

# CURRY COUNTY



## SUBDIVISION REGULATION

**Resolution # 2014-27**

**April 15, 2014**

**Curry County Board of Commissioners**

Frank Blackburn, Chairman  
Tim Ashley, Vice-Chairman  
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Ben McDaniel, Member  
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## **ARTICLE 1. GENERAL PROVISIONS**

### **Section 1.1. Title**

This Regulation shall be known and may be cited as the "2014 Curry County Subdivision Regulation" and shall be referred to elsewhere herein as "these Regulations."

### **Section 1.2. Authority**

This Regulation revises Curry County Ordinance Number 2006-02 and is Regulation created pursuant to the enabling authorities set forth in §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 1.3. Purpose**

This Regulation is adopted for the following purposes:

- a. To provide for and protect the public health, safety, and general welfare of Curry County. Herein after referred to as "the County";
- b. To guide the future growth and development of the County in accordance with any official plans adopted by the County;
- c. 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;
- d. 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;
- e. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the County; having particular 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;
- f. 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 monumenting of subdivided land; and
- g. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use 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 1.4. Introduction Statement**

Any person who wishes to divide rural property in Curry County New Mexico must comply with this Subdivision Regulation. The Curry County Clerks Office will accept no deed or transfer of rural property in Curry County for filing unless accompanied by a document showing that this Regulation has been followed and all current and prior year taxes have been paid. After January 1<sup>st</sup> of each year, a taxpayer shall pay all taxes, penalties, interest and fees due on real property divided or combined through the taxable year in which the property is divided or combined in accordance with New Mexico state statutes, prior to filing a final plat for any Curry County subdivision.

### **Section 1.5. Jurisdiction**

1. This Regulation 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, as provided in §3-20-5 and 3-20-9 NMSA 1978.

2. The City of Clovis has primary jurisdiction on all subdivisions within one mile of the City's existing boundary. Any and all division of land which is situated within one mile of the City of Clovis' boundary is, under the City of Clovis' code, a subdivision. Any person, party or entity wishing to subdivide any property that sits or lies within one mile of the City of Clovis boundary shall submit the proposal to the City of Clovis for consideration **prior to** submitting any paperwork to the County Clerk, or the County Assessor's Office regarding any division of property. The County Clerk will not accept for filing any deed that splits or divides a surface area of land into one or more tracts that is situated within more than one mile of the City of Clovis boundary until and/or unless the same has been approved by the City of Clovis and until and/or unless the same is accompanied by a written document suitable for filing showing that the division has been approved by the City of Clovis.

**Section 1.6. Interpretation**

The provisions of this Regulation are held to be minimum requirements. Whenever any provisions of this Regulation conflict with other laws, rules, regulations, covenants, or regulations, the more restrictive shall govern. This Regulation shall be construed broadly to promote the purposes for which they were adopted. The Curry County Land Use Committee is hereby given the authority of and charged with the responsibility for the interpretation of these regulations.

**Section 1.7. Attachments**

Should the Curry County Commissioners, upon recommendation from the Curry County Land Use Committee, need to supplement this Regulation, they may do so by resolution. All sub dividers and persons proceeding under the Curry County Subdivision Regulation shall comply with any and all resolutions that may be attached, from time to time, to this Regulation.

**ARTICLE 2. DEFINITIONS**

The below listed definitions, shall apply throughout this Regulation. The definitions shall be construed in such a manner so as to further the intent and purpose expressed in this Regulation. If the below listed definitions should conflict with any other terms or words in this Regulation, then the definitions as herein below set forth shall control.

<b>common promotional plan</b>	Any plan or scheme of operation, undertaken by a single sub divider or a group of sub dividers acting in concert, to offer for sale or lease parcels of land where such land is either 1) contiguous or part of the same area of land or 2) is known, designated or advertised as a common unit or by a common name.
<b>final plat</b>	Map, chart, survey, plan, or replat, certified by a licensed registered land surveyor, which contains a description of the subdivided land with ties to permanent monuments, prepared in a form suitable for filing of record.
<b>immediate family member</b>	Husband, wife, father, stepfather, mother, stepmother, brother, step-brother, sister, stepsister, son, stepson, daughter, stepdaughter, grand-son, step grandson, granddaughter, step granddaughter, nephew and niece, whether related by natural birth or adoption.
<b>lease</b>	To lease or offer to lease land.
<b>legal access</b>	For purposes of this regulation, legal access means the unrestricted opportunity to go and return, from a tract of land to an existing public road. If the property is not adjacent to an existing public road, the road furnishing direct access to the property must be shown on the survey and plat, must be or become a dedicated road, and must be open to the

public. The access must be wide enough for the unobstructed use of motor vehicles, including but not limited to fire and ambulance vehicles, sanitation vehicles and school buses.

<b>parcel</b>	Unit of land capable of being described by location and boundaries and not dedicated for public or common use.
<b>person</b>	Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity.
<b>preliminary plat</b>	Map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it; the map need not be based upon an accurate and detailed survey of the land.
<b>sell</b>	To sell or offer to sell land.
<b>subdivide</b>	To divide a surface area of land into a subdivision.
<b>subdivider</b>	Any person 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.
<b>subdivision</b>	<p>Division of 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; however, "subdivision" <b>does not</b> include:</p> <ol style="list-style-type: none"><li>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 purposes, in accordance with §7-36-20 NMSA 1978, for the preceding three (3) years;</li><li>2) Sale or lease of apartments, offices, stores or similar space within a building;</li><li>3) Division of land within the boundaries of a municipality;</li><li>4) Division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;</li><li>5) Division of land created by court order where the order creates no more than one parcel per party;</li><li>6) Division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities;</li><li>7) 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;</li><li>8) Division of land to create burial plots in a cemetery.</li><li>9) 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;</li><li>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;</li></ol>

- 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 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 or group organized for the purpose 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.

**terrain management** Control of floods, drainage and erosion, and measures required for adopting 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.

**Type One subdivision** Any subdivision containing five hundred (500) or more parcels, any one of which is less than ten (10) acres in size.

**Type Two subdivision** Any subdivision containing not fewer than twenty-five (25) parcels, 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 (10) acres 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.

**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	Number 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
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**ARTICLE 3. APPLICATION OF THIS REGULATION**

It shall be unlawful to subdivide any land in Curry County unless a plat as provided in this Regulation has been approved in writing or an exemption, as provided in Article 4 has been obtained.

Any person or entity wishing to divide any property in Curry County is required to comply with any and all mandatory state laws pertaining to the same, including but not limited to laws pertaining to taxes on real property that is divided or combined and laws pertaining to obtaining a permit from the New Mexico State Engineer.

**Article 4. EXCEPTIONS**

***Section 4.1 Exemptions***

There are thirteen (13) recognized and established exemptions to this Subdivision Regulation. Transfers of real property that meet any of these thirteen (13) established exemptions do not require full compliance with this Subdivision Regulation. Any transfer of real property, whether it meets one of the thirteen (13) recognized and established exemptions to this Subdivision Regulation or not, must still be filed with a survey or plat and must have legal access and utility easements to the same.

***Section 4.2 Types of Exemptions***

The exemptions from the Subdivision Regulation, as far as the division of any land in Curry County are:

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.
2. The sale or lease of apartments, offices, stores or similar space within a building.
3. The division of land within the boundaries of municipality.
4. The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land.
5. The division of land created by court order where the order creates no more than one parcel per part.
6. The division of land for grazing or farming activities provided that the land continues to be used for grazing or farming activities.
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.
8. The division of land to create burial plots in a cemetery.
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. As used herein the term "immediate family member" means a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew and niece, whether related by birth or adoption.
10. The division of land created to provide security for mortgages, liens, or deeds of trust;

- provided that the division is not the result of a seller-financed transaction.
11. The sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres.
  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 § 201 ©(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 that conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching or other specifically religious activity.
  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.

#### ***Section 4.3. Submission of Exemption***

1. The County shall have standard forms setting forth the thirteen (13) exemptions to the Subdivision Regulation available to the public. Any person claiming entitlement to an exemption shall complete an exemption form and submit the same to the Curry County Subdivision Coordinator before making the land division for which the claim of exemption is made.
2. Any and all exemption forms to be filed, must be accompanied by a valid survey and/or plat and is a document prepared by a registered, licensed surveyor of New Mexico setting for the legal description of the tract(s) resulting from any division of real property which shall refer to permanent monuments, shall accurately describe each lot, number each lot in progression, provide complete dimensions for all lots, and all lands dedicated for public use or for the use of owners of lots, and sets forth and shows legal access to the property and the location of all necessary and required utilities to the property. Each survey must be signed and show the proper certification or authentication required under New Mexico statutes.
3. If the transfer of real property affected by the exemption has access to or a New Mexico highway, the exemption must be accompanied by a permit from the New Mexico Highway Department showing that said access has been approved.

