pipes, auxiliary tanks and other equipment used to move oil, gas or water from the well to a tank battery or to a transmission line for eventual delivery to a refinery.

A.2.316. *General plan:* The statutorily defined long-range plan intended to guide the growth and development of the County which includes inventory, analytical sections, Growth Management and Oil and Gas elements, land use, future economic development, housing, recreation, parks, open space, environment, libraries, utilities, public safety, fiscal integrity, transportation, infrastructure, public services, facilities, and community design, and environmental sustainability, all related to the goals and objectives, policies, and strategies contained within the Plan.

A.2.317. *Geographic search area:* An area in which the proposed antenna must be located in order to provide the designed coverage or capacity. Must be based on radio frequency engineering considerations, including grids, frequency coordination, propagation analyses, and levels of service consistent with accepted engineering standards and practices.

A.2.318. *Geohydrologic report:* A report, including baseline studies, on potential adverse effects and impacts of a development, oil, gas, water or mineral exploration project on subsurface and ground water resources and identifying fractured geological formations that would permit degradation of the water resources.

A.2.319. *Glare:* The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.

A.2.320. *Glide path:* A ratio equation used for the purposes of limiting the overall height of vertical projections in the vicinity of private airports. The ratio limits each foot of height for a vertical projection based upon a horizontal distance measurement.

A.2.321. *Grade:* The slope of a road, street, or other public way specified in percentage terms.

A.2.322. *Grading development approval:* A development approval required when land disturbance or excavation exceeds 10 cubic feet but less than 100 cubic feet.

A.2.323. *Gravel pit:* See *sand or gravel pit*.

A.2.324. *Greenspace:* The land shown on a subdivision or site plan that may be improved or maintained in a natural state and that is reserved for preservation, recreation, or landscaping.

A.2.325. *Gross acreage:* The total acreage of a development.

A.2.326. *Gross floor area:* The aggregate floor area of an entire building or structure enclosed by and including the surrounding exterior walls.

A.2.327. *Ground cover:* A prostrate plant growing less than 2 feet in height at maturity that is used for ornamental purposes, alternatives to grasses, and erosion control on slopes.

A.2.328. *Groundwater:* All subsurface water as distinct from surface water, specifically, that part of the water in the saturated zone (a zone in which all voids, large and small, ideally are filled with water under equal or greater than atmospheric pressure).

A.2.329. *Group day care home:* A child care facility that provides care for seven to 12 children under 14 years of age for less than 24 hours a day.

A.2.330. *Guyed:* A style of antenna supporting structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of guy wires that are connected to anchors placed in the ground or on a building.

A.2.331. *Habitable structure:* A structure that has facilities to accommodate people for an overnight stay, including, but not limited to, residential homes, apartments, condominiums, hotels, motels, and manufactured homes, and which does not include recreational vehicles.

A.2.332. *Habitable use:* See *inhabitable use*.

A.2.333. *Half story:* An uppermost story usually lighted by dormer windows, in which a sloping roof replaces the upper part of the front wall, and habitable areas on the uppermost story do not exceed a floor area derived by multiplying the floor area of the ground floor by 50 percent.

A.2.334. *Half-way house:* See *transitional home*.

A.2.335. *Head shop:* Any retail establishment having a substantial or significant portion of its stock in trade in, or which has as its main purpose the offering for sale of, paraphernalia or items designed or marketed for use with illegal cannabis or drugs.

A.2.336. *Headway:* The amount of time between transit vehicles, including buses operating on a particular transit route.

A.2.337. *Health department and health officer:* The agency and person designated by the Board of County Commissioners to administer the health regulations of the County.

A.2.338. *Height, building:* The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip, or gambrel roof.

A.2.339. *Height, building (Oil and Gas):* The vertical dimension measured from the average elevation of an oil and gas building or structure.

A.2.340. *Height limit:* For purposes of the “AO” (Airport Overlay) district, the elevation in feet above mean sea level, the projection above which a proposed structure or tree is not permitted, except as otherwise provided in the LDC.

A.2.341. *Heliport:* That area used by helicopters or other steep gradient aircraft for take-offs and landings. Such area may include passenger, cargo, maintenance, and overhaul facilities, plus fueling service, storage space, tie-down area, hangars, and other accessory buildings and open spaces.

A.2.342. *Helistop:* That area used by helicopters or other steep gradient aircraft for the purpose of take-offs and landings. May be used for the pickup or discharge of passengers and cargo, storage space, and tie-down, but shall not include maintenance, overhaul, or fueling services and facilities.

A.2.343. *High density:* Those residential zoning districts in which the density is equal to or greater than one dwelling unit per 10,000 square feet.

A.2.344. *Highest adjacent grade:* The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

A.2.345. *Highway, limited access:* A major arterial providing a trafficway for through traffic where owners or occupants of abutting property on lands and other persons have no legal right to access to or from same, except at such points and in such manner as may be determined by the public authority having jurisdiction over the trafficway.

A.2.346. *Historic, cultural or archaeological district:* An area, urban or rural, defined as an historic district by the County, state or federal authority, and which may contain, within definable geographic boundaries, one or more buildings, objects, sites, or structures designated as exceptional or significant historic landmarks or clusters, as defined herein, including their accessory buildings, fences, and other appurtenances, and natural resources having historical, architectural, archaeological, and cultural significance, and which may have within its boundaries other buildings, objects, sites, or structures, which, while not of such historical, architectural, archaeological, or

cultural significance as to be designated landmarks, nevertheless contribute to the overall visual setting of or characteristics of the landmark or landmarks located within the district.

A.2.347. *Historical, Cultural or Archaeological Resource:* Historic Sites, Cultural Sites, Archeological Sites, Artifacts and Landmarks that are designated (or eligible for designation) by the State of New Mexico. A list, called the official register of Cultural Properties, and the list of the National Register for Historic Places, are on file with the Administrator.

A.2.348. *Home occupation:* Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

A.2.349. *Homeowners' association:* See *property owners' association*.

A.2.350. *Horizontal zone:* An area longitudinally centered on the perimeter of a private airport's runway that extends outward from the edge of the primary surface a distance equivalent to 1 statute mile.

A.2.351. *Horticulturist:* A qualified professional who has studied the science or art of cultivating plants especially for ornamental use.

A.2.352. *Hospital:* An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices.

A.2.353. *Hotel:* A commercial for profit transient lodging building containing guest rooms or suites intended or designed to be used or are used, rented, or hired out for compensation, to be occupied or are occupied for sleeping purposes by guests on a daily basis, not to exceed sixty (60) days in duration, where no kitchen and dining room, other than a coffee maker, refrigerator-freezer, bar or microwave oven, are provided within a guest room or suite. Limited and full service hotels shall be permitted only in nonresidential or mixed use residential-commercial zoning districts.

A.2.354. *Hotel, limited service:* a limited service hotel provides only lodgings and guest room cleaning.

A.2.355. *Hotel, full service:* a full service hotel provides additional services beyond a limited service hotel including but not limited to: restaurant, bar or lounge, room service, business office, convention facilities, resort activities, golf and tennis, recreational, health club and retail services.

A.2.356. *Hotel, extended stay:* hotels designed for stays greater than sixty (60) days with studios, one and two bedroom suites, with kitchen facilities including refrigerator-freezers, cooktops, microwave ovens, dishwashers, washing and drying machines. An extended stay hotel is permitted. An

extended stay hotel shall be permitted in multifamily residential and mixed use residential-commercial districts

A.2.357. Household: Any person or number of persons who reside or intend to reside in the same housing unit.

A.2.358. Housing Facility for Older Persons: Any multifamily housing unit that complies with the provisions of 24 C.F.R. §§ 100.304-100.307.

A.2.359. Housing unit: Any residential dwelling unit whether single or multifamily, owned or leased.

A.2.360. HUD Code manufactured home: A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development (HUD), transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and which includes plumbing, heating, air conditioning, and electrical systems.

A.2.361. Impact analysis: See *fiscal impact analysis* and *environmental impact assessment*.

A.2.362. Impact area: The area within which a proposed development is presumed to create a demand for public services and/or facilities and is evaluated for compliance pursuant to Chapter 6, Adequate Public Facilities, of the LDC; that area in which the capacity of public facilities will be aggregated and compared to the demand created by existing development, committed development, and the proposed development. The impact areas for specific public facilities are defined in Chapter 6.

A.2.363. Impact area (Oil and Gas): The area within which a proposed Oil or Natural Gas Facility creates a demand for public services and/or facilities and is evaluated for compliance with the provisions of this Ordinance; that area in which the capacity of public facilities and services will be aggregated and compared to the demand created by existing development, committed development, and the proposed oil and gas project.

A.2.364. Impact fee: A charge or assessment imposed by the County against new development in order to generate revenue for funding the costs of capital improvements or facility expansions necessitated by and attributable to the new development.

A.2.365. Impervious cover: Roads, parking areas, buildings, pools, patios, sheds, driveways, private sidewalks, and other impermeable construction covering the natural land surface, including, but not limited to, all streets and pavement within the subdivision. "Percent impervious cover" is calculated as

the area of impervious cover within a lot, tract, or parcel or within the total site being developed divided by the total area within the perimeter of such lot, tract, parcel, or development. Vegetated water quality basins, vegetated swales, other vegetated conveyances for overland drainage, and public sidewalks shall not be calculated as impervious cover.

A.2.366. *Improvement:* Any one or more of the following that is required by a development order or legislation requiring financing of capital facilities, the need for which is generated by a development project: streets, roadways, and bicycle paths; sidewalks and pedestrian paths; signage for traffic control and other governmental purposes, including street name, signs, and other traffic control devices on streets, roadways, and pedestrian and bicycle paths; lighting of streets and pedestrian and bicycle paths; water mains and connections, including facilities and connections for the suppression of fires; sanitary sewers and storm drainage sewer mains and connections; utility lines and poles, conduits, and connections; off-street parking and access; landscaping and contouring of land and other provisions for drainage, sedimentation, and erosion control; open space, parks, recreation facilities, and playgrounds; and public elementary and secondary school sites.

A.2.367. *Improvement District (Oil and Gas):* A special district formed by the Board for the purpose of levying assessments, rates, or charges on public facilities and services needs generated by Oil or Natural Gas Facilities.

A.2.368. *Improvement guarantee:* A security instrument, including, but not limited to, a payment and performance bond, a letter of credit, deposit of cash or a cashier's check into an escrow fund or other sufficient surety, accepted by the County to ensure that all public and nonpublic improvements required as a condition of approval of a development project will be completed in compliance with the plans and specifications of the development as approved in the development order.

A.2.369. *In the County, within the County:* Areas within the boundaries of the County, but not within the limits of any incorporated municipality.

A.2.370. *Individual sewage disposal system:* A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

A.2.371. *Infill development:* Development designed to occupy scattered or vacant parcels of land left behind by urban sprawl after development has occurred in an area.

A.2.372. *Infrastructure:* Any physical system or facility that provides essential services, including but not limited to: sanitary sewage; storm water drainage and detention; flood control ; water systems for domestic purposes; schools and libraries, roads, streets, collectors, arterials and highways; areas for motor vehicle and bicycle use for road access, egress, ingress, rest areas and parking; trails and areas for pedestrian, equestrian, bicycle or nonmotor vehicle use for

access, egress, ingress and rest areas; public transit; fire; police; emergency response; parks, recreational facilities, open space; scenic vista sites; landscaping; electrical and natural gas transmission and distribution; lighting; cable or telecommunication lines; traffic control; heating, air conditioning, weatherization and energy efficiency facilities, including solar and wind turbines, and related costs and expenses for inspection, operation, maintenance, repair, replacement and construction management of such facilities and systems. .

A.2.373. *Infrastructure expenses:* Those expenses that shall include engineering costs, impact fees, platting fees (including the amount of bond, trust agreement, or irrevocable letter of credit posted with the County to assure compliance with platting requirements), as well as necessary development costs actually paid (if such costs actually paid exceed or are necessary but are not included infrastructure costs covered by the bond, trust agreement, or irrevocable letter of credit), including off-site infrastructure costs that are necessary for plat approval of a specific parcel of real property. A property owner or developer shall be allowed to include as infrastructure expenses costs incurred by voluntary compliance with development ordinances, including, by way of example but not limitation, tree survey costs.

A.2.374. *Inhabitable use:* A use that involves the construction or placement of permanent or temporary dwelling units.

A.2.375. *Institution for children or the aged:* An establishment providing residence and care for children or the aged.

A.2.376. *Intensity:* The number of square feet of development per acre by land-use type with respect to nonresidential land uses.

A.2.377. *Intensity (Oil and Gas):* The number of oil and gas wells permitted per square mile or section.

A.2.378. *Intermediate construction phase:* On land development projects with multiple phases of construction, there may be several intermediate construction phases that precede the final construction phase. The final construction phase is completed in the build-out year.

A.2.379. *Intermediate floodplain:* Any channel, creek, stream, branch, or watercourse for surface water drainage that drains an area greater than 320 acres but less than 640 acres.

A.2.380. *Intermittent stream:* A stream in which surface water is absent during a portion of the year, as shown on the most recent 7.5- minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

A.2.381. *Intersection:* The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of two or

more roadways, including a public street, a private street, a commercial driveway, a residential driveway, a driveway approach, or an alley that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different roadways joining at any other angle may come into conflict.

