LUNA COUNTY ORDINANCE

NO. 56

LUNA COUNTY SUBDIVISION REGULATIONS

STATE OF NEW MEXICO } SS.
County of Luna
I certify that this instrument was filed
for record at 4:10 P.M.

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Reception No. 2004-05677
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Cynthia Rodriguez Deputy

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ARTICLE 1. GENERAL PROVISIONS

Section 1. Title

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

Section 2. Authority

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

Section 3. Purpose

These regulations are adopted for the following purposes:

1. To provide for and protect the public health, safety, and general welfare of the County.
2. To guide the future growth and development of the County in accordance with any official plans adopted by the County.
3. To ensure orderly and integrated development within Luna County in compliance with policies and guidelines set out in the Luna County Comprehensive Land use Plan and all other County policies and regulations.
4. To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.
5. To ensure the design and provision of an adequate supply of water for domestic and fire fighting purposes.
6. To ensure the design and provision of adequate sanitary sewage facilities and adequate solid waste disposal facilities.
7. To protect and conserve the value of land throughout the County and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
8. To provide the most beneficial relationship between uses of land and buildings and the circulation of traffic throughout the County, having regard to the avoidance of congestion in the streets and highways, and pedestrian traffic movements appropriate to the various uses of land and buildings; and to provide for the proper location and width of streets.
9. To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and the monumentation of subdivided land; and
10. To prevent the pollution of land, air, streams, ponds and aquifers; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the conservation and management of natural resources throughout the County in order to preserve the integrity, stability, and beauty of the community and the value of the land.

Section 4. Jurisdiction

These Regulations shall govern all subdivision of land not within the boundaries of municipalities but within the County. The County and a municipality shall exercise concurrent jurisdiction over the territory within the platting jurisdiction of both the County and the municipality. In this latter case, the greater or most restrictive subdivision standard or regulation will apply as to each requirement unless otherwise agreed between the County and the municipality having concurrent jurisdiction.

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Section 5. Interpretation

The provisions of these Regulations are held to be minimum requirements. Whenever any provisions of these Regulations conflict with other laws, rules, regulations, covenants, or ordinances, the more restrictive shall govern. These Regulations shall be construed broadly to promote the purposes for which they were adopted.

1.5.1 Prohibition of Subdivision of Lands Where Code Violations Exist. Where any parcel or tact of land has against it outstanding violations of any County Code(s), the County Commission shall not accept and shall not consider any proposal to subdivide the subject lands.

1.5.2 Acceptance of Public Lands. Approval of a plan of subdivision by the Luna County Commission shall not constitute acceptance of any dedicated land for maintenance by the County. Acceptance of dedicated lands for maintenance by the County requires an application by the subdivider or property owner(s) to the County Commission.

1.5.3. Access to Lots. The Luna County Commission will not approve a subdivision plat unless there is suitable documentary evidence, a title insurance policy, or a title abstract, or some other assurance acceptable to the Commission that ensures legal right-of-way access to each lot in the subdivision and ultimately to a public road. Such evidence shall be submitted with the preliminary plat. Private roads within a subdivision are acceptable if a road is a separately subdivided tract owned jointly by all lot owners in the subdivision.

1.5.4. Suitability of Land for Subdivision. Subdividers of lands in Luna County shall bear the prime responsibility for demonstrating that lands are suitable for subdivision. At a minimum, subdividers shall provide the County Commission and state agencies with information regarding the following: topographical features, water table, water supply, both quantity and quality, waste water collection, treatment and disposal, soil erosion, suitability of soil for construction, historical, anthropological and archeological resources; all as further described in this Ordinance and in any subdivision guidelines that may be issued from time-to-time by the New Mexico Environment Department, the New Mexico State Engineer's Office, the State Historic Preservation Division, Office of Cultural Affairs, the local State Soil and Water Conservation District, and the State Highway Department.

1.5.5. Subdivision Master Plan. If a preliminary plat is only part of, or is the first part of a larger development, or a phased development, or a mixed use development, or if the development is in a floodplain, then the proposed plat shall not be considered by the County staff or the County commission until a Development Plan or Master Plan has been submitted for approval. The Subdivision Master Plan shall contain the information set out in Article 3.2.3.

1.5.6. Phased Development. For all five (5) types of subdivisions, the County Commission may grant approval of phased development within a subdivision contingent upon the subdivider submitting a Subdivision Master Plan as set out in Article 1.5.5 and a definite schedule of completion of all subdivision construction improvements for each phase. The County Commission may set criteria for development of the initial phase as a condition of approval of subsequent phases. Improvements for subsequent phases shall not be started until the subdivider obtains final approval for development of that phase. Each phase shall require separate, final plat approval as per Articles 4.4.2, 4.5.5 and 5.1.1. All subsequent phases shall conform to the Subdivision regulations and all other ordinances of Luna County in force at the time of preliminary plat approval for that particular phase.

1.5.7. Consultation with other Agencies. In considering a preliminary plat, the County shall request a report from any agency or person as required by the State of New Mexico

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Subdivision Act, or by these Regulations, to assist in determining if land is suitable for subdivision, if the subdivider can meet the requirements of the agency, if a subdivision conforms with the Subdivision Act and these Regulations, and in determining if the subdivider can fulfill proposals contained in the disclosure statement.

1.5.8. Proposed Roads. Luna County is under no obligation to maintain any subdivision road which has not been formally accepted for maintenance by the Luna County Commission.

1.5.9. Subdivider's Responsibility. It shall be the sole responsibility of the subdivider to fulfill all proposals and commitments under his/her disclosure statement.

1.5.10. Subdivider's Burden to Notify County. It shall be the subdivider's burden to notify the County upon commencement of development of a subdivision, and completion of each required improvement as required in the Subdivision Agreement. It is also the subdivider's responsibility to notify the County with regard to the commencement of any service or maintenance that the County has agreed to provide under the Subdivision Agreement.

1.5.11. Site Improvements. Prior to commencement of any site or external improvements, the Subdivider shall enter into an Agreement To Construct Subdivision Improvements (Appendix D) with Luna County regarding such improvements. Existence of pre-existing, non-conforming improvement infrastructure within a proposed subdivision will not be considered acceptable for final plat approval. The Subdivision Agreement shall provide financial guarantees in an amount sufficient to ensure the satisfactory completion of all site improvements that the subdivider plans to complete after final plat approval. The subdivider shall be required to provide security in an amount equal to 125% of estimated improvement costs in the form of a bond, an irrevocable letter of credit, a cashier's check, an escrow account, a certificate of deposit or a blanket encumbrance with a trust account, all of which shall have Luna County as beneficiary, or any other form of security which will assure the County of satisfactory and timely completion of the site improvements. Estimate of costs shall be attached to the subdivision agreement and signed by a licensed New Mexico engineer or contractor. The said Agreement and financial guarantee shall be filed and stored in the Vault of the County Treasurer. Provision shall be made in the said Agreement for a timely release of security upon completion of site improvements. The Subdivider shall also provide financial security in the amount of 100% of total improvement costs, whenever completed, to guarantee workmanship and materials of the subdivision site improvements for a period of two years after their completion by the Subdivider or agent, and their inspection and approval by Luna County.

1.5.12. Corrective Replat. If, subsequent to subdivision approval and sale of subdivision lots, the subdivision survey, and or surveys of subdivided lots, are found to be inaccurate, necessitating a resurvey of the subdivision as a whole or any individual lot in the subdivision, then it shall be the responsibility of the subdivider or the subsequent lot owners within the subdivision to file a corrective replat with the County. The replat may be approved administratively by the County Planning Director unless there are major changes in the replat which, in the discretion of the County Planning Director, require a full subdivision review. It shall be the responsibility of the subdivider or the subsequent lot owners to pay the costs of the resurvey and replatting, and any applicable County fees. Any resurvey and/or corrective plat shall be recorded in the office of the County Clerk and sent, registered mail, to all lot owners of record affected by the replat within the subdivision. The subdivider or subsequent lot owners shall pay the costs of said registered mailings.

1.5.13. Amendments to Subdivision Plat and/or Supporting Materials. Any amendments to the approved subdivision plat and/or supporting documentation, including, but not limited to,

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the plan, documents, and disclosure statements, shall be filed with the County Planning Director, and may be approved administratively by the County Planning Director. If there are major changes in the plat, the County Planning Director may require a full subdivision review in accordance with the regulations of this Ordinance. The approved amendments shall be filed with the County Clerk and sent registered mail to each lot owner affected by the amendment(s). The subdivider or subsequent lot owners shall pay all costs associated with such amendments in addition to any applicable County fee.

1.5.14. Exactions and Impact Fees. Luna County may, as a condition to approval of any subdivision, require subdivision exactions and impact fees.

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ARTICLE 2. DEFINITIONS

Agricultural use	The use of land for the purpose of ranching (grazing livestock) or farming (cultivating crops). The term "farm" embraces the farm in the ordinarily accepted sense and includes stock, dairy, poultry, fish, fruit, trees, forest products, feed lots, truck farms and also plantations, ranches and all land used for farming operations.
Appeal	A formal process initiated by an aggrieved party to seek a review of 1. a decision made by the County Planning Director, by the Board of County Commissioners; 2. a decision made by the Board of County Commissioners, by the District Court
Archaeological site	A geographical location where there exists material evidence of repeated or patterned human activities. Such sites have the potential, through the application of appropriate archaeological methods, techniques and analyses, of yielding information important to understanding the prehistory, culture, or lifestyles of a particular region or group of inhabitants in New Mexico.
Common promotional plan	Any plan or scheme of operation, undertaken by a single subdivider or a group of subdividers acting in concert, to offer for sale or lease parcels of land where such land is either 1. Contiguous to or part of the same area of land or 2. Is known, designated or advertised as a common unit or by a common name.
Community liquid waste system	A liquid waste system or sewerage system, publicly or privately owned including collection and treatment facilities constructed to serve one or more subdivisions.
Community water system	A water system or utility, publicly or privately owned, that relies on surface and/or groundwater diversions other than wells permitted by the State Engineer under Section 72-12-1 NMSA, and that consists of common storage and/or distribution facilities operated for the delivery of water to multiple service connections. A community water supply system shall have sufficient water rights to serve all lots within a subdivision(s) through facilities that are under central ownership and management.
Contiguous	Refers to adjacent parcels sharing a boundary line or separated only by a road, right-of-way or easement.
County	County of Luna.
County Commission	The Board of County commissioners of Luna County.
County Planning Director	The administrative head of the County Planning and Building Department or his designated staff delegate. Any such delegation of responsibilities or duties to designated staff shall be in writing.
Disclosure statement	Statement required to be given to persons acquiring an interest in subdivided land; this statement complies with the requirement of 47-6-

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	17 NMSA 1978.
Dormant subdivision	A previously approved subdivision that has not had any sales of parcels in the subdivision (excluding the sale of the entire subdivision) within the past six (6) years, or that has not had any improvements made to the infrastructure within the past six (6) years. For purposes of these Regulations, any natural division or objective separate portion or phase or stage of a subdivision that meets the above test, is a dormant subdivision.
Erosion	Soil movement due to wind, water, gravity or a combination of any or all of these.
Erosion Control Structure	Any man-made device designed to prevent or control erosion.
Escrow	One form of assurance of financial commitment established with the local government or escrow agent to secure the promise to perform some act or work.
FEMA	The Federal Emergency Management Agency.
Final plat	Map, chart, survey, plat, or replat, prepared and certified by a professional surveyor licensed to practice in the State of New Mexico, which contains a description of the subdivided land with ties to permanent monuments prepared in a form suitable for filing of record, meeting the requirements of this Ordinance.
Flood control	The measures necessary or taken to protect the public's health, safety or welfare from the effects of flooding.
Floodplain	Any land area susceptible to being inundated by water from any source.
Flood fringe	The area between the floodway and the 100-year floodplain boundaries.
Floodway	The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
Ground water	Underground, interstitial water that occurs in saturated earth material and is capable of entering a well in sufficient amounts to be used as a water supply.
Immediate family member	Husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, stepgrandson, granddaughter, stepgranddaughter, nephew, and niece, whether related by natural birth or adoption.
Impact fees	Charges or assessments imposed on a new development, pursuant to the provisions of the development fees Act, NMSA §§ 5-8-1 through 5-8-41, in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development.
Individual liquid waste system	A disposal system that receives liquid waste from one parcel or lot and includes, but is not limited to, septic tank systems and aerobic disposal systems.

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Infrastructure	Includes, but is not limited to such matters as roads, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, pedestrian and bike paths, trails, equestrian paths, water, sewer, electric, telephone, cable and gas systems, street lights, driveways, septic or aerobic disposal systems.
Lease	To lease or offer to lease land.
Liquid waste	Domestic wastewater containing human excreta or other water-carried waste.
Manufactured home	A moveable or portable housing structure over 32 feet in length or over eight feet in width constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and which may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or may be two or more units separately towable but designed to be joined into one integral unit, as well as a single unit. "Manufactured Home" does not include recreational vehicles or modular or pre-manufactured homes built to UBC standards, designed to be permanently affixed to real property. "Manufactured Home" includes any movable or portable housing structure over twelve feet in width and forty feet in length, which is used for non-residential purposed.
Manufactured home park	A parcel of land used for the continuous accommodation of two or more occupied manufactured homes which are either sold, leased or otherwise conveyed, either individually or together with the land upon which they sit, for non-transient use. Such a park shall be deemed a subdivision for purposes of this Ordinance.
Multi-Section manufactured home	A manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet and at least eight hundred sixty-four square feet, constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.
Off-site	Any land or premises not located within the boundaries of the property to be subdivided, whether or not in the ownership of the applicant for subdivision approval.
Open range	Any unfenced rangeland that is currently used or potentially could be used for the grazing of livestock.
Owner	Any person, agent, firm or corporation having a legal or equitable interest in the property.

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Parcel or Lot	Unit of land capable of being described by location and boundaries and not dedicated for public or common use.
Person	Means a natural person including any individual, partnership, company, corporation, firm, association, trust, estate, foundation, state and federal agency, institution, county, city, town, village, or municipality or other legal entity, however organized.
Phase	A portion of a multi-unit subdivision that is intended to be developed as a unit.
Plat	A scaled drawing, developed from a survey prepared by a professional surveyor licensed in the State of New Mexico, meeting the requirements of the Surveyors Practice Act and the "Minimum standards for Surveying in New Mexico."
Potable ground water	Water contained in the sub-surface strata that meets the drinking water quality standards of the New Mexico Environment Department.
Preliminary plat	Map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it. The map should be based upon an accurate and detailed survey of the land.
Previously approved subdivision	A subdivision that has been platted, approved by the Board of County Commissioners and filed of record.
Property	Any area, plot, or parcel of land in Luna County, which is under a common ownership or is separately identified for assessment by the Luna County Assessor's Office. Property shall include land under the ownership of the United States, the State of New Mexico, or any local government or school district entity. This definition is intended to be inclusive and not limiting, and shall therefore include all land within the boundaries of Luna County, New Mexico, except that the definition of property within the boundaries of the City of Deming and the Village of Columbus, and any hereafter incorporated municipality.
Resubdivision	Any change to a lot line, right-of-way line, or utility easement, of previously approved subdivisions unless the change is the result of a vacation of plats or a variance granted by action of the Board of County Commissioners.
Right-of-way, dedicated	Land deeded, reserved by plat or otherwise acquired by the County, which is dedicated for use as a road or drainage channel or other public use.
Right-of-way, private	Land dedicated and intended to be used for private access to private property, or for utilities.
Roadway	That portion of the street right-of-way available for vehicular traffic.
Sell	To sell or offer to sell land.

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Septic tank system	A tank and attached absorption field that is designated and constructed to separate solids from liquids in the effluents from a lot or lots, and which is designed to digest organic matter through anaerobic processes and disperse the liquid excess into the soil.
Setback	The shortest allowable distance between a property line and the foundation, wall, eave, or main frame of a building or structure.
Shall	The word "shall" is mandatory, and not permissive.
Sketch plan	A map showing lots, road layout, drainage structures, arroyos, and land proposed for public use, with estimated dimensions. A sketch plan shall include a general vicinity map showing the location of the proposed subdivision with reference to existing roadways, easements, municipalities, significant landforms, and other landmarks.
Solid waste	Any garbage, rubbish, or other discarded material that results from residential, commercial, institutional, industrial or recreational activities.
Subdivide	To divide a surface area of land into a subdivision.
Subdivider	Any person or agent who creates or who has created a subdivision, individually or as part of a common promotional plan, or any person engaged in the sale, lease, or other conveyance of subdivided land; however, "subdivider" does not include any duly licensed real estate broker or salesperson acting on another's account.
Subdivision	Division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purposed of sale, lease, or other conveyance; or for building development, whether immediate or future; dormant subdivisions or portions of dormant subdivisions; all of which are subject to these Regulations; however, "subdivision" does not include 1. Sale, lease, or other conveyance of any parcel that is thirty-five (35) acres or larger in size within any twelve (12) month period, provided that the land has been used primarily and continuously for agricultural purposed, in accordance with 7-36-20 NMSA 1978, for the preceding three (3) years; 2. Sale or lease of apartments, offices, stores or similar space within a building; 3. Division of land within the boundaries of a municipality; 4. Division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land; 5. Division of land created by court order where the order creates no more than one parcel per party; 6. Division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities; 7. Division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose on increasing or reducing the size of contiguous parcels and where the number of parcels is not increased 8. Division of land to create burial plots in a cemetery; 9. Division of land to create a parcel that is sold or donated as a gift to an immediate family member; this exception shall be limited to

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allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member;

10. Division of land created to provide security for mortgages, liens, or deeds of trust, provided that the division of land is not the result of a seller-financed transaction.
11. Sale, lease, or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres;
12. Division of land to create a parcel that is donated to any trust or non-profit corporation granted an exemption from federal income tax, as described in § 501 (c) (3) of the United States Internal Revenue Code of 1986, as amended; school, college, or other institution with a defined curriculum and a student body and faculty which conducts classes on a regular basis; or to any church group organized for the purposed of divine worship, religious teaching, or other specifically religious activity or
13. Sale, lease or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five (5) year period, provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five (5) years of the first sale, lease, or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act; provided further that a survey shall be filed with the County Clerk indicating the five (5) year holding period for both the original tract and the newly created tract.

Subdivision master plan

That portion of a preliminary plat submitted in connection with:

1. A phased or multi-phased subdivision;
2. A subdivision application for multiple land uses or for a single development of 50 or more lots;
3. A commercial or industrial development application that is proposing to utilize the Summary Procedure more than once;
4. A proposed development that is located in a floodplain
5. A proposed community water supply system and/or a community liquid waste disposal system

A subdivision master plan will link contiguous subdivisions or other developments in a compatible and cohesive manner with respect to such matters as land use, density, road pattern, walkway and other matters as may be determined by the County Commission with the advice of the County Planning Director.

Sufficient water rights

Current commitments subtracted from the water rights that the water supply company or utility currently controls.

Summary review plat

A plat suitable for filing with the County Clerk as if it were a final plat, containing all the notes and documentation in accordance with the summary review procedures of this Ordinance.

Terrain management plan

A document prepared by a New Mexico licensed engineer which details the proposal for the control of floods, drainage and erosion, and the measures required for adapting the proposed development to existing soil characteristics and topography.

Time of purchase, lease or other conveyance

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

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Type One subdivision	Any subdivision containing five hundred (500) or more parcels, and one of which is less than ten (10) acres in size.
Type Two subdivision	Any subdivision containing twenty-five (25) or more, but not more than four hundred ninety-nine (499) parcels, any one of which is less than ten (10) acres in size.
Type Three subdivision	Any subdivision containing not more than twenty-four (24) parcels, any one of which is less than ten acres (10) in size;
Type Four subdivision	Any subdivision containing twenty-five (25) or more parcels, each of which is ten acres (10) or more in size; and
Type Five subdivision	Any subdivision containing not more than twenty-four (24) parcels, each of which is ten (10) acres or more in size.

Types of Subdivisions

Type	No. of Parcels	Size of Smallest Parcel
One	500 or more	Less than 10 acres
Two	25 to 499	Less than 10 acres
Three	2 to 24	Less than 10 acres
Four	25 or more	10 acres or more
Five	2 to 24	10 acres or more

Undivided Fractional Interest	An instrument of conveyance, including but not limited to a deed on a real estate contract, wherein the grantor conveys or purports to convey a fractional interest in real estate to two or more grantees without a physical division of the real estate into two or more separate parcels.
Vacation	Act of rescinding (canceling) all or part of a recorded subdivision plat, including legal dedications and grants of easements, or rights-of-way.
Variance	Any deviation from the Regulations of this Ordinance as approved by the Board of County Commissioners.
Vicinity map	A map used to locate the subdivision showing relationship to existing roadways, municipalities, significant landforms or other landmarks.
Watercourse	Any river, arroyo, creek, stream, or other channel having definite banks and evidencing regular or occasional flow of water.
Water Supply system or Water system	A system that is designed, constructed, and operated and maintained to provide potable water for domestic or commercial use. Such a system usually consists of source, treatment, storage, pumping and distribution facilities.

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ARTICLE 3. PRE-APPLICATION PROCESS

Section 1. Pre-Application Procedure

3.1.1 Pre-Application Conference. For the purpose of expediting applications and reducing subdivision design and development costs, Luna County requires that a subdivider meet with the County Planning Department for an informal pre-application conference in accord with the requirements provided herein. The pre-application conference is intended to provide general advice to the subdivider about the procedures and data requirements for subdivision review and approval in Luna County.

3.1.2 Summary procedure conference. All proposed subdivisions that qualify for approval under the summary procedure provided in Article 6 of these Regulations shall begin with a pre-application conference.

3.1.3 Scheduling. The subdivider and the County Planning Director shall schedule a pre-application conference in order for the subdivider to meet with appropriate County representatives and to become acquainted with the necessary requirements for subdivision review and approval.

3.1.4 Fee. No fee shall be required for a pre-application conference.

3.1.5 Statements non-binding. Neither the subdivider nor the County shall be bound by any statements or determinations made during the pre-application conference.

3.1.6 Application/forms. The County Planning Director, to the extent possible, shall provide sufficient information and application forms for preliminary plat submittal in order to proceed with the County subdivision process and to fulfill the requirements of the New Mexico Subdivision Act.

Section 2. The Subdivision Master Plan

3.2.1 Conditions for a Subdivision Master Plan. At the first pre-conference meeting, the need for a development/master plan will be determined.

a. A subdivision master plan is required if any of the following criteria apply:

i. A development is divided into more than one phase.

ii. A development application is proposing multiple land uses.

iii. An application is for the single development of fifty (50) or more lots and/or blocks, or spaces or pads for recreational vehicles or manufactured homes.

iv. When a commercial, office or industrial development application is proposing to utilize the Summary Procedure more than once.

v. The proposed development or part thereof, is located in a floodplain.

vi. Where a community water system and/or a community liquid waste system is proposed or is required under the provisions of this Ordinance.

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b. If a subdivider states that none of the criteria in Article 3.2.1a. apply, the subdivider will enter into an agreement with the County to the effect that none of the said criteria apply. The agreement will include penalties for any breech of the agreement.

c. The County may submit the subdivision master plan to any state or federal agencies, in addition to the State Engineer's Office, the State Environment Department, the State Highway Department, and the Luna County Soil and Water Conservation District Board.

d. For smaller residential developments consisting of no more than two (2) phases on ten (10) or less acres, with forty-nine (49) or less lots or blocks, a subdivision master plan may be omitted at the discretion of the County Planning Director. If a community water system and/or a community liquid waste system is proposed, or required in accord with Sections 11.1.4.a or 11.1.4.b (community water system) and Section 11.3.4 (community liquid waste), or multiple land uses are proposed, a subdivision master plan is required.

e. The subdivider shall be responsible for including on the subdivision master plan all contiguous property owned, legally controlled by, or of any development or financial interest to the subdivider.

f. A preliminary plat may be submitted at the same time as the master plan. A final plat may not be submitted at the same time as the master plan or the preliminary plat.

3.2.2 Purpose of a Subdivision Master Plan. The subdivision master plan is intended to achieve the following objectives.

a. To implement the policies of the Luna County Comprehensive Land Use Plan, the Interim Land Use ordinance, and the objectives and policies of any other County plan, strategy, ordinance or resolution.

b. To ensure a coordinated and integrated development of land within the County in terms of land use arrangement, road development, storm water drainage, water supply, liquid waste disposal, solid waste disposal, community facilities.

c. To ensure compatibility of land uses.

d. To ensure compatibility in scale of development in terms of housing form/type, and density.

e. To ensure the conservation of natural resources or heritage features.

f. To provide a means for determining fiscal impacts and requirements for capital improvements.

g. To ensure a coordinated approach, by the subdivider, to the construction and provision of required site improvements.

3.2.3 Subdivision Master Plan Requirements. An application for approval of a subdivision master plan shall include the following information:

a. A color-coded, or black and white patterned, land use plan superimposed on a topographical survey with contour intervals appropriate to adequately represent the differences in elevation of the land, along with any significant physiographic features such as arroyos, river or creeks, washes, floodplains, mountains, and rock out-crops. Existing and proposed zoning, if appropriate, shall be indicated on the plan. Such

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plan will be prepared by a land use planning consultant or a professional engineer licensed in the State of New Mexico.

b. The land use plan shall also contain the following information: name of the development/master plan (if any); a north arrow; date of preparation of the plan; written and graphic scale; name, address and telephone number of the consultant who prepared the plan; name, address and telephone number of the subdivider/developer; a legend adequately interpreting the plan, proposed land use by parcel and phase, approximate number of lots or blocks proposed for residential and non-residential uses (by type of use), proposed size of any commercial blocks, and proposed densities for residential use.

c. A detailed area/vicinity map clearly showing the surrounding area and the proposal's relationship to existing road networks, to adjacent land uses, and any significant physiographic or man-made features that may impact, or be impacted, by the development proposal. Existing zoning, if any, is to be shown for lands surrounding the proposed development.

d. A legal description of the property along with total acreage to be developed.

e. Any easements and the purpose of such easements.

f. A written report shall be prepared by the subdivider's consultant describing in both textual and tabular form the proposed development proposal and the rationale behind key elements of the plan. At a minimum, the report shall provide information concerning the following items:

i. Land use of each phase, lot and block;

ii. Acreage of each phase, lot and block;

iii. Total number of lots and blocks by phase;

iv. Total number of residential dwelling units;

v. Number of dwelling units per acre by phase;

vi. Acreage proposed for commercial uses, and an estimate of commercial square footage by block or parcel, for each phase. Criteria used to determine size and location.

vii. Acreage proposed for open space, public and private facilities and road rights-of-way;

viii. Approximate additional population to be generated by the proposed development by phase;

ix. Approximate additional traffic;

x. Community facilities, number, location, who will develop and when and who will maintain. Criteria used to determine size and location of these facilities.

- Schools
- Parks and recreational facilities
- Fire and police facilities
- Utilities

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xi. Water supply plan. All subdividers must file a plan for water supply system including a plan showing the proposed location of wells.

xii. A liquid waste disposal plan, which may include a community system, or a plan showing the location of septic tanks or aerobic waste disposal systems.

xiii. A solid waste disposal plan.

xiv. A conceptual terrain management plan sufficient in its detail to show how drainage and erosion issues will be addressed and what measures are necessary to adapt the proposed development to soil characteristics and topographic conditions.

xv. A conceptual utilities plan with sufficient information to provide a general outline of utility routes, size and location of existing and proposed utilities for the development proposal.

xvi. A road development plan. A traffic analysis of the impact of the development on existing adjacent road network including recommendations and estimated costs for necessary improvements to that network may be required by the County.

xvii. A description of how legal access to each lot or block will be provided.

xviii. A plan for conservation of historic, archeological and anthropological sites or resources.

xix. Timing and staging of development.

xx. Copies of existing easements, deed restrictions, restrictive or protective covenants within the lands to be covered by the development/master plan.

xxi. The application for approval of the development/master plan shall be signed by all owners as well as those with a financial interest.

xxii. A fee, as established by the County Commission, shall be paid upon submittal of the application.

Section 3. Pre-Application Data Requirements

3.3.1 Sketch plan. A sketch plan shall be prepared by the subdivider that shows the proposed layout of streets and lots, with estimated dimensions and other relevant site information. The location of the proposed subdivision must be adequately described on a general map of the area.