#### ***Section 4.4. Verification of Exemption***

The Curry County Subdivision Coordinator or his/her designees, 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 forty-five (45) days after receipt of the completed claim of exemption; provided, however, that the forty-five (45) day period shall not begin to run until the person claiming the exemption has delivered a completed Claim of Exemption and all supporting documents to the Curry County Subdivision Coordinator.

#### ***Section 4.5. Denial of Claim of Exemption***

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

#### ***Section 4.6. Approval of Claim of Exemption***

If the claim of exemption is approved, and if the Curry County Subdivision Coordinator fails to mail written notice to the claimant within the time allowed, the person claiming the exemption may divide the land in the manner proposed in the claim of exemption without complying with the provisions of these

Regulations.

## **ARTICLE 5. PROCEDURES FOR SUBDIVIDING PROPERTY**

### ***Section 5.1 Subdivision Applications***

Any division of land, which is not covered by the specific exemptions set forth above in Article 4 is deemed to be a subdivision of land and must be in compliance with these regulations. Any person wishing to subdivide must go to the Curry County Assessor's Office and pick up a subdivision application.

All subdivisions in Curry County must meet and satisfy the requirements set forth in this section. A completed subdivision application, together with payment of the appropriate fee must be submitted to Curry County prior to any land being subdivided in Curry County. All taxes on the property to be subdivided must be paid in full and the applicant must obtain a certificate showing the same from the Curry County Treasurers Office as required by Curry County Regulation number 06-01. Any person considering subdividing land in Curry County should familiarize themselves with the minimum requirements set forth in this article and New Mexico state laws that pertain to subdivisions, including but not limited to permit and approval of water supplies from the New Mexico State Engineer's Office.

### ***Section 5.2 Types of Subdivisions***

There are five different types of subdivisions. These are:

- |                                |  |
|--------------------------------|--|
| <b>Type one subdivision;</b>   | which contains five- hundred (500) or more parcels with the size of the smallest parcel being less than ten (10) acres.  |
| <b>Type two subdivision;</b>   | which contains between twenty five (25) and four hundred ninety nine (499) parcels with the size of the smallest parcel being less than ten (10) acres.  |
| <b>Type three subdivision;</b> | which contains between two (2) to twenty four (24) parcels with the size of the smallest parcel being less than ten (10) acres. There are certain type three subdivisions, which contain five (5) or fewer parcel of land with the size of the smallest parcel being less than ten (10) acres. |
| <b>Type four subdivision;</b>  | which contains twenty five (25) or more parcels with the size of the smallest parcel being ten (10) acres or more.   |
| <b>Type five subdivision;</b>  | which contains two (2) to twenty four (24) parcels with the size of the smallest parcel being ten (10) acres or more.  |

### ***Section 5.3 Fees***

A subdivision application will not be considered nor will it be processed until each and every one of the fees herein below set forth are timely paid.

Preliminary plat	\$250.00
Final plat	\$250.00
Summary review plat	\$150.00
Variance	\$100.00
Re-plat	\$250.00 plus cost of postage

Claim of exemption	\$ 25.00
Statement of vacation	\$100.00 plus cost of postage
Terrain Management Report	Central Curry Soil and Water conservation District will submit bill directly to the developer.

**Section 5.4 Water Right Requirements**

The State of New Mexico has enacted and adopted certain laws, rules and regulations pertaining to verification of and/or obtaining a permit regarding water rights for subdivisions. These various laws may apply to any subdivision. Applicant is advised to familiarize itself with these laws prior to proceeding with any subdivision application in Curry County.

**ARTICLE 6. SUMMARY REVIEW PROCEDURES**

**Section 6.1. Summary Review Procedures**

There is available for certain type-three subdivisions, as well as type five subdivisions, a summary review process that does not require the submission of all of the detailed data required for other subdivisions. Subdivider may still be required to obtain a permit or provide documentation to the New Mexico State Engineer’s Office regarding water sources or water availability.

- 6.1.1 Qualifications. If a type-three subdivision contains five or few parcels of land, and unless the land within the subdivision has been previously identified in the County’s comprehensive plan, as amended or supplemented, or any zoning regulation as an area subject to unique circumstances or conditions that require additional review and/or if a type five subdivision is proposed, the subdivision application shall be submitted to the Curry County Land Use Committee for approval under Summary Review Process. The following types of subdivisions shall be submitted to the Curry County Land Use Committee for approval under summary review procedure:
  - a. Type three subdivisions containing five (5) or fewer parcels of land; and,
  - b. Type five subdivisions.
  
- 6.1.2 Application/fees: A sub divider shall submit an application on the prescribed form obtained from the Curry County Subdivision Coordinator, together with payment of the required administrative fees. All applications for summary review must include a completed preliminary plat and all supporting documentation as required within this Regulation.
  
- 6.1.3 Plat deemed complete: On receipt of the application, fees, preliminary plat, and supporting documentation, the Curry County Land Use Committee shall review all materials in order to determine if the preliminary documents are ready to begin the review process. If there are no deficiencies, the preliminary plat will be deemed complete for review by written notice to the sub divider within thirty (30) days after the date of the application. If the preliminary plat is incomplete or does not comply with the submittal requirements, the sub divider shall be notified and given a maximum time period of thirty (30) days from date of notification to correct the deficiencies and return the summary review plat for consideration.
  
- 6.1.4 Public meeting: Preliminary plats submitted to the Curry County Subdivision Coordinator for approval shall be approved or disapproved by the Board of County Commissioners at a public meeting within forty-five (45) days of the date the summary review plat is deemed complete.

- 6.1.5 Improvement agreement: If, at the time of approval of the preliminary plat, any public improvements have not been completed by the sub divider as required by these regulations, the Board of County Commissioners shall, as a condition preceding approval of the summary review plat, require the sub divider to enter into a guarantee with the County, on mutually agreeable terms, to thereafter guarantee completion of the improvements at the sub divider's expense within a reasonable period and time as established by County.
- 6.1.6 Failure to act: If the County does not act upon a summary plat within the required period of time, the sub divider shall give the Board of County Commissioners written notice of the County's failure to act. If the Board of County Commissioners fails to approve or reject the summary plat within thirty (30) days after such notice, the Board of County Commissioners shall, upon demand by the sub divider, issue a certificate that the summary plat has been approved.

### **Section 6.2. Summary Review Data Requirements**

For purposes of a Summary Review, the Sub divider shall submit a plat and substantial compliance with the requirements of a preliminary plat hereinafter set forth in full.

- 6.2.1 Filing specifications: The original drawing of the summary review plat shall be submitted in waterproof ink on Mylar or acetate or other durable material suitable for reproducing copies. 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 (24) by thirty-six (36) inches. The sub divider shall also submit two (2) copies of the summary review plat map and accompanying information. If available, a digital, (preferably DXF Format plat) should accompany hard copy plats. Sub divider will be responsible for payment of required filing fees.
- 6.2.2 Map specifications: The summary review plat map shall include the following information:
- a. Title, scale, north arrow and date;
  - b. Name and mailing address of sub divider and designated agent, if any;
  - c. Names of owners of land to be subdivided and of contiguous property;
  - d. Subdivision boundary lines, easement and right-of-way lines, and property lines of all lots, with accurate dimensions, and ties to monuments;
  - e. Acreage measurements and identification numbers for each lot;
  - f. Location, dimensions and purpose of all easements;
  - g. Delineation of any 100-year flood plain and any 500-year flood plain as designated by the Federal Emergency Management Agency;
  - h. The certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and,
  - i. Legal description indicating the range, township, and section within which the subdivision is located.
- 6.2.3 Affidavit: The summary review plat shall contain a statement that the land being subdivided will be subdivided in accordance with the summary review plat. The owner and sub divider shall acknowledge the summary review plat, or authorized agents, in the manner required for the acknowledgement of deeds (notarized). Every summary review plat submitted to the County Clerk, as a final plat shall be accompanied by an affidavit of the owner and sub divider, or authorized agents, stating whether the proposed subdivision lies within the subdivision jurisdiction of the County. 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 statement 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 the County Clerk's office.
- 6.2.5 Disclosure statement: For all subdivisions containing five (5) or more parcels, a disclosure statement shall be prepared in accordance with the standardized format provided by the County. 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 until 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 Advertising standards. The advertising standards covering the sale, lease, or other conveyance of subdivided land provided in Article Five/Section 4 of these Regulations shall be applicable to summary review plats.