A.2.382. *Intrusion:* A building, object, site, or structure that detracts from the historical significance of a district or cluster because of its incompatibility with the sense of time and place and historical development of a district or cluster; because of its incompatibility of scale, materials, texture, or color; whose integrity has been irretrievably lost; or whose physical deterioration or damage makes it infeasible to rehabilitate.

A.2.383. *Inventory:* A systematic listing of cultural, historical, architectural, or archaeological resources prepared by the County, Indian Tribe or Pueblo, state, or federal government or a recognized local historical authority, following standards set forth by federal, state, and County regulations for evaluation of cultural properties.

A.2.384. *Junk:* Any worn-out, cast-off, or discarded article or material that is ready for destruction or has been collected or stored for salvage or conversion to some use. Does not include any article or material that, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new.

A.2.385. *Junkyard:* Any premises where junk, articles, or materials, including junked, wrecked, or inoperable vehicles, that are ready for destruction or that have been collected are stored for salvage or conversion to some use. Also known as “salvage yard.”

A.2.386. *Kenel:* Any lot or premises on which domestic or wild animals are kept, boarded, or raised for sale.

A.2.387. *Kindergarten:* See *nursery school*.

A.2.388. *Laboratory:* A building or part of a building devoted to the testing and analysis of any product or animal. No manufacturing is conducted on the premises except for experimental or testing purposes.

A.2.389. *Land development code (“LDC”):* All ordinances in the County Code including this Oil and Gas ordinance, zoning, subdivision, official mapping, capital improvements programming, planning and budgeting, building, housing, public nuisance, safety, and environmental codes that relate to land use.

A.2.390. *Landscape architect:* A landscape architect licensed by the State of New Mexico.

A.2.391. *Landscape planting area:* An area that accommodates the installation of trees, shrubs, and ground covering consistent with the standards of *Division 4: Greenspace (Landscaping, Tree Preservation, Screening, and Environmental Protection) Standards* in Chapter 5, Development Standards, of the LDC.

A.2.392. *Landscaping:* The process or product of installing plants for purposes of screening or softening the appearance of a site, including grading, installation of plant materials, and seeding of turf or ground cover

A.2.393. *Landscaping (Oil and Gas):* The process or product of installing vegetation, fences, screening, or material for purposes of screening or softening the appearance of an oil and gas project site, including grading and installation.

A.2.394. *Landscape waste:* *see yard waste.*

A.2.395. *Land-use assumptions:* A description of changes in projected wastewater demand contained in the land-use assumptions plan.

A.2.396. *Land-use category:* A classification of uses as set forth in the use matrix (Table 3-4, Use Matrix, in Chapter 3, Zoning, of the LDC).

A.2.397. *Large shrub:* Any plant, deciduous, or evergreen, that is generally multi-stemmed and reaches a height of 6 feet or more upon maturity.

A.2.398. *Large tree:* A tree of a species that normally reaches a height of 30 feet or more upon maturity.

A.2.399. *Lattice:* A style of antenna supporting structure, not supported by guy wires, which consists of vertical and horizontal supports with multiple legs and cross-bracing and metal- crossed strips or bars to support antennas.

A.2.400. *Lattice antenna structure:* A steel lattice, self-supporting structure with no guy-wire support, so designed to support fixtures that hold one or more antennas and related equipment for wireless communications transmission.

A.2.401. *Law:* a federal or state of New Mexico statute or regulation; a final decision of a New Mexico or federal court.

A.2.402. *Lease:* *See sale or lease.*

A.2.403. *LEED® Building Rating System:* The document entitled “Green Building Rating System for New Construction & Major Renovations (LEED®-NC) Version 2.2” (October 2005), published by the United States Green Building Council, which document is hereby incorporated by this reference.

A.2.404. *LEED® Neighborhood Rating System:* The document entitled “LEED for Neighborhood Developments Rating System— Preliminary Draft”

(September 6, 2005), published by the United States Green Building Council, which document is hereby incorporated by this reference.

A.2.405. *Lessee:* A person, corporation or other legal entity that has been granted an Oil and Gas Lease from the Owner of a mineral estate in land or who has received an assignment of all or a portion of a previously granted Oil and Gas Lease.

A.2.406. *Levee:* A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices, to contain, control, or divert the flow of water in order to provide protection from temporary flooding.

A.2.407. *Levee system:* A flood protection system that consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

A.2.408. *Level of service:* An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility or public service based upon and related to the operational characteristics of the facility or service. Indicates the capacity per unit of demand for each public facility or service, including the cumulative impacts or capacity of a series of oil and gas and other development projects taken together to measure the joint and several impacts.

A.2.409. *Light rail line:* A public rail transit line that usually operates at grade level and that provides high-capacity, regional- level transit service. Does not include low-capacity, district level, or excursion rail transit service, such as a vintage trolley line. Designed to share a street right-of-way, although it may also use a separate right-of-way.

A.2.410. *Link:* See *street link*.

A.2.411. *Linkage:* A system by which a developer who creates a need for affordable or workforce housing is required to build housing on or off site, or make a payment in lieu of such construction, or dedicate land for construction of such housing by public or nonprofit entities.

A.2.412. *Live-work unit:* A building in which offices, studios, or other commercial uses are located on the first floor and a dwelling unit is located above the first floor.

A.2.413. *Lodge:* The place where members of a club or fraternal organization hold their meetings.

A.2.414. *Lot:* A tract, parcel, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for development.

A.2.415. *Lot, corner:* A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

A.2.416. *Lot depth:* The mean horizontal distance between the front and rear lot lines.

A.2.417. *Lot design standards:* See *Division 2: Design Standards*, § 5.10 Lots, in Chapter 5, Development Standards, of the LDC.

A.2.418. *Lot improvement:* Any building, structure, place, work of art, or physical object situated on a lot.

A.2.419. *Lot, reversed corner:* A corner lot, the rear of which abuts upon the side of another lot whether across an alley or not.

A.2.420. *Lot width:* The width of a lot at the front setback line.

A.2.421. *Low density:* Those residential zoning districts in which the density is equal to or less than one dwelling unit per 40,000 square feet.

A.2.422. *Lowest floor:* The lowest floor of the lowest enclosed area (including the basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built in order to render the structure in violation of the applicable nonelevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

A.2.423. *Low-income housing:* A household composed of one or more persons with a combined annual net income for all adult members that does not exceed the qualifying limit for a lower-income family of a size equivalent to the number of persons residing in such household, as set forth in the [APPROPRIATE STATE OR LOCAL CODE SECTION].

A.2.424. *Lux:* The standard unit of illuminance. One lux is equal to 1 lumen per square meter.

A.2.425. *Maintenance easement:* An easement granted by the owner of a lot adjacent to a zero lot line development, exclusively for the purpose of allowing the occupant of a residence on the lot line access to the adjoining property in order to maintain that portion of his/her dwelling situated on the property line.

A.2.426. *Maintenance guarantee:* Any security instrument required by a County to ensure that public or nonpublic improvements will be operated, maintained, and repaired for a period of time following construction of the improvement as specified in a development order.

A.2.427. *Major arterial:* A street that connects two or more sub-regions; provides secondary connections outside cities; complements freeway in high-volume

corridors, as designated in the [GENERAL PLAN TRANSPORTATION ELEMENT OR THOROUGHFARE PLAN].

A.2.428. Major bus boarding location: The right-of-way of any street link or series of street links in which at least four bus shelters are located within a distance of 1 mile.

A.2.429. Major floodplain: Any channel, creek, stream, branch, or watercourse for surface water drainage that drains 640 acres or more.

A.2.430. Major subdivision: All subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of four or more lots, or any size subdivision requiring any new street or extension of the County facilities or the creation of any public improvements. Includes the resubdivision amendment or modification of a major subdivision, or series of related minor subdivisions on contiguous land that cumulatively amount to the creation of four or more lots.

A.2.431. Major thoroughfare: Street routes as set forth in the major thoroughfare plan, and as may from time to time be amended, which are devoted to moving large volumes of traffic over long distances.

A.2.432. Major thoroughfare plan: The major thoroughfare plan as adopted by the County.

A.2.433. Manufactured home: A United States Department of Housing and Urban Development Code (HUD Code) manufactured home. For purposes of the floodplain ordinance, a “manufactured home” means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. Does not include a “recreational vehicle.” Also known as “manufactured housing.”

A.2.434. Manufactured home land-lease community: A parcel in which individual spaces are leased for the purpose of installing, placing, or occupying a manufactured home.

A.2.435. Manufactured home park: A plot or tract of land separated into two or more spaces or lots, which are rented or leased or offered for rent or lease to persons for the installation of manufactured homes for use and occupancy as residences, provided that the lease or rental agreement is for a term of less than 60 months and contains no purchase option.

A.2.436. Manufactured home site: A plot of ground within a manufactured home park that is designed for and designated as the location for only one manufactured home and customary accessory uses.

A.2.437. *Manufactured home stand:* That part of a manufactured home site that has been reserved for the placement of the manufactured home, appurtenant structures, or additions.

A.2.438. *Manufactured housing:* See *manufactured home*.

A.2.439. *Manufacturing:* Operations required in the mechanical, biological, or chemical transformation of materials or substances into new products, including the assembling of component parts; the manufacture of products; and the blending of materials, such as lubricating oils, plastics, resins, or liquors. Covers all mechanical, biological, or chemical transformations, whether the new product is finished or semifinished as raw materials in some other process.

A.2.440. *Marginal access:* The type of street used to provide direct access to abutting properties and protection from through traffic.

A.2.441. *Mass:* The size, height, symmetry, and overall proportion of a structure in relation to the original style and/or to surrounding structures.

A.2.442. *Mass transit:* The transportation of passengers and hand-carried packages or baggage of a passenger by a surface, overhead, or underground means of transportation, or a combination of those means, including motorbus, trolley coach, rail, and suspended overhead rail transportation. Does not include taxicab transportation.

A.2.443. *Mean sea level:* For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

A.2.444. *Medium density:* Those residential zoning districts in which the density is between 10,000 and 40,000 square feet per dwelling unit.

A.2.445. *Medium tree:* A tree of a species that normally reaches a height exceeding 15 feet but less than 30 feet upon maturity.

A.2.446. *Membership organization:* An organization operating on a membership basis with pre-established formal membership requirements and with the intent to promote the interests of its members. Includes trade associations, professional organizations, unions, and similar political and religious organizations.

A.2.447. *Mental impairment:* See *physical or mental impairment*.

A.2.448. *Methane:* See *Gas*.

A.2.449. *Mineral:* An inanimate constituent of the earth, in solid, liquid, or gaseous state which, when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form of metal or metallic compound, a non-

metal, a non-metallic compound, a chemical, an energy source, or a raw material for manufacturing road building or construction material or oil, oil shale, natural gas, geothermal resources, but shall not include surface or subsurface water.

A.2.450. Ministerial decision: A decision on a development approval application rendered by an administrative official that does not require legislative, administrative, or quasi-judicial discretion and is not subject to a public hearing.

A.2.451. Ministerial development approval or development order: any development order granting non-discretionary development approval for a lot or parcel of land, in which a prior development order has granted discretionary development approval for the land within which the lot or parcel of land is located. including but not limited to, a building permit, grading permit, sign permit, certificate of completion and certificate of occupancy.

A.2.452. Mini warehouse: A storage enterprise dealing with the reception of goods of residential or commercial orientation that lie dormant over extended periods of time. Separate storage units are rented to individual customers who are entitled to exclusive and independent access to their respective units.

A.2.453. Minor floodplain: Any channel, creek, stream, branch, or watercourse for surface water drainage that drains an area greater than 100 acres but less than 320 acres.

A.2.454. Minor subdivision: Any subdivision containing not more than three lots fronting on an existing street, not including any new street, the extension of municipal facilities, or the creation of public improvements, and not adversely affecting the remainder of the comprehensive plan, official map, or zoning regulations. A series of related minor subdivisions on contiguous land cumulatively totaling four or more lots shall be construed to create a major subdivision.

A.2.455. Mitigation: A system by which a developer causing some adverse agricultural, environmental, or fiscal impact is required to counterbalance that impact by creating an equivalent benefit through dedication, payments, offsets, and alternative construction of self-imposed restrictions.

A.2.456. Mitigation (Oil and Gas): A system by which an oil and gas facility causing adverse effects or impacts is required to counterbalance that impact by creating an equivalent benefit through dedication, payments, offsets, alternative construction of self-imposed restrictions, reduction in the number and location of wells, collocation of wells or purchase of development rights under the transfer of development rights program.

A.2.457. Mitigation tree: A tree used for the purpose of mitigating the destruction or removal of a protected or heritage tree pursuant to the requirements of *Division 4: Greenspace (Landscaping, Tree Preservation, Screening, and Environmental Protection) Standards* in Chapter 5, Development

Standards, of the LDC. Must have a trunk size of at least 2-1/2 inches, measured at 6 inches above grade for single-trunk species trees, or 1-1/2 inches measured at 6 inches above grade for multitrunk species trees. In the case of multitrunked species trees, a tree will be qualified as a mitigation tree based on the measured diameter of the largest of the existing trunks at 6 inches together with one-half of the measured diameter of the remaining trunks at the same height.

