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**COUNTY OF TAOS,
NEW MEXICO**

Land Use Regulations

**Ordinance: 2015-02
Adopted: November 3, 2015**

An Ordinance Adopting Land Use Regulations for Taos
County and repealing certain existing Land Use Regulations

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ARTICLE 1

INTRODUCTION

SECTION 1.1

Title

Section 1.1.1 **Title:** These regulations shall be known and referred to as the Taos County Land Use Regulations.

SECTION 1.2

Authority and Purpose

Section 1.2.1 **Compliance:** The Taos County Land Use Regulations comply with New Mexico Statutes Annotated §§ 3-21-1, et seq., and §§ 4-57-1 to 4-57-3 and §§ 4-37-1, et seq.

Section 1.2.2 **Purpose:** The Taos County Land Use Regulations (“regulations”) regulate development and land use within the jurisdiction of Taos County (“county”), the boundaries of the county being defined in NMSA 1978, § 4-29-1. The regulations create an orderly, harmonious and economically sound framework that promotes public health, safety and welfare in the county. It is the goal of these regulations to preserve open spaces; regulate residential, commercial and industrial locations and densities; enhance and protect environmental and agricultural resources; protect the quality and quantity of the water resources and acequias; protect the public from fire, hazardous materials and other dangers; regulate traffic; support the provision of appropriate infrastructure, including utilities, facilities for transportation, irrigation, sewage, schools and parks; encourage the compatible use of land; support the local economy, and preserve the historic and natural beauty of Taos County.

Section 1.2.3 **Applicability:** These regulations are applicable in the unincorporated areas of Taos County, i.e. lands outside (1) any incorporated municipality in the county, (2) Taos Pueblo and Picuris Pueblo, (3) sovereign lands, and (4) lands owned by the state or federal government. These regulations apply to county-owned lands in unincorporated areas of Taos County. Attached hereto as Appendix 6 are reduced size copies of the Official Zoning Maps for Taos County. The full size originals are filed in the Office of the County Clerk.

Section 1.2.4 **Role of these Land Use Regulations:** These regulations are meant to augment and enhance federal and state laws and other county regulations. These regulations shall apply throughout the county. If more restrictive provisions for a specific overlay zone conflict with other more general provisions of these regulations, the more restrictive provisions shall in all such cases be applied.

Section 1.2.5 **Role of County Ordinances and State and Federal Laws:** All development under these regulations shall comply with all county ordinances, the Taos County Comprehensive Plan, and applicable state and federal laws. A list of current county ordinances that may be applicable to development activities (in addition to the Taos County Land Use Regulations) is available for inspection at the Taos County Planning Department.

Section 1.2.6 **Ordinances Repealed:** Ordinance 2014-01 is repealed. The ordinances creating and amending the Upper Las Colonias Neighborhood Zone, 2003-1 and 2003-7, and the ordinances creating and amending the Stagecoach Neighborhood Zone, 2006-8 and 2010-7, are not repealed and shall remain in full force and effect.

Section 1.2.7 **Effective Date:** This Ordinance shall be effective on the earliest date allowed pursuant to NMSA 1978, § 31-21-14(D).

SECTION 1.3
Duties & Responsibilities of Decision-Making Entities

Section 1.3.1

Planning Director: In administering these regulations, the Planning Director of the Taos County Planning Department (“Planning Department”) shall:

- A. Assign staff to review all development and building permit applications submitted to the county for consistency with these regulations, and with the applicable building codes adopted by the county.
- B. Assign staff to conduct site visits of properties and neighborhoods identified in applications.
- C. Coordinate and provide for the implementation and enforcement of these regulations.
- D. Assure that all applications meet the standards set forth in the regulations, other applicable county ordinances, and Planning Department policies and procedures.
- E. Prepare, or cause to be prepared, findings of fact and analysis of each application for the Board of Adjustment, the Planning Commission, and the Board of County Commissioners.
- F. Attend all meetings of the Board of Adjustment, Planning Commission, and Board of County Commissioners, for which planning and zoning applications and other planning matters are to be heard.
- G. Establish policies and procedures for the review of applications and the implementation of the Taos County Land Use Regulations, subdivision regulations, and other planning and zoning policies, regulations, and ordinances, enacted or authorized by the Board of County Commissioners.
- H. Maintain or cause to be maintained a public record of planning and land use maps, text amendments, minutes of the Planning Commission and Board of Adjustment, any appeals, and all documents related to the administration of these regulations.
- I. Provide for office and clerical support for all matters heard by the Board of Adjustment, the Planning Commission, and the Board of County Commissioners, pursuant to these regulations.
- J. Provide for the identification and inspection of violations of these regulations, associated codes, and ordinances adopted by the Board of County Commissioners, the enforcement of which is hereby delegated to the Planning Department.
- K. Establish and implement, in consultation with the County Attorney, such procedures as may be deemed appropriate and necessary for taking enforcement actions and, when necessary, take enforcement action.
- L. The Planning Director, in his or her sole discretion, may waive any informational requirement of an applicant for a zoning clearance and for an administrative approval, under these land use regulations. The waiver may include otherwise required studies, maps, surveys, records, reports and other submission materials in connection with the application that are not applicable, or are redundant or unnecessary for the Planning Department to evaluate or make a finding with regard to the application. A request for waiver of any permit application requirement must be made in writing by the applicant, concurred in by the reviewing staff member, and approved in writing by the Planning Director. The Planning Director’s written approval shall state the reason(s) the requirement(s) are waived and shall be made part of the permit application.

Section 1.3.2 Board of Adjustment

A. **Powers and Duties.** The Board of Adjustment is hereby created and shall have the following powers and duties:

1. **Variance.** Hear and review, and approve, approve with conditions, or disapprove, applications for variances from performance standards outlined in these regulations, except when such application is made in conjunction with a special use/major development application.
2. **Appeal of Decision/Interpretation of Planning Director.** Hear, and/or review and consider appeals of decisions and interpretations of administrative performance standards made by the Planning Director, and affirm, modify, or reverse such determinations.
3. **Appeal of Decision/Interpretation of Building Official.** Act as a Construction Board of Appeals to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the Building Codes adopted by the county.
4. **Alternate Members of Planning Commission.** A member of the Board of Adjustment shall serve as an alternate member of the Planning Commission if a Planning Commission member must be absent from the meeting or if lack of quorum for a Planning Commission matter or meeting is anticipated. The Planning Director shall make every effort to give a member three (3) days notice of his or her required service as an alternate member of the Planning Commission.

B. Board of Adjustment Membership

1. **Qualifications.** Members of the Board of Adjustment shall be residents of the county and shall be registered voters. No member of the Board of County Commissioners or county employee shall serve as a voting member of the Board of Adjustment. The County Manager, in making recommendations, and the appointing County Commission, in making the appointment, shall take into consideration the education and/or experience of potential appointees in planning, zoning, or land-use matters but shall not be precluded from recommending or appointing individuals without such experience. The Board of Adjustment shall, to the extent possible, reflect a balance of views by the community regarding development. Each year, on or before November 15, a notice shall be published in the Taos News inviting all local residents who wish to be members of the Board of Adjustment to submit a letter of interest, including a statement of qualifications, to the County Manager within thirty (30) days of the date of publication of the notice.

The County Manager shall submit a list of all applicants, a summary of the background and qualifications of each, and recommendations to the Board of County Commissioners as to potential appointees by December 31st.

2. **Appointment.** The Board of Adjustment shall be composed of five (5) members. Each year, on or before January 15, each member of the Board of County Commissioners shall appoint one individual to the Board of Adjustment for one year based on the applications and recommendations presented by the County Manager.
3. **Ex Officio Member.** A County building official shall be an ex officio member of said board but shall have no vote on any matter before the board, and shall not count in connection with a quorum.
4. **Terms of Office.** A member may be re-appointed by the County Commissioner that appointed him or her during the appointing Commissioner's term. The term of a member shall not exceed the term of his or her appointing County Commissioner. The appointing commissioner's successor may elect to reappoint the same member.

5. **Removal from Office.** Any member of the Board of Adjustment may be removed for cause by a majority vote of the Board of County Commissioners.
6. **Vacancy.** Whenever a vacancy occurs on the Board of Adjustment, the member's position shall remain vacant until a new member is appointed by the respective appointing County Commissioner.
7. **Bylaws.** The Board of Adjustment, with the advice of the County Attorney and County Planning Director, shall adopt rules and procedures to govern the voting rights of members and other procedural matters at their first regular meeting of each year. The bylaws shall be reviewed annually by the Board of Adjustment, Planning Director, and County Attorney, and the bylaws and any amendments thereto shall be approved by the Board of County Commissioners and filed for record in the office of the County Clerk.
8. **Meetings.** The Board of Adjustment shall establish and cause to be published a monthly meeting calendar at its first regular meeting of the calendar year. Meetings need not be held, if there is no scheduled business. Special meetings may be called at any time in accordance with the Open Meetings Act of New Mexico and the Board of Adjustment's bylaws.
9. **Quorum.** A quorum of three members shall be present at the meeting and eligible to vote on a matter for the board to conduct business on a matter.
10. **Quasi-Judicial Public Hearings.** The Board of Adjustment, when reviewing variance applications and appeals of a decision or interpretation of the Planning Director or Building Official, shall be acting in a quasi-judicial capacity.
11. **Decisions.** The Board of Adjustment shall make findings of fact and decisions based on an application's completeness and compliance with all county ordinances and applicable state and federal laws. Decisions of the Board of Adjustment shall be filed for record in the office of the County Clerk no later than fifteen (15) calendar days from the date that the decision is made.
12. **Appeals.** Decisions rendered by the Board of Adjustment may be appealed by a party, as defined herein, to the Board of County Commissioners.

Section 1.3.3

Planning Commission: The Taos County Planning Commission (Planning Commission), is created pursuant to NMSA 1978, §§ 4-57-1, et seq.:

- A. **Powers and Duties.** The Planning Commission shall have the following powers and duties:
 1. **Variance.** Hear and review, and approve, approve with conditions, or disapprove, applications for variances from special use and/or major development standards and from other performance standards in conjunction with a special use or major development application.
 2. **Special Use Permit.** Hear and review, and approve, approve with conditions, or disapprove, applications for special use permit.
 3. **Major Development/Master Preliminary Plan Permit.** Hear and review, and recommend approval, approval with conditions, or disapproval, of applications for a major development and/or master plan permits.
 4. **Amendment to the Land Use Regulations.** Recommend amendments to the Taos County Land Use Regulations.
 5. **Amendment to Official Zone Map.** Recommend amendments to the County Zoning Map(s), including all County and Neighborhood Zone Overlays.

6. **Rezoning.** Initiate, hear, review, consider, and give recommendations for approval or disapproval to the Board of County Commissioners on rezoning applications.
7. **Subdivisions.** Hear, review and give recommendations on applications for preliminary plat subdivisions and final approval of summary subdivisions with variances, as set forth in the Taos County Subdivision Regulations, Ordinance 2005-8, as amended.
8. **Comprehensive Plan.** Initiate, hear, review, consider, and give recommendations for approval or disapproval of amendments to the Taos County Comprehensive Plan.
9. **Alternate Members of Board of Adjustment.** A member of the Planning Commission shall serve as an alternate member of the Board of Adjustment, if a Board of Adjustment member must be absent from the meeting or if the lack of a quorum for a Board of Adjustment matter or meeting is anticipated. The Planning Director shall make every effort to give a member at least three (3) days notice of his or her required service as an alternate member of the Board of Adjustment.

B. **Planning Commission Membership**

1. **Qualifications.** Members of the Planning Commission shall be residents of the county and shall be registered voters. No member of the Board of County Commissioners or county employee shall serve as a voting member of the Planning Commission. The County Manager, in making recommendations, and the appointing County Commission, in making the appointment, shall take into consideration the education and/or experience of potential appointees in planning, zoning, or land-use matters but shall not be precluded from recommending or appointing individuals without such experience. The Planning Commission shall, to the extent possible, reflect a balance of views by the community regarding development. Each year, on or before November 15, a notice shall be published in the Taos News inviting all local residents who wish to be members of Planning Commission to submit a letter of interest, including a statement of qualifications, to the County Manager within thirty (30) days of the date of publication of the notice.

The County Manager shall submit a list of all applicants, a summary of the background and qualifications of each, and recommendations to the Board of County Commissioners as to potential appointees by December 31st.

2. **Appointment.** The Planning Commission shall be composed of five (5) members. Each year, on or before January 15, each member of the Board of County Commissioners shall appoint one individual to the Planning Commission for one year, based on the applications and recommendation presented by the County Manager.
3. **Terms of Office.** A member may be re-appointed by the County Commissioner that appointed him or her during the appointing commissioner's term. The term of a member shall not exceed the term of his or her appointing County Commissioner. The appointing commissioner's successor may elect to reappoint the same member.
4. **Removal from Office.** Any member of the Planning Commission may be removed for cause by majority vote of the Board of County Commissioners.
5. **Vacancy.** Whenever a vacancy occurs on the Planning Commission, the member's position shall remain vacant until a new member is appointed by the respective appointing County Commissioner.

6. **Bylaws.** The Planning Commission shall, with the advice of the County Attorney and County Planning Director, adopt rules and procedures to govern the voting rights of members and other procedural matters at their first regular meeting of each year. The bylaws shall be reviewed annually by the Planning Commission, Planning Director, and County Attorney, and the bylaws and any amendments thereto shall be approved by the Board of County Commissioners and filed for record in the office of the County Clerk.
7. **Meetings.** The Planning Commission shall establish and cause to be published an annual meeting calendar at its first annual meeting. Meetings shall be scheduled monthly, but need not be held if there is no business to be heard by the Commission. Special meetings may be called at any time in accordance with the Open Meetings Act of New Mexico and the Planning Commission's bylaws.
8. **Quorum.** A quorum of three members shall be present at the meeting and eligible to vote on a matter for the board to conduct business on a matter.
9. **Quasi-Judicial Public Hearings.** The Planning Commission shall conduct public hearings in quasi-judicial matters including but not limited to, special use permit applications, major development applications, master plan applications, preliminary subdivision applications, subdivision, special use and major development variances.
10. **Decisions.** Planning Commission decisions on non-procedural matters shall be recorded and conducted by roll call vote. Commissioners shall make decisions based on an application's compliance with the regulations and applicable county, state and federal laws and regulations. Decisions of the Planning Commission shall be filed for record in the Office of the County Clerk no later than thirty (30) days from the date that the decision is made.
11. **Appeal of Decisions by Planning Commission.** Decisions rendered by the Planning Commission may be appealed by a party to the Board of County Commissioners.

Section 1.3.4 Board of County Commissioners

Powers and Duties: In addition to any authority granted to the Board of County Commissioners by general or special law, the Board of County Commissioners shall have the following powers and duties:

- A. **Amendment of the Taos County Land Use Regulations.** Hear, consider and approve or disapprove proposed amendments of the Taos County Land Use Regulations, upon the written recommendation of the Planning Commission, the Planning Department, or on its own initiative. Recommendations of the Planning Commission are reviewed *de novo* by the Board of County Commissioners and not by appeal.
- B. **Amendment of Official Zone Maps.** Where applicable within these regulations, the Board of County Commissioners shall hear, review, consider and approve or disapprove applications for amendment to the official zone maps upon the recommendation of the Planning Commission, the Planning Department, or upon its own initiative. Recommendations of the Planning Commission are reviewed *de novo* by the board and not by appeal.
- C. **Rezoning.** Initiate, hear, review, consider and give final approval or disapproval on rezoning applications. Recommendations of the Planning Commission are reviewed *de novo* by the Board of County Commissioners and not by appeal.
- D. **Major Development Review.** Hear, review, consider and approve, approve with conditions, or disapprove major development and/or master plan applications. Recommendations of the Planning Commission are reviewed *de novo* by the Board of County Commissioners and not by appeal.

- E. **Appeals to the Board.** Hear, review, consider, and affirm, modify, or reverse decisions by the Board of Adjustment or the Planning Commission.
- F. **Other Actions.** Take such other action not delegated to the Planning Commission, the Board of Adjustment, or Planning Director, as the Board of County Commissioners may deem necessary to implement the provisions of the County Comprehensive Plan and these regulations.
- G. **Decisions.** Board of County Commission decisions on non-procedural matters shall be recorded and conducted by roll call vote. The Board of County Commissioners shall make decisions based on an application's compliance with the regulations and applicable county, state and federal laws and regulations. Decisions of the Board of County Commissioners shall be filed for record in the office of the County Clerk no later than thirty (30) days from the date that the decision is made.
- H. **Appeals from Board Decisions.** Decisions by the Board of County Commissioners may be appealed by a party to District Court.

SECTION 1.4

Communication Between Applicants and Decision-makers Limited in Quasi-Judicial Matters.

- Section 1.4.1 Quasi-Judicial Proceedings:** Members of the Planning Commission, Board of Adjustment, and Board of County Commissioners may act in quasi-judicial capacities when participating in public hearings under these regulations. As such, only the highest degree of integrity in the process by a member ensures the public's trust in an impartial decision.
- Section 1.4.2 Conflict of Interest:** A member of a decision-making body shall not participate in or vote on any quasi-judicial matter in a manner that would violate an applicant's or party's right to a fair and impartial decision. Impermissible conflicts include, but are not limited to, a member having prejudged or fixed his or her opinion on a matter prior to hearing the evidence and argument of all parties at the public hearing, bias of a member due to disclosed or undisclosed ex-parte communications, family, business, or other associations or relationships of a member with an interested person, when a member is a party, or when a member has a present or potential financial interest in the outcome of the matter. In instances of conflicts of interest, the member shall disclose the conflict of interest on the record and recuse himself or herself from the particular hearing and leave the hearing room for purposes of that hearing. If an objection is raised to a member's participation, and the member has not voluntarily recused himself or herself or refuses to recuse himself or herself, the Chairman and remaining voting members present shall rule on the conflict of interest by majority vote, which vote is final. If the majority determines the member has a conflict of interest, that member shall leave the hearing room for purposes of that hearing.
- Section 1.4.3 Ex Parte Communications:** "Ex parte" communications are communications in which only one party is heard, i.e. without the other party present and without an opportunity for the other party to be heard. Participation in such communications by a member of a commission or board hereunder is prohibited. Members of decision-making bodies shall not engage in communications about applications or appeals or other matters under review or reasonably anticipated to come under review with the parties to quasi-judicial proceedings. An applicant or party shall not engage in like communications with members of the decision-making commission or board, and such communications are also prohibited. All ex parte communications in quasi-judicial matters are prohibited.
- Section 1.4.4 Period of Prohibition:** The prohibition against ex-parte communications shall apply to all applicants and parties and commission and board members hereunder beginning at the moment such applicant, party, commission or board member, has actual notice of the pending matter and never later than such time as notice of the first hearing on the pending matter is published. The prohibition shall remain in effect until the final decision on the matter by any commission or board is rendered in writing and filed and any appeal period has expired or the appeal process is exhausted to completion.

Section 1.4.5 Sanctions: Upon written complaint to the County Attorney that an applicant or party knowingly and willfully engaged in or solicited ex parte or prohibited communications hereunder, further action or hearing on the application or appeal shall be immediately suspended, and a hearing officer shall be appointed by the County Attorney to hold a public hearing on the complaint, the audio of which hearing shall be recorded. An applicant or party who is found by a preponderance of the evidence to have knowingly and willfully violated Section 1.4 of this ordinance during the period of prohibition, may, in the hearing examiner's discretion, be:

- A. Censured by the hearing examiner;
- B. Disallowed from presenting evidence or testimony on the application or appeal;
- C. Subjected to delay of up to one (1) year of the merits hearing; or
- D. Subjected to denial of the application or appeal without a hearing on its merits.

Appeal of the hearing officer's finding and/or sanction is solely to the Eighth Judicial District Court by filing a Notice of Appeal in the district court within thirty (30) days of the filing of the decision of the hearing officer, and shall be pursuant to NMSA 1978, § 39-3-1.1 and Rule 74 of the Rules of Civil Procedure.

Appointees of the Board of County Commissioners serve at the will and pleasure of the Board. Upon written complaint alleging violation of Section 1.4. of this ordinance during the period of prohibition made against an appointee of a member of the Board of County Commissioners, the Board may, in its discretion, hold a public hearing on the complaint. If the Board finds, by a preponderance of the evidence, that an appointed commission or board member violated Section 1.4 of this ordinance during the period of prohibition, the Board may fashion an appropriate sanction, including but not limited to immediate withdrawal of the member's appointment. The decision of the Board of County Commissioners as to an appointee of the Board is final.

SECTION 1.5 **Severability**

Section 1.5.1 The provisions of these regulations are severable, and if any provision, sentence, clause, section, or any part thereof, or its application to a person or in a particular circumstance, is held illegal, invalid, unconstitutional, the illegal, invalid, unconstitutional, or inapplicable provision or provisions shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of these regulations and the application of them.

SECTION 1.6 **Designation of Zones**

Section 1.6.1 County Rural Area Zone: The base zoning for all portions of the County under the jurisdiction of these land use regulations is "County Rural Area".

Section 1.6.2 Taos County Zone Overlays and Neighborhood Zone Overlays

- A. County Zone Overlays and Neighborhood Zone Overlays are addressed in *Taos County Land Use Regulations, Article 5 and Article 6*.
- B. County Zone Overlays and Neighborhood Zone Overlays are county-recognized areas containing additional zoning regulations, overlaid on the County Rural Area zoning in order to preserve and promote unique cultural, historical and neighborhood character of specific areas of the County.
- C. The purpose of the overlays is to allow for traditional activities to continue and to preserve unique community resources, such as view sheds, watersheds, pasture land, acequias, historic town centers and plazas, historic commercial centers and to accommodate growth in a manner that compliments and coexists with these irreplaceable assets. Each Zone Overlay may reflect a different community vision, allowing for rich diversity of residential and commercial options, including density, affordability, lifestyle, shopping and employment opportunities.

- D. All Zone Overlays and their accompanying development standards shall, at a minimum, meet existing land use regulation standards. All Zone Overlays shall be reviewed by the County Planning Department for consistency and compatibility with these regulations as well as other applicable County, State and Federal regulations. Zone Overlays may be approved or approved with modifications or disapproved by ordinance in a public hearing by the Board of County Commissioners after a public hearing and written recommendation from the Planning Commission. Upon approval, a Zone Overlay shall be deemed incorporated into the regulations and identified on the map or maps designated "The Official Zoning Map(s) of Taos County, New Mexico".

SECTION 1.7
Amendments to these Regulations

Section 1.7.1 Amendment Authority

- A. **Board of County Commissioners.** The Board of County Commissioners may, from time to time, and in accordance with NMSA 1978, §§ 3-21-1, et seq., on its own initiative, by application by the public in accordance with this ordinance, or on the written recommendation of the Planning Commission or the Planning Director, amend, supplement or repeal all or any part of these regulations at a public hearing consistent with statutory publication requirements.

- B. **Proposed Amendment.** A proposed amendment shall include the precise wording of the proposed amendment, the reason for the proposed amendment, and a map and narrative identifying what properties would be affected by the amendment.

ARTICLE 2 DEFINITIONS

SECTION 2.1 Use of Definitions

Section 2.1.1 Tense, Interpretation and Source: For purposes of these regulations, certain words and terms are hereby defined. Words used in the present tense shall include the future; words in the singular number shall include the plural number; and words in the plural number shall include the singular number. The word "shall" is mandatory and directive. Any words not herein defined shall be construed as defined in the statutory and common laws of the State of New Mexico, and if not defined therein, then as defined in the current adopted codes of Taos County, New Mexico, and if not defined therein, then in accordance with the most recent edition of Webster's Unabridged Dictionary.

Section 2.1.2 Definitions: The following definitions shall be used in the interpretation and enforcement of these land use regulations:

ABANDONMENT - To intentionally cease the occupancy or use of a property for its approved, permissible or legal non-conforming use for a period of 180 consecutive days or more. For the purposes of these Land Use Regulations, abandonment does not apply to single-family residential properties or structures.

ABUT - To border upon a parcel of land; to share all or part of a common property line with another parcel of land.

ACCESS - A means of entrance to or exit from a property.

ACCESSORY STRUCTURE OR BUILDING - A structure or building located on the same lot or parcel as the principal structure, the use of which is incidental, subordinate, secondary to, and under common ownership with, the principal structure or building.

ACCESSORY USE - Use of land, found on the same lot or parcel as a principle use, that is subordinate, incidental and secondary in size and character to, and related to and customarily associated with, the principal use.

ACEQUIA - Referring to both the irrigation ditch and the organization of parciantes who use the ditch. The acequia transports surface water from its source, e.g. a stream, a spring, watershed, a river, or a reservoir, to irrigate lands used primarily for agricultural purposes. Also, an acequia is a form of public corporation that is a political subdivision of the State of New Mexico. Like all other political subdivisions, acequias are competent to exercise those powers the legislature has delegated to them, expressly or by necessary implication.

ACEQUIA, COMPUERTA - The head gate that diverts water from a stream into the irrigation canal.

ACEQUIA, COMMISSIONERS - Elected officials elected by those having water rights in the Acequia who have general charge and control of all affairs pertaining to the Acequia.

ACEQUIA, EASEMENT - An easement adequate for reasonable maintenance, use, and improvements of an acequia.

ACEQUIA, LINDERO - In most cases, lindero's are smaller ditches that serve one or more owners. The ditches are commonly located between property owners. Some Acequia organizations use this term in the same context as venitas.

ACEQUIA, MADRE - The mother ditch or main irrigation canal diverting water from stream.

ACEQUIA, MAYORDOMO - The individual assigned as the executive officer of the Acequia by the acequia commissioners.

ACEQUIA, PARCIENTE - A member or shareholder of an Acequia, responsible for a share of ditch maintenance proportionate to his or her irrigated acreage.

ACEQUIA, PRESSA - Structure which diverts water from a stream into the irrigation canal.

ACEQUIA, VENITA - Commonly refers to laterals originating from the Acequia Madre or Acequias that deliver water to individual lands. Some venitas have their own commission and collect additional dues to those of the main ditch.

ACRE - A unit of measure of a parcel of land that is 43,560 square feet.

ADJACENT - Any adjoining lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land also, any lots or parcels that abuts or is contiguous.

ADMINISTRATIVE REVIEW - A review and determination by the Planning Director of whether the requirements of these regulations have been met.

AFFECTED AREA - An area which has been, is, or might be impacted by a land use change.

AFFORDABLE HOUSING - As defined by the New Mexico Mortgage Finance Authority (MFA) or the United States Department of Housing and Urban Development.

AGRICULTURE - The production, storage, keeping, harvesting, grading, packaging, processing, boarding, or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental, and greenhouse products; or lands devoted to a soil conservation or forestry management program.

AGRO-INDUSTRIAL - Land use activities combining agricultural and industrial uses, where the primary purpose of the activity is not the growing or raising of food, but the fattening, slaughter, commercial storage or processing of agricultural products.

AHJ - Authority having jurisdiction. Taos County shall be the AHJ for all county building and planning regulations.

AIRPORT; LANDING STRIP - A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair and various accommodations for passengers.

ALCOHOLIC BEVERAGE MANUFACTURING - a commercial business which conducts the sale of alcohol beverages with alcohol content as defined by federal law which is fermented, brewed or distilled on the premises in compliance with applicable state and federal laws. Such establishments may sell alcoholic beverages (wine beer and distilled spirits) on the premises and may also include a restaurant and live entertainment as an accessory use.

ALCOHOLIC BEVERAGE SALES (ON-SITE CONSUMPTION) - The sale of alcoholic beverages for consumption at the place of sale. The approval of this use is contingent upon the acquisition of all applicable state licenses.

ALCOHOLIC BEVERAGE SALES (RETAIL) - The sale of alcoholic beverages for consumption at a location other than the place of sale. The approval of this use is contingent upon the acquisition of all applicable state licenses.

ANEMOMETER - An instrument, usually located on a tower, that measures wind speed.

ANIMAL BOARDING - Medical treatment, breeding, grooming, and overnight accommodation of more household pets than are allowed as an accessory use to a residential use (refer to Taos County Animal Control Ordinance, as amended), but does not include the care, treatment, breeding, or accommodation of large animals such as horses, sheep, or hogs.

ANIMAL CARE - The Animal Care use type consists of medical treatment or grooming care of household pets, but does not include keeping animals overnight for any reason, animal breeding, or the care or treatment of large animals such as horses, sheep, or hogs.

ANTENNA ARRAY - An Antenna Array is one or more rods, panels, discs or similar devices used for transmission or reception of wireless signals, which may include omni-directional antenna (whip or rod), directional antenna (panel) and parabolic antenna (dish). The Antenna Array does not include the Support Structure, defined below, or Existing Vertical Infrastructure to which it is attached.

APPLICANT - Any entity or individual(s) that satisfactorily demonstrates an ownership interest or an authorized agent of an owner of a property, that submits an application to the Taos County Planning Department, and pays the required associated fees for a permit identified in the Taos County Land Use Regulations.