## **ARTICLE 7. PRELIMINARY PLAT**

### ***Section 7.1. Mandatory Improvements***

Property to be divided which does not meet one of the specified exemptions requires the submission of a preliminary plat. No preliminary plat will be accepted by Curry County nor will a final plat be approved and accepted by Curry County until and unless all of the mandatory improvements, developments, plans and specifications, as required throughout this regulations, has been met. The applicants are referred to the provisions herein pertaining to liquid and solid waste disposal, water use and conservation procedures and to the advertising and disclosure requirements set forth herein.

### ***Section 7.2. Required Improvements***

- 7.2.1 Improvement requirements. Before the construction of any improvements or the submission of any bond or other improvement guarantee, the sub divider shall furnish the County with all plans necessary for the construction of such improvements. These plans shall be reviewed by the County Land Use Committee and, if in accordance with these Regulations, shall be approved by the County, allowing the subdivision development to proceed.
- 7.2.2 Improvement agreement. The County may enter into a subdivision improvement agreement with a sub divider. This agreement shall constitute a binding contract between the sub divider and the County and shall contain those terms and conditions agreed to by the sub divider and the County.

### ***Section 7.3. Improvement Guarantees***

- 7.3.1 Assurance. In order for the County to be assured of the completion of required improvements, the subdivider shall complete installation of the required improvements before approval of the final plat.

- 7.3.2 Alternatives. Curry County is under no obligation, and as a general rule, will not approve any subdivision, or approve any plat unless adequate assurances are provided that all required improvements will in fact be completed prior to the submission and approval of the final plat. If the sub divider wishes to submit the final plat for review, approval, and recording before completion of required improvements, the sub divider shall post a suitable improvements guarantee in an amount approved by the County. The guarantee shall be not less than 125 percent (125%) of the estimated cost of the required improvement. This guarantee may be cash or surety bond, letter of credit, escrow deposit, or other method acceptable to the County.
- 7.3.3 Time Limits. Any extension granted for the completion and or satisfaction of improvements or any other extension shall not, and under no circumstances, exceed twelve (12) consecutive calendar months after the date on which the final plat is approved. If, the improvements or other requirements have not been fully completed within said twelve (12) month extension, then the Curry County Commission may elect to either revoke and rescind the final plat and or may proceed with completion of the improvements any and all costs, or expenses associated with either the revocation and recession of a final plat and/or with the completion of any required improvements shall be satisfied from the guarantee posted by the developer. Any such guarantee, other than cash, must clearly state that it is subject to the County for satisfaction of said expenses.

If the amount of the guarantee is insufficient to cover the cost and expenses incurred by the County, developer shall be responsible for the same. If, after the expenses to County are fully and completely paid, there remains any balance due, County shall remit said sums to developer and or notify the assured that all amounts have been so satisfied.

#### **Section 7.4. Preliminary Plat Submittal**

Any person or individual wishing to subdivide land shall submit, together with the application, and appropriate fees, a preliminary plat that meets the minimum requirements and contains the minimum data, set forth in this article.

#### **Section 7.5. Preliminary Plat Data Requirements**

- 7.5.1 Purpose. At a minimum, the supporting documentation required for the preliminary plat review shall provide sufficient information for the County to determine at the time of approval that:
- a. proof of a service commitment from a water provider and an opinion from the State Engineer that the subdivider can fulfill the requirements of Paragraph 1 of Subsection F of Section 47-6-11, NMSA 1978 or acquire sufficient water rights through a permit issued pursuant to Section 72-5-1, 72-5-23, 72-5-24, 72-12-3, or 72-12-7 if irrigation water rights are pertinent to the land have been severed or, containing ten or more parcels, any one of which is two acres or less in size;
  - b. water is sufficient in quality to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses;
  - c. water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination;
  - d. there is a means of liquid waste disposal for the subdivision;
  - e. there is a means of solid waste disposal for the subdivision;
  - f. there are satisfactory roads to each parcel, including entry and exit for

- emergency vehicles, and there are appropriate utility easements to each parcel;
  - g. terrain management protection against flooding, inadequate drainage and erosion;
  - h. there are protections for cultural properties, archaeological sites and un-marked burials that may be directly affected by the subdivision, as required by the Cultural Properties Act;
  - i. the sub divider can fulfill the proposals contained in the disclosure statement for the subdivision; and
  - j. the subdivision will conform with the New Mexico Subdivision Act and these Regulations.
- 7.5.2 Minimum documentation. Supporting documentation shall, at a minimum, include a statement from the sub divider that all of the requirements set forth in Section 6.2.1 have been met, or will be met, in a manner described in the preliminary plat, within the subdivision.
- 7.5.3 Filing specifications. The sub divider shall submit ten (10) copies of the preliminary plat and supporting documentation for local review and distribution to public agencies and, if available, a digital, (preferably DXF Format plat) should accompany hard copy plats. 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.
- 7.5.4 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 numbers, and approximate acreage of each lot; and addresses assigned by the Curry County Rural Addressing Office;
  - 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 flood plain and 500-year flood plain as designated by the Federal Emergency Management Agency;
  - l. names and addresses of the owner or owners of land to be subdivided, the sub divider if other than the owner, and the land surveyor; and
  - m. legal description indicating the range, township, and section within which the subdivision is located.
- 7.5.5 Disclosure statement. The preliminary plat shall be accompanied by ten (10) draft disclosure statements in accordance with the standardized format provided in Appendix C of these Regulations. The purpose of the disclosure statement is to permit the prospective purchaser, lessee, or any other person acquiring an interest in subdivided land to make an informed decision about the purchase, lease, or other



conveyance of the land.

### **Section 7.6. Protection of Cultural Properties, Archaeological Sites, and Unmarked Burials**

Any and all preliminary plats shall disclose the existence and location of any cultural properties, archeological sites and/or unmarked burial sites that are on the property.

#### **7.6.1 Unmarked Human Burials**

- a. According to state policy, 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.
- b. All sub dividers shall comply with the requirements of §18-6-11.2 NMSA1978, 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 state archaeologist and state historic preservation officer.

#### **7.6.2 Registered Cultural Properties.** Any person desiring to subdivide land in the County shall comply with the Cultural Properties Act §§ 18-6-1 through 18-6-17 NMSA 1978.

#### **7.6.3** If the proposed subdivision is within 1000 yards of a known archaeological site, the sub divider shall perform a cursory survey to determine that the proposed subdivision does not contain any cultural properties, archaeological sites and/or unmarked burials. The sub divider must provide the County with documentation indicating the results of the survey.

### **Section 7.7. Water Quality**

The water quality provisions of this ordinance does not authorize, allow or permit subdivision of land without compliance of any and all New Mexico statutes and New Mexico State Engineer's requirements pertaining to water, water rights, water quality or water permitting.

#### **7.7.1 Water Quality Documentation.** (For all Type-one, Type-two, and Type-four Subdivisions, and all Type-three and Type-five Subdivisions Containing Six or more Parcels.) For a subdivider to document conformance with the water quality requirements of these guidelines, New Mexico statutes including the New Mexico Subdivision Act, a water quality documentation package shall accompany the preliminary plat submittal.

- A. The water quality documentation package shall:
  1. State the sub divider's name and mailing address;
  2. State the date the package was submitted;
  3. State the sub divider's proposal for meeting the water quality requirements of these guidelines;
  4. Be accompanied by a copy of the section of the sub divider's disclosure statement on water quality;
  5. Be accompanied by the information listed in Subsections B, C or D of this section as applicable to the water supply proposal; and
  6. Be accompanied by other relevant information as may be necessary for the determination of compliance with the water quality requirements of these guidelines.

- B. If a new public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:
1. A water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity and zinc;
  2. 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 listed in Section 3 of these guidelines as may be required;
  3. The location and description of the source of water sampled for the water quality analysis;
  4. An engineer's report and preliminary plans for the proposed public water supply system;
  5. Maps identifying and showing the location of all potential sources of contamination and the flood plain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed water supply system source.
- C. 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:
1. 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;
  2. A statement of availability of water service signed by an official of the existing public water supply system;
  3. An engineer's report and preliminary plans for the proposed water system.
- D. If private water supply systems are proposed, the following information shall be submitted as part of the water quality documentation package:
1. A water quality analysis of a representative water sample for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, lead, mercury, nickel, nitrate, nitrite, selenium, thallium, alkalinity, aluminum, calcium, chloride, color, copper, foaming agents, hardness, iron, manganese, odor, pH, silver, sodium, sulfate, total dissolved solids, turbidity and zinc;
  2. 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 listed in Section 3 of these guidelines as may be required;
  3. The location and description of the source of water sampled for the water quality analysis;
  4. Preliminary plans for the private water supply systems if the system will serve more than one (1) connection; and
  5. Maps identifying and showing the location of all potential sources of contamination and the flood plain of all watercourses and surface bodies of water within five hundred (500) feet of the proposed subdivision

boundaries.

