

ARTICLE 1. GENERAL PROVISIONS

Section 1.1. Title

This ordinance shall be known and may be cited as the “**Eddy County Subdivision Regulations**” and shall be referred to elsewhere herein as “these Regulations.”

Section 1.2. Authority

These Regulations are created pursuant to the enabling authority 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

These Regulations are adopted for the following purposes:

1. To provide for and protect the public health, safety, and general welfare of Eddy County;
2. To guide the future growth and development of Eddy County in accordance with any official plans adopted by Eddy County;
3. 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;
4. To protect and conserve the value of land throughout Eddy County and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;
5. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout Eddy 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;
6. 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
7. 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 Eddy County in order to preserve the integrity, stability, and beauty of the community and the value of the land.

Section 1.4. Jurisdiction

These Regulations shall govern all subdivisions of land not within the boundaries of municipalities but within the County of Eddy. The County of Eddy 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.

Section 1.5. Written Decisions

Whenever the Eddy County Board of Commissioner or its agent is required by these Regulations to make a decision, the decision shall be in writing and supported by findings of fact and conclusions of law which are sufficient for meaningful review.

Section 1.6. Interpretation

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

ARTICLE 2. DEFINITIONS

Agent	Means a person that has been given the authority to act on behalf of the Eddy County Commission in the administration of this ordinance.
Alley	Means a 20-foot thoroughfare through the middle of a block giving access to the rear of the building on the property.
Block	Means the distance measured along a street between intersection streets from centerline to centerline; and where the context requires, it also means the enclosed area within the perimeter of the streets or property lines enclosing it.
Body of Water	Means all water situated wholly or partly within or bordering upon this county, whether surface or subsurface, public or private.
Buffer Strip	Means the land: 1. Adjoining a watercourse or drainage channel with a vertical bank of at least 45 degrees, and

2. Extending perpendicularly from the vertical bank of the watercourse or drainage channel to a distance three times the depth of the watercourse or drainage channel measured from the bottom of the watercourse or the drainage channel to the top of the vertical bank.

3. Or any other strip of land used expressly to separate or hide incompatible uses from each other.

Building line

Means a line on a plat between which line and a street no building or structure may be erected.

Commission

Means the Eddy County Board of Commissioners, or the administrative offices delegated to act for it when summary procedures or exemptions from the Subdivision Act are required.

Common Promotional Plan

Any plan or scheme of operation, undertaken by a single subdivider or a group of subdividers acting in concert to offer for sale or lease parcels of land where such land is either, 1) contiguous to or part of the same area of land or, 2) is known, designated or advertised as a common unit or by a common name.

Community Liquid Waste Treatment System

Means a system serving two or more parcels for the collection and treatment of liquid waste.

Contiguous

Refers to adjacent parcels sharing a boundary line or separated only by a road, right-of-way, or easement.

County

County of Eddy.

County Clerk

Means the County Clerk of Eddy County, State of New Mexico or the office maintained by the County Clerk.

County Manager

Means the County Manager of Eddy County, State of New Mexico.

Disclosure Statement

Statement required to be given to persons acquiring or seeking to acquire an interest in subdivided land; this statement complies with the requirement of §47-6-17 NMSA 1978.

Drainage Channel	Means any depression into which storm water flows along a defined course.
Easement	Means a right or privilege that a person or persons may have in another's land, such as the right of passage.
Erosion	Means soil movement due to wind or water.
Erosion Control Structure	Means any man-made devise preventing or controlling erosion.
Final Plat	Map, chart, survey, plat, 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.
Floodway	Means any area which will be flooded by water from a 25-year frequency storm.
Flood Fringe	Means any area which will be flooded by high water from a 50-year frequency storm.
Flood Plain	Means any area which will be flooded by high water from a 100-year frequency storm.
Geohydrologic Report	Means a report on sub-surface water availability.
Immediate Family Member	Husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, stepgrandson, granddaughter, stepgranddaughter, nephew and niece, whether related by natural birth or adoption.
Individual Liquid Waste Disposal System	Means a disposal system which services an individual dwelling or parcel and includes, but is not limited to, septic tank system, aerobic disposal system and evapotranspiration system.
Lease	A contract granting use or occupation of property during a specified time for a specified payment
Liquid Waste	Means domestic wastewater containing human excreta or other water-carried waste.

Parcel	Unit of land capable of being described by location and boundaries and not dedicated for public or common use.
Person	Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity.
Preliminary Plat	Map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it; this map need not be based upon an accurate and detailed survey of the land.
Resubdivision	Any change to a lot line, right-of-way line, or utility easement, unless the change is the result of a vacation of plats or a variance granted by action of the Board of County Commissioners.
Sell	To convey ownership of property in exchange for money or its equivalent.
Solid Waste	Means any solid or semi-solid discarded material which results from household, commercial, industrial, or other operations, but does not include water borne waste in sewerage system.
Street	Means all property dedicated or intended for public use for access to abutting lands or subject to public easement, whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle or however otherwise designated.
Subdivide	To divide a surface area of land into a subdivision.
Subdivider	Any person/agent who creates or who has created a subdivision, individually or as part of a common promotional plan, or any person engaged in the sale, lease, or other conveyance of subdivided land; however, "subdivider" does not include any duly licensed real estate broker or salesperson acting on another's account.
Subdivision	Division of a surface area of land including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease, or other conveyance; or for building development,

whether immediate or future; however, “subdivision” does not include:

(Exemptions)

- 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 Section 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 a 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 party;
- 6) the division of land for grazing or farming activities provided 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;
- 10) the division of land created to provide security for mortgages, liens, or deeds of trust;

provided that the division of land is not the result of a seller-financed transaction;

11) 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 Section 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 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; or

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; provided further that a survey shall be filed with the County Clerk indicating the five-year holding period for both the original tract and the newly created tract.

Terrain Management

Control of floods, drainage and erosion, and measures necessary to adapt 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 twenty-five (25) or more, but not more than four hundred ninety-nine

(499) parcels, any one of which is less than ten (10) acres in size.

Type Three Subdivision

Any subdivision containing not more than twenty-four (24) parcels, any one of which is less than ten (10) acres in size.

Type Four Subdivision

Any subdivision containing twenty-five (25) or more parcels, each of which is ten (10) acres 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

Water Control Structure

Means any man-made device for containing or channeling water.

Watercourse

Means any river, creek, spring, stream, or other like body having definite banks and evidencing the occasional flow of water.

Water Supply System

Means a system to provide water for domestic use or human consumption.

Vacation

Act of rescinding (canceling) all or part of a recorded subdivision plat including legal dedications and grants of easements.

ARTICLE 3. PRE-APPLICATION PROCESS

Section 3.1. Pre-Application Procedure

- 3.1.1. Conference. For the purpose of expediting applications and reducing subdivision design and development costs, **ALL** subdividers will have an informal pre-application conference in accordance with the requirements provided in these Regulations. The pre-application conference is intended to provide general advice to the subdivider about the procedures and data requirements for subdivision review and approval in the County.
- 3.1.2. Summary Procedure Conference. All proposed subdivisions which qualify for approval under the summary procedure provided in Article Six of these Regulations, shall begin with a pre-application conference.
- 3.1.3. Scheduling. At the request of the subdivider, the agent designated by the Board of County Commissioners shall schedule a pre-application conference in order for the subdivider to meet with the appropriate County representatives and to become acquainted with the necessary requirements for subdivision review and approval.
- 3.1.4. Fee. No fee shall be required for a pre-application conference.
- 3.1.5. Statements non-binding. Neither the subdivider nor the County shall be bound by any statements made during the pre-application conference.
- 3.1.6. Application/forms. At the request of the subdivider, the agent shall provide sufficient information and application forms for preliminary plat submittal in order to proceed with the County subdivision process and to fulfill the requirements of the New Mexico Subdivision Act.

Section 3.2. Pre-application Data Requirements

- 3.2.1. Sketch plan. A sketch plan shall be prepared by the subdivider which shows the proposed layout of streets and lots, with estimated dimensions and other relevant site information. The location of the proposed subdivision must be adequately described on a general map of the area.
- 3.2.2. Additional information. In addition to the sketch plan and location map, the subdivider shall provide a Disclosure Statement and information including, but not limited to, the following:
 - a. a written description of the proposed subdivision;
 - b. a description of surrounding land uses; and
 - c. accessibility of site to roads and utilities.

ARTICLE 4. PRELIMINARY PLAT REVIEW PROCESS

Section 4.1. Preliminary Plat Submittal

- 4.1.1. Preliminary Plat required. Preliminary plats shall be submitted for Type One, Type Two, Type Three, and Type Four subdivisions. Certain Type Three and all Type Five subdivisions are subject to review under the summary procedure set forth in Article Six of these Regulations.
- 4.1.2. Application/fees. A Subdivider shall prepare a preliminary plat and supporting documentation in accordance with the requirements provided in these Regulations. Preliminary plat submittal is initiated by completing an application on prescribed forms available from the agent and upon payment of the required administrative fees.
- 4.1.3. Plat deemed complete. On receipt of the application, fees, preliminary plat, and supporting documentation the agent will, within five (5) days, review all materials in order to determine if the preliminary plat is ready to begin the review process. If there are no deficiencies, the preliminary plat is deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. If the preliminary plat is incomplete or does not comply with the submittal requirements provided in these Regulations, the subdivider shall be notified and be given a maximum time period of thirty (30) days to correct the deficiencies and return the preliminary plat for consideration.