A.2.458. *Mixed-use building:* A building that contains two or more of the following major use types: residential, office, or retail.

A.2.459. *Mobile home:* A manufactured home that does not conform to the United States Department of Housing and Urban Development Code (HUD Code) or the local building code.

A.2.460. *Model home:* A dwelling unit used initially for display purposes, which typifies the type of units that will be constructed in the subdivision and which will not be permanently occupied during its use as a model.

A.2.461. *Molding:* Any linear plane that deviates from a flat surface. On buildings, molding consists of strips of wood used to conceal joints and to provide a decorative finished appearance. No portion of a control joint shall be considered a molding.

A.2.462. *Money in lieu of land:* Payment of money into a municipally earmarked fund to provide for acquisition of facilities off site in place of dedicating land or providing such facility on site.

A.2.463. *Monopole:* A style of free-standing, antenna supporting structure, which is composed of a single shaft that is attached to a foundation. This type of antenna supporting structure is designed to support itself without the use of guy wires or other stabilization devices, and is mounted to a foundation that rests on or in the ground or on a building's roof.

A.2.464. *Monopole antenna structure:* A self-supporting, pole-type structure with no guy-wire support, tapering from base to top, and so designed to support fixtures that hold one or more antennas and related equipment for wireless telecommunications transmission.

A.2.465. *Motel:* A building or group of detached, semidetached, or attached buildings on a lot containing guest dwellings, each of which has a separate outside entrance leading directly to rooms, with a garage or parking space conveniently located with each unit, and which is designed, used, or intended to be used primarily for the accommodation of automobile transients. Motels may include bed-and-breakfast inns or boarding houses if they meet the above-defined criteria.

A.2.466. *Mulch:* Nonliving organic and inorganic materials customarily used in landscape design to retard erosion, retain moisture, maintain even soil temperature, control weeds, and enrich the soil.

A.2.467. *Multiple Resource Historic District:* An area defined by the County, state, or federal authority within a defined geographical area that identifies specific cultural resources having historic, architectural, cultural, or archaeological significance.

A.2.468. *Multitrunk tree:* A tree having two or more main trunks arising from the root collar or main trunk.

A.2.469. *National Historic Preservation Act:* see 16 U.S.C. Part 470.

A.2.470. *Natural Gas:* See *Gas*.

A.2.471. *Natural state:* The topography that exists at the time information is gathered for Flood Insurance Rate Maps or any subsequent approved revisions to those maps.

A.2.472. *Neighborhood Park and Recreation Improvement Fund:* A special fund established by the County to retain monies contributed by developers in accordance with the “money-in-lieu-of-land” provisions of these regulations.

A.2.473. *Neighborhood unit:* An area that includes residences, businesses, parks, schools, and other community facilities. Populations may range from 4,000 to 10,000, depending on the geographic area and boundaries, and which usually contains at least 1,500 housing units.

A.2.474. *Net acreage:* The gross acreage of a development site excluding those portions of a development dedicated to public use, such as street rights-of-way, drainage, and open space.

A.2.475. *New development:* Any new demand that increases the number of equivalent dwelling units, including, but not limited to, the subdivision and/or resubdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land, any of which increases the number of equivalent dwelling units.

A.2.476. *Node:* The terminus or intersection of two or more streets, including the head or bulb of a cul-de-sac.

A.2.477. *Nonconforming lot, parcel, or use:* A lot or parcel (subdivided or unsubdivided) that was lawfully established or commenced prior to the adoption or amendment of the County’s land development regulations and that fails to meet the current requirements for area, height, yards, setback, or use generally applicable in the district because of a change in the applicable

zoning district regulations, annexation, condemnation of a portion of the lot, or other governmental action.

A.2.478. *Nonconforming sign:* A sign that was lawfully constructed or installed prior to the adoption or amendment of a County's land development regulations, which was in compliance with any land development regulations then in effect but which does not presently comply with the land development regulations.

A.2.479. *Nonconforming site:* A lot, parcel, or development site that was lawfully established but that does not comply with the area, height, yards, setback, or other bulk standards of the LDC.

A.2.480. *Nonconforming structure:* A building or structure that was lawfully erected prior to the adoption or amendment of the County's land development regulations but that no longer complies with all the regulations applicable to the zoning district in which the structure is located.

A.2.481. *Nonconformity:* Any nonconforming use, sign, lot, parcel, building, site, or structure.

A.2.482. *Noncontributing:* A building, object, site, or structure that neither adds to nor detracts from a sense of time and place or historical development of a district or cluster.

A.2.483. *Non-discretionary development approval or development order:* see Ministerial development approval or development order.

A.2.484. *Nonliving materials:* Plant materials used for landscaping, such as river rock, stone, bark, and similar materials.

A.2.485. *Nonpublic improvement:* Any improvement for which the owner of the property, a homeowners' association, or some other nongovernmental entity is presently responsible and which the County will not be assuming the responsibility for maintenance or operation.

A.2.486. *Nonresidential subdivision:* A subdivision whose intended use is other than residential, such as commercial or industrial.

A.2.487. *Notice of noncompliance:* A notice issued by the administrative assistant to the planning commission informing the applicant for approval of a major subdivision that the sketch plat is not in compliance with these regulations and that the applicant may not apply for preliminary plat approval.

A.2.488. *Nursery:* Land or greenhouses used to raise flowers, shrubs, trees, grass, and other plants for sale.

A.2.489. *Nursery school:* A child care facility offering a program for children between two and seven years of age for four hours or less per day.

A.2.490. *Object:* A material thing of functional, aesthetic, cultural, historical, archaeological, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

A.2.491. *Obstruction:* Any structure, growth, or other object, including a mobile object, that exceeds a limiting height established by federal regulations or by the airport zoning regulations.

A.2.492. *OCD:* The Oil Conservation Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico.

A.2.493. *Occupancy:* The presumed level of build-out as estimated by the property owner of the proposed development at the later of five years or build-out.

A.2.494. *Office:* A building used primarily for conducting the affairs of a business, profession, service, industry, government, or like activity, which may include ancillary services for office workers, such as a restaurant, coffee shop, or newspaper or candy stand.

A.2.495. *Official map:* A map established by law showing the streets, highways, parks, drainage systems, and setback lines laid out, adopted, and established by law. The official map shall be amended from time to time to show any amendments or additions resulting from the recording and filing of approved subdivision plats.

A.2.496. *Official map (Oil and Gas):* A map established by law showing the right-of-way lines for existing or proposed roads, highways, police, fire, and emergency service facilities, off-site retention facilities, and stream buffers laid out, adopted, and established pursuant to this Ordinance. The official map shall be amended from time to time to show any amendments or additions resulting from the recording and filing of approved subdivision plats or oil and gas projects.

A.2.497. *Offset:* The amount of the reduction of an exaction designed to fairly reflect the value of area-related facilities or other oversized facilities provided by an applicant pursuant to rules or administrative guidelines in the LDC.

A.2.498. *Off site:* Any premises not located within the area of the property subject to development approval, whether or not in the same or common ownership of the applicant.

A.2.499. *Off-site facility:* Any structure, facility, equipment, or installation, the purpose and function of which is to receive wastewater from a development's internal collection system and to transport, treat, and ultimately discharge that wastewater to a receiving stream at a permanent location determined by the board.

A.2.500. *Off-site mains:* Sewer or water mains totally outside of a subdivision.

A.2.501. *Oil and Gas Lease:* A conveyance of a fee simple determinable estate in the subsurface mineral estate where the lessee is granted the power to explore for, produce and market the oil and gas pursuant to its terms.

A.2.502. *Oil or Gas Facility or Facilities:* includes, but is not limited to, the following:

- (i) A new Well and the surrounding Well site, built and operated to produce crude oil and/or gas, including auxiliary equipment required for production (e.g., separators, dehydrators, pumping units, Tank Batteries, Tanks, metering stations, and other equipment located within the perimeter of the well site);
- (ii) Any equipment involved in the re-working of an existing well bore, including, but not limited to, a workover rig;
- (iii) A compressor station, including associated facilities that serve one or more Wells employing engines and/or motors;
- (iv) A water or fluid injection stations including associated facilities;
- (v) A storage or construction staging yard associated with an Oil or Gas Facility;
- (vi) A facility related to the production of crude oil and/or gas which contains engines and/or motors;
- (vii) A Gathering System consisting of crude oil or gas gathering lines or water lines;
- (viii) Any facility associated with a Gathering System or water collection line, such as a drip station, vent station, pigging facility, chemical injection station, transfer pump station and valve box;
- (ix) A gas treating facility that serves multiple Wells or Gathering Systems;
- (x) Any other structure, building or facility used in the exploration, drilling or production phase of oil or gas development, and;
- (xi) A pipeline for transportation of oil, gas or water with the sole exception of facilities used for the transportation of natural gas under a tariff regulated by the New Mexico Public Regulation Commission (“NMPRC”) or the Federal Energy Regulatory Commission (“FERC”).

A.2.503. *On site:* Development, construction, installation of infrastructure, or any other activity that occurs on the site that is the subject of an application.

A.2.504. *On site (Oil and Gas):* Development, construction, installation of infrastructure, or any other activity that occurs on the site that is the subject of an application for an oil and gas project.

A.2.505. *On-site facility:* Any structure, facility, equipment, or installation that collects and transports wastewater generated from within a development to the off-site system at a designated point.

A.2.506. *On-site mains:* Sewer or water mains totally within a subdivision, including mains lying along one or more sides of a subdivision that serve such subdivision exclusively.

A.2.507. *100-year floodplain:* The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year, and the area designated as a Federal Emergency Management Agency Zone A, AE, AH, or AO on the Flood Insurance Rate Maps. See *area of special flood hazard, flood or flooding, and floodplain*.

A.2.508. *100-year frequency flood:* See *base flood*.

A.2.509. *100-year frequency rainstorm:* The rainstorm having an average statistical frequency of occurrence in the order of once in 100 years, although the rainstorm may actually occur in any year

A.2.510. *Opaque:* Incapable of transmitting light.

A.2.511. *Open space:* An area that is intended to provide light and air, and is designed, depending upon the particular situation, for environmental, scenic, or recreational purposes. May include, but need not be limited to, lawns, decorative plantings, bikeways, walkways, outdoor recreation areas, wooded areas, greenways, and water courses. The computation of open space shall not include driveways, parking lots, or other surfaces designed or intended for motorized vehicular traffic, or to buildings. The term “open space” also includes any land, water, or submerged land that is provided for, preserved for, or used for park or recreational purposes; conservation of land or other natural resources; cultural, historic, or scenic purposes; assisting in the shaping of the character, direction, and timing of community development; or wetlands

A.2.512. *Operator or Owner:* The owner of a sub-surface mineral estate or an oil and gas lessee, or other person, corporation or legal entity who, duly authorized, is in charge of the development of a lease or the operation of a producing property, or who is in charge of a facility’s operation or management of an Oil or Gas Facility.

A.2.513. *Order:* See *development approval, or development order*.

A.2.514. *Ordinance:* Any legislative action, however denominated, of the County that has the force of law, including any amendment or repeal of any ordinance, the General Plan, the Official Map or any Area Plan.

A.2.515. *Ordinary repair and maintenance:* Any work, the purpose and effect of which is to correct any deterioration or decay of or damage to a building,

object, or structure, and to restore it as nearly as practicable to its condition prior to the deterioration, decay, or damage.

A.2.516. *Organization:* An organization operating on a membership basis with pre-established formal membership requirements and with the intent to promote the interests of its members.

A.2.517. *Outdoor resale business:* A business that sells used merchandise, other than automobiles, logging equipment, or other agricultural equipment, and stores or displays the merchandise outdoors.

A.2.518. *Outdoor storage:* The keeping, in an unroofed area, of any goods, junk, material, or merchandise in the same place for more than 24 hours.

A.2.519. *Overall height:* The height of a wireless communications facility, which includes all antennas and other ancillary appurtenances.

A.2.520. *Overland flow:* Stormwater run-off that is not confined by any natural or man-made channel, such as a creek, drainage ditch, or storm sewer. Involves the movement of run-off in a thin layer (usually less than 1 inch in depth) over a wide surface, which begins when water ponded on the surface of the land becomes deep enough to overcome surface retention forces. Also known as “sheet flow.”

A.2.521. *Overlay zoning district:* A district that is superimposed over one or more zoning districts or parts of districts and that imposes specified requirements in addition to those applicable in the underlying base zoning district.

A.2.522. *Overlay zoning district classification (Oil and Gas):* An Oil and Gas Overlay Zoning District Classification that is superimposed over one or more base zoning districts or parts of districts and that imposes specified requirements in addition to those applicable in the underlying base zoning district, for oil and gas projects.

A.2.523. *Oversized vehicle:* A motor vehicle, trailer, or boat that by itself, or together with other structure or structures or vehicle or vehicles attached to it, exceeds 24 feet in length, 8 feet in width, or 8 feet in height, exclusive of appurtenances, such as antennas, air conditioners, luggage racks, and mirrors.

A.2.524. *Owned unit:* A designated unit that is a condominium, stock cooperative, timeshare, or other legal or equitable instrumentality that creates a legal or equitable title in the property.