- 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.

7.7.2 Water Quality Requirements. (For all Type-one, Type-two, and Type-four Subdivisions, and all Type-three and Type-five Subdivisions Containing Six or More Parcels.) Conformance with the water quality requirements of this section is required for preliminary plat approval.

- A. The level of a contaminant in water, which is delivered to any user of a public or private water supply system, shall not exceed the maximum contaminant level (MCL) allowed by the New Mexico Environmental Department (NMED).
- B. The level of a contaminant in water, which is delivered to any user of a public or private water supply system, should not exceed the secondary maximum contaminant level (SMCL) recommended by the NMED.
  - 1. If the level for any of the contaminants exceeds the SMCL allowed by the NMED, the sub divider 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 to SMCL.
- C. A water supply source shall not be located at less than the setback distances allowed by the NMED.
- D. The disclosure statement for the subdivision shall contain a statement describing the quality of water available for domestic use within the subdivision.

### **Section 7.8 Liquid Waste Disposal**

7.8.1 Liquid Waste Disposal Documentation For all Type-one, Type-two, and Type-four Subdivisions, and All Type-three and Type-five Subdivisions Containing Six or More Parcels.) For a sub divider to document conformance with the liquid waste disposal requirements of these guidelines and the New Mexico Subdivision Act, a liquid waste disposal documentation package shall accompany the preliminary plat submittal.

- A. The liquid waste disposal documentation package shall:
  - 1. State the sub divider's name and mailing address;
  - 2. State the date the package was submitted;
  - 3. State the sub divider's proposal for meeting the water quality requirements of these guidelines;
  - 4. Be accompanied by a copy of the section of the sub divider's disclosure statement on water quality;
  - 5. Be accompanied by the information listed in Subsections B, C or D of this section as applicable to the water supply proposal; and
  - 6. Be accompanied by other relevant information as may be necessary for the determination of compliance with the water quality requirements of these guidelines.
- B. If the sub divider proposes a new community liquid waste system, the

following information shall be submitted as part of the liquid waste disposal documentation package:

1. An engineer's report and preliminary plans for the proposed community liquid waste system;
  2. Maps showing the location of all water supply sources and the flood plain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed liquid waste treatment and liquid waste disposal site; and,
  3. 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.
- C. If the sub divider proposes a liquid waste 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:
1. A statement of availability of liquid waste service signed by an official of the existing liquid waste system; and
  2. An engineer's report and preliminary plans for the proposed extension to the existing liquid waste system.
- D. If the sub divider proposes individual liquid waste systems, the following information shall be submitted as part of the liquid waste disposal documentation package:
1. A soils investigation report (soil survey, soil borings to a minimum depth of either (8) feet, soil test results and analysis of the soil survey, soil boring, 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;
  2. Maps showing the location of all water supply sources and the flood plain of all watercourses and surface bodies of water within the proposed subdivision and within five hundred (500) feet of the proposed subdivision boundaries;
  3. A liquid waste system feasibility map, superimposed on the subdivision plat, delimiting the areas of suitable, limited, and prohibitive solid categories as described in Table 5-2; and
  4. Preliminary plans for the individual liquid waste systems if a system will serve more than one (1) connection.
- E. 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.

7.8.2 Liquid Waste Disposal Requirements. (For All Type-one, Type-two, and Type-four Subdivisions, and All Type-three and Type-five Subdivisions Containing Six or More Parcels.) Conformance with the liquid waste disposal requirements of this section is required for preliminary plat approval.

- A. Community liquid waste systems.
1. A community liquid waste system shall be permitted, designed, and constructed, by the time of the first occupancy within the subdivision, to comply with the Water Quality Control Commission Regulations; and be

operated, maintained, and expanded as necessary to insure that the system will comply with the Water Quality Control Commission Regulations.

2. The sub divider shall disclose and covenant that all lots within the subdivision must connect to the community liquid waste system at the time of occupancy.
- B. Individual liquid waste systems.
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.
  2. Individual liquid waste systems shall not be installed where an existing community liquid waste system is available for use within the subdivision; installed in subdivisions or on lots with sizes less than shown in Table 5-2; installed at less than the setback distances shown in Table 5-3; or privies (outhouses) or holding tanks if a water system is to be used.
  3. The sub divider shall disclose and covenant that the lots cannot be further divided or subdivided to lot sizes smaller than those approved for the subdivision.
- C. The disclosure statement for the subdivision shall contain a discussion of the means of liquid waste disposal for the subdivision.

#### ***Section 7.9. Solid Waste Disposal Documentation***

- A. The solid waste documentation package shall state that:
1. There are or are not private contract pick-up services available, and
  2. The location of the nearest solid waste facility and the distance in miles from the subdivision to the solid waste facility.

#### ***Section 7.10. Water Conservation Measures***

The following water conservation measures shall apply to all subdivisions:

1. Water-saving fixtures shall be installed in all new residences and non-residential buildings. Water-saving fixtures shall include, but not be limited to, low-flush toilets, low flow showerheads, low-flow faucets, and insulation of hot water pipes, and shall be metered. Water produced from each well in a community water system or at each surface water source shall also be metered and the volume thereof reported to the Office of the State Engineer.
2. Water distribution mains shall be pressure tested in accordance with New Mexico Standard Specification for Public Water Construction, Section 801.16.
3. If not required by the local plumbing code, where water pressure at the customer service connection exceeds 80 pounds per square inch (psi), a pressure-reducing valve shall be installed on the service connection.
4. All applicable restrictions on indoor and/or outdoor water use prescribed under permits issued by the state engineer, or pursuant to an order issued by a court of competent jurisdiction, shall be strictly adhered to.
5. Low water use landscaping techniques applying the principals of xeriscaping shall be utilized.

### **Section 7.11. Quantification of Annual Water Requirements**

The following shall be used to quantify the maximum allowable subdivision water use per year, for all subdivisions:

1. The maximum annual water requirement for both indoor and outdoor purposes, for each parcel in a residential subdivision shall be 1.0 acre-feet per year. The total annual water requirement for the subdivisions in acre-feet per year is computed by multiplying the number of parcels by 1.0.
2. The sub divider, may at his option, or if required by the county, prepare a detailed water demand analysis using the step by step computational procedure presented in the relevant State Engineer Technical Report.
3. 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 relevant State Engineer Technical Report.

### **Section 7.12. Water Availability Assessment.**

For All Type-one, Type-two and Type-four Subdivisions, and All Type-three and Type-five Subdivisions Containing Six or More Parcels:

**It is not the intent to require the sub divider to guarantee the life expectancy of the water supply. By its approval of any subdivision, the Board of County Commissioners does not, in any way, guarantee the life expectancy of the water supply.**

### **Section 7.13. Community Water System Requirements**

A community water system is an existing or proposed water supply system which relies upon surface and/or groundwater diversions other than wells permitted by the State Engineer under Section 72-12-1 NMSA, and which consists of a common storage and/or distribution facilities operated for the delivery of water to multiple service connections.

- A. A community water system shall be required for all subdivisions where any one of the following criteria are met:
  1. The subdivision will contain twenty-five (25) or more parcels, any of which is equal to or less than two (2) acres.
  2. For all subdivisions containing twenty-four (24) or less parcels, or subdivisions containing twenty-five (25) or more parcels in which the minimum parcel size is greater than two (2) acres, where groundwater would be supplied from geologic formations where wells have been determined to produce at a rate of 2.5 gpm, or less. Or where available information suggests the likelihood of low yielding wells. In lieu of a community water system, individual or shared wells may be drilled by the developer, provided that it can be demonstrated that production can be sustained at rates equal to or greater than 3 gpm, and is adequate to meet the maximum annual water requirements of all parcels. A constant rate pumping test with a minimum duration of 1440 minutes shall be used to determine the well production rates. Pump test data shall be submitted by the well driller with the sub divider's plans.
- B. If water will be supplied from a community water system, the sub divider 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 systems, including hydrants. The size or capacity of

the water system components should also be indicated on the site plans. Preliminary well plans shall include casing diameter, total depth, screened interval, and proposed pump setting. All distribution mains shall be a minimum of six (6) inches in diameter.

- C. Shared well systems, permitted under Section 72-12-1 NMSA may be allowed subject to subsection B, under the condition that the maximum number of parcels served by one well shall not exceed four parcels, and the maximum annual water use for all parcels served by one shared well shall not exceed 3.0 acre-feet. That amount allowed for shared domestic wells is limited by NMAC 19.27.5.9 to 1 acre foot per household, up to a maximum of 3 acre feet per year. So if only two households are on a well the amount is 2 acre feet per year.
- D. Covenants and land use restrictions shall be adopted strictly prohibiting the drilling or use of individual and/or shared domestic wells for any subdivision which requires or utilizes a community water system.
- 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.