Section 4.2. Agency Review

- 4.2.1. Plat transmittals. Within ten (10) days after the date that the preliminary plat is deemed complete the agent shall forward a copy of the preliminary plat and supporting documentation to the following state and local agencies by certified mail “return receipt requested” with a request for review and opinions:
 - a. New Mexico State Engineer Office;
 - b. New Mexico Environment Department;
 - c. New Mexico Department of Transportation;
 - d. Soil and Water Conservation District in which the proposed subdivision is located;
 - e. Office of Cultural Affairs;
 - f. Eddy County Fire Marshall; and
 - g. Any other public agencies Eddy County considers necessary to determine whether there are adequate facilities to accommodate the proposed subdivision.
- 4.2.2. Agency response. The state and local agencies shall have thirty (30) days from their receipt of the preliminary plat to review and return an opinion

regarding the preliminary plat. The agent shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency. Any adverse agency response should detail all deficiencies.

- 4.2.3. Adverse opinion. If any opinion from a public agency is adverse, the agent shall forward a copy of the adverse opinion to the subdivider and request that additional information be provided to the County within thirty (30) days to respond to the concerns of the appropriate agency. The agent shall forward such additional information upon receipt to the appropriate agency, which shall have thirty (30) days after the date the subdivider submits the additional information in order to revise its opinion. The agent shall obtain receipts or other proof showing the date the additional information was received by each state or local agency.
- 4.2.4 Hearing The Eddy County Board of Commissioners, shall schedule a public hearing to receive public comments on the preliminary plat within thirty (30) days following the receipt of opinions from all agencies. If the County does not receive a requested opinion within the specified thirty (30) days, it shall proceed with the required public hearing.

Section 4.3. Public Hearing on Preliminary Plats

- 4.3.1. Scheduling. The County shall conduct a public hearing within the time periods specified in these Regulations. Notice of the public hearing shall be given at least twenty-one (21) days before the hearing date.
- 4.3.2. Notice. The notice of public hearing shall be published in a newspaper of general circulation in the County and shall contain the following information:
- a. subject of the hearing;
 - b. time and place of the hearing;
 - c. manner for interested persons to present their views; and
 - d. place and manner for interested persons to get copies of any favorable or adverse opinion and of the subdivider's proposal.
- 4.3.3. Notification. Copies of the notice of public hearing shall be transmitted to the following;
- a. the subdivider filing the application for preliminary plat approval;
 - b. those public agencies which initially received copies of the preliminary plat and supporting documentation with a request for opinion;
 - c. any interested person who previously requested such notice and provided a stamped, self-addressed envelope for such purpose; and
 - d. owners of property contiguous to land proposed to be subdivided.

- 4.3.4. Participation/record. At the public hearing, the County shall allow all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing, and to examine witnesses testifying at the hearing. A taped record of the public hearing shall be kept. The opinions of the public agencies shall be made a part of the record.
- 4.3.5. Action of Planning and Zoning Commission. The Planning and Zoning Commission shall perform a technical review of the preliminary plat and all data received from the agency letters. The Eddy County Planning and Zoning Commissioners shall make recommendation of approval, approval with conditions, or disapproval of the preliminary plat. The agent shall inform the subdivider in writing of the decision of the Eddy County Planning and Zoning Commissioners.
- 4.3.6. Action/Board of Commissioners. Within 30 days of the public hearing, the agent shall inform the Eddy County Board of Commissioners of the Planning and Zoning Commissioners decision in writing and with a report at the next Commissioners regular meeting. The Board of Commissioners will review the information and the report from the Planning and Zoning Commission and may require additional information. The Eddy County Board of Commissioners shall then approve, approve with conditions, or disapprove the preliminary plat.
- 4.3.7. Approval. When the Eddy County Board of Commissioners approves the preliminary plat, the Chairman of the Eddy County Board of Commissioners shall endorse his/her approval on the plat, together with the Secretary of the Eddy County Commission.

Section 4.4. Expiration of Preliminary Plat

- 4.4.1. Expiration. An approved or conditionally approved preliminary plat shall expire twenty-four (24) months after its approval or conditional approval. Upon request by the subdivider, an additional period of no more than twelve (12) months may be added to the expiration date by the Eddy County Board of Commissioners.
- 4.4.2. Phased Development. If the preliminary plat was approved for phased development, the subdivider may file final plats for portions of the development, and the expiration date of the preliminary plat shall be extended for an additional thirty-six (36) months after the date of the filing of each final plat. The number of phased final plats shall be determined by the Eddy County Board of Commissioners at the time of the approval or conditional approval of the preliminary plat.
- 4.4.3. Extension. Before the expiration date of the approved or conditionally approved plat, the subdivider may submit to the Eddy County Board of Commissioners an application for extension of the preliminary plat for a period of time not exceeding thirty-six (36) months.

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

Section 4.5. Preliminary Plat Data Requirements

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

- a. water is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses;
- b. water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination;
- c. there is a means of liquid waste disposal for the subdivision;
- d. there is a means of solid waste disposal for the subdivision;
- e. there are satisfactory roads to each parcel, including entry and exit for emergency vehicles and there are appropriate utility easements to each parcel;
- f. terrain management protection against flooding, inadequate drainage and erosion;
- g. there are protections for cultural properties, archeological sites and unmarked burials that may be directly affected by the subdivision, as required by the Cultural Properties Act;
- h. the subdivider can fulfill the proposals contained in the disclosure statement for the subdivision; and
- i. the subdivision will conform with the New Mexico Subdivision Act and these Regulations.

- 4.5.2. Minimum documentation. Supporting documentation shall, at a minimum, include:

- a. water supply plan including conservation, water quality, and fire protection components;
- b. liquid waste disposal plan;
- c. solid waste disposal plan;
- d. accessibility of site to roads and utilities;
- e. terrain management plan; and
- f. cultural properties protection.

- 4.5.3. Filing specifications. The subdivider shall submit ten (10) copies of the preliminary plat and supporting documentation for local review and distribution to public agencies. 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 eighteen by twenty-four (18" x 24"). Sheets shall be numbered in sequence, if more than one sheet is used.

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

- a. name of subdivision, scale, north arrow, legend, 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;
- 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 the 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 archeological, historical, or culturally significant features on the site;
- k. delineation, if applicable, of any 100-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 subdivider 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.

4.5.5. Phased subdivisions. 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.

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

ARTICLE 5. FINAL PLAT REVIEW PROCESS

Section 5.1. Final Plat Submittal

- 5.1.1. Conformity. Following approval or conditional approval of a preliminary plat, and before the expiration of the plat, the subdivider shall prepare a final plat in substantial conformity with the approved or conditionally approved preliminary plat. Subdivisions proposed to be phased in multiple final plats shall be submitted as indicated on the phasing schedule submitted with the preliminary plat.
- 5.1.2. Application/fees. Final plat submittal is initiated by completing an application on the prescribed form available from the agent and upon payment of the required administrative fees.
- 5.1.3. Plat deemed complete. A subdivider shall prepare a final plat and supporting documentation in accordance with the requirements provided in these Regulations. The agent and the Planning and Zoning Commission shall review all materials in order to determine whether the final plat is complete. If there are no deficiencies, the final plat will be deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. If the final plat is incomplete or does not comply with the submittal requirements provided herein, the subdivider shall be notified and will be given a maximum time period of thirty (30) days to correct the deficiencies and return the final plat for consideration. When the final plat is deemed complete, the Planning and Zoning Commission shall then approve or disapprove the final plat. The agent shall report to the Board of County Commissioners the result of the review and action of the Planning and Zoning Commission.

Section 5.2. Decision on Final Plat

- 5.2.1. Approval. The Eddy County Board of Commissioners shall vote to approve or disapprove of the final plat within thirty (30) days after the plat has been deemed complete.
- 5.2.2. Denial. The Eddy County Board of Commissioners shall not deny a final plat if it has previously approved a preliminary plat for the proposed subdivision and it finds that the final plat is in substantial compliance with the previously approved preliminary plat. Denial of a final plat shall be accompanied by findings identifying the requirements that have not been met.
- 5.2.3. Improvement agreement. If, at the time of approval of the final plat, any public improvements have not been completed by the subdivider as required by these Regulations, the Eddy County Board of Commissioners shall, as a condition preceding approval of the final plat, require the subdivider to enter into an agreement with the County, on mutually

agreeable terms, to thereafter complete the improvements at the subdivider's expense.

- 5.2.4. Failure to act. If the Eddy County Board of Commissioners does not act upon a final plat within the required period of time, the subdivider shall give the Eddy County Board of 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 Eddy County Board of Commissioners shall, upon demand by the subdivider, issue a certificate that the final plat has been approved.
- 5.2.5. Approval Signatures/Eddy County Board of Commissioners. After the final plat has been approved by the Eddy County Board of Commissioners, such approval shall be recorded on the face of the original document in permanent ink. The approval shall be dated and verified by the signatures of the Chairman of the Board of County Commissioners, the County Clerk, and Chairman of the Planning and Zoning Commission.
- 5.2.6. Recording with County Clerk. The final plat shall be recorded by the subdivider at the subdivider's expense in the Office of the County Clerk. The County shall notify the subdivider of the date of recording. Final plats, along with public dedications if any, shall be recorded after the approval from the Eddy County Board of Commissioners.
- 5.2.7. Filing and Recording. Subdivider, or their representatives, shall, submit for filing to the Office of the Eddy County Clerk, the final plat, the Disclosure Statement, together with any and all opinions received from various state agencies. The proper recording fee shall be tendered to the Eddy County Clerk's Office at the time of recording the Subdivision Plat, the Disclosure Statement, and all documentation required by this ordinance.