A.2.525. *Owner:* The legal or equitable contract owner, vendee in possession, owner of subsurface rights, lessee of subsurface rights, person, corporation, trust, partnership, association or other entity of all lands in common ownership, with the

subject property, the applicant and the agent designated to receive notice and service of process.

A.2.526. *Owner (Oil and Gas):* The record owners of the fee, a contract purchaser holding equitable title, an oil and gas lessee, or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in an Oil or Gas Facility.

A.2.527. *Parcel:* An area of land not dedicated for public or common use capable of being described with such definiteness that its location and boundaries may be established and includes but is not limited to lots.

A.2.528. *Park:* Land and facilities, such as playgrounds, fountains, or swimming pools, used or to be used as a park as defined in § 5.21 Parks/Open Space in Chapter 5, Development Standards, of the LDC, regardless of location, including the acquisition of such land, the construction of improvements, provision of pedestrian and vehicular access, and purchase of equipment for the facility.

A.2.529. *Parking lot:* An off-street, ground-level open area for the temporary storage of motor vehicles. Does not include an area used exclusively for the display of motor vehicles for sale as part of an automobile dealership.

A.2.530. *Parking lot plantings:* Plantings that shade and improve the appearance of large areas of pavement that are located within planting areas adjacent to parking areas.

A.2.531. *Parking standards:* See § 5.21 Parks/Open Space in Chapter 5, Development Standards, of the LDC.

A.2.532. *Parking structure, commercial:* An area or structure area used exclusively for the temporary storage of motor vehicles.

A.2.533. *Parkway:* The area located within a public right-of-way between the outer curb line and the adjacent property line.

A.2.534. *Parkway tree:* A tree 10 inches or larger, which is located within the parkway and which may be used for meeting tree preservation requirements and landscape requirements, but is not required to be counted in calculating the minimum tree preservation percentage.

A.2.535. *Parolee:* A convicted felon who has been approved for parole but who is to be housed in a short-term “transitional home” prior to entering society with the privileges and conditions of a parolee.

A.2.536. *Pattern book:* A visual presentation of the architectural styles of buildings, including the height of cornice lines, roof profiles, finish materials, windows, and ornamentation.

A.2.537. *Pavement section:* The portion of a municipal street that is improved, designed, or ordinarily used for vehicular travel. Does not include a curb, berm, or shoulder. Where curbs are laid, the portion between the face of curbs.

A.2.538. *Pawnshop:* A business that lends money on the security of pledged goods. May also purchase merchandise for resale from dealers and traders.

A.2.539. *Peak-hour trips:* The number of traffic units generated by and attracted to the proposed development during its heaviest hour of use, dependent on type of use.

A.2.540. *Peak shaving:* Controlling post-development peak discharge rates to predevelopment levels by providing temporary detention in a best management practice.

A.2.541. *Perennial stream:* A stream that contains surface water throughout an average rainfall year, as shown on the most recent 7.5-minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.

A.2.542. *Perennial water body:* A lake, pond, or other water body (other than a stream) that contains surface water throughout an average rainfall year, as shown on the most recent 7.5- minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.

A.2.543. *Performance standards:* Regulation of development based on design and improvement standards in Chapter 7 of the LDC and open space ratio, impervious surface ratio, density, and floor area ratio.

A.2.544. *Performance standards (Oil and Gas):* Regulation of oil and gas development based on environmental, historic, cultural or archaeological, health, safety, adequate public facility or service, fiscal impact, emergency preparedness, General and Area Plan Consistency, water availability, traffic impact and other criteria in the LDC..

A.2.545. *Perimeter street:* A street adjoining the exterior boundaries of a subdivision plat or site plan.

A.2.546. *Permanent foundation:* A system of supports for a structure that supports its maximum design load, is constructed of concrete or masonry materials, and is placed at a sufficient depth below grade adequate to prevent frost damage.

A.2.547. *Permanent residence:* The residential address inhabited and maintained by the property owner, which is also listed with the United States Postal Service and with the [STATE BOARD] as the property owner's official residence.

A.2.548. *Permeability:* The capacity of a material to transmit a liquid, which is expressed in terms of hydraulic conductivity of water in centimeters-per-second units of measurement.

A.2.549. *Permit:* See *development approval*.

A.2.550. *Permit (Oil and Gas):* See development approval or development order; Special Use and Development Permit, Building Permit, Grading Permit or Certificate of Completion for an approved Oil and Gas Project.

A.2.551. *Person:* Any natural person, corporation, partnership, trust, entity, organization, joint venture, association (including homeowners' or neighborhood associations), trust, or any other entity recognized by law.

A.2.552. *Personal services:* Establishments primarily engaged in providing services involving the care of a person or his/her apparel, such as laundry cleaning and garment services, garment pressing, linen supply, diaper service, coin-operated laundries, dry cleaning plants, carpet and upholstery cleaning, photographic studios, beauty shops, barber shops, shoe repair, hat cleaning, funeral services, reducing salons and health clubs, and clothing rental.

A.2.553. *Personal wireless service:* Commercial mobile services (including cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, and paging), unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

A.2.554. *Pervious pavement:* A pavement system with traditional strength characteristics but which allows rainfall to percolate through it rather than running off. A pervious pavement system uses either porous asphalt, pervious concrete, or plastic pavers interlaid in a running bond pattern and either pinned or interlocked in place. Porous asphalt consists of an open graded course aggregate held together by asphalt with sufficient interconnected voids to provide a high rate of permeability. Pervious concrete is a discontinuous mixture of Portland cement, coarse aggregate, admixtures, and water that allows for passage of run-off and air. Examples of permeable pavement systems include Grasspave2®, Gravelpave2®, Turfstone®, and UNI Eco-stone®.

A.2.555. *Phased construction project:* Any land development project that is developed in greater than a single phase and that is identified by the issuance of development approvals.

A.2.556. *Phased subdivision application:* An application for subdivision approval submitted pursuant to a preliminary plat, or at the option of the subdivider, pursuant to a specific plan in which the applicant proposes to immediately subdivide the property but will develop in one or more individual phase or phases over a period of time. May include an application for approval of, or conversion to, horizontal or vertical

condominiums, nonresidential development projects, planned developments, mixed-use projects, and residential developments.

A.2.557. *Physical or mental impairment:* Orthopedic, visual, speech, or hearing impairments; Alzheimer's disease; pre-sterile dementia; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; autism; or emotional illness.

A.2.558. *Pipeline development:* A project that has received final development approval but construction has not commenced on the project.

A.2.559. *Pit:* A surface or subsurface impoundment, man-made or natural depression, or diked area on the surface that is earthen excavation used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells.

A.2.560. *Pitch:* The slope of a roof as determined by the vertical rise in inches for every horizontal 12-inch length (called the "run"). Expressed with the rise mentioned first and the run mentioned second (e.g., a roof with a 4-inch rise for every horizontal foot has a 4:12 pitch).

A.2.561. *Plan Amendment:* Any amendment of the General Plan, or Sector Plan, a Specific Plan, a Neighborhood Plan or a Traditional Plan.

A.2.562. *Planned capital improvement:* A capital improvement that does not presently exist but which is included within the capital improvements program, plan or budget, and is funded, constructed, or otherwise made available within the time period prescribed.

A.2.563. *Planned development:* A development constructed on a tract of minimum size under single ownership planned and developed as an integral unit and consisting of a combination of residential and/or nonresidential uses on the land.

A.2.564. *Planning Commission:* The County's planning commission established in accordance with law; See *CDRC*.

A.2.565. *Planning Sector:* One of the four planning divisions of the geographical unincorporated area of the county as designated in the Growth Management Element of the General Plan.

A.2.566. *Plat:* A complete and exact map representing a tract of land, showing the boundaries and location of individual lots, easements, and streets, which has been approved by the planning commission and recorded in the office of the county clerk. Includes a replat.

A.2.567. *Police power:* Inherent, delegated, or authorized legislative power for purposes of regulation to secure health, safety, and general welfare and to prevent public nuisances.

A.2.568. *Pollutants:* Any element, chemical, compound, organism, or material that alters the chemical, physical, biological, and/ or radiological integrity of water.

A.2.569. *Pollution:* The contamination or other degradation of the physical, chemical or biological properties of land, water or air, including a change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance onto the land or into the water or air that will, or is likely to, create a nuisance or render such land, water or air harmful, detrimental or injurious to the public health, safety or welfare, or harmful, detrimental or injurious to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock, wildlife, birds, fish or other aquatic life.

A.2.570. *Pooling:* A term frequently used interchangeably with unitization but more properly used to denominate the bringing together of small tracts sufficient for the granting of a well permit under applicable spacing rules, as distinguished from unitization, which term is used to describe the joint operation of all or some portion of a producing reservoir. Pooling is important in the prevention of drilling of unnecessary and uneconomic wells, which result in physical and economic waste. The term pooling is also used occasionally to describe cross-conveyances of mineral or royalty interests by separate owners or conveyances of such interests to a trustee for the purpose of sharing the income from production of wells drilled anywhere on the consolidated tract. The former usage of the term related to the working interest alone or to the working and non-operating interests; the latter usage typically relates to the non-operating interests only.

A.2.571. *Porch:* A roofed area, which may be glazed or screened, attached to or part of and with direct access to or from a structure, and usually located on the front or side of the structure.

A.2.572. *Preliminary plat:* The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the planning commission for approval

A.2.573. *Premature subdivision:* See *antiquated subdivision*.

A.2.574. *Primary arterial:* A road intended to move through traffic to and from major attractors, such as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the governmental unit; and/or as a route for traffic between communities or large areas and/or that carries high volumes of traffic.

A.2.575. *Primary surface:* The area extending a distance of 50 feet to both sides of the centerline of a private airport's runway, and running the distance of the runway.

A.2.576. *Principal arterial:* See *major arterial*.

A.2.577. *Principal building:* A building or structure or, where the context so indicates, a group of buildings or structures, in which the principal use of a lot or parcel is conducted. This includes any buildings that are attached to the principal structure by a covered structure. Also known as “principal structure.”

A.2.578. *Principal dwelling:* A dwelling unit that constitutes the principal building or principal structure on a lot or parcel.

A.2.579. *Principal structure:* See *principal building*.

A.2.580. *Principal use:* The primary or main use of land or structures, as distinguished from a secondary or accessory use.

A.2.581. *Private club:* See *club*.

A.2.582. *Process:* The act of reviewing and providing a decision on an application. This includes providing notice to the applicant and interested parties, conducting a hearing, making recommendations, and rendering a decision.

A.2.583. *Processing and warehousing:* The storage of materials in a warehouse or terminal and where such materials may be combined, broken down, or aggregated for transshipment or storage purposes where the original material is not chemically or physically changed.

A.2.584. *Producing:* The development stage in which marketable quantities of oil or gas, or both, are extracted from a well and may also signify the extraction level at which the quantitative terms of the lease are fulfilled.

A.2.585. *Production rights:* The exclusive right to explore for, produce and develop oil, gas or mineral resources within a given area or zone.

A.2.586. *Professional engineer:* An engineer licensed by the State of New Mexico.

A.2.587. *Projected traffic:* The traffic that is projected to develop in the future on an existing or proposed road.

A.2.588. *Property owner:* The person, entity, corporation, or partnership in whose name a certificate of occupancy is issued; the current owner of the property if a certificate of occupancy is no longer valid; or, if the current owner cannot be contacted after due diligence, the lessee/occupant of the property who is in apparent control of such property.

A.2.589. *Proportionate share:* Bearing a reasonable relationship to the burden imposed by a development project upon the County to provide additional public services to a development; calculated using the same methodology used to determine an impact fee for such services, if any.

A.2.590. *Proposed development:* The uses, structures, and buildings contained in the application for development approval.

A.2.591. *Proposed project (Oil and Gas):* The uses, structures, and buildings contained in an application for an oil and gas project approval.

A.2.592. *Provider:* A person, business, corporation, partnership, trust, association, joint venture or other entity licensed by the OCD.

A.2.593. *Public art:* Unique artwork in a variety of media that may be an integral part of eligible capital improvements projects, and produced by a professional artist, or an artist in collaboration with an architect, landscape architect, or professional engineer. Works may be permanent or temporary and functional or nonfunctional.

A.2.594. *Public facilities project:* Any and all public improvements, including, but not limited to: (1) water mains, pipes, conduits, tunnels, hydrants, and other necessary works and appliances for providing water service; (2) lines, conduits, and other necessary works and appliances for providing electric power service; (3) mains, pipes, and other necessary works and appliances for providing gas service; (4) poles, posts, wires, pipes, conduits, lamps, and other necessary works and appliances for lighting purposes; (5) pedestrian facilities, such as sidewalks, bikeways, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, culverts, and bridges; (6) parks and parkways, recreation areas (including all structures, buildings, and other facilities necessary to make parks and parkways and recreation areas useful for the purposes for which they were intended); (7) sanitary sewers or instrumentalities of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels, or other appurtenances; (8) drains, tunnels, sewers, conduits, culverts and channels for drainage purposes, with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, channels, and appurtenances; (9) stations, trucks, pumps, pipes, hydrants, and appliances for fire protection; (10) breakwaters, levees, bulkheads, groins and walls of rock, or other material to protect the streets, places, public ways, and other property from overflow by water, or to prevent beach erosion or to promote accretion to beaches; (11) works, systems, or facilities for the transportation of people, including rolling stock and other appurtenant equipment such as traffic signs, signals, lights, and lighting; (12) temporary and permanent school buildings; (13) police stations; (14) public works maintenance facilities; and (15) all other work auxiliary to any of the above that may be required to carry out that work, including, but not limited to, administrative, engineering, architectural, and legal work performed in connection with establishing, implementing, and monitoring public facilities projects; and acquisition of any and all property, easements, and rights-of-way that may be required to carry out the purposes of the project.