3.3.2 Additional information. In addition to the sketch plan and location map, the subdivider shall provide information including, but not limited to the following:

a. Name and mailing address of the subdivider and designated agent, if any;
b. Name of owner or owners of land to be subdivided;
c. A written description of the proposed subdivision;
d. A description of surrounding land uses;
e. Accessibility of site to roads and utilities; and
f. Terrain management and drainage factors;
g. Location of any designated 100-year floodplains;

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h. Location of existing utilities, roads and other water courses within 500 feet of the proposed subdivision;
i. An indication of source of water supply and liquid waste disposal.

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ARTICLE 4. PRELIMINARY PLAT REVIEW PROCESS

Section 1. Preliminary Plat Submittal

4.1.1 Preliminary Plat required. Preliminary plats shall be submitted for Type One, Type Two, Type Three, and Type Four subdivisions. Certain Type Three and all Type Five subdivisions are subject to review under the summary procedure set forth in Article Six of these Regulations.

4.1.1.A Unless a parcel is supplied water by an approved community water system, the minimum parcel size shall be 3.50 acres.

4.1.2 Application/fees. A subdivider shall prepare a preliminary plat and supporting documentation in accordance with the requirements provided in these Regulations. Preliminary plat submittal is initiated by completing an application on the prescribed form set out in Appendix A available from the County Planning Director and upon payment of the required administrative fees which fees shall be set periodically by resolution of the Board of County Commissioners.

4.1.3 Plat deemed complete. On receipt of the application, fees, preliminary plat, and supporting documentation and information as set out in Section 4.5, the County Planning Director shall review all materials in order to determine if the preliminary plat is ready to begin the review process. If there are no deficiencies, the preliminary plat is deemed complete for review by written notice to the subdivider within thirty (30) days after the date of receipt of the complete application. If the preliminary plat is incomplete or does not comply with the submittal requirements provided herein, the subdivider shall be notified and given opportunity to correct deficiencies and return the preliminary plat for consideration.

4.1.4 Concurrent Jurisdiction. The following procedures shall apply to preliminary and summary plat review by Luna County of proposed subdivisions within concurrent jurisdictional areas.

a. The County Planning Director shall refer anyone who wishes to subdivide land within the concurrent planning and platting jurisdiction to the municipality for investigation as to the potential future inclusion in its master plan and plat review in accordance with the provisions of the municipal subdivision regulations; and

b. Anyone who proposes a subdivision outside the municipal master plan, and the municipality wishes to relinquish its jurisdiction, shall in writing to the County Planning Director indicate its desire to waive its jurisdiction and allow the subdivision plat review process to proceed in accordance with County subdivision regulations.

Section 2. Agency Review

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

a. New Mexico State Engineer Office;
b. New Mexico Environment Department;
c. New Mexico Highway and Transportation Department;
d. Soil and Water Conservation District in which the proposed subdivision is located;

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e. Historic Preservation Division Office of Cultural Affairs;
f. County Departments as described by the County Planning Director;
g. Any other agencies considered necessary by the County Planning Director.

4.2.2 Agency Response. The state and local agencies shall have thirty (30) days from their receipt of the preliminary plat to review and return an opinion regarding the preliminary plat. The County Planning Director shall obtain receipts or other proof showing the date the opinion request was received by each state and local agency.

4.2.3 Agency requirements. Prior to approving any subdivision, the County Planning Director shall ensure that the following representatives and individuals have been contacted and given the opportunity to make their comments on the proposed subdivision within thirty (30) days receipt of the plat, and that their comments on the subdivision, if any, have been received within the time limits permitted in this regulation, have been given due consideration. In addition to the following agencies, the County Planning Director may also request opinions and comments from any other agency or individual with specific expertise relating to the development of a given subdivision. The following agencies will be contacted:

a. The State Engineer to determine: (1) whether the subdivider can furnish sufficient water quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses; and (2) whether the subdivider can fulfill the proposal in his/her disclosure statement concerning water, excepting quality;

b. State environment Department to determine: (1) whether the subdivider can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations promulgated pursuant to eh Environment Improvement Act, §§ 74-1-1 to 74-1-10, NMSA 1978; (2) whether there are sufficient liquid and solid waste disposal facilities to fulfill the requirements of the subdivision in conformity with the state regulations promulgated pursuant to the Environmental Improvement Act, the Water Quality Act § 74-1-6, NMSA 1978, and the Solid Waste Act § 74-9-1, NMSA 1978; and (3) whether the subdivider can fulfill the proposals contained in his/her disclosure statement concerning water quality, and concerning liquid and solid waste disposal facilities;

c. State Highway and Transportation Department to determine whether the subdivider can fulfill the state highway access requirements in conformity with state regulations promulgated pursuant to § 67-3-16, NMSA 1978. In addition, any subdivision activities that may impact state highway facilities are to be approved by the New Mexico State Highway Transportation Department.

d. Soil and Water Conservation District to determine (1) whether the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage, and erosion; and (2) whether the subdivider can fulfill the proposals contained in his/her disclosure statement concerning terrain management;

e. State Historic Preservation Division to determine that cultural properties, directly affected by the subdivision are identified and protected, as required by the Cultural Properties Act, § 18-6-8.1, NMSA 1978;

f. Luna County Fire Marshal to determine whether the subdivision proposal complies with applicable portions of the National Fire Protection Act (NFPA);

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g. County Roads Superintendent to determine if the design, layout, construction details, roads information in the disclosure statement, and all other facets of the plan and components of the subdivision proposal conform to all applicable standards;

h. County Floodplain manager to determine whether the subdivision lies within a F.E.M.A. designated floodplain and to notify the subdivider of any ongoing or proposed projects which may affect the proposed subdivision;

i. All utility companies affected by the proposed subdivision to determine whether the proposed subdivision can provide easements to meet their respective service needs; and

j. The affected local school district to review the plat and to state whether a school facilities are adequate to accommodate the student population anticipated in the subdivision.

4.2.4 Hearing deadlines. If the opinions received from all agencies are favorable, the County shall schedule a public hearing for consideration and action on the preliminary plat within thirty (30) days following the receipt of the last such favorable opinion. If the County does not receive a requested opinion within the specified thirty (30) days, it shall be deemed that the opinion is favorable and the County shall proceed with the required public hearing.

4.2.5 Adverse opinion. If any opinion from a public agency is adverse, the County Planning Director shall forward a copy of the adverse opinion to the subdivider and request that additional information be provided to the County within a reasonable time not exceeding six months to respond to the concerns of the appropriate agency. The County Planning Director shall forward such additional information upon receipt to the appropriate agency that shall have thirty (30) days after the date the subdivider submits the additional information in order to revise its opinion. The County Planning Director shall obtain receipts or other proof showing the date the additional information was received by each state or local agency.

4.2.6 Revised opinion. The County shall schedule a public hearing for consideration and action within thirty (30) days after the receipt of the last such revised opinion from the appropriate agency. If the County does not receive a revised opinion within the specified thirty (30) days after the date the subdivider submits the additional information, it shall be deemed to be favorable and the County shall proceed with the required public hearing.

Section 3. Public Hearings on Preliminary Plats

4.3.1 Scheduling. The County shall conduct a public hearing after receipt of all requested opinions, either favorable or revised, within the time periods specified in these Regulations. Notice of the public hearing shall be given at least twenty-one (21) days before the hearing date.

4.3.2 Notice. The notice of public hearing shall be published in a newspaper of general circulation in the County and shall contain the following information:

a. Subject of the hearing;

b. Time and place of the hearing;

c. Manner for interested persons to present their views; and

d. Place and manner for interested persons to get copies of any favorable or adverse opinion and of the subdivider's proposal and the fee for each copy. A copy of the

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notice containing the same information shall be posted conspicuously to public view on the property.

4.3.3 Notification. Copies of the notice of public hearing shall be transmitted to the following:

a. The subdivider filing the application for preliminary plat approval;

b. Those public agencies which initially received copies of the preliminary plat and supporting documentation with a request for opinion;

c. Any interested person who previously requested such notice and provided a stamped, self-addressed envelope for such purpose; and

d. Owners of property contiguous to land proposed to be subdivided.

4.3.4 Participation/record. At the public hearing, the County shall allow all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing, and to examine witnesses testifying at the hearing. A record of the public hearing shall be kept. The opinions of the public agencies shall be made a part of the record.

4.3.5 Action. Within thirty (30) days after the completion of public hearing, the Board of County Commissioners shall approve, approve with conditions, or disapprove the preliminary plat at a public meeting, the date, time, and place of which shall be announced publicly at the conclusion of the public hearing. The County Planning Director shall inform the subdivider in writing of the decision of the Board of County Commissioners.

4.3.6 Approval. Approval of conditional approval of a preliminary plat shall constitute approval of the proposed subdivision design and layout submitted on the preliminary plat, and shall be used as a guide in the preparation of the final plat.

Section 4. Expiration of Preliminary Plat

4.4.1 Expiration. An approved or conditionally approved preliminary plat shall expire twenty-four (24) months after its approval or conditional approval. Upon request by the subdivider, an extension of time, not to exceed twelve (12) months, may be added to the expiration date by the Board of County Commissioners.

4.4.2 Phased development. If the preliminary plat was approved for phased development, the subdivider may file final plats for portions of the development, and the expiration date of the preliminary plat shall be extended for an additional thirty-six (36) months after the date of the filing of each final plat. The number of phased final plats shall be determined by the Board of County Commissioners at the time of the approval or conditional approval of the preliminary plat.

4.4.3 Extension. Before the expiration date of the approved or conditionally approved preliminary plat, the subdivider may submit to the Board of County Commissioners an application for extension of the preliminary plat for a period of time not exceeding thirty-six (36) months.

4.4.4 Expiration effect. The expiration of the approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and no final plat shall be filed without first processing a new preliminary plat.

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Section 5. Preliminary Plat Data Requirements

4.5.1 Purpose. At a minimum, the supporting documentation required for the preliminary plat review is intended to provide sufficient information for the County to determine that:

a. Water is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses;

b. Water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination;

c. There are satisfactory means of liquid waste disposal for the subdivision;

d. There are satisfactory means of solid waste disposal for the subdivision;

e. There are satisfactory roads to each parcel, including entry and exit for emergency vehicles, and there are appropriate utility easements to each parcel;

f. Terrain management protects against flooding, inadequate drainage and erosion;

g. There are protections for cultural properties, archaeological sites and unmarked burials that may be directly affected by the subdivision, as required by the Cultural Properties Act;

h. The subdivider can fulfill the proposals contained in the disclosure statement for the subdivision; and

i. The subdivision will conform to the New Mexico Subdivision Act and these Regulations.

4.5.2 Minimum documentation. Supporting documentation, as a minimum, shall include:

a. Water supply plan including conservation, water quality, and fire protection components;

b. Liquid waste disposal plan;

c. Solid waste disposal plan;

d. Accessibility of site to roads and utilities;

e. Terrain management plan;

f. Cultural properties protection;

g. Infrastructure site plan showing location of proposed wells, septic tanks, leaching fields, and their relationship to property lines and potential building envelopes;

h. Disclosure statement including any restrictive covenants that will apply to the subdivision and their means of enforcement.

4.5.2.1 For specific requirements for the supporting documentation, refer to Article 12.1 through and including Article 12.6.

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4.5.3 Filing specifications. The subdivider shall submit fifteen (15) copies of the preliminary plat and supporting documentation for local review and distribution to public agencies. A computer aided digital drawing file format shall also be provided, preferably in (.dwg or .dxf) format. Preliminary plat maps shall be prepared at a scale of two hundred (200) feet to one (1) inch or larger, and printed on sheets no larger than twenty-four by thirty-six (24 x 36) inches. Sheets shall be numbered in sequence if more than one sheet is used.

4.5.4 Map specifications. The preliminary plat map shall show the following:

a. Title, scale, north arrow, and date;

b. Existing topography and any regarding plans, indicating contour intervals sufficient for planning purposes;

c. Existing and proposed boundary lines, in bearings and distances, for the subdivision;

d. Proposed lot lines, with lot and block number, dimensions, and approximate acreage of each lot;

e. The location, dimensions, and purpose of existing and proposed easements;

f. Names and right-of-way widths of existing and proposed streets on and adjacent to the subdivision;

g. Existing and proposed utilities on and adjacent to the site;

h. Locations, dimensions, and purpose of any land to be dedicated to the public use, including any improvements to be made to that land;

i. Location of subdivision in relation to well-known landmarks;

j. Location of archaeological, historical, or culturally significant features on the site;

k. Delineation, if applicable of any 100-year floodplain as designated by the Federal Emergency Management Agency;

l. Names and addresses of the owner or owners of land to be subdivided, the subdivider if other than the owner, and the land surveyor;

m. Legal description indicating the range, township, and section within which the subdivision is located; and,

n. A vicinity map.

4.5.5 Phased subdivisions. Subdivisions that are proposed to be phased and filed in multiple final plats shall include an anticipated phasing schedule for the final plats and a schedule of improvements. Phased subdivisions shall conform to the subdivision master plan approved for the phased development in Article 3.2.

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

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ARTICLE 5. FINAL PLAT REVIEW PROCESS

Section 1. Final Plat Submittal

5.1.1 Conformity. Following approval or conditional approval of a preliminary plat, and before the expiration of the plat, the subdivider shall prepare a final plat in substantial conformity with the approved or conditionally approved preliminary plat. Subdivisions proposed to be phased in multiple final plats shall be submitted as indicated on the phasing schedule submitted with the preliminary plat.

5.1.2 Plat deemed complete. A subdivider shall prepare a final plat and supporting documentation in accordance with the requirements provided in these Regulations. Final plat submittal is initiated by completing an application on a prescribed form set out in Appendix C, who shall review all materials in order to determine whether the final plat is complete. If there are no deficiencies, the final plat will be deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. If the final plat is incomplete or does not comply with the submittal requirements provided herein, the subdivider shall be notified and will be given an opportunity to correct the deficiencies and return the final plat for consideration.

5.1.3 Proceeding after plat approval. After a subdivision receives final plat approval, the subdivider shall have two (2) years from the date of approval of the final plat by the County Commission to complete all improvements required by the County in the subdivision. An extension of up to one (1) year may be granted by the County Commission upon written request by the subdivider. Until one of the following options listed below is met, the final plat shall not be signed by the County Commissioners, nor shall the final plat be filed with the Office of the County Clerk and no lot sales may take place:

a. Either all of the required improvements, both on-site within the subdivision, and external to the subdivision, all as required by the County must be completed, inspected and accepted by the County; or

b. A letter of credit, a cashier's check, a surety bond, certificate of deposit, escrow account, a blanket encumbrance with a trust account, or other financial assurance in an amount equal to 125% of the estimated costs for the improvements, in a form acceptable to the County Commission, and an Agreement To Construct Subdivision Improvements (Appendix D), which cover all of the required improvements on-site and external to the subdivision, must be entered into with the County, and must be filed and stored in the vault of the County Treasurer.

Section 2. Decision on Final Plat

5.2.1 Action. Final plats submitted to the County for approval shall be approved or disapproved by the Board of County Commissioners at a public meeting within thirty (30) days after the date the final plat is deemed complete.

5.2.2 Denial. The Board of County Commissioners shall not deny a final plat if it has previously approved a preliminary plat for the proposed subdivision and it finds that the final plat is in substantial compliance with the previously approved preliminary plat. Denial of a final plat shall be accompanied by a finding identifying the requirements that have not been met.

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5.2.3 Improvement agreement. If, at the time of approval of the final plat, any public improvements have not been completed by the subdivider as required by these Regulations, the Board of County Commissioners shall, as a condition preceding approval of the final plat, require the subdivider to enter into an agreement, as prescribed in Appendix D, with the County, on mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense.

5.2.4 Failure to act. If the Board of County Commissioners does not act upon a final plat within the required period of time, the subdivider shall give the Board of County Commissioners written notice of its failure to act. If the Board of County Commissioners fails to approve or reject the final plat within thirty (30) days after that notice, the Board of County Commissioners shall, upon demand by the subdivider, issue a certificate that the final plat has been approved.

Section 3. Final Plat Data Requirements

5.3.1 Filing Specifications. The original drawing of the final plat shall be submitted in waterproof ink on mylar or acetate or other durable material suitable for reproducing copies. A computer aided digital drawing file format shall also be provided, preferably in (.dwg or .dxf) format. Final plat maps shall be drawn at a scale of two hundred (200) feet to one (1) inch or larger and printed on sheets no larger than twenty-four by thirty-six (24 x 36) inches. When more than one sheet is used to include the entire subdivision, all sheets shall be cut to the same size and shall show appropriate references to other sheets of the subdivision. The subdivider shall also submit two paper copies of the final plat map and accompanying information.

5.3.2 Map specifications. The final plat map shall include the following information:

a. Name of subdivision, scale, north arrow, and date;

b. Permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;

c. Tract boundary lines, easement and right-of-way lines, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves;

d. Accurate description of legal access to, roads to, and utility easements for each parcel, and if the access or easement is based upon an agreement, the recording data in the land records for the agreement;

e. A vicinity map;

f. Name, right-of-way width, and centerline data of each road or other right-of-way;

g. Location, dimensions, and purpose of all easements and dedicated public sites;

h. Number of each parcel in progression, with its dimensions, and the dimensions of all land dedicated for public use or for the use of the owners of parcels fronting on or contiguous to the land;

i. Names of owners of contiguous unplatted land;

j. Delineation of any 100-year floodplain as designated by the Federal Emergency Management Agency;

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k. The names of the owner or owners of the subdivision, and the developer if other than the owner;

l. The certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and

m. Legal description indicating the range, township, and section within which the subdivision is located;

n. A statement that there shall be no resubdivision of any lot(s) or block(s) or other parcel within the final plat of subdivision.

5.3.3 Affidavit. The final plat shall contain a statement that the land being subdivided is subdivided in accordance with the final plat. The final plat shall be acknowledged by the owner and subdivider or their authorized agents in the manner required for the acknowledgment of deeds. Every final plat submitted to the County Clerk shall be accompanied by an affidavit of the owner and subdivider, or authorized agents, stating whether or not the proposed subdivision lies within the subdivision regulation jurisdiction of the County. A copy of the final plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land before sale, lease, or other conveyance.

5.3.4 Dedication. The final plat shall contain a certificate stating that the Board of County Commissioners has accepted subject to improvement, or rejected, on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication. The certificate shall also state that on full conformity with County road construction standards, the roads may be accepted for maintenance by the County, but the County is not responsible for maintenance until roads are formally accepted. Acceptance of offers of dedication on a final plat shall not be effective until the final plat is filed in the Office of the County Clerk or a resolution of acceptance by the Board of County Commissioners is filed in that office.

5.3.5 Disclosure statement. For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided in Appendix B of the Regulations. It is unlawful to sell, lease, or otherwise convey land in a subdivision until the required disclosure statement has been filed with the County Clerk, the Board of County Commissioners, and the Attorney General's Office; and the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement. The subdivider shall attach to the Disclosure Statement copies of written opinions of all agencies, individuals and groups that submitted such comments at the preliminary plat stage. If an initial opinion of an agency was adverse, such adverse opinion must be included along with a statement of how the situation was rectified and the subsequent agency agreement.

5.3.6 Conformity. The Board of County Commissioners shall not approve the plat of any subdivision if the subdivider cannot reasonably demonstrate that he can fulfill the proposals contained in his disclosure statement or if the subdivider has not conformed with the New Mexico Subdivision Act and the County's subdivision ordinance.

5.3.7 Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to the statement of record.

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5.3.8 Environment Department approval. For any subdivision requiring construction of a public water supply system or a community liquid waste system, documentation of approval from the New Mexico Environment Department shall be required for final plat approval.

5.3.9 Recording. The final plat is in full force and effect only after having been recorded in the office of the County Clerk within one (1) year after the date of approval by the Board of County Commissioners.

5.3.10 Water permit.

a. Until July 1, 1997, the Luna County Board of Commissioners shall require that the subdivider provide a copy of a water permit obtained from the State Engineer for the subdivision water use:

   i. For all subdivisions containing a twenty (20) or more parcels, any one of which is two (2) acres or less in size, issued pursuant to §§ 72-5-1, 72-5-23, or 72-5-24, MNSA 1978; or,

   ii. If the subdivision is located within a declared underground water basin, issued pursuant to those sections or to §§ 72-12-3 or 72-12-7, NMSA 1978. Until July 1, 1997, the Board of County Commissioners shall not approve the final plat unless the State Engineer has issued a water permit for the subdivision water use.

b. On or after July 1, 1997, the Board of County Commissioners shall not approve the final plat if the State Engineer has not issued a permit for the subdivision water use for all subdivisions containing lots less than 3.50 acres.

5.3.11 Clear Title. Before approval of the final plat, the subdivider shall provide a title insurance binder from a local title insurance company evidencing marketable title to the entire subdivision. The binder shall list all conditions and encumbrances to the title. If the property is subject to an existing real estate contract or similar interest, that must also be disclosed. The subdivider shall obtain and file any necessary releases of mortgage, contract interest or other encumbrance affecting title to allow a policy of title insurance to be issued subject only to the standard exceptions.

5.3.12 Agriculture. Subdividers are required to disclose to purchasers that New Mexico Law includes statue §§ 47-9-1 through 47-9-4, NMSA 1978, cited as the "Right to Farm Act." According to this law, "any agricultural operation or facility is not, nor shall it become, a private or public nuisance by any changed condition in or about the locality of the operation or facility, if the operation or facility was not a nuisance at the time it began, and has been in existence for more than a year." The Right to Farm Act includes, but is not limited to, operations and facilities within the farm or ranch such as: chemical application, field preparation, irrigation, cultivation, conservation practices, pruning, plowing, planting, roadside market or any other use of the land for the production of plants, crops, trees, forest products, orchard crops, livestock, poultry or fish.

5.3.13 Construction Improvements Warranty of Two Years. If, after final inspection and acceptance of the on-site and external works performed, as required by the County Commission as a condition to plat approval, and prior to the expiration of two (2) years from the date of acceptance, or such longer period of time as may be prescribed by law, any work is found to be defective, whether the failure is the result of construction or materials failure, the subdivider shall promptly and without cost to the County, in accordance with the County Roads Superintendent's written instruction, either correct such defective work, or if it has been rejected by the County Roads Superintendent, remove it from the site and replace it in accordance with the terms of said instruction.

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The County may have the defective work corrected or the rejected work removed and replaced and all direct and indirect costs of such correction, or removal and replacement, including compensation for additional professional services shall be paid by the subdivider. All subdivisions shall be guaranteed by a Two Year Warranty of Improvements that shall obligate the subdivider to repair or replace to County standards any improvements which fail within two years of the County's final inspection of both on-site and external construction related to the subdivision. In order to insure compliance with this regulation, the subdivider shall provide financial security in an amount equal to one hundred percent (100%) of the value of the works inspected and approved by the County. Such financial security shall be in the form of an irrevocable letter of credit, a surety bond, a cashier's check, an escrow account, a certificate of deposit, a blanket encumbrance with a trust account, or other security satisfactory to the County. The warrant shall be in a form acceptable to the County.

5.3.14 Release of Collateral. If the subdivider provides Financial Guarantees in a manner described in Paragraph 15 of Appendix D and with the provisions of Article 1.5.11 of this Ordinance for improvements within and external to the subdivision, and wishes to draw on that letter of financial assurance, the procedure set out in Paragraphs 19, 20 and 21 of Appendix D will apply.

Section 4. Advertising Standards

5.4.1 Filing requirements. Copies of all brochures, publications, and advertising relating to subdivided land shall be filed with the Board of County Commissioners and the Attorney General within fifteen (15) days after initial use by the subdivider.

5.4.2 Requirements/restrictions. Brochures, disclosure statements, publications, and advertising of any form relating to subdivided land shall:

a. Not misrepresent or contain false or misleading statements of fact;

b. Not describe deeds, title insurance, or other items included in a transaction as "free" and shall not state that any parcel is "free" or given as an "award" or "prize" if any consideration is required for any reason;

c. Not describe parcels available for "closing costs only" or similar terms unless all such costs are accurately and completely itemized; or when additional parcels must be purchased at a higher price;

d. Not include an asterisk or other reference symbol as a means of contradicting or substantially changing any statement;

e. Accurately portray, if subdivision illustrations are used, the subdivision in its present state; and, if illustrations are used portraying points of interest outside the subdivision, state the actual road miles from the subdivision;

f. Not contain artists' conceptions of the subdivision or any facilities within it unless clearly labeled as such, and shall not contain maps unless accurately drawn to scale with the scale indicated;

g. Not contain references to any facilities, points of interest or municipalities located outside the subdivision unless the distances from the subdivision are stated in the advertisement in actual road miles; and

h. Refer to the location where the subdivider's disclosure statement may be obtained.

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Section 5. Requirements Prior to Sale, Lease or Other Conveyance

It is unlawful to sell, lease, or otherwise convey land within a subdivision before the following conditions have been met:

5.5.1 Final plat approval. The final plat shall be approved by the Board of County Commissioners and shall be filed with the clerk of the county in which the subdivision is located. If a subdivision lies within more than one county, the final plat shall be approved by the Board of County Commissioners of each county in which the subdivision is located and shall be filed with the County Clerk of each county in which the subdivision is located.

5.5.2 Relevant documents. The subdivider shall furnish the Board of County Commissioners a sample copy of sales contracts, leases and any other documents that will be used to convey an interest in the subdivided land.

5.5.3 Permanent marks. Monuments for the exterior corners of a subdivision shall be set by the surveyor who certified the plat of the subdivision prior to recordation of the subdivision plat. Interior corners of the subdivision shall be set within thirty (30) days after completion of the construction of infrastructure improvements but within one (1) year after recordation of the subdivision plat. The surveyor certifying the subdivision plat shall be responsible for setting interior corners and shall certify on the plat that the monuments shall be set by the surveyor in accordance with these standards.

5.5.4 Required Improvements Completed. Either all improvements required by the County must be completed, inspected and accepted by the County, or a financial guarantee, in the form of a letter of credit, cashier's check, surety bond, certificate of deposit, escrow account, a blanket encumbrance with a trust account, or other surety acceptable to the County Commission are given, and the subdivider and the County have entered into an Agreement To Construct Subdivision Improvements, which improvements may be internal and/or external to the subdivision. The form of the construction agreement is prescribed in Appendix D.

Section 6. Recording Parcels

5.6.1 Authority. § 47-6-9(A)(17) NMSA 1978 requires counties to enact regulations for recording all conveyances of parcels with the County Clerk. As defined in the Act, the term "parcel" means "land capable of being described by location and boundaries and not dedicated for public or common use."

5.6.2 Purpose. Recording conveyances of parcels provides anyone interested in acquiring land, and lenders, with important information about the condition of title. Recording conveyances of all parcels also provides public officials with information needed to detect illegal subdividing. The purpose of this information is to protect buyers and lenders and to help enforce the Act and these Regulations by making all conveyances of parcels matters of public record.

5.6.3 Requirement. Any person who sells, leases for an initial term plus option terms in excess of five (5) years, or otherwise conveys any interest in any parcel located in whole or in part in the County shall record the deed, lease, real estate contract, or other document of conveyance with the County Clerk no later than five (5) days after the closing or thirty (30) days after the date on which the document is signed, whichever comes first. A memorandum of lease may be recorded in lieu of recording the lease itself, as provided in § 14-9-1 NMSA 1978. A memorandum of sale or conveyance may be recorded in lieu of the document itself.

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For purposes of this Section the provision set forth herein shall specifically apply to documents of conveyance conveying or purporting to convey multiple undivided fractional interests in one parcel. All such documents of conveyance shall be subject to review by the County to determine the applicability, if any, of this Ordinance. Grantors shall provide underlying information on the conveyance as requested by the County.

5.6.4 Form and certification. Any deed, lease for an initial term plus option terms in excess of five (5) years, real estate contract, or other document used to convey any interest in any parcel located in whole or in part in the County shall be in a form acceptable for recording and duly acknowledged and certified as required by the provisions of § 14-8-4 NMSA 1978.