Section 5.3. Final Plat Data Requirements

- 5.3.1. Filing specifications. The original drawing of the final plat shall be submitted in waterproof ink on mylar. 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 eighteen by twenty-four (18 x 24) inches. When more than one sheet is used to include the entire subdivision, all sheets shall be cut to the same size and shall show appropriate references to other sheets of the subdivision. The subdivider shall also submit three (3) paper copies of the final plat map and accompanying information.
- 5.3.2. Map specifications. The final plat map shall include the following information:
 - a. name of subdivision, scale, north arrow, legend and date;

- b. permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
- c. tract boundary, lines, easement and right-of-way lines, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves;
- d. accurate description of legal access to, roads to, and utility easements for each parcel, and if the access or easement is based upon an agreement, the recording data in the land records for the agreement;
- e. 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;
- h. names of owners of contiguous unplatted 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. clerk's filing and indexing information.

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

5.3.4. Dedication. The final plat shall contain a certificate stating that the Eddy County Board of 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 Eddy County Board of Commissioners is filed in that office.

- 5.3.5. Disclosure statement. For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided by the County and 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 Office of the County Clerk, the Eddy County Board of 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.
- 5.3.6. Conformity. The Eddy County Board of Commissioners shall not approve the plat of any subdivision if the subdivider cannot reasonably demonstrate that he can fulfill the proposals contained in his disclosure statement or if the subdivider has not conformed with the New Mexico Subdivision Act and the County's subdivision ordinance.
- 5.3.7. Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to the statement of record.
- 5.3.8. Environment Department approval. For any subdivision requiring construction of a public water supply system or a community liquid waste system, documentation of approval from the New Mexico Environment Department shall be required for final plat approval.
- 5.3.9. Recording. The final plat is in full force and effect only after having been recorded in the Office of the County Clerk within one (1) year after the date of approval by the Eddy County Board of Commissioners.
- 5.3.10. Water permit. For all subdivisions containing twenty (20) or more parcels, any one of which is two (2) acres or less in size, the subdivider shall provide a copy of the water permit issued by the State Engineer for subdivision water use. The Eddy County Board of Commissioners shall not approve the final plat unless the State Engineer has issued a water permit for the subdivision water use.

Section 5.4. Advertising Standards

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

- 5.4.2. Requirements/restrictions. Brochures, disclosure statements, publications, and advertising of any form relating to subdivided land shall:
- a. not misrepresent or contain false or misleading statements of fact.
 - b. not describe deeds, title insurance, or other items included in a transaction as “free” and shall not state that any parcel is “free” or given as an “award” or “prize” if any consideration is required for any reason;
 - c. not describe parcels available for “closing costs only” or similar terms unless all such costs are accurately and completely itemized; or when additional parcels must be purchased at a higher price;
 - d. not include an asterisk or other reference symbol as a means of contradicting or substantially changing any statement;
 - e. accurately portray, if subdivision illustrations are used, the subdivision in its present state; and, if illustrations are used portraying points of interest outside the subdivision, state the actual road miles from the subdivision;
 - f. not contain artists’ conceptions of the subdivision or any facilities within it unless clearly labeled as such, and shall not contain maps unless accurately drawn to scale with the scale indicated;
 - g. not contain references to any facilities, points of interest or municipalities located outside the subdivision unless the distances from the subdivision are stated in the advertisement in actual road miles; and
 - h. refer to the location where the subdivider’s disclosure statement may be obtained.

Section 5.5. Requirements Prior to Sale, Lease or Other Conveyance

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

- 5.5.1. Final plat approval. The final plat shall be approved by the Eddy County Board of Commissioners and shall be filed in the Office of the County Clerk in which the subdivision is located. If a subdivision lies within more than one county, the final plat shall be approved by the Board of Commissioners of each county in which the subdivision is located and shall be filed in the Office of the County Clerk of each county in which the subdivision is located.
- 5.5.2. Relevant documents. The subdivider shall furnish the Eddy County Board of Commissioners a sample copy of sales contracts, leases and any other documents which will be used to convey an interest in the subdivided land.

- 5.5.3. Permanent marks. All corners of all parcels and blocks within a subdivision shall be permanently marked with metal stakes in the ground and a reference stake shall be placed beside one corner of each parcel.

Section 5.6. Recording Parcels

- 5.6.1. Authority. §47-6-9 (A) (17) NMSA 1978 requires counties to enact regulations for recording all conveyances of parcels with the Office of the County Clerk. As defined in the Act, the term “parcel” means land capable of being described by location and boundaries and not dedicated for public or common use.
- 5.6.2. Purpose. Recording conveyances of parcels provides anyone interested in acquiring land, and lenders, with important information about the condition of title. Recording conveyances of all parcels also provides public officials with information needed to detect illegal subdividing. The purpose of this information is to protect buyers and lenders and to help enforce the Act and these Regulations by making all conveyances of parcels matters of public record.
- 5.6.3. Requirement. Any person who sells, leases for an initial term plus option terms in excess of five (5) years, or otherwise conveys any interest in any parcel located in whole or in part in the County, shall record the deed, lease, real estate contract, notice of lease, notice of real estate contract, or other document of conveyance in the Office of the County Clerk no later than five (5) days after the closing or thirty (30) days after the date on which the document is signed, whichever comes first.
- 5.6.4. Form and certification. Any deed, lease for an initial term plus option terms in excess of five (5) years, real estate contract, notice of lease, notice of real estate contract, or other document used to convey any interest in any parcel located in whole or in part in the County shall be in a form acceptable for recording and duly acknowledged and certified as required by the provisions of §14-8-4 NMSA 1978.

Section 5.7. Water Permits

- 5.7.1. The Board of County Commissioners shall not approve a final plat for a subdivision containing twenty (20) or more parcels any one of which is two (2) acres or less, unless there is a State Engineer permit for subdivision water use issued according to:

§72-5-1:	New appropriations of surface water
§72-5-23:	Changes in place of use
§72-5-24:	Changes in purpose of use or point of diversion
§72-12-3:	New appropriations of ground water
§72-12-7:	Changes in purpose of use or location of well

In acting on the permit application, the State Engineer shall determine whether the amount of water is sufficient in quantity to fulfill the maximum water requirements for the subdivision.

ARTICLE 6. SUMMARY REVIEW PROCESS

Section 6.1. Summary Review Procedure

- 6.1.1. Qualifications. The following types of subdivisions shall be submitted to the County for approval under summary review procedure:
- a. Type Three Subdivisions containing five (5) or fewer parcels of land, unless the land within a subdivision has been previously identified in the County Comprehensive Plan or County Zoning Ordinance as an area subject to unique circumstances or conditions that require additional review; and
 - b. all Type Five Subdivisions.
- 6.1.2. Conference required. A pre-application conference is required before application for summary review and approval. The pre-application process is described in Article Three of these Regulations.
- 6.1.3. Application/fees. A subdivider shall prepare a summary review plat and supporting documentation in accordance with the requirements provided in these Regulations. The summary review plat shall be considered as a final plat suitable for filing with the Office of the County Clerk. Summary review plat submittal is initiated by completing an application on the prescribed form obtainable from the agent and upon payment of the required administrative fees.
- 6.1.4. Plat deemed complete. On receipt of the application, fees, summary review plat, and supporting documentation, the agent shall review all materials in order to determine if the summary review plat is ready for the review process. If there are no deficiencies, the summary review plat will be deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. If the summary review plat is incomplete or does not comply with the submittal requirements, the subdivider shall be notified and given a maximum time period of thirty (30) days to correct the deficiencies and return the summary review plat for consideration.
- 6.1.5. Public meeting. Summary review plats submitted to the County for approval shall be approved or disapproved by the agent at a public meeting within thirty (30) days of the date the summary review plat is deemed complete. The Eddy County Board of Commissioners has delegated to the agent the authority to approve any subdivisions under summary review.

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

Section 6.2. Summary Review Data Requirements

- 6.2.1. Filing specifications. The original drawing of the summary review plat shall be submitted in waterproof ink on mylar. 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 eighteen by twenty-four (18 x 24) inches. The subdivider shall also submit three (3) paper copies of the summary review plat map and accompanying information.
- 6.2.2. Map specifications. The summary review plat map shall include the following information:
- a. name of subdivision, scale, north arrow, legend and date;
 - b. name and mailing address of subdivider 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 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.
 - j. clerk's filing and indexing information.
- 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 summary review plat shall be acknowledged by the owner and/or subdivider, or authorized agents, in the manner required for the acknowledgement of deeds. Every summary review plat submitted to the Office of the County Clerk as a final plat shall be accompanied by an affidavit of the owner and subdivider, 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 by the subdivider to every purchaser, lessee, or other person acquiring an interest in the subdivided land prior to sale, lease or other conveyance by the subdivider.