#### **Section 7.14. Water Availability Assessment**

For All Type-one, Type-two, Type-three, Type-four and Type-five Subdivisions Containing More than Five Parcels:

- A. A water availability assessment shall be submitted by the sub divider:
  - 1. As a condition of preliminary subdivision plat approval for all type-one, type-two, and type-four subdivisions; and type-three subdivisions when a community water system is proposed containing six (6) or more parcels.
  - 2. As a condition of final subdivision plat approval for type-five subdivisions when a community water system is proposed containing six (6) or more parcels.
- B. The requirements of the water availability assessment are dependent on the source of water supply such that:
  - 1. For subdivisions where the source of water will be a new groundwater diversion and community system permitted pursuant to Section 72-12-3 or 72-12-7 NMSA 1978, the sub divider shall demonstrate a 40-year supply, and shall submit a geohydrologic and/or hydro geologic report in accordance with Subsection C.
  - 2. For subdivisions where the source of supply will be a new surface water diversion and community system permitted pursuant to Section 72-5-1-, 72-5-23, or 72-5-24 NMSA 1978, the sub divider shall submit a hydrologic report in accordance with Subsection D.
  - 3. For subdivisions where the source of supply will be an existing community or municipal water supply system permitted pursuant to Sections 72-5-1, 72-5-23, or 72-5-24 NMSA 1978, the sub divider shall submit a hydrologic report in accordance to Subsection E.
  - 4. For subdivisions where the source of water will be individual domestic wells, or shared wells permitted pursuant to Section 72-12-1, the sub divider shall demonstrate a reasonable water plan.
- C. For new community wells and water systems, the sub divider shall submit a water supply plan and geohydrologic report, which meets the following requirements:
  - 1. Geohydrologic reports shall make a reasonable estimate that groundwater

sufficient to meet the maximum annual water requirement of the subdivision is physically available and can be practically recovered to sustain the development of a continuous period for 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 40 years.

2. The sub divider shall drill sufficient exploratory wells within the boundaries of the purposed subdivisions to adequately characterize the aquifer, unless the sub divider 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 the 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. Alternately, tests can be conducted on near off-site wells if the sub divider can demonstrate that these wells are representative of general aquifer conditions within the subdivision.
3. The assessment shall include a 40-year calculated schedule of effects on the proposed subdivision's production wells, which may result from existing demands and from the increase of groundwater withdrawals from the subdivision. Analyses shall be performed to assess whether further water level declines will be within the limits of allowable drawdown in the subdivision production wells as provided in Subsection C (4). Predicted drawdown shall be calculated in a conservative manner (which estimates maximum drawdown). These calculations shall include estimates of future water uses.
4. The sub divider 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 20% as a margin of safety to account for seasonal fluctuations, drought allowance, reduction of well efficiency over time, and peak production requirements. In cases where more than one of the following methods may be applied, the method resulting in the most conservative estimate (lowest allowable drawdown of highest practical pumping level) shall govern.
  - a. 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.
  - b. By setting the level at the top of the uppermost screened interval.
  - c. In wells completed in fractured bedrock aquifers, the lowest practical pumping water level may be above the top of the fracture zone.
  - d. In wells completed in alluvial aquifers, the lowest practical pumping water level may be defined by a maximum allowable drawdown equal to 70% of the initial water column.
5. The geohydrologic 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 a map. The report on the investigation should be in the format of a technical narrative; spreadsheets,



tables, graphs, maps, and cross-sections shall be included.

- D. For new surface water diversions and community water systems using surface water, the sub divider shall submit a hydrologic report, which meets the following requirements.
  - 1. The hydrologic report shall demonstrate that surface water sufficient to meet the maximum annual water requirement of the subdivision is physically available. These analyses shall include the following:
    - a. Narrative and analytical demonstration that the surface water will be physically available for the proposed use given short-term and long-term fluctuations (base-flow analysis) due to climatic cycles or other factors such as induced recharge due to groundwater diversion, analyses of relevant historical runoff records, and projected water supply available for the subdivision requirements. Applicable legal or water rights constraints on water availability shall be considered.
    - b. If the analysis for the historical runoff record indicates possible shortages in the projected water supply available for the subdivision requirements, the sub divider shall provide for either storage or a supplemental groundwater supply sufficient to meet the shortage.
    - c. If the supplemental groundwater supply is proposed, the sub divider shall prepare a geohydrologic assessment in accordance with Subsection C.
- E. For community water systems in which existing utility companies are proposed as the source or water supply, the sub divider shall submit a water supply plan, which meets the following requirements:
  - 1. For all water utilities:
    - a. Name of the utility proposed as a source of supply. Letter of intent from the utility that they are ready, and willing, and able to provide the maximum annual water requirements for the subdivision for at least 40 years. The letter must also state any requirements for the sub divider to provide water rights.
  - 2. For water utilities other than municipal-owned water utilities.
    - a. Documentation showing the quantity of water presently produced annually, quantity of water supply commitments to date, and proof of sufficient water rights to meet both existing commitments and the requirements of the proposed subdivision for a period no less than 40 years.
    - b. For New Mexico Public Utilities Commission (PUC) certificated utilities, a copy of the most recent annual report submitted to the PUC.
    - c. Plans for the existing water system to which the proposed system will tie into. The plans shall show diversion point locations, and water storage and distribution systems. The size or capacity of the water system components should also be indicated on the plans.
    - d. Any other information, including any or all of the requirements of subsections C or D, required by the Board of County Commissioners to make a determination that the utility has the capability to meet the

water requirements of the proposed subdivision.

- F. If the sub divider proposes 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 sub divider shall submit water availability assessments as follows:
1. At least one well log from an on-site well or from an existing nearby well complete in geologic conditions representative of the conditions within the proposed subdivision;
  2. A statement of the maximum and minimum depths to water in the subdivision and the basis for these statements;
  3. A statement of the estimated yield of wells in gallons per minute based upon well logs from existing wells within one mile of the proposed subdivision boundary, which shall include the range of yields encountered in those wells.
  4. Any additional information which is required by the Board of County Commissioners that will enable it to determine whether or not the sub divider can fulfill the proposals contained in his/her disclosure statement.

**Section 7.15. Fire Protection**

A. Requirements for Provision of Fire Protection

1. For all subdivisions with community water systems, the sub divider shall provide water for fire fighting and facilities for storage and distribution of the water.
2. The sub divider shall provide water for fire fighting and facilities for storage, distribution, and delivery of the fire flows for all non-residential subdivisions.

B. Standards for Fire Protection

The sub divider's fire protection facilities shall conform to the guidelines provided by the Insurance Service Offices (ISO), and to applicable County fire regulations and shall meet the following minimum requirements:

1. The required storage for fire protection shall equal 30,000 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.
2. The fire protection system shall be capable of delivering a minimum of 500 gallons per minute to the fire at a residual pressure of 20 pounds per square inch or as required by ISO.
3. Fire hydrant spacing shall not exceed a distance of 1,000 feet measure along the roadway, and individual hydrants shall not be located more than 500 feet from each parcel.
4. Fire protection requirements may be waived or modified by the Board of County Commissioners subject to review of the sub divider's request by the fire authority having jurisdiction. The sub divider shall provide a letter to the Board of County Commissioners from the fire authority having jurisdiction with their comments on the waiver request.

C. Fire Protection Plan

1. A fire protection plan shall be a condition of preliminary plat approval for subdivisions with more than one hundred (100) lots and with a community water systems.
2. For all subdivisions with fire protection, the sub divider shall submit a plat of the proposed

subdivision, preliminary plans of the proposed subdivision, preliminary plans of the proposed water supply, storage and distribution systems, and calculations demonstrating that the proposed fire protection facilities will meet the requirements of this appendix, prepared by or under the supervision of a registered professional engineer.

3. If fire-fighting services are available, the sub divider shall provide a letter from the local fire authority having jurisdiction that states:
  - a. rate in gallons per minute that water may be delivered to the fire by tanker service from the fire authority, if applicable; and
  - b. distance and anticipated time of travel to the fire.