5.6.5 Plat Attachment. The deed, lease, real estate contract, or other document of conveyance shall have a survey plat and legal description of the parcel attached to it if the parcel being conveyed is not part of a platted subdivision recorded in the office of the County Clerk. If the parcel being conveyed is a land division and constitutes an exemption from the Subdivision Act, the survey plan shall display, prominently, a note indicating the specific exemption and the said note must be signed by the property owner(s) or his/her (their) agent, demonstrating that the land division shown is with his/her (their) free consent and in accordance with his/her (their) wishes.

Section 7. Water Permits

5.7.1 The Board of County Commissioners shall require that the applicant demonstrate that a State Engineer permit has been issued. The provisions of Article 5.3.10 apply in this regard.

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ARTICLE 6. SUMMARY REVIEW PROCESS

Section 1. Summary Review Procedure

6.1.1 Qualifications. The following types of subdivisions shall be submitted to the County for approval under summary review procedure:

a. Type Three subdivisions containing five (5) or fewer parcels of land, unless the land within a subdivision has been previously identified in the County Comprehensive Plan as an area subject to unique circumstances of conditions that require additional review; and

b. All Type Five subdivisions.

6.1.2 Conference required. A pre-application conference is required before application for summary review and approval. The pre-application process is described in Article Three of these Regulations.

6.1.3 Application/fees. A subdivider shall prepare a summary review plat and supporting documentation in accordance with the requirements provided in these Regulations. The summary review plat shall be considered as a final plat suitable for filing with the County Clerk. Summary review plat submittal is initiated by completing an application on a prescribed form as set out tin Appendix E, and upon payment of the required administrative fees.

6.1.4 Plat deemed complete. On receipt of the application, fees, summary review plat, and supporting documentation, the County Planning Director shall review all materials in order to determine if the preliminary plat is ready to begin the review process. If there are no deficiencies, the summary review plat will be deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. If the summary review plat is incomplete or does not comply with the submittal requirements, the subdivider shall be notified and given an opportunity to correct the deficiencies and return the summary review plat for consideration.

6.1.5 Public hearing. Summary review plats submitted to the County for approval shall be approved or disapproved by the Board of County Commissioners at a public hearing within thirty (30) days of the date the summary review plat is deemed complete.

6.1.5.1 Notice. The notice of public hearing shall be published in a newspaper of general circulation in the County and shall contain the following information:

a. Subject of the hearing;

b. Time and place of the hearing;

c. Manner for interested persons to present their views; and

d. Place and manner for interested persons to get copies of any favorable or adverse opinion and of the subdivider's proposal. A copy of the notice containing the same information shall be posted conspicuously to public view on the property.

6.1.5.2 Notification. Copies of the notice of public hearing shall be transmitted to the following:

a. The subdivider filing the application for approval;

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b. Public agencies, if any, which initially received copies of the supporting documentation with a request for opinion;

c. Any interested person who previously requested such notice and provided a stamped, self-addressed envelope for such purpose; and

d. Owners of property contiguous to land proposed to be subdivided.

6.1.6 Improvement agreement. If, at the time of approval of the summary review plat, any public improvements have not been completed by the subdivider as required by these Regulations, the Board of County Commissioners shall, as a condition preceding approval of the summary review plat require the subdivider to enter into an agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense. The provisions of Articles 5.1.3, 5.3.13 and 5.3.14 shall apply.

Section 2. Summary Review Data Requirements

6.2.1 Filing Specifications. The original drawing of the summary review plat shall be submitted in waterproof ink on mylar or acetate of other durable material suitable for reproducing copies. A computer aided digital drawing file format shall also be provided, preferably in (.dwg or .dxf) format. Summary review plat maps shall be drawn at a scale of two hundred (200) feet to one (1) inch or larger and printed on sheets no larger than twenty-four by thirty-six (24 x 36) inches. If more than one sheet is used to include the entire subdivision, all sheets shall show appropriate references to other sheets of the subdivision. The subdivider shall also submit four (4) paper copies of the summary review plat map and accompanying information.

6.2.2 Map specifications. The summary review plat map shall meet all requirements for final plats as per Article 5.3 including the following information:

a. Name of subdivision, scale, north arrow, and date;

b. Permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;

c. Tract boundary lines, easement and right-of-way lines, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves;

d. Accurate description of legal access to, roads to, and utility easements for each parcel, and if the access or easement is based upon an agreement, the recording data in the land records for the agreement;

e. A vicinity plan;

f. Name, right-of-way width, and centerline data of each road or other right-of-way;

g. Location, dimensions, and purpose of all easements and dedicated public sites;

h. Number of each parcel in progression, with its dimensions, and the dimensions of all land dedicated for public use or for the use of the owners of parcels fronting on or contiguous to the land;

i. Names of owners of contiguous unplatted land;

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j. Delineation of any 100-year floodplain as designated by the Federal Emergency Management Agency;

k. The names of the owner or owners of the subdivision, and the developer if other than the owner;

l. The certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and

m. Legal description indicating the range, township, and section within which the subdivision is located.

6.2.3 Acknowledgment and Copy. The summary review plat shall be acknowledged by the owner and subdivider, or authorized agents, in the manner required for the acknowledgment of deeds. A copy of the summary review plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land prior to sale, lease or other conveyance.

6.2.4 Dedication. The summary review plat shall contain a certificate stating that the Board of County Commissioners has accepted, accepted subject to improvement, or rejected, on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication. Upon full conformity with County road construction standards, the roads may be accepted for maintenance by the County. Acceptance of offers of dedication on a summary review plat shall not be effective until the summary review plat is filed in the office of the County Clerk or a resolution of acceptance by the Board of County Commissioners is filed in that office.

6.2.5 Disclosure Statement. For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided in Appendix B to these Regulations. It is unlawful to sell, lease or otherwise convey land in a subdivision until the required disclosure statement has been filed with the County Clerk, the Board of County Commissioners, and the Attorney General's Office; and the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement.

6.2.6 Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to the statement of record.

6.2.7 Advertising Standards. The advertising standards covering the sale, lease, or other conveyance of subdivided land provided in Article 5.4 of these Regulations shall be applicable to summary review plats.

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ARTICLE 7 SPECIAL PROCEDURES

Section 1. Succeeding Subdivision

7.1.1 Any proposed subdivision may be combined with a previous subdivision and upgraded for classification purposes by the Board of County Commissioners if the proposed subdivision includes:

a. A part of a previous subdivision that has been created in the preceding seven (7) year period; or

b. Any land retained by a subdivider after creating a previous subdivision if the previous subdivision was created in the preceding seven (7) year period;

c. Land adjoining a previous subdivision that is owned by the original subdivider.

7.1.2 The cost of improvements to upgrade the subdivision shall be the responsibility of the subdivider, or the party initiating the action.

Section 2. Resubdivision

7.2.1 All or a portion of any final plat filed in the office of the County Clerk may be resubdivided by the same procedures prescribed in these Regulations for the subdivision of land.

7.2.2 Resubdivision shall include any change to a lot line, right-of-way line, or utility easement, unless the change is the result of a vacation of plats or a variance granted by action of the Board of County Commissioners.

Section 3. Dormant Subdivisions

It is unlawful for any person to sell, lease or by other conveyance to transfer a parcel within a dormant or inactive subdivision, before the following conditions have been met:

7.3.1 Definition. For purposes of this Section, a dormant subdivision is defined as a previously approved subdivision that has not had sales of parcels within the subdivision during the past six (6) years, or has not had any improvements made to its infrastructure within the past six (6) years. For purposes of this Ordinance, any objective separate portion or phase or stage of a subdivision that meets this definition is a dormant subdivision. "Infrastructure" is defined in Article 2 of this Ordinance.

7.3.2 Procedure. Prior to selling any additional parcels of land in a dormant subdivision which has been previously filed in the Office of the County Clerk, an owner of the subdivided parcels must submit a new application for approval following the same procedures prescribed in these Regulations for the initial subdivision of land. An updated disclosure statement must also be approved and filed for any dormant subdivision.

7.3.3 Due Process. When considering the application for approval of a dormant subdivision, the County Commission shall duly consider the health, safety, and welfare of the citizens of the County and the prospective purchasers, along with the economic use of the property.

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Section 4. Vacation of plats

7.4.1 Cause. Any final plat filed in the Office of the County Clerk may be vacated or a portion of the final plat may be vacated if:

a. The owners of the land proposed to be vacated sign an acknowledgement declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board of County Commissioners; or

b. The Board of County Commissioners finds that a plat was obtained by misrepresentation or fraud, and orders a statement of vacation to be prepared by the County; or,

7.4.2 Statement of Vacation. The vacation of all or a portion of a final plat shall be initiated by submittal of a request for vacation to the County Planning Director, along with the names of all the owners of record of property within the subdivided land to be vacated, the names of all owners of record of property contiguous to the subdivided land to be vacated, and statements of acceptance by public utilities. The authorized representatives of all utility companies that have easements within the area proposed for vacation, must sign a notarized statement agreeing to the proposed vacation or indicating their conditions to any agreement to the proposed vacation.

7.4.3 Property owners seeking to vacate all or a portion of a final plat shall submit the following information to the County Planning Director:

a. A title report from a local abstract company showing all owners of record of parcel(s) to be vacated;

b. A map or plat detailing the area involved, a new survey or re-plat with the revised legal description for the parcel(s);

c. Pay the required fee as established by the County Commission from time-to-time.

7.4.4 Scheduling and Notification. Within sixty (60) days after receipt of the statement of vacation and payment of the appropriate review fee, the County Commission shall approve or deny the vacation application, subject to the following:

a. Action shall be taken at a public meeting;

b. At least fifteen (15) days before the proposed meeting, all owners of record of property, including holders of easements, within the subdivision to be vacated, and all owners of record of property contiguous to the subdivided land to be vacated shall have been notified by mail of the proposed vacation and the date, time and place of the public meeting at which the vacation will be considered by the Board of County Commissioners;

c. Relevant utilities and other agencies have been notified.

7.4.5 Action. In approving the vacation of all or a part of final plat, the County Commission shall decide whether the vacation will adversely affect the interest of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a part of the final plat, the County Commission may require that roads dedicated to the County in the final plat continue to be dedicated to the County.

7.4.6 Filing. The approved statement declaring the vacation of all or a portion of a final plat shall be filed in the office of the County Clerk. The County Clerk shall mark the final plat

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with the words "Vacated" or "Partially Vacated" and refer on the final plat to the volume and page number on which the statement of vacation is recorded.

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

7.4.8 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.

Section 5. Variances

No variances that may be granted shall constitute a grant of special privilege inconsistent with the limitations on other properties in the immediate area.

7.5.1 Planned Development Area. The Board of County Commissioners may grant a variance from the standards and requirements of these Regulations if it is presented with a plan and program of a new town, a complete community, or a neighborhood unit, which, in the judgment of the Board of County Commissioners, provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants and other legal provisions as will assure conformity to and achievement of the plan. Such planned development area must conform to the policies of the Comprehensive Land Use Plan, and must fit and be compatible with contiguous development in the County. Fit and Compatibility shall include, but is not limited to the following: land uses, scale of existing development, density, road pattern, landscaping, lighting, open space provisions, water supply and liquid waste facilities, easements, and other criteria deemed appropriate by the County Planning Director in consultation with other County Departments and public agencies.

7.5.2 Conditions and limitations. A variance shall not be granted which will cause the County to absorb costs over and above those typically associated with subdivision approval. In granting variances, the Board of County Commissioners may require such conditions as will:

a. Substantially secure the objectives of the standards of these Regulations; and

b. Not adversely affect the health, safety, and general welfare of the public, if otherwise consistent with the general purpose and intent of these Regulations and if not injurious or detrimental to the surrounding area;

c. Limit further expansions;

d. Impose time limits;

e. Impose conditions on the type of construction;

f. Impose height limitations;

g. Require buffering of certain land uses where appropriate and,

h. Insures compatibility of land use and density of development.

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

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a. Requests for variances shall be submitted in writing at the time of request for preliminary plat approval on the form prescribed in Appendix F, and upon payment of the required administrative fee.

b. Variance requests shall be reviewed by the Board of County Commissioners in public hearings at the same time public hearings are held for approval of the preliminary plat.

c. Notice of the request for variance shall be given in the same manner as notice is provided for any public hearing required in these Regulations and shall comply with the requirements of the Open Meetings Act of the State of New Mexico.

d. Variance requests shall be submitted to the state or other reviewing agency having expertise with respect to the subject matter for which the variance is sought, and shall be governed by the same time limits.

e. The Board of County Commissioners shall make written findings of fact regarding each of the requirements of these Regulations and shall produce those findings of facts as a portion of its decision and order on each request for variance.

f. The decision and order shall be prepared, signed and filed within five (5) working days after the public hearing at which the variance is considered.

Section 6. Exemptions

7.6.1 Approval required. It is unlawful for any person to divide a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease, or other conveyance or for building development, whether immediate or future, unless such person either obtains approval for a subdivision as provided in these Regulations, or files and obtains approval for a Claim of Exemption as provided for in this Article.

7.6.2 Verification of Exemption.

a. Any person claiming entitlement to an exemption under the provisions of this Ordinance, and as defined by the New Mexico Subdivision Act, shall file an affidavit, on the form prescribed in Appendix G attesting to the validity of the exemption being claimed, and shall be filed with the County Planning Director.

b. The County Planning Director shall review the claim of exemption and supporting documents and shall mail written notice of whether the exemption has been approved or denied to the person claiming the exemption within thirty (30) days after receipt of the completed claim of exemption; provided, however, that the thirty (30) day period shall not begin to run until the person claiming the exemption has delivered a completed Claim of Exemption form with all supporting documents to the County Planning Director.

c. If the claim of exemption is approved, or if the County Planning Director fails to mail written notice to the claimant within thirty (30) days after receipt of the completed claim of exemption and all supporting documents, the person claiming the exemption may divide the land in the manner proposed in the claim of exemption without complying with the provisions of this Ordinance.

d. If the claim of exemption is denied, the person claiming the exemption may appeal the denial as provided in Article 10 of this Ordinance, or may submit an application for a subdivision as provided in this Ordinance.

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Section 7. Amendments

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

Section 8. Protection of Cultural Properties, Archaeological Sites & Unmarked Burials

7.8.1 Archaeological Survey. All lands that are proposed to be subdivided shall be investigated by an archaeologist who is permitted by the state Cultural Properties Review Committee for the purpose of identifying and evaluating the significance of cultural properties, archaeological sites, and unmarked burial sites that might be impacted directly by the subdivision. An exception to this section shall be granted by the Planning Director in consultation with the NM State Historic Preservation Division if the area has been previously surveyed and a report has been prepared that is acceptable to the NM State Historic Preservation Division. An archaeological survey report of the land to be subdivided shall accompany the preliminary plat at time of submittal to the County Planning Director. Such survey report shall include, but is not limited to, the following:

a. Research and analysis of the Archaeological Records Management Section (ARMS) site files and the State Register of Cultural Properties maintained by the NM State Historic Preservation Division and the Bureau of Land Management historic plat records;

b. An intensive pedestrian survey of the property for evidence of archaeological features, artifacts or culturally altered landscapes at least fifty (50) years old, following current standards adopted by the Cultural Properties Review Committee; and,

c. One of the following recommendations:

   i. The proposed development will not affect cultural properties and no further archaeological investigations are required because either, no cultural properties, archaeological sites, or unmarked human burials were found; or,
   ii. There are cultural properties, archaeological sites, or unmarked human burials but the proposed development will not have an affect upon them. The cultural property, archaeological site, or unmarked human burial can be avoided by project redesign or establishing a non-disturbance easement around it. If the cultural property, archaeological site, or unmarked human burial will be placed in a non-disturbance easement, the easement must be shown on the approved plat of the subdivision.
   iii. The cultural properties, archaeological sites, or unmarked human burials will be affected by the proposed development and a resolution to mitigate the adverse effects is recommended by the archaeologist.

d. The County Planning Director shall submit the preliminary plat and survey report to the NM State Historic Preservation Division for review and comment. The subdivider shall be responsible for implementing the mitigation plan approved by the County Planning Director and the NM State Historic Preservation Division.

7.8.2 Unmarked Human Burials

a. According to state law, any human burial in the state in any unmarked burial ground is accorded the protection of law and shall receive appropriate and respectful treatment and disposition.

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b. All subdividers shall comply with the requirements of § 18-6-11.2 NMSA 1978, which prohibits the knowing, willful and intentional excavation, removal, disturbance or destruction of any human burial, buried, entombed or sepulchered in any unmarked burial ground except by authority of a permit issued by the state medical investigator or by the state cultural properties review committee with the concurrence of the sate archaeologist and state historic preservation officer.

Section 9. Existing Mobile Home Parks

7.9.1 Mobile Home Park/Subdivision An area of land upon which more than two trailers or mobile homes are located, either free of charge or for revenue purpose.

7.9.2 Mobile Home Defined. A moveable or portable housing structure larger than forty feet in body length, eight feet in width or eleven feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes that is not constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974, and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction or built to the standards of any municipal building code.

7.9.3 Only those mobile home parks existing at the date this Ordinance becomes effective are permitted in Luna County. New mobile home parks are not to be permitted.

7.9.4 Expansions to existing mobile home parks are permitted provided the expansion and any proposed changes to the existing park meet all requirements of section 7.11.5 and all other applicable requirements and processes set out in this Ordinance.

Section 10. Recreational Vehicle Parks

7.10.1 Recreational Vehicle Defined. A self-contained driven or towed portable unit not designed to be installed on a temporary or permanent foundation nor used for human occupancy as a residence which includes: pickup campers, chassis mounted motor homes, mini motor homes, park trailers, recreational vans, pop-up tent/hard-top trailers, converted buses, or other converted and chopped vehicles.

7.10.1.1 Recreational Vehicle Park Defined. A lot, block or parcel of land, or a site, at least one (1) acre in area containing facilities such as potable water, liquid waste disposal facilities, electrical hook-ups, and recreation facilities, and designed to accommodate overnight or longer-term parking of three (3) or more recreational vehicles.

7.10.2 Interpretation and Conflict. The developer of a recreational vehicle park must comply with the requirements of this Ordinance and with those set out in this Article. Where the requirements of this Article conflict with the regulations set out in other Articles of this Ordinance, or with any other County ordinance the more restrictive regulation shall apply in each case.

7.10.3 Site Conditions. The condition of soil, ground water level, drainage and topography shall not create hazards to the property or to the health and safety of the occupants. Recreational vehicle parks shall be in compliance with all technical standards and requirements of this Ordinance, including, but not limited to: water supply, water quality, liquid waste disposal, solid waste disposal, and terrain management.

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7.10.4 Standards for Recreational Vehicle Parks. In any district or zone in which recreational vehicle parks are permitted, the following regulations and minimum standards shall apply.

7.10.5 Minimum Park Area and Maximum Density. Recreational Vehicle parks shall be a minimum of one (1) acre in area and shall not exceed a maximum density of ten (10) recreational vehicle spaces per gross acre, including all dry camp sites.

7.10.6 Setbacks and Separation Distances. Setbacks and separation distances in recreational vehicle parks shall be in accordance with the following:

a. The separation between recreational vehicles shall be a minimum of fifteen (15) feet.

b. The front and rear yard setbacks of each recreational vehicle from a private internal road shall be at least fifteen (15) feet.

c. The side yard setback of each recreational vehicle from a private internal flanking street shall be a minimum of fifteen (15) feet.

d. No recreational vehicle may be located closer than twenty-five (25) feet to a County Road.

7.10.7 Access to Park. Direct vehicular access to the recreational vehicle park shall be provided by means of an abutting, approved public County road or street. The width and construction of the access streets or roads shall be suitable for the vehicular traffic requirements of the properties served. Sole vehicular access shall not be from an alley or laneway.

7.10.8 Entrances and Exits. Entrances and exits shall be designed for safe and convenient movement of traffic into and out of the recreational vehicle park, and to minimize marginal friction with free movement of traffic on adjacent streets. All traffic into and out of the recreational vehicle park shall be through such entrances and exits.

7.10.9 Internal Streets or Roads. Streets or roads shall be provided within recreational vehicle parks to furnish principal traffic ways for safe and convenient access to all lots, and to facilities for common use by recreational vehicle park residents. Such streets or roads shall be privately owned, constructed and maintained. The following provisions will apply to internal streets or roads.

a. No street or road within a recreational vehicle park will be accepted for maintenance by Luna County. Such streets and roads shall remain the responsibility of the owner(s) of the lands.

b. Street alignment and gradient shall be properly designed and adapted to the site topography, to the safe movement of the types and volumes of traffic expected, and to satisfactorily control surface and ground water.

c. All streets or roads shall provide for the continuation of appropriate projections of streets and roads in the surrounding areas, and provide reasonable means of ingress and egress for surrounding tracts of land.

d. Streets shall be extended, as topography permits, to the boundaries of the recreational vehicle park to provide future connections with adjoining unplatted lands.

e. A sound, all-weather driving surface shall be provided and maintained.

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f. All two (2) lane streets or roads shall allow at least twenty (20) feet free width. Space for on-street parking shall not be taken from this width.

g. Street widths shall be sufficient to permit free movement from or to the stream of traffic on public streets or roads and no parking shall be permitted that in any way interferes with such free movement.

h. An internal system of pedestrian walkways shall be provided so that residents can gain safe access to common facilities or services within the recreational vehicle park or to public walkways on adjacent public County streets or roads, all to the satisfaction of the County Planning Director.

7.10.10 Parking Spaces. Parking spaces shall be provided in sufficient numbers to meet the needs of the residents and guests. At a minimum, two (2) off street parking spaces shall be provided for each lot.

7.10.11 Driveways. A driveway, either paved, graveled, or covered with similar material shall be provided on each recreational vehicle site. Driveways shall be a minimum width of ten (10) feet. Driveways shall also be provided where necessary for convenient access to collection points for refuse and other materials, and to common area facilities established for the residents.

7.10.12 Exterior lighting. The park perimeter must be adequately lighted. The overall lighting plan must be included with plans submitted to the County for approval. All exterior lights shall be located and shielded so as to prevent direct illumination of any contiguous lot. All exterior lighting shall adhere to the requirements of the Night Sky Protection Act §§ 74-12-1 through 74-12-11.

7.10.13 Potable Water and Liquid Waste Disposal. Each recreational vehicle park shall provide and utilize an approved community water system and an approved community liquid waste disposal system.

7.10.14 Utility connections. All recreational vehicle parks shall provide individual water, liquid waste, and electrical connections for each recreational vehicle space unless water is available within 100 feet of each recreational vehicle space, and there are at least two (2) liquid waste dump facilities for every five (5) acres, or fraction thereof, of the park.

Natural gas or liquid propane gas connections to individual lots are prohibited.

7.10.15 Utility easements. Utility easements shall be provided as required by the various utility companies.

7.10.16 Residential Occupancy. No recreational vehicle and no recreational vehicle space shall be used for any purpose other than residential occupancy.

7.10.17 Expansion of Existing Recreational Vehicle Parks. Expansion of existing recreational vehicle parks is permitted provided the expansion and any proposed changes to the existing park meet all applicable requirements of Section 7.10 and all other applicable requirements of this ordinance.

Section 11. Manufactured Home Parks.

Any person subdividing land for use as a manufactured home park shall comply with the following provisions:

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7.11.1. Purpose. The regulations, restrictions, and requirements of this Section are designed to promote orderly development of manufactured home parks within Luna County, in keeping with the general purposes of this Ordinance.

7.11.2. Definition. Manufactured home parks are included in the definition of subdivision in this Ordinance and therefore subject to the regulations of this Ordinance. Design standards for manufactured home parks are supplemental to the subdivision regulations in this Ordinance, and other design standards as set forth therein.

7.11.3 Interpretation and Conflict. The developer of a manufactured home park must comply with the requirements of this ordinance and with those set out in this Article. Where the requirements of this Article conflict with the regulations set out in other Articles of this Ordinance, or with any other County ordinance the more restrictive regulation shall apply in each case.

7.11.4 Site Conditions. The condition of soil, ground water level, drainage and topography shall not create hazards to the property or to the health and safety of the occupants. Manufactured home parks shall be in compliance with all technical standards and requirements of this ordinance, including, but not limited to: water supply; water quality; liquid waste disposal; solid waste disposal; and terrain management.

7.11.5. Standards for Manufactured Home Parks. In any district or zone in which manufactured homes are permitted, the following regulations and minimum standards shall apply:

7.11.5.1 Safety Separations and Water and liquid waste Disposal

a. Only one manufactured home and its accessory buildings or structures shall be erected on each lot in the park.
b. Lots in a manufactured home park utilizing community water and liquid waste disposal systems, shall be no less than six thousand (6,000) square feet in area.
c. Lots in a manufactured home park having no community water and/or liquid waste waste disposal systems shall be a minimum of two (2) acres in area.
d. The separation between manufactured homes and each of their detached accessory buildings shall be a minimum of fifteen (15) feet.
e. The separation between manufactured homes or manufactured home pads shall be a minimum of twenty-five (25) feet.
f. Lot numbering and street names of the manufactured home park shall be approved by the County Planning Director.

7.11.5.2. Access to Park. Direct vehicular access to the manufactured home subdivision shall be provided by means of an abutting, approved public County road or street. The width and construction of the access streets or roads shall be suitable for the vehicular traffic requirements of the properties served. Sole vehicular access shall not be from an alley or laneway.

7.11.5.3. Entrances and Exits .Entrances and exits shall be designed for safe and convenient movement of traffic into and out of the manufactured home park, and to minimize marginal friction with free movement of traffic on adjacent streets. All traffic into and out of the manufactured home park shall be through such entrances and exits.

7.11.5.4. Internal Streets or Roads. Streets or roads shall be provided within manufactured home

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parks to furnish principal traffic ways for safe and convenient access to all lots, and to facilities for common use by manufactured home park residents. Such streets or roads shall be privately owned, constructed and maintained. The following provisions will apply to internal streets or roads.

a. No street or road within a manufactured home park will be accepted for maintenance by Luna County. Such streets and roads shall remain the responsibility of the owner(s) of the lands.
b. Street alignment and gradient shall be properly designed and adapted to the site topography, to the safe movement of the types and volumes of traffic expected, and to satisfactorily control surface and ground water.
c. All streets or roads shall provide for the continuation of appropriate projections of streets and roads in the surrounding areas, and provide reasonable means of ingress and egress for surrounding tracts of land.
d. Streets shall be extended, as topography permits, to the boundaries of the manufactured home park to provide future connections with adjoining unplatted lands.
e. A sound, all-weather driving surface shall be provided and maintained.
f. All two (2) lane streets or roads shall allow at least twenty (20) feet free width. Space for on-street parking shall not be taken from this width.
g. Street widths shall be sufficient to permit free movement from or to the stream of traffic on public streets or roads and no parking shall be permitted that in any way interferes with such free movement.
h. An internal system of pedestrian walkways shall be provided so that residents can gain safe access to common facilities or services within the manufactured home park or to public walkways on adjacent public County streets or roads, all to the satisfaction of the County Planning Director.

7.11.5.5. Parking Spaces. Parking spaces shall be provided in sufficient numbers to meet the needs of the residents and guests. At a minimum, two (2) off street parking spaces shall be provided for each lot. Guest parking may be provided in one or more convenient locations. A minimum of one guest space shall be provided for each lot.

7.11.5.6 Driveways. A manufactured home park shall provide a driveway, either paved, graveled, or covered with similar material, on each lot. Driveways serving each manufactured home lot shall be a minimum width of ten (10) feet. Driveways shall also be provided where necessary for convenient access to collection points for refuse and other materials, and to common area facilities established for the residents.

7.11.5.7. Recreation/Open Space Area. A minimum of five percent (5%) of the gross land area covered by the manufactured home park shall be devoted to open space for recreational purposes. The open space shall be centrally located.

7.11.5.8. Exterior Lighting. All exterior lights shall be located and shielded so as to prevent direct illumination of any contiguous lot. All exterior lighting shall adhere to the requirements of the Night Sky Protection Act, §§ 74-12-1 through 74-12-11.

7.11.5.9. Residential Occupancy. No manufactured home, and no manufactured home lot shall be used for any purpose other than residential occupancy.

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ARTICLE 8. REQUIRED IMPROVEMENTS

Section 1. Construction of Required Improvements

8.1.1 Guarantees. The County is not, nor shall it become the guarantor of any improvements for proposed or approved subdivisions. All infrastructure and other improvements are the sole responsibility of the subdivider.