ARCHEOLOGICAL SITE AND ARCHEOLOGICAL FEATURES - An archeological site means a concentration of cultural remains considered to be the location of specific human activities of the past. Archeological features mean non-portable cultural remains including buildings, ruins, storage pits, fire pits, burial sites, work sites, architectural remains or undisturbed layers of deposited materials.

ARCHITECTURAL DESIGN - The basic aesthetic and functional characteristics of a building or group of buildings or structures, including the site and landscape development.

AREA OF NOTICE / MAP - The area within the distance required by the public notice requirements of the Taos County Land Use Regulations.

ART STUDIO -The work shop of an artist, sculptor, photographer, or craftsman.

ARTS & CULTURAL USES - The Arts & Cultural Uses use type consists of the production and sale of arts and crafts, the presentation of music or theater, and similar artistic and cultural activities. The on-site production of goods by hand-manufacturing involving the use of hand tools and small-scale, light mechanical equipment with electric motors that do not exceed five horsepower and that are directly associated with the production of arts and crafts. All uses must comply with applicable local and state building and fire codes for the activity and use group.

ASSISTED LIVING - The Assisted Living use type consists of providing supervised shelter, rehabilitation, and personal care to the elderly and to neglected, abandoned, physically handicapped, developmentally disabled, mentally ill, mentally disabled, and substance- or alcohol-dependent children or adults, under licensure by the appropriate state agency(ies).

ATTACHED WIRELESS COMMUNICATIONS FACILITY("Attached WCF") - An Antenna Array that is attached or affixed to an existing building or structure (including; a utility pole, sign or water tower), along with any transmission cables and accompanying pole or device that attaches or affixes the Antenna Array to the existing building or structure.

AUTHORIZED AGENT - Any individual or entity legally authorized to conduct business with the county on a parcel owner's behalf.

AUTOMOTIVE PARTS SALES - The Automotive Parts Sales use type consists of the sale of parts and products used in automobiles, motorcycles, trucks and similar vehicles, not including the on-site installation of such parts or products.

AUTOMOTIVE REPAIR - The Automotive Repair use type consists of repair services for automobiles and other vehicles, including but not limited to oil changes, tune-ups, wheel alignment, muffler and shock absorber replacement and repair, tire replacement and repair, electric and battery service, glass replacement, reupholstering, body work, and painting.

AUTOMOTIVE SALES - The Automotive Sales use type consists of the sale or long-term lease of new or used automobiles, trucks or motorcycles, and the rental of automobiles or trucks, including onsite outdoor storage of such vehicles for sale or rent.

AUTOMOTIVE SERVICE STATION - The Automotive Service Stations use type consists of gasoline stations, including ancillary convenience retail and auto services. Service stations that contain any repair bays are considered "Automotive Repair."

A-WEIGHTED SOUND LEVEL (dBA) - A measurement of sound pressure level in decibels, which has been filtered or weighted to progressively de-emphasize the importance of frequency components below 1000 Hz and above 5000 Hz. This reflects the fact that human hearing is less sensitive at low frequencies and at extremely high frequencies, relative to the midrange of the frequency spectrum. This area of sensitivity also corresponds to the human speech band. This measurement is the most commonly used filter in both industrial noise applications (OSHA) and community noise regulations

BED AND BREAKFAST - The Bed and Breakfast use type consists of an owner occupied dwelling providing six (6) or fewer guest rooms on a commercial basis for stays of seven (7) or fewer consecutive nights, with no cooking facilities in the guest rooms, and providing food or drink exclusively to guests occupying the facility.

BERM - Any elevation of soil above surrounding grade which may function as a visual barrier. A berm shall be landscaped and maintained to prevent erosion.

BILLBOARD - A sign that conveys information about a location other than the location on which it is located. All signs must conform to Taos County Sign Ordinance 1996-2, as amended.

BOARD OF ADJUSTMENT - The officially appointed Board of Adjustment of Taos County, New Mexico, whose principal duties are to hear appeals and, where appropriate, grant variances and adjustments from the strict application of the zoning regulations, consistent with the Taos County Land Use Regulations.

BOARD OF COUNTY COMMISSIONERS - The elected governing body of Taos County, New Mexico.

BORROW SITE - An area located within a construction easement from which material is extracted for use in conjunction with a federal, state, county, or township road construction project.

BRAKING SYSTEM - The primary braking system, which uses a mechanical brake, pitch-control of the wind turbine blades, or stall-control to bring the wind turbine to a stop in such a way that stall-induced vibrations/noise are avoided.

BUFFER - A strip of land intended to create physical, visual, and/or noise separation between potentially incompatible uses of land.

BUILDING - Any structure built or intended for the support, shelter or enclosure of persons, animals or property of any kind. When any portion of a building is completely separated from any other portion thereof by a division wall without opening or by a firewall, except interior firewalls, then each portion is a building.

BUILDING HEIGHT - Building height is the vertical distance from the center of the front of the building at the undisturbed pre-existing elevation next to the building site to the top of the highest roof or parapet on a flat or shed roof, the deck level of a mansard roof, or the average distance between the eaves and ridge level for gable, hip and gambrel roofs. Excluded from the measurement are attached chimneys, vents, flag poles, solar structures, antennas and other similar equipment that do not exceed 4 feet above the maximum height of 27 feet. Refer to Appendix 5.

BUILDING MATERIAL SALES - The Building Material Sales use type consists of the sale of materials used for the construction of buildings and for landscaping, and the incidental sale or rental of tools. Outdoor storage of such materials and tools is included.

BUILDING PERMIT - A permit issued by the Taos County Planning Department and/or State of New Mexico Construction Industries Division (CID) to an applicant for the construction of a new building or structure, or repairs, alterations or expansion of an existing building or structure. Buildings and structures must be constructed according to all applicable adopted building codes.

BUSINESS AND PROFESSIONAL SERVICES - The Business and Professional Services use type consists of providing services oriented to business matters, including accounting services, legal services, financial services, tax preparation, duplicating, engineering, insurance mortgage, investment services, fax services, messenger services, printing, and janitorial services.

CAFES AND COFFEEHOUSES - The Cafes and Coffeehouses use type consists of serving coffee, other non-alcoholic beverages, and food not prepared on-site, with the exception of bakery goods and may offer occasional entertainment as an attraction for patrons.

CEMETERIES - The Cemeteries use type consists of burial grounds for the interment of the dead. Uses include cemeteries and crematories, columbaria, and mausoleums located within cemeteries, and private, individual or family burial sites.

CERTIFICATE OF OCCUPANCY - A certificate issued by the Taos County Planning Department or New Mexico Construction Industries Division allowing a building to be occupied.

CERTIFIED MAIL - First Class U.S. Postal Service mail sent certified, return receipt requested.

CHURCHES AND COMMUNITY CENTERS - The Churches and Community Centers use type consists of community meeting and cultural facilities; meeting, athletic, recreational, or social facilities of a private fraternal or benevolent organization; and facilities for religious worship with incidental educational or residential use. Uses include fraternal lodges, meeting halls, community centers, libraries, museums, churches, mosques, synagogues, monasteries, convents, and religious retreat centers.

CLEARING AND GRUBBING - Removal of topsoil and vegetation for development purposes.

CLUB, PRIVATE- A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

CO-LOCATION - Use of a common Wireless Communication Facility ("WCF") or common Support Structure by two or more wireless communications license holders or by one wireless communications license holder for more than one type of communications technology, or placement of a WCF on a structure owned or operated by a utility or other public entity, or placement of an Attached WCF.

COMMERCIAL - Any use that involves the manufacture or sale of goods or services, any agro-industrial activity and/or any activity which is designed to generate revenues.

COMMON AREA - The outdoor area accessible to all residents within a development. It may be owned in undivided interest by all the residents of the development or dedicated for acceptance as a park to a Homeowner's Association or, in cases where the county accepts such dedication, to the county. It may remain in its natural state or may be landscaped or improved for passive or active recreational activities. Paved or unpaved areas that may be used or are used for easements, roads or parking automobiles shall not qualify as common open space.

COMMUNITY LIQUID WASTE TREATMENT SYSTEM - A public or private liquid waste (sewage) collection, treatment and disposal system, and all appurtenant improvements that serves more than one residential or commercial unit, as approved by the State of New Mexico Environment Department.

COMMON WATER SUPPLY SYSTEM - A common water supply, treatment, storage, transmission and distribution system, and all appurtenant improvements that serves more than one (1), but not more than six (6) residential or commercial units, as approved by the State Engineer of New Mexico.

COMMUNITY(PUBLIC) WATER SUPPLY SYSTEM - A Public Water System (PWS) is defined as any water system that has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year. All PWS's must meet the requirements of the federal Safe Drinking Water Act (SDWA) and State drinking water regulations. A community water supply system includes a municipal water supply system.

COMPREHENSIVE PLAN - The current "Taos County Comprehensive Plan" adopted by the Board of County Commissioners.

CONCEPTUAL SITE PLAN - A conceptual site plan amended from time to time is a plan relating to concepts or mental conceptions of the proposed development.

CONDOMINIUM - A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

CONSTRUCTION - The duly permitted permanent placing or erection of construction materials into position, including site grading or improvements for roadways. When excavation or removal of an existing structure has commenced in preparation for new construction, such is construction.

CONTIGUOUS - Parcels being in actual contact along a boundary line or separated only by a road, right-of-way or easement.

CORRECTIVE ACTION - Any action required by the Planning Department to ensure compliance with or conformance to these regulations, county ordinances and state law.

COUNTY - Taos County, New Mexico.

COUNTY CLERK - The County Clerk of Taos County, New Mexico.

COUNTY ENGINEER - The County Engineer for Taos County, New Mexico, whether employed or contracted on a consulting basis by the county.

COUNTY MANAGER - The County Manager of Taos County, New Mexico.

COUNTY RURAL AREA - Any area not within an official County or Neighborhood Zone Overlay hereunder or any incorporated municipality or federal lands, state lands, or Indian lands.

COUNTY ZONE OVERLAY - A zone adopted by the Board of County Commissioners other than a Neighborhood Zone Overlay that establishes requirements in addition to those in the County Rural Area.

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COVENANTS - Provisions placed in a deed or other recorded instrument that set out a private agreement regarding the use of land.

CUL-DE-SAC - A street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

C-WEIGHTED SOUND LEVEL (dBC) - The measurement of sound pressure level in decibels, which is designed to be more responsive to low-frequency noise. C-weighting is intended to represent how the ear perceives sound at high decibel levels and is also used for evaluating impact or impulse noise such as demolition or mining blasting, artillery firing and bomb explosions using conventional explosives of less than approximately one ton.

DANCE AND FITNESS STUDIOS - The Dance and Fitness Studios use type consists of the use of space, often before and after normal working hours, for dance, exercise programs, spas, pools and general fitness training.

DAY CARE CENTER - An establishment or facility which has the primary function of providing care, services, and supervision to children for less than twenty-four (24) hours in any day; or any facility, as defined in the Public Health Act, NMSA 1978, § 24-1-1, et seq., that provides child care for seven (7) or more children, in a place other than the child's home, that are under the age of 18, with or without compensation, except the home of a family member who provides day care for family. If there are children less than the age of ten (10) years who reside in the home, they count as children served by the facility.

DAY CARE – RESIDENTIAL - A home business providing care and supervision in a single-family residence where an occupant of the residence cares for six (6) or fewer children less than 18 years of age for periods of fewer than twenty-four (24) hours per day. If there are children less than the age of 10 years who reside in the home, they count as children served by the facility.

DECIBEL (dB) - A unit of sound pressure level measuring the amplitude of sound.

DEFENSIBLE SPACE - An area, either natural or man-made, where material capable of allowing fire to spread unchecked has been treated, cleaned or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur.

DENSITY - The number of families, individuals, dwelling units, households, or housing structures per unit of land.

DEVELOPMENT - The making of any material change in the use or appearance of any structure or land, including construction, reconstruction, alteration, repair, excavation and grading, addition to, location or relocation of any structure, and/or the installation of supporting infrastructure for current or future development, including roads, bridges, utilities, and construction staging areas.

DISCLOSURE STATEMENT - A written document containing such information as the reviewing body shall require allowing a prospective purchaser or lessee to make an informed decision about the purchase or lease of land or improvements to land.

DRAINAGE - The removal of surface water or ground water from land by grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water supply preservation and prevention, or alleviation of flooding.

DRAINAGE CHANNEL - Any significant indentation into which storm water flows along a defined course.

DRAINAGE COURSE - A natural watercourse or indentation for the drainage of surface water.

DRAINAGE EASEMENT - An area of property that is reserved for the drawing off or flowing off of water.

DREDGING - The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

DRIVEWAY - That area of land required to provide vehicular access from the street to buildings or other improvements on a property.

DUPLEX - The Duplex use type consists of two dwelling units on a single parcel within the same structure, each with its own ground floor entrance, sleeping areas, kitchen and bathroom facilities.

DWELLING - A structure or portion thereof that is used for human habitation, including single-family and multi-family, but not including bed & breakfasts, hotels, inns, and motels.

EASEMENT - A right of use through, over and/or under the property of another.

ENERGY PRODUCTION-RENEWABLE - The Energy Production-Renewable use type consists of distributed energy generation systems powered by solar, wind, biomass, hydroelectric or geothermal sources.

EQUESTRIAN FACILITIES - Structures and other improvements for the boarding and care of horses and other equines, including burros, donkeys and mules. Use may include buying, selling and breeding, retail and wholesale hay and feed, ferrier and veterinary services, amateur riding clubs, and other directly related activities. Equestrian facilities must comply with these regulations, the Taos County animal control ordinance, state and federal regulations.

EQUIPMENT FACILITY - An Equipment Facility is any structure used to contain equipment for WCF including cabinets, shelters, and an expansion of existing vertical infrastructure, ice bridges, pedestals or any other similar structures.

EROSION - Soil movement due to wind, water, ice, and/or gravity.

EROSION CONTROL - A man-made structure for preventing or controlling erosion.

EXCAVATING AND GRADING PERMIT - A permit issued by the county required for any excavation or grading activity subject to these regulations and other ordinances, regulations or codes.

EXISTING GRADE - The existing topography of the building footprint or the slope before the start of construction.

EXISTING VERTICAL INFRASTRUCTURE - Existing Vertical Infrastructure is any vertical infrastructure in existence at the time of application, including buildings, utility poles, light poles, signs, towers, monopoles, water towers and tanks, any structure for which a permit has been issued by the county but has not been constructed as long as approval by the county has not expired, and any legal nonconforming structure.

EXTRACTION AREA - Any non-agricultural artificial excavation of earth exceeding 50 square feet of surface area of two feet in depth, other than activity involved in preparing land for earth sheltered or conventional construction of residential, commercial, and industrial buildings, excavated or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone, or other deposits or made by turning, breaking, or undermining the surface of the earth, except that public improvement projects shall not be considered extraction areas.

EXTRACTIVE USE - The use of land for surface or subsurface removal of sand, gravel, rock, minerals, ore, peat and all other subsurface materials.

FAMILY - A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit. For purposes of this ordinance, “family” does not include any society, club, fraternity, sorority, association, lodge, federation, or like organizations; or any group of individuals who are in a group living arrangement as a result of criminal offenses.

FARMERS MARKET - Covered or outdoor markets for the seasonal retail sale of flowers, fruit, vegetables, herbs, seedlings, dairy, meat, honey, jam, etc. that are produced and sold on-site or within the same neighborhood or within Taos County, sponsored as a cooperative or common venture with similar local growers. The sale shall be by the farmers or their employees who have produced the food or flowers. The sale of other types of merchandise including processed and packaged foods and food, nursery plants, landscaping fruits and flowers produced outside the State of New Mexico is not included in this use type.

FCC - FCC shall mean the Federal Communications Commission.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

FILL - Sand, gravel, earth, or other deposits, natural or manmade, on, moved onto, or placed on a parcel of land.

FILLING - The placement of fill on a parcel of land.

FINISHED GRADE - The completed surface of ground, walks, driveways, roads or streets brought to the grade shown on any building or development plans.

FIRE DISTRICT - See “Local Fire District.”

FIRE PROTECTION PLAN - A document, typically prepared by a New Mexico licensed engineer or architect, which describes ways to minimize the fire risk and mitigate the impact on the community’s fire protection delivery plan.

FLOOD FRINGE - All the land in a floodplain not lying within a delineated floodway that is subject to inundation by relatively low velocity flows and shallow water depths.

FLOOD HAZARD BOUNDARY MAP - An official map of an area of Taos County, issued by the Federal Emergency Management Agency, where the areas within the boundaries of special flood hazards have been designated.

FLOOD PLAIN - Land area susceptible to being inundated by water from any source.

FLOOD PLAIN PERMIT - A permit may be required by the Taos County Planning Department that indicates whether a given building site is or is not located within a designated flood plain, as defined and mapped by The Federal Emergency Management Agency.

FLOODWAY - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 25-year flood.

FOOD AND BEVERAGE SALES - The Food and Beverage Sales use type consists of the retail sales of food and beverages, primarily for off-site preparation and consumption. This use type must be combined with the Alcohol Beverage Sales use type in order to sell alcoholic beverages. Uses include supermarkets, grocery stores, or delicatessens.

FREIGHT DISTRIBUTION - Terminals with the capability of handling a large variety of goods involving various forms of transportation.

FREQUENCY - The oscillations per second in a sound wave.

FUEL SALES, OTHER THAN FOR VEHICLES - Any building, land area or other premises, or portion thereof, used for retail dispensing or sales of fuels other than for vehicles.

FUNERAL HOME OR MORTUARY - A building used for preparation of the deceased for burial or cremation and the viewing of the deceased and services connected therewith before burial or cremation is held.

GALLERY - A room, series of rooms, or building devoted to the exhibition and often the sale of works of art or photography or crafts.

GOVERNMENT FACILITY - A structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public.

GREENHOUSE - A building or structure, the roof and sides of which are made largely of glass or other transparent or translucent material, and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for subsequent sale or for personal enjoyment.

GREEN INFRASTRUCTURE - A system that mimics natural processes in order to infiltrate, evaporate or reuse storm water. Green infrastructure uses soils, topography, and vegetation in a way that minimizes the impacts of anthropogenic disturbance and maintains pre-development hydrology and water quality.

HARDWARE STORE/LUMBERYARD AND/OR BUILDING SUPPLIES - A retail establishment selling various items directly to consumers for use at home or business, including a broad range of household supplies, tools, materials for construction of residences, buildings or other structures.

HAZARDOUS WASTE - Anything defined by federal law or regulation or state law or regulation as "hazardous waste."

HEALTH CARE FACILITY - A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity or physical condition including but not limited to a diagnostic center, treatment center, rehabilitation center, nursing home, extended care center, outpatient laboratory, or central services facility.

HISTORICAL CHARACTER - Buildings, structures, appurtenances and places deemed of basic and vital importance for more than 50 years because of their association with history by the New Mexico state historical preservation organization:

HOME OCCUPATION - A business, profession, occupation or trade conducted from a single family residential property that meets the requirements of Section 4.4. Agriculture and/or agricultural industry are not home occupations.

HOSPITALS - The Hospitals use type consists of state-licensed facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, including overnight stays at the facility. This use type includes facilities for inpatient or outpatient treatment as well as training, research, and administrative services for patients and employees.

HOTEL, MOTEL, INN - A facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

HYDROLOGIC STUDY - A systematic assessment of various aspects of the water of a geographic area prepared by a hydrologist certified by the American Institute of Hydrology or licensed by the State of New Mexico.

IMPERVIOUS SURFACE - A surface that substantially reduces or prevents the infiltration of water.

INCOMPATIBLE USE - An actual or proposed use that is inconsistent with or otherwise inappropriate to the existing land uses surrounding the site of the actual or proposed use.

INDUSTRIAL - Fields of economic activity resulting in significant land use impacts, which may include, but are not limited to, manufacturing, transportation, communication, power generation, mining, feed lots, meat processing, cannery, dairy, and similar activities.

INFRASTRUCTURE - Facilities and services needed to sustain all land-use activities, including water and sewer lines and other utilities, streets and roads, communications, and public facilities, such as firehouses, parks, and schools.

INFRASTRUCTURE AGREEMENT - An agreement entered into between a developer and the county setting forth conditions of approval of a development, time limitations to satisfy conditions, and the developer's agreement to comply with conditions, complete infrastructure improvements, and to provide security for completion of improvements.

LANDMARK - A site or structure which possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state, or nation; or is identified with historic personages; or embodies the distinguishing characteristics of an architectural style; or is the work of a designer whose work has significantly influenced an age; or because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood. A site designated by state or federal entity.

LAND RECLAMATION - Activity that is taken during and after development to return the area, to the extent possible, to its natural state or to take actions that would substantially reduce adverse environmental effects particular to a development.

LAND USE - How land is occupied or used.

LEASE - A contract for the use of land, structures, buildings, or parts thereof for a fixed time and consideration.

LEGAL DESCRIPTION - A metes and bounds or other acceptable description of a parcel of land filed in accordance with the requirements of the State of New Mexico and Taos County.

LIVESTOCK RAISING - The raising of animals, other than household pets, for commercial or non-commercial purposes.

LOCAL DISTRICT - Any legally established district in the county, such as soil and water conservation district, water and sewer sanitation district, and fire district.

LOCAL FIRE DISTRICT - The nearest fire department to the property that is responsible for responding to a fire on the property. If applicable for purposes of approval of a fire protection plan, the definition also includes a State or Taos County Fire Marshall.

LODGING - The Lodging use type consists of providing seven (7) or more guest units, with no or minimal kitchen facilities in the units, intended for occupancy on a commercial basis, primarily for seven (7) or fewer consecutive nights. Guest units may be reached either from a common entrance or directly from the outside of the building. This use type includes restaurants or reception facilities operated in conjunction with the hotel or motel.

LOT - A designated parcel, tract, or area of land established by plat, subdivision, deed, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

LOT AREA - An area of land bounded by the lot lines of a lot excluding public right-of way or easements for private right-of-way.

LOT, CORNER - A lot abutting two or more streets at their intersection.

LOT, COVERAGE - The horizontal area of a site that is covered by buildings or roofed areas. Underground structures are not included in lot coverage.

LOT, DEPTH - The mean horizontal distance between the front and rear lot lines.

LOT, INTERIOR - A lot with frontage on only one street or road; a lot other than a corner lot.

LOT LINE - A line dividing one lot from another lot or from a street, road or alley.

LOT LINE, FRONT - The line separating a lot from a public or private road, street, or easement used to access the lot. (The front lot line is not necessarily a boundary line.)

LOT LINE, REAR - That boundary which is opposite and more or less parallel to the front lot line. In the case of an L-shaped or other irregularly-shaped lot where two (2) or more lines are so located, all shall be considered to be rear lot lines, except one within fifty (50) feet of the front lot line or one that is twenty (20) feet or less in length. In the case of a lot that comes to a point at the rear, the rear lot line shall be that imaginary line parallel to the front lot line, not less than ten (10) feet long, lying within the lot and farthest from the front lot line.

LOT LINE, SIDE - Any lot line that is not a front or rear lot line.

LOT WIDTH - The width of a lot at the front setback.

LOW IMPACT AUTOMOTIVE REPAIR AND RESTORATION - A place where four (4) or less automobiles are repaired or restored by an auto mechanic in an accessory structure that is 50 percent of the principle dwelling.

LOW IMPACT DEVELOPMENT - Means an approach to land development or re-development and management that works with nature to manage storm water as close to its source as possible.

MAINTENANCE YARDS - The Maintenance Yards use type consists of the outdoor or enclosed storage of trucks, equipment, and construction or maintenance materials. Minor and incidental repairs of the stored items are also included.

MAJOR DEVELOPMENT - A development designation that uses more than five (5) acres of land or will contain more than 80,000 square feet of gross space (including all floor levels) or has a projected project cost of more than five million dollars(\$5,000,000), excluding the undeveloped value of the land on which the development will take place. A major development is not a single-family residential use or an allowed agricultural use, but it may be multi-family dwellings or condominiums as defined herein.

MANUFACTURED HOME - A manufactured home, or mobile home, is any structure designed for residential use that is transported on its own chassis or similar detachable trailer device, having a measurement of more than thirty-two (32) feet in length and eight (8) feet or more in width. Refer to Taos County Ordinance 2007-7, as amended.

MANUFACTURING - The transformation of materials or substances into new products, including the assembling of component parts. The term covers all mechanical or chemical transformations, whether the new products are finished or semi-finished materials used in some other process or assembly. Manufacturing is usually carried on for the wholesale market. The Manufacturing use type requires a Special Use Permit in all zones. The definition does not include the production or use of these processes for the creation of non-mass produced, commissioned or individualized art or craft pieces in a home-based business, though all building, environmental and safety codes are applicable.

MASTER PLAN - A plan required for a Major Development that is developed in phases.

MAXIMUM ANNUAL WATER REQUIREMENT - The total annual diversion from the source that is required to meet the allowed water use of a development.

MAXIMUM HEIGHT - Maximum height, the maximum allowable height is 27 feet, unless specified differently in Zone Overlays, is measured as the vertical distance from the center of the front of the building at the undisturbed existing elevation next to the building site to the top of the highest roof or parapet on a flat or shed roof, the deck level of a mansard roof, or the average distance between the eaves and ridge level for gable, hip and gambrel roofs. Excluded from the measurement are attached chimneys, vents, flag poles, solar structures, antennas and other similar equipment that does not exceed 4 feet above the maximum height. Refer to schematics in Appendix 5.

MEDICAL CLINICS - The Medical Clinics use type consists of state-licensed facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, but does not include overnight stays at the facility.

MINING - The extraction, excavation, removal, storage, or processing of minerals, soils, sand, gravel, rock, soil, oil, natural gas, coal bed methane, or other materials for commercial or industrial purposes. For the purposes of these regulations, mining shall not include the excavation, removal, or storage of rock, sand, dirt, gravel, clay, or other material for the following purposes: excavation for the foundation, cellar, or basement of some pending structure for which a permit has been issued and which is to be erected immediately following the excavation, removal, or storage;

On-site construction of approved roads, sewer lines, storm sewers, water mains, surface water drainage approved by the local unit of government, agriculture or conservation purposes, sod removal, or other public utilities;

Landscaping purposes on a lot used or to be used as a building site;

Grading/excavation of less than one acre of land in conjunction with improvement of a site for lot development, providing activities will be completed in one year; or

The removal of excess materials in accordance with approved plats or highway construction.

MOBILE HOME - See "Manufactured Home."

MOBILE HOME PARKS - The Mobile Home Parks use type consists of a site where two or more lots are rented or leased, or held out for rent or lease, to accommodate manufactured homes, mobile homes, or recreational vehicles used for human habitation. Mobile Home Parks are also governed by Taos County Ordinance 2005-8, "Subdivision Regulations", as amended.

MODULAR HOME - A prefabricated structure used as a permanent dwelling unit that does not have permanent or temporary axles of its own and that is connected permanently to an on-site foundation made exclusively for that modular home or building.

MORATORIUM - A suspension of activity or an authorized period of delay or waiting. A moratorium is sometimes agreed upon by the interested parties, or it may be authorized or imposed by operation of law.

MULTIPLE FAMILY/MULTI-FAMILY RESIDENCE - Any building or buildings designed for or occupied by, four (4) or more families, including but not limited to quadruplexes or larger, apartments, and condominiums. This use also includes, but is not limited to, four (4) or more stand alone single-family dwellings on one (1) parcel of land. Multiple Family/Multi-Family Residence does not include hotels, motels, tents, recreation vehicles, camper trailers, or other structures designed or used primarily for temporary occupancy. A Multiple Family/Multi-Family Residence must comply with the requirements of the International Building Code as adopted in New Mexico as amended.

NACELLE - The enclosure located at the top of a wind turbine tower that houses the gearbox, generator and other equipment.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) - A permit issued by the New Mexico Energy, Minerals and Natural Resources Department (NMEMNR) for the purpose of regulating the discharge of pollutants from point sources.

NEIGHBORHOOD ASSOCIATION - an organization of property owners and/or residents that has been incorporated under the laws of the State of New Mexico, has recorded its bylaws with the Clerk of the County of Taos, and has been approved by the Board of County Commissioners.

NEIGHBORHOOD ZONE OVERLAY (NZO) - A zone that has been adopted by the Board of County Commissioners at the recommendation of recognized Neighborhood Associations.

NOISE, AMBIENT - The all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominate source.

NON-CONFORMING LOT, LEGAL - An existing lot or parcel that was of a lawful, minimum size prior to the effective date of this ordinance, but which would be prohibited, regulated or restricted under the terms of this ordinance and subsequent amendments to this ordinance.

NON-CONFORMING USE, LEGAL - A permitted use of real property, including improvements thereon, which can be demonstrated by the owner or tenant as having been lawfully established prior to the inception of these regulations, has been in continuous occupancy and uninterrupted use for the applicable purpose(s) between their establishment and the imposition of these regulations, but which no longer conforms to the current zoning law.

NON-COMMERCIAL WIND POWER GENERATION - Wind power generation via a structure no greater than twenty-seven (27) feet in height for one residence with allowed accessory buildings.

OFFICES - The Offices use type consists of offices of firms or organizations providing professional, executive, management, medical, or administrative services not included in any other use type. This use type excludes home offices that otherwise meet the criteria for a home occupation.