A.2.595. *Public facility service area:* Any area to which public facilities are extended or constructed and that obtain a benefit from the facilities.

A.2.596. *Public hearing:* A proceeding preceded by published notice and actual notice to certain persons and at which certain persons, including the applicant, may present oral comments or documentation. In a quasi-judicial or administrative hearing, witnesses are sworn and are subject to cross-examination.

A.2.597. *Public improvement:* Any drainage ditch, roadway, parkway, bikeway, park, school site, drainageway, easement, open space, natural resource, sidewalk, pedestrian way, off-street parking area, lot improvement, or other facility or land for which the County may ultimately assume responsibility for maintenance and operation, or which may effect an improvement for which County responsibility is established.

A.2.598. *Public improvement district:* a public improvement district formed pursuant to NMSA §§ 5-11-1 through 5-11-27 (1978) with the power to levy taxes, special levies, fees, charges, or assessments for the construction, maintenance, repair and operation of public improvements and enhanced services for public safety, fire protection, street or sidewalk cleaning and landscape maintenance.

A.2.599. *Public meeting:* A meeting of the Board, planning commission, or other administrative agency, preceded by notice, open to the public, and at which the public may, at the discretion of the body holding the public meeting, be heard.

A.2.600. *Public property:* Property that is owned by the County or any agency of the state or federal government.

A.2.601. *Public right-of-way:* A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation, and used or intended to be used, wholly or in part, as a public street, alley, walkway, drain, or public utility line.

A.2.602. *Public works official:* The official designated by the County to manage the Department of Public Works or his/her designee.

A.2.603. *Quadraplex:* See *Dwelling, four-family (quadraplex)*.

A.2.604. *Quarry:* A tract of land used primarily for the extraction of limestone or other similar materials for processing, sale, or use for any purpose. Does not include exploration, excavation, or extraction of oil or natural gas, or excavation or grading necessary for the development of a lot or tract.

A.2.605. *Radio frequency emissions:* Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related

equipment on the ground, antenna supporting structure, building, or other vertical projection.

A.2.606. *Rear yard:* An area extending the full width of a lot between the rear lot line and the nearest principal structure.

A.2.607. *Receiving parcel:* A parcel of land that is the recipient of a transfer of development rights, directly or by intermediate transfer from a sending parcel or a TDR Bank,

A.2.608. *Reclamation (Oil and Gas):* The employment during and after an oil and gas operation of procedures reasonably designed to minimize, as much as practicable, the disruption from the oil and gas facility and to provide for the rehabilitation of affected land through the use of plant cover, soil, stability, water resources, or other measures appropriate to the subsequent beneficial use of such reclaimed lands. Any land or Oil or Gas Facility not required for production shall be reclaimed immediately after drilling ceases.

A.2.609. *Reclamation:* The employment during and after a development of countywide impact reasonably designed to minimize, as much as practicable, the disruption to the site and environment and to provide for the rehabilitation of affected land through the use of plant cover, soil, stability, water resources, or other measures appropriate to the subsequent beneficial use of such reclaimed lands.

A.2.610. *Reconstruction:* The act or process of reassembling, reproducing, or replacing by new construction the form, detail, and appearance of property and its setting as it appeared at a particular period of time by means of the removal of later work, by the replacement of missing earlier work, or by the reuse of original materials.

A.2.611. *Recreational vehicle:* A vehicle that is built on a single chassis; 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

A.2.612. *Recreation facility, neighborhood:* Those recreational facilities operated on a nonprofit basis to include a swimming pool, wading pool, tennis courts, badminton courts, play areas, and clubhouse, all to be used exclusively by and for the benefit of dwelling owners, tenants, and their guests in certain defined adjoining areas.

A.2.613. *Recycling business:* A business that is: (1) primarily engaged in converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value; or (2) using raw material products of that kind in the production of new products; or obtaining or storing ferrous or nonferrous metals or other materials for a purpose described by subsections (1) or (2), above.

A.2.614. *Regional stormwater improvements:* Regional detention and retention ponds, watershed protection, land purchase, waterway enlargement, channelization, and improved conveyance structures.

A.2.615. *Registered engineer:* A professional engineer properly licensed and registered in the state.

A.2.616. *Registered family home:* A child care facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six additional elementary school children, but where the total number of children, including the caretaker's own, does not exceed 12 children at any given time.

A.2.617. *Registered land surveyor:* A land surveyor properly licensed and registered in the state.

A.2.618. *Regulatory flood:* A flood having a 1 percent chance of being equaled or exceeded in any given year.

A.2.619. *Regulatory floodplain:* The land within the community subject to flooding during a 100-year frequency storm event, assuming that ultimate development has occurred throughout the watershed. The regulatory 100-year floodplain is limited to the reach of the stream that is designated as an area of special flood hazard on the Flood Insurance Rate Maps.

A.2.620. *Rehab center:* See *transitional home*.

A.2.621. *Rehabilitation:* The act or process of returning a building, object, site, or structure to a state of utility through repair, remodeling, or alteration, which makes possible an efficient contemporary use while preserving those portions or features of the building, object, site, or structure that is significant to its historical, architectural, and cultural values.

A.2.622. *Relocation:* Any change of the location of a building, object, or structure in its present setting or to another setting.

A.2.623. *Rental unit:* A designated unit that is not a condominium, stock cooperative, or community apartment.

A.2.624. *Repetitive loss:* Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

A.2.625. *Request for proposal:* A County document describing a project or services and soliciting bids for a consultant's or contractor's services or performance. (RFP).

A.2.626. Request for qualifications: a statement of qualifications prepared by a consultant or contractor and submitted to the County in response to an RFP. The RFQ should contain: contract information (where required), a description of all the parties joining in the RFQ, resumes of all key personnel, statements of qualifications, availability, a list of projects completed by the firms joining in the RFQ, and references,

A.2.627. Reproducible: a copy, representation or duplicate required to be submitted to the Administrator as part of an application, including but not limited to construction and engineering plans, as-built drawings, plats, concept plans, site plans, assessments, reports, studies or other documents.

A.2.628. Reservation: The designation of a portion of a property for a proposed right-of-way without dedication of the right-of-way.

A.2.629. Reserve pit: A pit that is created at the drilling site of an oil or gas well for drilling fluid and mud and other materials used in or produced during drilling.

A.2.630. Residential development: All areas devoted primarily to residential use.

A.2.631. Residential district or residential zoning district: Any of the following zoning districts: “RP” (Resource Protection), “NS” (Neighborhood Suburban), and “NU” (Neighborhood Urban).

A.2.632. Residential driveway approach: A driveway that provides access to property on which a single-family residence, duplex, or multifamily building containing five or fewer dwelling units is located.

A.2.633. Residential property: A building, site, or structure whose use after rehabilitation or restoration (for ad valorem tax exemption) will be for residential uses (i.e., for a single-family, duplex, three-, or four-family dwelling).

A.2.634. Residential streets: Street routes that provide access to local property owners and that connect property to the major thoroughfare or other collector street networks.

A.2.635. Residential structure: A single-family home, an apartment house, a townhouse, a condominium, or any type of dwelling unit.

A.2.636. Resort: See *hotel, full service*.

A.2.637. Resource: A source or collection of buildings, objects, sites, structures, or areas that exemplify the cultural, social, economic, political, archaeological, or architectural history of the nation, state, or city.

A.2.638. Restoration: The act or process of accurately recovering the form and details of a building, object, site, or structure and its setting as it appeared at

a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

A.2.639. *Restricted parking area:* The area within the front yard of a lot within which the parking of oversized vehicles is regulated. Extends to a depth of 15 feet from the street curb or, if there is no curb, from the edge of the roadway whether paved or unpaved.

A.2.640. *Restrictive covenant:* A covenant creating restrictions applicable to development within a subdivision.

A.2.641. *Resubdivision:* Any change in a finally approved or recorded subdivision plat that affects any condition of the development order, any street layout on the map, any area that is reserved for public use, or any lot line. Any plat, map, or plan legally recorded prior to the adoption of any regulations controlling subdivisions shall not be valid and no development approval shall be issued on such map, plat, or plan until same has been approved through the resubdivision process.

A.2.642. *Retail trade:* Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Characteristics of retail trade establishments include the following: the establishment is usually a place of business and is engaged in activity to attract the general public to buy; the establishment buys and receives as well as sells merchandise; the establishment may process some of the products, but such processing is incidental or subordinate to the selling activities; and retail establishments sell to customers for their own personal or household use.

A.2.643. *Retail use:* Any use engaged in retail trade, including any use listed under the category “Commercial Buildings” in the use matrix (Table 3-4, Use Matrix, in Chapter 3, Zoning, of the LDC).

A.2.644. *Retention Facility:* A facility used for storage of peak discharge rates of stormwater runoff, or which provides storage for pollutants, chemicals, minerals, oil, gas, rocks, mud, sediments, gray water or materials.

A.2.645. *Reverse curve:* A segment of a street at which two horizontal curves reverse direction.

A.2.646. *Reviewing agency:* Any agency of the County charged with the authority to render a decision approving, denying, or approving with conditions an application.

A.2.647. *Rezoning:* The redesignation of an area, lot, or parcel from one zoning district to another.

A.2.648. *Right-of-way:* Property that is publicly owned or upon which a governmental entity has an express or implied property interest (e.g., fee title

or easement) held for a public purpose. Examples of such public purpose include, by way of example and not by limitation, a highway, a street, sidewalks, drainage facilities, a crosswalk, a railroad, a road, an electric transmission line, an oil or gas pipeline, a water main, a sanitary or storm sewer main, shade trees, or for any other special use. The usage of the term “right-of-way” for subdivision platting purposes means that every right-of-way established and shown on a final plat is separate and distinct from the lots or parcels adjoining the right-of-way, and is not included within the dimensions or areas of such lots or parcels. Rights-of-way involving maintenance by a public agency are dedicated to public use by the maker of the plat on which the right-of-way is established.

A.2.649. *Road, private:* Any road not dedicated to the public and to be maintained by a private entity. All private roads must meet the same standards as provided for public roads in the Santa Fe County Oil and Gas and Growth Management Elements. Private roads will only be permitted if the Applicant enters into a development agreement for which construction, operation, maintenance standards and financial terms will be provided in the development agreement.

A.2.650. *Roof line:* In the case of a flat or pitched roof, the uppermost line of the roof of a building; in the case of a parapet, the uppermost height of the parapet.

A.2.651. *Roof sign:* A sign erected and constructed wholly on or above the roof of a building and supported by the roof structure.

A.2.652. *Rooming house:* See *boarding house*.

A.2.653. *Root collar:* An encircling structure of swollen tissue or a marked color change (from the tree bark) located at the highest part of the root system joining into the trunk of a tree at or slightly below the surrounding soil line.

A.2.654. *Root protection area:* An area in which limited construction may take place for the purposes of establishing sidewalks, driveways, utility connections, sodding, and landscaping within single-, two-, and three-family developments.

A.2.655. *Root protection zone:* An area with a radius of 1/2 foot for each inch of diameter breast height of a trunk or, if branching occurs at 4-1/2 inches, the diameter is measured at the point where the smallest diameter closest to the branching occurs. The zone need not be exactly centered around the tree or be circular in shape, but it must be positioned so that no disturbance occurs closer to the tree than lesser of one-half of the radius of the zone or within 5 feet of the tree. For any tree or groups of trees, the zone need not exceed 1,000 square feet in size. The radial root protection zones of trees may overlap one another so that the area of protection required for

one tree may be shared by the area of protection required for another tree in order to minimize the total square footage of protected area where possible.

A.2.656. Runway: A defined area in an airport prepared for landing and taking off of aircraft along its length. Includes planned future paved runways and extensions of runways as shown on the official airport layout plan and on the Airport Hazard Zoning Maps of these regulations.

A.2.657. Rural tier: See *tier*.

A.2.658. Safety lane: A designated area on an approved plat that has a primary purpose of providing access for safety vehicles.

A.2.659. Sale or lease: Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or other transfer of an interest in the surface or subsurface, whether by metes and bounds or lot and block description.

A.2.660. Salvage yard: See *junkyard*.

A.2.661. Same ownership: Ownership in whole or in part or separate parcels, tracts, or lots, whether contiguous or not, by any corporation, partnership, trust, business entity, or any individual owning any stock or legal or equitable interest in such corporation, partnership, trust, or business entity, or individually.

A.2.662. Same ownership (Oil and Gas): Ownership in whole or in part on the same or separate mineral estates, leases, parcels, tracts, or lots, whether contiguous or not, by any person, corporation, partnership, trust, business, entity, association, fund, joint venture or any individual owning any stock or a legal or equitable interest in such common ownership, person, corporation, partnership, trust, business, entity, association, fund, joint venture or individually, as of the date of enactment of the Interim Development Ordinance on February 24, 2008. Same ownership shall include common operation or control under an oil and gas unit consisting of multiple leases with varied ownership.