8.1.2 Improvement requirements. The subdivider shall install and construct such improvements, if any, as are required by these Regulations in the manner and to the design standards provided in these Regulations. Approval of the preliminary plat is authorization for the subdivider to proceed with the minimum improvements required by these Regulations. Before the construction of any improvements or the submission of any bond or other improvement guarantee, the subdivider shall furnish the County with all plans necessary for the construction of such improvements. These plans shall be reviewed by the County Planning Director and the County Roads Superintendent, and, if in accordance with these Regulations, shall be approved by the County, allowing the subdivision development to proceed.

8.1.3 Improvement agreement. The Subdivider shall enter into a subdivision improvement agreement with the County, as prescribed in Appendix D. This agreement shall constitute a binding contract between the subdivider and the County and shall contain those terms and conditions designed to guarantee completion of improvements agreed to by the subdivider and the County. Before any agreement is entered into, the subdivider shall present evidence of financial capability to complete the improvements.

Section 2. Road Development

8.2.1 Construction schedule. Roads within a subdivision shall be constructed only on a schedule approved by the Board of County Commissioners. In approving or disapproving a subdivider's road construction schedule, the Board of County Commissioners shall consider:

a. The proposed use of the subdivision;
b. The period of time before the roads will receive substantial use;
c. The period of time before construction of homes will begin on the portion of the subdivision serviced by the road;
d. The county regulations governing phased development; and
e. The needs of prospective purchasers, lessees and other person acquiring an interest in subdivided land in viewing the land within the subdivision.

8.2.2 Safety. All proposed roads shall conform to minimum County safety standards.

8.2.3 Demonstration of use/access. The Board of County Commissioners shall not approve the grading or construction of roads unless and until the subdivider can reasonably demonstrate that the roads to be constructed will receive use and that the roads are necessary to provide access to parcels or improvements within twenty-four (24) months after the date of construction of the road. It is unlawful for the subdivider to grade or otherwise commence construction of roads unless the construction conforms to the schedule of road development approved by the Board of County Commissioners.

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Section 3. Improvement Guarantee

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

a. Complete installation of the required improvements before approval of the final plat; or
b. Assure construction of required improvements after final plat approval.

8.3.2 Alternatives. If the subdivider wishes to submit the final plat for review, approval, and recording before completion of required improvements, the subdivider shall post a financial guarantee with the County. The guarantee shall be not less than one hundred twenty-five (125) percent of the estimated cost of the required improvements. This guarantee may be in the form of a surety bond, letter of credit, cashier's check, escrow deposit, certificate of deposit, a blanket encumbrance with a trust account or other method acceptable to the County. The subdivider shall enter into an Agreement To Construct Subdivision Improvements (Appendix D to this Ordinance) with the County, which shall contain all required improvements on-site and external to the subdivision, and these documents must be filed and stored in the vault of the County Treasurer.

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ARTICLE 9. ADMINISTRATIVE FEES

9.1.1 Any person desiring to subdivide land in the County shall pay the administrative fees set by resolution of the Board of County Commissioners.

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ARTICLE 10. APPEALS

Section 1. Who May Appeal

10.1.1 County Planning Director. Any person who is adversely affected by a decision of the County Planning Director regarding a subdivision plat may appeal to the Board of County Commissioners within thirty (30) days after the date of the action of the County Planning Director. The Board of County Commissioners shall hear the appeal and render a decision within thirty (30) days after receiving the notice of appeal.

10.1.2 Board of County Commissioners. Any person who is adversely affected by a decision of the Board of County Commissioners in approving or disapproving a subdivision plat may appeal to the District Court of the county in which the subdivision is located within thirty (30) days after the date of the action of the Board.

10.1.3 Adversely Affected Persons. For the purposes of this Section 1, a person who is "adversely affected" shall mean:

a. The Applicant, in the event that any decision or condition imposed is unacceptable, or

b. Any other landowner in the vicinity of the proposed subdivision who can demonstrate that the health or safety of the present or future occupants of that landowner's property will be threatened by the approval and construction of the Subdivision.

Section 2. Appeal Process

10.2.1 The appeal shall consist of a whole record review, and the reviewing authority, whether it is the Board of County Commissioners or the District Court, shall set aside the determination previously made, if it is found to be:

a. Arbitrary, capricious or an abuse of discretion; or
b. Not supported by substantial evidence; or
c. Otherwise not in accordance with law.

10.2.2 The appeal shall be perfected by filing a written notice of appeal, as prescribed in Appendix H, which sets forth the specific portion or portions of the decision being appealed and payment of the required fee. A copy of the decision or order being appealed shall be attached to the notice of appeal.

10.2.3 Any party to the action in District Court shall have full appellate rights in accordance with the laws of the State of New Mexico and the rules of appellate procedure for the State of New Mexico.

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ARTICLE 11. DESIGN AND CONSTRUCTION STANDARDS

Section 1. Water Supply Guidelines

11.1.1 Water Conservation Measures. The following water conservation measures are identified for housing units in all subdivisions:

a. All new construction shall conform to the requirements of the administrative building and plumbing codes at the time of construction.

b. Low water use landscaping techniques applying the principles of xeriscaping are encouraged.

c. Luna County encourages the installation of water-saving fixtures in all new residential and non-residential buildings. Water-saving fixtures include low-flush toilets, low-flow showerheads, low-flow faucets, water-saving dishwashers and clothes washers, and installation of hot water pumps.

d. Luna County encourages the metering of all community water system wells and service connections and readings reported to the water system management at monthly intervals.

e. The installation of pressure reducing valves on service connections is encouraged where water pressure at the customer service connection exceeds 80 pounds per square inch (psi).

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

a. The maximum annual water requirement for both indoor and outdoor purposes, for each parcel in a residential subdivision shall be 0.50 acre-feet per year, unless a detailed water demand analysis approved by the State Engineer's Office justifies the use of a different figure. The total annual water requirement for the subdivision in acre-feet per year, is computed by multiplying the number of parcels by 0.50.

b. The subdivider, may at his option, prepare a detailed water demand analysis using the step-by-step computational procedure presented in the State Engineer's Technical Report 48, entitled Water Conservation and Quantification of Water Demands in Subdivisions.

c. A detailed water demand analysis shall be prepared for all non-residential subdivisions and all water uses not directly related to residential uses within a mixed development subdivision. Annual water requirements shall be estimated using the State Engineer's Technical Report 48, cited in b. above.

d. The total water demand for a subdivision shall include water requirements for firefighting (structural fires and wild fires) and account for distribution system losses.

11.1.3 Final Plat Approval Requirements. Before approving the final plat for a subdivision containing twenty (20) or more parcels, any one of which is two (2) acres or less in size, the Board of County Commissioners may require that the subdivider provide a copy of a permit obtained from the State Engineer, issued pursuant to Section 72-5-1, 72-5-23, 72-5-24, for the subdivision water use; or pursuant to Sections 72-12-3 or 72-12-7 NMSA 1978, if the subdivision is located within a declared underground water basin. In acting

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on the permit application, the State Engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses.

11.1.4 Community Water Requirements

a. A community water system shall be required for all subdivisions which create more than twenty-five (25) lots, any one of which is three and one-half (3.50) acres or less in area. For all subdivisions in which all lots created are greater than three and one-half (3.50) in area, community water systems shall not be required except under the conditions set out in 11.1.4.b. below.

b. A community water system shall be required for all other subdivisions containing six (6) or more parcels where groundwater would be supplied from geologic formations where wells have been determined to produce at a rate of two (2.0) gallons per minute or less, or where available information suggests the likelihood of low yielding wells. In lieu of a community water system, the developer shall provide alternative means of supplying potable water to each lot in sufficient quantities to meet the maximum annual water requirements of each lot, and shall fully disclose the means and methods of providing such water supply. Acceptable alternative means of supplying potable water shall include individual wells drilled by the developer, or other means of water delivery, combined with storage systems supplied by the developer for each lot. Such storage systems shall be capable of storing an amount of water equal to twice the average daily water consumption for the household, as computed in accordance with Article 11.1.2.a. above, and must be capable of delivering water at a minimum rate of two (2.0) gallons per minute.

c. If water is to be supplied from a community water system, the subdivider shall submit a plat of the proposed subdivision, and preliminary plans for the water production, storage, and distribution facilities prepared by or under the supervision of a registered professional engineer. The site plans shall show the topography, parcel boundaries, streets, wells, and water storage and distribution system, including hydrants. The size or capacity of the water system components shall also be indicated on the site plans. Preliminary well plans shall include casing diameter, total depth, screened interval, and proposed pump setting.

d. Residential service connections to community water systems shall be required where such systems have been designed and constructed for use within the subdivision.

e. If a community water system is proposed or required, the developer should consult with the New Mexico Public Utilities Commission regarding the applicability of the Public Utility Act to that community water system.

11.1.5 Water Availability Assessment Requirements

a. If the source of water supply will be an existing community water system or municipal water system, the subdivider shall submit a water availability assessment containing the following information:

i. Name of the utility proposed as the source of supply;

ii. Documentation from the utility that they are ready, willing, and able to provide the maximum annual water requirements for the subdivision. For subdivisions with more than six (6) lots, such documentation may include information meeting the requirements of subsection C of these Requirements, as well as additional information demonstrating system capabilities and existing and proposed

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infrastructure improvements that may be required to furnish water to the subdivision in sufficient quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor uses.

b. If the subdivider proposed that the source of water shall be individual domestic wells or shared wells to be approved by the State Engineer pursuant to Section 72-12-1 NMSA 1978, the subdivider shall submit a water availability assessment containing the following information:

   i. At least one well log from an on-site well or from an existing nearby well completed in geologic conditions representative of the conditions within the proposed subdivision;

   ii. A description of the water bearing formation including a statement of the maximum and minimum depths to water in the subdivision and the basis for these statements;

   iii. A statement of the estimated yield of wells in gallons per minute based upon well logs from existing nearby wells;

   iv. Any additional information which is required by the State Engineer's Office that will enable it to determine whether or not the subdivider can furnish water in sufficient quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor uses, and whether the subdivider can fulfill the proposals in his disclosure statement concerning water, excepting water quality. For subdivisions containing more than six (6) lots, in locations which the State Engineer has determined that geohydrologic conditions are such that the aquifer has not been demonstrated to be capable of furnishing water in sufficient quantity to fulfill the maximum annual water requirements of the subdivision, such additional information may include a geohydrologic report conforming to the requirements of subsection C of these Requirements.

c. For new community water systems, the subdivider shall submit a water supply plan and geohydrologic report, prepared and sealed by a professional engineer, licensed to practice in the state of New Mexico, which meets the following requirements:

   i. Geohydrologic reports shall demonstrate that groundwater sufficient to meet the maximum annual water requirement of the subdivision is physically able and can be practically recovered to sustain the development for a continuous period of forty (40) years. These analyses shall take into account the production of existing wells and shall demonstrate that the subdivision wells, as proposed or as designed, will be capable of producing the full annual demand for at least forty (40) years.

   ii. The subdivider shall drill sufficient exploratory wells within the boundaries of the proposed subdivision to adequately characterize the aquifer, unless the subdivider can demonstrate that existing wells in the area are representative of general aquifer conditions within the subdivision.

   Where existing wells are not adequate to demonstrate aquifer conditions, aquifer parameters required to demonstrate availability of water should be obtained from aquifer tests, performed on-site, which are adequate for predicting long-term water availability or from tests conducted on nearby wells. Alternatively, tests can be conducted on nearby off-site wells if the subdivider can demonstrate that these wells are representative of general aquifer conditions within the subdivision.

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iii. The assessment shall include a calculated forty (40) year schedule of effects on the proposed subdivision's production well(s) that may result from existing demands and from the increase of groundwater withdrawals for the subdivision. Analyses shall be performed to assess whether future water level declines will be within the limits of allowable drawdown in the subdivision production wells as provided in Section 11.1.5.c.iv. Predicted drawdowns shall be calculated in a conservative manner (which estimates maximum drawdown). These calculations shall include estimates of future water uses.

iv. The subdivider shall calculate the lowest practical pumping water level in the proposed subdivision pumping wells by any of the following methods as appropriate, provided there shall be no presumption made as to additional available water below the bottom of the proposed production well, and further provided that the total available drawdown shall be reduced by a factor of twenty (20) percent as a margin of safety to account for seasonal fluctuations, drought allowance, reduction of well efficiency over time, and peak production requirements:

- By using the results of acceptable on-site aquifer pump tests. The lowest allowable pumping level may be the lowest water level reached during the test.
- By setting the level at the top of the uppermost screened interval.
- In wells completed in fractured aquifers, the lowest practical pumping water level may be above the top of the fracture zone.
- In wells completed in alluvial aquifers, the lowest practical pumping water level may be defined by a maximum allowable drawdown equal to seventy (70) percent of the initial water column.

v. The geohrydrologic report should present all hydrologic information pertinent to the study area including that available from past geohydrologic studies. All sources of information used in the report should be identified including basic data collected by the consultant who prepared the report. The report shall contain maps and cross-sections showing geology, depth to the water bearing formation, water level contours, and estimated thickness of saturation in the aquifer. Basic data for the immediate area of the subdivision must be current, with the date of collection noted and the location identified on the map. The report on the investigation should be in the format of a technical narrative with spreadsheets, tables, graphs, maps and cross-sections included.

11.1.6 Fire Protection

a. Requirement for Provision of Fire Protection

i. For all subdivisions with new community water systems, and for all subdivisions utilizing an existing community water system in which infrastructure improvements, proposed to be designed and constructed for use by the subdivision, the subdivider shall provide water for fire fighting and facilities for storage and distribution.

ii. The subdivider shall provide water for fire fighting and facilities for storage, distribution, and delivery of fire flows for all non-residential subdivisions.

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b. Standards for Fire Protection

The subdivider's fire protection facilities shall conform to the guidelines provided by the Insurance Services Office (ISO) and to applicable County fire regulations, and shall meet the following minimum requirements:

i. The required storage for fire protection shall equal sixty thousand (60,000) gallons or other required minimum specified by ISO. Amounts deliverable by tanker, as estimated by the local fire authority may be included in the fire protection plan, but shall not be credited towards the ISO storage requirement.

ii. The fire protection system shall be capable of delivering a minimum of five hundred (500) gallons per minute to the fire at a residual pressure of twenty (20) pounds per square inch or as required by ISO.

iii. Fire hydrant spacing shall not exceed a distance of one thousand (1,000) feet measured along the roadway, and individual hydrants shall not be located more than five hundred (500) feet from each parcel.

c. Fire Protection Plan

i. A fire protection plan shall be a condition of preliminary plat approval for all non-residential subdivisions, subdivisions with community water systems, final plat approval for summary review subdivisions with community water systems, and for all subdivisions containing one hundred (100) lots or more.

ii. For all subdivisions with fire protection, the subdivider shall submit a plat of the proposed subdivision, preliminary plans of the proposed water supply, storage and distribution system, and calculations demonstrating that the proposed fire protection facilities will meet the requirements of these guidelines, prepared by or under the supervision of a registered professional engineer.

iii. For all subdivisions to be supplied by existing utilities, the letter of intent from the utility to provide water shall specify fire flows and pressures that will be provided and fire flow storage that may be apportioned to the subdivision.

iv. If fire fighting services are available, the subdivider shall provide a letter from the local fire authority having jurisdiction which states:

- Rate in gallons per minute that water may be delivered to the fire by tanker service from the fire authority, if applicable, and
- Distance and anticipated time of travel to the fire.

Section 2. General Road Standards

11.2.1 Lots

a. All residential lots shall be situated to meet all state and local governmental regulations regarding access.

b. Legal access to a public street within the subdivision shall be provided to all lots.

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c. Lots with double frontage shall be avoided, if possible, however, all lots with double frontage shall identify the intended front of the lots for driveway and address purposes all to the satisfaction of the County Planning Director.

11.2.2 Driveways

a. Driveways shall operate as at-grade intersections and shall be designed to provide for adequate sight distance, provide acceptable levels of traffic operations, and provide control and geometrics that are consistent with the intensity of use of the driveway and the intended function of the roadway.

b. Common or two-way traffic private driveways shall be encouraged to the maximum extend possible.

c. Driveways accessing onto a State Highway shall obtain a permit for access from the Transportation Department District Office.

d. Driveways shall not be located less than 60 feet from an intersection, but where a 60 foot separation is not possible, driveways shall be located as far as physically possible from an intersection. This shall be to the satisfaction of the County Planning Director and the County Roads Superintendent.

e. A driveway permit approved by the County Road Superintendent is required for all driveways accessing existing and proposed County roads.

11.2.3 Roads, Streets and Alleys

a. All subdivisions containing lots less than 3.50 acres shall be required to provide finished roads within the interior of the subdivision . Finished roads, for the purpose of this ordinance, shall mean roads surfaced with chip seal or asphalt concrete surfacing and shall comply with all applicable provisions of Section 11.2.3 and/or otherwise addressed in this ordinance.

b. All roads within a subdivision shall have unobstructed legal access to a County or State maintained road.

c. Roads linking a subdivision to a County or State maintained road must be at least as wide as the widest road required within the subdivision and that width must be continuous from the subdivision to the existing County maintained road and must be tied to a maintenance agreement approved by the County for the road.

d. The Commission may require that the layout of principal roads within the subdivision be designed to join to principal existing streets in adjoining areas or that the layout of the roads be designed to serve adjoining areas. The Commission may also require that the width of the right-of-way in a subdivision be sufficient to ensure that future development needs will not be limited by too narrow of rights-of-way with the specific understanding that in no instance shall a Commission requirement for design of road layout be the basis for requiring the subdivider to construct roads in the subdivision to any higher standard than those which would be constructed if no such continuation of the principal streets were required.

e. Centerlines of offset streets entering onto local streets shall not be less than one hundred twenty-five (125) feet apart.

f. Centerlines of offset streets entering onto collector or arterial streets shall not be less than two hundred (200) feet apart.

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g. Half streets along perimeters of subdivisions shall not be allowed.

h. Streets shall be laid out to intersect as nearly as possible at right angles, and in no case shall streets intersect at angles of less than seventy-five (75) degrees.

i. All dead-end streets shall terminate in a cul-de-sac having a minimum radius of fifty (50) feet of right-of-way.

j. The natural course of waterways, arroyos and other drainage areas will not be altered unless approved as part of a terrain management plan.

k. If asphalt surfaces are used, pavement designs shall be performed by a Registered Professional Engineer licensed to practice in the State of New Mexico. The Engineer shall have demonstrated expertise in the design and analysis of rigid and/or flexible roadway pavements. Pavement designs shall be based on the Edition of the New Mexico State Highway and Transportation Departments' "Structural Design Guide for Flexible Pavement's Bulletins" current at the time of submittal of the subdivision. Other references such as the edition of the "ASHTO Interim Guide for Design of Pavement Structures" current at the time of submission of the subdivision may be used. All pavement design documents shall be noted in the design notes. All designs shall be based on a minimum ten (10) year life period. At the County's discretion, a road impact analysis may be required to determine the need for a higher design standard for any given road in a subdivision.

l. Pavement design submittals shall not be limited to roads with asphalted wearing surfaces. An analysis of erosion and degradation shall be provided with roadway sections not stabilized using an asphalted or chip-seal or surface course surfaces. The minimum thickness for a pavement structure shall be two (2) inches plant mixed bituminous pavement overlying four (4) inches of base material, overlying six (6) inches of prepared subgrade.

m. All construction within the right-of-way shall be done in accordance with all applicable provisions of the "Luna County Construction Specifications for Subdivision Roads," as reflected in Appendix I and its amendments in effect at the time of submittal of a subdivision. A deviation from the standards will be allowed only when testing of the materials and/or methods used shows the deviation to be equal or greater in quality to that of the "Standard Specifications." The specifications in Appendix I may be revised by the Board of County Commissioners without amending these Regulations.

n. In situations where no County design standard applies, the New Mexico State Highway and Transportation Department Standards shall apply.

11.2.4 Sidewalks

a. Sidewalks shall be required along all interior streets, and along all exterior roads bounding the subdivision within the Luna County/City of Deming Extra Territorial Zone (ETZ).

b. Required sidewalks shall have a minimum width of five (5) feet and be four (4) inches in thickness. Driveway crossing shall be (6) inches in thickness.

c. Street lights, power poles, fire hydrants, street signs and other types of obstructions shall not be permitted on the sidewalks. If street obstructions are in the way of proposed sidewalks, these obstructions shall be relocated prior to the construction of sidewalks, at the expense of the subdivider unless otherwise agreed between the

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County Commission and the subdivider, or between utility companies or other agencies and the subdivider.

Section 3. Water Quality and Liquid Waste Disposal

11.3.1 Water Quality Documentation. For a subdivider to document conformance with the water quality requirements of the State of New Mexico Environment Department, a water quality documentation package shall accompany the preliminary plat submittal.

a. The water quality documentation package shall:

i. State the subdivider's name and mailing address;

ii. State the date the package was completed;

iii. State the subdivider's proposal for meeting the water quality requirements as set forth by the State of New Mexico Environment Department from time-to-time;

iv. Be accompanied by a copy of the subdivider's disclosure statement on water quality;

v. Be accompanied by the information as required by the State of New Mexico Environment Department from time-to-time;

vi. Be accompanied by other relevant information as may be necessary for the determination of compliance with the water quality requirements of the State of New Mexico Environment Department from time-to-time.

b. Where a private water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:

i. A water quality analysis of a representative water sample for aluminum, antimony, arsenic, barium, beryllium, cadmium, calcium, chloride, chromium, copper, cyanide, fluoride, iron, lead, manganese, mercury, nickel, nitrate, nitrite, selenium, silver, sodium, sulfate thallium, zinc, alkalinity, color, foaming agents, hardness, odor, pH, total dissolved solids, and turbidity.

ii. For areas where contamination of the proposed source water has been documented, a water quality analysis of a representative water sample for other water quality parameters may be required.

iii. The location and description of the source of water sampled for the water quality analysis.

iv. Preliminary plans for the private water supply system if the system will serve more than one connection.

- Maps identifying and showing the location of all identifiable potential sources of contamination and the floodplain of all watercourses and surface bodies of water within the subdivision and within five hundred (500) feet of the proposed subdivision.

c. If a new public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:

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i. A water quality analysis of a representative water sample for aluminum, antimony, arsenic, barium, beryllium, cadmium, calcium, chloride, chromium, copper, cyanide, fluoride, iron, lead, manganese, mercury, nickel, nitrate, nitrite, selenium, silver, sodium, sulfate thallium, zinc, alkalinity, color, foaming agents, hardness, odor, pH, total dissolved solids, and turbidity.

ii. For areas where contamination of the proposed source water has been documented, a water quality analysis of a representative water sample for other water quality parameters may be required.

iii. The location and description of the source of water sampled for the water quality analysis.

iv. Preliminary plans for the proposed public water supply system.

v. Maps identifying and showing the location of all identifiable potential sources of contamination and the floodplain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed water supply system source.

d. If a connection to and extension of an existing public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:

i. A water quality analysis of a representative water sample for alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity, and zinc.

ii. A statement of availability of water service signed by an official of the existing public water supply system; and

iii. An engineer's report and preliminary plans for the proposed extensions to the existing water system.

e. Documentation of approval for the construction or modification of a public water supply system from the New Mexico Environment Department will be required for final plat approval.

11.3.2 Water Quality Requirements. Conformance with the water quality requirements of the State of New Mexico Environment Department is required for preliminary plat approval for all types of subdivisions.

11.3.2.1 The level of a contaminant in water that is delivered to any user of a public or private water system shall not exceed the maximum contaminant level (MCL) for any of the contaminants listed in Table 11.1.

11.3.2.2 The level of a contaminant in water which is delivered to any user of a public or private water supply system should not exceed secondary maximum contaminant level (SMCL) for any of the contaminants listed in Table 11.2. If the level for any of the contaminants listed in Table 11.2 exceeds the SMCL, the subdivider must state in the disclosure statement on water quality the name of the contaminant exceeded, the contaminant level, the SMCL of the contaminant, the expected adverse effects of the contaminant for domestic water use, and the recommended treatment method to reduce the contaminant level to or below the SMCL.

11.3.2.3 A water supply source shall not be located at less than the setback distances shown in Table 11.3.

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11.3.2.4 The disclosure statement for the subdivision shall contain a statement describing the quality of water available for domestic use within the subdivision. Such statement will describe in laymen's terms water quality with respect to taste, discoloration of clothes, irritation to skin, odor, and degree of hardness of water.

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TABLE 11.1
PRIMARY (HEALTH RELATED) CONTAMINANTS

Contaminant	MCL	Contaminant	MCL
Inorganic (IOC)		Tritium	2000 pCi/l
Antimony	0.006 mg/l	**Microbiology**	
Arsenic	0.05 mg/l	Giardia lamblia[d]	TT[e]
Asbestos	7 MFL [a]	Legionella[d]	TT[e]
Barium	2 mg/l	Standard Plate Count[d]	TT[e]
Beryllium	0.004 mg/l	Total Coliforms	Absent
Cadmium	0.005 mg/l	Turbidity[d]	PS[f]
Chromium (total)	0.1 mg/l	Viruses[d]	TT[e]
Copper	1.3 mg/l	**Disinfection Byproduct**	
Cyanide	0.2 mg/l	Total trihalomethanes	0.10 mg/l
Fluoride	4.0 mg/l	**Volatile Organic (VOC)**	
Lead	0.015 mg/l	Benzene	0.005 mg/l
Mercury (inorganic)	0.002 mg/l	Carbon tetrachloride	0.005 mg/l
Nickel	0.1 mg/l	Dibromochloropropane	0.0002 mg/l
Nitrate (as N)	10 mg/l	0-dichlorobezene	.06 mg/l
Nitrite (as N)	1 mg/l	p-dichlorobenzene	0.075 mg/l
Nitrate +Nitrite (both as N)	10 mg/l	1,2-dichloroethane	0.005 mg/l
Selenium	0.05 mg/l	cis-1,2-dichloroethylene	0.07 mg/l
Thallium	0.002 mg/l	trans-1,2-dichloroethylene	0.1 mg/l
Radionuclide		Dichloromethane	0.005
Gross alpha particle[b] mg/activity	15 pCi/l	1,2-dichloropropane	0.005 mg/l
Radium –226 & -227[c]	5 Ci/l	Ethylbenzene	0.7 mg/l
Strontium 90	8 Ci/l	Ethylene dibromide	0.00005 mg/l

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TABLE 11.1
PRIMARY (HEALTH RELATED) CONTAMINANTS
Continued

Contaminant	MCL	Contaminant	MCL
VOC (continued)		**Synthetic Organic (SOC) continued**	
Monochlorobenzene	0.1 mg/l	Dinoseb	0.007 mg
Styrene	0.1 mg/l	Diquat	0.02 mg/l
Tetrachloroethylene	0.005 mg/l	Endothall	0.1 mg/l
Toluene	1 mg/l	Endrin	0.002 mg/l
1,2,4-trichlorobenzene	0.07 mg/l	Glyphosate	0.7 mg/l
1,1,1-trichloroethane	0.005 mg/l	Heptachlor	0.0004 mg/l
trichloroethylene	0.005 mg/l	heptachlor epoxide	0.0002 mg/l
Vinyl chloride	0.002 mg/l	Hexachlorobenzene	0.001 mg/l
Xylenes (total)	10 mg/l	Hexachlorocyclopentadiene	0.05 mg/l
Synthetic Organic (SOC)		Lindane	0.002 mg/l
Alachlor	0.002 mg/l	Methoxychlor	0.04 mg/l
Atrazine	0.003 mg/l	Oxymyl (Vydate)	0.2 mg/l
Benzo [a]pyrene	0.0002 mg/l	Pentachlorophenol	0.001 mg/l
Carbofuran	0.04 mg/l	Picloram	0.5 mg/l
Chlorodane	0.002	Polychlorinated	0.0005 mg/l
2,4-D	0.07 mg/l	Simazine	0.004 mg/
Dalapon	0.2 mg/l	2,3,7,8-TCCD (Dioxin)	$3x10^{-8}$ mg
Di(2-ethylhexyl) adipate	0.4 mg/l	Toxaphene	0.003 mg/l
Di(2-ethylhexyl) phthalate	0.006 mg/l	2,4,5-TP	0.05 mg/l

Notes to Table 11.1
(a) Million fibers longer than 10 micro m per Liter
(b) Gross alpha particle activity including radium –226 but excluding radon and uranium
(c) Combined radium –226 and radium –227
(d) For systems using surface water
(e) Treatment technique (filtration and disinfection) required
(f) Performance Standard 0.5 NTU to 1.0 NTU

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TABLE 11.2
SECONDARY (ESTHETIC RELATED) CONTAMINANTS

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

Notes to Table 11.2 (a) Sodium concentration exceeding 20 mg/l must be noted in the disclosure statement

TABLE 11.3
SETBACK DISTANCES FOR WATER SUPPLY SOURCES

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

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11.3.3 Liquid Waste Disposal Documentation. For a subdivider to document conformance with the liquid waste disposal requirements of State of New Mexico Environment Department and New Mexico Subdivision Act, a liquid waste disposal documentation package shall accompany the preliminary plat submittal.

a. The liquid waste disposal documentation shall:

i. State the subdivider's name and mailing address;

ii. State the date the package was completed;

iii. State the subdivider's proposal for meeting the liquid waste disposal requirements of the New Mexico State Environment Department;

iv. Be accompanied by a copy of the subdivider's disclosure statement on liquid waste disposal;

v. Be accompanied by a copy of the subdivider's disclosure statement on liquid waste disposal;

vi. Be accompanied by the information listed in Sections 11.3.3.1, 11.3.3.2, and 11.3.3.3, as applicable to the proposal;

vii. Be accompanied by other relevant information required by the State of New Mexico Environment Department.