OPEN SPACE - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants and their guests of land adjoining or neighboring such open space.

OPERATOR, MINING - Any person or entity engaged in or preparing to engage in mining operations.

ORDINARY HIGH WATER LEVEL OR ORDINARY HIGH WATER MARK - The boundary of "public waters" and "wetlands", an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

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OWNER - Any person or entity that has a legal or equitable interest in real property.

PARK – An area of land, for the enjoyment of the public, usually having facilities for rest and recreation often owned, set apart and managed by a public agency.

PARKING SPACE, OFF-STREET - A space not in a street or alley and having an area of not less than one hundred and eighty (180) square feet or as defined under the current American Association of State Highway and Transportation Officials (AASHTO) standards, exclusive of driveways, permanently reserved for the temporary parking of one vehicle and connected with a street or alley by a driveway which affords ingress and egress for a vehicle.

PARTY - An applicant, a property owner within the area of notice, affected neighborhood association, user(s) of a public recreation area, or a state or federal agency regulating or protecting a governmental interest. A mere interest in aesthetics or a speculative or competitive economic interest is not an interest sufficient to be recognized under these regulations.

PERFORMANCE STANDARD - The specifications to be used and enforced by the county as set forth in the Taos County Land Use Regulations.

PERMIT - Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not allowed without such authorization.

PERMITTED USE - A use permitted in a zoned area which complies with all of the regulations applicable in that zone.

PERSON - Any individual, partnership, firm, co-partnership, joint venture, association, social club, fraternal corporation, corporation, estate, trust, business trust, receiver, syndicate, political subdivision, or other group or combination acting as a unit.

PERSONAL SERVICES - The Personal Services use type consists of services and incidental sales of a personal nature. Typical uses include beauty salons, barbershops, therapeutic massage services, and diet centers.

PHASED DEVELOPMENT - A development in which the proposed project is developed in phases over a period of time.

PLANNING COMMISSION - The officially appointed Planning Commission of Taos County, New Mexico.

PLANNING DEPARTMENT - The department of Taos County that is responsible for the implementation and enforcement of the Taos County Land Use Regulations, Taos County Subdivision Regulations, Taos County building code, and other ordinances and state and federal regulations relating to land use, subdivisions and structures.

PLANNING DIRECTOR - The person hired by the County Manager to manage the Planning Department. For purposes of these regulations, "Planning Director" includes his or her staff and designee(s).

PLANT NURSERIES - The Plant Nurseries use type consists of the sale and cultivation of ornamental trees, shrubs, and plants, including incidental sale or rental of garden and landscape materials and equipment. Outdoor storage of such materials and equipment is included.

POST OFFICE; A post office is a customer service facility forming part of a national postal system. Post Offices offer mail-related services such as acceptance of letters and parcels; provision of post office boxes; and sale of postage stamps, packaging, and stationery.

PRESCHOOL, PRIVATE - The Private Preschool use type consists of providing care and education for children less than six years of age for the purpose of preparing them for public or private elementary school.

PRINCIPAL USE - The primary use of a lot or parcel, which may be either a permitted or administratively approved use.

PRIVATE WIRELESS COMMUNICATIONS FACILITY (Private WCF) - A facility designed solely and specifically for amateur (ham) radio, citizens band radio or other private, non-commercial communications systems or for the user end of a commercial system (i.e., small antennas located on residences so that the occupants may use a wireless service in the residence.

PROJECT IMPACT REVIEW - A review of existing public professional literature, maps and other information regarding possible impacts that may be related to Wind Power Generation development and possible impact mitigation techniques and measures. Such information sources may include, among others, federal, state and local agencies.

PROTECTED WATERS - Any waters of the state as defined by New Mexico or federal regulations. However, no lake, pond, or flowage of less than 10 acres in size and no river or stream having a total drainage area less than two square miles shall be regulated for purposes of these regulations.

PUBLIC FACILITY - Public facility is any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated by a governmental entity.

PUBLIC NUISANCE - A public nuisance consists of knowingly creating, performing or maintaining anything without lawful authority affecting any number of citizens, which is:

1) Injurious to public health, safety, or welfare; or 2) interferes with the exercise and enjoyment of public rights, including the right to use public property.

PUBLIC RIGHT-OF-WAY - The area of land acquired by deed, dedication, reservation by plat, usage, or otherwise created by operation of law, whether in fee simple or as an easement by the County of Taos, the State of New Mexico, or a federal agency, primarily for use by the general public, for utilities, or for the movement of people, goods and vehicles.

PURE TONE - A sound whose instantaneous sound pressure is a simple sinusoidal function of the time and is characterized by a single frequency or singleness of pitch. For the purpose of these regulations, a pure tone shall exist if the one-third octave band sound pressure level in the bandwidth of the tone exceeds the arithmetic average of the sound pressure levels on the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above, and 8 dB for center frequencies between 160 and 400 Hz, and by 15 dB for center frequencies less than or equal to 125 Hz.

QUASI-JUDICIAL - A term applied to the action, discretion, etc., of public administrative officers or bodies, which are required to investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature. Quasi-judicial does not include such activities when the legislative function is being exercised. See Section 1.4.1.

RADIO OR TV STATION - An establishment engaged in transmitting audio or visual programs to the public and that consists of a studio, transmitter and antennas which may be at separate locations.

REAL ESTATE - Land along with improvements to the land, such as buildings, fences, wells and other site improvements that are permanently affixed to the land.

RECREATION - The Recreation use type consists of recreational operations taking place indoors, such as bowling alleys, and outdoors, such as sports fields.

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RECREATIONAL VEHICLE OR SHELTER - A vehicle or shelter designed primarily for temporary use as a portable dwelling unit for travel, recreational, camping purposes or as a temporary residence while constructing a main residence not to exceed 180 calendar days.

RECYCLING-COMMERCIAL - The Recycling Commercial use consists of collecting consumer waste for the purpose of processing and producing recycled products for distribution or resale.

RECYCLING-NEIGHBORHOOD - The Recycling Neighborhood use consists of collecting consumer waste for the purpose of subsequently transporting it to be recycled, and is contained within a screened area of not more than 500 sq ft.

REFUSE - Putrescible and non-putrescible solid wastes including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes that do not contain free moisture.

REPAIR SERVICES - LIMITED - The Repair Services-Limited use type consists of on-site repair and incidental sales of supplies for consumer items such as small household goods, shoes, clothing, watches, cameras, and similar items, conducted within an enclosed building.

REPAIR SERVICES - GENERAL - The use type consists of on-site repair and incidental sales of supplies for large consumer items and business equipment such as furniture, computers, large appliances, and construction tools, conducted within an enclosed building. This use type includes furniture refinishing and repair but excludes maintenance and repair of motorized vehicles or industrial equipment.

RESEARCH & DEVELOPMENT - The Research & Development use type consists of the research, development, and limited production of high-technology electronic, industrial, biological, or scientific products. Typical uses include biotechnology firms and software firms. Management offices and incidental and affiliated services for employees, such as corporate recreational facilities, are included.

RESIDENTIAL CARE - The Residential Care use type consists of providing 24-hour non-medical care in a residential setting for six (6) or fewer people in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living.

RESIDENTIAL USE - A zoning designation to include housing as the principal use and approved associated accessory and ancillary uses directly related to the principal use.

RESTAURANT - An establishment whose primary and predominant business is serving food, alcoholic beverages and drinks prepared and served on-site with associated, incidental uses such as, for example, entertainment.

RESTRICTIVE COVENANTS - Provisions placed in a deed or other recorded instrument that impose limitations on the use of the property.

RETAIL - A business engaged in selling goods, merchandise, or services to the general public for personal, household, or business consumption. Examples include, but are not limited to department stores, supermarkets, drugstores, bakeries, meat markets, liquor stores, hardware, paint and wallpaper stores, camera shops, florists' shops, gift shops, hobby shops, business supplies, stationery shops, bookstores, apparel shops, shoe stores, variety stores, jewelry stores, stores for sales of gardening supplies and equipment, and movie theatres.

RETAIL SALES - REGIONAL - The Retail Sales-Regional use type consists of the retail sale of goods or provision of services not specifically listed under another use type, and which are primarily oriented toward a regional customer base. Typical uses include large department stores, big box retail stores, bulk food and household goods stores, and retail sales from warehouse-type structures.

RETAIL SALES - GENERAL - The Retail Sales-General use type consists of the retail sale of goods or provision of services not specifically listed under another use type, and which primarily sell specialized items or that are primarily oriented to a local customer base. This use type includes stores selling clothing, hardware, books, flowers, jewelry, and furniture that occupy buildings with less than 4,000 square feet of gross floor area.

RE-ZONING - Rezoning is the reclassification of a parcel of land from one zoning district to another zoning district or to allow or prohibit a use not previously allowed or prohibited in a zoning district.

RIDGE LINE - The line or surface along the top of a ridge defining an area from which the surface drops away steeply on one or more sides.

ROAD - Any vehicular or private access, street, alley, highway, easement or way existing by operation of law, platted, recorded or shown on any official map, whether or not such street is actually developed, used or dedicated.

ROTOR - The rotating part of the turbine, including the turbine blades.

RV PARK OR CAMPGROUND - Any lot or parcel of land upon which two or more recreational vehicles sites or campsites are located, established, or maintained for occupancy by recreational vehicles or camping units of the general public as temporary living quarters for recreation or vacation purposes.

RUBBISH - Accumulated non-usable material, which is likely to cause a public hazard or nuisance, or is unacceptably offensive or generally noncompliant with accepted neighborhood aesthetics.

SCHOOLS - Schools use type consists of pre-schools, primary schools, middle schools, or high schools operated by a public agency or private organization.

SEASONAL HIGH WATER TABLE - The highest elevation in the soil where all voids are filled with water, as evidenced by presence of water, soil mottling, or other information.

SELF-SERVE STORAGE FACILITY - A structure containing separate, individual, and private storage spaces of various sizes leased or rented on individual leases for varying periods of time.

SENSITIVE RESOURCE MANAGEMENT - The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SETBACK - The distance between the building and any lot line. Minimum setbacks define the building envelope and establish required yards - front, rear, and side. Boundary fences may be permitted within side and rear setbacks, but not front setbacks.

SEWER SYSTEM AND TREATMENT - The process of removing contaminants from wastewater, including household sewage and runoff (effluents). It includes physical, chemical, and biological processes to remove physical, chemical and biological contaminants. It includes the system for collecting sewage. Its objective is to produce an environmentally safe fluid waste stream (or treated effluent) and a solid waste (or treated sludge) suitable for disposal or reuse (usually as farm fertilizer).

SHOOTING RANGE FACILITY - A shooting range or firing ranges either indoor or outdoor is a specialized facility designed for firearms practice. Each facility is typically overseen by one or more supervisory personnel.

SHOP YARD- A building and or a portion of land that is used by an individual or an organization for the purpose of storing or maintaining equipment or materials.

SIGHT TRIANGLE - A triangular-shaped portion of land established at street intersections and street/driveway intersections in which nothing may be erected, placed, planted or allowed to grow in such a manner as to limit the sight distance of motorists entering or leaving the intersection. Refer to Appendix 5 Schematics.

SIGN - Any object, device, display or structure, or part thereof, situated outdoors or indoors if visible from the outside that is used to convey information by any means, including words, letters, figures, symbols, fixtures, colors, illuminated or projected images, not to include window displays in commercial properties, athletic scoreboards or signage placed by a governmental entity.

SINGLE-FAMILY RESIDENCE - A building or buildings which is occupied or which is arranged, designed, and intended to be occupied, by three (3) or less families including but not limited to triplexes, apartments, and condominiums. This use also includes, but is not limited to three (3) or less stand alone single-family dwellings on one (1) parcel of land. Single-family residence does not include hotels, motels, tents, recreation vehicles, camper trailers, or other structures designed or used primarily for temporary occupancy. A single-family residence shall also include a manufactured home as defined herein that is installed and has received permits in accordance with the provisions of these regulations, and in conformance with manufacturer's guidelines and state and local regulations. A single-family residence must comply with the requirements of the International Building Code as adopted in New Mexico as amended.

SOLAR COLLECTOR - A device, substance or element, or a combination of devices, substances or elements that rely upon sunshine as an energy source and that are capable of collecting not less than twenty-five thousand BTU's on a clear winter solstice day. The term also includes any device, substance or element that collects solar energy for use in:

- 1) the heating or cooling of a structure or building;
- 2) the heating or pumping of water;
- 3) industrial, commercial or agricultural processes; or
- 4) the generation of electricity.

SOLAR ENERGY - Radiant energy (direct, diffuse, and reflected) received from the sun.

SOLAR PANEL - See Solar Collector

SOLAR RIGHT - means a right to an unobstructed line-of-sight path from a solar collector to the sun, which permits radiation from the sun to impinge directly on the solar collector.

SPECIAL USE PERMIT - A permit that runs with the land allowing uses that are not otherwise permitted.

SPECIAL USE DESIGNATION - A land use that requires a special use permit under these regulations.

STALL-CONTROL - A braking mechanism on wind turbines where the rotor blades are bolted onto the hub at a fixed angle. The rotor blade profile is aerodynamically designed to ensure that the moment the wind speed becomes too high it creates turbulence on the side of the rotor blade which is not facing the wind. This stall prevents the lifting force of the rotor blade from acting on the rotor.

STEEP SLOPE - Land with a slope greater than 20%.

STEEP SLOPE DETERMINATION - A determination made by the planning department or a NM licensed engineer or surveyor with regard to any proposed building or development site where the slope is 20% or greater. The slope shall be measured twenty (20) feet beyond the downhill side of the building footprint to twenty (20) feet beyond the uphill side of the building footprint.

STEEP ROAD GRADE - Any grade of any portion of any road or driveway exceeding 12% where a road or driveway is proposed.

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STRUCTURE - A combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

STRUCTURAL CHANGE - Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

SUBSTANTIAL COMPLIANCE - Exists when there has been no willful departure from the terms agreed between the developer and the county, and no omission in essential requirements, and the developer has honestly and faithfully performed and substantially completed requirements made pursuant to the regulations.

SUPPORT STRUCTURE - A structure designed and constructed primarily to support one or more Antenna Arrays (i.e., a tower).

SURFACE/DISTRIBUTION TRANSPORTATION FACILITY; - Establishments furnishing services incidental to transportation, such as forwarding and packing services and arranging of passenger or freight transportation.

TECHNICAL, TRADE OR BUSINESS SCHOOLS- A higher-level learning institution that specializes in providing students with the vocational education and technical skills they need in order to perform the tasks of a particular job.

TEMPORARY USE - An occasional use related and subordinate to the approved principal use of the property conducted for a limited duration with the intent to discontinue such use upon the expiration of the approved time period.

TERRAIN MANAGEMENT - The control of floods, drainage and erosion, and measures required for adapting the proposed development to existing soil characteristics and topography.

TERRAIN MANAGEMENT PLAN - The developer's proposal for the control of floods, drainage and erosion, and planned measures required for adapting the proposed development to existing soil characteristics and topography.

TOWER - With regard to wind energy system, the structure on which the wind system is mounted.

TRACT - See "Lot".

TURBINE - A wind driven machine that converts wind energy into electrical power, also known as a wind energy conversion system.

TURN ABOUT - A section of road used to change or to reverse direction traveled.

UNDISTURBED GROUND ELEVATION - The measured height above a fixed reference point, often the mean sea level prior to any disturbance of the ground.

UNIVERSITY, COLLEGES, POST SECONDARY- An institution of higher (or tertiary), third stage, post secondary education and research which grants academic degrees in a variety of subjects and provides either or both undergraduate education and postgraduate education.

UNSAFE STRUCTURE - A structure or building which, in the determination of the Planning Director, is in a condition presenting a substantial danger or hazard to public health, safety, or welfare, or is a dilapidated building which is unused by the owner or uninhabited because of deterioration or decay, or constitutes a fire hazard or subjects adjoining properties to a danger of damage.

UPWIND ROTOR - A design in which the rotor on a wind turbine tower faces into the wind.

UTILITY - Refers to the set of services provided by these organizations consumed by the public: such as but not limited to electricity, natural gas, water, and sewage, and telephone services.

VACATE - An act of voluntarily rescinding all or part of an approved or permitted development, plat or use by notification to the approving entity, failing to act on an approval within the specified timeframe, or abandoning or discontinuing the use or property in the case of a legal non-conforming use.

VARIANCE - Permission to depart from a literal requirement of this regulation. See Article 9.

VENDING VEHICLE - A vehicle used by individual vendors who offer goods for sale to the public.

VETERINARIAN OR ANIMAL HOSPITAL- A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

VICINITY MAP - A map that shows the area or region near or about a proposed project.

VISUAL IMPACTS - A modification or change that could be incompatible with the scale, form texture, or color of the existing natural or man-made landscape.

WATER BUDGET - The calculated amount of water a household will use.

WATERS OF THE STATE - All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portions thereof.

WATER SOURCE - A river, creek, stream, or other body of water that has definite banks and/or evidences the overland flow of water.

WATER RIGHT - The right of a user to use water from a water source, e.g., a river, stream, pond or source of groundwater. Water rights are regulated by the Office of the State Engineer.

WEEDS AND BRUSH - Any underbrush, brush, shrub or plant material which constitutes a health, safety, and welfare hazard or detracts from the accepted neighborhood aesthetics.

WETLANDS - An area that is inundated or saturated by freshwater, surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances supports, a prevalence of vegetation typically adapted for life in saturated soil conditions.

WILDLAND - URBAN INTERFACE AREAS - Any areas in which structures and other human development meet or intermingle with wildland, forest, or mountainous terrain containing vegetative fuels that present a hazard of wildfires; an area adjacent to an evacuation route for an "at risk" community that requires hazardous fuels reduction for safer evacuation from the community; an area where the watershed is endangered by human development.

WIND ENERGY SYSTEM - A wind driven machine that converts wind energy into electrical power.

WIND POWER GENERATION (WIND FARM), COMMERCIAL - A single wind driven machine or a collection of wind driven machines or turbines that convert wind energy into electrical power for the primary purpose of sale, resale or offsite use.

WIND POWER GENERATION, NON-COMMERCIAL - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power, and is not intended for the commercial sale or transfer of power except for sales of excess power to an electric utility company connected to the turbine. If all applicable regulations are met, Non-Commercial Wind Power Generation may contain more than one wind energy conversion system.

WIND TOWER TOTAL HEIGHT - The highest vertical point on the machine, including the rotor blade tips, measured from the tower base.

WIRELESS COMMUNICATIONS FACILITY (WCF) - A facility used or intended for the transmission of an Antenna Array, connection cables, attachment device, equipment facility and either a support structure or existing vertical infrastructure to achieve the desired elevation.

WIRELESS COMMUNICATIONS FACILITY HEIGHT - The height shall be measured from the average point of the highest and lowest undisturbed adjacent ground elevation or grade next to the Wireless Communication Facility (WCF) to the tallest point of the tower or supporting structure and all projecting antennas or devices above that height, including the height of any buildings the WCF is built upon.

WORKFORCE HOUSING - Low income/moderate income housing as defined by current state and/or federal law.

XERISCAPE - Water-efficient landscapes appropriate to the natural environment.

ZONED AREA - Area(s) where certain land uses are allowed or not allowed, and where certain site plan and development standards are established by Taos County.

ZONING CLEARANCE - A zoning clearance is a written authorization issued by the Planning Department to indicate that a proposed development or use of property is in accordance with the provisions of these regulations, and complies with other applicable federal, state and county requirements.

ARTICLE 3
**LEVELS OF REVIEW, REQUIREMENTS, EXEMPTIONS, LEGAL
NONCONFORMING USES AND EFFECTIVE DURATION**

This Section outlines four land use review categories for the County of Taos. They are Zoning Clearance, Administrative, Special Use, and Major Development. All land use development within Taos County requires notification of and review by the Taos County Planning Department, and an approved permit or variance except uses exempted in Section 3.3. Variances are addressed in Article 9.

SECTION 3.1
Levels of Review

Section 3.1.1 **Levels of Review:** Permits may be subject to one of the following levels of review:

- A. **Zoning Clearance Review.** Any development that requires a building permit under the International Building Codes or required in Section 4.1 (A). This level of review will be reviewed administratively by the Planning Department.
- B. **Administrative Review.** Certain permitted uses require a minimal level of review and can be reviewed administratively by the Planning Department and approved by the Planning Director.
- C. **Special Use Review.** Certain land use changes, because of their nature or location, will have the potential to cause impacts that warrant review by both the Planning Department and the Planning Commission.
- D. **Major Development Review.** Certain land use changes, because of their intensity or location, will have the potential to cause significant impacts on the neighborhood or region that warrant review by the Planning Department, Planning Commission and Board of County Commissioners,

SECTION 3.2
Permit Requirements

Section 3.2.1 **Permit Requirements**

- A. **Permits:** Any change in land use, unless expressly exempt from the permit requirements of Section 3.3.1, shall obtain a permit from the Planning Department before commencing the development or activity associated with the land use change. Permits mistakenly issued or issued on the basis of an applicant's misrepresentations are void.
- B. **Violation:** Failure to obtain any required permit specified in these regulations shall be considered a violation of the regulations, and is subject to enforcement action, to include required compliance, fines, a doubling of permit fees, and such other penalties and remedies as may be authorized under law.
- C. **Deviation from Original Permit:** All permits shall be limited to the specified nature of the request. Any deviation from the original permit request shall require the applicant to submit the changes to the Planning Department in advance. If, in the judgment of the Planning Department, there is a significant deviation from the original permit, a new application by the applicant may be required by the Planning Department.
- D. **Commencement of Projects:** Commencement of a project (including clearing and grubbing of the site and the installation of utilities) shall not begin until all approvals and permits are obtained from the Planning Department in writing. County approvals will specifically state the date work may commence.

Section 3.2.2 **Posting of Permits:** Applicants must post the permit in a location visible from the access road at the site of the development or project immediately upon issuance. The permit shall be posted so as to be readily visible for identification by Planning Department personnel and the public.

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Section 3.2.3 **Posting of Property Address:** The physical street address of the property for which a permit is sought or received shall be posted on the property in a readily visible location from the access road. The sign shall be of a reflective material and lettering identifying the property shall be at least four (4) inches in height.

Section 3.2.4 **Payment of Fees:** Permit applications must be accompanied at the time of submission by the required fee(s). A schedule of fees is available through the Planning Department. Failure to obtain the required permits and pay all related fees prior to commencing development will, at the discretion of the Planning Director, result in a doubling of the original fee for permits, and/or such additional penalties and remedies as may be available to the county and deemed appropriate.

The Planning Director, upon notification and approval by the County Manager, may waive all or part of the fees applicable under this code for development-related applications from either governmental or private charitable entities involving projects that are both of a non-profit nature and for the public good, i.e. affordable housing, community and economic development, day care, health care facilities, emergency services facilities, preservation of open space, historical preservation or restoration, public recreation or public education.

Section 3.2.5 **Multi-Agency Notification Requirements:** In addition to the agency reviews listed in the Planning Department's development application package or within the applicable sections of these regulations for an application, review by additional agencies may be required when submitting applications for review and/or approval for properties located in Zone Overlays, FEMA flood plains, properties bordering federal, state, local government or tribal properties, and sites impacting other jurisdictions or land uses under the jurisdiction of government-designated agencies (designated wetlands, historic properties, endangered species, navigable waterways, etc.). The applicant shall be responsible for any fees that may be imposed by these government agencies for the review of the application and for compliance with any subsequent public notification requirements made a part of that review.

SECTION 3.3

Permit Exemptions, and Legal Non Conforming Uses

Section 3.3.1 **Exemptions from Land Use Permit Requirements:** The following uses and activities are exempt from a requirement to obtain a land use permit review under this ordinance:

- A. **Agriculture**, except structures requiring building permits and excluding agro-industrial as defined in this ordinance.
- B. **Excavations** of fifty (50) cubic yards or less, including areas in which the slope is 20% or greater, for use on-site or non-commercial use by the property owner.
- C. **Utility Easements.** The granting, conveyance or use of private property by agreement between the owner of record and a public or private electric, water, sewer, cable, telephone or natural gas provider for the purposes of service to an individual owner of said property. This does not include commercial transmission lines, natural gas pipelines and other commercial systems intended to serve multiple properties, unless approved as part of the county subdivision or plat approval process.

Section 3.3.2 **Legal Non-conforming Use:** A land use which was lawful before Taos County Land Use Regulations were passed, or under an existing Land Use Regulation, but which would be prohibited, regulated or restricted under the terms of new regulations and subsequent amendments of the regulations, is permitted. The land use must not have been abandoned.

- A. **Replacement or Expansion.** Any replacement or expansion of a nonconforming use or the structure housing it (other than a single-family residence or residential accessory structure) shall require that a written request be submitted to the Planning Department for determination as a legal nonconforming use that may be continued, and determination as to whether the project is exempt from requirements for a permit in accordance with the following criteria:

1. **Required Letter of Determination.** An existing and continuous, uninterrupted use determined to be a legal non-conforming use shall be provided a letter of determination as such by the Planning Department, and shall be allowed to continue, as follows:
 - a. **One-time expansion of less than 25%.** Any expansion(s) of a legal non-conforming use of less than an aggregate of 25% of its original size or footprint (established at the time the use became non-conforming), shall require an administrative permit.
 - b. **Expansion of More Than 25%.** Any expansion(s) of a legal non-conforming use that would increase its original size or footprint (established at the time the use became non-conforming) in excess of an aggregate of 25%, or any such increase(s) in its livable or usable space, shall require an Administrative Permit, Special Use Permit or Major Development Permit as otherwise required by this ordinance.
 - c. **Replacement of Less Than 50%.** A legal nonconforming use that is damaged or destroyed to an extent of less than 50 percent of the most recent county assessor's full value or fair market value of the structure at the time of destruction may be restored to its original use, size, height and footprint, but shall meet all current building code requirements applicable to the project.
 - d. **Replacement of More Than 50%.** A legal non-conforming use that is damaged or destroyed beyond 50% of the most recent county assessor's full value or fair market value of the structure at the time of destruction shall apply for an Administrative Review Permit to restore or continue the previous use, which shall meet administrative review performance standards and the current building code requirements applicable to the project.
- B. **Abandonment of Use.** A legal non-conforming use (other than a single-family home) which, by the intentional acts of the owner, has not been occupied or utilized continuously for that use as its principal use for a period in excess of 180 days shall be considered to have been abandoned and shall not be entitled to be expanded, reconstructed or continued without application for and approval of an Administrative Permit, Special Use Permit or Major Development Permit by the county, as may be applicable under the current Land Use Regulations, and at that time shall meet all other current regulations and codes, including the building code(s) applicable to the project.
- C. **Consistent Use.** A legal non-conforming use (other than a single-family residence or residential accessory structure) which, by the intentional acts of the owner, has not been occupied or utilized continuously for that use as its principal use for a period of 180 days or less shall not be considered to have been abandoned and shall be entitled to continue the legal nonconforming status; or the use may change to another use only if the new use is of the same or less impact as the previous non-conforming use. If the change in the use is of greater impact than the previous non-conforming use, such use shall require an Administrative, Special Use or Major Development Permit as otherwise required by this ordinance. Determinations to allow the change or require an Administrative, Special Use or Major Development permit shall be made by the Planning Director.
- D. **Single –Family Residence or Residential Accessory Structure.** A and B shall not apply to a single-family residence or residential accessory structure.
 1. **Zoning Clearance.** Any replacement or expansion of a legal non-conforming single family residence or residential accessory structure shall only require a zoning clearance permit.
 2. **Replacement.** The replacement of any portion of a legal non-conforming single-family residence or residential accessory structure that is destroyed or damaged shall comply with all building codes in effect in Taos County at the time a zoning clearance is sought for the replacement.
 3. **Expansion.** Any expansion of a legal non-conforming single-family residence or residential accessory structure shall comply with both these Land Use Regulations and all building codes in effect in Taos County at time a zoning clearance is sought for the expansion.

Section 3.3.3 **Legal Non-Conforming Lot:** An existing lot or parcel that was of a lawful minimum size as of the effective date of this ordinance, but which is prohibited, regulated or restricted under the terms of this ordinance and subsequent amendments, is permitted. A legal non-conforming lot shall not be restricted from development, unless it was restricted by virtue of lot size prior to the adoption of this ordinance. Nothing in this section shall permit development prohibited or otherwise regulated by state or federal regulation or by other county regulations.

SECTION 3.4
Permit Effective Duration

Section 3.4.1 **Permit Effective Date:** A permit shall take effect upon issuance of written approval that is signed and dated by the representative of the appropriate reviewing body, unless an appeal is filed as provided in and pursuant to Article 10: Appeals herein. A permit is suspended at such time as an appeal is filed and such suspension shall remain in effect until the appeal process is finally resolved. Applicants are cautioned that from the date of a written decision granting a permit, the applicant proceeds at his or her own risk until the time period to appeal the decision has expired.

