

Major Changes from existing code to SLDC

October 9, 2012

Overview

This report outlines major changes from the existing Land Development Code to the SLDC Public Review Draft by Chapter. The SLDC will replace the existing Land Development Code in its entirety with the exception of the community planning ordinances and oil and gas ordinance. This report summarizes major changes only. It does not detail major changes or the regulatory framework established in the SLDC. The report identifies new and revised development application requirements and decision-making standards, processes, and duties. The report also identifies specific sections of the code that need to be completed before the SLDC can be fully implemented.

Chapter 1: General Provisions

1.9 Consistency- New standard.

The code will implement and shall be consistent with the SGMP.

1.11 Transitional Provisions- New process.

This section identifies how existing approvals will be dealt with.

1.12 Concurrent processing-New process

Applications for multiple approvals can be submitted together

1.15.7.3 Subsequent applications New process.

Applicant cannot resubmit the same application immediately after denial or withdrawal

Chapter 2: Planning

2.12 Area Plan New process

2.13 District Plan New process

Area and District Plans allow for larger areas and specific development proposals to be planned.

2.14 Community Plans-Revised process

Community Planning Process incorporates the major elements of the existing Community Planning Ordinance but attempts to streamline the process by focusing on developing a future land use plan with design standards that will be implemented through a community overlay district. .

2.2 Community Participation-New process

The SLDC formalizes community participation in the development review process by establishing Community Organizations (COs) and Registered Organizations (ROs). The Board will authorize COs and ROs which, once authorized, will be notified of new discretionary development applications and will be able to provide written recommendations regarding the approval of discretionary development applications, plans and SLDC amendments. Cos and ROs will also be able to participate in hearings and meet with the County staff on matters of interest.

Chapter 3: Decision-Making Bodies

3.2 Board of County Commissioners - Revised

The SLDC reduces the range of development applications that will go to the Board for approval. Preliminary plats will go directly to the Board and the Planning Commission will have final approval authority for conditional use permits and variances.

3.3 Planning Commission -Revised Process

The Planning Commission will take the place of the County Development Review Committee (CDRC) as required by State Statute. The Planning Commission will initially be made up of current members of the CDRC who will serve out their remaining terms. Duties and authority of the Planning Commission are similar to the current CDRC: primarily a review and recommending body but will have final authority for conditional use permits and variances in accordance with the procedural requirements table 4-1.

3.4.3 Technical Advisory Committee -Revised Process

This section formally establishes a review group consisting of staff from county departments and divisions and can include other governmental agencies. Chapter 4 will require that certain discretionary applications be forwarded to the Technical Advisory Committee for discussion prior to application.

3.5 Hearing Office - New

A Hearing Office is an attorney with specific duties who will be appointed by the Board for a specific term. The Hearing Officer will conduct public hearings, make written findings of fact, conclusions of law and written recommendations to the Planning Commission or the Board for certain discretionary applications.

Chapter 4: Procedures

4.4 Procedural Requirements- Change

This section includes a Procedural Requirements by Application Table (Table 4-1). This table sets out the procedure for all application types to make it easier to see how an application is reviewed and approved.

4.4.3 TAC Pre-Application Meeting- Change

Formally establishes the need for certain applications to discuss the proposed application with the Technical Advisory Committee prior to application submittal.

4.4.4 Pre-Application Neighborhood Meeting- New

Discretionary development applications (those that required to have a public hearing as identified in Table 4-1) are required to hold a meeting with registered Community Organizations and Registered Organizations prior to submitting their application which will allow discussion and dialogue before finalizing an application. The pre-application meeting will require a general outline and plan of proposed development including plans that show boundary lines, roadways, number units, utilities, wetlands , floodway, hillsides & existing structures. The applicant is then required to prepare and provide a report on the pre-application neighborhood meeting as part of the submittal package. This will allow the community to provide input on the project before the application is formally submitted.

4.4.6 Completeness review -Change

Applications will need to be reviewed for completeness, if an application is not complete the applicant will be notified formally as to what is lacking.

4.6 Notice- Change

This section is modified to meet State statute for specific types of application.

4.7 Hearing Standards- Revised

This section identifies hearing standards for legislative and quasi-judicial hearings.

4.9.7 Variance Standards- New

Adds review criteria for variances, allows the Administrator to approve up to 10% adjustment for dimensional standards

4.9.8 Beneficial Use Determination-New

The purpose is to establish a BUD process to resolve any claims that the application of the SLDC constitutes an unconstitutional regulatory taking of property.