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

11.3.3.1 If the subdivider proposes a new community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package:

a. An engineer's report and preliminary plans for the proposed liquid waste system.

b. Maps showing the location of all water supply sources and the floodplain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed liquid waste treatment and disposal site; and

c. Documentation of the filing of a "Notice of Intent to Discharge" with the New Mexico Environment Department in accordance with the Water Quality Control Commission Regulations.

11.3.3.2 If the subdivider proposes a liquid waste disposal system by connection to an extension of an existing community liquid waste system, the following information shall be submitted as part of the liquid waste disposal documentation package:

a. A statement of availability of liquid waste service signed by an official of the existing liquid waste system; and

b. An engineer's report and preliminary plans for the proposed extension to the existing liquid waste system.

11.3.3.3 If the subdivider proposes individual liquid waste systems, the following information shall be submitted as part of the liquid waste disposal documentation package:

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a. A soils investigation report (soil survey, soil borings and soil tests) defining soil depth to bedrock, seasonal high water ground water table or other limiting soil layer, and percolation rate for the soils present within the proposed subdivision.

b. Maps showing the location of all water supply sources and the floodplain of all water courses and surface bodies of water within the proposed subdivision and within five hundred (500) feet of the proposed subdivision boundaries.

c. A liquid waste system feasibility map, superimposed on the subdivision plat, delimiting the areas of suitable, limited and prohibitive soil categories.

d. Preliminary plans for the individual liquid waste systems if a system will serve more than one connection.

11.3.4 Liquid Waste Disposal Requirements. A community liquid waste system shall be required for all subdivisions which create more than twenty-five (25) lots, any one of which is three and one-half (3.50) acres or less in area.

11.3.4.1 A community liquid waste system shall be permitted, designed, and constructed by the time of first occupancy within the subdivision to comply with the Water Quality Control Commission Regulations; and operated, maintained and expanded as necessary to insure that the system will comply with the Water Quality Control Commission Regulations.

11.3.5 Individual Liquid Waste Systems

11.3.5.1 Individual liquid waste systems shall be located, installed, operated and maintained in a manner which will not cause a hazard to public health or degrade any body of water.

11.3.5.2 Individual liquid waste systems shall not be installed:

a. Where an existing community liquid waste system has been designed and constructed for use within the subdivision;

b. In subdivisions where any lot is less than two (2) acres in area;

c. In prohibitive soils as determined by the information to submitted in accordance with Article 11.3.3.3.

d. Consisting of privies (outhouses) or cesspools;

e. Consisting of holding tanks.

11.3.6 The disclosure statement for the subdivision shall contain a description of the means of liquid waste disposal for the subdivision.

Section 4. Solid Waste Disposal

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

a. A solid waste documentation package shall:

i. State the subdivider's name and mailing address;

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ii. State the date the package was completed;

iii. State the subdivider's proposal for meeting the solid waste disposal requirements for these guidelines or any other requirements for solid waste disposal that may be adopted by law;

iv. Be accompanied by a copy of the subdivider's disclosure statement on solid waste disposal;

v. Be accompanied by other relevant information as may be necessary for determination of compliance with the solid waste disposal requirements of these guidelines.

11.4.2 Solid Waste Disposal Requirements. Conformance with the solid waste disposal requirements of this section is required for preliminary plat approval. "Solid waste" means any garbage rubbish, or other discarded material which results from residential, commercial, institutional, industrial or recreational activities.

a. The subdivider shall require, in any agreement of purchase and sale or in the restrictive covenants, if any, that a solid waste collection system to collect and transport solid wastes to the disposal facility be used by residents of the subdivision.

b. The disclosure statement for the subdivision shall contain a description of the means of solid waste disposal for the subdivision.

Section 5. Terrain Management

11.5.1 Definitions

Cover density	The estimated percentage of canopy and basal cover for each vegetative type; canopy cover being the estimated percentage of trees and shrubs that would shade the ground at midday and basal cover being the percentage of grasses, rocks, litter, and desert pavement in direct contact with the ground.
Drainage channel	Any depression into which storm water flows along a defined course.
Erosion	Soil movement due to wind or water.
Erosion control structure	Any man-made device for preventing or controlling erosion.
Floodplain	Any land area susceptible to being inundated by water from any source.
Floodway	The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
Flood fringe	The area between the floodway and the 100-year floodplain boundaries.
Local district	Any soil and water conservation district within the county in which the proposed subdivision is located.

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Sediment	Any soil or other surface material transported by wind or surface water as a product of erosion.
Soil survey	A national cooperative soil survey conducted by the USDA, Natural Resources Conservation Service in cooperation with the state agricultural experiment station and other federal and state agencies, or any other survey containing information of comparable quality and detail following the national standards for an Order 2 survey approved by the local district.
Terrain management	The control of floods, drainage and erosion and measures required for adapting proposed development to existing soil characteristics and topography.
Watercourse	Any river, creek, spring, stream, arroyo, or any other like body having definite banks and/or evidencing the overland flow of water.

11.5.2 The Soil and Water Conservation District. The Soil and Water Conservation District shall determine:

a. Whether the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage and erosion;

b. Whether the subdivider can fulfill the proposals contained in his disclosure statement concerning terrain management.

11.5.2.1 General Requirement. Post development storm water drainage flows shall not exceed pre-development flows.

11.5.3 A Terrain Management Plan. A terrain management plan shall include:

11.5.3.1 Vicinity Map. A map drawn to scale of not more than two thousand (2,000) feet to one (1) inch showing the relationship of the site to its general surroundings, and the location of all existing drainage channels, watercourses and water bodies within three miles of site. This map shall display the topographic contours at twenty (20) feet intervals. (A suitable example would be from a USGS Topographic Map).

11.5.3.2 Natural Features Map. A map of the development (at the same scale as the preliminary plat map-1" = 200') showing directly or by overlay:

a. The boundaries of the development;

b. The existing contours with intervals of not less than two (2) feet where the slope is less than 2% and not more than five (5) feet where the slope is two percent (2%) or greater;

c. All areas with natural slopes of twenty-five percent (25%) or greater clearly recorded by scale, line, or color;

d. The location of all drainage channels, watercourses, water bodies, floodways, flood fringes, and floodplains;

e. The location of all major rock outcropping, faults and geologic resources.

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11.5.3.3 Soil Survey. A soil survey of the site including:

a. An overlay of the natural features map showing the location of each soil type. Soil surveys will be in keeping with national standards as set forth by the USDA Natural Resources Conservation Service.

b. A description of the soil types. Detained soil profiles may be required if deemed necessary by the soil and water conservation district.

c. Interpretations of the limitations from a detailed soil survey for each soil type for the intended land uses common to the development.

11.5.3.4 Grading Plan. A series of maps, cross-sections, and design profiles showing the location and impact of the planned development features to the natural land form.

a. An overlay of the Natural Features Map showing the location of all proposed parcels, roads, bridges, water and erosion control structures, and the utility easements in relation to the existing contours;

b. An overlay showing the finished contours of the development after all proposals have been implemented using contour intervals equal to or less than those on the existing contour map;

c. The location of all cuts and fills, including the grades, lengths, and depths thereof displayed using the necessary cross-section and profiles to adequately describe and display the planned action;

d. The location of all areas where the natural elevation of the land will be changed by more than three (3) feet;

e. The location of all areas where the grading of land will disturb more than one thousand (1,000) contiguous square feet;

f. Profiles showing the existing ground surface and proposed street grades and typical cross-sections of the proposed grading;

g. Description of methods of stabilization in areas of cut and fill, embankment compaction, and re-vegetation on steep slopes.

11.5.3.5 Landscaping Plan. A series of maps or overlays and narratives to identify those areas which will be re-vegetated following disturbance or to enhance the visual aesthetics of the site and the methods to be used:

a. Location and type of materials to be used in re-vegetation and slope stabilization;

b. Location of all areas where vegetation will be preserved and a description of the methods that will be used for protection;

c. Duration of exposure of the disturbed sites before reclamation of the site will take place and a description of the method to be used to minimize erosion of disturbed sites prior to reclamation;

d. A description of the vegetation characteristics that will be present after re-vegetation;

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e. The plan for site preparation, fertilization, seeding rates, dates and amounts by species, mulching type and amount for grass, shrubs and trees. If watering is a planned part of the re-vegetation procedure, a description of the planned irrigation system and amounts of needed water will be included.

11.5.3.6 Erosion and Drainage Plan. This shall include the necessary charts, drawings, location maps, and calculations to support the plan:

a. A watershed map showing all the upper watershed area draining into or through the site. It should show the watercourses and topographic conditions as well as indicate the soil and vegetative types and their locations within the watershed.

b. Storm drainage computations for the 100-year frequency storm both reaching and leaving the site in the pre-development conditions;

c. Storm drainage calculations for the post-development estimates of runoff after planned full development of the site. This will be displayed to show the estimated runoff before and after any mitigation of the increased flows.

d. Quantities of water carried by the major watercourses and the proposed treatment of the watercourses. Calculations will be provided for pre and post-development using methods approved by the soil conservation district.

e. The location, type, and size of all proposed drainage and erosion control structures with adequate detail of the drawings or designs;

f. The location and size of all drainage easements for all floodplains, floodways, flood fringes, and other natural watercourses along with adequate supporting documentation. Drainage easements are required for all watercourses with 100-year storm flows that exceed twenty (20) cubic feet per second flow rates.

g. An overlay indicating the depth to ground water in all areas where the seasonal high water table is within twenty (20) feet of the ground surface, if applicable;

h. All appropriate design details necessary to clearly explain the construction of all surface and subsurface structures.

11.5.3.7 Construction Schedule. The construction schedule shall include:

a. The start and finish dates for all clearing, grubbing and grading activities;
b. Duration of exposure of disturbed areas;
c. Stabilization date for disturbed areas;
d. Installation date of all storm drainage system components;
e. Installation date for all roads and related structural measures;
f. Paving dates for all roads or parking areas included in the site plan;
g. Installation date of each utility to be provided and whether said utility will be above or below ground;
h. Installation date for homes, recreation structures, and other community facilities and improvements.

11.5.4 A Disclosure Statement Regarding Terrain Management. A disclosure statement regarding terrain management shall:

a. Describe the suitability of the soils in the subdivision for residential use whether permanent or seasonal;

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b. Describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures;

c. Give the location of all lots associated with a watercourse and with land areas within a floodway, flood fringe or floodplain;

d. Give the location of all lots located on slopes in excess of eight (8) percent;

e. Describe the surface drainage for all lots;
f. Describe all storm drainage systems including the completion date of any required to be constructed.

Section 6. Cultural Properties Guidelines

11.6.1 The subdivider shall protect cultural properties, archaeological sites and unmarked burials as required by the Cultural Properties Act (18-6-1 to 18-6-17 NMSA 1978).

11.6.2 The Cultural Properties documentation shall accompany the preliminary plat submittal and shall include:

a. Location of proposed subdivision shown on a vicinity map showing size and location (township, range, section);

b. Request for review of the most recent State Register of Cultural Properties from the New Mexico State Historic Preservation Division.

ARTICLE 12. ENFORCEMENT, PENALTIES, AND REMEDIES

Section 1. Purpose and Authority

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

Section 2. Investigation of Alleged Violations

12.2.1 All written, signed complaints alleging one or more violations of the provisions of the New Mexico Subdivision Act or these Regulations shall be referred to the County Planning Director for investigation. The County Planning Director shall within sixty (60) days investigate the complaint and take such action as is warranted, or make a written recommendation to the Board of County Commissioners of what action is warranted. The County Planning Director shall inform the complainant in writing of what actions have been taken or will be taken in response to the complaint. Only written, signed complaints will be investigated. Non-action does not grant any right or cause of action against the County.

Section 3. Penalties and Remedies.

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

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12.3.1 Utility Connections. Any water, sewer, electric, or gas utility that connects service to individual parcels within a subdivision before a final plat for the subdivision has been approved by the Board of County Commissioners or before the landowner holds a valid building permit, may be fined a civil penalty of up to five hundred dollars ($500) by the Board of County Commissioners. The Board of County Commissioners may also require that any utility connected in violation of this section and of § 47-6-27.2 NMSA 1978 be disconnected.

12.3.2 Suspension of Right of Sale. The Board of County Commissioners may suspend or revoke approval of a plat as to unsold, unleased or otherwise not conveyed portions of a subdivider's plat if the subdivider does not meet the schedule of compliance approved by the Board of County Commissioners.

The decision to suspend or revoke approval of a plat shall be recorded in the Luna County Clerk's Office in such a fashion as to provide recorded notice of the suspension or revocation.

12.3.3 Injunctive Relief, Mandamus. The Board of County Commissioners, the District Attorney, or the Attorney General may apply to the District Court for any one or more of the following remedies in connection with violations of the New Mexico Subdivision Act and these Regulations:

a. Injunctive relief to prohibit a subdivider from selling, leasing, or otherwise conveying any interest in subdivided land until the subdivider complies with the terms of the New Mexico Subdivision Act and these Regulations;

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

c. Rescission and restitution for person who have purchased, leased, or otherwise acquired an interest in subdivided land that was divided, sold, leased or otherwise conveyed in material violation of the New Mexico Subdivision Act and these Regulations; or

d. A civil penalty of up to five thousand dollars ($5,000) for each parcel created in knowing, intentional or willful violation of the New Mexico Subdivision Act or these Regulations.

12.3.4 Bond Not Required. The Board of County Commissioners, the District Attorney and the Attorney General shall not be required to post bond when seeking a temporary or permanent injunction or mandamus according to the provisions of the New Mexico Subdivision Act.

12.3.5 Criminal Penalties

a. § 47-6-27 NMSA 1978 provides that:

i. Any person who knowingly, intentionally, or willfully commits a material violation of the New Mexico Subdivision Act is guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars ($10,000) per violation, or by imprisonment of not more than one year, or both; and

ii. Any person who is convicted of a second or subsequent knowing, intentional, or willful violation of the New Mexico Subdivision Act is guilty of a fourth degree felony, punishable by a fine of not more than twenty-five thousand dollars

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($25,000) per violation or by imprisonment for not more than eighteen (18) months, or both.

b. Any violation of the provisions of these Regulations not subject to § 47-6-27 NMSA 1978 is punishable by a fine not to exceed three hundred dollars ($400) or imprisonment for not more than ninety (90) days, or both, in accordance with 4-37-3 NMSA 1978.

ARTICLE 13. SEVERABILITY

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

ARTICLE 14. REPEAL AND EFFECTIVE DATE

14.1.1 These Regulations repeal the Luna County Subdivision Regulations, adopted as Luna County Ordinance No. 30, passed on June 8, 1997. These Regulations shall become effective on the _____ day of _____ 200_____.

LUNA COUNTY, NEW MEXICO

By G. Dennis Armijo
Chairman, Board of County Commissioners

Marilyn Ollatt

Member

Lonnie P. Smyer

Member

Attest Natalie Pacheco
County Clerk

Approved as to Legal Sufficiency

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APPENDIX "A"

LUNA COUNTY SUBDIVSION REGULATIONS

APPLICATION FOR PRELIMINARY PLAT APPROVAL

For Subdivisions containing more than five (5) parcels

INSTRUCTIONS

PRINT OR TYPE CLEARLY. Use additional sheets if necessary. **ALL REQUIRED ATTACHMENTS SHALL BE SUBMITTED WITH THIS APPLICATION FORM.** Incomplete or inaccurate applications may delay review. The completed applications package must be submitted to the County Planning Director by the subdivider or a designated agent and shall be in compliance with the requirements of the Luna County Subdivisions Regulations. **Each application must be accompanied by the required administrative fee.**

NAME OF SUBDIVISION:_____

APPLICANT INFORMATION

1. Subdivider Name:_____

   Address:_____
   Street Address or P. O. Box

   _____
   City State Zip Code

   Telephone Number(s):_____

   Signature:_____ Date:_____

2. Agent (if any) Name:_____

   Address:_____
   Street Address or P. O. Box

   _____
   City State Zip Code

   Telephone(s):_____

   Signature:_____ Date:_____

3. Engineer/Surveyor/Planner Name: _____

   Address:_____
   Street Address or P. O. Box

   _____
   City State Zip Code

   Telephone Number(s):_____ 05677

   Signature_____ Date:_____

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PRELIMINARY PLAT APPLICATION

SUBDIVISION INFORMATION

4. Name of Subdivision:_____

5. Indicate if this is a succeeding subdivision, phased subdivision, or resubdivision:_____

6. This is a [ ] Type One [ ] Type Two [ ] Type Four Subdivision (check one)

7. Number of lots:_____ Total Acreage_____acres Size of smallest lot_____acres

8. Does this subdivision lie within the extraterritorial jurisdiction of a municipality or village?
   [ ] Yes [ ] No

   If yes, name of municipality or village having concurrent jurisdiction:_____

SUPPLEMENTAL INFORMATION

9. If this is a succeeding subdivision, provide detailed attachments indicating the relationship between the proposed subdivision and the previous subdivision.

10. If this is part of a phased subdivision, attach a master plan of all phases indicating the current proposed phased and an anticipated phasing schedule.

11. If this is a resubdivision, provide a reference to the original plat with an explanation of the proposed changes.

12. Supporting documentation required for the preliminary plat review as defined by the County Subdivision Regulations shall be attached to this application.

13. The required number of copies pf the preliminary plat map as specified by the County Subdivision Regulations shall be attached to this application.

14. A draft copy of the disclosure statement shall be attached to this application and shall be in accordance with the standardized format provided in the County Subdivisions Regulations.

PROCEDURAL INFORMATION (to be completed by the County Planning Director)

15. Date application received by County:_____Initial:_____

16. Date preliminary plat deemed complete:_____Initial:_____

17. Date of public hearing:_____

18. Date of preliminary plat approval:_____

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Plat certifications required for **PRELIMINARY PLATS:**

SURVEYOR'S CERTIFICATION

I hereby certify that I am a registered land surveyor in the State of New Mexico, and that this plat was made by me or under my supervision from the notes of an actual field survey that meets minimum requirements for land surveys in the State of New Mexico as adopted by the New Mexico State Board of Registration for professional engineers and land surveyors and that it is true and correct to the best of my knowledge and belief.

Signature:_____ Date of Survey:_____

BOARD OF COMMISSIONERS APPROVAL

This plat has been submitted to, reviewed, and approved by the Board of County Commissioners of Luna County

Commission Chairman:_____ Date:_____

ATTEST: Luna County Clerk:_____

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APPENDIX "B"

DISCLOSURE STATEMENT

YOU SHOULD READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING.

This disclosure statement is intended to provide you with enough information to make an informed decision on the purchase, lease or acquisition of the property described in this statement. You should read carefully all of the information contained in this disclosure statement before you decide to buy, lease or otherwise acquire the described property.

Various public agencies may have issued opinions on both the subdivision proposal and the information contained in this disclosure statement. Summaries of these opinions are contained in this disclosure statement. You should read them closely

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. This disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only. In addition, the county is not responsible for enforcement of any statement made in the disclosure statement. It is information provided by subdivision to help you make a better informed decision about the purchase or lease of land.

The Board of County Commissioners recommends that you inspect the property before buying, leasing or otherwise acquiring it.

If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease or other acquisition to personally inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days to rescind the transaction and receive all you money back from the subdivider when merchantable title is revested in the subdivider. To rescind the transaction you must give the subdivider written notice of your intent to rescind within three (3) days after the inspection of the date of your property.

County regulations require that any deed, real estate contract, lease or other instrument conveying an interest in a parcel in the subdivision be recorded with the Luna County Clerk.

Building permits, wastewater permits or other use permits must be issued by state or county officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease or otherwise acquire an interest in the land. You should also determine whether such permits are requirements for construction of additional improvements before you occupy the property.

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1. NAME OF SUBDIVISION

name of subdivision _____

2. NAME AND ADDRESS OF SUBDIVIDER

(name of subdivider) _____

(address of subdivider) _____

3. NAME AND ADDRESS OF PERSON IN CHARGE OF SALES, LEASING OR OTHER CONVEYANCE IN NEW MEXICO

(name of person in charge of sales, leasing or other conveyance) _____

(address of person in charge of sales, leasing or other conveyance) _____

(telephone number of person in charge of sales, leasing or other conveyance) _____

4. SIZE OF SUBDIVISION BOTH PRESENT AND ANTICIPATED

Present

(number of parcels) _____

(number of acres in subdivision) _____

Anticipated

(number of parcels) _____

(number of acres in subdivision) _____

5. SIZE OF LARGEST PARCEL OFFERED FOR SALE, LEASE OR CONVEYANCE WITHIN THE SUBDIVISION

(size of largest parcel in acres) _____

6. SIZE OF SMALLEST PARCEL OFFERED FOR SALE, LEASE OR CONVEYANCE WITHIN THE SUBDIVISION

(size of smallest parcel in acres) _____

7. PROPOSED RANGE OF PRICES FOR SALES, LEASES OR OTHER CONVEYANCES WITHIN THE SUBDIVISION

(S = lowest amount) _____ (size of parcel sold, leased or conveyed) _____

(S = highest amount) _____ (size of parcel sold, leased or conveyed) _____

8. FINANCING TERMS

(interest rate) _____

(term of loan or contract) _____

(minimum down payment) _____

(service charges and/or escrow fees) _____

(premium for credit life or other insurance if it is a condition for giving credit) _____

(closing costs) _____

(any other information required by the Truth in Lending Act and Regulation 7 if not set forth above) _____

9. NAME AND ADDRESS OF HOLDER OF LEGAL TITLE

(name of person who is recorded as having legal title) _____

(address of person who is recorded as having legal title) _____

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NOTE: IF ANY OF THE HOLDERS OF LEGAL TITLE NAMED ABOVE IS A CORPORATION, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION.

10. NAME AND ADDRESS OF PERSON HAVING EQUITABLE TITLE

(name of person who is recorded as having equitable title) _____

(address of person recorded as having equitable title _____

NOTE: IF ANY OF THE HOLDERS OF EQUITABLE TITLE NAMED ABOVE IS A CORPORATION, LIST THE NAMES AND ADDRESSES OF ALL OFFICERS OF THAT CORPORATION.

11. CONDITION OF TITLE

Include at least the following information where applicable

(number of mortgages) _____

(name and address of each mortgagee) _____

(balance owing on each mortgage) _____

(summary of release provisions of each mortgage) _____

(number of real estate contracts on the subdivided land for which the subdivider is making payments as a purchaser) _____

(name and address of each person holding a real estate contract as owner of the subdivided land for which the subdivider is making payments as a purchaser) _____

(balancing owing on each real estate contract) _____

(summary of default provisions of each real estate contract) _____

(summary of release provision of each real estate contract) _____

(statement of any other encumbrances on the land) _____

(statement of any other conditions relevant to the state of title) _____

12. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OF RECORD THAT SUBJECT THE SUBDIVIDED LAND TO ANY CONDITIONS AFFECTING ITS USE OR OCCUPANCY

(state here all deed and plat restrictions affecting the subdivided land) _____

13. ESCROW AGENT

(name of escrow agent) _____

(address) _____

(statement of whether or not the subdivider has any interests in or financial ties to the escrow agent) _____

14. UTILITIES

(name and entity providing electricity, if available) _____ (estimated cost per parcel) _____

(name of entity providing gas service, if available) _____ (estimated cost) _____

(name of entity providing water, if available) _____ (estimated cost) _____

(name of entity providing telephone, if available) _____ (estimated cost) _____

(name and entity providing liquid waste disposal, if available) _____ (estimated cost) _____

(name of entity providing solid waste disposal, if available) _____ (estimated cost) _____

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15. INSTALLATION OF UTILITIES

(electricity)_____ (date)_____

(gas)_____ (date)_____

(water)_____ (date)_____

(telephone)_____ (date)_____

(liquid waste disposal)_____ (date)_____

(solid waste disposal)_____ (date)_____

16. UTILITY LOCATION

(if all utilities are to be provided to each parcel in the subdivisions, please state here)_____

(if utilities are to be provided to some but not all parcels in the subdivisions, state which utilities will be provided to each parcel)_____

(state whether each utility will be above ground or underground

electricity	Above ground_____	Underground_____
gas	Above ground_____	Underground_____
water	Above ground_____	Underground_____
telephone	Above ground_____	Underground_____
liquid waste disposal	Above ground_____	Underground_____
solid waste disposal	Above ground_____	Underground_____

17. WATER AVAILABILITY

(describe the maximum annual water requirements of the subdivision including water for indoor and outdoor domestic uses)_____

(describe the availability and sources of water to meet the subdivision's maximum annual water requirements)_____

(describe the means of water delivery within the subdivision_____

(describe any limitations and restrictions on water use in the subdivisions)_____

(summarize the provisions of any covenants or other restrictions requiring the use of water saving fixtures or other water conservations measures)_____

(describe what measures, if any, will be employed to monitor or restrict water use in the subdivision)_____

18. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS

(name and address of entity providing water)_____

(source of water and means of delivery)_____

(summary of any legal restrictions on either indoor or outdoor usage_____

(statement that individual wells are prohibited, if such is the case)_____

19. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS

(state whether wells will be provided by the subdivider or by the prospective purchaser/lessee/conveyee)_____

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(if wells are provided by purchaser/lessee/conveyee, state the estimated cost to complete a domestic well, including drilling, pressure tank, control devices, storage and treatment facilities) _____

(if wells are provided by the subdivider, state the cost, if any to the purchaser/lessee/conveyee) _____

(summary of legal restriction on either indoor or outdoor usage) _____

(average depth to groundwater and the minimum and maximum well depths to be the reasonably expected) _____

(recommended total depth of well) _____

(estimated yield in gallons per minute of wells completed to recommended total depth) _____

20. LIFE EXPECTANCY OF WATER SUPPLY

(state the life expectancy of each source of water supply for the subdivision under full development of the subdivision) _____

21. SURFACE WATER*

*Not applicable where subdivider intends to provide water for domestic use.

(provide a detailed statement, the source, and yield of the surface water supply and any restrictions to which the surface water supply is subject) _____

22. NEW MEXICO STATE ENGINEER'S OPINION ON WATER AVAILABILITY

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico State Engineer Regarding:

(whether or not the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses) _____

(whether or not the subdivider can fulfill the proposals in this disclosure statement concerning water, excepting water quality) _____

23. WATER QUALITY

(describe the quality of water in the subdivision available for human consumption) _____

(describe any quality that would make the water unsuitable for use within the subdivision) _____
*Refer to Section 12.3, 2.1 - .2 , .4.
(state each maximum allowable water quality parameter that has been exceeded with the approval of the Board of County Commissioners and then name of the element, compound or standard that has exceeded that parameter) _____

24. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON WATER QUALITY

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

(whether or not the subdivider can furnish water of an acceptable quality for human consumption and measures to protect the water supply from contamination in conformity with state regulations) _____

(whether or not the subdivider's can fulfill the water quality proposal made in this disclosure statement) _____

(whether or not the subdivider's proposal for water quality conforms to the County's water quality regulations) _____

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25. LIQUID WASTE DISPOSAL

(describe the precise type of liquid waste disposal system that is proposed and that has been approved by the Board of County Commissioners for use within the subdivision)

NOTE: NO LIQUID WASTE DISPOSAL SYSTEM MAY BE USED IN THIS SUBDIVISION OTHER THAN A SYSTEM APPROVED FOR USE IN THIS SUBDIVISION BY THE BOARD OF COUNTY COMMISSIONERS.