A.2.663. Sand or gravel pit: A tract of land used primarily for the extraction of soil, sand, gravel, clay, and other similar materials, other than oil or gas, which are processed and sold or used for commercial purposes. Does not include the excavation or grading necessary for the development of a lot or tract.

A.2.664. Sanitary landfill: A controlled area of land upon which solid waste is disposed of in accordance with standards, rules, or orders established by the State of New Mexico.

A.2.665. Satellite dish antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, cone,

or horn; and is to be used to transmit and/or receive electromagnetic waves between terrestrially and/or orbitally based uses.

A.2.666. *Satellite earth station:* Any device or antenna, including associated mounting devices or antenna supporting structures, used to transmit or receive signals from an orbiting satellite, including television broadcast signals; direct broadcast satellite services; multichannel, multipoint distribution services; fixed wireless communications signals; and any designated operations indicated in the Federal Communications Commission's Table of Allocations for satellite services.

A.2.667. *Scale:* The relationship of a building or structure to its surroundings with regard to its size, height, bulk, and/or intensity.

A.2.668. *School:* An institution or place for instruction or education, such as kindergarten; elementary, middle, or junior high school; high school; college; or university. See *school, business, or commercial trade*.

A.2.669. *School, business, or commercial trade:* A business organized to operate for a profit, offering instruction and training in a trade, a service, or an art.

A.2.670. *School, public:* A building or structure, including accessory buildings, grounds, or areas, owned and operated by a school or university, which is part of a school district or system organized pursuant to the State of New Mexico's statutes and which is used for teaching, research, or the preservation of knowledge.

A.2.671. *Screen or screening:* Vegetation, fence, wall, berm, or a combination of any or all of these that partially or completely blocks the view of, and provides spatial separation of a portion or all of a site from, an adjacent property or right-of-way.

A.2.672. *Secondary arterial:* A road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic-generating areas, such as community commercial areas, primary and secondary educational facilities, hospitals, major recreational areas, churches, and offices, and are designed to carry traffic from collector streets to the system of primary arterials.

A.2.673. *Sector:* See *Planning Sector*.

A.2.674. *Security:* The letter of credit or cash escrow provided by the applicant to secure conditions imposed in a development order.

A.2.675. *Sediment:* Soil or other surface material transported by wind or surface water as a product of erosion.

A.2.676. *Sedimentation basins:* Basins that remove pollutants by creating conditions under which suspended solids can settle out of the water column.

A.2.677. *Sedimentation facilities:* Facilities that include debris basins, sedimentation traps, berms, interceptor ditches, land terraces, hay bales, and vegetation ground cover.

A.2.678. *Self-storage facility:* Any building or group of buildings that is composed of contiguous individual rooms, which are rented to the public for the storage of personal property and which have independent access and locks under the control of the tenant.

A.2.679. *Sending Parcel:* A tract, parcel, mineral estate or lease, or lot of land that is a transferor of development rights and upon such transfer the right to develop on the is extinguished.

A.2.680. *Septic system:* A system for the treatment of sewage or waterborne wastes from a dwelling or business establishment. The septic tank system consists of a watertight drain line from the house to a watertight septic tank, a distribution box, and an absorption field consisting of trench, gravel, and a disposal line.

A.2.681. *Servant's quarters:* An accessory building or portion of a main building located on the same lot as the principal building, occupied only by such persons and their families as are employed full time by occupants of the principal residence.

A.2.682. *Service plan:* A plan that identifies existing and future sewer, water, or utility capital improvements or expansions within designated service areas.

A.2.683. *Setback:* The distance between a building and the street line nearest to the building. Establishes the minimum required yard and governs the placement of structures and uses on the lot.

A.2.684. *Setback line:* The distance from which a building or structure is separated from a designated reference point, such as a property line.

A.2.685. *Shade tree:* A tree in a public place, a street, a special easement, or a right-of-way adjoining a street as provided in these regulations.

A.2.686. *Shared use plan:* A plan that includes the following: a signed statement from the antenna supporting structure owner agreeing to allow future collocations (including combined antennas) on the facility, where reasonable and structurally feasible, including those initiated by providers other than the applicant or provider signing the application; and a written evaluation of the feasibility of accommodating future collocations, which evaluation must address the following, as appropriate: structural capacity of the proposed antenna supporting structure; radio frequency limitations impacting the ability to accommodate collocations; geographical search area requirements; mechanical or electrical compatibility; any restrictions imposed upon the facility by the Federal Communications Commission that preclude future collocations; and additional relevant information as required by the County.

A.2.687. *Sheet flow:* See *overland flow*.

A.2.688. *Shop:* A use devoted primarily to the sale of a service or a product or products.

A.S.689. *Shopping mall:* An integrated grouping of commercial activity, primarily of a retail and personal service nature, in a single building complex having the individual establishments joined by a common covered pedestrian mall.

A.2.690. *Shrub, large:* An upright plant growing to a mature height of more than 10 feet for use as a natural ornamentation or screening.

A.2.691. *Shrub, medium:* An upright plant growing to a mature height of 5 to 10 feet.

A.2.692. *Shrub, small:* An upright plant growing to a mature height of less than 5 feet.

A.2.693. *Side street:* A street intersecting another street with a higher street classification (e.g., a collector street adjoining an arterial street).

A.2.694. *Sidewalk:* The portion of a municipal street between the curb lines or lateral lines of a roadway and the adjacent property lines, which is improved and designed for or is ordinarily used for pedestrian travel.

A.2.695. *Sidewalk café:* An outdoor dining area that is located on a sidewalk and that contains removable tables, chairs, planters, or related appurtenances.

A.2.696. *Side yard:* An area extending the depth of a lot from the front yard to the rear yard between the side lot line and the nearest principal structure.

A.2.697. *Sign:* Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

A.2.698. *Sign area:* The entire advertising area of a sign excluding any framing, trim, or molding, and the supporting structure.

A.2.699. *Sign, billboard (off premise):* Any outdoor sign, description, device, figure, painting, drawing, message, placard, poster, structure, or thing that directs the attention of the traveling public to a business, commercial product, commercial activity, or commercial service, which is conducted, sold, or offered at a location other than the premises on which the sign is located.

A.2.700. *Significant stand of trees or shrubs:* A clustering of at least three trees, of 2-1/2 inches of caliper or greater in size, and trunks spaced at no greater than 10-foot intervals.

A.2.701. *Single-family dwelling:* See *dwelling, single-family detached or dwelling, single-family.*

A.2.702. *Single-family residential development:* A development consisting of a parcel, a lot, or lots, containing only one dwelling unit. The dwelling unit may be detached or attached, a townhouse, a small lot, a home, a manufactured home, or a mobile home.

A.2.703. *Site:* The location of a significant event, a prehistoric or an historic occupation or activity, or a building, structure, or cluster, whether standing, ruined, or vanished, and where the location itself maintains historical, architectural, archaeological, or cultural value regardless of the value of any existing structure; See *Development site.*

A.2.704. *Site (Oil and Gas):* The location of an Oil or Gas Facility or an historic building, structure, or cluster, whether standing, ruined, or vanished, and where the location itself maintains historical, architectural, archaeological, or cultural value regardless of the value of any existing structure.

A.2.705. *Site-generated traffic:* Vehicular trips attracted to, or produced by the proposed development site.

A.2.706. *Site plan:* A scaled drawing for a project that shows the proposed development of the lots, parcels, or tracts, including elevations, sections, architectural, landscape, engineering, and ecological drawings as is required for development approval of the project.

A.2.707. *Slope:* The ratio of elevation change to horizontal distance, expressed as a percentage. Computed by dividing the vertical distance by the horizontal distance and multiplying the ratio by 100. For purposes of this appendix, a “slope” shall include only those areas with a horizontal distance of at least 50 feet.

A.2.708. *Small animal breeder:* Any person or establishment that breeds and/or engages in the feeding or care of more than 10 adult animals other than fish that do not normally exceed 5 pounds at maturity, including, but not limited to, white rats, gerbils, guinea pigs, prairie dogs, gophers, chipmunks, frogs, lizards, the smaller nonpoisonous varieties of snakes, and nonpoultry fowl, such as parakeets, parrots, doves, pigeons, cockatiels, and canaries.

A.2.709. *Small tree:* A tree of a species that normally reaches a height of less than 30 feet upon maturity.

A.2.710. *Soils:* Dirt, sand, and other similar earth matter; rocks and other solid or semisolid mass material, whether produced by man or by nature.

A.2.711. *Solid waste:* Any garbage; refuse; sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; and other

discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities. Does not include: solid or dissolved material in domestic sewage, solid or dissolved material in irrigation return flows, or industrial discharges subject to state or County regulation; soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or waste materials that result from activities associated with the exploration, development, or production of oil or gas.

A.2.712. *Solid waste (Oil and Gas):* Any garbage; refuse; sludge from an oil or gas site; and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from oil and gas activities.

A.2.713. *Solid waste facility:* All continuous land and structures, other appurtenances, and improvements on the land, used for processing, storing, or disposing of solid waste, or used for the purpose of processing, extracting, converting, or recovering energy or materials from solid waste. A facility may be publicly or privately owned and may consist of several processing, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

A.2.714. *Solid waste transfer station:* A place or facility where waste materials are taken from smaller collection vehicles (e.g., compactor trucks) and placed in larger transportation vehicles (e.g., over-the-road tractors utilizing trailers that are top-loaded) for movement to designated disposal areas (usually landfills).

A.2.715. *Spacing:* The subsurface volume, as administratively calculated by OCD. This Ordinance does not determine subsurface spacing or drainage-radius. This Ordinance uses OCD-determined subsurface spacings calculations for purposes of these regulations.

A.2.716. *Special merit:* A building, object, site, or structure having significant benefits to the County or to the community by virtue of exemplary architecture; specific features of land planning; or historic social, cultural, or other benefits having a high priority for community services.

A.2.717 *Special Use and Development Permit (“SUDP”):* A development approval process required for an Oil or Gas Facility subsequent to the granting of a development order approving an Oil and Gas Overlay Zoning District Classification for the project and the issuance of a state permit to drill.

A.2.718. *Specific plan:* An optional plan which may be prepared by an applicant, owning 100 or more acres, seeking discretionary development approval for a mixed use, planned development or development of countywide impact. The specific plan shall be adopted for the purpose of

specifically applying the LDC and the County's General Plan, or any applicable area or traditional community plan to a focused development scheme of over 100 acres under common ownership. A specific plan shall consist of goals, objectives, policies, and implementing strategies for capital improvements, zoning; the level of service required for adequate public facilities and services; physical and environmental conditions; housing and land-use characteristics of the area; and maps, diagrams, and other appropriate materials showing existing and future conditions. A specific plan, by accompanying the development of specific property or properties, provides a bridge between the General, and any area or traditional community plan. A specific plan is considered an amendment to, and a part of, the General Plan and the LDC. A specific plan shall include text and a diagram or diagrams that specify in detail the zoning requirements of the LDC. Land that will be developed in connection with a specific plan shall be subject to major subdivision plat approval. Such subdivision approval may be processed concurrently with the adoption of the specific plan.

A.2.719. *Specified anatomical areas:* Any showing of either the adult or minor human male or female genitals, anus or pubic area with less than a full opaque covering, or the showing of the post-puberty female areola with less than a full opaque covering.

A.2.720. *Specified sexual activities:* Acts of masturbation, sexual intercourse, homosexuality or lesbianism, sodomy, fellatio, sadomasochism, or physical contact with a person's own or another's specified anatomical areas.

A.2.721. *Spot zoning:* rezoning or plan amendment of a parcel of land to benefit the owner for a use or area dimensions that are incompatible with surrounding land and inconsistent with the goals, objectives, land uses, policies and strategies of the General Plan, or applicable area, specific or traditional community plan, and does not further the comprehensive zoning plan, intent, purposes and findings of the LDC.

A.2.722. *Sprawl:* a term used to describe low density development, poorly designed, constructed in a leap frog manner in areas with inadequate public facilities and services, often on environmentally sensitive, farm or ranch lands, automobile dependent, consisting of isolated single family residential lots or neighborhoods requiring excessive transportation trip lengths, contributing to air pollution and global warming, and creating negative fiscal impact on County revenues and costs.

A.2.723. *Stabilization:* The act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated building, object, site, or structure while maintaining the essential form as it exists at present.

A.2.724. *Stable:* a structure used for the shelter or care of horses and cattle.

A.2.725. State: The State of New Mexico and includes all state departments, agencies under the executive branch.

A.2.726. State Engineer: The duly authorized State Engineer of New Mexico whose office has jurisdiction over certain surface and subsurface water rights.

A.2.727. Stealth wireless communications facility: A wireless communications facility, ancillary appurtenance, or equipment enclosure that is not readily identifiable as such, and is designed to be camouflaged and aesthetically compatible with nearby uses. A stealth facility may have a secondary function, including, but not limited to, a church steeple, a bell tower, a spire, a clock tower, a cupola, a light standard, or a flagpole with a flag.

