

THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY

 **DRAFT**

ORDINANCE NO. 2010-\_\_\_

**AN EMERGENCY INTERIM DEVELOPMENT ORDINANCE PROHIBITING THE GRANTING OF DISCRETIONARY LEGISLATIVE AND QUASI-JUDICIAL DEVELOPMENT APPROVALS FOR ZONING, SUBDIVISION, FAMILY TRANSFERS, LAND DIVISIONS, PARCEL MAPS, NONCONFORMING USES, VARIANCES, SPECIAL AND CONDITIONAL USE PERMITS WITHIN THE BOUNDARIES DELINEATED IN EXHIBIT 1 ATTACHED TO THIS ORDINANCE, EXCEPTING DEVELOPMENT APPROVALS FOR AFFORDABLE HOUSING AND OIL AND GAS PROJECTS PURSUANT TO ORDINANCE 2008-19, FOR A SIX MONTH PERIOD COMMENCING UPON THE DATE OF RECORDATION OF THIS ORDINANCE, PROVIDING FURTHER FOR AN EXTENSION OF SIX MONTHS IF REQUIRED IN THE LEGISLATIVE DISCRETION OF THE BOARD OF COUNTY COMMISSIONERS, UNTIL THE ADOPTION OF A SUSTAINABLE GROWTH MANAGEMENT PLAN AND OTHER AMENDMENTS AND ELEMENTS TO THE GENERAL PLAN AND THE ADOPTION OF A COMPREHENSIVE REVISION OF THE LAND DEVELOPMENT CODE AND OTHER RELATED ORDINANCES, ADMINISTRATIVE REGULATIONS AND ACTION PROGRAMS, IMPLEMENTING THE AMENDMENTS TO THE GENERAL PLAN, AND SUSPENDING CERTAIN PROVISIONS OF ORDINANCE NO. 2006-02**

**WHEREAS**, Santa Fe County ("the County") is proposing to prepare and adopt its Sustainable Growth Management Plan which includes Growth Management techniques employing sustainable and new urban design and standards, a tier system providing for the location, timing and sequencing of development including but not limited to the control of sprawl development within the boundaries delineated in Exhibit 1 attached to this Ordinance; a Land Use Element; an Economic Development Element, an Agriculture and Ranch Element, a Resource Conservation Element, an Open Space, Trails, Parks and Recreation Areas Element, a Renewable Energy and Energy Efficiency Element, a Sustainable Green Design and Development Element, a Public Safety Element, a Transportation Element, a Water, Wastewater and Stormwater Management Element, an Adequate Public Facilities and Financing Element, a Housing Element, a Governance Element, and Policies for implementation; to be implemented by major substantive amendments to the County's Land Development Code, other Ordinances, Administrative Regulations, and Action Programs;

**WHEREAS**, the County will be considering, within the six month period of this Ordinance, amendments to the Conjunctive Management Plan for the Santa Fe Basin to further address and refine the existing plan with respect to critically needed water supplies and aquifer protection, and an amendment to the County's 40 Year Water Plan to address the County's water needs for at least the next 40 years;

**WHEREAS**, the County's 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**, this Ordinance hereby declares an emergency affecting and impacting the public health, safety and general welfare of the County and its citizens necessitating the adoption of this emergency Interim Development Ordinance;

**WHEREAS**, the County will require extensive 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"), with respect to the Sustainable Land Development Plan ("SLDP") and the Sustainable Land Development Code ("SLDC") 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 SLDP and 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**, the County requires this Interim Development Ordinance ("IDO") in order to have reasonable time need to identify and/or secure dedicated funding for administrative expenses; consultant reports, meetings and studies; extension of capital improvements; extension of public and private utilities and public services; planning and legal expenses; creation of public improvement districts and other action program financing;

**WHEREAS**, given the scope of the adverse land use, environmental and public nuisance impacts and effects if this Ordinance is not adopted, this IDO is necessary, essential and

reasonable to complete a fair and comprehensive planning and public participation process that results in an adopted and amended General Plan, and amendment of the Land Development Code and other ordinances, administrative regulations and action programs necessary to implement the planning process;

**WHEREAS**, the County is hereby committing to provide adequate funding for the costs and fees necessary for staff, consultants and legal advisors to be able to plan for, implement and facilitate a good faith effort to establish new Elements and amendments to the General Plan substantial amendments to the Land Development Code, other ordinances and action programs to implement this Interim Development Ordinance within a reasonable period of time;

**WHEREAS**, this IDO 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.; and

**WHEREAS**, the Board of County Commissioners ("Board") has reviewed the recommendations of the County's staff and consultants with respect to the provisions of this IDO and the County's ongoing efforts to amend the general plan and land development code and other ordinances, administrative regulations and actions programs and hereby finds that the adoption of this IDO will serve compelling county, regional, state, Indian Communities, and federal government interests to: control sprawl development; incentivize growth within areas of the County already served by adequate public facilities and services; promote public health and safety; assure future water availability and quality; protect critical environmentally sensitive lands; assure availability of adequate public infrastructure and services concurrent with development; preserve the environmental, historic, archaeological and cultural resources of the County; and constitutes a comprehensive, rational and appropriate exercise of the County's land use, zoning, subdivision, environmental, police and public nuisance powers and authority.

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

**Section 1. Area of Regulation.** The area of regulation being enforced by this Ordinance shall include all unincorporated land in the County, except:

- A. land within the current service area boundaries of the County's water utility; and
- B. land within the territory of a publicly regulated private water and sewer system.

The area of regulation is set forth on Exhibit 1. For properties located partially within and partially without the area of regulation, this IDO shall not preclude discretionary development approval of the property located within exceptions (A) and (B).