26. N.M. ENVIRONMENT DEPARTMENT'S OPINION ON LIQUID WASTE PROPOSAL

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

(whether there are sufficient liquid waste disposal facilities to fulfill the requirements of the subdivision in conformity with the state regulations)

(whether or not the subdivider can fulfill the liquid waste proposals made in this disclosure statement)

(whether or not the subdivider's proposal for liquid waste disposal conforms to the County's liquid waste disposal regulations)

27. SOLID WASTE DISPOSAL

(describe the means of solid waste disposal that is proposed for use within the subdivision)

28. NEW MEXICO ENVIRONMENT DEPARTMENTS OPINION ON SOLID WASTE DISPOSAL

Include here the approved summary of the opinion received by the Board of County Commissioners from the New Mexico Environment Department on:

(whether or not there are sufficient solid waste disposal facilities to fulfill the needs of the subdivision in conformity with state regulations)

(whether or not the subdivider can fulfill the solid waste proposals made in this disclosure statement)

(whether or not the subdivider's proposal for solid waste disposal conforms to the County's regulations on solid waste disposal)

29. TERRAIN MANAGEMENT

(describe the suitability for residential use of the soils in the subdivisions as defined in the Natural Resource Conservation District's soil survey for County)

(describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures)

(identify by lot and block numbers all parcels within the subdivisions that are subject to flooding)

(identify by lot and block number all parcels within the subdivision located in whole or in part on slopes in excess of 8%)

(describe the surface drainage for all lots in the subdivision)

(describe the sub surface drainage for all lots in the subdivision)

(describe the nature, location and completion dates of all storm drainage systems constructed or required to be constructed in the subdivision)

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30. NATURAL RESOURCE CONSERVATION DISTRICT'S OPINION ON TERRAIN MANAGEMENT

Include here the approved summary of the opinion received by the Board of County Commissioners from the Soil and Water Conservation District on:

(whether or not the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage and soil erosion) _____

(whether or not the subdivider can satisfy the terrain management proposals made in this disclosure statement) _____

(whether or not the subdivider's terrain management proposals conform to the County's regulations on terrain management) _____

31. SUBDIVISION ACCESS

(name of town to nearest subdivision) _____

(distance from nearest town to subdivision and the route over which that distance is computed) _____

(describe access roads to subdivision) _____

(state whether or not the subdivision is ordinarily accessible by conventional vehicle) _____

(state whether or not the subdivision is ordinarily accessible at all times of the year and under all weather conditions) _____

(describe the width and surfacing of all roads within the subdivision) _____

(state whether the roads within the subdivision have been accepted for maintenance by the County) _____

(if the roads within the subdivision have not been accepted for maintenance by the County, state how the roads will be maintained and describe the lot owners' responsibilities and obligations with respect to the road maintenance) _____

32. MAINTENANCE

(state whether the roads and other improvements within the subdivisions will be maintained by the county, the subdivider or an association of lot owners, and what measures have been taken to make sure that maintenance takes place) _____

33. STATE HIGHWAYS DEPARTMENTS OPINION ON ACCESS

Include here the approved summary of the opinion received by the Board of County Commissioners from the State Highway and Transportation Department on:

(whether or not the subdivider can provide can fulfill the state highway access requirements for the subdivision in conformity with state regulations) _____

(whether or not the subdivider can satisfy the access proposal made in this disclosure statement) _____

(whether or not the subdivider's access proposals conform to the County's regulations on access) _____

34. CONSTRUCTION GUARANTEES

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(describe any proposed roads, drainage structures, water treatment facilities or other improvements that will not be completed before parcels in the subdivision are offered for sale) _____

(describe all performance bonds, letters of credit or other collateral securing the completion of each proposed improvement) _____

UNLESS THERE IS A SUFFICIENT BOND, LETTER OF CREDIT OR OTHER ADEQUETE COLLATERAL TO SECURE THE COMPLETION OF PROPOSED IMPORVEMENTS. IT IS POSSIBLE THAT THE PROPOSED IMPROVEMENTS WILL NOT BE COMPLETED. CAUTION IS ADVISED.

35. ADVERSE OR UNUSUAL CONDITIONS

(state any activities or conditions adjacent to or nearby the subdivision such as feed lots, dairies, cement plants or airports, that would subject the subdivided land to any unusual conditions affecting its use or occupancy) _____

36. RECREATIONAL FACILITIES

(describe all recreational facilities, actual and proposed in the subdivision) _____

(state the estimated date of completion of each proposed recreational facility) _____

(state whether or not there are any bonds, letters of credit or other collateral securing the construction of each proposed recreational facility and describe any such bond, letter of credit or other collateral) _____

37. FIRE PROTECTION

(distance to nearest fire station from subdivision) _____

(route over which that distance is computed) _____

(state whether the fire department is full-time or volunteer) _____

38. POLICE PROTECTION

List the various police units that patrol the subdivisions.

(sheriff's department, if applicable) _____

(municipal police, if applicable) _____

(state police, if applicable) _____

39. PUBLIC SCHOOLS

(name of and distance to nearest public elementary school serving the subdivision) _____

(name of and distance to the nearest public junior high or middle school serving the subdivision) _____

(name of and distance to nearest public high school serving the subdivision) _____

40. HOSPITALS

(name of nearest hospital) _____

(distance to nearest hospital and route over which that distance is computed) _____

(number of beds in nearest hospital) _____

41. SHOPPING FACILITIES

(description of nearest shopping facilities including number of stores) _____

(distance to nearest shopping facilities and route over which that distance is computed) _____

42. PUBLIC TRANSPORTATION

(describe all public transportation that serves the subdivision on a regular basis) _____

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BY ANDREA

APPENDIX "C"

LUNA COUNTY SUBDIVISIONS REGULATIONS
APPLICATION FOR FINAL PLAT APPROVAL

INSRUCTIONS

Print or type clearly. Use additional sheets if necessary. **All required attachment shall be submitted with this application form.** Incomplete or inaccurate applications may delay review and final action. The completed application package must be submitted to the County Planner by subdivider or a designated agent and shall be in compliance with the requirements of the County Subdivision Regulations. **Each application must be accompanied by the required administrative fee.**

NAME OF SUBDIVISION:_____

GENERAL INFORMATION

1. This is a Type _____Subdivision Number of Lots:_____Total Acreage:_____acres

2. Subdivider or Agent Name:_____

   Address:_____
   Street Address or P. O. Box

   _____
   City State Zip Code

   Telephone Number(s):_____

   Signature:_____

3. Engineer/Surveyor Name:_____

   Address:_____
   Street Address or P. O. Box

   _____
   City State Zip Code

   Telephone Number(s):_____

   Signature:_____Date:_____

SUPPLMENTAL INFORMATION

4. Have any changes to the proposed subdivision been made since the preliminary plat was approved? [ ] Yes [ ] No

   If yes, please attach a detailed explanation of such changes.

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SUPPLEMENTAL INFORMATION (cont'd

5. Have the required improvements been completed?_____
   If not, attach improvement agreement to insure completion of required improvements.

6. All affidavits, certificates, permits, and statements required for final plat review as defined by the County Subdivision Regulations shall be attached to this application .

7. The original drawing and required number of copies of the final plat map shall be attached to this application.

8. The final disclosure statement shall be attached to this application.

PROCEDURAL INFORMATION (to be completed by the County Planning Director)

9. Date of preliminary plat approval:_____

10. Expiration date of preliminary plat:_____

11. Extension dates (if any, with explanation):_____

_____

12. Date application received by County:_____

Initial: _____

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Plat certifications required to be shown for **Final Plats**:

SURVEYOR'S CERTIFICATION

I hereby certify that I am a registered land surveyor in the State of New Mexico, and that this plat was made by me or under my supervision from notes of an actual field survey that meets the minimum requirements for land surveys in the State of New Mexico as adopted by the New Mexico State Board of Registration for professional engineers and land surveyors and that it is true and correct to the best of my knowledge and belief.

Signature:_____ Date of Survey:_____

NMPS NO:
_____

UTILITY COMPANY REVIEW

Copies of this plat have been submitted to the following companies for review of easements for utility installation purposes this plat is approved for easement purposes only. The signing of this plat by utility companies dose not guarantee utility services to the subdivision.

Electric/Power Company:_____

By:_____ Date:_____

Telephone Company: _____

By:_____ Date:_____

Gas Company (if applicable):_____

By: _____ Date: _____

BOARD OF COUNTY COMMISSIONERS APPROVAL

This plat has been submitted to, reviewed, and approved by the Board of County Commissioners of Luna County and is hereby approved for filing with the Luna County Clerk.
Commission Chairman: _____ Date: _____

ATTEST: Luna County Clerk: _____

STATE OF NEW MEXICO)
COUNTY OF LUNA)
I hereby certify that this instrument was filed for record on the _____ day of _____2002;
At _____o'clock __.M. and duly recorded in plat record _____, page(s) _____ in the records of the Luna County Clerk.
Reception No. _____

Plat NO. _____

Luna County Clerk

By: _____
(Deputy)

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APPENDIX "D"

File No. _____

AGREEMENT TO CONSTRUCT SUBDIVISION IMPROVMENTS PUBLIC & PRIVATE

THIS AGREEMENT made this_____ day of _____, ____, by and between Luna County, New Mexico (hereinafter referred to as "County") and _____, (hereinafter referred to as "Developer") pursuant to Article IV, Section 19 of Luna County Land Subdivision Regulations, formally adopted in Luna County Ordinance _____, and recorded in the Office of the County Clerk of Luna County, New Mexico, in Book _____, Page _____ *et seq.,* _____ Records.

WHEREAS, the Developer is developing certain lands within the County of Luna, State of New Mexico, know as _____, (hereinafter referred to as the "Subdivision"); and whereas, _____describing the Subdivision; and,

WHEREAS, the preliminary plat submitted by the Developer proposed both private and public infrastructure improvements within the subdivision; and,

WHEREAS, Articles 1.5.11, 5.2.3 & 8.1.3 of the County's Subdivision Regulations required the Developer to install and construct certain public improvements at no cost to the County; and,

WHEREAS, the County requires the execution of an Agreement to construct said public improvements, together with acceptable guarantees of construction as specified below, as a prerequisite to approval of a Final Plat of the Subdivision; and

WHEREAS, the Developer must obtain County approval of construction plans, specifications, and cost estimates for the improvements upon County approval of such construction plans, specifications, and cost estimates the County is prepared to issue the Developer Work Order permitting the commencement of construction activities upon execution of this agreement and payment of all required fees, all as set forth and specified below; and,

WHEREAS, the County is willing to inspect or monitor the private inspection of the improvements during the course of their construction and accept said improvements upon their satisfactory completion, all as set forth and specified below; and,

WHEREAS, the Developer financially guarantees the satisfactory completion of the infrastructure construction required herein and the payment of all labor and material costs and charges, all as set forth and specified below.

NOW, THEREFORE, in consideration of the above, the County and Developer hereby agree as follows:

ISSUANCE OF WORK ORDER

1. The Developer shall submit to the Office of the Luna County Planning Director final construction plans, specifications and cost estimates for the proposed public improvements hereinafter referred as the "Subdivision Improvements Plan" on or before the final plat submittal date. At this time, the Developer shall pay all fees required in the County Land Subdivision Regulations and Paragraph 3 of this Agreement.

2. After execution of this Agreement, payment of all applicable fees as specified in paragraph 3, delivery of the financial guarantee specified in paragraph 16, and certificate of public liability insurance as specified in paragraph 23, below, the Developer shall be issued a Work Order by the County. The Developer shall advise the office of the Luna County Planning Director in advance of the actual start of construction and arrange for all inspections required and specified in paragraph

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7 through 13. The Developer shall permit the County or other participating agencies to make such tests and inspections during the construction of the improvements and upon completion of the improvements as are necessary or desirable.

3. Prior to issuance of a Work Order, the Developer shall pay to the County the Following Fees:

Type of Fee	Amount
_____	_____
_____	_____
Total	$

Prior to final acceptance of the improvements by the County, the Developer shall pay any other County fees, which may have been incurred during the course of construction.

COMMITMENT TO CONSTRUCT IMPROVEMENTS

4. The Developer shall, on or before the _____day of _____, _____ complete to the satisfaction of the County the improvements required for the Subdivision as set forth in the Developer's Subdivision Improvement Plan, which is attached hereto as Exhibit A and incorporated herein by reference.

The time limitation stated above may be extended by the County Planning Director for a period not to exceed twelve (12) months if the Developer shows adequate reasons for said extension.

DESIGN AND CONSTRUCTION METHODS

5. The Developer has engaged _____as Engineer(s) for the construction project, who are Registered Professional Engineers in the State of New Mexico. Developer shall ensure that the Engineer(s), in such capacity, shall provide the following services prior to, during, and after construction of the improvements:

_____

The Developer shall ensure that the Engineers performs all of the above services in a satisfactory manner and submits to the office of the Luna County Manager any reports required by the County.

6. The Developer has engaged _____as Contractor, who is properly licensed in the State of New Mexico. The Developer shall ensure that the Contractor, in such capacity, shall in a manner satisfactory to the County construct the improvements as shown on Developer's proposed Subdivision Improvements Plan (Project No._____), incorporating any change orders approved by the office of the Luna County Manager, and all other applicable laws, regulations, and policies.

FINAL ACCEPTANCE PACKAGE

7. The Developer shall report the completion of construction in writing to the office of the Luna County Planning Director. Upon receipt of the report, the County reviewing staff shall visually inspect the public improvements to verify completion of construction according to plan. Subsequent to verification, the Developer shall submit to the office of the County Planner a "final acceptance package," which shall consist of the following documents:
   a. As-built drawings of reproducible quality, depicting all construction of the public improvements as actually accomplished in the field and certified by a New Mexico Registered Professional Engineer or Land Surveyor, as appropriate.
   b. A list of quantities of construction items in place, using the bid items in a state-approved list of standard estimated unit pries. This list shall be divided into the following categories as applicable:

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1. Sanitary sewer items and quantities;
2. Water service items and quantities;
3. Street paving quantities;
4. Street curb and gutter quantities; and
5. Storm drainage improvements and quantities

C. The Developer shall either provide Certification by a New Mexico registered Professional Engineer that the required Private Improvements have been constructed in compliance with approved plans and specification or the Developer shall make necessary arrangements for Certification by the office of the Luna County Planning Director that the required improvements are satisfactorily completed.

If the County is acting as the Contractor for any portion of the improvement constructed pursuant to this Agreement, the County shall prepare its own final acceptance package documents for those improvements actually constructed by the County.

8. Upon receipt of the Developer's "final acceptance package," the Luna County reviewing staff shall review it for completeness and accuracy. If the documentation has been satisfactorily completed, the office of the Luna County Planning Director shall approve the package and issue a Certificate of Completion and Acceptance. Any financial guarantee provided by the Developer in accordance with Article VI, Section 2 of the County's Land Subdivision Regulation between the Developer and the County ("125% financial guarantee") shall be released no later than sixty (60) days after approval of the final acceptance package by the reviewing staff and/or County Engineer.

CONSTRUCTION INSPECTION METHODS

9. Inspection of the subdivision improvement construction shall be performed by _____on all private facilities and by _____ on all public facilities, being New Mexico Registered Professional Engineers, in accordance with all applicable laws, ordinances, and regulations. If said inspection is performed by an entity other than the County, the county may monitor said inspection and the Developer shall ensure that the inspection entity provides all inspection results, reports, and related data to the County as required for review. The County retains the right to perform its own general overall inspection of the construction project at any time prior to final acceptance of the improvements if deemed necessary or advisable by the office of the Luna County Planning Director. For any inspections performed by the County, the Developer shall pay to the County a reasonable fee therefore.

CONSTRUCTION SURVEYING

10. Construction surveying for the subdivision improvement project shall be performed by _____ on all private facilities and by _____ on all public facilitates in accordance with all applicable laws, ordinances, and regulations. If said construction surveying is performed by an entity other than the County, the County may monitor said construction surveying and the Developer shall ensure that the construction surveying entity provides all construction surveying filed notes, plat, report, and related data to the County as required for review. If any construction surveying is performed by the County, the Developer shall pay to the County a reasonable fee therefore.

FIELD TESTING

11. Field testing of the subdivision improvement construction shall be performed by _____ on all private facilities and by _____on all public facilities, being a certified testing laboratory under the supervision of a New Mexico registered Professional Engineer, in accordance with the technical standards contained in the applicable contract documents and all applicable laws, ordinances, and regulations. If and field testing is performed by an entity other then the County, the County may monitor said field testing and the Developer shall ensure that the field testing entity provides all field testing results, reports, and

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related data to the County as required for review. If any field-testing is performed by the County, the Developer shall pay to the County a reasonable fee therefore.

RECORD TESTING

12. Notwithstanding the provisions of Paragraph 2, above, the County retains the right to perform any and all record testing which may be deemed necessary or advisable by the office of the Luna County Planning Director or the Developer.

13. The County shall make available at established reproduction costs for the use of the Developer or its agents all of its maps, records, laboratory tests, or other data pertinent to the work to be performed by the Developer or its agent pursuant to this Agreement and also any other maps, records, or other materials available to the County upon the County's request to any other public agency or body.

FINAL GUARANTEE

14. The Developer shall provide financial guarantees for the completion of all subdivision improvements.

15. On or before submittal for final plat approval for the subdivision, the Developer is required to submit a financial guarantee in an amount of not less than 125 percent of the costs of completing the improvements (as estimated by the office of the Luna County Planning Director) pursuant to the County's land subdivision Regulations. Such financial guarantee must be irrevocable in form and may be affected by a bond, letter of credit, escrow deposit, or other acceptable pledge of liquid assets payable to the County in the event of Developer's default under the Subdivision Improvement Agreement. See Exhibit 1 & 2 attached to this appendix.

16. With respect to this Agreement, the Developer has acquired or is able to acquire the following-described financial guarantee (describe fully, indicate amount, identification number, names of bank or bonding entity, inclusive dates of guarantee, and all other relevant information):

    _____

    A copy of this financial guarantee is attached hereto as "Exhibit "_____.

17. The Developer understands and agrees that the original executed financial guarantee described above must be delivered to the County simultaneously with the County's execution of this agreement; and must be in an amount of not less than 125 percent of the cost of completing the improvements, as estimated by the office of the Luna County Manager.

18. In the event the Developer shall fail or neglect to fulfill his obligations under this Agreement, the County shall have the right to construct or cause to be constructed the Improvements specified herein, as shown on the Preliminary or Final Plats and in the plans and specifications as approved. The Developer as Principal and the surety or sureties shall be jointly and severally liable to pay to and indemnify the County, the total cost to the County thereof, including but not limited to, engineering, legal, and contingent costs together with any damages, either direct or consequential, which the County may sustain on account of the failure of the Developer to carry out and execute all of the provisions of this Agreement. The County shall have the unconditional right to call upon the financial guarantee provided by the Developer described in Paragraph 16 for the purpose specified and in the amounts enumerated in such guarantee.

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PROCEDURES FOR REDUCTION OF FINANCIAL GUARANTEE UPON PARTIAL COMPLETION OF IMPROVEMENTS

19. The Developer may request a reduction in the amount of financial guarantee upon partial completion of the subdivision improvements. To qualify for a financial guarantee reduction, the completed improvements must be of a freestanding nature, functionally independent of any uncompleted improvements, and completed in substantial compliance with the subdivision improvement construction plans as determined by an inspection conducted by the County.

20. If the completed improvements meet the above requirements, the County Road Superintendent will then estimate the cost of completing the remaining improvements. The Developer may then submit the following documents to the County for review and approval:
    a. A revised financial guarantee in an amount of not less than 125 percent of the Luna County Planning Director's estimated cost of the completing the remaining improvements.

    b. A release of the original financial guarantee for execution by the County.

    c. Documentation that the completed improvements and the land in which the completed improvements are located are subject to no liens, claims, or other encumbrances.

    d. A bond or other suitable instrument guaranteeing the completed improvements against defective materials and workmanship for a period of three (2) years as set forth in Paragraph 25 of this Subdivision Improvement Agreement between the Developer an the County.

21. Upon receipt of the above-described documents in the forms acceptable to the County, the County shall issue a Certificate of Completion and Acceptance for the completed improvements and shall accept the revised financial guarantee tendered by the Developer for the improvements remaining to be completed.

LIABILITY

22. Until acceptance of the improvements by the County, the Developer shall be solely responsible for maintaining the premises being subdivided in a safe condition. The Developer agrees to defend, indemnify and hold harmless the County and its officers, agents, and employees from and against all suits, actions, or claims of any character brought because of any injury or damage arising out of the design or construction of the improvements or by reason of any act or omission, or misconduct of the Developer, his agents, employees, or the Engineer or Contractor or their agents or employees. The indemnity required hereunder shall not be limited by reason of the specifications of any particular insurance coverage in this Agreement. Nothing herein is intended to impair any right or indemnity under the laws of the State of New Mexico.

23. The Developer shall procure or cause to be procured and maintain public liability insurance in amount of not less than One Million Dollars ($1,000,000) for accidents or occurrence which cause bodily injury, death or property damage to any member of the public resulting from any condition of the lands of the subdivision improvements therein or the construction activities thereon. The insurance policy must name Luna County, its employees, and elected officials, as their interest may appear, as additional insured. The Developer shall maintain such insurance until acceptance of the construction of all of the improvements by the County. Any cancellation provision must provide that if the policy is canceled prior to the expiration date hereof, materially changed, or not renewed, the issuing company will mail 30 days written notice to the County, attention County Planning Director. The Developer shall furnish the County Engineer a Certificate of said insurance prior to issuance of a Work Order for construction of the improvements.

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TITLE OF REAL PROPERTY

24. If at the time that construction of the Project is completed the County does not own the real property on or in which the improvements are constructed, the Developer shall convey such real property and property rights as the County deems necessary, together with all improvements, to the County free and clear of all claims, encumbrances and liens prior to final acceptance of the improvements by the County. Dedication on the final plat of the subdivision may be an appropriate conveyance.

GUARANTEE OF WORKMANSHIP AND MATERIALS

25. At the time of acceptance of the completed improvements or any portion thereof by the County, the Developer shall furnish or cause to be furnished a bond or other suitable guarantee in a form and with a surety satisfactory to the County to guarantee the completed project against defective materials and workmanship for a period of three (2) years following the date of acceptance by the County. This guarantee shall not be less than 100 percent of the total completed cost of improvements.

ASSIGNMENT OF AGREEMENT

26. This Agreement shall not be assigned except with the written consent of the parties hereto and the express written concurrence of any surety who has undertaken to guarantee the completion of the Improvements. If so assigned, the Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.

27. In the event of the sale, conveyance, or assignment of the Subdivision or any portion thereof, the County will not release the Developer from its obligations under this Agreement and will continue to hold the Developer responsible for all Improvements until a successor in interest to the Developer responsible for all Improvements until a successor in interest to the Developer has posted a suitable guarantee and entered into a Subdivision Improvement Agreement with the County. At such time as acceptable security has been posted by the Developer's successor in interest and the Agreement executed, the County will release the guarantee.

Should there be a conflict between the terms and conditions of this Agreement and the terms and conditions of any other document referred to herein, the terms and conditions of this Agreement shall govern.

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IN WITNESS WHEREOF, the parties hereto have executed this

Agreement as of the date first above written

DEVELOPER

_____
(Signature)

_____
Name

_____
Title

COUNTY OF LUNA, NEW MEXICO

_____
By _____
It's Chairman

_____
County Manager

ATTEST:

_____
County Clerk

REVIEWED BY:

_____
County Attorney

STATE OF NEW MEXICO)
) SS.
COUNTY OF LUNA)

The foregoing instrument was acknowledged before me this _____ day of_____20____, by _____of _____.

My commission expires:

_____

_____
NOTARY PUBLIC

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EXHIBIT 1 TO APPENDIX D

File No. _____

SUBDIVISION IMPROVEMENTS BOND

KNOW ALL BY THESE PRESENTS: That we (NAME OF DEVELOPER, CORPORATION, PARTNERSHIP, ETC.) as Principal, and (NAME OF SURETY) a corporation organized and existing under and by virtue of the laws of the State of _____ and authorized to do business in the State of New Mexico, as Surety, are held and firmly bound unto Luna County in the penal sum of (AMOUNT WRITTEN) Dollars, ($ AMOUNT IN FIGURES) the payment of which well and truly to be made, and each of us bind ourselves, our and each of our heirs, executors, administrators, successors and assigns jointly, and severally, firmly by these presents.

NOW THEREFORE, the condition of the above obligation is such that:

WHEREAS, said subdivision is subject to the provisions and conditions of the ordinance of Luna County know as the Land Subdivision Regulations, which regulation requires, among other things, the installation of various roads and other improvements by said principal; and

WHEREAS, under said Subdivision Regulations the said Principal in (NAME OF SUBDIVISION) Subdivision is required "as part of his responsibility" to install and construct the following improvements:

(NAME OF IMPROVEMETNS, I.E. WATER, SEWER, PAVING, SIDEWALK)

All construction shall be performed in accordance with the Agreement to Construct Subdivision Improvements entered into between (NAME OF DEVELOPER) and Luna County, as recorded in the office of the Clerk of Luna County, New Mexico at Book Misc._____, pages_____ through_____.

NOW THEREFORE, if the above bounden Principal shall well and truly install and construct the said described improvements and facilities and perform the work herein above specified to be performed, all on or before (DATE) then this obligation shall be null and void.

IN WITNESS WHEREOF, these presents have been executed this _____day of_____, 20___.

NAME OF DEVELOPER
(Corporation, Partnership, etc.)

By: _____ Its: _____
(NAME)

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NAME OF SURETY:

BY: _____
(NAME AND TITLE)

STATE OF NEW MEXICO)
) SS.
COUNTY OF LUNA)

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission Expires:_____

Notary Public:_____ Seal:

APPROVED AS TO FORM:

_____
COUNTY ATTORNEY

NOTE: Power of Attorney for Surety needs to be attached.

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EXHIBIT 2 TO APPENDIX D

File No. _____

IRREVOCABLE LETTER OF CREDIT AND AGREEMENT NO. _____

AMOUNT: _____

County Manager
Luna County
P.O. Box 551
Deming, NM 88031

_____
_____
_____

Dear Mr._____,

At the request of ___(NAME) a (Corporation/ Partnership, etc.) ___, We establish our Irrevocable Letter of Credit in your favor for the account of __(REPEAT ABOVE, to the extent of and not exceeding __(AMOUNT WRITTEN) (\$ FIGURES).

This Letter of Credit has been established to ensure the completion of (Description of Activity). As provided by the Agreement between __(REPEAT NAME), and LUNA COUNTY which Agreement is recorded in Book Misc. _____, at pages ____ to ____, of the records of the County of Luna, State of New Mexico __(the "Agreement"). A Draft or Drafts for any amount up to, but not in excess of __(Amount Written)__ (Figures) is/are available at sight at (Name of Bank/City, State) between (Date) and (Date), 20___.

When presented for negotiation, the Draft(s) is/are to be accompanied by the following document:

The County's notarized certification stating that (Repeat Name), has failed to comply with the terms of the Agreement, and also certifying that "the undersigned is County Manager of Luna County and is authorized to sign this statement," and also certifying that the amount of the Draft does not exceed 125% of the cost of completing the improvements specified in the Agreement.

We hereby agree with the drawer of Draft(s) drawn and under and in compliance with the terms of this credit that such Draft(s) will be duly honored on the presentation to the drawee if negotiated between (Date) and (Date), 20___.