Section 3.4.2 **Revocation, suspension, extension, transferability and duration**

- A. **Notice of Non-Compliance.** In any case where the conditions of a permit have not been or are not being complied with, or the terms of any law or ordinance are violated in connection therewith, the Planning Director shall give written notice to the applicant of the County's intention to suspend or revoke the permit; and within 30 calendar days following the mailing of such notice, the Planning Commission shall conduct a hearing thereon at which the Planning Commission shall either reinstate the permit (with or without additional conditions) or revoke the permit.

- B. **Transferability.** A valid land use development permit granted pursuant to this section shall be transferable to subsequent owners of the site for which the permit is granted, unless the condition or conditions of use have been rendered nonconforming, or the use ceased and is deemed abandoned. The owner, or future owner, may additionally transfer the right, upon Administrative Review and approval, to use the property for a less intensive use than the use approved for that property, as long as no new non-conformities or public health or safety problems are created by the new use.

- C. **Effective Period.** Table 3.4.2.D governs the effective period in which to complete any development and initiate the permitted use of any permit. The effective period of any approval or permit begins on the date of the issuance of the permit (as identified on the permit). The effective periods listed below require the applicant to fulfill the conditions of the intended use or to demonstrate substantial progress or unanticipated and unmitigatable hardship in order to receive consideration for an extension. The county has no mandate to offer or grant any extension. Exceeding the effective time period shall require submittal of a new application and approval for a new permit.

D. **Table 3.4.2.** A person or persons building a residence with a Taos County Homeowner's Permit is exempted from completion time limits herein.

PERMIT	Effective Period	Extension(s)	Approval Entity for Extension
Zoning Clearance Permit	24 mo.	6 mo. (limit of two)	Planning Department
Manufactured Housing	12 mo.	6 mo. (limit of one)	Planning Department
Administrative Permit	24 mo.	6 mo. (limit of two)	Planning Department
Special Use Permit	24 mo.	6 mo. (limit of two)	Planning Commission
Major Development Permit -- Recommendation by Planning Commission	6 months	90 days (limit of one)	Planning Commission
Major Development Permit -- Approval to Completion of Construction	24 mo.	6 mo. (limit of two)	County Commission
Master Plan Development -- Recommendation to Approved Master Plan	6 months	90 days (limit of one)	Planning Commission
Master Plan Development -- Approved Master Plan to Completion of Construction	5 years	1 year (limit of one)	County Commission

ARTICLE 4 PERMIT REQUIREMENTS

SECTION 4.1 Permit Requirements

Section 4.1.1 Permit Requirements

- A. The following uses only require Zoning Clearance permitting:
1. Single family residential construction not located on a slope having a grade greater than a 20%.
 2. Manufactured Homes.
 3. Any development requiring only a building permit under the International Building Codes as amended.
 4. Home Occupations as defined in this Ordinance.
 5. Temporary uses as defined in this Ordinance.
 6. Non-commercial wind power generation.
 7. Non-commercial solar power generation.
 8. Non-Commercial excavation and grading.
 9. Non-commercial burial of immediate family members on private land.
 10. Those uses designated as Zoning Clearance under any Zone Overlay.
- B. The following uses require an Administrative permit:
1. Non-residential permissive uses allowed under this ordinance or a Zone Overlay.
 2. Public parks and recreation.
 3. Public facilities and infrastructure including but not limited to firehouses, schools, libraries and utilities.
 4. Development on a slope of 20% or more as determined by the Planning Department not within a high impact WUI area.
 5. Those uses designated as Administrative under any Zone Overlay.
- C. The following uses require Special Use permitting unless it meets or exceeds Major Development thresholds:
1. Those uses designated as Special Use under any Zone Overlay
 2. Multi-family residences unless designated as permitted under any Zone Overlay.
 3. Any development within wetlands as defined by ordinance
 4. Any commercial development within the WUI Map as published by the Planning Department.
 5. Development on a slope of 20% or more within a high impact WUI area
 6. Any expansion of a previously approved Special Use permit,
 7. Any expansion in excess of 25% of an existing non-conforming use as defined in this ordinance other than a single family residence or accessory structure.
 8. Condominium development, except those permitted under any Zone Overlay or meeting the definition of single-family residence.
 9. Wireless communication facilities or equipment installation.
 10. Commercial wind power generation.
 11. Commercial solar power generation.
 12. Commercial, Industrial or Manufacturing operations.
 13. Any commercial mining operation including, but not limited to, the extraction and sale of gravel products such as pit run and any other commonly sold sand and gravel product.
- D. The following uses require Major Development permitting:
1. A development designation that uses more than five (5) acres of land; or
 2. A development that contains more than 80,000 square feet of gross space (including all floor levels); or
 3. A development that has a projected project cost of more than five million dollars (\$5,000,000), excluding the undeveloped value of the land on which the development will take place.
 4. A major development is not a single-family residential use or an allowed agricultural use, but it may be multi-family dwellings or condominiums as defined herein.

SECTION 4.2
Zoning Clearance, Application

Section 4.2.1 Zoning Clearance Application Requirements

- A. **Application Submittals.** Applications shall be submitted to the Planning Director by the owner(s) of the property that is the subject of the application, or his or her authorized agent.
- B. **Application.** The following are required for an application:
1. **Application Form.** Application forms shall be obtained from the Planning Department. The application shall include the name of the proposed development or use, and the total number of acres. Completed application forms and accompanying materials shall be submitted to the Planning Department by the owner or the owner's authorized agent.
 2. **Deeds.** The applicant shall submit the deed to the property.
 3. **Applicant Is Not The Owner.** If the applicant is not the owner of the land, the applicant shall submit a notarized letter signed by the owner consenting to the submission of the application by the non-owner.
 4. **Applicant Is Not The Sole Owner.** If the applicant is not the sole owner of the land, the applicant shall submit a notarized letter signed by the other owner(s) or an authorized representative of the owners, consenting to or joining in the application.
 5. **Taos County Taxes, Fees and Penalties.** The applicant must submit a receipt(s) demonstrating that all taxes, fees, and penalties to Taos County associated both with the property and the property owner, e.g., property taxes, solid waste fees, and code violation penalties, are paid and current.
 6. **Notification and Approvals.** The applicant shall, with his or her application, obtain, submit, and provide evidence to the Planning Department of notifications to and approvals required from other entities such as pueblos, sovereign nations, state, federal, local government agencies, neighborhood associations and acequia associations, as applicable.
 7. **Buildable Lot.** Verification that the site is a buildable lot under the International Building Codes as amended, all other County Ordinances, these regulations, state regulations, federal regulations and that adequate legal access from a public road has been obtained from the required state, county, or federal agency, and/or private owner(s).
 8. **Site Plan.** Applications shall include a site plan that is prepared at a scale acceptable to the Planning Director and that conveys the conceptual aspects of the plan. The site plan must have the following elements:
 - a. The name, address and telephone number of the property owner, applicant (if not the owner), and the person(s) who prepared the submittal.
 - b. Date of preparation or revisions, written scale, graphic scale, and north arrow (designated as true north).
 - c. A complete legal description and physical address of the property, including the total size of the parcel.
 - d. Clearly identified boundary lines, corner pins, dimensions of the subject property, and distance of structures from property lines.
 - e. Location and dimensions of all structures that are existing and proposed.
 - f. Existing and proposed driveways, with locations and dimensions including all proposed grading for the property.

- g. Existing and proposed roads, railroad tracks, irrigation ditches, fences, existing and proposed utility lines, and easements and rights-of-ways on or adjacent to the parcel, shown by location and dimensions.
 - h. Significant on-site features including: natural and artificial drainage ways, wetland areas, ditches, hydrologic features (with flooding limits based on information available through the county) and aquatic habitat; significant geologic and hydrologic features and hazards, as appropriate.
 - i. Description of the proposed wastewater treatment system, including location and size of leach field, sewer service lines, and treatment facilities of the proposed use.
 - j. Description of the source and capacity of the water supply, including location and size of well(s) and/or water lines to serve the proposed use.
 - k. Additional information that may be requested by the Planning Department.
9. **Posting of Notification.** Notice of the application shall be prominently posted on the property pursuant to the requirements of Article 7.

Section 4.2.2 Zoning Clearance Review Procedures

- A. **Review of Application Materials.** The Planning Department shall review the application for determination of completeness in accordance with the standards of Section 4.3. Within fifteen (15) working days of receipt of the application, the Planning Director shall notify the applicant in writing as to whether the application is complete.
- B. **Incomplete Application.** If the application is not complete, the Planning Department shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied.
- C. **Evaluation.** Upon determination of completeness, the Planning Department shall perform a review of the application for compliance with the performance standards set forth in Section 4.3. The Planning Department will conduct a site visit on all applications to assure compliance with setbacks and other applicable standards.

Section 4.2.3

Planning Director Decision: The Planning Director shall approve, approve with conditions, or deny an application for a permit subject to Zoning Clearance review, based upon compliance of the proposed use with the performance standards set forth in Section 4.3. In addition, in order to grant the permit, the use must be determined, in the discretion of the Planning Director, to be consistent with the purposes of these regulations set forth in Section 1.2. The Planning Director shall inform the applicant of the approval, conditions of approval, or basis for denial of the application, in writing, not later than thirty (30) days from the date the application has been deemed complete. On the date that the Planning Director's decision is sent to the applicant, the Planning Director shall also cause it to be posted on the property for a period of at least thirty (30) days the fact that the application has been approved, approved with conditions or denied shall provide with a description of the right to appeal, the appeal procedure and the appeal deadline. The size and location requirements of Section 7.1.3 shall apply. If, in the process of reviewing the application, questions or facts come to light that require verification, clarification, or additional information in order to render an informed or fair decision, the Planning Director or his or her designee shall inform the applicant, in writing, as soon as the need for verification, clarification, or additional information is identified. The above-required time frame for review will be considered suspended during the period that the Planning Department is waiting for a response by the applicant.

Section 4.2.4

Appeal of Zoning Clearance Review Decision

- A. **Request for Review by Board of Adjustment.** An applicant or other party, as defined herein, may request review by the Board of Adjustment of a zoning clearance review decision by filing a written notice of appeal, pursuant to Article 10.

- B. **Consideration of Applicant's Request for Review by the Board of Adjustment.** Upon receiving the applicant's or other party's notice of appeal, the Planning Director or his or her designee shall schedule a hearing before the Board of Adjustment at a public meeting, not more than forty-five (45) calendar days from the receipt of the applicant's or other party's request for appeal. Upon proper notice in accordance with Article 7, the Board of Adjustment shall conduct a hearing in accordance with the provisions of Article 10. The Board of Adjustment shall uphold the Planning Director's or designee's decision, modify the decision, or reverse the decision, and file its written decision within thirty (30) calendar days after the conclusion of the hearing, as well as any process and time frame for appeal, in accordance with Article 10. An endorsed copy of the decision shall be mailed to the applicant, and other party (if applicable), on the day of its filing.

SECTION 4.3

Zoning Clearance Review Performance Standards

Section 4.3.1

Zoning Clearance Review Performance Standards: In the case of a Zoning Clearance Review the Planning Director shall have the discretion to determine the applicability of the following performance standards based upon the nature of a particular project and its impact on the surrounding area. Unless a different performance standard(s) is directed in a Zone Overlay, the following performance standards must be met in order for an application to be approved:

- A. **Property rights (deed/lease).** The applicant shall produce evidence of all property rights necessary to conduct the activity.
- B. **Water and Wastewater.** The applicant shall provide written evidence that the requested use(s) shall be served by water systems approved by the New Mexico State Engineer, and wastewater systems approved by the New Mexico Environment Department to serve the activity.
- C. **Utilities.** The applicant shall provide written evidence of availability of utilities required for the development.
- D. **Wildland Urban Interface (WUI) areas.** If the property is within a high risk county designated Wildland and Urban Interface area, the applicant shall present a fire risk management plan
- E. **Water Quality Protection.** The use shall not cause significant degradation of the quality of surface or groundwater resources as specified by the State of New Mexico Environmental Department standards.
- F. **Sight Triangle Area.** Objects shall not block the line of site consistent with the definition of Sight Triangle Area and Appendix 5 schematics.
- G. **Maximum Height.** Maximum height is twenty-seven feet (27') measured consistent with its definition herein. Refer to schematics in Appendix 5.
- H. **Wetlands.** Any proposed development on a tract which contains wetlands shall be limited to the development of areas within the applicant's tract which are not wetlands. Developments on tracts that contain wetlands shall adhere to all federal, state, Taos County Soil and Water Conservation District, and all other governmental and acequia regulations or requirements.

I. **Limits Table.**

LIMITS: Zoning Clearance, Administrative, Special Use and Major Development	Less than 2ac.	2 ac. or more	COMMENTS
Maximum Parcel Coverage	80% for commercial, 60% for residential, or as approved in the development site plan and plat	75% for commercial, 60% for residential, or as approved in the development site plan and plat	Includes buildings, parking, roadways, driveways, patios, courtyards, walkways, utilities and any other improvements, except landscaping.
Minimum Setbacks: ¹ Front Side Rear	20 ft. 20 ft. 20 ft.	35 ft. 30 ft. 30 ft.	A minimum of 35 ft. is required from the right-of-way of all public roadways, and 30ft. from all other parcel boundaries.
Minimum Residential Setbacks: ¹ Front Side Rear	20 ft. 10 ft. 10 ft.	20 ft. 10 ft. 10 ft.	
Minimum setback from acequias, and legal lateral (venitas) acequias ²	20 ft.	50 ft. commercial 20 ft. residential	Measured from the nearest bank of acequias.
Minimum setback from water sources, streams, wetlands, springs etc.	85 ft. commercial 40 ft. residential	150 ft. commercial 40 ft. residential	Measured from the nearest bank of streams, springs, or from wetlands
Maximum developable slope	20%	20%	If > 20% see section 4.14

- (1) Setbacks do not apply to fences, except for the front lot line.
(2) More or less if established in acequia bylaws.

- J. **Solid Waste Disposal.** All applicants shall register with Taos County Solid Waste Department, as per the current Taos County Ordinance 2010-5, the Taos County Solid Waste Ordinance, as amended.
- K. **Archeological Sites.** Developments shall not encroach upon known sites. If a site is discovered, all construction shall cease immediately and the Planning Department and NM State Historic Preservation Office (SHPO) shall be contacted.
- L. **Lighting.** All artificial light sources shall, at a minimum, be in compliance with the current Taos County Dark Skies Protection Ordinance No. 2006-9, as amended.
- M. **Grade.** Access roads or driveways shall not exceed a finished grade of 12%. If an applicant cannot achieve a finished grade of 12%, the applicant may install a fire protection water storage system as per the specifications or may install a sprinkler system throughout the residential structure (attached to a sufficient water source for effective operation) on the property, as an alternative to obtaining a variance. A variance is required, if the applicant refuses one of these alternatives.
- N. **Storm Water Control.** No development shall cause erosion. Applicant shall contain all storm water run-off or drainage, on the property, If a violation occurs prior to or during construction, the applicant will be issued a stop order until the run-off or drainage is in compliance and approved by the Planning Department. For development that plans on disturbing (clearing, grading, and excavating activities) more than 1 acre, including the cumulative area of disturbance from smaller sites in a larger common plan of development or sale, the applicant shall provide documentation of coverage under a legally required federal Clean Water Act NPDES storm water construction permit.

- O. **Flood Plain.** The development shall be in accordance with the Taos County Flood Damage Prevention Ordinance No. 2009-01, as amended, as certified by the County Flood Plain Manager.
- P. **Legal Access and Driveways.** The applicant shall provide written evidence of legal access. For uses fronting public roads, evidence of compliance with the standards of the New Mexico Department of Transportation (NMDOT) or Taos County Public Works Department shall be provided. All accesses to and from the proposed site or use shall be safe and in conformance with applicable County, Federal and State access, transportation, and safety standards. Refer to Taos County Ordinance 2002-3, as amended.
- Q. **Rural Addressing.** The applicant for the proposed use shall obtain or show evidence of a county-approved address, as per the current Taos County Rural Addressing Ordinance, Ordinance 2006-3, as amended.
- R. **Acequias.** No acequia, whether on-site or off-site, shall be disturbed in any way by building development or construction activity unless approved or deemed approved by the acequia commission. See Summary of Limits Table in I. above and the following:
 - 1. All applications for development on a parcel containing an acequia, or a parcel within 20 feet of the nearest bank of an acequia, shall be submitted by the applicant for review by the applicable acequia commission. The acequia commission has thirty (30) calendar days upon receipt of the application to respond. Failure of the acequia commission to respond within thirty (30) calendar days shall be deemed approved.
 - 2. An acequia shall remain open and uncovered, absent express permission to the contrary by the Acequia commission, be readily accessible for use and maintenance, be unobstructed from fences, culverts or other impediments, and acequia easements recognized by New Mexico law shall be honored.
- S. **Fences.** Fences not over 6 feet high are exempt from land use permit requirements and building permit requirements. Fences in excess of six feet but not greater than ten feet shall require a Taos County approved building permit. All fencing, whether or not requiring a land use or building permit, shall comply with Appendix Five – Site Triangle Area. Fences in excess of ten feet are prohibited.
- T. **Additional Performance Standards.** Planning Department may require adherence to Special Use performance standards when applicable.

SECTION 4.4

Home Occupation, Temporary Use Permit, Non-Commercial Wind Power, Non-Commercial Solar Energy, Non-Commercial Excavation and Grading and Application, Review, and Development Performance Standards

Section 4.4.1 Home Occupation, Non-Commercial Wind Power, Non-Commercial Solar Energy, Non-Commercial Excavation and Grading and Temporary Use Permit Standards

These developments are subject to review and application requirements in addition to those set forth in Sections 4.2.1 and 4.2.2, and performance standards in addition to those set forth in Section 4.3.1. The following additional performance standards shall be made a part of the application and shall be complied with:

Section 4.4.2 Home Occupation Standards. Any home occupation must meet the following, in addition to the requirements of Section 4.3.1.

- A. No more than two (2) full-time/part-time employees, other than members of the family residing on the premises.
- B. A home occupation shall not exceed the lesser of 1,000 square feet or fifty percent (50%) of the floor area of the primary residential structure in which the home occupation is to be conducted at the time of permitting.

- C. The storage of materials associated with a home occupation shall be screened from the view of adjacent properties by fencing or other type of enclosure and the materials shall be stored in a manner that does not create a threat to health, safety, public welfare or a nuisance.
- D. An accessory structure which is utilized for a home occupation shall not utilize more than fifty percent (50%) of the accessory structure floor area, unless the accessory structure is the lesser of than 1000 square feet or fifty percent (50%) of the size of the primary residential structure.
- E. The use of the primary residential structure or accessory structure for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupant(s).
- F. There shall be no change in the outside appearance of the building or premises, nor other visible evidence of the conduct of the home occupation, except for one non-illuminated name plate sign that is six (6) square feet in area or less.
- G. Parking for employees, customers, and clients of the home occupation shall be provided off-street, that is, any vehicles or equipment associated with the business shall not be parked or stored on a public or private street, alley, drive, or other access to the property.
- H. No more than two (2) vehicles associated with the home occupation may be parked or stored on the property, unless it can be demonstrated that the additional vehicles are garaged and that they do not create an adverse impact on the neighborhood and its surrounding character.
- I. Deliveries and pickups by tractor-trailers to a home occupation business, for home occupation purposes, shall be restricted to Monday through Friday during the hours of 8:00 a.m. to 5:00 p.m.
- J. No equipment or process shall be used which creates a nuisance or adversely impacts the existing uses and properties in the neighborhood.
- K. The business shall comply with all applicable federal, state, and county laws, ordinances and regulations.
- L. A residence with day care facilities serving six (6) children or less is allowed for use as a home occupation.
- M. Retail sales shall be limited to those products produced by the person with the home occupation. Parts incorporated into repairs need not be manufactured by the person with the home occupation.
- N. A residence with the short term (less than 30 days) residential rental of no more than three rental units is allowed for use as a home occupation.
- O. It is unlawful for any person to engage in business or offer for sale any goods or services without first obtaining a tax number from the New Mexico Taxation and Revenue Department. Such tax number shall be prominently displayed and evidence thereof shall be provided to the Planning Department at the time of application.
- P. All home occupations shall have a current Taos County business registration.

Section 4.4.3 Temporary Use Permit Performance Standards

- A. **Temporary Uses Requiring a Permit.** Short-term, commercial musical events held outdoors or under a temporary structure for not more than three (3) days.
- B. **Limitations on Number of Temporary Use Permits Per Year.** No property owner shall be allowed more temporary use permits in a calendar year than, in the discretion of the Planning Director, is deemed advisable for purposes of enforcing these regulations.

- C. Any temporary use permit (“TUP”) granted under these Land Use Regulations or any companion ordinance by the County to be enforced under these regulations must meet all applicable requirements, unless one or more are waived in writing by the Planning Director as being inapplicable to the proposed use. The requirements are:
1. If the event is to take place on county property, proof of comprehensive general liability insurance in the minimum amount required by tort claims damage limits of the State of New Mexico naming Taos County as a third party insured.
 2. The name, telephone number, and exact location where the individual(s) in charge of the event can be reached.
 3. A Taos County Business Registration is required for each business to be conducted under a TUP and the licensed events listed and posted on each booth, trailer or stand. If a single business registration is to be utilized to cover all activities under the TUP, a copy shall be provided at the time of application and (along with the TUP) posted at a prominent location at the main entrance to the approved activity or location. It is unlawful for any person to sell any food or drink without first obtaining a food and drink permit from the New Mexico Environment Department. Such permit shall be prominently displayed at each booth, trailer or stand.
 4. It is unlawful for any person to engage in business, or offer for sale any goods or services without first obtaining a tax number from the New Mexico Taxation and Revenue Department. Such tax number shall be prominently displayed at each booth, trailer or stand.
 5. The Fire Chief with jurisdiction, County Code Compliance Officer, or Sheriff are empowered to revoke or suspend a TUP, in the event that he/she determines that a violation of fire codes, a violation of these regulations, or other threat to the health, safety and welfare of the citizens exists.
 6. Applicants desiring a TUP that are not the owner of the property shall first obtain written authorization from the owners of all properties covered by the permit, or their agent(s).
 7. An applicant shall be required to provide portable toilets, if such event will serve more than fifty (50) visitors. The number of portable toilets and the location of such portable toilets shall be approved by the Planning Department. The applicant shall ensure that the portable toilets are cleaned daily, and are maintained in a safe and sanitary manner. The county will require that one of every four portable toilets be accessible to the handicapped.
 8. An applicant shall be required to provide sufficient portable dumpsters for the disposal of trash and garbage generated at the event. The dumpsters shall be emptied as needed to prevent odors and litter
 9. If requested by the Planning Department, a security plan shall be provided for the events as a part of the TUP application. If required, by the Planning Department the number of security personnel and hours of coverage must be approved in advance by the Taos County Sheriff. The applicant shall be responsible for the coordination and the cost of providing these services.
 10. The county shall approve the days and hours of operation. The use must be an occasional use of the property and the Planning Department shall determine what frequency or intensity satisfies the definition of a temporary use or becomes substantial enough in impact as to constitute an expansion of use requiring a Special Use Permit.
 11. The applicant shall submit a plan for and be solely responsible for the provision of adequate parking and traffic control.
 12. The Planning Director may impose any additional conditions required to ensure the health, safety, and public welfare of the community, and shall take into account the past history of the event and the applicant, when imposing any conditions.

13. Ticket sales shall be limited to accommodate parking capacity of the applicant.
14. The Planning Director may, in his or her sole discretion, impose a decibel limitation consistent with the public health, safety and welfare.

D. Requirements for Booths, Vendor Trailers, Tents and Stands

1. A five (5) pound ABC fire extinguisher shall be required of each vendor that prepares any food through the use of electrical or gas products.
2. A Five (5) pound ABC fire extinguisher shall be required to be placed at each entrance and exit of any tent in which entertainment or seating are present, and for display tents larger than 20 feet x 20 feet.
3. An appropriately sized and sealable trash receptacle placed within or at the rear of the stand or trailer shall be required of each vendor that prepares food products. A separate trash receptacle shall also be required at the front or service counter of each stand or trailer for the disposal of refuse by customers. The trash receptacles shall include recycling bins.
4. It is unlawful for any vendor to dispose of garbage or grease on any public street, sidewalk, in storm drains, or on any public or private property. It shall be the responsibility of each vendor to dispose of such garbage, or grease, at an approved sanitary landfill.
5. It is unlawful for any vendor to connect to an electrical system that does not meet all applicable electrical codes.
6. All vendors that cook and offer food for sale that would generate grease and are connected to a sewer or septic system are required to have an approved grease trap.

Section 4.4.4 Non-Commercial Wind Power General Standards

- A. Non-commercial wind power generation shall be considered an accessory structure and shall be permitted in any area under the jurisdiction of the Taos County Land Use Regulations by the issuance of an approved administrative permit. The approval of the administrative permit is subject to compliance with the standard application requirements and all of the following non-commercial wind power generation requirements:
1. **Maximum Height.** The height shall not exceed 27 feet measured consistent with its definition herein. Freestanding non-commercial apparatus and apparatus mounted on existing or new structures shall not exceed 27 feet, inclusive of turbines.
 2. **Setback.** The wind energy system shall be set back a distance equal to one hundred and ten percent (110%) of the combined height of the tower plus the length to the tip of the blade from all adjacent property lines. Additionally, no portion of the small wind energy system, including guy wire anchors, may extend closer than twenty feet (20') to the property line.
 3. **Clear Zone.** The wind energy system shall maintain a circular clear zone that has a radius which is equivalent to one hundred and ten percent (110%) of the combined distance of the tower height plus the length to the tip of the blade. This clear zone shall be maintained free of any occupied structures, tanks containing combustible/flammable liquids, and above ground utility/electrical lines.
 4. **Noise.** Wind energy systems shall not exceed a noise level of 60 dB, as measured at any adjacent property line. The noise level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

5. **Tower Security.** Any climbing apparatus must be located at least 12 feet above the ground, and the tower must be designed to prevent climbing within the first 12 feet.
6. **Lighting.** For the protection of the flight patterns of aircraft and the protection of heliports, airports and landing strips, wind energy systems must be lighted in accordance to the regulations and guidelines of the Federal Aviation Administration (FAA) or other appropriate government authorities. No other artificial lighting shall be allowed. Lighting mandated by FAA or other appropriate government authorities shall not be subject to the Taos County Night Sky Ordinance.
7. **Signs/Advertising.** No tower shall have any sign, writing, or picture that may be construed as advertising.
8. **Multiple Wind Energy Systems.** Multiple wind energy systems are allowed on a single parcel as long as the owner/operator complies with all non-commercial wind power generation provisions of these regulations. Units shall be installed in compliance with minimum setback and site triangle requirements. The minimum distance between wind energy systems shall be equivalent to one hundred ten percent (110%) of the combined height of the tower plus the blade length.
9. **Approved Wind Turbines.** At the time of application, the applicant must present a certification from the manufacturer that the system's turbine and other components equal or exceed the standards of one of the following national certification programs: California Energy Commission, National Electrical Code (NEC), American National Standards Institute (ANSI), Underwriters Laboratories (UL), or any other small wind certification program recognized by the American Wind Energy Association.
10. **Onsite Electrical Use.** On the administrative permit application, the applicant must certify that the power generation will not be for the sale or transfer of electrical power for commercial purposes, other than sale of excess power to the electric utility connected to the turbine
11. **Compliance with FAA Regulations.** Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
12. **Compliance with the National Electric Code (NEC).** Administrative permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.
13. **Plans - Compliance of Wind Energy System Plans with (IBC) International Building Code.** Administrative permit applications for non-commercial wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the ICBO Building Code and certified by a New Mexico Licensed Professional Engineer shall also be submitted.
14. **Installation - Compliance of Wind Energy System Installation with ICBO Building Code as amended.** Property owner must submit a written statement verifying the proposed wind energy system was installed in accordance with the ICBO Building Code as amended.
15. **Utility Notification.** No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

16. **Removal of Unsafe or Abandoned Wind Energy Systems.** Any wind energy system found to be unsafe by the Planning Department shall be repaired by the owner to meet federal, state and local safety standards or removed within one hundred twenty (120) calendar days of written notice by the Planning Department. If any wind energy system is not operated for a continuous period of twelve (12) months, the County will notify the landowner by registered mail and provide forty-five (45) calendar days for a response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the County deems the timetable for corrective action unreasonable, it must notify the landowner and such landowner shall remove the turbine within one hundred twenty (120) calendar days after receipt of such notification.

Section 4.4.5 Non-Commercial Solar Energy. This Section only applies to solar generation for small-scale private individual or neighborhood cooperative production and not to large-scale or for-profit commercial applications.

- A. **Defined.** For purposes of these regulations, solar energy shall be defined as photovoltaic and (PV) systems and systems used to produce hot water or hot air (solar thermal systems).
- B. **Codes.** The solar energy system shall meet all applicable county and state building, plumbing, mechanical, and electrical codes.
- C. **Interconnections.** A photovoltaic system intended to be connected to the electric utility grid shall not be operated until the electric utility provider has been notified in writing of the machine owner's intent to interconnect, the appropriate written approvals have been granted by the electric utility and NM State Construction Industries Division (CID) has inspected and issued written approval.
- D. A building permit is required. A plan must be submitted showing the framing and any proposed alteration along with panel support of the system.
- E. Freestanding non-commercial apparatus and apparatus mounted on existing or new structures shall not exceed 27 feet.
- F. Electrical, plumbing, and mechanical permits must be obtained, if required.
- G. The maximum area covered by solar panels may not exceed the square footage of the roof of the principal structure whether placed on the roof or elsewhere.