- 6.2.4. Dedication. The summary review plat shall contain a certificate stating that the Eddy County Board of 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 Eddy 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 Eddy County Board of Commissioners is filed in that office.
- 6.2.5. Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record instead of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to the statement of record.
- 6.2.7. Advertising Standards. The advertising standards covering the sale, lease, or other conveyance of subdivided land provided in Article Five/Section 4 of these Regulations, shall be applicable to summary review plats.

ARTICLE 7. SPECIAL PROCEDURES

Section 7.1. Succeeding Subdivisions

- 7.1.1. Standards. Any proposed subdivision may be combined with a previous subdivision and upgraded for classification purposes by the Eddy County Board of Commissioners if the proposed subdivision includes:
- a. a part of a previous subdivision that has been created in the preceding seven (7) year period; or
 - b. any land retained by a subdivider after creating a previous subdivision if the previous subdivision was created in the preceding seven (7) year period.

Section 7.2. Resubdivision

- 7.2.1. Definition. Resubdivision shall include any change to a lot line, right-of-way line, or utility easement, unless the change is the result of a vacation of plats or a variance granted by action of the Eddy County Board of Commissioners.
- 7.2.2. Procedure. All or a portion of any final plat filed in the Office of the County Clerk may be resubdivided by the same procedures prescribed in the Regulations for the subdivision of land.

Section 7.3. Vacation of Plats

- 7.3.1. 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 Eddy County Board of Commissioners; or
 - b. the Eddy County Board of Commissioners finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.
- 7.3.2. 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 agent, 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 to the subdivided land to be vacated. The request for vacation shall be considered filed upon payment of the required administrative fee.
- 7.3.3. Scheduling and notification. Within sixty (60) days after the date of receipt of the request for vacation, the Eddy County Board of Commissioners shall approve or deny the vacation, subject to the following:
- a. the Planning and Zoning Commission shall meet and make recommendation on the request.
 - b. action shall be taken at a public meeting;
 - c. at least fifteen (15) days before the proposed meeting, 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 shall have been notified by mail of the proposed vacation and the date, time and place of the public meeting at which the vacation will be considered by the Eddy County Board of Commissioners; and
 - d. relevant utilities and other agencies have been notified.

- 7.3.4. Action. In approving the vacation of all or a part of a final plat, the Eddy County Board of 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 Eddy County Board of Commissioners may require that roads dedicated to the County in the final plat continue to be dedicated to the County.
- 7.3.5. 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.
- 7.3.6. 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 7.4. Variances

- 7.4.1. Planned development area. The agent 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 agent 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.
- 7.4.2. 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 agent 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.
- 7.4.3. 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 agent for that purpose, and upon payment of the required administrative fee.

- b. Variance requests shall be reviewed by the agent 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 agent 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 his/her decision and order on each request for variance.
- f. The decision and order shall be prepared, signed and filed within five (5) working days after the public hearing at which the variance is considered.

Section 7.5. Exemptions

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

7.5.2. Verification of Exemption.

- a. Any person claiming entitlement to an exemption under the provisions of these Regulations shall file a written claim of exemption on the prescribed form available from the agent with the County or the County Manager's Office before making the land division for which the claim of exemption is made.
- b. The agent shall review the claim of exemption and supporting documents and shall mail written notice of whether the exemption has been approved or denied to the person claiming the exemption within thirty (30) days after receipt of the completed claim of exemption; provided, however, that the thirty (30) day period shall not begin until the person claiming the exemption has delivered a completed Claim of Exemption, all supporting documents, and paid the administrative fee.
- c. If the claim of exemption is approved, or if the agent fails to mail written notice to the claimant within thirty (30) days after receipt of the completed claim of exemption and all supporting documents, the person claiming the exemption may divide the land

in the manner proposed in the claim of exemption without complying with the provisions of these Regulations.

- d. 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.

7.5.3 Exemption Plat Filing Specifications. The original drawing of the exemption plat shall be submitted in waterproof ink on mylar. Exemption 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 eighteen by twenty-four (18 x 24) inches. The applicant shall also submit three (3) paper copies of the exemption plat map.

7.5.4 Map Specifications. Exemption plat maps shall contain the following information:

- a. title, scale, north arrow, legend, and date;
- b. names of owners of land to be divided and of contiguous property;
- c. property boundary lines with accurate dimensions, and ties to monuments;
- d. acreage measurements and identification numbers for each tract;
- e. location, dimensions, and purpose of all easements and right-of-way lines;
- f. delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency;
- g. the certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey;
- h. legal description indicating the range, township, and section within which the land is located;
- i. affidavit of platting jurisdiction;
- j. owners statement and affidavit;
- k. exemption statement;
- l. county approval affidavit;
- m. entitlement filing information; and
- n. clerk's filing and indexing information.

7.5.5 Exemption Statement. All plats filed for exemptions shall contain the following statement:

“This plat is exempt from the New Mexico Subdivision Act and the Eddy County Subdivision Regulations under §47-6-2 NMSA 1978 P J* definitions effective July 7, 1996; the text of the exemption being taken shall be inserted after the semi-colon.”

* denotes the number of the exemption being taken

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

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

7.6.2. Registered Cultural Properties. Any person desiring to subdivide land in the County shall demonstrate that they have reviewed the latest edition of the State Register of Cultural Properties (“the Register”) that has been provided to the County by the State Historic Preservation Division, and:

- a. if there are no such properties entered in the Register that are within the boundaries of the proposed subdivision, the subdivider shall provide a signed affidavit to the effect in the application package for subdivision approval; or
- b. if any such properties entered in the Register exist within the boundaries of the proposed subdivision, the subdivider shall provide a signed affidavit to that effect in the application package for subdivision approval. The County will then consult with the Historic Preservation Division pursuant to the Cultural Properties Act 18-6-1 through 18-6-18 NMSA 1978.

ARTICLE 8. REQUIRED IMPROVEMENTS

Section 8.1. Construction of Requires Improvements

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

- 8.1.2. Improvement agreement. The County may enter into a subdivision improvement agreement with a subdivider. This agreement shall constitute a binding contract between the subdivider and the County, and shall contain those terms and conditions agreed to by the subdivider and the County.

Section 8.2. Road Development

- 8.2.1. Construction schedule. Roads within a subdivision shall be constructed only on a schedule approved by the Eddy County Board of Commissioners. In approving or disapproving a subdivider's road construction schedule, the Eddy County Board of 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.
- 8.2.2. Safety. All proposed roads shall conform to the standards set forth by County Ordinance O-98-34, or any succeeding ordinance duly adopted by the Eddy County Board of Commissioners.
- 8.2.3. Demonstration of use/access. The Eddy County Board of Commissioners shall not approve the grading or construction of roads unless and until the subdivider can reasonably demonstrate that the roads to be constructed will receive use and that the roads are necessary to provide access to parcels or improvements within twenty-four (24) months after the date of construction of the road. It is unlawful for the subdivider to grade or otherwise commence construction of roads unless the construction conforms to the schedule of road development approved by the Eddy County Board of Commissioners.

Section 8.3. Improvement Guarantees

- 8.3.1. Assurance. In order for the County to be assured of the completion of required improvements, the subdivider shall agree to either:
- a. complete installation of the required improvements before approval of the final plat; or
 - b. assure construction of required improvements after final plat approval.

- 8.3.2. Alternatives. If the subdivider wishes to submit the final plat for review, approval, and recording before completion of required improvements, the subdivider shall post a suitable improvements guarantee in an amount approved by the County. The guarantee shall be not less than 125 percent of the estimated cost of the required improvement. This guarantee may be by bond, letter of credit, escrow deposit, or other method acceptable to the County.

ARTICLE 9. APPEALS

Section 9.1. Who May Appeal

- 9.1.1. Eddy County. Any person who is adversely affected by a decision of the agent in approving or disapproving a subdivision plat may appeal to the Eddy County Board of Commissioners within fifteen (15) days after the date of the action of the agent. The Eddy County Board of Commissioners shall hear the appeal and render a decision within thirty (30) days after receiving the notice of appeal.
- 9.1.2. Eddy County Board of Commissioners. Any person who is adversely affected by a decision of the Eddy County Board of 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 9.2. Appeal Process

- 9.2.1. Nature of review. The appeal shall consist of a whole record review, and the reviewing authority, whether it be the Eddy County Board of Commissioners or the District Court, shall set aside the action of the lower tribunal 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.
- 9.2.2. 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.
- 9.2.3. Notice of appeal. The appeal shall be perfected by filing a written notice of appeal which sets forth the specific portion of the decision being appealed. 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 administrative fee.

ARTICLE 10. ENFORCEMENT, PENALTIES, AND REMEDIES

Section 10.1. 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 10.2. 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 agent for investigation. The agent shall investigate the complaint and take such action as is warranted, or make a written recommendation to the Eddy County Board of Commissioners of what action is warranted. The agent shall inform the complainant in writing of what actions have been taken or will be taken in response to the complaint.