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The Draft(s) drawn under this credit must be endorsed and contain the clause: "Drawn under Letter of Credit and Agreement No._____ of (Name of Bank/City/State), date_____"; the amount of such Draft(s) must be endorsed on the reverse die thereof, and this letter of Credit must be attached to that Draft which exhausts this credit.

This credit is subject to the Uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce, and Publication No. 400.

This credit terminates at_____ o'clock p.m., New Mexico time, (date), 20____.

NAME OF BANK

_____
(Name of Title of Authorized Person)

APPROVED AS TO FORM:

LUNA COUNTY

_____
COUNTY ATTORNEY

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BY ANDREA

APPENDIX "E"

LUNA COUNTY SUBDIVISION REGULATIONS
APPLICATION FOR SUMMARY REVIEW PLAT APPROVAL

INSTRUCTIONS

Print or type clearly. Use additional sheets if necessary. **All required attachments shall be submitted with this application form.** Incomplete or inaccurate applications may delay review. The completed application package must be submitted to the County Planning Director by the subdivider or designated agent and shall be in compliance with the requirements of the Luna County Subdivisions Regulations. **Each application must be accompanied by the required administrative fee.**

NAME OF SUBDIVISION:_____

APPLICANT INFORMATION

1. Subdivider Name:_____

   Address:_____
   Street Address or P. O. Box

   _____
   City State Zip Code

   Telephone Number(s):_____

   Signature:_____

2. Engineer/Surveyor Name:_____

   Address:_____
   Street Address or P. O. Box

   _____
   City State Zip Code

   Telephone Number(s):_____

   Signature:_____ Date:_____

SUBDIVISION INFORMATION

3. Location of Subdivision (attach map):_____

4. This is a ¡ Type Three ¡ Type Five Subdivision (check one)

5. Number of lots:_____Total acreage:_____acres. Size of smallest lot:_____acres.

6. Does the subdivision lie within the extraterritorial jurisdiction of a municipality or village?
   [ ] Yes [ ] No

   If yes, name the municipality or village having concurrent jurisdiction:_____

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BY ANDREA

SUMMARY REVIEW PLAT APPLICATION

SUPPLEMENTAL INFORMATION

7. If it is determined by the County to be necessary, attach an improvement agreement to ensure completion of required improvements.

8. All affidavits, certificates, permits, statements required for summary review plats as defined by the County Subdivision Regulations shall be attached to this application.

9. The original drawing and required number of copies of the summary review plat map shall be attached to this application.

10. The final disclosure statement shall be attached to this application.

PROCEDURAL INFORMATION (To be completed by County Planning Director)

11. Date of pre-application conference:_____

    Initial:_____

12. Date application received by County:_____

    Initial:_____

13. Date summary review plat deemed complete:_____

    Initial:_____

14. Date summary review plat approved by County:_____

15. Date summary review plat filed with County Clerk:_____

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Plat Certification required for **SUMMARY REVIEW PLAT:**

SURVEYOR'S CERTIFICATION

I hereby certify that I am a registered land surveyor in the State of New Mexico, and that this plat was made by me or under my supervision from the notes of an actual field survey that meets the minimum requirements for land surveys in the State of New Mexico as adopted by the New Mexico Board of Registration for professional engineers and land surveyors, and that it is a true and correct to the best of my knowledge and belief.

Signature:_____Date of Survey:_____

BOARD OF COMMISSIONERS

This plat has been submitted to, reviewed, and approved by the Board of County Commissioners of Luna County and is hereby approved for filling with the Luna County Clerk.

Chariman:_____Date:_____

Secretary:_____Date:_____

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BY ANDREA

APPENDIX "F"

LUNA COUNTY SUBDIVISION REGULATIONS
APPLICATION FOR VARIANCE

INSTRUCTIONS

Print or type clearly. Use additional sheets if necessary. **All required attachments shall be submitted with this application form.** Incomplete or inaccurate applications may delay review and final action The completed application package must be submitted to the County Planning Director by the subdivider or a designated agent and shall be in compliance with the requirements of the County Subdivision Regulations. **Each application must be accompanied by the required administrative fee.**

APPLICANT INFORMATION

1. Subdivider or Agent Name:_____

   Address: _____
   Street Address or P.O. Box

   _____
   City State Zip Code
   Telephone Numbers (s):_____
   Signature:_____Date: _____

2. Engineer/Surveyor Name:_____

   Address:_____
   Street Address or P.O. Box

   _____
   City State Zip Code

   Telephone Number (s):_____
   Signature:_____Date:_____

SUBDIVISION INFORMATION

3. Name of Subdivision:_____

4. Reason for Variance (brief Description):_____

   _____

   _____

5. Attach a copy of the planned development program containing maps, schematics and narrative statement describing the full build-out of the proposed development.

PROCEDURAL INFORMATION (to be completed by County Planning Director)

6. Date application received by County Planner:_____Signed:___

7. Date of Public Hearing:_____

8. Date variance approved by County Commissioners:_____

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File No._____

APPENDIX "G"

CLAIM OF EXEMPTION

To claim exemption from the requirements of the Luna County Subdivision Ordinance, you must complete this form, sign it before a notary public and submit it together with legible copies of all required documents to the Luna County Planning Director, P O Drawer 551, 700 S. Silver Ave. Deming, NM 88031-0551. Be sure to check all exemptions, which apply and attach legible copies of all supporting documents.

The County Planning Director will notify you in writing within thirty (30) days as to whether your claim of exemption has been granted. If the claim of exemption is granted or if you do not hear from the County Planning Office within thirty (30) days, you may proceed with the land division you propose without needing to comply with the requirements of the Luna County Subdivision Regulations. If your claim of exemption is denied, you may either seek approval of a subdivision or appeal the denial as provided in the Luna County Subdivision Regulations.

I / We,_____, claim an exemption from the requirements of the New Mexico Subdivision Act and the Luna County Subdivision Regulations for the following reason(s). I / We certify that this transaction involves:

____ 1. The sale, lease, or other conveyance of any parcel that is thirty-five (35) acres or larger in size within any twelve (12) month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with '7-36-20 NMSA 1978, for the preceding three (3) years;

THE SURVEY NEEDS TO SHOW THE FOLLOWING NOTES:

1. **NO FURTHER EXEMPT LAND DIVISION MAY OCCUR ON THESE TRACTS FOR TWELVE MONTHS AFTER RECORDATION.**
2. **TRACT_____ CANNOT BE DIVIDED BELOW THIRTY-FIVE (35) ACRES BY MEANS OF A CLAIM OF EXEMPTION EXCEPT BY COURT ORDER, TO SECURE A MORTGAGE OR TO DONATE A PARCEL OF LAND.**

ATTATCH COPIES OF DEED, NOTICE OF VALUATION FROM THE ASSESSOR'S OFFICE, PREVIOUS SURVEY, CERTIFIED SURVEY SHOWING THE SIZE AND LOCATION OF PARCEL.

____ 2. The sale or lease of apartments, offices, stores or similar space within a building;

ATTACH COPIES OF DEED, PREVIOUS SURVEY, SKETCH PLAN AND ALL PROPOSED SALE OR LEASE DOCUMENTS.

____ 3. The division of land within the boundaries of a municipality;

ATTACH COPIES OF DEED, PREVIOUS SURVEY CERTIFIED SURVEY SHOWING THE SIZE AND LOCATION OF THE PROPOSED DIVISION.

____ 4. The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;

ATTACH COPIES OF DEED, SKETCH PLAN AND ALL PROPOSED CONVEYANCING DOCUMENTS.

____ 5. The division of land created by court order where the order creates no more than one parcel per party;

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ATTACH COPIES OF DEED, CERTIFIED COPY OF COURT ORDER PREVIOUS SURVEY AND A CERTIFIED SURVEY OF THE DIVISION AND CONVEYANCING DOCUMENTS. THE SURVEY NEEDS TO SHOW THE FOLLOWING NOTES:

1. **THESE LOTS WERE CREATED BY *(NAME OF COURT ORDERING DIVISION)*, COURT ORDER NO. _____, DATED_____**

___ 6. The division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities;

ATTACH COPIES OF THE DEED AND ALL PROPOSED CONVEYANCING DOCUMENTS AND DOCUMENTS RESTRICTING FUTURE USE TO GRAZING OR FARMING ACTIVITIES, NO DWELLING UNITS, COMMERCIAL OR INDUSTRIAL USES SHALL BE ALLOWED ON THE LOTS CREATED IN PERPETUITY. SUCH DOCUMENTS MUST CONTAIN A COVENANT RUNNING WITH THE LAND AND REVOCABLE ONLY BY MUTUAL CONSENT OF THE PLANNING DIRECTOR AND THE PROPERTY OWNER THAT THE DIVIDED LAND WILL BE USED EXCLUSIVELY FOR GRAZING OR FARMING ACTIVITIES. THE CONVENANT MUST BE SIGNED BY THE PROPERTY OWNER, THE BUYERS OR LESSEE, AND THE PLANNING DIRECTOR AND MUST BE FILED WITH THE COUNTY CLERK ALONG WITH A CERTIFIED SURVEY OF THE DIVISION.

THE SURVEY NEEDS TO SHOW THE FOLLOWING NOTES:

1. **TRACT _____WAS CREATED FOR GRAZING AND FARMING ACTIVITIES ONLY, NO DWELLINGS OR COMMERCIAL USES ARE PERMITTED.**

2. **NO FURTHER EXEMPT LAND DIVISION MAY OCCUR UNLESS THE COVENANTS ARE REVOKED BY MUTUAL CONSENT BETWEEN THE PROPERTY OWNER AND THE PLANNING DIRECTOR.**
   a. **RESTRICTIVE COVENANTS ARE RECORDED AT RECEPTION NO._____ AS DOCUMENT #_____ IN THE RECORDS OF THE LUNA COUNTY CLERKS OFFICE.**

___ 7. The division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased;

ATTACH COPIES OF DEEDS, PREVIOUS SURVEY, AND CERTIFITED SURVEYS SHOWING ALL PARCELS AND PARCEL BOUNDARIES BEFORE AND AFTER PROPOSED ALTERATIONS.

___ 8. The division of land to create burial plots in a cemetery;

ATTACH COPIES OF DEED, PREVIOUS SURVEY, AND CERTIFIED SURVEY SHOWING THE PARCEL TO BE USED AS A CEMETARY AND ALL DOCUMENTS DEEMING IT AS SUCH.

___ 9. The division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member;

THE SURVEY NEEDS TO SHOW THE FOLLOWING NOTES:

1. **NO FURTHER DIVISION IS PERMITTED BY MEANS OF A CLAIM OF EXEMPTION, EXCEPT BY MEANS OF A COURT ORDER, TO SECURE A MORTGAGE, OR TO DONATE A PARCEL OF LAND.**
2. **(FOR TRACTS BEING CONVEYED TO A MINOR CHILD). AN IRREVOCABLE TRUST FOR THIS LAND DIVISION IS RECORDED AT RECEPTION**

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NO._____ AS DOCUMENT #_____ IN THE OFFICE OF THE LUNA COUNTY CLERK'S OFFICE.

3. DEED'S OF TRANSFER FOR THE TRACTS CREATED ARE RECORDED AT RECEPTION NO._____ IN THE OFFICE OF THE LUNA COUNTY CLERK.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, PROPOSED CONVEYANCING DOCUMENTS, A CERTIFIED SURVEY SHOWING THE DIVISIONS, AND THE BIRTH CERTIFICATE OR ANY OTHER DOCUMENTATION TO SHOW RELATIONSHIP TO CLAIMED. BAPTISMAL CERTIFICATES ARE NOT ACCEPTABLE DOCUMENTATION.

____ 10. The division of land created to provide security for mortgages, lien or deeds of trust; provided that the division is not the result of a seller-financed transaction.

THE SURVEY NEEDS TO SHOW THE FOLLOWING NOTES:

1. THIS PLAT CREATES A TEMPORARY LOT FOR MORTGAGE PURPOSES ONLY.
2. TRACT _____ SHALL AUTOMATICALLY BE CONSOLIDATED WITH THE ORIGINAL PARCEL UPON RELEASE OF MORTGAGE, LIEN OR DEED OF TRUST.
3. THESE PARCELS CANNOT BE SOLD SEPARATELY UNTIL FINAL FORECLOSURE DOCUMENTATION HAS BEEN SUBMITTED AND APPROVED BY THE PLANNING DIRECTOR.

ATTACH COPIES OF DEED, A COMMITMENT LETTER STATING THE MORTAGE IS CONTINGENT ON THE APPROVAL OF THE CLAIMS OF EXEMPTION, PREVIOUS SURVEY. A CERTIFIED SURVEY SHOWING THE LOCATION OF PROPOSED DIVISION.

____ 11. The sale, lease, or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres;

ATTACH COPIES OF DEED, PREVIOUS SURVEY, CERTIFIED SURVEY SHOWING LOCATION AND SIZE OF PARCEL (S).

____ 12. The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in '501 (c) (3) of the United States Internal Revenue Code of 1986, as amended; school, college, or other institution with a defined curriculum and a student body and faculty which conducts classes on a regular basis; or to any church group organized for the purpose of divine worship, religious teaching, or other specifically religious activity.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, IRS EXEMPTION LETTER, AND OR DOCUMENTS DEMONSTRATING ENTITLEMENT AND CERTIFIED SURVEY SHOWING LAND PROPOSED TO BE DONTATED.

____ 13. The sale, lease, or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five (5) year period, provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five (5) years of the first sale, lease, or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act; and these Regulations; provided further that a survey shall be filed with the county clerk indicating the five (5) year holding period for both the original tract and the newly created tract.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF ORIGINAL TRACT, PROPOSED PARCEL TO BE DIVIDED, PARCELS PREVIOUSLY DIVIDED FROM THE ORIGINAL TRACT AND DATES OF ALL DIVISIONS WITHIN THE APPROPRIATE PARCEL.

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THE SURVEY NEEDS TO SHOW IN BOLD AND OBVIOUS LETTERING UNDER THE TITLE THE FOLLOWING NOTE:

"FIVE YEAR HOLDING PERIOD"

BOTH TRACTS CREATED BY THIS DIVISION ARE SUBJECT TO A (5) YEAR HOLDING PERIOD. DURING THIS PERIOD TRACT_____ CANNOT BE SOLD, LEASED OR OTHERWISE CONVEYED AND NEITHER TRACT SHALL BE FURTHER DIVIDED DURING THIS PERIOD. IF EITHER OCCUR, THESE TRACTS ARE SUBJECT TO ALL APPICABLE SUBDIVISION REGULATIONS:

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I further certify that the information provided by me in this claim of Exemption is true and correct and that all documents attached to or enclosed with this Claim of Exemption are originals, or complete and correct copies of the originals. And this exemption is not part of a common promotional scheme to avoid the applicable subdivision regulations.

_____
Applicants Name

_____
Address

_____
City, State, and Zip Code

_____
Telephone number (s)

_____
Signature of Applicant

SUBSCRIBED AND SWORN to before me this_____day of

_____, 20___.

_____
NOTARY PUBLIC

My Commission expires:

_____

- -

FOR OFFICIAL USE ONLY

On this date _____ the foregoing Claim of Exemption has been:

_____ Approved

_____ Denied

Conditions or Comments for this decision:

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LUNA COUNTY PLAT CHECKLIST
REQUIRED ON ALL EXEMPTION APPLICATIONS

TITLES: MUST BE IN THE NAME OF PERSON(S) CURRENTLY HOLDING TITLE OF PROPERTY.

1. Land Division Created by Thirty-Five Acre Agricultural Exemption for _____
2. {Reserved}
3. {Reserved}
4. {Reserved}
5. Land Division Created by Court Order for_____
6. Land Division Created for Grazing and Farming Activities for _____
7. Lot Line Adjustment of Lots_____ and _____of _Name of subdivision or Legal Description
8. Lot Consolidation of Lots_____ and _____ of Name of subdivision or Legal Description
9. Land Division Created by Family Transfer for_____
10. Temporary Land Division for Mortgage Security for _____ _____
11. Land Division Created by One Hundred Forty Acre Exemption for _____
12. Land Division Created by Owner of Property to Donate Tract(s) to Organization
13. Land Division Created by Five Year Exemption for _____

PLAT INFORMATON AND SPECIFICATIONS

____ Name, Address, and phone number of Surveyor or Engineer
____ Signature, Seal, and License number of Surveyor or Engineer
____ Surveyors Certificate meeting minimum standards for surveying in New Mexico
____ Free Consent Affidavit signed and notarized by the owners of record
____ All sections, Township, and Ranges
____ Subdivisions, including lot, Block and Unit
____Designation of Grant, holding claim, or mining claim
____ Projected Section Township, and Range if applicable
____ City, County, and State
____True North Arrow
____ Equivalent Scale and Graphic Scale
____ Legend of all monuments set or found (set ½ rebar and cap, found marked stone)
____ Indicate all record dimensions in parenthesis and include in legend
____ At least a 3 x 3 Vicinity Map showing County and State Roads
____ Basis of Bearing (GPS methods, North line or Tract A within N ½ Sect. 3 T9N, R6E)
____ At least 1 tie to a permanent monument (Section Corner, USGLO monument)
____ Designate all Tracts created with a lot number or letter
____ Indicate the gross acreage of each lot to the nearest one-hundredth (2.52 acres)
____ Location and description of all buildings and structures tied to nearest property line.
____ Designate any existing easement with recording information
____ Designate widths of all easements being granted, both private and public
____ Indicate all adjoining property owners, with plat recording info. Or deed BK & PG

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NOTES AND CONDITIONS

____The lands shown hereon lie within the planning and platting jurisdiction of the City of Deming and Luna County, New Mexico

____The purpose of this plat is to divide lands and to grant easements in compliance with Exemption #_____and all required zoning regulations.

____ Maintenance of access roads and utility easements is the responsibility of the landowner or user unless currently maintained by the Luna County Road Department or the N.M. State Highway Dept.

____The lands shown herein lie (inside/outside) the 100-year floodplain in Zone_____according to the Federal Flood Insurance Rate Map Panel No._____

____County Road access: Lots which require access from a County Road are required to install a minimum of 12 inch culvert at the time of development

___Available Water System: These lots are subject to utilizing the _____water system. Water wells are prohibited.

____Make a reference to all documents used to determine the boundary of the land surveyed, (plats, deeds, right of way maps) including the recording information for the documents.

Approvals and Signatures

Luna County Planning Director

The reviewing officer has determined that this Plat is in compliance with County Regulations.
Remarks:

_____

_____

_____

_____

_____

_____

Reviewing Officer Date

_____

Addressing

Assessor's Property I.D. #_____
#_____

The taxes for the current year of 2004 are paid
No taxes are due until 2005 .

County Clerk's Recording Block

State of New Mexico:
: S.S.
County of Luna :

I hereby certify that this instrument was filed for record on the _____ day of _____2002 A.D. at _____ O'clock ____m. and was recorded in Cabinet _____, Slide _____, of the records of Luna County, NM.

Witness My Hand and Seal of office _____,
County Clerk of Luna County, New Mexico.

By _____ (Deputy)

Seal

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APPENDIX "H"

LUNA COUNTY SUBDIVISION REGULATION
NOTICE OF APPEAL

INSTRUCTIONS

Print or type clearly. Use additional sheets if necessary. **All required attachments shall be submitted with this application form.** Incomplete or inaccurate applications may delay review. The completed application package must be submitted to the County Planning Director by the subdivider or designated agent and shall be in compliance with the requirements of the Luna County Subdivisions Regulations. **Each application must be accompanied by the required administrative fee.**

APPELLATE INFORMATION

1. Name:_____

   Address:_____
   Street Address or P. O. Box

   _____
   City State Zip Code

   Telephone Number(s):_____

   Signature:_____ Date:_____

2. Agent (if any) Name:_____

   Address:_____
   Street Address or P. O. Box

   _____
   City State Zip Code

   Telephone(s):_____

   Signature:_____ Date:_____

NATURE OF APPEAL

3. Reasons for appeal (Reference to specific decision being appealed)_____

   _____

   _____

4. Ruling authority for this appeal:_____
   (Attach a copy of the decision or order being appealed)

PROCEDURAL INFORMATION (to be completed by the County Planning Director)

5. Date Notice of Appeal received by County Director:_____ Signed:_____

6. Date of action being appealed:_____

7. Date of decision regarding appeal by County Commissioners:_____

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APPENDIX I

LUNA COUNTY ROAD DEPARTMENT

CONSTRUCTION SPECIFICATIONS FOR SUBDIVISION ROADS
OUTSIDE EXTRA-TERRITIORIAL ZONE

(NOTE: Roads within the E.T.Z. are subject to City of Deming Road Design Standards)

1. ROAD WIDTH. Right-of-way easements to the County shall be not less than 60 feet. The road width and surfacing shall be as shown in the roadway typical sections included with this appendix.

2. SUBGRADE. This item consists of clearing, grubbing, removing and disposing of vegetation and debris from the roadway prism: watering, processing, and compacting as required to not less than 95% of standard proctor density.

   Roadway fill areas shall be placed in horizontal layers not exceeding 8 inches (loose measurements) and shall be compacted to not less than 95% of standard proctor density.

   Finished subgrade will be a minimum of four (4) inches above surrounding natural ground and shall have a minimum of 1-1/2 % crown (2% where final surfacing is "pit run" or crushed gravel).

3. DITCHES. The term "ditches" shall be interpreted to mean all side ditches, inlet and outlet ditches, changes in channels or streams, to and from culverts and other structures, diversion ditches, and other ditches in connection with surface drainage.

4. CULVERTS AND BACKFILL. Where rock or other unyielding foundation material is encountered, it shall be removed below the bottom of the structure for a depth of not less than 12 inches and backfilled with suitable material.

   When bedding material is required, it shall be sand or sandy soil all of which passes a 3/8" sieve and not more than 20 percent of which passes a No. 200 sieve.

   Backfilling shall consist of suitable materials uniformly distributed in layers not to exceed 8 inches (loose measurement) in depth and uniformly compacted to 95% of standard proctor density.
   Backfill compaction shall be done in uniform lifts on both sides of the structure in a manner that will not damage nor move the structure.

   Materials for backfill shall not contain frozen lumps or stones larger than 2 inches in diameter, clay (more than 35% passing the No. 200 sieve), or other objectionable material.
   Roadway drainage structures shall be a minimum of 18" in diameter.

5. SURFACING MATERIAL. For roads **not** scheduled to receive chip seal or asphalt concrete surfacing, a minimum of 6 inches of "pit run" gravel meeting the following grading specification is to be placed on the prepared subgrade:

SIEVE	% PASSING
1-1/2"	100
No. 4	40-85
No. 200	5-20

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For roads scheduled to receive chip seal or asphalt concrete surfacing, a minimum of 4 inches of crushed gravel meeting the following grading specification is to placed on the prepared subgrade:

SIEVE	% PASSING
1"	100
¾"	85-100
No.4	40-70
No. 10	30-55
No. 200	8-15

Fifty percent (50%) of the plus No. 4 material shall have a minimum of 2 mechanically fractured faces.

Gravel surfacing shall be mixed uniformly with water by means of motor graders or other suitable equipment until the mixture is uniform throughout, and compacted to not less than 95% of modified proctor density.

Roads scheduled for chip seal or asphalt concrete surfacing shall be primed with AEP (or approved equal) at a rate of 0.05 gallons per square yard and allowed to cure adequately prior to application of surfacing.

6. CONCRETE. Concrete produced for structural concrete shall be a 6-sack mix, air entrained 5% to 7%, with a minimum compressive strength at 28 days of 3000psi.

7. SURFACE TREATMENT (CHIP SEAL). Surface treatment (chip seal) aggregate shall conform with the following gradation requirements:

ONE-COURSE SURFACE TREATMENT

SIEVE	% PASSING
½"	100
No.4	0-20
No. 10	0-2

TWO- COURSE SURFACE TREATMENT

SIEVE	% PASSING (1ST)	% PASSING (2ND)
5/8"	100	
3/8"		100
No. 4	0-12	0-10
No. 10	0- 2	0-2

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The amount of crushing shall be regulated so that at least 75%, by weight, of all plus No. 4 sieved material shall have a minimum of 2 mechanically fractured faces.

The bituminous material to be applied shall be HFE-100P (or approved equal) applied at a rate of 0.35-0.50 gallons per square yard (first course) and at a rate of 0.30 gallons per square yard (second course). Rate to be adjusted by the inspector based upon results achieved during actual application in the field.

Surface treatment (chip seal) materials shall not be placed during wet weather nor when the atmospheric temperature is below 70 degrees.

The aggregate shall be spread by self-propelled aggregate spreaders of approved design. Initial rolling shall consist of one pass with a steel wheel roller followed by four (4) passes with a pneumatic-tired roller over the entire surface of the applied aggregate.

Surface treatment aggregate, when applied, shall have a moisture content not to exceed 2 percent by weight.

Loose aggregate shall be removed from the treated surface by brooming no sooner than twelve (12) hours after rolling, and again twelve to twenty-four hours after initial brooming upon inspection for satisfactory results.

8. ASPHALT CONCRETE (HOT MIX): The PMBP mixture shall be composed of a mixture of bituminous material, aggregate, and filler if required. The several aggregate fractions shall be sized, uniformly graded, and combined in such proportions as to conform to the gradations specified below:

		PERCENT PASSING	
SIEVE SIZE	TYPE	B	C
¾"		100	
½"		80-98	100
3/8"		70-90	70-98
No. 4		50-65	45-70
No. 10		32-45	30-50
No. 40		10-22	15-25
No. 200		3-8	4-8

Liquid limit shall be 25 or less. The amount of crushing shall be regulated so that at least 75 per cent, by dry weight, of the plus No. 4 material shall have two mechanically fractured faces.

BITUMINOUS MATERIAL. Bituminous material shall consist of AC-20 asphalt cement in the amount specified by mix design.

HYDRATED LIME. Hydrated lime shall conform with the requirements of ASTM C207, Type N, and shall be furnished in the amounts determined by an approved mix design.

Asphalt concrete shall not be placed on any wet or frozen surface, when the ambient temperature is below forty-five degrees (45) F, or when the weather conditions otherwise prevent the proper handling and finishing of the mix.

All courses of asphaltic concrete shall be placed by means of self-propelled paving machines except under certain conditions or at certain locations where the inspector deems the use of self-propelled machines impracticable.

Immediately after the bituminous mixture has been spread, stuck-off, and surface irregularities adjusted, it shall be thoroughly and uniformly compacted until all roller marks are eliminated and a density of 92% -96% of a maximum density as determined by the Rice test has been achieved.

It is intended that quality control density testing be done while the bituminous mixture is hot enough to permit further compaction if necessary. If the density does not meet the specified requirements, rolling shall continue until the optimum density is obtained, but rolling for any compactive effort will not be allowed when the temperature of the mix is below 200 F.

Any mixture that becomes loose, broken, mixed with dirt, segregated, or is in any way defective, shall be removed and replaced with fresh hot bituminous mixture, which shall be compacted to conform with the surrounding area.

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Transverse joints shall have two-foot or 12:1 minimum taper. Longitudinal joints shall have a one- foot or 6:1 minimum taper.

All transverse tapers shall be cut and squared off prior to commencing new work. Tapered longitudinal joints from previous operations shall be cleaned and tack coated if directed by the inspector. All joints shall be completely bonded, and have the same texture, density, and smoothness as other sections of the finished pavement.

9. UTILITIES. All underground utilities within the County right-of-way will be buried a minimum of forty-two (42) inches.

NOTE: These specifications are intended to be used as guidelines, and should not be construed as limiting the authority of the owner/developer's engineer to design or specify such features as may be necessary to complete the satisfactory development of the subdivision. It is recognized that each subdivision has unique problems that need to be specifically addressed by the engineer during the design and development phase.

10. TESTING AND INSPECTION. It is the responsibility of the owner/developer to retain services of a New Mexico-certified testing laboratory or New Mexico Professional Engineer, qualified and properly equipped to perform the necessary and sufficient testing to provide written certification that all roads were constructed in conformance with the requirements of these specifications.