**Section 7.16. Terrain Management Plan**

- A. The commission may approve a terrain management plan if it determines that:
  1. The plan conforms to the requirements of the New Mexico Subdivision Act and the Curry County Subdivision Regulations.
  2. The sub divider can fulfill the proposals for terrain management contained in his disclosure statement; and
  3. The plan and disclosure statement have been reviewed by the “local district” and recommendations with regard to the propriety of the same have been received.
- B. Terrain management plans for subdivisions Type One, Two, and Four shall state the sub divider’s name and mailing address, the date the plan is submitted, and be accompanied by a copy of the sub divider’s disclosure statement and a schedule of compliance for meeting Curry County Subdivision Regulations. In addition, the terrain management plans shall contain:
  1. Maps including the following information:
    - a. a vicinity map drawn to a scale or not more than 2,000 feet to one inch showing contours at ten-foot intervals, the relationship of the site to its general surroundings, and the location of all existing drainage channels, water and erosion control structures, watercourses and water bodies within three (3) miles of the subdivision;
    - b. a subdivision map drawn to a scale of no more than 200 feet to one inch showing:
  2. The boundaries of the area to be subdivided;
  3. Existing contours at five-foot intervals, certified by a registered professional engineer;
  4. an overlay showing the location of all proposed lots, roads, bridges, water and erosion control structures, and utility easements in relation to the existing contours;
  5. An overlay showing the finished contours of the subdivisions after the sub divider’s proposals have been implemented using contours at five-foot (5’) intervals;
  6. The location of all cuts and fills;
  7. The location of all buffer strips, drainage channels, watercourses, water bodies, floodways, floor fringes and flood plains;
  8. The location of all area with slopes over 8% and all wooded areas;

9. The location of all areas in which the sub divider intends to re-vegetate.
  10. The location of all areas in which the sub divider intends to preserve vegetation.
- C. A soil survey for the subdivision including an overlay of the various soil types drawn to the scale of the subdivision map showing the location of each different soil type;
- D. A surface drainage description including:
1. Storm drainage computations showing the estimated runoff from the subdivisions prior to and following completion of development;
  2. Sufficient runoff information on the areas contribution runoff to the subdivision to show existing drainage patterns and drainage channels that may affect the subdivision or be affected by the subdivision; and,
  3. All appropriate design details necessary to clearly explain the construction of all necessary water control structures.
  4. A subsurface drainage description including:
    - A. an overlay drawn to the scale of the subdivision map location areas where the season high water table is:
      - i. between four and twelve feet of the ground;
      - ii. within four feet of the ground surface.
    - b. all appropriate design details necessary to clearly explain the construction of all subsurface structures;
  5. The type of utilities to be provided as well as a statement indicating whether or not the utilities are to be installed above ground or underground;
  6. A general grading proposal setting forth the means for stabilizing all cut and fill slopes;
  7. An estimated schedule of construction including:
    - a. the start and finish of all clearing and grading operations;
    - b. duration of exposure of disturbed areas;
    - c. stabilization date for disturbed areas;
    - d. installation date of storm drainage systems;
    - e. installation date for all roads;
    - f. surfacing date of roads and parking areas;
    - g. installation date of each utility to be provided; and,
    - h. installation dates for homes, recreation structures ad other community improvements.
  8. The legal description of the subdivisions; including the range, township, and section within which the subdivision is located where such information is available; and,
  9. The number of parcels within the subdivision and the number of acres in the smallest parcel.

- E. Terrain management plans for subdivisions Types three and five containing six or more parcels shall contain:
1. Maps including the following information:
    - a. a vicinity map drawn to scale of not more than 2,000 feet to one inch showing contours at ten-foot intervals, the relationship of the site to its general surroundings, and the location of all drainage channels, water and erosion control structures, watercourses and water bodies within 1,000 feet of the subdivision;
  2. A subdivision map drawn to a scale of not more than 500 feet to one inch showing:
    - a. the boundaries of the area to be subdivided;
    - b. contours at ten-foot intervals certified by a registered professional surveyor;
    - c. a layout in simple sketch form showing the location of all purposed lots, roads, bridges, and water and erosion control structures;
    - d. the location of all cuts and fills;
    - e. the location of all buffer strips, drainage channels, watercourses, water bodies, floodways, flood fringes and flood plains;
    - f. the location of all areas which the sub divider intends to re-vegetate; and,
    - g. the location of all area in which the sub divider intends to preserve vegetations.
  3. A soil survey for the subdivision including an overlay of the various soil types drawn to the scale of the subdivision map showing the different soil type;
  4. A surface drainage description including:
    - a. sufficient information on the areas contributing runoff to the subdivision to show existing drainage patterns and drainage course that may affect the subdivision or be affected by the subdivision; and,
    - b. all appropriate design details necessary to clearly explain the construction of all necessary water control facilities.
  5. A subsurface drainage description including:
    - a. an overlay drawn to the scale of the subdivision map location areas where the season high water table is:
    - b. between four and twelve feet of the ground surface; and,
    - c. within four feet of the ground surface.
  6. A general grading proposal setting forth the dates and means for stabilizing all cut and fill areas:
  7. A general road development proposal setting forth the schedule and extent of road development:
    - a. the legal description of the subdivision, including the range, township and section within which the subdivision is located, where such information is available; and,
    - b. the number of parcels within the subdivision and the number of acres in the smallest parcel.

## **ARTICLE 8. ROAD DEVELOPMENTS**

### ***Section 8.1 Roads Within Lands***

1. All roads within lands to be subdivided shall be located, aligned and designed to:
  - A. preserve natural features, vegetation and topography and protect the natural environment;
  - B. protect public health and safety;
  - C. require the road surface to adequately serve the type and intensity of the proposed uses within the subdivision, calculating future traffic demand according to vehicle type and anticipated volume, and provide adequate access for public service vehicles;
  - D. require the creation of the minimum feasible amounts of land coverage and the minimum feasible disturbance to the soil;
  - E. provide, to the extent feasible, for the separation of motor vehicular, bicycle, and pedestrian traffic;
  - F. create conditions of proper drainage;
  - G. provide for proper landscaping;
  - H. protect against erosion of road surface and adjacent areas;
  - I. be compatible with the engineering interpretations of the soil survey.
2. All utilities shall be located outside of any and all subdivision roads. No plat or subdivision application will be accepted if any above-ground utility is located in a dedicated roadway. No plat or subdivision application will be accepted if any underground utility prevents or interferes with the County's right to use the entire road easement for purposes of a road.

### ***Section 8.2. Subdivision Roads***

No preliminary plat will be accepted and/or approved and no road will be accepted for inclusion within a subdivision until and unless the following conditions are met:

- A. The road shall have a minimum top measurement of twenty-four feet.
  1. The road sub-base shall be compacted to at least ninety-five percent (95%) compaction rate.
  2. The road base shall consist of at least six (6) inches of compacted crushed caliché.
  3. At least sixty (60) feet of right of way shall be available for drainage and road surfaces in the discretion of the professional engineer retained by the sub divider of each individual subdivision.
  4. Each road shall have at least a two percent (2%) crown.
  5. Double Penetration
    - a. Asphalt Emulsified Prime
    - b. AEP - Shot Rate between .25 and .35
    - c. HFE 100P:
      - i. .10 gallon per square yard or equivalent shot rate minimum .35 to .45
      - ii. Chips 3/4" first penetration (3/4" chips - minimum of 25 lbs per square yard)
      - iii. Chips 1/2" second penetration (1/2" chips - minimum of 15 lbs per square yard)

### ***Section 8.3. County Acceptance of Roads***

- 8.3.1 Subdivision Roads. Existing subdivision roads, offered for county acceptance for maintenance, must meet the above set forth standards and, shall be evaluated by the Curry County Land Use Committee, and upon its recommendation to the Curry County Board of Commissioners may be accepted for county maintenance.
- 8.3.2 Final Approval. Final approval of a subdivision shall not be granted until road-name signs, approved as to location, road name, general construction and size have been installed in appropriate locations, as further set forth herein, without cost to the County.
- a. Road-name signs shall be placed at the beginning and at the end of each road in the subdivision and at each intersection within the subdivision at which two or more roads meet at the cost of the sub divider or owner. If only one road-name sign is placed at such beginning point, end point or intersection, the same shall be placed on the south edge or the east edge of the beginning point or end point and adjacent to the southeasterly corner of any intersection. Signs are to be constructed of materials that will withstand all types of weather, be suitably anchored with a signpost approval by NMSHD. The road name shall appear in letters at least four (4) inches tall and suitably spaced to be readable from a distance of sixty feet in daylight. The Rural Addresser shall have final approval over road names decided upon by the subdivision. The sub divider with the preliminary plat shall submit plans for such signs.