4.9.9 Non-Conforming Uses- Revised

Allows for a 50% expansion of non-conforming uses. Establishes procedural requirements for non-conforming uses-.

Chapter 5: Subdivisions

5.5 Subdivision Classification

Splits subdivisions into Major and Minor Subdivisions

5.7 Preliminary Subdivision plats

Preliminary subdivision plats will be reviewed directly by Board in accordance with approval standards in this section.

5.8 Final plats

Requires a subdivision Improvement agreement and financial guarantee stating improvements will be constructed

5.9.5 and 5.10. As-Built drawings and Subdivision Inspections

As-built drawings and subdivision inspections will now be formally required.

5.12 Advertising Standards

Advertising standards will be required per statute.

Chapter 6: Studies, Reports, and Assessments

6.1 Generally (New/Change)

SRAs are required for discretionary development applications to determine impacts from the proposed development. They will include detailed measures to mitigate impacts and will be used to establish terms of the approval, approval with conditions and mitigation requirements or denial.

Table 6-1 identifies which applications need to submit SRAs. SRAs include Environmental Impact Report, Adequate Public Facilities and Services Assessment, Water Service Availability Report, Traffic Impact Assessment and Fiscal Impact Assessment. SRAs will become part of the public record and be used to determine impacts from the proposed development , detail measures to mitigate impacts and will be used to establish terms of the approval, approval with conditions and mitigation requirements or denial.

Chapter 7: Sustainable Design Standards

7.2 Fire and Building Codes (Change)

References new building codes

7.3 Residential Performance standards (New)

Establishes standards for lots, blocks and setbacks

7.5 Fire protection(Change)

References current fire Code rather than actually setting standards, this eliminates possible conflict.

7.7.5.2 Materials for Walls and Fences(Change)

Regulates types of materials that cannot be used for fences such as tarps, pallets, razor wire

7.8.5.2 Street Light Standards(Change)

Requires LED lights for street lights

7.9. Signs (Change)

Addresses LED signs and allows them if the message does not change more than once every minute.

7.10.4 Minimum Parking Requirements(Change)

Provides and expanded table of uses and their required parking standards

7.10.5 Alternative Parking Requirements (New)

Allows an applicant to propose alternative number of parking spaces.

7.10.15 Vehicle Stacking Areas (New)

Establishes standards for vehicle stacking

7.10.16 Off roads Loading requirements, 7.10.17 Passenger drop Off Areas (New)

Establishes standards for off road loading and drop off areas.

7.11 Road Design standards(Change)

Establishes road classifications for Urban and rural areas.

7.11.21 Corner setbacks (New)

Establishes standards for corner setbacks to allow for visibility.

Table 7-17 (New)

New table identifying when an application needs to connect to a community water and waste water system.

7.14 Energy efficiency (New)

Residential HERS rating of 70 or equivalent

7.15.3.1 Neighborhood Park (New)

Requires a park within subdivisions greater than 24 lots or planned development districts.

7.16 Protection of Historic and Archaeological Resources (Change)

Requires a report for non-residential and multifamily development and divisions creating 3 or more lots, the study is only required on the land to be developed, not on an entire tract.

7.18 Flood Prevention and Flood control (Change)

Changed to be consistent with the FEMA requirements.

7.22.8 Releases and Guarantees (Change)

Allows first release of a financial guaranty when a project is 50% complete.

Chapter 8: Zoning Districts

8.1 Purpose (New)

This chapter is adopted to promote and protect the public health, safety and general welfare through orderly zoning regulation of land uses throughout the unincorporated area of the County. This is a major change from the process for residential densities based on hydrology and allowable lot sizes and commercial and non-residential zoning in the existing code.

Small lot family transfers in the existing code allows a density exception of up to ½ of the minimum lot size that is allowed in the area. As we will now have zoning, all divisions will need to meet the lot size of the base zoning district that they are in.

8.4 Establishment of Zoning Districts (New)

Zoning districts are established to implement and provide for consistency with the SGMP. This is a major change from the way the County currently develops zoning and establishes densities.

8.4.1 Base Zoning Districts (New)

Base Zoning Districts divide the County into agricultural, residential, commercial, industrial and mixed use zones with established boundaries, densities and specified development uses as well as dimensional standards for each base zoning district which includes lot width, height, setback requirements and minimum and maximum building size for nonresidential development.

8.4.2. Planned Development Districts (New)

Planned Development Districts may be established in appropriate areas in lieu of the base district zoning in accordance with §8.10.