**Section 2. Amendment of Boundaries.** During the effective period of this IDO, the boundaries of Exhibit 1 may be amended by the County by ordinance to extend or contract the boundaries through the adoption of a new Map replacing Exhibit 1.

**Section 3. Effective Date.** This Ordinance shall take effect immediately upon recordation pursuant to NMSA 1978, § 4-37-9(C).

**Section 4. Scope of Ordinance.**

A. The provisions of this Ordinance applies to any legislative, quasi-judicial or administrative discretionary development approval process for land located within the boundaries established in Exhibit 1 after the effective date of this Ordinance except as provided in subsections 4(B) and 4(C) of this ordinance, and unless specifically exempted under Section 7.

B. A development that has, upon the effective date of this ordinance, master plan or preliminary plat approval may proceed for preliminary plat or final plat approval, as appropriate, and may receive preliminary or final plat approval notwithstanding the provisions of this ordinance.

C. This ordinance shall not affect a recorded plat, a recorded family transfer and any recorded land division lot.

**Section 5. Discretionary Legislative, Quasi-Judicial Or Administrative Development Approvals.** No discretionary legislative, quasi-judicial or administrative development approval shall be granted or conditionally granted within the boundaries established in Exhibit 1.

**Section 6. Exemptions.** Any provision in the Land Development Code to the contrary is hereby suspended and controlled by the following provisions for the effective period of this Ordinance, as follows:

A. An approved preliminary plat, a recorded plat, a recorded family transfer plat, or a land division, created prior to the effective date of this Ordinance [which has received a development permit pursuant to Article III, Section 10.2.1 of the Land Development Code prior to the effective date of this Ordinance] shall be exempt from this Ordinance

B. Any application for an oil and gas development approval including: (1) an oil and gas overlay zoning district classification; (2) a special use and development permit; or (3) building and grading permits and certificates of completion is exempt from this Ordinance.

C. Any property that is exempt under subsections 7(A) through (C) at time of application for a building or grading permit shall execute a development agreement that includes a performance and payment bond, trust fund or letter of credit with a federally insured banking institution, or other form of security acceptable to the County, in an amount to be determined by the County, constituting a real covenant running with the land, assuring that all subsequent development or impact fees, exactions, dedications, district assessments and adequate provision of infrastructure and services pursuant to standards subsequently established in the adopted General Plan Elements or Land Development Code which are adopted within the effective period of this Ordinance, shall be complied with by the applicant or successor in interest.

## Section 7. Definitions.

**A. Discretionary Development Approval:** Any legislative, quasi-judicial or administrative action by the Board, CDRC, or other authorized action by an officer, staff person, or agency of the County that approves, approves with conditions or denies an application for development of a parcel, family transfer parcel, land division, subdivision or subdivision lot, tract, building structure or use, including but not limited to a General or Area Plan amendment applicable to the specific property of an applicant, rezoning of the applicant's property, approval of master planned zoning, variance, and special or conditional use permit.

**B. Family Transfer:** 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).

**C. Land Development Code:** The Santa Fe County Land Development Code of 1996, as amended.

**D. Land Division:** A 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).

**E. Final Plat Approval:** A non-discretionary quasi-judicial approval where the Board is required by law to abide by all the terms and conditions of the preliminary plat approval.

**Section 8. Sustainable Growth Management Plan and Ordinance.** The County Manager and County Attorney are directed to have the County's Growth Management Department continue to engage county staff and expert planning consultants and attorneys to develop studies, reports, recommendations, plans, ordinances and action programs relating to the following matters:

A. Amendment of the General Plan adopting new Elements and other provisions to the existing General Plan;

B. Adoption of amendments to the Land Development Code including but not limited to implementing; new zoning and subdivision regulation; sustainable land use; affordable housing; new urbanism, traditional and transit oriented neighborhood and mixed use development, growth management; environmental standards and review; conditions for location, building, design, construction, grading and excavation; provision of adequate public facilities and services; administrative, development and impact fees and development exactions; protection of private property and environmental and historical-cultural and archaeological resources through use of transfers of development rights development agreements and beneficial use determinations;

official mapping of existing and proposed future road rights of way, parks, habitat view trail and stream corridors;

C. Creation of Public Improvement Districts implementing the Capital Improvement and Services Program to establish special benefit assessments, including the cost of providing for the reasonable and proportionate legal, planning, administrative and expert studies expenses; and for the costs of constructing, operating and maintaining public facilities and services the need for which is created by new development or from existing deficiencies; and

D. Any other and further ordinances, regulations, and action programs necessary to carry out the purposes of this Ordinance.

**Section 9. 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 10. Conflicts.** All ordinances or parts of any ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

**Section 11. Declaration of Emergency.** An emergency is hereby declared because of the imminent danger of uncontrolled sprawl development detrimentally impacting and affecting groundwater aquifers, environmental resources and habitats, health, safety, fiscal, economic, cultural-historic-archaeological resources and public facility and services of the County, from applications for development approval within the boundaries of Exhibit 1 on or after the date of recordation of this Ordinance.

**Section 12. Repeal.** This Ordinance will cease to be of effect six months after the effective date of adoption or for any period of extension for six months thereafter.

**PASSED AND ENACTED THIS \_\_\_<sup>th</sup> Day of May, 2010.**

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

By: \_\_\_\_\_  
Harry Montoya, Chair

**ATTEST:**

\_\_\_\_\_  
Valerie Espinoza, County Clerk

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**APPROVED AS TO FORM**

By: \_\_\_\_\_  
Stephen C. Ross, County Attorney