#### **Section 8.4. Improvement Guarantees**

- 8.4.1 Assurance. In order for the County to be assured of the completion of required improvements, the sub divider shall agree to complete installation of the required improvements before approval of the final plat.
- 8.4.2 Alternatives. If the sub divider wishes to submit the final plat for review, approval, and recording before completion of required improvements, the sub divider shall post a suitable improvements guarantee in an amount approved by the County. The guarantee shall be not less than 125 percent (125%) of the estimated cost of the required improvement. This guarantee may be cash or surety bond, letter of credit, escrow deposit, or other method acceptable to the County.
- 8.4.3 Time Limits. Any extension granted for the completion and or satisfaction of improvements or any other extension shall not, and under no circumstances, exceed twelve (12) consecutive calendar months after the date on which the final plat is approved. If, the improvements or other requirements have not been fully completed within said twelve (12) month extension, then the Curry County Commission may elect to either revoke and rescind the final plat and or may proceed with completion of the improvements any and all costs, or expenses associated with either the revocation and recession of a final plat and/or with the completion of any required improvements shall be satisfied from the guarantee posted by the developer. Any such guarantee, other than cash, must clearly state that it is subject to the County for satisfaction of said expenses.

If the amount of the guarantee is insufficient to cover the cost and expenses incurred by the County, developer shall be responsible for the same. If, after the expenses to County are fully and completely paid, there remains any balance due, County shall remit said sums to developer and or notify the assured that all amounts have been so satisfied.

**Section 8.5. Expense(s) to Owner**

The sub divider or owner, at his own expense, shall construct in accordance with the minimum standards set forth in Section 5.7 all roads or alleyways in the subdivision, including, but not limited to, grading, drainage, and base courses as required by these regulations or by the Commissioners or by deed restrictions as filed for the subdivision. The owner shall comply with all FEMA rules and regulations with regard to flood plains and water runoff. The County will not accept as a county road, and will not maintain or be responsible for any road or roadway that is built or constructed below the overflow contour line of any playa lakes. Curry County will require the sub divider or owner, at his/her own expense to comply with the 500 year storm runoff minimum requirements with regards to any construction on or in a playa lake or in the runoff areas thereof.

**Section 8.6. Construction schedule**

All roads within a subdivision shall be constructed only on a schedule, which is set forth in the preliminary plat and approved by the Board of County Commissioners. In approving or dis-approving a sub divider'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 persons acquiring an interest in subdivided land in viewing the land within the subdivision.

**Section 8.7. Safety**

All proposed roads shall conform to minimum County safety standards.

**Section 8.8. Demonstration of use**

The Board of County Commissioners shall not approve the grading or construction of roads unless and until the sub divider 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 sub divider 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.

**Section 8.9. Number of Access Roads**

Curry County reserves the right to determine and/or regulate the number of access roads to or from the subdivision that connect with public roads or thoroughfares, depending on the size of the subdivision, the number of units in the subdivision, location of the subdivision, the public road or thoroughfare from which access to or from the subdivisions with, traffic volumes, overall pattern of usage and/or development within a five (5) mile area of the proposed access roads, and any other factor, which in the opinion of Curry County, impacts or may impact the health, safety and well-being of the County or the County residents.

**ARTICLE 9. AGENCY REVIEW**

**Section 9.1. Plat transmittals**

Within ten (10) days after the date that the preliminary plat is deemed complete, the Curry County



Subdivision Coordinator's office 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's Office;
- b. New Mexico Environment Department;
- c. New Mexico Highway and Transportation Department; and
- d. Central Curry Soil and Water Conservation District in which the proposed subdivision is located.

### ***Section 9.2. Agency response***

All opinions required of public agencies shall be furnished to the Board of County Commissioners within thirty (30) days after the public agencies receive the written request and accompanying information from the Board of County Commissioners. If the Board of County Commissioners does not receive a requested opinion within the thirty (30) day period, the Board shall proceed in accordance with its own best judgment concerning the subject of the opinion requested. The Board of County Commissioners will not proceed or take any action regarding any subdivision until the County has received verification that the applicant has complied with all of the requirements of the State Engineer's Office pertaining to water until the applicant has obtained a permit and approval from the New Mexico State Engineers Office with regard to the water.

The failure of a public agency to provide an opinion when requested by the Board of County Commissioners does not indicate that the sub divider's provisions concerning the subject of the opinion request are acceptable or unacceptable or adequate or inadequate. The Board's proceeding without receipt of any or all of the requested opinions shall not impose any liability, responsibility or obligation upon the Board and, does not indicate any acceptance by the Board of the matters for which an opinion has been requested. The Curry County Subdivision Coordinator shall obtain receipts or other proof showing the date the opinion request was received by each state agency or local agency.

### ***Section 9.3. 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.

### ***Section 9.4. Adverse opinion***

If any opinion from a public agency is adverse, the Curry County Subdivision Coordinator's office shall forward a copy of the adverse opinion to the sub divider and request that additional information be provided to the County within thirty (30) days to respond to the concerns of the appropriate agency. In the event the sub divider fails to provide said information, County shall be under no obligation to proceed further with the subdivision request until such time as all information has been received. The Curry County Subdivision Coordinator's office shall forward such additional information upon receipt to the appropriate agency, which shall have thirty (30) days after the date the sub divider submits the additional information in order to revise its opinion. The Curry County Subdivision Coordinator's office shall obtain receipts or other proof showing the date the additional information was received by each state or local agency.

### ***Section 9.5. Revised opinion***

The County shall schedule a public hearing for consideration and action within thirty (30) days after the receipt of a 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 sub divider submits the additional information, it shall proceed with the required public hearing.

## **ARTICLE 10. PUBLIC HEARINGS ON PRELIMINARY PLATS**

### ***Section 10.1. Notice***

The notice of public hearing shall be published once in a newspaper of general circulation in Curry County at least fifteen (15) days prior to the hearing 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 sub divider's proposal.

### ***Section 10.2 Notification***

Copies of the notice of public hearing shall be transmitted at least fifteen (15) days prior to the following:

- a. the sub divider 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.

### ***Section 10.3. 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.

### ***Section 10.4. Action***

Within thirty (30) days of the 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 Curry County Subdivision Compliance Officer shall inform the sub divider in writing of the decision of the Board of County Commissioners.

## **ARTICLE 11. EXPIRATION OF PRELIMINARY PLAT**

### ***Section 11.1. Expiration***

An approved or conditionally approved preliminary plat shall expire twenty-four (24) months after its approval or conditional approval. Upon the written request by the sub divider, an additional period of no more than twelve (12) months may be added to the expiration date by the Board of County Commissioners. The Board of County Commissioners of Curry County is not obligated to grant any extension, and unless the Board is convinced of the public need, will not grant any extensions beyond the twenty-four (24) month expiration period.

### ***Section 11.2. Phased development***

If the preliminary plat was approved for phased development, the sub divider 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 Board of County Commissioners shall determine the number of phased final plats at the time of the approval or conditional approval of the preliminary plat.

**Section 11.3. 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.

**ARTICLE 12. FINAL PLAT REVIEW PROCESS**

**Section 12.1. Final Plat Submittal**

- 12.1.1 Conformity. Following approval or conditional approval of a preliminary plat, and before the expiration of the plat, the sub divider 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.
- 12.1.2 Application/fees. A sub divider shall prepare a final plat and supporting documentation in accordance with the requirements provided in these Regulations. Final plat submittal is initiated by applicant submitting a final plat to the Curry County Subdivision Coordinator and upon payment of the required administrative fees.
- 12.1.3 Plat deemed complete. A sub divider shall prepare a final plat and supporting documentation in accordance with the requirements provided in these Regulations. If there are no deficiencies, the final plat will be deemed complete for review by written notice to the sub divider 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 sub divider shall be notified and will be given a maximum time period of thirty (30) days to correct the deficiencies and return the final plat for consideration.
- 12.1.4 Verification of taxes paid and State Engineering approval obtained. A subdivider shall acknowledge in writing, on the final plat, their compliance with New Mexico statutes regarding payment of taxes on all lands divided or combined, as well as their compliance with receipt of a permit and authority from the New Mexico State Engineer's Office with regard to the water and water requirements for said subdivision.

**Section 12.2. Decision on Final Plat**

- 12.2.1 Action. Final plats submitted to the County for approval in conformity with Section 12.1 shall be approved or disapproved by the Board of County Commissioners at a public meeting within thirty (30) days after the date the sub divider is notified in writing that the final plat is deemed complete.
- 12.2.2 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 final preliminary plat and any and all required changes additions or modifications. Denial of a final plat shall be accompanied by a finding identifying the requirements that have not been met.
- 12.2.3 Improvement agreement. If, at the time of approval of the final plat, any public

improvements have not been completed by the sub divider as required by these Regulations, the Board of County Commissioners may either deny the final plat or, may, as a condition preceding approval of the final plat, require the sub divider to enter into a written guarantee agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the sub divider's expense.

- 12.2.4 Failure to act. If the Board of County Commissioners does not act upon a final plat within the required period of time, the sub divider 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 sub divider, issue a certificate that the final plat has been approved.