Section 10.3. Penalties and Remedies

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

- 10.3.1. Utility Connections. Any water, sewer, electric, or gas utility that connects to individual parcels within a subdivision before a final plat for the subdivision has been approved by the Eddy County Board of 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 Eddy County Board of Commissioners. The Eddy County Board of Commissioners may also require that any utility connected in violation of this section and of §47-6-27.2 NMSA 1978 be disconnected.
- 10.3.2. Suspension of Right of Sale. The Eddy County Board of Commissioners may suspend or revoke approval of a plat as to unsold, unleased or otherwise not conveyed portions of a subdivider's plat if the subdivider does not meet the schedule of compliance approved by the Eddy County Board of Commissioners.
- 10.3.3. Injunctive Relief, Mandamus. The Eddy County Board of Commissioners, the District Attorney, or the Attorney General may apply to the District Court for any one or more of the following remedies in connection with violations of the New Mexico Subdivision Act and these Regulations:
 - a. injunctive relief to prohibit a subdivider from selling, leasing, or otherwise conveying any interest in subdivided land until the subdivider complies with the terms of the New Mexico Subdivision Act and these Regulations;

- b. injunctive relief to compel compliance by any person with the provisions of the New Mexico Subdivision Act 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.

10.3.4. Bond not required. The Eddy County Board of 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.

10.3.5. 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 11. AMENDMENT

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

ARTICLE 12. 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 therefrom.

ARTICLE 13. REPEAL AND EFFECTIVE DATE

These Regulations repeal Eddy County Ordinance No. O-97-31. These Regulations shall become effective thirty (30) days after being duly recorded by the Eddy County Clerk.

ARTICLE 14. REVISIONS

THE EDDY COUNTY NEW MEXICO SUBDIVISION ORDINANCE is an ordinance of the elected, governing body of Eddy County, New Mexico. Anyone may propose amendments to this ordinance through the County Manager’s office at 101 W. Greene Street, Carlsbad, N.M., 88220.

AN ANALYSIS OF CHANGES is published and updated with each printing.

REVISIONS

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APPENDIX “A”

AGENCY GUIDELINES

The Agency guidelines will be adopted as part of the Eddy County Subdivision Regulations. These guidelines are standards for subdivision development throughout Eddy County.

Preliminary plats along with additional documentation will be forwarded to the following agencies for their review and approval.

N.M. State Engineer	A-1
N.M. Environmental Department	A-2
N.M. Department of Transportation	A-3
Soil and Water Conservancy District (Terrain Management)	A-4
Eddy County Fire Marshall	A-5

APPENDIX A-1 STATE ENGINEER GUIDELINES

Section 1: Water Conservation Measures The following water conservation measures are recommended for all subdivisions:

- 1.1 All new construction shall conform to the requirements of the currently adopted building and plumbing codes as required by the New Mexico Construction Industries Division.
- 1.2 Low water use landscaping techniques applying the principles of xeriscaping are encouraged.
- 1.3 Subdividers are encouraged to include statements on water conservation requirements in the covenants for the subdivision.

Section 2: Quantification of Annual Water Requirements The maximum annual water requirements for all subdivisions containing five (5) lots or more must be quantified. The following procedures shall be used:

- 2.1 The maximum annual water requirement for both indoor and outdoor purposes for each parcel in a residential subdivision with lots less than one (1) acre shall be 0.75 acre feet per year unless a detailed water demand analysis approved by the State Engineer Office justified the use of a different figure.
- 2.2 The subdivider may, at his option, prepare a detailed water demand analysis using tile step by step computational procedure presented in the relevant State Engineer Technical Report.
- 2.3 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.
- 2.4 Subdivisions with lots that are a minimum of five (5) acres shall quantify the annual water requirement in accordance with the guidelines of Section 6.3 of this appendix.

Section 3: Final Plat Approval Requirements For all subdivisions containing twenty (20) or more parcels, any one of which is two (2) acres or less in size, the subdivider shall provide a copy of the water permit issued by the State Engineer pursuant to Sections 72-5-1, 72-5-23, and 72-5-24 NIMSA, 1978, for subdivision water use; or pursuant to Sections 72-12-3 or 72-12-7 NMSA 1978 if the subdivision is located within a declared underground water basin. The Board of County Commissioners shall not approve the final plat unless the State Engineer has issued a water permit for the subdivision water use. In acting on the permit application, the State Engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses.

Section 4: Community Water System Requirements

- 4.1 A community water system shall be required for all other subdivisions containing six or more parcels where groundwater would be supplied from geologic formations where wells have been determined to produce at a rate of two (2.0) gallons per minute or less, or where available information suggests the likelihood of low yielding wells. In lieu of a community water system, the developer shall provide alternative means of supplying potable water to each lot in sufficient quantities to meet the maximum annual water requirements for each lot, and shall fully disclose the means and methods for providing such water supply. Acceptable alternative methods of supplying potable water shall include individual wells drilled by the developer or other means or water delivery combined with storage systems provided by the developer for each lot. The storage systems shall be capable of storing an amount of water equal to twice the average daily water consumption for a household and must be capable of delivering water at a minimum rate of two (2.0) gallons per minute.
- 4.2 If water will be supplied from a community water system, the subdivider shall submit a plat of tile 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, roads, wells, and water storage and distribution system, 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.
- 4.3 Residential service connections to community water systems shall be required where such systems have been designed and constructed for use within the subdivision.
- 4.4 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.
- 4.5 The Board of County Commissioners may require the subdivider to provide a performance bond or other surety in the amount of the estimated cost of the water supply system and including, as appropriate, the estimated cost of acquiring necessary water rights to water under contract with the owner of a water right.

Section 5: Water Availability Assessment Requirements

- 5.1 If the source of water supply will be an existing community water system or municipal water system, the subdivider shall submit a water availability assessment containing the following information:
 - a. name of the utility proposed as the source of supply;
 - b. documentation from the utility that they are ready, willing and able to provide the maximum annual water requirements for the subdivision. For

subdivisions with more than six (6) lots, such documentation may include information meeting the requirements of Subsection 6.2 of Appendix C-1 of these Regulations as well as additional information demonstrating system capabilities and existing and proposed infrastructure improvements that may be required to furnish water to the subdivision in sufficient quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor uses.

- 5.2 For new community water systems, the subdivider shall submit a water supply plan and geohydrologic report which meets the following requirements:
- a. geohydrologic reports shall demonstrate 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 for a continuous period of forty (40) years. These analyses shall take into account the production of existing wells and shall demonstrate that the subdivision wells, as proposed or as designed, will be capable of producing the full annual demand for at least 40 years;
 - b. the subdivider shall drill sufficient exploratory wells within the boundaries of the proposed subdivision to adequately characterize the aquifer, unless the subdivider can demonstrate that existing wells in the area are representative of general aquifer conditions within the subdivision. Where existing wells are not adequate to demonstrate aquifer conditions, aquifer parameters required to demonstrate 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 off-site wells if the subdivider can demonstrate that these wells are representative of general aquifer conditions within the subdivision;
 - c. the assessment shall include a calculated 40-year schedule of effects on the proposed subdivision's production well(s) which may result from existing demands and from the increase of groundwater withdrawals from the subdivision. Analyses shall be performed to assess whether future water level declines will be within the limits of allowable draw down in the subdivision production wells. Predicted draw downs shall be calculated in a conservative manner (which estimates maximum draw down). These calculations shall include estimates of future water uses;
 - d. the subdivider shall calculate the lowest practical pumping water level in the proposed subdivision pumping wells by any of the following methods as appropriate, provided there shall be no presumption made as to additional available water below the bottom of the proposed production well, and further provided that the total available draw down shall be reduced by a factor of 20 percent as a margin of safety to account for seasonal fluctuations, drought allowance, reduction of well efficiency over time, and peak production requirements:
 1. 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;
 2. by setting the level at the top of the uppermost screened interval;

3. in wells completed in fractured aquifers, the lowest practical pumping water level may be above the top of the fracture zone;
4. in wells completed in alluvial aquifers, the lowest practical pumping water level may be defined by a maximum allowable draw down equal to 70 percent of the initial water column.
- e. 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.

5.3 If the subdivider 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 subdivider shall submit a water availability assessment containing the proposed information:

- a. at least one well log from an on-site well or from an existing nearby well completed in geologic conditions representative of the conditions within the proposed subdivision;
- b. a description of the water bearing formation including a statement of the maximum and minimum depths to water in the subdivision and the basis for these statements;
- c. a statement of the estimated yield of wells in gallons per minute based upon well logs from existing nearby wells;
- d. any additional information which is required by the State Engineer Office that will enable it to determine whether or not the subdivider can furnish water in sufficient quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor uses, and whether the subdivider can fulfill the proposals in his disclosure statement concerning water quantity.

APPENDIX A-2
N.M. ENVIRONMENT DEPARTMENT GUIDELINES

Section 1: Water Quality Documentation

- 1.1 For a subdivider to document conformance with the water quality requirements of these guidelines and the New Mexico Subdivision Act, a water quality documentation package shall accompany the preliminary plat submittal. The package shall:
 - a. state the subdivider's name and mailing address;
 - b. state the date the package was completed;
 - c. state the subdivider's proposal for meeting the water quality requirements of these guidelines;
 - d. be accompanied by a copy of the subdivider's disclosure statement on water quality;
 - e. be accompanied by the information listed in sections 1.2, 1.3, and 1.4 as applicable to the water supply proposal; and
 - f. be accompanied by other relevant information as may be necessary for tile determination of compliance with the water quality requirements of these guidelines.