8.4.3. Overlay Zones (New)

Overlay zones may be established over existing base zoning districts and planned development districts, as appropriate. Within an overlay zone, the standards of the underlying district shall apply, but as modified by the additional requirements and standards of the overlay zone. Overlay zones may be used to address special situations related to: providing commercial uses in rural areas; preserving community development and use patterns; preserving historic areas and buildings, preserving environmentally sensitive lands and cultural resources; or regulating developments of countywide impact to protect public health, safety and welfare. Overlay zones include Community District, Rural Commercial, Environmental and Resource Protection, Historic Preservation, Development of County Impact, Airport Noise Overlay.

8.5. OFFICIAL ZONING MAP (New)

All land in the unincorporated area of the County to which this SLDC applies shall be set forth on the County's official zoning map, which will designate base zoning districts, planned development districts and, as applicable, overlay zones. All lands shall be zoned as set forth on the zoning map.

8.6. USE REGULATIONS.(New)

This section establishes a Use Matrix Uses which identifies specific uses which are permitted in the base zoning and planned development zoning districts (Appendix B). All uses are designated as permitted, accessory, or conditional, as further explained in Table 8-4. Accessory uses may be subject to specific regulations as provided in Chapter 10, and conditional uses are subject to the conditional use permit standards as provided in Chapter 4. In addition, uses may be subject to modification by the overlay zoning regulations included in this chapter.

Chapter 9: Community Districts

9.1 Purpose (Changed)

The Community District is a zoning tool to incorporate adopted Community Plan that is consistent with the SGMP through the establishment of a Community District Overlay Zone (O- CD) to implement the zoning-related provisions of an adopted Community Plan. Upon the establishment of an O-CD for any given Community District, the regulations of the applicable O-CD will be inserted into this section and become part of the SLDC.

This chapter incorporates existing community plan districts which were previously established by ordinance, and these individual community district ordinances shall remain in effect until such time as new community plans are adopted in accordance with Chapter 2 and a corresponding O-CD.

Chapter 10 – Supplementary Zoning Regulations

10.1 Purpose (New)

The purpose of this chapter is to establish standards for specific uses which require special design considerations in order to: protect surrounding property values and uses; protect the public health, safety, and general welfare; and implement the SGMP. These regulations are set forth to achieve compatibility with the principal uses permitted in a zoning district. These regulations shall apply to all zoning districts in which the particular use being regulated is permitted. It is the intent of the County that, where these uses are permitted, they strictly comply with the standards that have been created to address their particular impacts and characteristics.

10.4 Accessory Dwelling Units (New)

Accessory dwellings are an important means by which persons can provide separate and affordable housing for elderly, single-parent, and multi-generational family situations. This section permits the development of a small dwelling unit separate and accessory to a principal residence in accordance with the following:

- Only immediate family members may occupy the principal dwelling unit and the accessory dwelling unit.
- The property owner shall execute an affidavit that the accessory dwelling unit is accessory to the principal dwelling unit and will at all times comply with the provisions
- Only one accessory dwelling unit shall be permitted per legal lot of record.
- The heated area of the accessory dwelling unit shall not exceed the lesser of: (a) fifty percent (50%) of the building footprint of the principal residence; or (b) 1,200 square feet.
- Building, site design and character single-family residence shall be maintained by the accessory dwelling unit.
- An accessory dwelling shall not exceed one story in height and may not exceed the height of the principal dwelling unit.
- An accessory dwelling shall be accessed through the same driveway as the principal residence. There shall be no separate curb cut or driveway for the accessory dwelling.

- Water and electricity for the accessory dwelling unit shall be shared with the principal residence. Liquid waste disposal shall be in common with the principal residence; however, if the principal residence is on a septic system, then any modifications to the system shall be approved by NMED.

10.6. Home Occupations (Changed).

10.6.1. Purpose. The Purpose of this section is to stimulate economic development in the County and promoting energy efficiency by promoting home occupations and home businesses while ensuring the compatibility of home based businesses with other uses permitted in the community.

10.6.4. Types of Home Occupations. Three categories of home occupations are established:

- **No Impact Home Occupation.** A no impact home occupation includes business activity by the resident and up to one non-resident employee.
- **Low Impact Home Occupation.** A low impact home occupation includes business activity by the resident and up to three non-resident employees.
- **Medium Impact Home Occupation.** A low impact home occupation includes business activity by the resident and up to five non-resident employees. Because of the larger impacts from increased employees and visitors, a medium impact home occupation requires a Conditional Use Permit to determine whether the business is appropriate for the area and whether additional conditions are required to ensure the residential character of the area is maintained.