Section 4.4.6 Non-Commercial Excavation and Grading Standards: Grading operations shall be in accordance with adopted building codes and the following requirements:

- A. **General.** This section is intended to provide the community with fair and equitable grading practices, and is additional to the requirements of any other ordinance or code.
- B. **Protection of Utilities.** All laws and regulations promulgated to protect public utilities or services from damages by the applicant's non-commercial excavation and grading shall be observed by the applicant.
- C. **Protection of Adjacent Property.** Adjacent properties shall be protected from damage caused by grading operations. No person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley, or other public or private property, without supporting and protecting such property from any damage that might result.
- D. **Inspection Notice.** The code official shall be notified at least 24 hours prior to the start of work.

- E. **Temporary Erosion Control.** Precautionary measures necessary to protect adjacent watercourses and public or private property from damage by water erosion, flooding or deposition of mud or debris originating from the site shall be taken. Precautionary measures shall include provision of properly designed sediment control facilities so that downstream properties are not affected by upstream erosion.
- F. **Traffic Control and Protection of Streets.** Flaggers, signs, barricades and other safety devices to ensure adequate safety when working in or near public streets shall be provided.
- G. **Hazard from Existing Grading.** Whenever any existing excavation, embankment or fill has become a hazard to life or limb, endangers structures, or adversely affects the safety, use, or stability of a public way or drainage channel, such excavation, embankment or fill shall be eliminated.
- H. **Tracking of Dirt onto Public Streets.** Adequate cleaning of equipment to prevent the tracking of dirt and debris onto public streets shall be provided.
- I. **Maintenance of Waterway and Irrigation Canals.** Precautionary measures to protect and maintain the flow of waterways and irrigation canals shall be taken.
- J. **Re-vegetation.** The loss of trees, ground cover, and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, graded areas shall be protected to the extent practical from damage by erosion by planting grass or ground cover plants and/or trees. Such plantings shall provide for rapid short-term coverage of the slopes as well as long-term permanent coverage. A plan by a registered design professional shall be provided where required by the Planning Department.
- K. **Design Standards.** The grading design standards required herein shall be those found in the latest version of the International Building Code, as amended adopted by Taos County.
- L. **Reclamation Plan.** A reclamation plan, acceptable to the Planning Department, shall be submitted as a requirement of the application.

Section 4.4.7 Non-Commercial Burial of Immediate Family Members on Private Land

Immediate Family Members: as defined in the County Subdivision Ordinance.

General: Compliance shall be required with the applicable Zoning Clearance Review performance standards in Section 4.3 and all applicable federal, state and local statutes and ordinances.

SECTION 4.5

Administrative and Special Use Application Review Procedures

Section 4.5.1 Administrative or Special Use Pre-application Conference: All Administrative and Special Use applications require a pre-application conference.

- A. **Participating Parties.** Pursuant to this section, a pre-application conference shall be held between the applicant (or the applicant’s agent as designated in writing) and the Planning Director or the Planning Director’s designee.
- B. **Purpose.** The meeting is intended to provide an understanding of the applicable review procedures, requirements and standards, and to obtain information pertinent to the site and the proposal. The Planning Director or staff will explain the application procedures and the materials required for submittal.
- C. **Materials.** The applicant shall provide at the meeting a conceptual site plan showing the location, parcel size, and basic concept of the proposed land use in sufficient detail as to disclose the full scale of the project being proposed.

Section 4.5.2

Administrative or Special Use Application Submittal Requirements: The following are the minimum requirements for an Administrative or Special Use permit application. For certain types of Administrative or Special Use permit applications, there are additional application submittal requirements and procedures. The Planning Director will determine the number of copies of the materials that will be required. The Planning Director may waive or alter any of these minimum requirements if they are determined to be inappropriate or unnecessary to determine whether the application satisfies applicable standards. The following information and data are required:

- A. **Application Form.** Application forms for special use permits shall be obtained from the Planning Department. Applications submitted shall include all information identified by the Planning Department on the application, and as may be required for the proposal. Completed application forms and accompanying materials shall be submitted to the attention of the Planning Director by the owner of the property for which the permit is being requested or the owner's authorized agent.
- B. **Deeds.** The applicant shall submit a complete copy of the deed, deed restrictions, and conditions, covenants and restrictions (CC&Rs) for the subject property, if any. Deed restrictions and CC&R's are required to evaluate the project's compliance with the Development Compatibility Standards of Section 4.7.1, not to enforce deed restrictions and CC&R's. Taos County does not enforce private deed restrictions and CC&R's.
- C. **Affidavit of Compliance.** An Affidavit of Compliance is required for all applications located within a County approved subdivision stating that either there are no deed restrictions and/or CC&Rs, or the application is in full compliance with existing deed restrictions and/or CC&Rs. The Affidavit of Compliance is required to evaluate the project's compliance with the Development Compatibility Standards of section 4.7.1, not to enforce deed restrictions and CC&R's. Taos County does not enforce private deed restrictions and CC&R's.
- D. **Applicant Is Not The Owner.** If the applicant is not the owner of the land, the applicant shall submit a notarized letter signed by the owner consenting to the submission of the application.
- E. **Applicant Is Not The Sole Owner.** If the applicant is not the sole owner of the land, the applicant shall submit a notarized letter signed by the other owner(s) or an authorized representative of the owners consenting to or joining in the application for a special use permit.
- E. **Notification and Approvals.** The applicant shall, with his or her application, obtain, submit, and provide evidence to the Planning Department of notifications to and approvals required from other entities such as pueblos, sovereign nations, state, federal, local government agencies, neighborhood associations and acequia associations, as applicable.
- G. **Elevation drawings** created by a NM licensed architect, if deemed necessary by Planning Department showing existing grade, finished grade, and height of the proposed structure above undisturbed existing grade. The location and dimensions of all windows must also be included on each of the elevations.
- H. **Storm and Drainage plan** created by a licensed NM engineer or architect.
- I. **Buildable Lot.** Verification that the site is a buildable lot under the International Building Code, all other County Ordinances, these regulations, state regulations, federal regulations and that adequate legal access from a public road has been obtained from the required state, county, or federal agency, and/or private owner(s).
- J. **Agreement to Assure Completion of Infrastructure,** which demonstrates that the project is adequately funded and scheduled to reach operational status.

- K. **Taos County Taxes, Fees and Penalties.** The applicant must submit a receipt(s) demonstrating that all taxes, fees, and penalties to Taos County associated both with the property and the property owner, e.g., property taxes, solid waste fees, and code violation penalties, are paid and current.
- L. **Additional information** that may be requested by the Planning Director.
- M. **Cultural Properties.** The Planning Department shall contact the State Historic Preservation Office (SHPO) to determine whether property entered into the State Register of Cultural Properties is within the boundary of the proposed development. The Planning Department communication with SHPO shall be by email with return receipt requested. If there is no response from SHPO within 45 days of receipt of the Planning Department email, it shall be presumed that there are no cultural properties within the proposed development boundaries; and
1. If there is no such property, a copy of the letter to that effect from SHPO or a memorandum by the Planning Department of no SHPO response shall be provided in the application packet for approval; or
 2. If any such property exists within the boundaries of the proposed development, a copy of the letter to that effect from SHPO shall be provided in the application packet for approval. Taos County will consult with SHPO pursuant to the Cultural Properties Act, NMSA 1978, §§ 18-6-1 through 18-6-17; and
 3. A cultural resource survey shall be prepared by a professional archeologist holding a current New Mexico Archeological Survey license to determine if significant archeological sites are identifiable prior to commencement of construction. If significant archeological sites are identified in the cultural resources survey, the requirements in Appendix 4 shall be met by the applicant.
- N. **Area of Notice Map.** The applicant shall use the maps, maintained by the Taos County Assessor, to identify the subject properties and all property owners as per Section 7.1.5.
- O. **Vicinity Map.** An 8 ½" x 11" vicinity map locating the parcel in the county shall be included with all applications. The vicinity map shall clearly show the location of the subject property, the area within a one-mile radius of the subject property, and the following:
1. Major traffic arteries;
 2. Major public facilities;
 3. Location of existing municipal boundary lines (if applicable); and
 4. Existing open space.
- P. **Maximum Height.** Maximum height is twenty-seven feet (27') measured consistent with its definition herein. See schematics in Appendix 5.
- Q. **Site Plan.** A site plan prepared by a New Mexico licensed engineer or architect at a scale acceptable to the Planning Director, which best conveys the conceptual aspects of the plan. The site plan must have the following elements:
1. The name, address and telephone number of the property owner, the applicant (if not the owner), and the person(s) who prepared the submittal.
 2. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).
 3. A complete legal description and physical address of the property, including the total size of the parcel.
 4. Clearly identified boundary lines, corner pins, dimensions of the subject property, and distance of structures from property lines.
 5. The proposed layout of the project with dimensions and other relevant site information.
 6. Description of existing and proposed buildings on the site, and the use of the property with locations and dimensions of all structures, existing and proposed.

7. Written description of land uses in the area of notice.
8. Existing and proposed parking areas, driveways, emergency turn-outs and emergency turn-around, sidewalks and paths, with locations and dimensions.
9. Existing and proposed roads, railroad tracks, irrigation ditches, fences, existing and proposed utility lines, and easements and rights-of-ways on or adjacent to the parcel, shown by location and dimension; and accessibility of site to roads and utilities, including easements.
10. Significant on-site features including: natural and artificial drainage ways, wetland areas, acequias, hydrologic features (with flooding limits based on information available through the County) and aquatic habitat; geologic features and hazards, including slopes, alluvial fans, areas of subsidence, rock outcrops and, rock fall areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and off-site features that influence the development.
11. Additional information that may be requested by the Planning Director.

Section 4.5.3

Administrative or Special Use Review Procedures

- A. **Review of Application Materials by the Planning Director.** The Planning Director shall review an application for an Administrative review in accordance with the performance standards in Section 4.8 and for a Special Use review prepare a report on the application accordance with the performance standards in Sections 4.7 and 4.8.
- B. **Incomplete Application.** The Planning Director shall have thirty (30) calendar days to review an Administrative application or a Special Use application for completeness. If the application is not complete or requires clarification, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn and it will be returned to the applicant.
- C. **Application Deemed Complete.** Upon a determination of completeness and that no further review is necessary; the Planning Director shall review the administrative permit per performance standards and either approve, approve with conditions or deny the application or schedule the special use application for review by the Planning Commission. If the Planning Director has determined that administrative review is applicable, within thirty (30) days of deeming the application complete, the Planning Director shall inform the applicant of the approval, conditions of approval, or basis for denial of the application in writing. On the date that the Planning Director's decision is sent to the applicant, the Planning Director shall also cause to be posted on the property for a period of at least thirty (30) days the fact that the application has been approved, approved with conditions or denied along with a description of the right to appeal, the appeal procedure and the appeal deadline. The size and location requirements of Section 7.1.3 shall apply. On the date that the Planning Director's decision is sent to the applicant, the Planning Director shall, by regular U.S. mail, send a copy of the decision to anyone who has requested notice of the decision pursuant to Section 7.1.5, along with a description of the right to appeal, the appeal procedure and the appeal deadline.
 1. Public hearing by the Planning Commission shall be scheduled within forty-five (45) calendar days of the date of the determination of completeness.
 2. Public Notice of the hearing shall be made in conformance with Article 7 and shall be the responsibility of the applicant. All associated fees shall be the responsibility of the applicant.

- D. **Referral for Agency, Engineering or Consultant Review.** The Planning Director may cause the application materials or any portion thereof to be submitted for professional review by external consultants, due to (a) the proposed development's size, complexity, potential impact on the community, natural resources or surrounding land uses, (b) the specialized technical nature of the assumptions in the application or required in reviewing the application, or (c) questions as to the validity of the data or conclusions presented. In such cases the Planning Director shall provide notification to the applicant that external review will be required and provide an estimated timeframe and cost of the review. Any fees charged by any of the referral agencies, engineers or consultants reviewing the application materials shall be paid directly by the applicant.
- E. **Referral Agency, Engineers or Consultants Determination.** If the referral agency's, engineer's, or consultant's determination is adverse, the applicant may decide whether he or she wants to go forward to a public hearing in the face of adverse opinion, or if he or she would like to address the opinion and submit a revised application. Submission of a revised application will require renewed review for completeness by the Planning Department.
- F. **Zone Overlay Areas.** If the project is located within a Zone Overlay area of Taos County, the applicant is required to comply with the notification and performance requirements for the Zone Overlay, in addition to the other provisions of these regulations and relevant county ordinances.

Applicants are strongly encouraged to contact the neighborhood association for the proposed project area early in the planning of the development and to coordinate a meeting through the neighborhood association and with adjacent property owners, as neighborhood associations serve in an advisory capacity to the county and make recommendations on proposed development within its area. Responses from adjacent property owners are given consideration by the neighborhood associations and the county.

- G. **Review and Action by Planning Commission.** The special use permit applications, upon the completion of staff review and recommendation, shall, after proper notice in accordance with Article 7 of the regulations, shall be considered by the Planning Commission at a scheduled public hearing. The Planning Commission shall approve, approve with conditions, or deny the application for special use based on the standards set forth in Sections 4.7 and 4.8 and/or Sections 4.9 through 4.15 herein, as applicable. The Planning Commission shall not grant a special use permit if all performance standards have not been met, unless the applicant has obtained a variance on an unmet performance standard.
- H. **Appeal of Administrative Review Decision**
1. **Request for Review by Planning Commission.** An applicant or other party, as defined herein, may request review by the Planning Commission of an administrative decision by filing a written notice of appeal, pursuant to Article 10.
 2. **Consideration of Applicant's Request for Review by the Planning Commission.** Upon receiving the applicant's or other party's notice of appeal, the Planning Director or his or her designee shall schedule a hearing before the Planning Commission at a public meeting, not more than forty-five (45) calendar days from the receipt of the applicant's or other party's request for appeal. Upon proper notice in accordance with Article 7, the Planning Commission shall conduct a hearing in accordance with the provisions of Article 8. The Planning Commissions shall uphold the Planning Director's or designee's decision, modify the decision, or reverse the decision, and file its written decision within thirty (30) calendar days after the conclusion of the hearing. An endorsed copy of the decision shall be mailed to the applicant, and other party (if applicable), on the day of its filing.
- I. **Appeal to the Board of County Commissioners of Planning Commission Decision.** Any party aggrieved by the decision of the Planning Commission on a special use permit application may appeal the Planning Commission's decision to the Board of County Commissioners as set forth in Article 10.

1. A written notice of appeal setting forth the specific claims of error must be submitted to the Planning Director within thirty (30) calendar days after the date the decision of the Planning Commission is recorded in the office of the Taos County Clerk. The appellant shall be responsible for all costs associated with an appeal, including costs for publication and mailing of notice, copying fees associated with preparing the record on appeal, and other direct costs associated with such appeal. If parties file cross-appeals, they shall share equally the costs of appeal.
2. The Planning Director shall schedule a hearing before the Board of County Commissioners to hear the appeal within sixty (60) calendar days of receipt of the first notice of appeal.
3. Public notice of the hearing shall be made in accordance with the procedures set forth in Article 7 herein. Written notice to adjacent property owner(s) shall be mailed at least fifteen (15) working days prior to the hearing. Public notice shall be the responsibility of the appellant.
4. The appellant shall present to the Planning Department, prior to the public hearing, the return receipts and/or returned letters from the mailing. Following a properly noticed public hearing, the Board of County Commissioners shall affirm the decision of the Planning Commission, reverse the decision of the Planning Commission, or modify the decision of the Planning Commission on the Special Use permit application.
5. Any aggrieved party may appeal the written decision of the Board of County Commissioners to the District Court pursuant to NMSA 1978, § 39-3-1.1 and Rule 74 of the Rules of Civil Procedure by filing a Notice of Appeal in the District Court within thirty (30) days of the filing of the decision with the County Clerk.

SECTION 4.6

Major Development Application & Review Process

Section 4.6.1 Major Development Specifications

- A. All Major Development projects require an approved Major Development Permit that meets all requirements for a Major Development prior to commencement of any construction or development. Major Development Projects are defined as meeting any one of the following criteria:
 1. Gross area of the parcel being improved or disturbed in creating the project or development is more than five (5) acres in size; or
 2. Building or structure will contain Eighty Thousand (80,000) square feet or more of gross floor area (All floor levels shall be included in the total gross floor area.); or
 3. Estimated project cost of more than five million dollars (\$5,000,000), excluding the undeveloped value of the land on which the development will take place.
 4. Any Existing legal non conforming use or existing permitted use whose expansion causes the total project to exceed these limits is a major development.
- B. Major Development projects are not single family residences, wholly residential subdivisions, or agriculture, but may be a multiple-family dwelling or agro-industrial business, as defined herein. A phased major development requires a master plan per Section 4.6.8.
- C. A moratorium on Major Development may be imposed by resolution of the County Commission, but only if it makes the following findings.
 1. An imminent threat to public health, safety, or welfare, as determined by federal, state, or county authorities will exist if Major Development projects continue; or
 2. Modification of existing land use regulations effecting Major Development projects is under consideration or review.

- D. Notice of consideration by the County Commission of a resolution imposing a moratorium on Major Development shall be governed by this paragraph, not by Article 7, Public Notice. A resolution imposing a moratorium on Major Development shall only be considered after a majority of the County Commission has ordered publication of the title and a general summary of the proposed resolution in a newspaper of general circulation in the county at least once a week for two consecutive weeks prior to the date of the meeting of the County Commission at which the resolution is to be considered for approval. The published notice shall include the time and date of the meeting.

Section 4.6.2 Major Development Pre-application Conference: Unless expressly provided otherwise in these regulations, a pre-application conference is required for all applicants for all requested actions.

- A. **Participating Parties.** Pursuant to this section a pre-application conference shall be held between the applicant (or the applicant's agent as designated in writing) and the Planning Director or the Planning Director's designee.
- B. **Purpose.** This meeting is intended to provide an understanding of the applicable review procedures, requirements and standards, and to provide information pertinent to the site and the proposal. The Planning Director will explain the application procedures and the materials required for submittal.
- C. **Materials.** The applicant shall bring a conceptual site plan to the pre-application conference showing in sufficient detail the location, parcel size, and conceptual plan for the proposed land use.

Section 4.6.3 Major Development Application Submittal Requirements: Applications for major developments shall be submitted to the Planning Director by the owner of the property or the owner's authorized agent.

Section 4.6.4 Concept Plan Submittal: The following information and data is required:

- A. **A vicinity map** of the area surrounding the site within a distance of at least one (1) mile showing at least the following:
1. Major Traffic Arteries;
 2. Major public facilities;
 3. Location of existing municipal boundary lines (if applicable); and
 4. Existing open space.
- B. **Sketch drawing** showing the existing and proposed use of the site, major streets, areas of slope in excess of 20% and other significant features.
- C. **Statement of design** methods to reduce energy and water consumption.
- D. **List of variances** being requested, if applicable.
- E. **Written narrative** of proposal.
- F. **Lot information**, including:
1. Proof that tax payments are current;
 2. Legal address for the property;
 3. Minimum lot size for septic; and
 4. Development area, including roadways and driveways.

Section 4.6.5 Major Development Plan Submittal

- A. Given the extremely broad type, size, complexity and impacts of projects reviewed as a major development, the submission requirements, notifications, required agency comments, number of copies needed, and timeframe for review can vary. For this reason, applicants are encouraged to contact the Planning Department as early in the process of planning the project as possible.

B. The Planning Department will provide to the applicant, in writing, a description of the process, a materials submission list, notifications and review timeframes specific to the individual proposal in order to facilitate the application process and to minimize the number of reviews or approvals required. The following information and data shall be required for all major development permit applications:

1. **Application Form(s).** It shall be the sole responsibility of the applicant to obtain, complete, and return to the Planning Department all required application forms and supporting materials identified therein by the department or applicant.
2. **Deeds and Restrictions.** The applicant shall submit, for all properties proposed to be included in the project, the deeds, all deed restrictions, and conditions, covenants and restrictions (CC&Rs) for the subject property(ies). Deed restrictions and CC&R's are required to evaluate the project's compliance with the Development Compatibility Standards of Section 4.7.1, not to enforce deed restrictions and CC&R's. Taos County does not enforce private deed restrictions and CC&R's.
3. **Affidavit of Compliance.** An Affidavit of Compliance is required for all applications, stating that there are no deed restrictions and/or CC&Rs, or the application is in full compliance with existing deed restrictions and/or CC&Rs, as identified in the document(s) provided in subsection 2 above. The Affidavit of Compliance is required to evaluate the project's compliance with the Development Compatibility Standards of section 4.7.1, not to enforce deed restrictions and CC&R's. Taos County does not enforce private deed restrictions and CC&R's.
4. **Authorized Agency.** If the applicant is not the owner of the land, the applicant shall submit a notarized letter, signed by the owner, consenting to the submission of the application by the applicant.
5. **Applicant is Not the Sole Owner.** If the applicant is not the sole owner of the land, the applicant shall submit a notarized letter signed by all other owner(s), or an authorized representative of all other owners, consenting to or joining in the application for a major development permit.
6. **Notifications and Approvals.** The applicant shall provide evidence of compliance with all applicable notifications and approvals required from other public or private entities having jurisdiction over any aspect of the project or potentially impacted by the project such as pueblos, sovereign nations, state, federal, local government agencies, neighborhood associations and acequia associations.
7. **Site Plan.** The applicant shall provide a scaled site map or maps of the proposed development that was prepared, signed, and stamped by a professional architect, planner, engineer or surveyor currently licensed in the State of New Mexico (or with similarly recognized national professional credentials, as deemed acceptable by the Planning Department) submitted on a 24" x 36" sheet at a scale of 1" = 200 feet as well as 11" x 17" reductions as necessary. The site plan shall include:
 - a. The name, address and telephone number of the property owner, applicant if not the owner, and the person(s) who prepared the submittal.
 - b. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).
 - c. A complete legal description and physical address of the property, including the total size of the parcel.
 - d. Clearly identified boundary lines, corner pins, dimensions of the subject property, distance of structures from property lines, and the dimensions and size of the total land area.

- e. The proposed layout of the project with dimensions and other relevant site information.
 - f. Description of existing and proposed buildings on the site, and the use of the property, with locations and dimensions of all structures, existing and proposed, and proposed and existing drainage catchments.
 - g. Written description of surrounding land uses, including identification of public and private open space.
 - h. Existing and proposed parking areas, driveways, emergency turn-outs and emergency turn-around, sidewalks and paths, with locations and dimensions, traffic circulation and parking spaces.
 - i. Existing and proposed roads, railroad tracks, irrigation ditches, fences, existing and proposed utility lines, and easements and rights-of-way on or adjacent to the parcel, shown by location and dimension, and accessibility of site to roads and utilities, including easements.
 - j. Significant on-site features including: natural and artificial drainage ways, all wells, wetland areas, acequias, hydrologic features (with flooding limits based on information available through the county), aquatic habitat and wetlands; geologic features and hazards, including slopes, arroyos, waterways, alluvial fans, areas of subsidence, rock outcrops and, rock fall areas, soil types and landslide areas; vegetative cover; dams, reservoirs, excavations, and mines; and any other on-site and off-site features that influence the development.
 - k. Utility, sewer or septic systems by capacity, ownership, and location.
 - l. Fire prevention measures, including the location of designated fire lanes, hydrants, and any supporting water storage or source.
 - m. Classification, ownership, and maintenance of streets used for direct access to the property.
 - n. Additional information that may be requested by the Planning Director.
8. **Open Space.** All major development plans shall identify and preserve a minimum of 25% of the total area of land to be developed as open space unless the Zone Overlay requirements for the zone in which the project is located specify a greater or lesser percentage of open space (in which case, the Zone Overlay standard shall be required). Applicants shall be required to demonstrate ownership of open space, as well as to identify a mechanism for permanently restricting development acceptable to the Planning Department (e.g., conservation easement, deed restrictions, conditions or restrictions in CC&Rs).
 9. **Business, Commercial and Industrial uses.** For non-residential uses, the applicant shall provide a statement estimating the number of employees, deliveries, shipments, and customers anticipated to visit each projected activity by proposed hours and days of operation.
 10. **Affordable and/or Workforce Housing.** Identify any plan or provisions for affordable or workforce housing, and provisions for access to public transportation for employees, residents and customers and any participating agencies.
 11. **Cultural Properties.** The Planning Department shall contact the State Historic Preservation Office (SHPO) to determine whether property entered into the State Register of Cultural Properties is within the boundary of the proposed development; The Planning Department communication with SHPO shall be by email with return receipt requested. If there is no response from SHPO within 45 days of receipt of the Planning Department email, it shall be presumed that there are no cultural properties within the proposed development boundaries; and

- a. If there is no such property, a copy of the letter to that effect from SHPO or a memorandum by the Planning Department of no SHPO response shall be provided in the application packet for approval; or
 - b. If any such property exists within the boundaries of the proposed development, a copy of the letter to that effect from SHPO shall be provided in the application packet. (Taos County will consult with SHPO pursuant to the Cultural Properties Act, NMSA 1978, §§ 18-6-1 through 18-16-17.); and
 - c. If any such property exists within the boundaries of the proposed development, a cultural resource survey shall be prepared by a professional archeologist holding a current New Mexico Archeological Survey Permit, prior to commencement of construction. The survey shall specify the location of the cultural resources and how the requirements-in Appendix 5 shall be met by the applicant.
12. **Development Phasing Schedule.** If applicable, including the sequence for each phase, approximate size of areas of each phase, and proposed phasing of construction of public improvements, recreation, and common open space areas.
 13. **Landscape Plan** prepared by a licensed New Mexico engineer, architect, or landscape architect. Refer to Appendix 3: Terrain Management.
 14. **Fire Protection/Suppression Plan** prepared by a New Mexico licensed engineer or architect.
 15. **Lighting Plan.** As per the current Taos County Night Sky Protection Ordinance No. 2006-9, as amended.
 16. **Utility Plans.** Detailed engineering for sewer, water, electrical, street improvements and other public improvements.
 17. **Building Plans of the Development,** created and stamped by a New Mexico licensed architect at a scale of 1" = 200 feet, composed of one or more sheets with an outer dimension of 24" x 36", as well as 11" x 17" reductions showing the following information:
 - a. Architectural elevations of all buildings sufficient to convey the architectural style of the proposed project. The project shall be compatible with the architectural styles of the surrounding area. The elevation drawings shall show existing grade, finished grade, and height of the proposed structure as measured from the undisturbed elevation next to the building site. The location and dimensions of all doors and windows must also be included on each of the elevations.
 - b. Structural plans and all other plans required by the building code.
 - c. Scale, north arrow, and date of preparation with signatures of a New Mexico licensed architect.
 - d. Name of the proposed development.
 - e. The existing and proposed floor plan, mechanical plan, electrical plan, plumbing plan.
 - f. Street cross section schematics for each general category of street, including the proposed width, treatment of curbs and gutters, sidewalk systems and bikeway systems.
 18. **Storm and drainage report and plan** prepared by a licensed New Mexico engineer. Refer to Appendix 3: Terrain Management.
 - a. All watercourses on the property, including springs, acequia systems and related water improvements, which are located within 150 feet of the property,

- must be shown. In addition, the floodways and/or flood fringe areas of these watercourses must be delineated.
- b. The following shall not be utilized as drainage ways: Acequia systems, streets, arroyos, dry gullies, diversion ditches, spillways, reservoirs, etc. and may not be incorporated into the storm drainage systems for the property.
 - c. All required on-site retention areas indicating the location and volume of the retention area.
 - d. All plans shall indicate the proposed outlet for the storm drainage and any downstream impacts and cumulative effects. Approval of a 404 permit by the Army Corp of Engineers is required upon impact of waterways or arroyos of the State of New Mexico.
 - e. Existing and/or proposed grading plan.
 - f. For development that plans on disturbing (clearing, grading, and excavating activities) more than 1 acre, including the cumulative area of disturbance from smaller sites in a larger common plan of development or sale, the applicant shall provide documentation of coverage under a legally required federal Clean Water Act NPDES storm water construction permit.
19. **Complete traffic impact study**, including the ingress and egress for the project prepared by a New Mexico licensed Engineer. Refer to Appendix 1.
 20. **Flood plains as designated by the Federal Emergency Management Agency (FEMA)**. Refer to the Flood Plain Regulations Ordinance No. 2009-1, as amended.
 21. **Agreement to Assure Completion of Infrastructure**, which demonstrates that the project is adequately funded and scheduled to reach operational status.
 22. **Physical map and narrative** covering the following (also refer to Appendix 3: Terrain Management):
 - a. Site soil survey, as per the Taos County Soils Survey.
 - b. Hydrologic survey.
 - c. Water supply plan, including a water budget prepared by a licensed NM Engineer that secures sufficient water for the proposed development.
 - d. Sewage treatment plan.
 23. **Disclosure Statement**, if applicable.
 24. **Written description** of land uses within the area of notice.
 25. **List of approved variance applications**, if applicable.
 26. **Other information and data**, as the Planning Director may require for full and complete consideration of the development.
 27. **Boundary Survey Plat** by a licensed New Mexico surveyor.
 28. **Area of Notice Map**. The applicant shall use the parcel map, as per the records of the Taos County Assessor's Office, to identify the subject properties and all property owners within five hundred (500) feet of the subject property.
 29. **Vicinity Map**. An 8 ½" x 11" vicinity map locating the parcel in the county shall be included with all applications. The vicinity map shall clearly show the location of the subject property, the area within a one-mile radius of the subject property, and the following:
 - a. Major traffic arteries;
 - b. Major public facilities;
 - c. Location of existing municipal boundary lines (if applicable); and
 - d. Existing open space.