- 1.2 If a new public water supply system is proposed, the following information shall be submitted as part of the water quality documentation package:
 - a. a water quality analysis of 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;
 - b. 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 by tile NM Environment Department may be required;
 - c. the location and description of the source of water sampled for the water quality analysis;
 - d. an engineer's report and preliminary plans for tire proposed public water supply system; and
 - e. maps identifying and showing the location of all potential sources of contamination and the floodplain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed water supply system source.

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

- a. 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;
 - b. a statement of availability of water service signed by an official of the existing public water supply system; and
 - c. an engineer's report and preliminary plans for the proposed water system.
- 1.4 If private water supply systems are proposed, the following information shall be submitted as part of the water quality documentation package:
- a. a water quality analysis of a representative water sample for all the elements listed in 1.3;
 - b. for areas where contamination of the proposed source of water has been documented, a water quality analysis of a representative water sample for other water quality parameters listed by the NM Environment Department may be required;
 - c. the location and description of the source of water sampled for the water quality analysis;
 - d. preliminary plans for the private water supply systems if the systems will serve more than one (1) connection; and
 - e. maps identifying and showing the location of all potential sources of contamination and the floodplain of all watercourses and surface bodies of water within the subdivision and within five hundred (500) feet of the proposed subdivision boundaries.
- 1.5 Documentation of approval for the construction or modification of a public water supply system and from the New Mexico Environment Department will be required before final plat recordation.

Section 2: Water Quality Requirements Conformance with the water quality requirements of this section is required for preliminary plat approval.

- 2.1 The level of contaminant in water which is delivered to any user of a public or private water supply system shall not exceed the maximum containment level (MCL) for any of the contaminants listed by the NM Environment Department. (Table C-2A)

TABLE C-2A

PRIMARY (HEALTH RELATED) CONTAMINANTS (continued)

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

Notes to Table C-2A

- (a) Million Fibers longer than 10um per Liter
- (b) Gross alpha particle activity including radium-226 but excluding radon and uranium
- (c) Combined radium-226 and radium -228
- (d) For systems using surface water
- (e) Treatment Technique (filtration and disinfection) required
- (f) Performance Standard 0.5 NTU to 1.0 NTU

- 2.2 The level of a contaminant in water which is delivered to any user of a public or private water supply system should not exceed the secondary maximum contaminant level (SMCL) for any of the contaminants listed by the NM Environment Department. (Table C-2B)
- a. If the level for any of the contaminants listed by the NM Environment Department exceeds the SMCL, the subdivider must state in the disclosure statement on water quality the name of the contaminant exceeded, the containment level, the SMCL of the contaminant, the expected adverse effects of the contaminant for domestic water use, and the recommended treatment method to reduce the contaminant level to or below the SMCL.
- 2.3 A water supply source shall not be located at less than the setback distances shown in Table C-2C.
- 2.4 The disclosure statement shall contain a statement describing the quality of water available for domestic use within the subdivision.

TABLE C-2B

**SECONDARY (ESTHETIC RELATED) CONTAMINANTS
(determined by the NMED)**

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

Notes to Table C-2B

(a) Sodium concentration exceeding 20 mg/l must be noted in the disclosure statement.

- 2.5 Any changes to state or federal regulations/requirements that are different than those listed above shall become the requirements to be in compliance with this ordinance.

Section 3: Liquid Waste Disposal Documentation

- 3.1 For a subdivider 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. The package shall:
- a. state the subdivider's name and mailing address;
 - b. state the date the package was completed;
 - c. state the subdivider's proposal for meeting the liquid waste disposal requirements of these guidelines;
 - d. be accompanied by a copy of the subdivider's disclosure statement on liquid waste disposal;
 - e. be accompanied by the information listed in sections 3.2, 3.3 and 3.4, as applicable to the liquid waste disposal; and
 - f. be accompanied by other relevant information as may be necessary for the determination of compliance with the liquid waste disposal requirements of these guidelines.
- 3.2 If the subdivider proposes a **new community liquid waste system**, the following information shall be submitted as part of the liquid waste disposal documentation package:
- a. an engineer's report and preliminary plans for the proposed community liquid waste system;
 - b. maps showing the location of all water supply sources and the floodplain of all watercourses and surface bodies of water within one thousand (1,000) feet of the proposed liquid waste treatment and liquid waste disposal site; and
 - c. documentation of the filing of a "Notice of Intent to Discharge" with the New Mexico Environment Department in accordance with the Water Quality Control Commission Regulations.
- 3.3 If the subdivider 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:
- a. a statement of availability of liquid waste service signed by an official of the existing liquid waste system; and
 - b. an engineer's report and preliminary plans for the proposed extension to the existing liquid waste system.
- 3.4 If the subdivider proposes individual liquid waste systems, the following information shall be submitted as part of the liquid waste disposal documentation package:
- a. a soils investigation report (soil survey, soil borings to a minimum depth of eight (8) feet, soil test results and analysis of the soil survey, soil

borings, and soil test results) defining soil depth to bedrock, seasonal high water ground water table or other limiting soil layer, and percolation rate for the soils present within the proposed subdivision;

- b. maps showing the location of all water supply sources and the floodplain of all watercourses and surface bodies of water within the proposed subdivision and within five hundred (500) feet of the proposed subdivision boundaries;
- c. a liquid waste system feasibility map, superimposed on the subdivision plat, delimiting the areas of suitable, limited and prohibitive soil categories as described in Table C-2D; and
- d. preliminary plans for the individual liquid waste systems if a system will serve more than one (1) connection.

- 3.5 Documentation of approval for the discharge from a community liquid waste system from the New Mexico Environment Department will be required before final plat recordation.

Section 4: Liquid Waste Disposal Requirements Conformance with the liquid waste disposal requirements of this section is required for preliminary plat approval.

- 4.1 A community liquid waste system shall be permitted, designed and constructed by the time of first occupancy within the subdivision to comply with the Water Quality Control Commission Regulations.
- 4.2 A community liquid waste system shall be operated, maintained and expanded as necessary to insure that the system will comply with the Water Quality Control Commission Regulations.
- 4.3 The subdivider shall disclose and covenant that all lots within the subdivision must connect to the community liquid waste system at the time of occupancy.
- 4.4 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.
- 4.5 Individual liquid waste systems shall not be installed where an existing community liquid waste system is available for use within the subdivision, in subdivisions or on lots where lot sizes are less than one (1) acre, in prohibitive soils as shown in Table C-2D, or at less than the setback distances shown in Table C-2E;
 - a. Holding tanks shall not be installed if a water supply system is to be used
 - b. Privies (outhouses) and cesspools shall not be installed.
- 4.6 The disclosure statement for the subdivision shall contain a description of the means of liquid waste disposal for the subdivision.

- 4.7 Any changes to state or federal regulations/requirements that are different than those listed above shall become the requirements to be in compliance with this ordinance.

Section 5: Solid Waste Disposal Documentation

- 5.1 For a subdivider to document conformance with the solid waste disposal requirements of these guidelines and the New Mexico Subdivision Act, a solid waste disposal documentation package shall accompany the preliminary plat submittal. The package shall:
- a. state the subdivider's name and mailing address;
 - b. state the date the package was completed;
 - c. state the subdivider's proposal for meeting the solid waste disposal requirements of these guidelines;
 - d. be accompanied by a copy of the subdivider's disclosure statement on solid waste disposal;
 - e. be accompanied by the information listed in sections 5.2 and 5.3 as applicable to the solid waste disposal; and
 - f. be accompanied by other relevant information as may be necessary for the determination of compliance with the solid waste disposal requirements of these guidelines.
- 5.2 If the subdivider proposes solid waste collection by use of an existing solid waste collection service, the following information shall be submitted as part of the solid waste disposal documentation package:
- a. a statement of availability of solid waste collection and disposal service signed by an official of the solid waste collection service;
 - b. the name, location, and owner or operator of the solid waste disposal site used by the collection service.
- 5.3 If the subdivider proposes solid waste disposal by use of an existing solid waste disposal site, the following information shall be submitted as part of the solid waste disposal documentation package:
- a. a statement of availability of solid waste disposal service signed by an official of the disposal site;
 - b. the travel distance from the center of the subdivision to the disposal site.

Section 6: Solid Waste Disposal Requirements Conformance with the solid waste disposal requirements of this section is required for preliminary plat approval.

- 6.1 At the time of first occupancy of the subdivision, the subdivider shall provide for:
- a. disposal of solid wastes at an approved solid waste disposal facility; and

- b. an approved solid waste collection system to collect and transport solid wastes to the disposal facility if the disposal facility is more than five (5) miles from the center of the subdivision.
- 6.2 At the time when five hundred (500) lots of the subdivision are occupied, the subdivider shall provide for an approved solid waste collection system to collect and transport solid wastes to the disposal facility.
- 6.3 The solid waste disposal requirements of this Section may be waived for type four or type five subdivisions if the subdivider discloses and covenants that:
 - a. the lots will not be divided or subdivided to less than ten (10) acres;
 - b. the lots will be restricted to seasonal (part-time) occupancy;
 - c. on-lot solid waste disposal will be limited to solid waste generated on the lot by the lot owner; and
 - d. on-lot solid waste disposal will be done in a manner that does not create a nuisance, create a hazard to public health, or degrade a body of water.
- 6.4 The disclosure statement for the subdivision shall contain a description of the means of solid waste disposal for the subdivision, including the following information:
 - a. for subdivisions in which solid waste collection service is available, the disclosure statement shall include a statement of availability of solid waste collection and disposal service signed by an official of the solid waste collection service;
 - b. for all other subdivisions, the disclosure statement shall include the name of the nearest legal solid waste disposal site or transfer station and the travel distance from the center of the subdivision.