A.2.728. Steep slope: A slope equal to or exceeding 11%.

A.2.729. Store: A use devoted exclusively to the retail sale of commodity or commodities.

A.2.730. Stormwater drainage fees: A method or mix of methods for providing adequate, stable, and equitable funding for a comprehensive stormwater or drainage program. The financing mechanisms included in the method may include, but not be limited to, user fees, new development impact fees, or surcharges on other utility fees.

A.2.731. Stormwater run-off: That portion of the rainfall that is drained into the stormwater drainage system.

A.2.732. Story: That part of a building between the surface of a floor and the ceiling immediately above.

A.2.733. Streamflow: Water flowing in a natural channel, above ground.

A.2.734. Street: A right-of-way that provides a channel for vehicular circulation; is the principal means of vehicular access to abutting properties; and includes space for utilities, sidewalks, pedestrian walkways, and drainage. Any such right-of-way is included in this definition, regardless of whether or not it is developed. Includes any vehicular way that: is an existing state, county or municipal roadway; is shown upon a plat approved pursuant to law; or is approved by other official action; and includes the land between the street lines, whether improved or unimproved.

A.2.735. Street, arterial: A street use primarily for fast or heavy traffic and designated in the major thoroughfare plan as a primary arterial street, secondary arterial street, or expressway.

A.2.736. Street classification: See Table 5-26, Functional Street Classification System, § 5.23 Street Design and Transportation in Chapter 5, Development Standards, of the LDC.

- A.2.737. *Street, collector:*** See § 5.23.2 Classification in Chapter 5, Development Standards, of the LDC.
- A.2.738. *Street, cul-de-sac:*** A street with a single common ingress and egress and with a turnaround at the end.
- A.2.739. *Street, dead-end:*** A street with a single common ingress and egress.
- A.2.740. *Street, elbow:*** A turn in a minor street that includes extra pavement adequate for a turnaround.
- A.2.741. *Street, eyebrow:*** A paved area placed along the linear portion of a street that allows both unimpeded through and turnaround traffic movements.
- A.2.742. *Street, intersection:*** The area in which two or more streets cross at grade.
- A.2.743. *Street lawn:*** A planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way, and that provides a transition from vehicular thoroughfares, pedestrian areas, or the built environment.
- A.2.744. *Street link:*** A section of a street on the major thoroughfare plan or a local street, which is defined by a node at each end or at one end. Stubs to adjacent property shall not be considered links.
- A.2.745. *Street, local:*** A street designed to provide vehicular access to abutting property and to discourage through traffic.
- A.2.746. *Street, private:*** Any street not dedicated to the public and to be maintained by a private entity.
- A.2.747. *Street right-of-way width:*** The distance between property lines measured at right angles to the centerline of the street.
- A.2.748. *Street/road, collector:*** A “collector,” as defined in Table 5-26, Functional Street Classification System, in Chapter 5, Development Standards, of the LDC.
- A.2.749. *Streetscape:*** The general appearance of a block or group of blocks with respect to the structures, setbacks from public rights-of-way, open space, and the number and proportion of trees and other vegetation.
- A.2.750. *Street, stub:*** A temporary portion of a street not greater than one lot’s length allowed as a future connection to an adjacent subdivision or phase.
- A.2.751. *Street tree:*** A tree planted along a street or roadway behind the right-of-way line or between a sidewalk and the edge of the paved surface of a roadway.

A.2.752. Structure: Anything constructed or a combination of materials that form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface. A structure includes a building.

A.2.753. Structure, completely enclosed: A structure that is enclosed on all sides by permanent walls.

A.2.754. Structured parking: The provision of parking in a building involving at least two levels.

A.2.755. Study area boundary: For purposes of the adequate public facilities standards, the boundary identified in Chapter 6, Adequate Public Facilities, of the LDC for a traffic impact analysis.

A.2.756. Subdivide: The act or process of creating a subdivision.

A.2.757. Subdivider: Any person who: having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision; engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision; or is directly or indirectly controlled by, or under direct or indirect common control with, any of the foregoing.

A.2.758. Subdivision: Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development, whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Includes the division or development of residential and nonresidential zoned land, whether by deed, metes-and-bounds description, devise, intestacy, lease, map, plat, or other recorded instrument, resubdivision approval of antiquated plats, and condominium creation or conversion. Any land, vacant or improved, which is divided, or proposed to be divided, into two or more lots, parcels, sites, units, condominium units, tracts, plots, or interests for the purpose of offer, sale, lease, or development, whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, partition, devise, intestacy, lease, map, plat, or any other recorded instrument. Subdivision includes resubdivision, approval of antiquated plats, condominium, cooperative, or time-share creation or conversion, judicial partition, or division into lots, parcels, or unit through probate, equitable proceedings, or any other judicial proceeding.

A.2.759. Subdivision agent: Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing, or

offering to sell, lease, or develop, any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney at law whose representation of another person consists solely of rendering legal services.

A.2.760. *Subdivision improvement agreement:* A contract entered into by the applicant and the planning commission on behalf of the County, which the applicant promises to complete the required public improvements within the subdivision within a specified time period following final subdivision plat approval.

A.2.761. *Subdivision, major:* See *major subdivision*.

A.2.762. *Subdivision, minor:* See *minor subdivision*.

A.2.763. *Subdivision plat:* The final map or drawing, described in these regulations, on which the sub-divider's plan of subdivision is presented to the planning commission for approval and which, if approved, may be submitted to the County clerk or recorder of deeds for filing.

A.2.764. *Subject property:* The property subject to an application for development approval.

A.2.765. *Subsurface estate:* See mineral estate or subsurface oil and gas lease.

A.2.766. *Subsystem improvement:* A capital improvement that is not a project improvement nor a system improvement, and which may include, but is not necessarily limited to, collector streets, lateral and collector sewer lines and pump stations serving a subdrainage basin, pocket and neighborhood parks, subarea water storage facilities and distribution lines, and subdrainage basin drainage improvements.

A.2.767. *Suburban tier:* See *tier*.

A.2.768. *Swale:* A low lying or depressed stretch of land without a defined channel or tributaries.

A.2.769. *Symmetry:* A balance of architectural components in a structure.

A.2.770. *System improvement:* The following capital improvements: arterial streets, wastewater treatment plants, pump stations and interceptor lines serving a drainage basin, community and regional parks, water supply, mains and storage facilities, and major drainage improvements serving a drainage basin.

A.2.771. *Tank:* A cylinder made of steel or other impervious material that is designed to store oil or other liquid hydrocarbons, water, produced water or other liquids used in the drilling or production of an oil or gas well.

A.2.772. Tank Battery: A group of Tanks located at a convenient point for storing oil prior to transportation by truck or pipeline to a refinery.

A.2.773. Tavern: Any use in which the primary purpose is the sale of alcoholic beverages for on-premises consumption, which may or may not include dancing.

A.2.774. Temporary common worker employer: A person or agency that provides common worker employees to a third-party user, that maintains a central location where common workers assemble and are dispatched to work, and that is required to obtain a license from the State of New Mexico.

A.2.775. Temporary improvement: Improvements built and maintained by a sub-divider during construction of the subdivision and prior to release of the performance bond.

A.2.776. Terminal: A facility where flammable or combustible liquids are received by a tank vessel, pipelines, a tank car, or a tank vehicle, and which are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container. See *bulk plant*.

A.2.777. Tertiary containment: A method by which a third level of containment is provided for underground storage tanks by means of a wall or barrier installed around a double-walled tank and piping system (or approved alternative) in a manner designed to prevent a release of the regulated substance from migrating beyond the tertiary wall or barrier before the release can be detected if a failure in the secondary containment level occurs.

A.2.778. Tertiary protection: A method by which a third level of protection is provided for underground storage tank systems by means of either: a physical level to be installed around a double-walled tank and piping system, designed to prevent a release of the regulated substance from migrating into the environment, should such a release go undetected at the secondary containment level; or equivalent technology, which includes continuous electronic leak detection for the entire system at a centralized location with dedicated personnel, site-specific training, annual testing for system integrity, and reporting to the public or private water utility any release from the primary system.

A.2.779. Thematic group: A finite group of resources related to one another in a clearly distinguishable way, by association with a single historic person, event, or developmental force, as one building type or use, as designed by a single architect, as a single archaeological site form, or as a particular set of archaeological research.

A.2.780. Tier: A geographical and functional basis for ordering of zoning districts based upon location within a rural, suburban, and urban setting.

A.2.781. *Townhouse:* A building that has single-family dwelling units erected in a row as a single building on adjoining lots, each being separated from the adjoining unit or units by a fire wall (to be constructed in accordance with city codes and ordinances), along the dividing lot line, and each such building being separated from any other building by space on all sides.

A.2.782. *Tract:* A lot. The term “tract” is used interchangeably with the term “lot,” particularly in the context or subdivision, where a “tract” is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts, or interests.

A.2.783. *Traditional community plan:* A “traditional community plan” means a plan that guides the extension of the boundaries, platting, development or redevelopment of an historical traditional community in order to make reasonable use of all land, correlate street patterns, and achieve the best possible land-use relationships. A traditional community plan is considered an amendment to, and a part of, the General Plan.

A.2.784. *Traditional neighborhood development regulations:* See § 2.6 Traditional Neighborhood Development in Chapter 2, Use Patterns, of the LDC.

A.2.785. *Traffic impact report or analysis:* A study performed by professional engineers with expertise in traffic engineering principles and practice, which reviews development of a specific property and analyzes how it integrates into the existing and proposed city street network and ongoing traffic study. The report or analysis utilizes data and conclusions developed in previous studies, and identifies improvements needed to mitigate the impact of traffic generated by a development on the street network system.

A.2.786. *Transfer of development rights:* The conveyance of development rights by deed, easement, or other legal instrument, authorized by ordinance or regulation, to another parcel of land and the recording of that conveyance.

A.2.787. *Transfer of development rights (Oil and Gas):* The conveyance of oil or gas development rights to a receiving parcel by deed, easement, or other legal instrument by a subsurface mineral estate owner or oil and gas lessee.

A.2.788. *Transitional home:* A residential facility, differentiated from facilities that provide on-site, supervised lodging for individuals who are required to reside at the facility as a term of parole or who are under mandatory supervision. Also called “rehab center” or “half-way house.”

A.2.789. *Transit station:* A building, structure, or area designed and located on a busway or a light rail line, used for the picking up and/or dropping off of passengers, embarking, or changing transportation modes. Facilities and improvements may include shelters, benches, signs, structures, and other improvements that provide security, weather protection, and access to nearby services.

A.2.790. *Transparent:* Capable of transmitting light in a manner that permits a person standing outside of a building to view shapes, tones, and objects inside a building. A tinted window is considered “transparent” if it meets this definition.

A.2.791. *Transportation standards:* See § 5.23 Street Design and Transportation in Chapter 5, Development Standards, of the LDC.

A.2.792. *Tree:* A perennial woody plant, with single or multiple trunks, with few if any branches on its lower part, and which at maturity will obtain a minimum 6-inch caliper.

A.2.793. *Tree, ornamental:* A small to medium tree, growing to a mature height of 15 to 40 feet.

A.2.794. *Tree preservation development approval:* An authorization by the city arborist authorizing specific work as it relates to protected and mitigation tree or trees.

A.2.795. *Tree, shade:* A large tree growing to a height of 40 feet or more at maturity.

A.2.796. *Trip generation summary:* A table summarizing the trip generation characteristics of the development for the entire day and the AM and PM peak periods, including the rates and units used to calculate the number of trips.

A.2.797. *Triplex:* See *dwelling, three-family (triplex)*.

A.2.798. *Underground storage tank:* Any one or a combination of underground storage tanks and any connecting underground pipes used to contain an accumulation of regulated substances, the volume of which, including the volume of the connecting underground pipes, is 10 percent or more below grade.

A.2.799. *Underground storage tank system:* An underground storage tank, all associated piping and ancillary equipment, spill and overflow prevention equipment, release detection equipment, corrosion protection system, secondary and tertiary containment equipment (as applicable), and all other related systems and equipment.

A.2.800. *Understory:* Assemblages of natural, low-level, woody, herbaceous, and ground cover species.

A.2.801. *Uniformity:* the requirement that all properties in the same zoning district are subject to the same regulations.

A.2.802. *Unit (Oil and Gas):*

(1) The total area incorporated in a unitization agreement. An area of land, deposit, or deposits of minerals, stratum, or pool or pools, or a part or parts thereof, as to which parties with interests therein are bound to share minerals produced on a specified basis and as to which those having the right to conduct drilling or mining operations therein are bound to share investment and operating costs on a specified basis. A unit may be formed by convention or by order of an agency of the state or federal government empowered to do so. A unit formed by order of a governmental agency is termed a “compulsory unit;” or

(2) The acreage allocated to a particular well.

A.2.803. *Unit agreement:* An agreement or plan of development and operation for the recovery of oil and gas made subject thereto as a single consolidated unit without regard to separate ownerships and for the allocation of costs and benefits on a basis as defined in the agreement or plan.

A.2.804. *Unit operator:* The person, association, partnership, corporation, or other business entity designated under a unit agreement to conduct operations on unitized land as specified in such agreement.