30. **Taos County Taxes, Fees and Penalties.** The applicant must submit a receipt(s) demonstrating that all taxes, fees, and penalties to Taos County associated both with the property and the property owner, e.g., property taxes, solid waste fees, and code violation penalties, are paid and current.

Section 4.6.6 Major Development Review Procedures

- A. **Pre-application Conference/Conceptual Review Procedure.** A major development conceptual plan is the applicant's anticipated pattern of development for a particular parcel of land from which a major development application is developed. This plan shall be presented at the pre-application conference.
 1. This is an opportunity for applicant to discuss requirements, standards, and policies with the Planning Department that apply to development proposals. Problems can be identified and solved before a formal application is made.
 2. The conceptual plan shall contain the items outlined in Section 4.6.5 and shall be submitted by the applicant to the Planning Department at the time of the pre-application conference.
 3. The Planning Director or the applicant may request an informal public meeting to allow for both public input and an opportunity for the applicant to explain the proposed project. This is not a decision-making meeting.
 4. If a determination for an informal public meeting is made by the Planning Director or requested by the applicant, the Planning Director shall, within 45 (forty-five) calendar days, schedule the informal public meeting.
 5. If a determination that an informal public meeting will not be conducted for the conceptual plan, the application for a major development plan review may be filed with the Planning Department.
 6. If the project is to be a phased development in two or more separate major development plan submittals, a master plan shall also be required.
- B. **Major Development Plan Review Procedure.** The major development plan is the site-specific development plan which describes with reasonable certainty the type and intensity of use for a specific parcel, upon which building permits and other county approvals are issued, and it shall require detailed engineering and design review and approval. The plan shall be in accordance with Section 4.6.5 Major Development Plan Submittal and the following:
 1. **Review of Application Materials by the Planning Director.** The Planning Director shall review and prepare a report on the application subject to major development review in accordance with the performance standards in Sections 4.7 and 4.8 and/or Sections 4.9 through Section 4.15.
 2. **Incomplete Application.** The Planning Director shall have ninety (90) calendar days to review the application for completeness. If the application is not complete, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of the letter, the application shall be deemed withdrawn by the applicant.
 3. **Application Deemed Complete.** Upon a determination by the Planning Director that the application is complete and that no further review is necessary, the Planning Director shall schedule the application for review by the Planning Commission.
 - a. Public hearing by the Planning Commission shall be scheduled within forty-five (45) calendar days of the date of completeness determination.

- b. Public notice of the hearing shall be made in conformance with Article 7 and shall be the responsibility of the applicant. All associated fees shall be the responsibility of the applicant.
4. **Referral Agency, Engineers or Consultants Review.** The Planning Director may cause the application materials or any portion thereof to be submitted for referral agency review and comment. Within ten (10) working days after the date that the application is deemed complete, the Planning Director may forward a copy of the application and relevant supporting documentation to appropriate engineers, consultants, local agencies, state agencies and federal agencies by certified return receipt mail, with a request for review and opinions. The referral agency, engineers or consultants shall have thirty (30) calendar days from the receipt of the application to review and return an opinion regarding the application. If the Planning Department does not receive a requested opinion within the specified 30 calendar days, it shall consider the opinion on the application to be "no comment" or "no objection" by the referral agency, engineers or consultants. Any fees charged by any of the referral agencies, engineers or consultants reviewing the application materials shall be paid directly by the applicant.
5. **Referral Agency, Engineers or Consultants Determination.** If the referral agency's, engineer's, or consultant's determination is adverse, the applicant may decide whether he or she wants to go forward to a public hearing in the face of adverse opinion, or if he or she would like to address the opinion and submit a revised application. Submission of a revised application will require renewed review for completeness by the Planning Department.
6. **Zone Overlay Areas.** If the project is located within a Zone Overlay area of Taos County, the applicant is required to comply with the notification and performance requirements for the Zone Overlay, in addition to these regulations and relevant county ordinances.

Applicants are strongly encouraged to contact the neighborhood association for the proposed project area early in the planning of the development and to coordinate a meeting through the neighborhood association with adjacent property owners, as neighborhood associations serve in an advisory capacity to the county and make recommendations on proposed development within the neighborhood. Responses from adjacent property owners are given consideration by both the neighborhood associations and the county.

7. **Planning Commission Action.** The Planning Commission shall recommend approval, recommend approval with conditions, or recommend disapproval of the major development application at the public hearing. Within thirty (30) calendar days of the hearing, the written decision of the Planning Commission shall be recorded and the applicant shall be notified in writing of the decision.
8. **Performance Standard Requirement.** Recommendations for a major development approval shall not be given by the Planning Commission, unless the Planning Commission determines that the applicant can fulfill the applicable performance standards contained in Section 4.8 and/or Sections 4.9 thru Section 4.15, and that the major development application conforms to all local, state and federal laws.
9. **Appeal of Planning Commission Decision.** A recommendation of approval or a recommendation of approval with conditions may not be appealed because it will automatically proceed to the Board of County Commissioners. A recommendation of disapproval may be appealed by the applicant by filing a notice of appeal with the Planning Director within 30 calendar days of the filing of the Planning Commission decision.

10. **Board of County Commissioners Review and Action.** Within 45 calendar days after the filing of the written decision of the Planning Commission of approval or approval with conditions, the application shall, after proper notice and in accordance with Article 7 be considered by the Board of County Commissioners at a public hearing.
 - a. The Board of County Commissioners shall adopt, adopt with conditions, modify, or deny the major development application based on the performance standards set forth in Sections 4.7 and 4.8 and/or Sections 4.9 through 4.15.
 - b. If the major development application fails to satisfy all of the applicable standards or the applicant fails to obtain a variance, the application shall be denied.
 - c. If the major development application is in compliance with the applicable performance standards, the Board of County Commissioners shall approve the major development application. The decision shall be recorded with the Office of the County Clerk within 30 calendar days of the date of the public hearing.
11. **Appeal of County Commission Decision.** Any aggrieved party may appeal the written decision of Board of County Commissioners regarding a major development permit application to the District Court, pursuant to NMSA 1978, § 39-3-1.1. and Rule 74 of the Rules of Civil Procedure by filing a Notice of Appeal in District Court within thirty (30) days of the filing of the decision with the County Clerk.

Section 4.6.7 Major Development Effective Period: The development shall be completed in a timely manner, consistent with Section 3.4. Permit Effective Duration.

Section 4.6.8 Master Plan

- A. If a project is intended to be developed over time in two (2) or more separate major development application submittals, a master plan for the entire development site must be approved concurrently with the application for the first phase. Subsequent applications for major development approval may be made for each phase of the approved master plan, provided that such phase is consistent with the approved master plan and the provisions of this section.
- B. An applicant may submit an application for a master plan that includes all phases of the master plan for consideration under one major development application, so long as all applicable performance standards for each phase are submitted.
- C. Master Plan Requirements.
 1. A master plan shall be prepared in accordance with the submittal requirements of a major development plan, for all proposed phases.
 2. Infrastructure improvements that are approved for a master plan shall be completed along with phase 1 of the major development for the approved master plan, unless otherwise scheduled by the Board of County Commissioners in the Infrastructure Improvement Agreement.

Section 4.6.9 Changes to Master Plan: Changes may be approved by the Board of County Commissioners and must follow the same review and public hearing process required for major development plans. Any changes approved by the Board of County Commissioners to the master plan shall be memorialized in an amended decision, which shall be recorded within thirty (30) days after the public hearing in the Office of the County Clerk.

Section 4.6.10 Appeal of County Commission Decision: Any aggrieved party may appeal the written decision of Board of County Commissioners regarding a major development permit application to the District Court, pursuant to NMSA 1978, § 39-3-1.1 and Rule 74 of the Rules of Civil Procedure by filing a Notice of Appeal in District Court within thirty (30) days of the filing of the decision with the County Clerk.

SECTION 4.7

Administrative, Special Use and Major Development Compatibility Standards

Section 4.7.1 Development Compatibility Standards: The following requirements shall be applied to all land uses requiring Administrative permits, Special Use permits or Major Development permits under these regulations.

- A. **Use.** The development shall be sensitive to and consistent with the existing traditional and historic uses in the neighborhood, or the applicant shall be able to demonstrate that the development would provide a substantial benefit to, or support to, or would not have a substantial impact on the immediate neighborhood.
- B. **Visual Impact.** The development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood, or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character.

SECTION 4.8

Administrative, Special Use and Major Development Performance Standards

Section 4.8.1 Administrative, Special Use and Major Development Performance Standards: The following performance standards shall be considered for all applications for Administrative permits, Special Use permits or Major Development permits. In the case of Administrative Review the Planning Director shall have the discretion to determine the applicability of the following performance standards based upon the nature of a particular project and its impact on the surrounding area. The Planning Department shall submit a written report to the Planning Commission and/or Board of County Commissioners outlying the application's compliance with these standards as the basis for rendering any decision to approve, approve with condition(s), or disapprove the applications of a special use or major development. The applicant shall provide engineered drawings, a written explanation and an analysis of all of the standards identified in this section, or a written substantiation as to why they do not apply.

- A. **Roads.** The development shall be served by roads constructed to County standards with adequate capacities for the proposed development. The development shall be designed to minimize any adverse impact that additional traffic would have on the surrounding land uses. A traffic impact study may be required and prepared by a licensed New Mexico engineer, including a written analysis of the traffic and congestion impact with mitigation procedures approved by the New Mexico Department of Transportation and/or the Taos County Public Works Department. Where determined by the Planning Department to be necessary due to the direct impact of the proposal, the existing road network serving the project area shall be augmented or extended to accommodate the development. Refer to Appendix 1: Road Standards.
- B. **Utilities.** All water, sewage, electric, phone lines, cable and natural gas shall be underground. The development shall be served by utilities with adequate capacities for the proposed development. Where applicable, utilities shall be augmented or extended to accommodate the development. The applicant shall supply proof of availability and/or commitment from all public utilities.
- C. **Water Supply and Quality.** Applicants for development or construction on lots within four hundred (400) feet of a public water supply system shall provide a letter of approval from the associated water authority and shall be connected to that public system, providing easements are available or can be negotiated. The design of the connection shall be approved by both the connecting water authority and the New Mexico State Engineer. If no hook-up to the municipal or public authority is available, then the applicant shall supply an approved permit from the New Mexico State Engineer. The applicant shall meet all current requirements of the New Mexico State Engineer (OSE) and the New Mexico Environment Department (NMED). Major Development applicants must also meet the Water Supply Requirements set forth in Appendix 2. If the water supply is from the aquifer a hydrological study may be required. All applicants shall be required to submit a conservation plan.

- D. **Liquid Waste Disposal.** The applicant shall meet all current requirements of the New Mexico Environment Department (NMED).
- E. **Legal Access.** The applicant shall identify adequate legal access for ingress, egress, and installation and maintenance of utilities, unless the project's utility needs are self-provided. For uses fronting public roads, standards developed by the New Mexico State Highway and Transportation Department and the Taos County Public Works Department shall be followed. Refer to Appendix 1.
- F. **Storm Water Control.** No development shall cause erosion. Applicant shall contain all storm water run-offs, on the property. If a violation occurs prior to or during construction, the applicant will be issued a stop order until the run-off or drainage is in compliance and approved by the Planning Department. For development that plans on disturbing (clearing, grading, and excavating activities) more than 1 acre, including the cumulative area of disturbance from smaller sites in a larger common plan of development or sale, the applicant shall provide documentation of coverage under a legally required federal Clean Water Act NPDES storm water construction permit. When the Planning Department deems it necessary, Applicant shall provide scaled, engineered drawings with a written description of the proposed storm drainage system, which shall be developed, signed, and sealed by a New Mexico licensed civil engineer. Refer to Appendix 3: Terrain Management.
- G. **Fire Prevention Plan.** When the Planning Department deems it necessary, Applicant shall submit for review a written description of a proposed fire prevention plan that has been prepared by a New Mexico licensed engineer in accordance with International Fire Code (IFC) standards. The fire prevention plan shall address defensible space, vegetation management, water supply access, building ignition, fire resistance factors, and fire protection systems and equipment. The fire prevention plan will describe ways to minimize and mitigate the fire problems created by the project or development, with the purpose of reducing impact on the community's fire protection delivery system.
- H. **Environmental Impact Study.** When determined by the Planning Director and upon written notice to the applicant of the basis of the need for the study, the applicant shall complete an environmental impact study created by an environmental professional. Applicant shall refer to the Taos Soil and Water Conservation District for assistance.
- I. **Geologically Unstable Areas.** Applications for proposed project sites containing areas of natural or geological hazards (e.g., unstable or potentially unstable slopes, faulting, landslides, rock falls, flooding, etc.) or soil conditions unfavorable to development shall include documentation, prepared by a civil engineer registered in the State of New Mexico, identifying all such hazardous areas and describing detailed mitigation measures for the identified hazardous areas. Refer to Appendix 3: Terrain Management. Applicant shall refer to the Taos Soil and Water Conservation District for assistance.
- J. **Wildlife Areas.** Applications for proposed project sites containing areas identified as wildlife habitat, natural food sources, migratory bird corridors, nesting areas, wintering areas, wildlife watering sources, wetlands, etc., shall include documentation identifying all such areas and describing detailed preservation measures for the identified areas. Applicant shall refer to the New Mexico Department of Wildlife assistance.
- K. **Agricultural Areas.** Applications for proposed projects located on land currently used for or designated as agricultural shall make every effort to preserve a significant portion of the proposed project site for agricultural use.
- L. **Site Improvements.** Buildings, fences, driveways, walkways, sidewalks, retention ponds, parking areas and other site development elements and systems shall be designed and located on the site so as not to detract from the established neighborhood character.
- M. **Exterior Lighting.** All artificial light sources shall, at a minimum, be in accordance with the State of New Mexico Night Sky Protection Act, NMSA 1978, §§ 4-12-1, et seq., and the current Taos County Dark Skies Protection Ordinance, Ordinance No. 2006-9, as amended.

- N. **Acequias.** No acequia, whether on-site or off-site, shall be disturbed in any way by building development or construction activity unless approved or deemed approved by the acequia commission. See Summary of Limits Table CC and the following:
1. All applications for development on a parcel containing an acequia, or a parcel within 20 feet of the nearest bank of an acequia, shall be submitted by the applicant for review by the applicable acequia commission. The acequia commission has 30 calendar days upon receipt of the application to respond. Failure of the acequia commission to respond within 30 calendar days shall be deemed approved.
 2. An acequia shall remain open and uncovered, absent express permission to the contrary by the acequia commission, be readily accessible for use and maintenance, be unobstructed from fences, culverts or other impediments, and acequia easements recognized by New Mexico law shall be honored.
- O. **Maximum Height.** Maximum height is twenty-seven feet (27') measured consistent with its definition herein. See schematics in Appendix 5.
- P. **Wetlands.** In order to preserve the crucial water recharge capacity and wildlife habitat of the county's critical wetland resources, any proposed development on a tract which contains wetlands shall be limited to the development of areas within the applicant's tract that are not wetlands. Any proposed development that impacts a wetland, must obtain a Special Use or Major Development permit from the county, will require a delineation of the wetlands by a licensed professional, and shall adhere to all federal, state, Taos County Soil and Water Conservation District, and all other governmental and acequia regulations or requirements.
- No proposed development may disturb or alter the natural collection of water in wetlands, or the wetland's source waters, or contribute any contamination or man-made run-off as a result of construction or development.
- Q. **Grade.** No access road or driveway shall exceed a grade greater than 12%. If an applicant cannot achieve a grade of less than 12%, the applicant shall install a water collection system or install sprinkler systems within the structures on the property.
- R. **Americans with Disabilities Act (ADA).** ADA standards must be met by the applicant as required by federal statute, and provisions for compliance must be clearly indicated on plans. All handicapped parking must be identified by a vertical sign, as well as marked on the pavement, if pavement exists.
- S. **Landscaping.** A landscaping plan addressing aesthetics, water conservation, erosion controls, and any buffering requirements, prepared by a licensed landscape professional shall be submitted. Any required setback which is not paved or graveled shall be landscaped and maintained. Refer to Appendix 3: Terrain Management.
- T. **Street and Parking Design.** The street, road, access and parking systems shall be designed and located on the proposed site in a safe, efficient, convenient and attractive manner that considers all modes of transportation (e.g., cars, trucks, buses, bicycles, equestrians and pedestrians), as well as emergency vehicles.
- U. **Solid Waste Disposal.** An area for solid waste storage and disposal shall be designated. The size and type of containers, and disposal area, shall be sufficient to accommodate the scale and type of operations proposed. Containers shall be covered and securable. The area shall be easily accessible to waste removal services. Waste containers shall be screened in a manner so as not to be visible from adjacent streets or properties.

- V. **Flood Plain and Elevation Certificate.** Applications for a Special Use permit or Major Development permit shall include a determination as to whether any property identified in the application is located within a Federal Emergency Management Act (FEMA) designated flood plain. If it is determined that the property does lie within the flood plain, the boundaries of the flood plain must be delineated on the project site plan map. If a Special Use permit or Major Development permit is approved by the county, applicants should be aware that construction within the FEMA flood plain may not be started until the applicant has completed and received an approved flood plain permit from the Planning Department. The applicant must comply with the provisions of the permit and the Taos County Flood Plain Regulations, Taos County Ordinance No. 2009-09, as amended.
- W. **Wildland Urban Interface (WUI) Impact Areas.** Shall meet requirements developed in these regulations and by the New Mexico State Fire Marshall and/or as identified in any Community Wild Fire Protection Plan (CWPP) for areas mapped as "wildfire hazard areas".
- X. **Loading.** Should be located off-street and shall be not located within the front yard setback.
- Y. **Slope.** See Limits Table X
- Z. **Archeological Sites.** The applicant shall not encroach upon registered or known archeological sites. Refer to Appendix 4. In accordance with New Mexico State Statutes.

AA. Minimum Off-Street Parking Requirements

- 1. Hotels, Motels, and Bed & Breakfasts: one space per room, plus one space for each two employees, and adequate spaces for each accessory use.
- 2. Shopping Centers: one space per two hundred (200) square feet of gross floor area.
- 3. Office, professional, retail businesses, food establishments and public buildings: one space per three hundred (300) square feet of gross floor area.
- 4. Industrial, manufacturing, and wholesale establishments: one space per three hundred (300) square feet of gross floor area.
- 5. Multi-family/Condominium residential buildings:
 - a. Efficiency apartments: 1 space per unit.
 - b. 1 or 2 bedroom apartments: 2 spaces per unit.
 - c. 3 bedroom or larger: 3 spaces per unit.
 - d. 30% additional of total parking area shall be set aside as guest parking.
 - e. Other uses requiring a special use or major development designation shall meet parking requirements as determined by the Planning Department based upon similar uses and requirements in similar jurisdictions.

BB. Additional Performance Standards. Certain applications may require additional performance standards. There may also be relevant county ordinances additional to or passed since these regulations that apply to all or portions of the project. The applicant should review all sections of these regulations and consult with Planning Department staff as to what requirements may be applicable to the specific proposal. The most current edition of the Taos County and State of New Mexico building codes and construction regulations are applicable to all new construction.

CC. Limits Table.

LIMITS – Zoning Clearance, Administrative, Special Use and Major Development	Less than 2ac.	2 ac. or more	COMMENTS
Maximum Parcel Coverage	80% for commercial, 60% for residential, or as approved in the development site plan and plat	75% for commercial, 60% for residential, or as approved in the development site plan and plat	Includes buildings, parking, roadways, driveways, patios, courtyards, walkways, utilities and any other improvements, except landscaping.
Minimum Setbacks: ¹ Front Side Rear	20 ft. 20 ft. 20 ft.	35 ft. 30 ft. 30 ft.	A minimum of 35 ft. is required from the right-of-way of all public roadways, and 30ft. from all other parcel boundaries.
Minimum Residential Setbacks: ¹ Front Side Rear	20 ft. 10 ft. 10 ft.	20 ft. 10 ft. 10 ft.	
Minimum setback from acequias, and legal lateral (venitas) acequias ²	20 ft.	50 ft. commercial 20 ft. residential	Measured from the nearest bank of acequias.
Minimum setback from Water sources, streams, wetlands, springs etc.	85 ft. commercial 40 ft. residential	150 ft. commercial 40 ft. residential	Measured from the nearest bank of streams, springs, or from wetlands
Maximum developable slope	20%	20%	If >20% see Section 4.14

- (1) Setbacks do not apply to fences, except for the front lot line.
(2) More or less if established in acequia bylaws.

DD. **Fences.** Fences not over 6 feet high are exempt from land use permit requirements and building permit requirements. Fences in excess of six feet but not greater than ten feet shall require a Taos County approved building permit. All fencing, whether or not requiring a land use or building permit, shall comply with Appendix Five – Site Triangle Area. Fences in excess of ten feet are prohibited.

SECTION 4.9
Condominium Development and Multiple Family Application, Review, and Development
Performance Standards

Section 4.9.1 Applicability

The references to state law contained in this section, as they pertain to condominiums, reflect state statutes in effect as of the adoption of these regulations. It is the applicant's responsibility to conform to all relevant and current state statutes, including but not limited to the New Mexico Condominium Act [47-7A-1 to 47-7D-20 NMSA 1978], as amended.

Section 4.9.2 Condominium Development and Multiple Family Development Standards

Taos County regulations for condominium development and multiple family developments include all of the New Mexico State Statutes for condominiums, as well as additional review and application requirements in section 4.5 or section 4.6 herein, whichever is applicable depending on the size, scope or cost of the project, and the performance standards set forth in Sections 4.7, 4.8 and 4.9. The following performance standards shall be made a part of the application and shall be incorporated into the applicant's condominium disclosure statement:

- A. **Density.** Density applicable to condominiums and multiple family dwellings shall be determined by current water availability and liquid waste discharge as determined by the New Mexico State Engineer and the New Mexico Environment Department Liquid Waste Disposal Regulations, unless otherwise limited in a Zone Overlay.
- B. **Water.** The applicant shall meter each unit in the condominium and include in the declaration the amount of water needed for maintaining the common area, as well as fire protection and suppression requirements for the full project. Where applicable, a permit from the New Mexico State Engineer shall be required. The application and declaration shall also identify whether the condominium will be installing a domestic well, its own approved water system, utilizing a mutual domestic water consumers association, a community water system, water and sanitation district system, or a municipal water system.
- C. **Liquid Waste Discharge.** The applicant shall obtain a permit from the New Mexico Environment Department for all liquid waste discharge generated by the project and shall indicate whether the condominium will install its own liquid waste discharge system, utilize a community discharge system, a water and sanitation district discharge system, or a municipal treatment and discharge system.
- D. **Fire Protection and Suppression.** The applicant shall provide a statement of fire protection and suppression, including the number of units each hydrant water tank can accommodate based on the design engineer's evaluation of construction type.
- E. **Access Roads and Fire Lanes.** Access roads and fire lanes within the condominium shall be adequate to accommodate the unobstructed ingress and egress of all emergency and fire vehicles. Refer to Appendix 1: Road Standards.
- F. **Any Amendment** to the disclosure statement must be submitted to the Planning Department for review and hearing by the Planning Commission.

Section 4.9.3 Condominium and Multi-Family Development Plan Requirements

- A. The applicant shall indicate on the site plan the following:
 - 1. Boundaries, easements, spaces between buildings, garages and stand alone units, and setbacks;
 - 2. Fire lanes, hammerhead turnabouts, and cul-de-sacs within the condominium;
 - 3. Parking places for each unit;
 - 4. Access road(s) to the condominium project sufficient and adequate for the ingress and egress of emergency vehicles, Refer to Appendix 1: Road Standards;

5. The placement of hydrant water tanks for fire suppression and the number of tanks required by the Taos County Fire Chief;
6. Designation of area(s) for solid waste disposal, which shall be screened from view;
7. In the event that the developer will exercise the development rights in phases, the applicant shall provide to the Planning Commission or Board of County Commissioners a condominium schedule of phasing and the plats and plans that are a part of the declaration.
8. Disclosure statement as required by statute.

SECTION 4.10

Wireless Communications Facility Application Requirements and Performance Standards

Section 4.10.1 Wireless Communication Facilities Performance Standards and Application Requirements

- A. **Basic Requirements.** All wireless telecommunications facilities, unless otherwise stated, in addition to the applicable compatibility and performance standards set forth in Section 4.7 and Sections 4.8 and application requirements in Section 4.5 or Section 4.6, whichever is applicable, shall comply with the following:
1. **Setbacks.** A freestanding wireless telecommunications facility shall be set back a minimum of 85 feet from any property boundary, or a distance equal to at least 110% of the potential fall radius (hereinafter "radius"), whichever is greater, as certified by a New Mexico licensed engineer. These setback requirements may be met by easements on adjacent property and in such case property boundary shall mean easement boundary. No structures, roads, or driveways shall be permitted within such an easement.
 2. **Setback Exemption for New Substation Facilities.** New freestanding wireless telecommunications facilities in electric substations are exempt from the setback requirements, but only if they are no taller than the existing utility poles in the substation.
 3. **Lighting and Signage**
 - a. Only security lighting or lighting required by a state or federal agency is allowed. All artificial lighting shall be shaded to meet the current Dark Skies Ordinance (Taos County Ordinance No. 2006-9, as amended) except when federal or state laws or regulations make compliance impossible. All lighting shall be directed downward from the source, and the bulb shall not be visible beyond the parcel boundaries, except for motion detector lighting. The motion detector sensor cannot be activated beyond the parcel boundaries.
 - b. The only signage permitted is that required or allowed by federal or state laws or regulations or by the Taos County Sign Code, Ordinance 1996-2, as amended.
 4. **Telecommunications Equipment Building or Cabinet.** No equipment building or cabinet shall exceed 750 square feet in area and/or 10 feet in height. All such sheds shall be screened with vegetation or other aesthetically pleasing materials. Furthermore, all such sheds shall be secured with approved fencing and a locked gate.
 5. **Abandonment**
 - a. All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6)-month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation.
 - b. The owner of the property shall provide a bond or an irrevocable letter of credit in an amount necessary to secure the cost of removing an antenna, antenna array, or tower that has been abandoned, as determined by the Planning Department, Planning Commission, and/or Board of County Commissioners. Any bond or letter of credit in favor of Taos County shall survive, by its terms, unless replaced by a subsequent owner any subsequent transfer of ownership of the property.

6. **Interference.** Every wireless telecommunications facility shall meet the regulations of the Federal Communications Commission regarding physical and electromagnetic interference.
 7. **Health Issues.** Every wireless telecommunications facility shall meet the health and safety standards for electromagnetic field emissions as established by the Federal Communications Commission and any other federal, state or local agency.
 8. **Height.** There is no height limitation. The general county height limit of 27 feet shall not apply. Height shall be determined by technical requirement and the applicable compatibility and performance standards.
- B. **Tower Locations.** The following hierarchy of tower locations shall apply, and applicants must demonstrate, based on technical, practical or financial considerations, the need to move down the list and locate in areas of lower preference:
1. Areas of existing commercial development.
 2. Undeveloped highway corridors, residentially-zoned areas, or residential communities.
 3. Only concealed wireless telecommunications facilities are allowed within 1000 feet of traditional communities, historic districts listed in the State Register of Cultural Properties or the National Register of Historic Places, or any historic routes listed in the State or National Registers.
 4. **Co-location.** In all applications for construction of a new facility, the applicant must prove that a bona fide need exists for the facility and that no reasonable combination of existing locations, techniques, or technologies will obviate the need. The applicant must further provide that it has made all reasonable efforts to procure antenna space on existing facilities and that the cost of the co-location exceeds the cost of a new facility by a least fifty percent, or that:
 - a. No existing tower, structure, or public utility structure is located within the radius that meets the applicant's engineering requirements; or
 - b. No existing tower, structure, or public utility structure is located within the radius that has sufficient structural strength or space available to support the applicant's proposed telecommunications facility and related equipment; or
 - c. The applicant's proposed telecommunications facility would cause significant, unavoidable electromagnetic interference with the antenna(s) on the existing towers, structures or public utility structure, or the antenna(s) on the existing towers, structures or public utility structures would cause interference with the applicant's proposed telecommunications facility; and
 - d. The owners of existing towers, structures, or public utility structures within the radius will not allow the applicant to place its telecommunications facility thereon, or such owners are requiring payments for the use of their tower that substantially exceed commercially reasonable rates; and
 - e. The applicant shall submit evidence to the county demonstrating that a genuine effort has been made to solicit additional users for the proposed new tower. Evidence of this shall include, at a minimum, copies of notices sent by registered mail, return receipt required, to all other providers of wireless communication services within Taos County and adjacent counties, advising of the intent to construct a new tower, identifying the location, inviting the joint use and sharing of costs, and requiring a written response within fifteen (15) working days; and
 - f. The applicant shall sign an instrument, approved by the county, agreeing to encourage and promote the joint use of telecommunications towers within the county and, to that extent, committing that there shall be no unreasonable act or omission that would have the effect of excluding, obstructing, or delaying joint use of any tower where fair and reasonable compensation is offered for such use.