APPENDIX A-3

NEW MEXICO DEPARTMENT OF TRANSPORTATION

Section 1: General Information

To comply with the New Mexico Subdivision Act, the New Mexico Department of Transportation reviews each subdivision submitted, following the recommended guidelines outlined in this document. One (1) coordinating section and five (5) reviewing sections within the department actually handle the subdivision package submitted for review. In order to comply within the new thirty (30) day response time, six (6) copies of each subdivision package must be submitted for timely response.

The coordinating section is the Property Management Unit within the Right of Way Bureau, which receives the subdivision package from the County and then distributes the package to the review sections. The review sections are appropriate District offices, Technical Section, Project Development, Drainage, and Lands Engineering. Comments will be returned to the Property Management Unit of the Right of Way Bureau for compilation. A letter with Department comments will be sent to the appropriate counties for action.

In general, the Highway Department is concerned with how the subdivision is going to affect federal and state highways, specifically the safety of the traveling public and the integrity of the road system within New Mexico.

Section 2: Technical Section Review

- 2.1 Any access to a state highway from a subdivision shall accommodate all emergency vehicles.
- 2.2 Traffic Impact Studies are required for development that generates more than 125 vehicles per day. This means a typical subdivision of 20 or more lots will need a Traffic Impact Analysis if it accesses directly to a state route. Typically, a Traffic Impact Study is required if one has not been submitted and there is a question of need.
- 2.3 In all instances, whether a Traffic Impact Study is submitted or not, the safety and efficiency of the access points onto state routes are the main concern of the department. The Driveway Regulations provide further details.

Section 3: Local District Office Review

- 3.1 Local District review overlaps Traffic Design review in that they follow the Regulations for Driveways and Median Openings on Non-Access Controlled Highways, but are more familiar with the area and have a better grasp of other development in the area for more localized comments.
- 3.2 The local District Office will look at traffic control plans for traffic safety and comment if changes need to be made.

- 3.3 The local District Office will review Traffic Impact Analysis reports and comments.

Section 4: Project Development Review

- 4.1 The Project Development Office is concerned with the impact the proposed subdivision will have on present planned road projects and projected project development.
- 4.2 Project Development will perform a general engineering review of submitted plans.

Section 5: Drainage Review

- 5.1 When the subdivision is abutting the highway, existing drainage should be maintained. The drainage within the highway right-of-way shall not be altered or impeded.
- 5.2 When the subdivision is located upstream of the highway, no additional run-off will be allowed to drain into the highway drainage structures. Historical drainage shall be maintained.
- 5.3 All drainage structures within the highway right-of-way shall be sized for the 50-year design storm.

Section 6: Lands Engineering Review

- 6.1 The Lands Engineering Office reviews land use proposals affecting state highways with respect to survey data, highway right-of-way limits, access control and encroachments.

Section 7 Summary

A copy of the *Regulations for Driveways and Median Openings on Non-Access Controlled Highways* is available at any New Mexico Department of Transportation local District Office and is considered a part of these recommended guidelines for the department's review of proposed subdivisions. The main concern of the department is safety and integrity of all state maintained roads. Our primary responsibility is to build and maintain a statewide transportation network. Cooperation of all agencies and developers to comply with the New Mexico Subdivision Act assists us in accomplishing our mission.

APPENDIX A-4

THE SOIL AND WATER CONSERVATION DISTRICT SHALL DETERMINE:

- 1) Whether the subdivider can furnish terrain management sufficient to protect against flooding, inadequate drainage and erosion.
- 2) Whether the subdivider can fulfill the proposals contained in this disclosure statement concerning terrain management.

A TERRAIN MANAGEMENT PLAN SHALL INCLUDE:

- 1) **VICINITY MAP:** A map drawn to a scale of not more than 2,000 feet to one inch showing the relationship of the site to its general surroundings, and the location of all existing drainage channels, watercourses and water bodies within three miles of the site. This map shall display the topographic contours at 20 feet intervals. (A suitable example would be from a USGS Topographic Map.)
- 2) **NATURAL FEATURES MAP:** A map of the development (at the same scale as the preliminary plat map) showing directly or by overlay:
 - a. the boundaries of the development;
 - b. the existing contours with intervals of not less than two (2) feet where the slope is less than 8 percent and not more than five (5) feet where the slope is 8 percent or greater;
 - c. all areas with natural slopes of 25 percent or greater clearly recorded by scale, line or color.
 - d. the location of all drainage channels, watercourses, water bodies, floodways, flood fringes and floodplains;
 - e. the location of all major rock outcropping, faults and geologic resources; and
 - f. the location of the major vegetation types showing the plant species included and the cover density. This may be accomplished by use of a line map or aerial photo of reasonable clarity taken within the past 12 months, and be of a satisfactory scale with an appropriate legend.
- 3) **SOIL SURVEY:** A soil survey of the site including:
 - a. an overlay of the natural features map showing the location of each soil type. Soil surveys will be in keeping with national standards as set forth by the USDA Natural Resources Conservation Service;
 - b. a description of the soil types. Detailed soil profiles may be required if deemed necessary by the Soil and Water Conservation District; and
 - c. interpretations of the limitations from a detailed soil survey for each soil type for the intended land uses common to the development.

- 4) **GRADING PLAN:** A series of maps, cross-sections and design profiles showing the location and impact of the planned development features to the natural land form (if needed):
- a. An overlay of the Natural Features Map showing the location of all proposed parcels, roads, bridges, water and erosion control structures and the utility easements in relation to the existing contours;
 - b. An overlay showing the finished contours of the development after all proposals have been implemented using contour intervals equal to or less than those on the existing contour map;
 - c. The location of all cuts and fills, including the grades, lengths, and depths thereof displayed using the necessary cross-section and profiles to adequately describe and display the planned action;
 - d. The location of all areas where the natural elevation of the land will be changed by more than three feet;
 - e. The location of all areas where the grading of land will disturb more than 1,000 contiguous square feet;
 - f. Profiles showing the existing ground surface and proposed street grades and typical cross-sections of the proposed grading; and
 - g. Description of methods of stabilization in areas of cut and fill embankment compaction, and revegetation on steep slopes.
- 5) **LANDSCAPING PLAN:** A series of maps or overlays and narratives to identify those areas which will be re-vegetated following disturbance or to enhance the visual aesthetics of the site and the methods to be used (if needed):
- a. Location and type of materials to be used in revegetation and slope stabilization;
 - b. Location of all areas where vegetation will be preserved and a description of the methods that will be used for protection;
 - c. A description of the vegetative characteristics that will be present after revegetation; and
 - d. The plan for site preparation, fertilization, seeding rates, dates and amounts by species, mulching type and amount for both grass, shrubs and trees. If watering is a planned part of the revegetation procedure, a description of the planned irrigation system and amounts of water needed will be included.
- 6) **EROSION AND DRAINAGE PLAN:** This shall include the necessary charts, drawings, location maps and calculations to support the plan (if needed):
- a. A watershed map showing all the upper watershed area draining into or through the site: it should show the watercourses and topographic conditions as well as indicate the soil and vegetative types and their locations within the watershed;
 - b. Storm drainage computations for the 100-year frequency storm both reaching and leaving the site in the pre-development conditions;
 - c. Storm drainage calculations for the post development estimates of runoff after planned full development of the site. This will be displayed to show the estimated runoff before and after any mitigation of the increased flows;

- d. Quantities of water carried by the major watercourses and the proposed treatment of the watercourses. Calculations will be provided for pre and post development;
- e. The location, type and size of all proposed drainage and erosion control structures with adequate detail of the drawings or designs;
- f. The location and size of all drainage easements for all floodplains, floodways, flood fringes, and other natural watercourses along with adequate supporting documentation. Drainage easements are required for all watercourses with 100-year storm flows that exceed 20 cubic feet per second flow rates;
- g. An overlay indicating the depth to ground water in all areas where the seasonal high water table is within twenty (20) feet of the ground surface; and
- h. All appropriate design details necessary to clearly explain the construction of all surface and subsurface structures.

7) **CONSTRUCTION SCHEDULE**

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

**DISCLOSURE STATEMENT REGARDING TERRAIN MANAGEMENT
SHALL INCLUDE:**

- 1) Describe the suitability of the soils in the subdivision for residential use whether permanent or seasonal;
- 2) Describe any measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures;
- 3) Give the location of all lots with land areas within a floodway, flood fringe or floodplain;
- 4) Give the location of all lots located on slopes in excess of 8 percent;
- 5) Describe the subsurface drainage for all lots;
- 6) Describe the surface drainage for all lots; and
- 7) Describe all storm drainage systems including the completion date of any required to be constructed.