10.7. Density Verification For Residential Condominiums. (New)

10.10. Itinerant Vendors (New).

10.14. Mobile Home Parks (New).

A mobile home park is a subdivision, condominium, or site-lease facility is required to meet standards and other applicable provisions of the SLDC, including the density provisions of the zoning district.

10.16. Wind Energy Facilities (New)

The purpose of this section is to promote environmental sustainability, economic development, public safety and general welfare by fostering the development of the County's wind power resources and by providing standards for the safe, sustainable design and aesthetic provision of wind energy facilities.

10.17. Wireless Communication Facilities (Changed).

10.18. Satellite Dish Antennas (New).

10.19. Sand And Gravel Extraction (Changed)

10.20. Sexually Oriented Businesses (New)

Chapter 11 – Developments of Countywide Impact (DCIs)

11.1. Purpose (New).

Developments of Countywide Impact (DCIs) are those that have potential for far-reaching effects on the community. DCIs are developments that would place major demands on public facilities, the County's capital improvement plan and budget, and/or have the potential to affect the environment and public health, safety, and welfare beyond the impacts on immediately neighboring properties.

11.3. Regulation. This section is reserved with the exception that the existing Oil and Gas Ordinance will remain in effect:

Oil and Gas Drilling and Production. See County Ordinance No. 2008-19.

Chapter 12: Growth Management

12.1 Purpose (New)

The SLDC establishes techniques to ensure that new growth pays for itself through the implementation of the County's growth management strategy identified in the SGMP. The growth management strategy is intended to direct growth to areas most amenable to be efficiently served by adequate facilities and services. The strategy uses a wide range of techniques including a Capital Improvement Plan, Official Map, the use of development fees and agreements, Level of Service requirements pertaining to Adequate Public Facilities and Services (Table 12-1).

12.2 Capital Improvement Plan (New)

The County's CIP will be approved and amended by resolution of the Board. The CIP is the mechanism by which the County will provide for new public facilities and expansion of existing public facilities to address current deficiencies and accommodate anticipated future population and employment growth.

The CIP needs to be developed. **There will need to be a specific Impact Fees Capital improvement Plan in accordance with the State Statute for the "Development Fees Act" if the County intends to establish impact fees.**

12.3 Adequate Public Facilities Regulations (APFR) (New)

APFRs are regulatory measures to evaluate applications for discretionary development approval. The purpose of the APFRs is to ensure adequate public facilities and services are available concurrently with the completion of new development.

APFR's tie development approvals to present availability of infrastructure and public service capacity measured by Levels of Service. Table 12-1 identifies LOS for roads, emergency response, water supply and liquid waste and parks, trails and open space. LOS are identified in the CIP and the Official Map as appropriate.

12.4 Development Agreements (New)

Development agreements are required for discretionary development approval regarding implementation of approvals, conditions and construction of the project.

12.5 Public Improvement District, 12.6 County Improvement Districts, 12.7 County Road Maintenance Agreements, 12.8 General Obligation Bonds, 12.9 Revenue Bonds, 12.10 County Highway and Bridge Bond.

The SLDC incorporates these financing mechanisms that are allowing through State Statutes for financing of development.

12.11 Development Fees (New)

This section establishes the framework for development fees (impact fees) to contribute a fair and proportionate share towards the costs of capital improvements necessitated by new development.

Development Fees will need to be developed as a next step. This will require the County to appoint an advisory committee, establish land use assumptions and establish a specific impact fees capital improvement plan which will only include projects that can be funded through impact fees in accordance with the State Development Fees Act. This will also require the County to develop land use assumptions by service areas. Service areas will need to be established in the CIP for roadways, water and wastewater, law enforcement, fire and emergency services, parks, open spaces and trails.

12.11.7 and 12.11.8 Imposition of Development Fees; Calculation, Assessment and Collection of Development Fees (New)

This section requires any developer engaging in new development after the effective date of the SLDC to pay development fees in accordance with this section. Establishes the calculation of development fees by the Administrator.

12.12. Official Map (New)

12.12.1. The Board hereby adopts the Official Map of the County as an appendix to the SLDC, and incorporated herein, which is hereby found and determined to be drawn from, and consistent with, the adopted SGMP. The Official Map will need to be developed as a next step.

12.13. Transfer Or Purchase Of Development Rights. (Changed)

This section needs to be implemented through the establishment of procedures, sending areas, receiving areas and a County Land Bank.

Chapter 13: Housing and Fair Housing

13.1. Purpose and Intent.

This section incorporates the existing affordable housing ordinances, as amended.

13.1.2. Fair Housing (Reserved).