- C. **Criteria for Concealed Wireless Telecommunications Facilities.** Concealed wireless telecommunications facilities must be:
1. Architecturally integrated with existing buildings, structures, and landscaping, including height, color, style, clustering, placement, design, and shape.
 2. Located to avoid a dominant silhouette of a wireless telecommunications facility on escarpments and mesas, and to preserve view corridors.
 3. Located on existing vertical infrastructure, such as utility poles or public utility structures, if possible.
 4. Located in areas where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.
- D. **Landscaping and Screening.** The following regulations shall apply to landscaping and screening:
1. Freestanding wireless telecommunications facilities shall be surrounded by a six (6) -foot high fence or wall.
 2. Any free-standing wireless telecommunications facility facing or abutting a property used for residential purposes shall include landscaping along the outside of the required fence or wall that is planted and maintained according to a landscape plan approved by the Planning Director or his/her designee. The Planning Director may waive this requirement if the freestanding wireless telecommunications facility is not readily visible from surrounding properties or rights of way.
 3. All disturbed areas shall be re-vegetated and/or stabilized as necessary to control erosion and dust.
- E. **Horizontal Separation of Free-Standing Wireless Telecommunications Facilities.** Free-standing wireless telecommunication facilities shall be separated by a distance of five (5) miles.
- F. **Color and Camouflage**
1. All wireless telecommunication facilities, support structures, accessory buildings, poles, antennas and other external facilities shall be painted upon installation and thereafter repainted as necessary with a "flat" paint. Except where dictated by the FAA, paint color shall, at the discretion of the Planning Director, be designed to minimize visibility and blend with the surrounding environment.
 2. Improvements which will be primarily viewed against soils, trees or grasslands shall be painted colors matching these landscapes, while elements that rise above the horizon shall be painted white.
 3. Alternative and creative design that allow the structure to blend into its surrounding area, but which deviates from the above requirements may be permitted by the Planning Director, in his discretion and in writing.
- G. **Access Roads.** All wireless telecommunications facilities shall have access roads.
- H. **Emergency Backup Power.** Emergency backup power shall be required for timed power outages and testing/maintenance only.
- I. **Application Requirements.** In addition to information already required by Sections 4.5 or 4.6 above, each applicant for a wireless telecommunications facility shall provide the Planning Department with the following:
1. Map(s) from the County Mapping Department that are specific to the application site, drawn to scale, showing land uses and zoning designations, including those within other jurisdictions.
 2. Documentation regarding co-location as described in these regulations.

3. A set of plans which, in addition to other requirements in these regulations, includes:
 - a. A scaled site development plan clearly indicating the location, type, color and height of any proposed wireless telecommunications facility, on-site land uses, adjacent land uses, and zoning (including when adjacent to other jurisdictions), tower service area map, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of any wireless telecommunications facilities, topography, and parking layout;
 - b. A notarized statement from the applicant that describes the facility's capacity and declares the number and type(s) of antenna(s) that it can accommodate, or an explanation of why the facility cannot be designed to accommodate other users;
 - c. A licensed engineer's stamp and registration number;
 - d. The distance between any proposed tower and other telecommunications facilities and identification of the owner(s) of the other facilities;
 - e. Verification that a copy of the above-proposed application material has been sent by certified mail, return receipt requested, to any other government jurisdiction within one (1) mile of the proposed site;
 - f. Any other information as requested by the county needed to evaluate the application; and
 - g. A letter of intent committing the wireless telecommunication facility owner and its successors to allow shared use of the facility, if an additional user agrees in writing to offer terms and conditions of shared use, including provisions for payment of prevailing commercial rates.

Section 4.10.2

Exclusions: Every wireless telecommunications facility located within the county, whether upon private or public lands, shall be subject to the provisions of these regulations. The following facilities, however, shall be exempt from application of the regulations for wireless telecommunications facilities:

- A. Amateur radio stations, if owned and operated by a federally licensed amateur radio station operator.
- B. Any existing tower and antenna constructed prior to adoption of these regulations unless such tower shall be abandoned pursuant to 4.10.1.A.5.a for any six (6) consecutive months period commencing after the date of enactment of this ordinance and the upgrading, replacement or modification of relays, antennas and towers for technological or safety reasons that do not exceed the dimensions, esthetics, or aggregate power of the original structures or equipment.
- C. Wireless telecommunications facilities used exclusively for emergency services, including sheriff, police, fire, EMS, and operation of a water utility system provided where feasible an effort shall be made to conform such facilities to the provisions of this ordinance.

Section 4.10.3

Variations: Variations may be granted subject to the variance standards and procedures set out in Article 9 herein.

SECTION 4.11
Commercial Wind Power Generation Performance Standards and Application
Requirements

Section 4.11.1 Permit Requirements

- A. A special use permit is required for the temporary use of an anemometer to determine the feasibility of a project. In addition to all special use permit requirements, the Planning Director may require, within his or her discretion, any of the criteria under this section as part of the special use permit application process.
- B. Any anemometer proposed for permanent commercial installation shall be considered for the purposes of this application to be a major development, and shall fulfill the requirements of this section, and major development requirements.
- C. All commercial wind farm developments require a major development permit.

Section 4.11.2 Application Requirements for Permanent Wind Power Installations: The applicant shall follow the requirements in section 4.7 and section 4.8 and application requirements in Section 4.5 or Section 4.6, whichever applies, and in addition, all applications for wind farms shall be accompanied by the following information:

- A. **Project Rationale.** Relevant background information on the project, including time frame and project life, phases of development, likely markets for the electricity produced and the possibilities for future expansion.
- B. **Plat and Development Plan.** A conceptual development plan of the proposed wind farm drawn to scale and in sufficient detail to provide a clear description of the project:
 - 1. Drawing sheets must show the scale, a north arrow and the number of sheets in the sequence. Twelve copies (24" X 36") of the development plan must be submitted with the application.
 - 2. Property description which includes a general vicinity map of the project and a legal description of the project boundary (i.e. NW1/4, SE1/4 Sec 2, T 42N, R6W), and property acreage.
 - 3. Structure location showing setbacks, use, and means of access for the following structures:
 - a. Existing structures within project boundary.
 - b. Existing structures outside of project boundary: All occupied and unoccupied structures within 1,000 feet of the project boundary.
 - c. Proposed Accessory Structures: Accessory structures include support offices, facilities and structures related to the operation of the wind farm. A general statement of how the developer will address potable water, sewage/waste disposal, and fire protection for these accessory structures is required.
 - d. Proposed Wind Turbine Towers: Include a conceptual site plan of a typical individual wind turbine site and a map showing the approximate location of each turbine. If the exact number or dimensions of wind turbines is not known at the time of application, the site plan shall identify a maximum number and maximum dimensions that shall not be exceeded and a range from minimum to the maximum number expected. For review purposes, all wind turbines shall be assigned a reference number.

- e. Existing Utilities, Pipelines and Related Structures: Show the location of all existing underground and above ground utilities, electrical lines, transmission lines, pipelines and any accessory support facilities.
 - f. Proposed Utilities, Electrical Transmission Lines and Related Structures: Show all proposed utilities, electrical lines, transmission lines and any related accessory support facilities. State the approximate voltage of each electrical/transmission line and whether the facilities are proposed to be located above or below ground. Provide a general region/area-wide map clearly showing the proposed route of transmission lines and their accessory facilities.
 - g. A map showing the existing topography of the project site: USGS topographic maps shall be utilized, unless the Planning Director approves an equivalent.
 - h. A map showing the approximate proposed drainage, grading and natural vegetation removal plan.
 - i. A map showing wind characteristics and dominant wind direction, which is the direction from which fifty (50) percent or more of the energy contained in the wind flows.
 - j. A map showing the location of any delineated 100-year floodplains or wetlands.
4. **Visual Simulation.** Provide an accurate visual simulation of the project components by showing views from a reasonable number of key vantage points as determined by the applicant in consultation with staff and approved by the Planning Department. These vantage points must consider a 360-degree view of the project site.
5. **Economic Analysis.** Provide an estimated economic analysis describing the impact of the project on the local and state economy with respect to the following:
- a. The amount of property taxes to be generated by the project.
 - b. The amount of sales taxes to be generated by the project.
 - c. The amount of other applicable taxes to be generated by the project.
 - d. The construction dollars to be spent locally.
 - e. The number of in and out of county construction jobs and the estimated construction payroll of each group.
 - f. The number of permanent jobs and estimated continuing payroll.
 - g. Costs associated with the impact on roads or other county infrastructure in the area.
6. **Impacts and Mitigation Measures.** If an environmental analysis by a state or federal agency is not required, an environmental analysis shall be required that encompasses the entire project area, and provides a project impact review and a proposed impact mitigation plan. The project impact review and proposed mitigation plan shall address all of the following:
- a. Wildlife and wildlife habitat on the site and in a biologically significant area surrounding the site.
 - b. Any endangered or threatened species on the site and in a biologically significant area surrounding the site.
 - c. Avian population, including migratory birds.

- d. Flora on the site.
 - e. Soil erosion.
 - f. Water quality and water supply in the area.
 - g. Historic, cultural or archaeological resources within the wind farm project area.
 - h. Dust from project activities.
 - i. A-weighted and C-weighted noise levels at the residence nearest to the project boundary and at the property line of such residence nearest to the project boundary.
 - j. Any wastes, either municipal solid waste or hazardous waste, generated by the project.
 - k. Electromagnetic fields and communications interference generated by the project.
 - l. Public safety in regard to the potential hazards to adjacent properties, public roadways, communities, aviation, etc. that may be created.
 - m. A general discussion of any potential changes to the above assessment items that could be anticipated when considering the cumulative impacts of other adjacent wind energy projects.
7. **Life of Project and Final Reclamation of Project.** Provide a statement of the useful life of the project, a general description of the decommissioning, and the final land reclamation plan in the event the project is abandoned or terminated.
8. **Evidence** acceptable to the Planning Commission or the Board of County Commissioners shall be presented demonstrating that the developer has entered into an agreement with the property owner that ensures proper final reclamation of the wind farm project. If the developer does not have a reclamation agreement with the land owner that is approved by the Board of County Commissioners, the developer shall comply with all the provisions of Section 4.10.6 of these regulations.
9. **Conceptual Transportation Plan for Construction and Operation Phases.** Provide a conceptual construction and operation transportation plan that shows the following:
- a. Anticipated locations of the project's service road ingress and egress access points onto state or county roads. Any proposed access onto the state or county road system must meet respective requirements.
 - b. The general layout of the proposed wind farm service road system and the extent to which roads are planned to be upgraded. All roads servicing manned or occupied accessory buildings need to be constructed to the standards of the International Fire Code.
 - c. The plan for utilizing existing roadways to service the project area. To the greatest extent possible, the applicant must make use of existing roadways. The anticipated volume and designated route for traffic including routes for oversized and heavy equipment needed for construction, maintenance and repairs shall be depicted.
 - d. The proposed methodology for assuring that road and bridge repairs, and on-going maintenance of roads and bridges to be used in both the construction and operation phases of the project, will be carried out.
 - e. The plan for utilizing existing roadways within the project area.

10. **Height.** There is no height limitation. The general County height limit of 27 feet shall not apply. Height shall be determined by technical requirements and the applicable compatibility and performance standards.

Section 4.11.3

Site Plan

- A. **Site Guidelines.** The purpose of these guidelines is to assist decision-makers in uniformly analyzing the site-specific impacts of each proposed project and thereby arrive at consistent and balanced decisions. The following guidelines shall be considered by the Planning Department, the Planning Commission, and the Board of County Commissioners in evaluating the appropriateness of proposed locations for wind farms and the proposed project components:
- B. **Natural and Biological Resources.** Wind farms should not be located in areas that have a large potential for biological conflicts. Wind farms should not be located in large-impact areas such as wilderness study areas, areas of critical environment concern, county and state parks, historic trails, and special management areas. Wind farms should not significantly impact important wildlife habitat.
- C. **Visual Impacts.** Wind farms should avoid those visual corridors that are designated by the Board of County Commissioners as essential view sheds or scenic areas. Essential view sheds or scenic areas are those areas designated by the board after analyzing the applicant's wind farm visual simulations and considering public hearing comments. A wind farm project should maintain visual uniformity among clusters of turbines. To promote visual uniformity, the rotors, nacelles and towers of all turbines in an array should appear similar. To avoid visual clutter, intra-project power lines having a voltage of 34,500 volts or less, should be buried, unless the applicant can sufficiently demonstrate that burying the lines will violate other guidelines/standards, violate applicable law, render the project economically infeasible or be hidden from public view. To avoid cluttering the skyline, transformers and other electric equipment should be hidden from view or otherwise constructed in harmony with the surrounding landscape.
- D. **Soil Erosion and Water Quality.** Wind farms should avoid erosion. Disturbance and construction on erodible slopes should be minimized. The number of improved roads and construction staging areas should be kept to a minimum. The grading width of roads should be minimized. One-lane roadways with turn-outs are recommended. The number and size of staging areas and crane pad sites should be minimized.
- E. **Historical, Cultural and Archeological Resources.** Wind farms should avoid sites with known sensitive, historical, cultural, or archeological resources.
- F. **Public Safety.** Wind farms shall be developed in a manner that utilizes sound engineering practices and considers public safety in regard to the potential hazards to adjacent properties, public roadways, communities, aviation, etc. that may be created.

Section 4.11.4

Performance Standards: The following standards along with the applicable performance standards in Sections 4.7 and 4.8 are to be achieved by each wind farm project without exception. The final decision on whether or not a particular standard is achieved by a wind farm project shall be made by the Planning Commission or the Board of County Commissioners.

- A. **Noise Management.** The noise level caused by the operation of the project, measured at five (5) feet above ground level at the property line coincident with or outside the project boundary, shall not exceed 65 decibels (A-weighted) and shall not exceed 50 decibels (A-weighted) if it is determined that a pure tone noise is generated by the project. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms. Upon receipt by the Planning Department of a complaint regarding noise from an existing wind farm project, the Planning Department will investigate the complaint. If the Planning

Department determines the complaint to be reasonable, the project owner shall be required, at the owner's expense, to have prepared, by an independent acoustical consultant approved by the Planning Department, an acoustical study that shall demonstrate compliance with the above noise standard on the basis of equivalent sound pressure levels. "Equivalent sound pressure levels" means the steady sound level that, over 10-minute measurement periods, would produce the same energy equivalence as the fluctuating sound level actually occurring.

- B. **Wind Farm Design.** Wind farms must be designed in "accordance with proven good engineering practices," including but not limited to:
1. Up wind rotor;
 2. No furling, where "furling" means that the wind turbine is designed to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction;
 3. Tapered and twisted blades; and
 4. A well-designed braking system.
- C. **Natural & Biological Resources.** Noxious weed control is required. Appropriate fire measures as required by the county Fire Marshal shall be implemented. No perches are permitted on the nacelles of turbines. Wind farm towers shall not use lattice-type construction or other designs that provide perches for avian predators.
- D. **Visual Impacts.** To provide visual order to a wind farm project, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind. To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground. Except during construction, re-construction or removal, outdoor storage is not permitted within the project boundary except at locations that are screened from view.
- E. **Cluttering the skyline.** To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure. No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers. Aircraft obstruction markings of the turbines by use of alternating red and white bands shall be prohibited, unless required by federal and state laws or regulations. No billboards, logos and advertising signs of any kind shall be located on the turbines.
- F. **Soil Erosion and Water Quality.** Construction and maintenance shall be done in strict accordance with the erosion and sediment control plan submitted with the special use or major development permit application so as to minimize soil erosion and damage to existing vegetation. If vegetation is damaged during construction in areas not occupied by the wind farms and related facilities and roads, it shall be restored after construction is complete. Disturbed areas shall be reseeded to the land owner's or manager's requirements. Dust control on the project site is required.
- G. **Safety.** Individual wind turbines shall be set back from all property lines coincident with or outside of the project boundary a distance equal to 1.5 times the highest point of the turbine structure including the blades. Individual wind turbines shall be set back from all public roads a distance equal to at least 1.5 times the highest point of the turbine structure including the blades. Individual wind turbine heights and markings shall comply with Federal Aviation Administration (FAA) regulations. All turbines and towers shall be a shade of white in color. These setback requirements may be met by easements on adjacent property and in such case property boundary shall mean easement boundary. No structures, roads, or driveways shall be permitted within such an easement.

Section 4.11.5

Review and Approval

- A. The developer shall submit to the Planning Department a complete special use permit application or major development application as per Section 4.5 or Section 4.6.
- B. The term for completing development pursuant to a wind farm special use permit or major development permit expires within five (5) years of its date of approval by the Planning Commission or Board of County Commissioners unless:
 - 1. The developer has substantially commenced wind farm construction under an approved construction/use permit; or,
 - 2. The developer has submitted evidence acceptable to the Planning Commission or Board of County Commissioners that the wind farm project is still viable and the delay in construction is caused by project management or coordination issues that are pending resolution in the near future.
- C. The reviewing commission or board may renew the special use permit or major development permit once for a period determined in its discretion of up to five (5) years. If the project is still not complete after the renewal period has ended, and the applicant still wishes to proceed with the project, a new special use permit or major development permit must be applied for.

Section 4.11.6

Final Project Reclamation: If, in the assessment of the board, the applicant has not provided acceptable evidence demonstrating that the applicant has entered into an agreement with the property owner to ensure proper final reclamation of the wind farm project, the applicant shall comply with the following final project reclamation requirements:

- A. A reclamation bond shall be furnished to Taos County not later than 30 calendar days before commencement of project construction that will be used to restore the site surface to a condition consistent with the pre-construction environment. The purpose of the reclamation bond is to assure that adequate funding is available to pay the costs of site reclamation, including removal of individual turbines and other above-ground project improvements subject to permit in the event of abandonment of individual turbines or the entire project.
- B. The reclamation bond shall be in an amount equal to one hundred percent (100%) of costs of reclamation, determined by the Board of County Commissioners based upon estimates from knowledgeable experts. The landowner should be given the option to maintain access roads for demonstrated ranching or farming purposes, such that costs of reclaiming the roads are not included. The reclamation bond may not be cancelled, released or in any way terminated, without prior written approval from the Board of County Commissioners, and shall continue as long as such turbines or other above-ground improvements exist.
- C. The reclamation bond must be written so as to survive any sale or other form of transfer of ownership of such turbines and other improvements. The company providing the reclamation bond must be authorized to provide bonds in the State of New Mexico and be acceptable to the Board of County Commissioners.
- D. All underground equipment and foundation systems of wind farms shall be removed.

SECTION 4.12

Commercial Solar Generation Performance Standards and Application Requirements

Section 4.12.1

Application Requirements: In addition to the requirements set forth in Section 4.5 or Section 4.6, an applicant shall submit the following:

- A. **Project Rationale.** Relevant background information on the project, including time frame and project life, phases of development, likely markets for the electricity produced, and the possibilities for future expansion.

B. **Plat and Development Plan.** A conceptual development plan of the proposed project drawn to scale and in sufficient detail to provide a clear description of the project, including structure location showing setbacks, use, and means of access for the following structures:

1. **Existing structures within the project boundary.**
2. **Existing structures outside of project boundary.** All occupied/manned structures and all non-occupied structures within 1000 feet of the project boundary.
3. **Proposed Accessory Structures.** Accessory structures include support offices, facilities and structures related to the operation of the solar project. A general statement of how the developer will address potable water, sewage/waste disposal, and fire protection for these accessory structures is required.
4. **Existing Utilities, Pipelines, and related structures.** Show the location of all existing underground and above ground utilities, electrical lines, transmission lines, pipelines and accessory support facilities.
5. **Proposed Utilities, Electrical/transmission lines and related structures.** Show all proposed utility lines, transmission lines, electrical lines, and any related accessory support facilities. The applicant must submit a statement that states the approximate voltage of each transmission line and whether the facilities are proposed to be located above or below ground. Provide a general region/area-wide map clearly showing the proposed route of transmission lines and accessory facilities.
6. A map showing the existing topography of the site: USGS topographic maps shall be utilized, unless the Planning Director approves an equivalent.

C. **Visual Simulation.** Provide an accurate visual simulation of the project components by showing:

1. Views from a reasonable number of key vantage points as determined by the applicant in consultation with staff and approved by the Planning Department. These vantage points must consider a 360 degree view of the project.
2. Impact of the project on the local and state economy with respect to the following:
 - a. Amount of property taxes to be generated by the project.
 - b. Amount of sales taxes to be generated by the project.
 - c. Amount of other applicable taxes to be generated by the project.
 - d. Construction dollars to be spent.
 - e. Number of construction jobs and estimated construction payroll.
 - f. Number of permanent jobs and estimated continuing payroll.
 - g. Costs associated with the impact on roads and other infrastructure.

D. **Conceptual Transportation Plan for Construction and Operation Phases.** Provide a conceptual construction and operation transportation plan that shows the following:

1. Anticipated locations of the project's service road ingress and egress access points onto state or county roads. Any proposed access onto the state or county road system must meet respective requirements.
2. The general layout of the proposed solar project service road system and the extent to which roads are planned to be upgraded. All roads servicing manned or occupied accessory buildings need to be constructed to the standards of the International Fire Code.
3. The plan for utilizing existing roadways (1) that will serve the project area and (2) that are within the project area. To the greatest extent possible, the applicant must make use of existing roadways. The anticipated volume and designated route for traffic including routes for oversized and heavy equipment needed for construction, maintenance and repairs.
4. The proposed methodology of assuring the public entities responsible for the roads that repairs and on-going maintenance of roads and bridges to be used in both the construction and operation phases will be carried out.

Section 4.12.2

Site Guidelines: The following guidelines shall be considered by the Planning Department, the Planning Commission or the Board of County Commissioners in evaluating the appropriateness of proposed locations for solar projects and the proposed project components. The purpose of these guidelines is to assist decision-makers in uniformly analyzing the site-specific impacts of each proposed project and thereby arrive at consistent and balanced decisions.

- A. **Natural and Biological Resources.** Solar projects should not be located in areas that have a large potential for biological conflicts. Solar projects should not be located in large impact areas such as wilderness study areas, areas of critical environmental concern, county and state parks, historic trails, and special management areas.
- B. **Visual Impacts.** Solar projects should avoid those visual corridors that are designated by the Planning Commission or the Board of County Commissioners as essential view sheds or scenic areas. Essential view sheds or scenic areas are those areas designated by the commission or board after analyzing the applicant's solar project visual simulations and considering public hearing comments. A solar project should maintain visual unity among clusters of solar panels. To promote visual uniformity, the solar panels in an array should appear similar. To avoid visual clutter, intra-project power lines having a voltage of 34,500 volts or less, should be buried or otherwise be hidden from public view, unless the applicant can demonstrate that burying the lines will violate other guidelines/standards, violate applicable law, or render the project economically unfeasible. To avoid cluttering the skyline, transformers and other electric equipment should be hidden from view or otherwise constructed in harmony with the surrounding landscape.
- C. **Soil Erosion and Water Quality.** Solar projects should avoid erosion. Disturbance and construction on erodible slopes should be minimized. The number of improved roads and construction staging areas should be kept to a minimum. The grading width of roads should be minimized. One-lane roadways with turn-outs are recommended. The number and size of staging areas and crane pad sites should be minimized.
- D. **Historical, Cultural and Archeological Resources.** Solar projects should avoid sites with known sensitive historical, cultural or archeological resources.
- E. **Public Safety.** Solar projects shall be developed in a manner that utilizes sound engineering practices and considers public safety in regard to the potential hazards to adjacent properties, public roadways, communities, aviation, etc. that may be created.

Section 4.12.3

Performance Standards: These requirements and standards require an applicant’s conformance to the provisions of NMSA 1978, §§ 47-3-1, et seq, the NM Solar Rights Act, and NMSA 1978, §§ 47-3-6 et seq, the NM Solar Recordation Act. Additionally, the applicable standards in Section 4.7 and Section 4.8 herein are to be achieved by each solar project without exception. Because they are standards, they are considered to be requirements of any solar project. The final decision on whether or not a particular standard is achieved by a solar project shall be made by the Planning Commission or the Board of County Commissioners.

- A. **Natural & Biological Resources.** Noxious weed control is required. Appropriate fire measures as required by the county Fire Marshal shall be implemented. Solar project towers shall not use lattice-type construction or other designs that provide perches for avian predators.
- B. **Soil Erosion & Water Quality.** Construction and maintenance shall be done in strict accordance with the erosion and sediment control plan submitted with the special use / major development permit application so as to minimize soil erosion and damage to existing vegetation. If vegetation is damaged during construction, in areas not occupied by the solar projects and related facilities and roads, it shall be restored after construction is complete. Disturbed areas shall be reseeded as to Taos County Soil and Water Conservation District requirements. Dust control on the project site is required.
- C. **Safety.** Individual solar panels shall be set back from all property lines a distance equal to fifty (50) feet. Individual solar panels shall be set back from all public roads a distance equal to at least fifty (50) feet.

Section 4.12.4

Review and Approval: The developer will submit to the Planning Department a complete Taos County special use application or major development application as per Section 4.5 or Section 4.6, which includes all of the following:

- A. Final transportation plan coordinated with the land owner and the Taos County Public Works Department or New Mexico Department of Transportation must be provided. This plan must show final road locations and standards to which roads will be constructed. Roadways serving all occupied or manned buildings must meet the International Fire Code. Access permits onto public roads must be obtained from the appropriate agency.
- B. Utility plan that shows and complies with all standards for crossing or utilizing Taos County road right-of-ways or New Mexico Department of Transportation right-of-ways.
- C. Final decommissioning and reclamation plan.
- D. Documentation of the establishment of the account/bond for reclamation; and documentation that the project is in compliance with all of the requirements of all state and federal agencies.
- E. Fee for the special use or major development permit.
- F. An as-built survey, prepared by a New Mexico licensed surveyor, verifying the location and setbacks of all structures must be submitted to the county prior to solar project operation.

Section 4.12.5

Expiration and/or Continuance

- A. The term for completing development pursuant to a solar project special use or major development permit expires within five (5) years of its date of approval by the Planning Commission or the Board of County Commissioners unless:
 - 1. The developer has substantially commenced the solar project construction under an approved Taos County building permit; or

2. The developer has submitted evidence acceptable to the Planning Commission or the Board of County Commissioners that the solar project is still viable and the delay in construction is caused by project management or coordination issues that are pending resolution in the near future.
- B. The commission or board may renew the special use or major development permit once up to one additional five (5) year term. If the project is still not complete after the Board's renewal has ended, and the applicant still wishes to proceed with the project, a new special use / major development permit must be applied for.

Section 4.12.6

Project Reclamation Requirements: If, in the assessment of the commission or board, the applicant has not provided acceptable evidence demonstrating that the applicant has entered into an agreement with the property owner to ensure proper final reclamation of the solar project, the applicant shall comply with the following project reclamation requirements:

- A. A reclamation bond shall be furnished to Taos County not later than 30 calendar days before commencement of project construction that will be used to restore the site surface to a condition consistent with the pre-construction environment. The purpose of the reclamation bond is to assure that adequate funding is available to pay the costs of site reclamation, including removal of individual solar panels and other above-ground project improvements subject to permit in the event of abandonment of individual solar panels or the entire project.
- B. The reclamation bond shall be in an amount equal to one hundred percent (100%) of costs, determined by the Board of County Commissioners based upon estimates from knowledgeable experts. The landowner should be given the option to maintain access roads for demonstrated ranching or farming purposes, such that costs of reclaiming the roads are not included. The reclamation bond may not be cancelled, released or in any way terminated, without prior written approval from the Board of County Commissioners, and shall continue as long as such solar panels or other above-ground improvements exist.
- C. The reclamation bond must be written so as to survive any sale or other form of transfer of ownership of such solar panels and other improvements. The company providing the reclamation bond must be authorized to provide bonds in the State of New Mexico and be acceptable to the Board of County Commissioners.
- D. All underground equipment and foundation systems of solar project shall be removed.

SECTION 4.13

Extraction Performance Standards and Application Requirements

Section 4.13.1

Applicability: This section shall apply to the extraction of any substance from below the natural undisturbed surface of the land for a commercial purpose.