APPENDIX A-5

FIRE PROTECTION

The Eddy County Fire Marshall shall review subdivision plans to meet the following criteria:

- 1) A fire protection plan shall be a condition of preliminary plat approval for all nonresidential subdivisions, and subdivisions with community water systems, or of final approval for summary review subdivisions with community water systems.
- 2) For all subdivisions with fire protection, the subdivider shall submit a plat of the proposed subdivision, preliminary plans of the proposed water supply, storage and distribution system, and calculations demonstrating that the proposed fire protection facilities will meet the requirements of these guidelines, prepared by or under the supervision of a registered professional engineer.
- 3) For all subdivisions to be supplied by existing utilities, the letter of intent from the utility to provide water shall disclose fire flows and pressures which will be provided and fire flow storage, if any, which may be apportioned to the subdivision.
- 4) The fire protection system shall be capable of delivering a minimum of 250 gallons per minute to the fire at a residual pressure of 20 pounds per square inch.
- 5) Fire hydrant spacing shall not exceed a distance of 1,000 feet measured along the roadway, and individual hydrants shall not be located more than 500 feet from each parcel.
- 6) All water mains that convey fire flow shall be a minimum of six (6) inches in diameter.
- 7) If firefighting services are available, the subdivider shall disclose the local fire authority having jurisdiction which states:
 - a. the rate in gallons per minute that water may be delivered to the fire by tanker service from the fire authority, if available, and
 - b. the distance and anticipated time of travel from the fire station to the center of the subdivision.

APPENDIX “B”
DISCLOSURE STATEMENTS

APPENDIX B-1

DISCLOSURE STATEMENT

FOR ALL SUBDIVISIONS CONTAINING FIVE OR MORE PARCELS

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

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

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

The Board of County Commissioners has examined this disclosure statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

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

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

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

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

1. NAME OF SUBDIVISION

2. NAME AND ADDRESS OF SUBDIVIDER

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

4. SIZE OF SUBDIVISION BOTH PRESENT AND ANTICIPATED

Present

Anticipated

(number of parcels)

(number of parcels)

(number of acres in subdivision)

(number of acres in subdivision)

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

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

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

(\$ = lowest amount)

(size of parcel sold, leased or conveyed)

(\$ =highest amount)

(size of parcel sold, leased or conveyed)

8. FINANCING TERMS

(interest rate)

(term of loan or contract)

(minimum down payment)

(service charges and/or escrow fees)

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

(closing costs)

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

9. NAME AND ADDRESS OF HOLDER OF LEGAL TITLE

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

10. NAME AND ADDRESS OF PERSON HAVING EQUITABLE TITLE

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

11. CONDITION OF TITLE

Include at least the following information where applicable.

(number of mortgages)

(name and address of each mortgage)

(balance owing on each mortgage)

(summary of release provisions of each mortgage)

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

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

(balance owing on each real estate contract)

(summary of default provisions of each real estate contract)

(summary of release provisions of each real estate contract)

(statement of any other encumbrances on the land)

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

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

(state here all deed and plat restrictions affecting the subdivided land or book and page of filing)

13. ESCROW AGENT

(name of escrow agent)

(address and telephone number)

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

14. UTILITIES

(name of entity providing electricity, if available)

(estimated cost per parcel)

(name of entity providing gas service, if available)

(estimated cost per parcel)

(name of entity providing water, if available)

(estimated cost per parcel)

(name of entity providing telephone, if available)

(estimated cost per parcel)

(name of entity providing liquid waste disposal, if available)

(estimated cost per parcel)

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

(estimated cost per parcel)

15. INSTALLATION OF UTILITIES

(electricity)

(date)

(gas)

(date)

(water)

(date)

(telephone)

(date)

(liquid waste disposal)

(date)

(solid waste disposal)

(date)

16. UTILITY LOCATION

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

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

State whether each utility will be above ground or underground.

	Above ground	Underground
electricity	_____	_____

gas	_____	_____
water	_____	_____
telephone	_____	_____
liquid waste disposal	_____	_____
solid waste disposal	_____	_____

17. WATER AVAILABILITY

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

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

 (describe the means of water delivery within the subdivision)

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

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

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

18. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS

 (name and address of entity providing water)

 (source of water and means of delivery)

 (summary of any legal restrictions on either indoor or outdoor usage)

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

19. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS

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

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

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

(summary of legal restrictions on either indoor or outdoor usage)

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

(recommended total depth of well)

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

20. LIFE EXPECTANCY OF WATER SUPPLY

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

21. SURFACE WATER *

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

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

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

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

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

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

23. WATER QUALITY

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

(describe the quality that would make the water unsuitable for use within the subdivision)

(state each maximum allowable water quality parameter that has been exceeded with the approval of the Board of County Commissioners and the name of the element, compound or standard that has exceeded that parameter)

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

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

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

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

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

25. LIQUID WASTE DISPOSAL

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

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

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

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

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

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

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

27. SOLID WASTE DISPOSAL

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

28. NEW MEXICO ENVIRONMENT DEPARTMENT'S OPINION ON SOLID WASTE DISPOSAL

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

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

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

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

29. TERRAIN MANAGEMENT

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

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

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

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

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

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

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

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

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

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

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

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

31. SUBDIVISION ACCESS

(name of town nearest to subdivision)

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

(describe access roads to subdivision)

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

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

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

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

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

32. MAINTENANCE

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

33. STATE HIGHWAY DEPARTMENT'S OPINION ON ACCESS

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

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

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

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

34. CONSTRUCTION GUARANTEES

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

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

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

35. ADVERSE OR UNUSUAL CONDITIONS

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

36. RECREATIONAL FACILITIES

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

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

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

37. FIRE PROTECTION

(distance to nearest fire station from subdivision)

(route over which that distance is computed)

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

(include a summary of the Fire Marshall's review)

38. POLICE PROTECTION

List the various police units that patrol the subdivision.

(sheriff's department, if applicable)

(municipal police, if applicable)

(state police, if applicable)

39. PUBLIC SCHOOLS

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

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

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

40. HOSPITALS

(name of nearest hospital)

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

(number of beds in nearest hospital)

41. SHOPPING FACILITIES

(description of nearest shopping facilities including number of stores)

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

42. PUBLIC TRANSPORTATION

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

APPENDIX B-2

DISCLOSURE STATEMENT

FOR ALL SUBDIVISIONS CONTAINING NO MORE THAN FOUR PARCELS

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

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

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

The Board of County Commissioners has examined this Disclosure Statement to determine whether the subdivider can fulfill what the subdivider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County or the State. It is informative only.

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

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

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

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

1. NAME OF SUBDIVISION

2. NAME AND ADDRESS OF SUBDIVIDER

3. CONDITION OF TITLE

Include at least the following information where applicable.

(number of mortgages)

(name and address of each mortgage)

(balance owing on each mortgage)

(summary of release provisions of each mortgage)

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

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

(balance owing on each real estate contract)

(summary of default provisions of each real estate contract)

(summary of release provisions of each real estate contract)

(statement of any other encumbrances on the land)

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

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

(state here all deed and plat restrictions affecting the subdivided land or book and page of filing)

5. UTILITIES

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

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

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

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

(name of entity providing liquid waste disposal, if available) (estimated cost per parcel)

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

6. INSTALLATION OF UTILITIES

(electricity) (date)

(gas) (date)

(water) (date)

(telephone) (date)

(liquid waste disposal) (date)

(solid waste disposal) (date)

7. UTILITY LOCATION

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

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

State whether each utility will be above ground or underground.

	Above ground	Underground
electricity	_____	_____
gas	_____	_____
water	_____	_____
telephone	_____	_____
liquid waste disposal	_____	_____
solid waste disposal	_____	_____

8. WATER AVAILABILITY

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

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

(describe the means of water delivery within the subdivision)

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

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

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

9. FOR SUBDIVISIONS WITH COMMUNITY WATER SYSTEMS

(name and address of entity providing water)

(source of water and means of delivery)

(summary of any legal restrictions on either indoor or outdoor usage)

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

10. FOR SUBDIVISIONS WITH INDIVIDUAL DOMESTIC WELLS OR SHARED WELLS

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

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

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

(summary of legal restrictions on either indoor or outdoor usage)

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

(recommended total depth of well)

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

11. LIQUID WASTE DISPOSAL

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

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

12. SOLID WASTE DISPOSAL

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

13. TERRAIN MANAGEMENT

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

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

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

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

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

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

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

14. SUBDIVISION ACCESS

(name of town nearest to subdivision)

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

(describe access roads to subdivision)

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

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

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

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

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

15. MAINTENANCE

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

16. CONSTRUCTION GUARANTEES

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

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

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

17. ADVERSE OR UNUSUAL CONDITIONS

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

18. FIRE PROTECTION

(distance to nearest fire station from subdivision)

(route over which that distance is computed)

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

19. POLICE PROTECTION

List the various police units that patrol the subdivision.

(sheriff's department, if applicable)

(municipal police, if applicable)

(state police, if applicable)

20. PUBLIC SCHOOLS

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

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

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

PASSED AND ADOPTED by the Eddy County Board of Commissioners in an open public meeting in Carlsbad, Eddy County, New Mexico on this 20th day of June, 2006.

EDDY COUNTY BOARD OF COMMISSIONERS

ATTEST

Wilmer "Lucky" Briggs, Chairman

Jean Blenden, County Clerk

I, Jean Blenden, Eddy County Clerk, hereby certify that Ordinance Number O-06-50 being "Eddy County Subdivision Regulations" was passed, approved and adopted by the Eddy County Board of Commissioners on this 20th day of June, 2006.

By: _____
Jean Blenden, County Clerk

My term expires: _____ 12/31/2006 _____