A.2.805. *Unrated Resource:* A building, object, site, or structure that appears on a federal, state, or city inventory or survey but has not been reviewed and rated by the Historic and Design Review Commission following criteria set forth in this appendix.

A.2.806. *Unreasonable economic hardship:* An economic burden imposed upon the owner that is unduly excessive and which prevents a realization of a reasonable rate of return on the value of his/her property as an investment, applying the test utilized by the state case law relating to zoning variances in determining the existence of an unreasonable economic hardship.

A.2.807. *Urban sprawl:* See *Sprawl*.

A.2.808. *Urban tier:* See *tier*.

A.2.809. *Use:* The purpose for which a land or a structure is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased.

A.2.810. *Use matrix:* The list of uses permitted as of right, prohibited, or permitted as a conditional use as set forth in Table 3-4, Use Matrix, in Chapter 3, Zoning, of the LDC.

A.2.811. *Use-to-use relationship:* Focusing on the unique aspects of established, newly developed and redeveloping neighborhoods, and commercial/industrial areas in order to achieve improved compatibility and fit of infill development projects and, at the same time, assist in the

preservation and conservation of stable existing neighborhoods and commercial areas.

A.2.812. Use Variance: A request for a beneficial use and value determination (BUD) to the Board for permission to vary or depart from any development order denying a project application where a literal enforcement of the development order will result in an unnecessary and unconstitutional hardship resulting in a loss of all or substantially all use or value of the property interest in the same or common ownership.

A.2.813. Variance: See *area variance or beneficial use or value determination*.

A.2.814. Verification: The confirmation by the Historic and Design Review Commission that restoration or rehabilitation work completed on an historically significant site in need of tax relief to encourage preservation was substantially completed.

A.2.815. Vertically oriented: Having a height equal to or exceeding at least one and one-half times the width.

A.2.816. Very low-income housing: A household composed of one or more persons with a combined annual net income for all adult members that does not exceed sixty percent (60%) of the median family income of the County.

A.2.817. Vested rights: Right to initiate or continue the use or occupancy of land, buildings or structures, or to continue construction of a building, structure or initiation of a use, pursuant to a prior lawful development approval obtained in good faith, where such use, occupancy of land, or construction is currently prohibited by the LDC or other applicable ordinance, statute, judicial decision or regulation in effect. Vested rights include rights obtained under principles of equitable estoppel. A vested right is not obtained until there is substantial construction on the site, lot or parcel, or a substantial change in position by the applicant, developer or owner in reliance upon the prior lawful development approval.

A.2.818. Vine: A woody plant that spreads as it grows over the ground, walls, or trellises.

A.2.819. Violation: The failure of a use, site, building, or structure to comply with the requirements of the LDC. A use, building or structure without a development approval under the LDC, or registered area or use nonconformity required by the LDC, is presumed to be in violation of the LDC until such time as the owner of the lot, parcel or site documents otherwise to the Administrator.

A.2.820. Vista: A view through or along a street, which, as a view corridor, frames, highlights, or accentuates a prominent building, object, site, structure, scene, or panorama, or patterns or rhythms of buildings, objects, sites, or structures.

A.2.821. *Visually compatible:* The relationship between the scale and design of buildings as defined in Chapter 7 of the LDC. **Walls:** A solid upright barrier, usually constructed of, but not limited to, concrete block, adobe brick or stone, used to enclose or screen areas of land. Walls that are part of a building are not included in this definition.

A.2.822. *Warehousing:* See *processing and warehousing*.

A.2.823. *Watercourse:* A natural or man-made channel through which stormwater flows.

A.2.824. *Watershed:* The area drained by a given stream, river, watercourse, or other body of water.

A.2.825. *Water surface elevation:* The height, in relation to the National Geodetic Vertical Datum of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

A.2.826. *Well:* Any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of exploring for, producing and recovering any oil, gas, liquid, hydrocarbon, or any of them.

A.2.827. *Well site:* See *Drill site*.

A.2.828. *Wetland:* Land that has a predominance of hydric soil; is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and under normal circumstances supports a prevalence of that vegetation.

A.2.829. *Wheelchair ramp:* A sloping concrete pad constructed at crosswalks to assist mobility-impaired citizens using the sidewalks and crosswalks.

A.2.830. *Wholesale trade:* Establishments or places of business primarily engaged in selling merchandise to retailers, industrial, commercial, institutional, or professional business users; to other wholesalers; or to those acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

A.2.831. *Window:* An opening constructed in a wall, which admits light or air to an enclosure, is framed and spanned with glass, and which may be mounted to permit opening and closing.

A.2.832. *Wireless communications:* Any personal wireless service, radio and television broadcast services, and any other radio frequency signals, including amateur radio. Does not include signals transmitted to or from a satellite earth station.

A.2.833. *Wireless communications facility:* Any staffed or unstaffed facility used for the transmission and/or reception of wireless communications, usually consisting of an antenna or group of antennas, transmission lines, ancillary appurtenances, and equipment enclosures, and may include an antenna supporting structure. The following developments will be considered as a wireless communications facility: antenna supporting structures (including replacements and broadcast); collocated antennas; roof-mounted structures; surface-mounted antennas; stealth wireless communications facilities; and amateur radio facilities.

A.2.834. *Wireless communications system:* Antenna support structures for mobile and land-based telecommunication facilities. Whip antennas, panel antennas, microwave dishes and receive-only satellite dishes, cell enhancers, and related equipment for wireless transmission from a sender to one or more receivers, such as for mobile cellular telephones, mobile radio systems facilities, and commercial radio service. This facility is inclusive of the placement of the above- referenced equipment on a monopole tower, a steel lattice tower, and any self-supporting communications tower that does not utilize guy-wire support. This facility shall also allow as one of its components an unmanned equipment shelter.

A.2.835. *Woodland:* An area of contiguous wooded vegetation where trees are at a density of at least one 6-inch or greater caliper tree per 325 square feet of land and where the branches and leaves provide a continuous canopy. For purposes of submitting a site plan or preliminary plat, a “woodland” shall include areas with a continuous canopy of trees over an area of at least 20,000 square feet, and which may be delineated through an aerial photograph or a ground survey. See *Forest*.

A.2.836. *Workforce housing:* housing for employees that is located within or close to the employee’s workplace in order to reduce the number and length of commuting trips to mitigate global warming, air pollution and to provide quality of life and vitality to mixed use sustainable development. Workforce housing will qualify for a portion of a development’s fair share county-wide requirement to provide affordable housing.

A.2.837. *Workplace:* the site of employment, base of operation, or predominant location of an employee.

A.2.838. *Workover:* An operation on a producing oil or gas well to restore or increase production. A workover is typically performed for routine maintenance or repair of downhole oil or gas equipment.

A.2.839. *Wrecking yard:* Outdoor establishments whose principal use is the assembling, dismantling, sorting and the temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wrecking, wholesale or retail sales of parts, and light and heavy processing facilities for

recycling, but not including activities conducted entirely within buildings or structures, the sale of used cars, landfills or other waste disposal sites.

A.2.840. *Xeric landscaping:* A type of landscaping that conserves water and protects the environment by using desert or arid site-appropriate plants, a low use LEEDS certified watering system, and proper maintenance.

A.2.841. *Xeriscape:* Landscaping with native desert plants that utilizes the existing arid environmental conditions to the best advantage, conserving water and protecting the native environment.

A.2.842. *Yard:* An area on a lot between a lot line and the nearest principal or accessory building or structure, required by the LDC to be unoccupied and unobstructed either on, above or below ground level except as otherwise specifically provided in the LDC. A yard may be a front, side or rear yard.

A.2.843. *Yard measurement:* the measurement of a yard so that the building or structure line is parallel to the lot line drawn through the point of a building or structure nearest to the lot line, The measurement shall be taken at right angles from the building or structure line to the nearest lot line.

A.2.844. *Yard waste:* Solid waste consisting of vegetative matter resulting from landscape maintenance, including grass, tree or shrub clippings.

A.2.845. *Zero lot line:* The location of a building or structure on a lot in such a manner that one or more of the building or structure's sides rests directly on, or immediately adjacent to a lot line; or, the location of a building or structure on a lot in which the required side yard is reduced on one side and increased on the other side so that the sum of the side yards equals the sum of the two required side yards.

A.2.846. *Zoning map:* The LDC map that geographically depicts the zoning district boundaries and classifications within the County, including but not limited to overlay zoning classifications, and "PD" (Planned Development) districts, that is on file in the County Clerk's, and Administrator's offices.

ACRONYMS AND ABBREVIATIONS

A	Agriculture Zoning District
ADA	Americans with Disabilities Act
AO	Airport Overlay (overlay zoning district)
AOD	Auto-oriented District (zoning district)
APA	American Planning Association
APF	Adequate Public Facilities
APFA	Adequate Public Facilities and Services Assessment
Appendix “A”	Definitions and Interpretations
Appendix “B”	Applications and Enforcement Forms
Appendix “C”	Applications and Administrative Fee
AR	Agriculture/Ranch Zoning Districts
ASHRAE/IESNA	American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc./ Illuminating Engineering Society of North America
BOARD	Board of County Commissioners
BOC	Back of the Curb
BVR	Building Volume Ratio
CC-PD	Community Central Planning Development Zoning District
CDRC	County Development Review Committee
C.F.R.	Code of Federal Regulations
CG	Commercial General (zoning district)
CIP	Capital Improvement and Services

CN	Commercial Neighborhood
CORPS	U.S. Corps of Engineers
CPO	Community Planning Organization
CUP	Conditional Use Permit
DBH	Diameter Breast Height
DCIS	Development of Countywide Impact
DLIS	Development of Local Impact
DVD	Digital Video Disc
EIR	Environmental Impact Report
ERP	Environmental and Resource Protection Overlay Zoning District
EDU	Equivalent Developing Unit
EPU	Equivalent Planting Unit
“EU”	Extractive Use (zoning district)
FAA	Federal Aviation Administration
FAR	Floor Area Ratio
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FHA	Fair Housing Act
FIA	Fiscal Impact Assessment
FIRM	Flood Insurance Rate Map
GFA	Gross Floor Area
HEC	(United States Army Corps of Engineers) Hydrologic Engineering Center
HFOP	Housing Facility for Older Persons

HOA	Homeowners Association
HVAC	Heating Ventilation and Air-Conditioning
HVAC&R	Heating Ventilation, Air-Conditioning and Refrigeration
IGA	Intergovernmental Agreement
IH	Industrial Heavy Zoning District
IL	Industrial Light (zoning district)
IMP	Integrated Management Practice
ITE	Institute of Transportation
JPA	Joint Powers Agreement
LBCS	(American Planning Association's) Land-Based Classification Standards
LDC	Land Development Code
LDR	Land Development Regulation
LDRC	Local Development Review Committee
LEED®	Leadership in Energy and Environmental Design
LID	Low-Impact Design
LOS	Level of Service
LSR	Livability Space Ratio
LUI	(United States Federal Housing Administration's) Land-Use Intensity (system)
MOU	Memoranda of Understanding
MUTCD	(United States Department of Transportation, Federal Highway Administration, Federal Highway Administration's) Manual on Uniform Traffic Control Devices
MX	Mixed Use (zoning district)

NAICS	North American Industry Classification System
NEC	National Electrical Code
NFPA	National Fire Protection Agency
NIMBY	Not In My Back Yard
NMSA	New Mexico Statutes Annotated
NP	Neighborhood Preservation
NPDES	National Pollution Discharge Elimination System
NS	Neighborhood Urban (zoning district)
O	Office (zoning district)
OILSR	Office of Interstate Land Sales
OP	Opportunity Center
PD	Planned District
PDO	Planned Development (zoning district)
PI	Plasticity Index
PUD	Planned Unit Development
R	Rural Zoning District
RA	Registered Association
RC-PD	Regional Center Planned Development Zoning District
RCD	Resource Conservation District
RE	Residential Estate (zoning district)
RLUIPA	Religious Land Use and Institutionalized Persons Act
RP	Resource Protection (zoning district)
RSR	Recreation Space Ratio

RSWF	Regional Stormwater Facility
RSWMP	Regional Stormwater Management Program
RT	Rural Transit Zoning District
SPEA	Standard Planning Enabling Act
SIC	Standard Industrial Classification
SLDC	Sustainable Land Development Code
SPEA	Standard Planning Enabling Act
SRA	Studies Reports & Assessments
SRI	Solar Reflective Index
SZEA	Standard Zoning
TAC	Technical Advisory Committees
TCA	Telecommunications Act
TCR	Total Car Ratio
TDM	Transportation Demand Management
TDR	Transfer of Development Rights
TIA	Traffic Neighborhood
TND-PD	Transit Neighborhood Development Planned Zoning District
TOD-PD	Traditional Oriented Development Planned Zoning District
TOD-C	Transit Oriented Development Core
TOD-P	Transit Oriented Development Periphery
TOZ	Transit Overlay Zone
UCCC	Uniform Consumer Credit Code
U.S.C.	United States Code

U.S.C.A.	United State Code Annotated
USDA	United States Department of Agriculture
USDOT	United State Department of Transportation
US EPA	United States Environmental Protection Agency
USGBC	United States Green Building Protection Agency
V/C	Volume-To-Capacity (ratio)
VMT	Vehicle Miles Traveled
ZLL	Zero Lot Line