

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

ORDINANCE NO. 2010-__

**AN ORDINANCE REPEALING CERTAIN SECTIONS OF THE SANTA FE COUNTY
LAND DEVELOPMENT CODE, ORDINANCE NO. 1996-10, THAT PERMIT DENSITY
REDUCTIONS FROM BASE ZONING BY REASON OF HYDROLOGIC FINDINGS
AND CALCULATIONS, UNTIL ADOPTION OF THE SUSTAINABLE LAND
DEVELOPMENT CODE; EXCEPTING FAMILY TRANSFER AND LAND DIVISIONS;
DEFINING TERMS.**

WHEREAS, the Santa Fe County Land Development Code of 1996 contains Article III, Section 10 ("Lot Size Requirements") which in turn contains sections 10.1 ("Relationship of Lot Sizes to Water Policy"), 10.2 ("Calculations of Minimum Lot Size"), 10.3 ("Exceptions to Minimum Lot Size Requirements") and 10.4 ("Density Transfer");

WHEREAS, Article III, Section 10 provides generally for density reductions upon a finding that hydrology studies support additional project density;

WHEREAS, this methodology, commonly known as "hydrologic zoning," has proved to be a notoriously ineffective means of providing growth management in the County, and has resulted in uncontrolled sprawl development in many parts of the County;

WHEREAS, the Board of County Commissioners has authorized preparation and adoption of the Sustainable Growth Management Plan, a new County general plan which has been largely completed and has been heard by the County Development Review Committee over twenty times to date and is expected to be considered by the Board of County Commissioners in early Summer of 2010;

WHEREAS, the Sustainable Land Development Plan will recommend adoption of a zoning ordinance with a zoning map, districts and district rules, as well as the adoption of modern land use controls and tools including growth management techniques, sustainable and new urban design and standards, a tier system for location, timing and sequencing of development to limit or control sprawl development, and other important provisions, to be incorporated into a new County land development code known as the "Sustainable Land Development Code" (SLDC);

WHEREAS, "hydrologic zoning" is not expected to be a part of the zoning regime in the SLDC, and it is expected that the SLDC will assign properties into traditional zoning districts according to the existing or expected use of the property;

WHEREAS, the County's present General Plan and Land Development Code have, at present, inadequate goals, objectives, policies, strategies and standards necessary to deal with applications for development approval of General Plan Amendments, Zoning, Subdivisions,

Family Transfers, Land Divisions, Parcel Maps, Nonconforming Uses, Variances, Special and Conditional Use Permits, for which discretionary development approval will be requested resulting in detrimental land use water usage and public nuisance impacts and effects upon public health; safety; planning; fiscal and economic well being; environmental protection and preservation of wetlands, steep slopes, floodplains and floodways, rivers and streams, flora and fauna habitats habitat corridors, archaeological, cultural and historic sites; water supplies and aquifer protection; availability of adequate public facilities and services including police, fire, emergency response, roadways, schools, storm water management, libraries, parks, recreational areas, open space; scenic vistas and eco-tourism sites; and deleterious impact and effect upon the County's ability to contain urban and rural sprawl and to affirmatively generate growth and infill within existing areas of the County, including its cities, already served with adequate public facilities and services;

WHEREAS, adoption of SLDC will require hearings, workshops and public meetings to solicit public input, evaluations and recommendations prior to and after draft consultant and staff reports, plans, ordinances and actions programs are delivered to the County Development Review Committee ("CDRC") and the Board of County Commissioners ("Board") to ensure the benefits of complete discussion and participation by citizens, other governmental agencies and entities, concerned groups and associations, developers, and property owners, who will be affected by or interested in consideration of the SLDC, other ordinances, administrative regulations and action programs, without having a race of diligence with owners, owners' agents or developers submitting applications for legislative and quasi-judicial discretionary development approvals that will significantly erode, and detrimentally and negatively impact upon the new Plan elements, goals, objectives, policies, and strategies, amendments to the Land Development Code, other ordinances, administrative regulations and action programs being considered during the effective date of this Interim Development Ordinance, eliminating the need for hasty adoption of permanent plans, ordinances, regulations and action programs to avoid the establishment of conflicting nonconforming uses or the County's ability to respond to urgent problems in a reasoned timely and prudent manner;

WHEREAS, given the scope of the adverse land use, environmental and public nuisance impacts and effects if this Ordinance is not adopted, this Ordinance is necessary, essential and reasonable to complete the comprehensive planning and public participation process that is ongoing and will result in an adopted and amended General Plan, and amendment of the Land Development Code and other ordinances, proper zoning that is not based on hydrology but on meaningful and legitimate factors, administrative regulations and action programs necessary to implement the planning process; and

WHEREAS, this Ordinance constitutes a valid exercise of the County's land use, planning, zoning, subdivision, police power and public nuisance powers pursuant to NMSA 1978 Sections 3-21-1 et seq., 47-6-11 et seq., 3-17-1 et seq., 3-18-1 et seq., 3-19-1 et seq., and 4-37-1 et seq.,

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, NEW MEXICO:

Section 1. Repeal. Article III, Section 10 ("Lot Size Requirements") of Ordinance No. 1996-10 (1996), the Land Development Code [containing sections 10.1 ("Relationship of Lot Sizes to Water Policy"), 10.2 ("Calculations of Minimum Lot Size"), 10.3 ("Exceptions to Minimum Lot Size Requirements") and 10.4 ("Density Transfer")] shall be and hereby is repealed.

Section 2. Lot Size Requirements. The following is enacted as a new Article III, Section 10 of Ordinance No. 1996-10, the Land Development Code:

"Section 10. Lot Size Requirements. The minimum lot size for any development not served by a public water system or a community water system, is as follows:

"Basin Zone: 10 acres
"Basin Fringe Zone: 50 acres
"Mountain Zone: 80 acres
"Homestead Zone: 160 acres"

Section 3. Certain Family Transfers or Land Transfers Unaffected. This ordinance shall not affect a family transfer or land division that does not seek or require a variance from the provision of the Land Development Code, as amended.

Section 4. Definition: "Family Transfer." For purposes of this ordinance, a family transfer is a division of a surface area of land, including land within a previously approved subdivision, into two or more parcels to create a parcel that is sold or donated by the original donor or seller as a gift or sale to an immediate family member by reason of the provisions of NMSA 1978, § 47-6-2(J)(9).

Section 5. Definition: "Land Division." For purposes of this ordinance, a land division is the division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purposes of sale, lease or other conveyance or for building development, whether immediate or future, including land divisions described in NMSA 1978, §§ 47-6-2(J)(1), (J)(7), (J)(11), (J)(13), but not including land divisions described in NMSA 1978, §§ 47-6-2(J)(2), (J)(3), (J)(4), (J)(5), (J)(6), (J)(8), (J)(10), and (J)(12).

Section 6. Effective Date. This ordinance shall take effect as specified in NMSA 1978, Section 4-37-9 (1975).

Section 7. Severability. If any section, subsection, sentence, clause, item, change or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 8. Conflicts. All ordinances or parts of any ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

DRAFT, May 11, 2010

PASSED AND ENACTED THIS ____th Day of May, 2010.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO**

By: _____
Harry B. Montoya, Chair

ATTEST:

Valerie Espinoza, County Clerk

APPROVED AS TO FORM

By: _____
Stephen C. Ross, County Attorney