Tests shall include but not be limited to the following:

Standard proctors for subgrade or backfill, and modified proctors for pit run or crushed gravel surfacing

Finished subgrade:	1 density per 500 feet
Pit run or crushed gravel:	1 density per 500 feet
	1 sieve analysis and fractured faces per day's run
Concrete:	Temperatures, slump, entrained air each day's pour
	3 cylinders each day's pour
Chip Seal	1 sieve analysis and fractured faces per day's run
Asphalt Concrete:	1 extraction/sieve analysis per day's run
Asphalt Concrete (con't)	1 Rice test per day's run
	A minimum of 2 densities per day's run
	Minimum of 3 core samples for each paving project; and 3 core samples each 5,000 sy for projects over 5,000 sy

11. INSPECTION

It shall be the responsibility of the owner/developer to retain the services of a licensed New Mexico Professional Engineer, or his designee, to perform periodic inspections during each phase of construction to ensure that the work is being performed in accordance with the specifications. After these inspections have been conducted, a written report shall be prepared by the inspector and distributed to the owner/developer and Luna County Road Superintendent.

A Final Inspection will be performed by the owner/developer's Engineer and the Luna County Road Superintendent. If all items appear to be satisfactorily completed in accordance with plans and specifications, written certification will be provided by the Engineer to the owner/developer and to Luna County. Should this inspection reveal items that need corrective work, a written report will be provided to the owner/developer and Luna County listing any deficiencies to be corrected prior to final acceptance.

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12. ANNUAL INSPECTION

The Luna County Road Superintendent shall conduct an annual inspection of each road system in the approved platted subdivision to determine that maintenance has been performed for each preceding year. A road system for the purpose of this ordinance shall mean all roads, road surfacing, subgrade, curbing, gutters, drainage structures and ditches. Should this annual inspection reveal items that need corrective work, a written report will be provided to the owner/developer and the Luna County Planning Director listing any deficiencies to be corrected.

Said report shall be served by personal service, or sent by prepaid registered mail. Upon receipt of said report, the owner/developer shall have ninety (90) days to take corrective action to bring said road system into compliance. Failure by the owner/developer to fulfill his or her responsibility as agreed to by the approval of the subdivision by the board of county commissioners and as disclosed in the owner/developer's recorded Disclosure Statement shall constitute default and non-compliance with this ordinance.

Violations of the provisions of these Regulations shall be shall be subject to the provisions of Article 12 Enforcement, Penalties, and Remedies of this ordinance.

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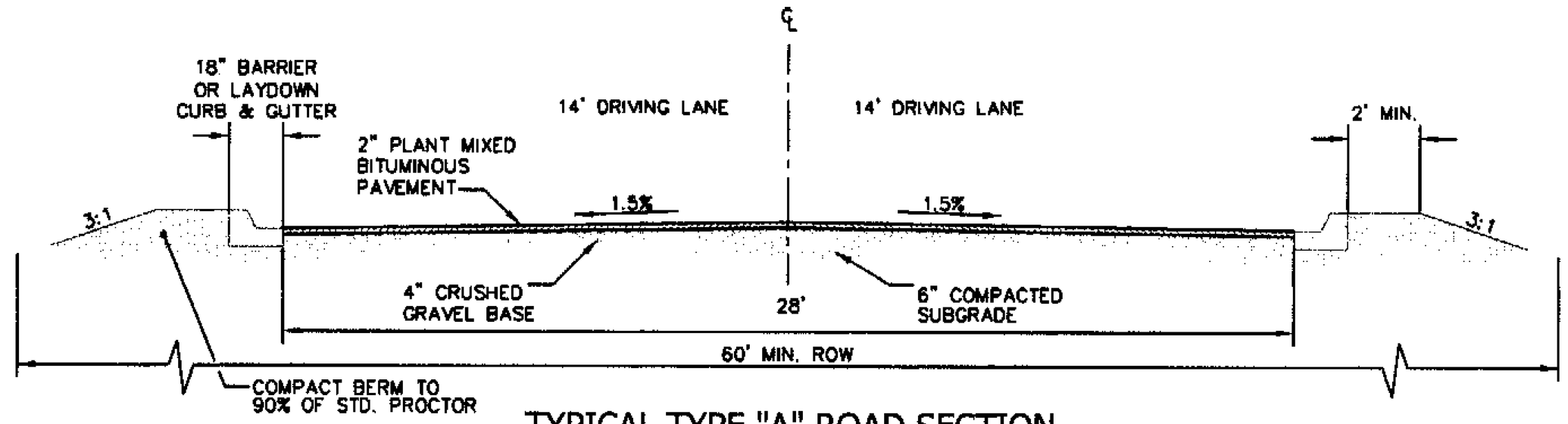
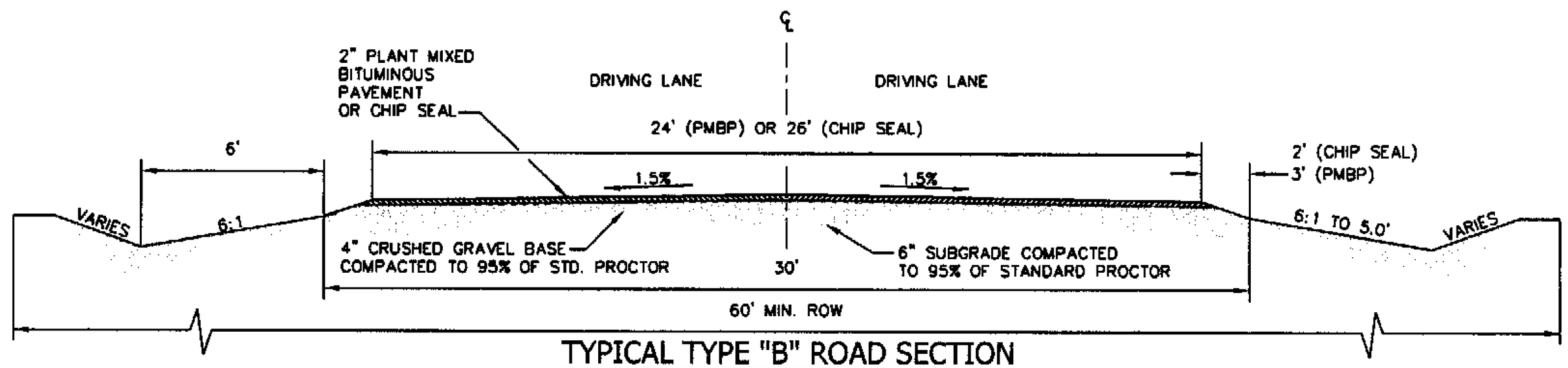
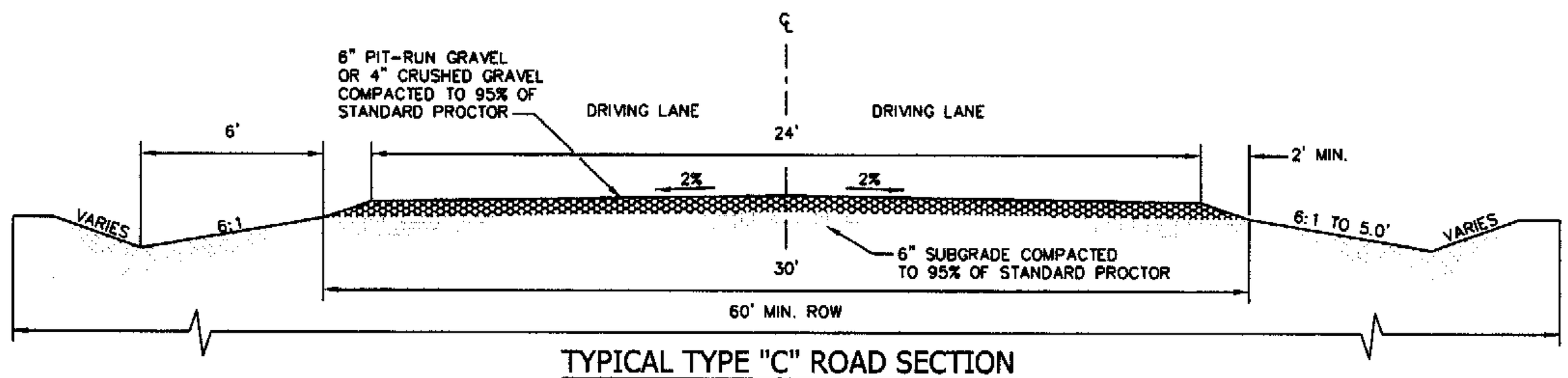


TYPICAL TYPE "A" ROAD SECTION



TYPICAL TYPE "B" ROAD SECTION



TYPICAL TYPE "C" ROAD SECTION

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APPENDIX "J."

FLOW CHARTS

Adopting, Amending, Repealing County Subdivision Regulations

Preliminary Plat Review (1, 2, 3, 4)*

Final Plat Review (1, 2, 3, 4)*

Final Plat Summary Review (3, 5)*

Appeal (Preliminary or Final Plats)

*NOT ALL TYPE 3 SUBDIVISION QUALIFY FOR SUMMARY REVIEW

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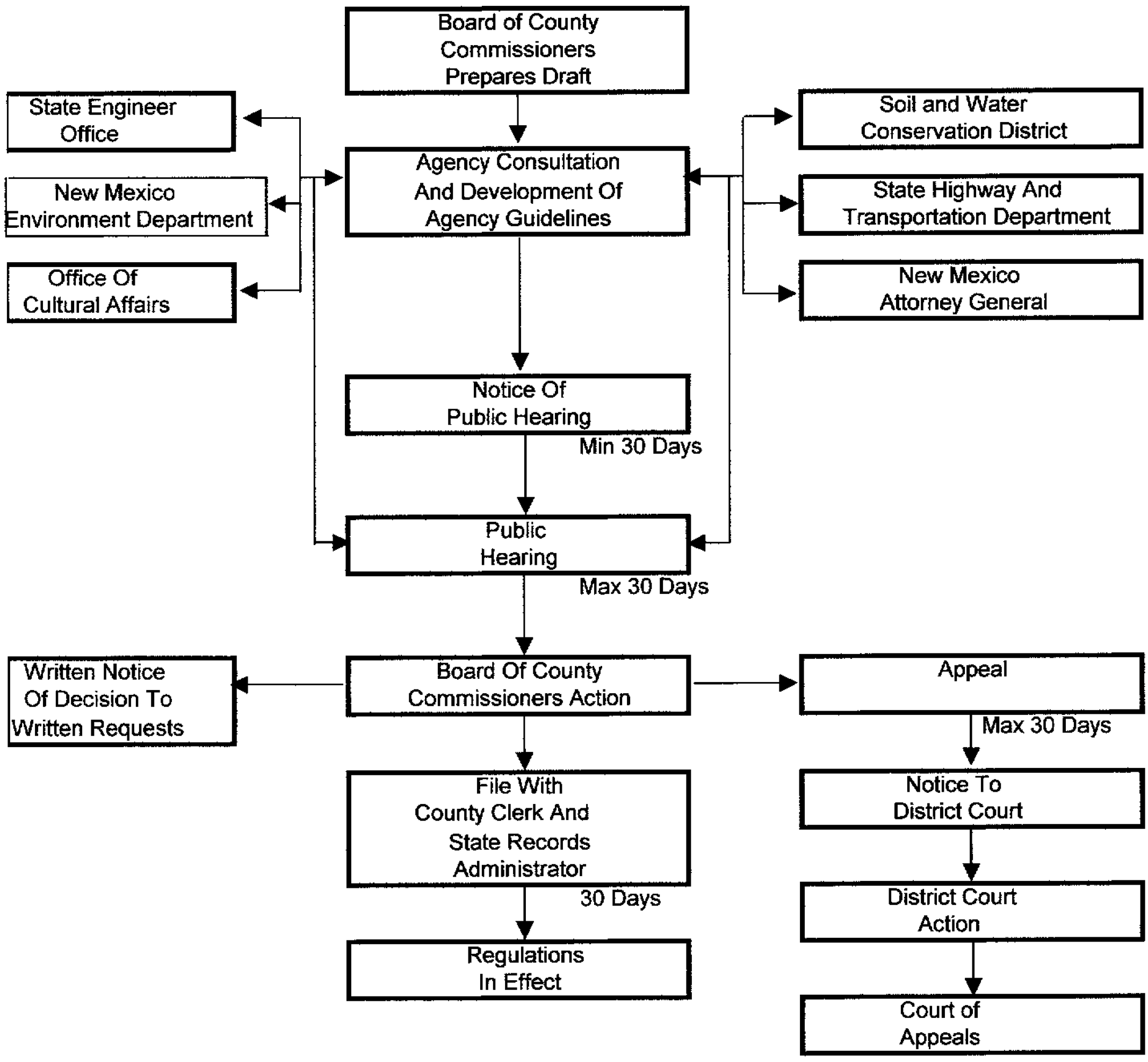
Adopting, Amending, or Repealing County Subdivision Regulations



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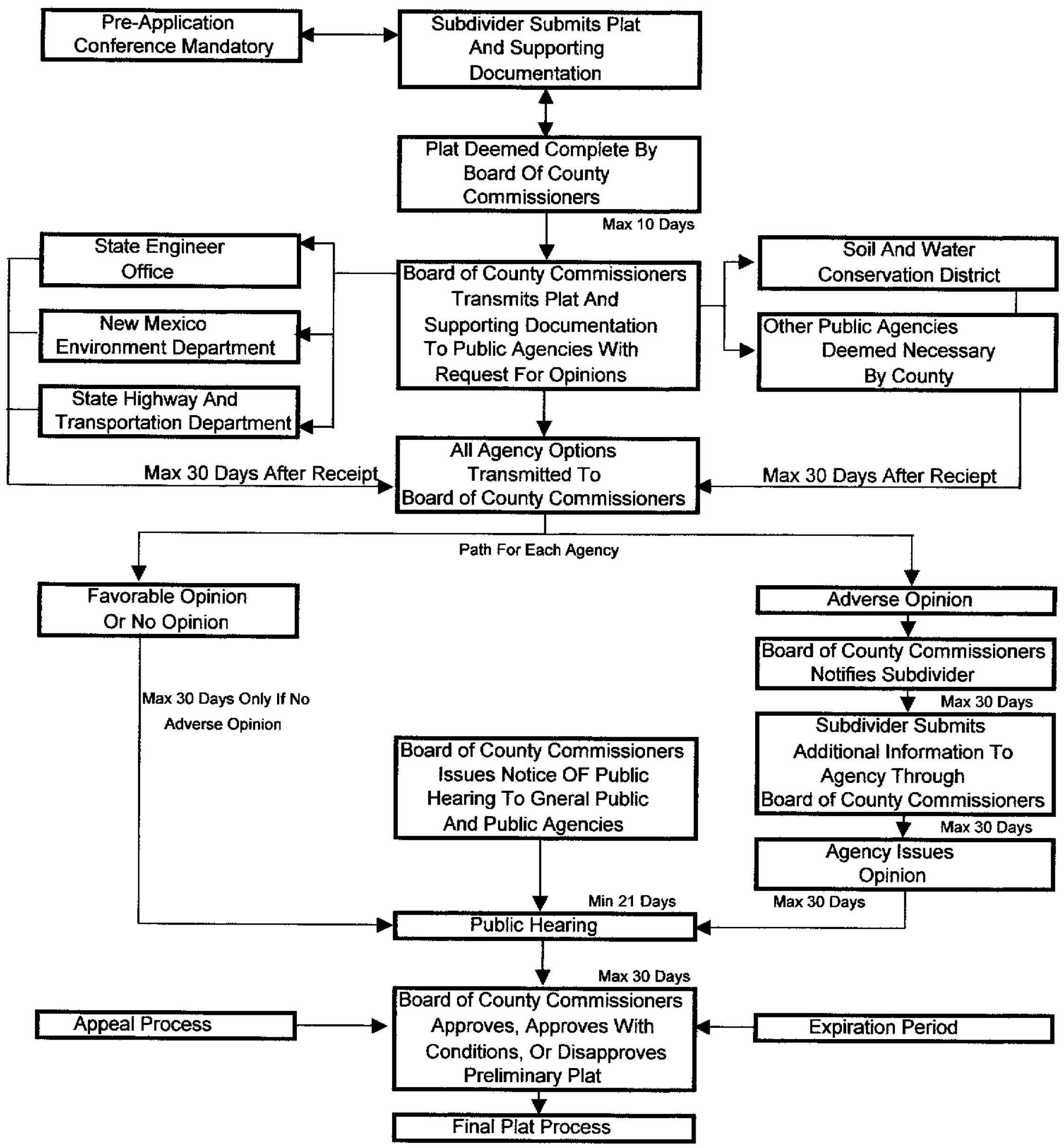
Preliminary Plat Review For Subdivision Types 1, 2, 3, 4



* Not all Type 3 Subdivisions Qualify for Summary Review

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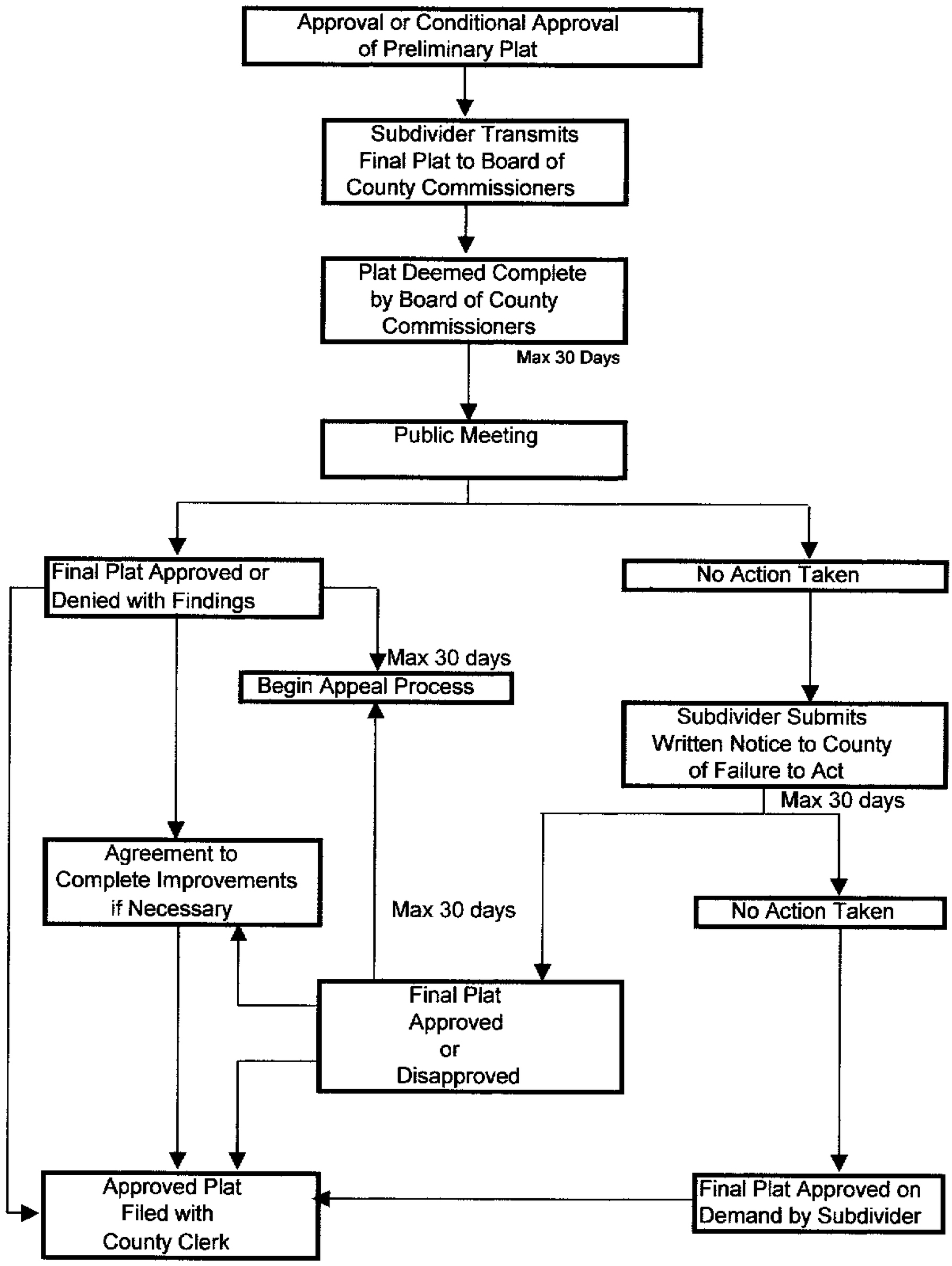
Final Plat Review for Subdivision Types 1, 2, 3*, 4



* Not all Type 3 Subdivisions Qualify for Summary Review

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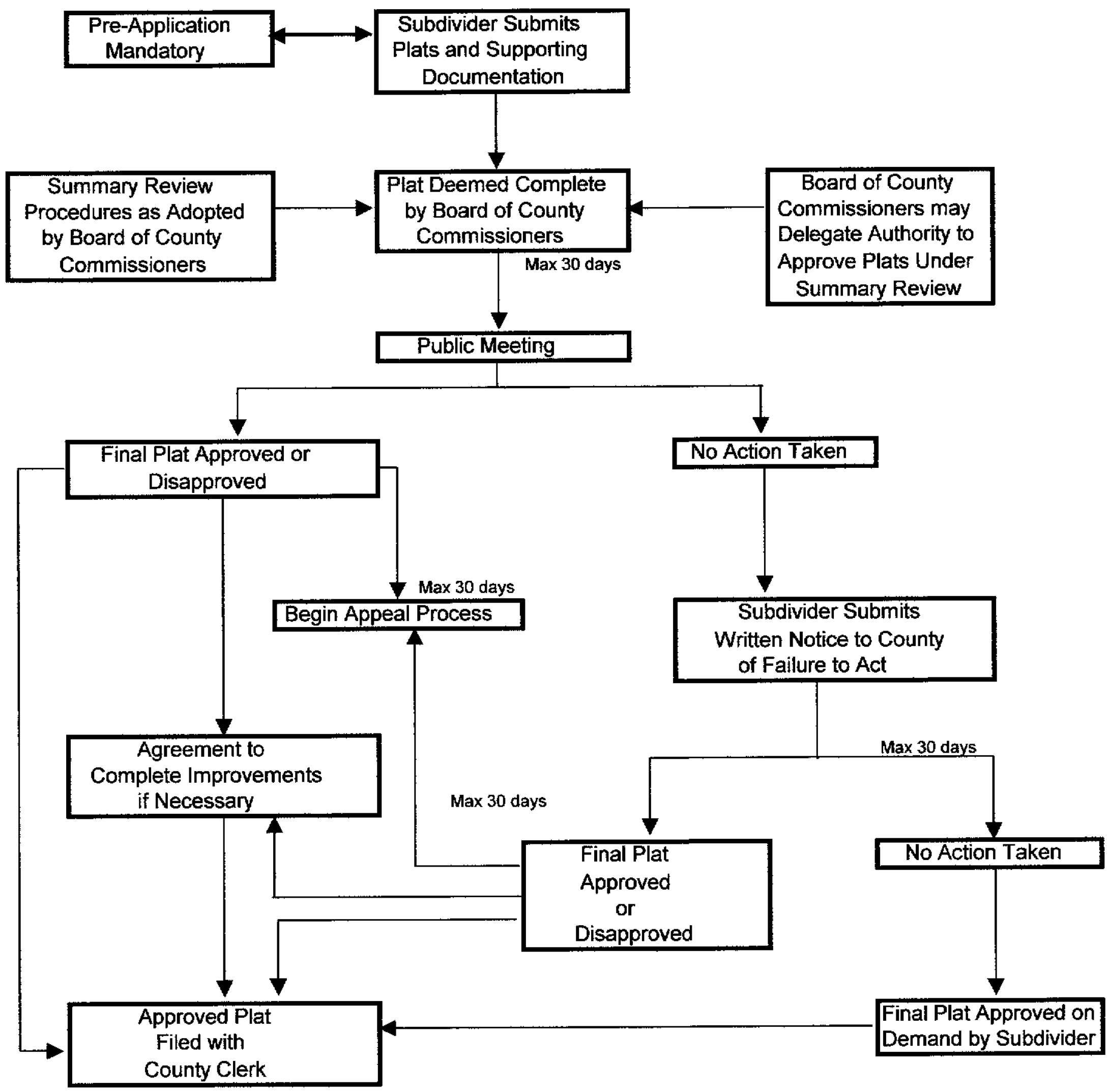
Final Plat for Summary Review Subdivision Types 3*, 5



* Not all Type 3 Subdivions Qualify for Summary Review

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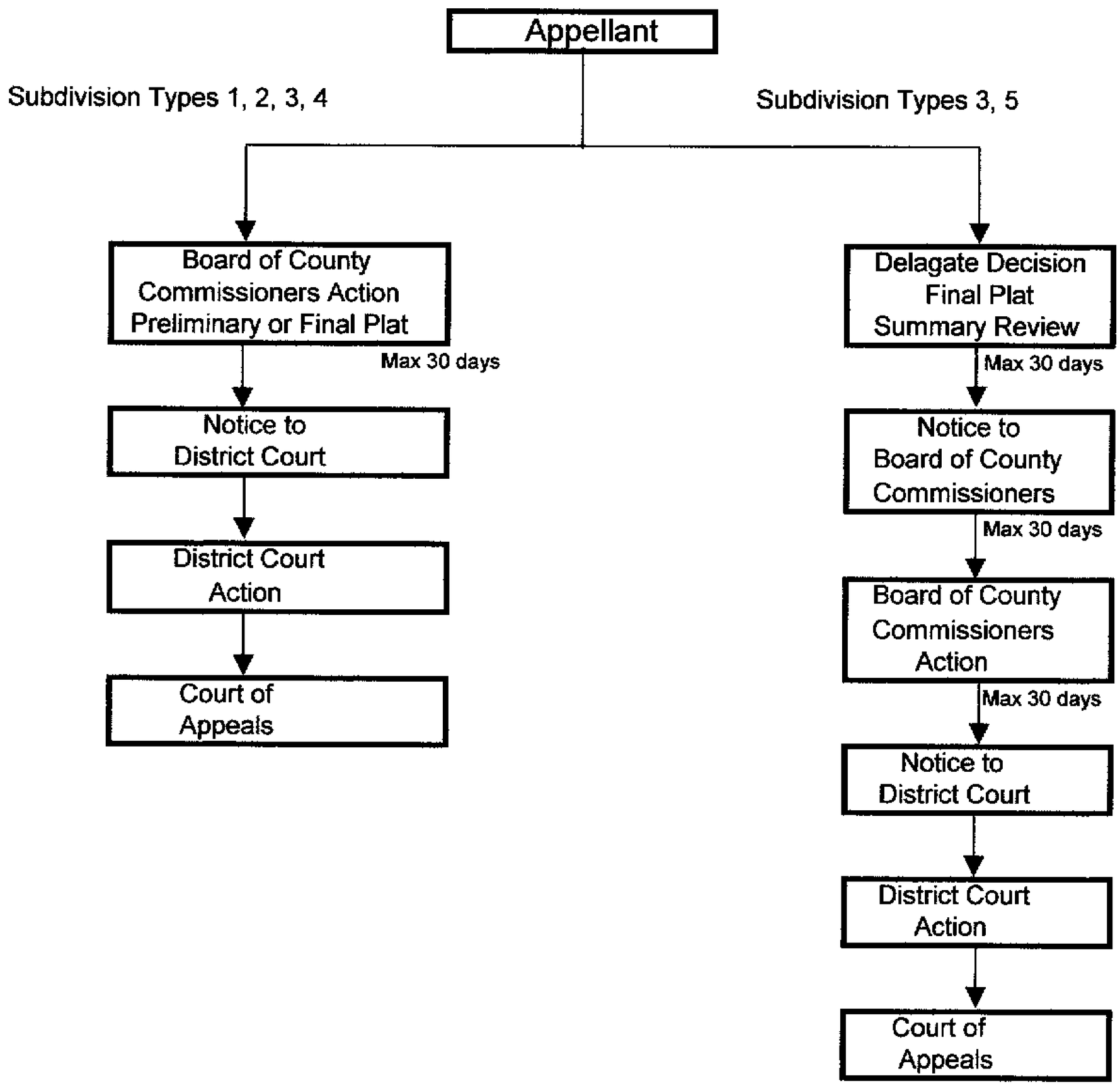
Appealing Decisions on Preliminary or Final Plats



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