### **Section 12.3. Final Plat Data Requirements**

- 12.3.1 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. 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 sub divider shall also submit two (2) paper copies of the final plat map and accompanying information. If available, a digital, preferably DXF Format plat should accompany hard copy plats.

- 12.3.2 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, 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. name, right-of-way width, and centerline data of each road or other right-of-way;
- f. location, dimensions, and purpose of all easements and dedicated public sites;
- g. 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 with addresses assigned by the Curry County Rural Addressing Office;
- h. names of owners of contiguous un-platted land;
- i. delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency;
- j. the names of the owner or owners of the subdivision, and the developer if other than the owner;
- k. the certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey; and
- l. legal description indicating the range, township, and section within which the subdivision is located;
- m. show that the requirements pertaining to liquid and solid waste disposal, water use and conservation requirements, and trained management, as

here and before set forth, have been met.

- 12.3.3 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 sub divider 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 sub divider, 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 by the sub divider to every purchaser, lessee, or other person acquiring an interest in the subdivided land before sale, lease, or other conveyance.
- 12.3.4 Dedication. The final 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. On full conformity with County road construction standards, the roads may be accepted for maintenance by the County. 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.
- 12.3.5 Disclosure statement. For all subdivisions containing five (5) or more parcels, a disclosure statement shall be prepared in accordance with the standardized format provided in Appendix C of 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 until the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement.
- 12.3.6 Conformity. The Board of County Commissioners shall not approve the plat of any subdivision if the sub divider cannot reasonably demonstrate that he can fulfill the proposals contained in his disclosure statement or if the sub divider has not conformed with the New Mexico Subdivision Act and the County's subdivision regulation.
- 12.3.7 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 approval.
- 12.3.8 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.

## **ARTICLE 13. SPECIAL PROCEDURES**

### ***Section 13.1. Phased Subdivisions***

Upon written request, a subdivision may be treated as a phased subdivision. A phased subdivision is a subdivision that as presented, has more than one (1) platted unit, which is intended to be developed subsequent to the development of the first unit. Subdivisions, which 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. Subdivisions which are purposed to

be phased, shall be fully and completely described on the original preliminary plat. A final plat will be submitted, together with a separate disclose statement, for each unit when completed. The original final plat, and any subsequent final plat, shall include a phasing schedule for the remaining units, together with a schedule of improvements thereon that has been approved by the Curry County Commission.

**Section 13.2. Succeeding Subdivisions**

- 13.2.1 Standards. 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 sub divider after creating a previous subdivision if the previous subdivision was created in the preceding seven (7) year period.

**Section 13.3. Vacation of Plats**

- 13.3.1 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 acknowledged statement 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.
- 13.3.2 Request for vacation. The vacation of all or a portion of a final plat shall be initiated by submittal of a request for vacation to the Curry County Subdivision Coordinator's office, along with the names of all owners of record of property within the subdivided land to be vacated and the names of all owners of record of property contiguous to the subdivided land to be vacated. The request for vacation shall be considered filed upon payment of the required administrative fee and payment of all postage costs and sub divider's compliance with New Mexico statutes pertaining to payment of taxes upon division or combination of any property and approval and permit obtained from New Mexico State Engineer's Office with regard to water.
- 13.3.3 Scheduling and notification. Within sixty (60) days after the date the vacation is filed, the Board of County Commissioners shall approve or deny the vacation, subject to the following:
- a. Action shall be taken at a public meeting.
  - b. At least fifteen (15) days before the proposed meeting, the County shall notify by certified mail all owners of record of property within the subdivided land to be vacated and all owners of record of property contiguous to the subdivided land to be vacated 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. County shall notify relevant utilities and other agencies of the request.
- 13.3.4 Action. In approving the vacation of all or a part of a final plat, the Board of

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

13.3.5 Filing. The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office of the County Clerk. The County Clerk shall mark the final plat with the words "Vacated" or "Partially Vacated" and refer on the final plat to the volume and page on which the statement of vacation is recorded.

13.3.6 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.

#### **Section 13.4 Replat and Lot Line Adjustments**

The resubdivision of platted tracks (hereinafter replats) shall be considered as a form of subdivision and, except for as provided herein, shall require the completion and satisfaction of these regulations as it pertains to any other subdivision. Any increase or decrease in the number of lots within a tract or within a subdivision shall constitute a new subdivision and require a new a full compliance with subdivision regulations.

13.4.1 Lot Line Adjustment. The adjustment of lot lines of a replat consisting of the adjustment of lot lines in tracts of less than one (1) acre, for the sole purpose of increasing or reducing the size of contiguous lots shall not be considered a subdivision and shall not require the furnishing of a plat.

13.4.2 Replat for Lot Lines. Replat for the adjustment of lot lines as herein above set forth shall require the submission of a new plat, which shall conform with the requirements of preliminary plat under these regulations, and which shall clearly set forth the legal description of the new lots together with a certificate setting forth the legal description of the lot line adjustments resulting from this replat.

13.4.3 Filing. All replats for lot line adjustments shall be submitted to the Curry County Land Use Committee for approval. If the Curry County Land Use Committee determines that the replat meets the requirements of these regulations, the replat shall be approved for filing. The replat will be deemed legally effective once filed with the Curry County Clerk.

13.4.4 Timing. A replat of a platted tract or subdivision shall only be permitted once every five (5) years unless exceptional circumstances exist and approval of a second or subsequent replat is expressly permitted by the Curry County Board of Commissioners, upon recommendation of the Curry County Land Use Committee, at a public meeting.

#### **Section 13.5 Variances**

13.5.1 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 for a new town, a complete community, or a neighborhood unit, which, in the judgment of the Board of 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.

- 13.5.2 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 County Board of 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.
- 13.5.3 Procedures. The following procedures and requirements shall apply to all requests for variances under these Regulations.
- a. Requests for variances shall be submitted in writing prior to or at the time of request for preliminary plat approval on the prescribed form available from the Curry County Subdivision Coordinators office for that purpose, and upon payment of the required administrative fee.
  - b. Variance requests shall be reviewed by the County Commission 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 in the subject matter for which the variance is sought, and shall be governed by the same time limits.
  - e. The County Commission 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.

## **ARTICLE 14. APPEALS**

### ***Section 14.1. Who May Appeal***

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.

### ***Section 14.2. Appeal Process***

Any appeal under this section shall be governed by Section 47-6-15, NMSA 1978 or any amendments and/or changes thereto.

### ***Section 14.3. Nature of review***

The appeal shall consist of a whole record review in the District Court of Curry County, the court may set aside the action taken by the Board of Commissioners only 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.

#### **Section 14.4. Standing**

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.

#### **Section 14.5. Notice of Appeal**

Filing a written notice of appeal, which sets forth the specific portion or portions of the decision being appealed, shall perfect the appeal. A copy of the decision or order being appealed shall be attached to the notice of appeal. The appeal shall be perfected upon filing of the notice required by these Regulations and payment of the required fee.

### **ARTICLE 15. ENFORCEMENT, PENALTIES, AND REMEDIES**

#### **Section 15.1. Purpose and Authority**

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 15.2. Investigation of Alleged Violations**

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 Curry County Land Use Committee for investigation. The Curry County Land Use Committee shall 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 Curry County Land Use Committee shall inform the complainant in writing of what actions have been taken or will be taken in response to the complaint.

#### **Section 15.3. Penalties and Remedies**

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

- 15.3.1 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.
- 15.3.2 Suspension of Right of Sale. The Board of County Commissioners may suspend or revoke approval of a plat as to unsold, un-leased or otherwise not conveyed portions of a sub divider's plat if the sub divider does not meet the schedule of compliance (Improvement Agreement) approved by the Board of County Commissioners.
- 15.3.3 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 sub divider from selling, leasing, or otherwise conveying any interest in subdivided land until the sub divider 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 and these Regulations;
- c. rescission and restitution for persons 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 or 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.

15.3.4 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.

15.3.5 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 for 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 (\$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 is punishable by a fine not to exceed three hundred dollars (\$300) or imprisonment for not more than ninety (90) days, or both, in accordance with §4-37-3 NMSA 1978.

## **ARTICLE 16. AMENDMENT**

This Regulation may be amended from time to time as conditions warrant. Amendments shall be made by either an regulation or by resolution 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.

## **ARTICLE 17. SEVERABILITY**

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 18. REPEAL AND EFFECTIVE DATE**

These Regulations replace Curry County Ordinance #2013-25 and shall become effective on the \_\_\_\_\_ day of July, 2014.

\_\_\_\_\_  
Frank Blackburn, Chairman  
Curry County Board of County Commissioners

\_\_\_\_\_  
Rosalie Riley, Curry County Clerk