Section 4.13.2

Additional Requirements: In addition to meeting the compatibility and performance standards in Sections 4.7 and 4.8 and the special use or major development application requirements set forth in Sections 4.5 or 4.6 of these regulations, an applicant for a new extraction operation or the expansion or change in use of an existing extraction operation, shall also meet the following application requirements

- A. The application shall be accordance with Sections 4.5 or 4.6 and contain the following:
 1. The name and address of the operator and the owner of the land.
 2. An accurate legal description of the property where the mining shall occur. Names and addresses of the adjacent landowners including all those within a one-half mile radius of the property, measured from the closest boundary line.

3. A map of the property where the mining is to occur that clearly indicates the property lines and the limits of the proposed excavation. Topographic data including contours at 10-foot vertical intervals. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, all other utility lines, and other significant features shall also be shown.
4. A narrative outlining the type of material to be excavated, mode of operation, and estimate of amount of material to be removed, and plans for blasting.
5. Payment of the application fee.
6. A general location map showing the proposed mining site in relation to any city, town, or village within two miles.
7. A map showing access routes between the property and the nearest arterial road.
8. Location of roads or streets: show name, right-of-way width and improved width of roads, railroads, and trails.
9. Easements: show widths and identify utility or other purposes.
10. Natural land features: show locations of watercourses, arroyos, and drainage ways, floods of record, wetlands, sinks, basins, and wooded areas.
11. Man-made features: show buildings and other structures, dams, dikes, and impoundments of water.
12. Adjacent land features: all of the standards above shall apply to delineation of the area within 300 feet of the perimeter of the mined area.
13. In addition, show all platted subdivision lots, metes and bounds parcels, and all homes within one-quarter mile of the property boundaries.
14. Groundwater: A plan for groundwater quality protection shall be submitted with the application. The plan shall include a minimum of three borings showing depth to groundwater. If groundwater is not encountered at a depth of 15 feet below the bottom of the proposed pit floor, the applicant need not extend borings any farther.
15. Cross-sections: A minimum of three cross-sections showing the extent of overburden, extent of sand and gravel deposits, the water table, and any evidence of the water table in the past. The Planning Department reserves the right to require additional borings if necessary.
16. Processing areas shall be identified and boundaries shown to scale.
17. Access roads to processing and mining areas shown to scale.
18. An estimate of the life expectancy of the proposed operation including sequences of operation showing approximate areas to scale and serially numbered with a description of each.
19. Location of screening berms shall be shown to scale, and notes shall be provided indicating when they will be used as reclamation material. In the same manner, overburden storage areas shall be identified and noted.
20. Fences and gates shall be shown on the site map, and their type or construction shall be described.
21. Proposed location of principal service or processing buildings or enclosures shall be shown, as well as location of settling basins and processing ponds.

22. Site drainage features shall also be shown and flow directions indicated.
 23. Lighting: set forth the planned lighting of the area and any other equipment or structures that will be installed or built.
 24. Reclamation plan in conformance with Section 4.13.4.
 25. The applicant must indicate if blasting is proposed as part of the mining operation and frequency of blasting and times of blasting.
 26. The applicant shall submit grading plans and phased rehabilitation plans to the Taos Soil and Water Conservation District.
 27. Any other information or reports the Planning Director, Planning Commission, or Board of County Commissioners deem necessary for purposes of evaluating environmental or aesthetic impacts.
- B. **Environmental assessment.** A mandatory environmental assessment by a licensed environmental professional practicing in the State of New Mexico shall be required for development of a facility for extraction that will excavate 40 acres or more of land to a mean depth of 10 feet or more during its existence. Costs associated with the preparation of an environmental assessment shall be borne by the applicant.
 - C. **Protection of Water Tables.** The maximum depth of excavation shall be established so that groundwater quality is protected. This depth of excavation shall be established by the Board of County Commissioners and will be based, in part, upon soil characteristics, depth to water table, and nature of mining proposed and local use of the aquifer. Extraction shall not occur in unconfined aquifers. Excavation into confined aquifers must be closely monitored and conducted according to the conditions of the permit. No extraction operations shall be conducted in such a manner as to permanently lower the water table of surrounding inhabited properties or any other water body.
 - D. **Provisions of the New Mexico Environment Quality Board Environment Review Program.** All Provisions of the New Mexico Environment Quality Board Environment Review Program must be complied with, and the application must be within the guidelines of the Federal Clean Water Act (CWA).
 - E. **Permits from the New Mexico Environment Department.** If permits from the New Mexico Environment Department are required for a mining operation in relation to air and water quality, such permits are required. For example, an air quality permit may be necessary for smokestack discharges from processing plants or fugitive dust from operating areas; or if the extraction operation discharges water (from pit de-watering and/or gravel washing), a state disposal system permit or a national pollutant discharge elimination system permit may be necessary to obtain from the New Mexico Environment Department. As a condition of any permit issued pursuant to this ordinance, no extraction will be allowed until evidence is shown that the operator has obtained these permits or that none are necessary.
 - F. **Permits from the New Mexico Department of Natural Resources** may be required in the event any type of work is proposed in public waters or if there is a need for de-watering the pit to gain access to sand, gravel, and rock. A permit may also be needed for a well in connection with a washing facility. As a condition of any permit issued pursuant to this ordinance, no mining will be allowed until evidence is shown that the operator has obtained these permits or none are necessary.
 - G. **Any extraction operation having access from a state or county highway** must obtain an access permit from the respective agency. A turn lane and/or bypass lane may be required by the respective agency to reduce the risk of traffic safety hazards. The cost of construction of a turn or bypass lane shall be the sole expense of the operator.
 - H. **Abandoned wells** must be plugged and sealed in accordance with state and county requirements.

Section 4.13.3

Operating Conditions: The following operating conditions and standards must be met for all mining operations:

- A. **Setbacks.** No extraction, stockpiling, or land disturbance shall take place within:
 - 1. 30 feet of an adjoining property line.
 - 2. 500 feet of any existing occupied structures not owned by the operator or owner.
 - 3. 500 feet to the boundary of an adjoining property that is residentially zoned or contiguous property that is subdivided into residential lots.
 - 4. 30 feet to the right-of-way line of any existing or platted street, road, or highway, except to reduce the grade within the setback to conform to the existing or platted street, road, or highway. Such excavation shall require written approval of the Planning Department and applicable road(s) authority.
 - 5. 50 feet from the closest bank of any acequia, arroyo, or drainage system.
 - 6. If two or more extraction operations are contiguous to one another, the common boundary may be extracted if the Board of County Commissioners approves the respective restoration plans.
 - 7. 100 feet from the high water mark of any waterway or body of water.
- B. **Hours of Operation.** Those portions of the extraction operation consisting of excavating, stockpiling, processing, or hauling shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless other hours or days of operation are specifically authorized by the Board of County Commissioners. Blasting shall only take place between the hours of 7:00 a.m. and 5:00 p.m., Monday through Saturday.
- C. **Dust Control.** The owner/operator must construct, maintain, and operate all equipment and roads in such a manner as to minimize on-site and off-site dust conditions. All operations shall meet the standards of the New Mexico Environment Department.
- D. **Access to public roads.** Access roads shall also be constructed and maintained in such a manner that the deposit of earth materials on public roads is minimized. The Board of County Commissioners may require a blacktopped road if deemed necessary. The driveway access to the operation must be set back at least 25 feet from neighboring property lines unless all property owners agree to a lesser distance.
- E. **Noise.** All equipment and other sources of noise must operate so as to be in accordance with federal, state, and county noise standards.
- F. **Depth of Excavation.** The maximum depth of excavation may be regulated based on groundwater protection and the ability to restore the property.
- G. **Site Clearance.** Applicant shall submit a plan for disposal of all stumps and other debris resulting from the excavation or related activities approved by the county.
- H. **Appearance/Condition.** The owner/operator must maintain buildings and plants in a neat condition. Weeds and other unsightly or noxious vegetation shall be controlled as necessary to preserve the appearance of the landscaped area. Existing trees and topsoil along existing public right-of-way shall be preserved, maintained, and supplemented for the depth of the setback or as stipulated in a permit.
- I. **Waste Disposal.** Any waste generated from the extraction operation, including sewage, hazardous waste, or waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, and county requirements.

- J. **Water Quality Monitoring.** Water quality monitoring shall conform to the following standards:
1. Water from monitoring wells and water collected or discharged from the extraction area shall be analyzed until one year after reclamation is completed. Samples from monitoring wells shall be taken and testing results submitted annually and within 90 days prior to any application for permit renewal. The Board of County Commissioners may require more frequent monitoring. Sampling and testing shall be done by an independent testing laboratory or an agency approved by the Board of County Commissioners.
 2. Monitoring wells shall be sealed one year after reclamation efforts are complete, if the site is determined to be uncontaminated. Water samples shall be analyzed to determine the level of nitrates, pesticides, herbicides, and volatile organic compounds specified by the Board of County Commissioners.
- K. **Added Provisions.** The operator must comply with such other requirements that Taos County, from time to time, may find necessary to adopt for protection of the health, safety, and welfare.
- L. **Processing.** Any extraction operation in which processing is proposed must meet the following additional performance standards:
1. A special use / major development permit is required for any new or existing mining operation that desires to add processing equipment on-site.
 2. The application must include the nature of the processing and equipment, location of the plant, source of water, disposal of water, and reuse of water.
 3. Operators who wish to have processing equipment shall meet the following criteria:
 - a. Crushing equipment must be placed in the bottom of the pit area, if practical, or otherwise located in such a manner as to have the least environmental and aesthetic impact.
 - b. All federal, state, and local air, water, and noise quality standards must be met.
 - c. Setback requirements as set forth in these regulations must be met.
 4. A temporary processing plant in conjunction with a specific road project, located in close proximity to the subject road, will be allowed subject to the following conditions:
 - a. All federal, state, and local air, water, and noise quality standards must be met.
 - b. A permit must be obtained.
 - c. The processing equipment must be located so as to minimize the effect on surrounding property owners.
 - d. Site selection shall not have a negative effect of the public health, safety, and welfare.
 - e. No materials, outside of the designated right-of-way, may be excavated or removed from the site without a permit for mining.
 - f. A bond, in an amount determined by the Board of County Commissioners, must be posted to assure restoration of the site.

- M. **Recycling.** The crushing/processing or storage of used aggregate, concrete, and asphalt will be permitted subject to the following additional conditions:
1. A special use / major development permit is obtained.
 2. The processing equipment must be located so as to minimize the effect on surrounding property owners.
 2. Site selection shall not have a negative effect on the public health, safety, and welfare.
 3. All federal, state, and local air, water, and noise quality standards must be met.
- N. **Trucking Operations.** The operator shall ensure all loads leaving any pit are loaded in compliance with federal and state law and regulations. Trucks used in hauling materials from the site of excavation shall be loaded in such manner as to minimize spillage onto public highways. Any spillage shall be removed regularly.
- O. **Temporary Asphalt and Concrete Plants.** A special use / major development permit shall be required for all temporary asphalt and concrete plants. Temporary asphalt and concrete plants may be allowed, if the following additional conditions are met:
1. All setbacks set forth in these regulations must be met.
 2. All federal, state, and local air, water, and noise quality standards must be met. An air quality permit must be obtained from the New Mexico Pollution Control Agency.
 3. The owner/operator must provide a plan to prevent surface and groundwater contamination.
 4. Equipment must be located in such a manner so as to have the least environmental and aesthetic impact.
 5. Site selection shall not have a negative effect on the public health, safety, and welfare.
 6. No materials may be excavated or removed from the site without a special use / major development permit for mining.
 7. A bond, in an amount determined by the Board of County Commissioners, must be posted to assure restoration of the site.
- P. **Fuel Storage.** All on-site storage of fuel must meet federal, state, and local standards.

Section 4.13.4 Reclamation

- A. **Reclamation.** A reclamation plan shall contain the following information:
1. Intent of reclamation.
 2. Methods and processes of reclamation.
 3. Initial condition of mining site.
 4. Limits of various operational areas.
 5. Phasing and timing of operation and reclamation including areas to be stripped of overburden.
 6. Final condition of site, including proposed contours and potential development plan.
 7. Relation of final site condition to adjoining landforms and drainage features.
 8. Relation of reclaimed site to planned or established uses of surrounding land.

- B. **Timing.** Restoration should proceed in a continuous manner and must be subject to review and approval at each inspection and at the end of the permit period.
- C. **Excavations.** resulting in the accumulation of substantial water areas after rehabilitation must meet the following requirements:
1. The water depth must not be less than three feet measured from the low water mark, unless a plan for creation of a wetland or marsh has been approved.
 2. All banks shall be sloped to the water line at a slope that shall not be steeper than four feet horizontal to one foot vertical.
 3. All banks shall be surfaced with soil of a quality of at least equal to the topsoil of land areas immediately surrounding and to a depth of at least four inches. Sod or seeding and mulching are also required. Mulch must be properly anchored.
 4. The topsoil shall be planted with trees, shrubs, legumes, or grasses.
 5. Slopes on reclaimed areas shall not be steeper than four feet horizontal to one foot vertical. Exceptions may be made in cases where non-erodible conditions are present.
 6. In man-made groundwater lakes, the bottom contour shall be gradually sloping from the shoreline to the deepest portion of the water body a maximum slope of three feet horizontal to one foot vertical for at least 30 feet from the proposed shoreline toward the center of the water body.
 7. All groundwater lakes or wetlands classified by the Department of Natural Resources shall be subject to these regulations.
- D. **Excavations not resulting in water areas.** Excavations not resulting in water areas after rehabilitation, but which must be graded or backfilled, shall meet the following requirements:
1. Fill shall be inspected and certified as being clean (free of volatile organic compounds and heavy metals) before being used for reclamation. Organic soil shall be used only for topsoil.
 2. Such grading or backfilling shall be made with non-noxious, nonflammable, noncombustible solids.
 3. The graded or backfilled area shall not collect or permit stagnant water to remain therein.
 4. The peaks and depressions of the area shall be reduced to a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall.
 5. Such graded or backfilled areas shall be surfaced with soil of a quality at least equal to the topsoil of immediately surrounding land areas to a depth at least four inches
 6. Such topsoil (See 4.13.4.D.5.) shall be planted with trees, shrubs, legumes, or grasses.
 7. Slopes on reclaimed areas shall not be steeper than four feet horizontal on one foot vertical. Exceptions may be made in cases where non-erodible conditions are present.
 8. All rehabilitation areas that are planned for building purposes shall have a final elevation at least 10 feet above the normal ordinary groundwater level.

9. **Drainage.** Reclamation shall proceed in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the least degree necessary to carry out excavation and related activities. Any alteration of natural and storm drainage shall not adversely affect public roads or neighboring uses.
10. **Cover and Planting.** The reclamation area shall be planted with grass, trees, shrubs, or other vegetation to prevent erosion and provide for screening and natural beauty. Technical assistance and soils data should be obtained from appropriate state and federal officials, conservation districts, and the nearest soil and water conservation district office.
11. **Topsoil.** When topsoil is stripped or removed, an adequate amount must be retained and set aside on the site for re-spreading over the excavated area according to the reclamation plan. These overburden stockpiles must be used to minimize the effects of erosion of wind or water upon public roads, streams, or adjacent land uses and shall not be sold or removed from the property.
12. **Final Restoration/Removal of Structures.** Within a period of 12 months after the termination of a mining operation, or within 12 months after abandonment of such operation for a period of 12 months, or within 12 months after expiration of special use / major development permit, all buildings and other structures not otherwise allowed under the Taos County Land Use Regulations must be removed from the property and the property restored in conformance with the reclamation plan.

Section 4.13.5 Insurance, Financial Guarantees, Fees, and Inspections

- A. **Insurance.** The operator shall provide proof of bodily injury, property damage, and public liability insurance in the minimum amount of two million dollars (\$2,000,000) for any occurrence, including blasting insurance, if blasting is allowed as part of the permit. The commission or board may require a higher limit of insurance, when inherent risks of a particular operation justify same.
- B. **Reclamation Guarantees.** A reclamation guarantee in the form of a bond, cash deposit, or other acceptable security, shall be in an amount equal to one hundred percent (100%) of reclamation costs, determined by the Board of County Commissioners based upon estimates from knowledgeable experts. The landowner should be given the option to maintain access roads for demonstrated ranching or farming purposes, such that costs of reclaiming the roads are not included. The reclamation guarantee may not be cancelled, released or in any way terminated, without prior written approval from the Board of County Commissioners, and shall continue as long as such excavation operation or above-ground improvements exist. The reclamation guarantee must be written so as to survive any sale or other form of transfer of ownership of such mining operation and other improvements. The company providing the reclamation guarantee must be authorized to provide such guarantees in the State of New Mexico and be acceptable to the Board of County Commissioners.
- C. **Fees.** Permit fees will be charged as per these regulations. Fees cover administrative costs associated with the permit application and ongoing oversight and inspections.
- D. **Inspections.** As a condition of approval of an excavation permit, Taos County staff has the right to go on the subject property after providing reasonable notice to the operator.

SECTION 4.14
Development on Slopes Greater than 20%

Section 4.14.1 **Development on Steep Slopes.** A development proposed to be located on steep slopes of more than twenty percent (20%) across any portion of the building envelope, disturbed surface, parking or roadway must meet the application requirements in Section 4.5 or Section 4.6 and the standards listed below, in addition to those set forth in Section 4.7, 4.8 and Section 4.14 (See Appendix 3, Terrain Management and slope shall be determined by a contour map acceptable to the Planning Department.

- A. Any outdoor parking must be obscured from public view by means of an a landscaping plan approved by the Planning Director.
- B. No grading, filling or excavation of any kind on a steep slope building site shall be allowed without first having obtained a grading permit from the Taos County Building Inspector. All such work shall meet the provisions of the applicable building code adopted by the county.
- C. Required storm water runoff collection facilities shall be designed so as to retain and direct storm water runoff caused by the development on the site for a sufficient length of time so as to prevent flooding and erosion during storm water runoff flow periods.
- D. In order to prevent erosion resulting from grading and excavation, and to maintain the wooded and forest nature of Taos County's steep slopes, a vegetation preservation and restoration plan must be submitted. The plan must be submitted emphasizing drought-tolerant plants, and show the location and species of trees, large shrubs, groves, dense undergrowth and ground cover to be destroyed, removed, thinned and/or transplanted, and the timeframe and types of plantings for restoration of vegetation on ground surfaces after grading.
- E. The application shall be reviewed and commented on by Taos County Soil and Water Conservation District.

Section 4.14.2 **Visual Impacts on Steep Slopes and Adjacent Ridgelines.** A development proposed to be located on steep slopes of more than twenty percent (20%) across any portion of the building envelope or ridgelines adjacent to such steep slopes that is visible from major roadways or residences shall be compatible with the surrounding natural and historic environment.

- A. Adequate safeguards shall be taken to minimize the visual impact of proposed development that is visible from major roadways or residences and such development shall be compatible with the surrounding natural environment. Visual impacts may include but are not limited to cuts, projections, or other obviously artificial alterations of existing natural tree lines, ridgelines, prominent topographic features, or rock formations. The following are the performance standards:
 - 1. The use of materials which by their reflectiveness, finish, size, or orientation do not disrupt the natural or historic character of a steep slope or ridgeline.
 - 2. The size, height, shape, and location of buildings; the height, intensity, coverage, and glare from proposed lights. Mitigation measures may include but are not limited to:
 - a. Restricting the removal of trees and other vegetation unless required by defensible space requirements in a WUI described area.
 - b. Requiring supplemental landscaping.
 - c. Restricting structure colors and reflectivity of windows and roofs.
 - d. Requiring buffers from the steep slope or ridgeline.
 - e. Restricting exterior lighting as required by the Taos County Dark Sky Ordinance
 - f. Requiring utilities to be installed below ground.

3. Any clear-cutting shall occur in a pattern that reduces the visual impact of such cutting and may further require that clear-cutting be staged over a period of time to allow for re-growth of remaining vegetation.
4. The location, of proposed buildings to reduce visual impact.
5. Prohibited Operations and Uses in Ridgeline Setback Areas:
 - a. Quarrying.
 - b. Lighting poles 10 feet or more in height. All lights shall be designed to prevent excessive glare off the property.
 - c. Reflective air conditioning, heating, or ventilating equipment that projects above the plane of any roof surface, other than accessory chimneys.

B. Site Plan Requirements:

1. The application for an Administrative, Special Use, or Major Development permit that includes development covered by this section shall be accompanied by the following. The Director may waive the requirement for all or a portion of this information upon a finding that it is not essential to determining compliance.
 - a. The applicant shall submit a plan showing the proposed or existing location of each structure, road, driveway, and other man-made feature on the lot. The plan shall show the maximum first-floor topographic elevation and the maximum elevation of the highest point of each building and structure.
 - b. The applicant shall provide a map showing the location of all existing trees having a diameter of 6 inches or more at a height of 4 feet.
 - c. Where existing vegetation is insufficient to provide, in the judgment of the Planning Director, adequate visual screening of visual impact areas on a particular lot, the applicant shall prepare a landscaping plan specifying the location, number, type, species, and size of plant and tree material that will be added to the lot. The plan shall be designed to screen those portions of the visual impact areas that will be observable from the visual impact observation points.

SECTION 4.15

Sustainable Development Application Requirements and Performance Standards

Section 4.15.1 Purpose: It is the purpose of these regulations to promote the safe, effective, efficient and sustainable use of land and to encourage the testing of alternative methods of sustainable development, i.e. "a live-in environment composed of structures and systems that inherently produce utilities and life-support systems free of existing conventional grids and disposal systems," as defined in the New Mexico Sustainable Development Testing Site Act, NMSA 1978, §§ 71-8-1, et seq.

Section 4.15.2 Application Requirements: The applicant shall submit a Special Use or Major Development Application consistent with these land use regulations and pursuant to Section 4.5 or Section 4.6, as deemed appropriate by the Planning Director. Additionally, the applicant must comply with the applicable performance standards of Sections 4.7, 4.8 and Section 4.15, as well as the following:

- A. Letter from the Office of the New Mexico State Engineers that it has reviewed and approved the proposal.
- B. Letter from the New Mexico Environment Department that it has reviewed and approved the proposal.
- C. Letter from all local, state and federal agencies that will be affected by the test site that they have reviewed and approved the proposal.
- D. Reclamation plan shall be submitted indicating how the site will reclaimed to its original state prior to the test site.
- E. The reclamation of the test site shall be in accordance with local, state and federal regulations

Section 4.15.3 Performance Standards: The applicant shall meet all requirements of the New Mexico Sustainable Development Testing Site Act, NMSA 1978, §§ 71-8-1, et seq., and such additional requirements as may be imposed by the Planning Commission.

SECTION 4.16
Termination of Permit

Section 4.16.1 Termination of Permit

- A. Any permit granted pursuant to Article 4 of these regulations may be revoked for a violation of the regulations or any conditions of the permit.
- B. Revocation shall not occur earlier than ten (10) working days from the time written notice of revocation is served upon the permittee or, if a hearing is requested, until written notice of the Board of County Commissioners' action has been served on the permittee. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. The written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts which support the conclusions that a violation or violations have occurred, and a statement that if the permittee desires to appeal, a request for a hearing must be filed within ten (10) working days, exclusive of the day of service. The hearing request shall be in writing, stating the grounds for appeal, and served personally or by registered or certified mail on the Taos County Planning Department by midnight of the 10th working day following service. Following receipt of the appeal, the Board of County Commissioners shall set a hearing date.

ARTICLE 5 COUNTY ZONE OVERLAYS

SECTION 5.1 General Procedures

Section 5.1.1 Procedures

- A. **Applications.** The County Planning Department shall create, and update as needed annually, a standardized application package, timeline and process for the creation of County Zone Overlays, which shall be approved by the County Commission.

An application for the creation of a County Zone Overlay, as described and permitted under Article 5 of these Land Use Regulations, may be initiated by one of the following methods:

1. A petition to the County Commission by the owners of more than 50% of the properties within an area proposed for a County Zone Overlay. The area proposed for a County Zone Overlay shall not be a small area, whether comprised of a single lot or multiple lots. It shall be a large area with common characteristics falling into one of the County Zone Overlay designations and their purposes set out in this Article.
 2. The County Planning Department may recommend the adoption of a County Zone Overlay to the County Commission.
- B. **Review.** Applications and recommendations for the creation of a County Zone Overlay must be accompanied by a review and written report of the County Planning Department to the Board of County Commissioners, with a recommendation by the County Planning Commission. The report must address whether the proposed application is consistent with the following:
1. The Taos County Comprehensive Plan, including the land use, economic development, and historical and cultural elements of the plan that have been adopted by the County.
 2. Any overlapping or contiguous Zone Overlay(s).
 3. Consistency with all other County ordinances and regulations; including the County Land Use Regulations and County Subdivision Regulations.
 4. That all properties within the proposed zone share common characteristics consistent with the proposed zoning based on historic or current land use, transportation, environmental, public safety, socio-economic, architectural or cultural and historic significance.
 5. That the proposed area is either at-risk from development, a lack of infrastructure, environmental factors, a lack of neighborhood, land use or economic planning or other external factors that place the character, culture, historic value or viability of the community or area at-risk, or, that the imposition of a county overlay zone(s) would increase the social or economic viability and/or public safety of the proposed area.
- C. **Timeline.** Reviews by the County Planning Department must be completed within sixty (60) days of receipt of the application by the Department. Presentation of the report to the County Planning Commission shall be conducted within ninety (90) days of receipt of the application and shall be conducted as a public hearing consistent with public hearing and notice requirements of these Land Use Regulations for Special Use Permits, and state statutes governing zoning. Within thirty (30) days of the conclusion of the hearing the Planning Commission shall make a written recommendation to the County Commission filed with the County Clerk. Consideration by the County Commission shall be scheduled to be heard within 45 days of the date of the filing of the Planning Commission recommendations, however, the County Commission may grant an extension of up to sixty (60) days where additional community, legal or inter-governmental input or further research may be required to adequately assess the impact of the application, or to facilitate community consensus.

- D. **Adoption.** Upon receipt of the County Planning Commission recommendation, the County Commission shall conduct a public hearing of the application consistent with the requirements for adopting a county zoning ordinance. Notification of property owners shall be in accordance with state statutes governing zoning.

County Zoning Overlays approved by the County Commission shall be adopted as part of the County Land Use Regulations. The overlay shall include a zone map that identifies highways, right-of-ways, acequias, governmental boundaries, waterways and property lines within the zone.

- E. **Repeal.** Repeal of a County Zone Overlay shall follow the same procedures as creation of a County Zone Overlay

SECTION 5.2

Regulations for County Zone Overlays

Section 5.2.1 Regulations Applicable to All County Zone Overlays

- A. All provisions of this Ordinance shall apply in a County Zone Overlay except as follows:
1. A use that is specifically prohibited in a County Zone Overlay shall not be allowed even if otherwise allowed by this Ordinance.
 2. A use that is specifically allowed in a County Zone Overlay shall be allowed, subject to the permitting required, even if not otherwise allowed by this Ordinance.
 3. If a use is allowed in a County Zone Overlay the Compatibility Standards of Article 4 shall not apply.
 4. If a County Zone Overlay specifically provides that a particular provision of this Ordinance shall not apply.
- B. **Interpretation.** For a proposed use that does not specifically fit the definitions for a permitted use, the Planning Director, in consultation with the County Attorney's Office shall make an interpretation whether a proposed use fits within a permitted use. If the proposed use does not fit, the use is not allowed absent approval of an amendment of this ordinance, or rezoning. The Planning Director's decision will be made in writing and is appealable as outlined in the Taos County Land Use Regulations.

SECTION 5.3

County Zone Overlay Designations

Section 5.3.1 County Zone Overlay Designations

The allowed County Zone Overlay designations and each designation's purpose are set out in the following sections. Applications and recommendations for County Zone Overlays must be for one or more of the following designations.

- A. **R: Residential.** Residential use as defined in this ordinance, including Single-Family Residence and Multiple Family/Multi-Family Residence.
- B. **A: Agricultural.** This zone reflects an area that is presently under agricultural uses including areas that were historically or are presently irrigated. Agricultural also includes grazing or dry land farming that has low development sensitivity. The area may be appropriate for future development, but due to distance from services and infrastructure the area should remain undeveloped and re-evaluated when there are adequate roads or the area is comprehensively master-planned.

- C. **SC: Sustainable Community Purpose.** These are areas that should be developed in a manner that encourages sustainable community practices such as clustered housing, alternative energy, energy conservation, mixed and affordable/workforce housing, alternative construction standards, community-based infrastructure (alternative water, fire prevention, wastewater and energy systems), a mix of alternative or low-impact land uses and densities, and adequate community facilities such as schools, parks, community centers and neighborhood retail. These facilities such as schools, parks, community centers and neighborhood retail. These areas should encourage multi-modal transportation (bicycling, equestrian, ride-share, park and ride, access to public transit) and walk ability (pathways and connectivity).
- D. **CE: Commercial.** These are areas that contain larger commercial retail, industrial, institutional/civic uses that are clustered along highway corridors to serve the region
- E. **LC: Light Commercial.** These are districts between residential areas of existing medium-density residential development and commercial development. The LC zone is intended for neighborhood-oriented, small-scale commercial uses primarily to supply convenience goods and services to the residents of the neighborhood areas in which the LC District is located. Mixed-use is encouraged in the LC zone.
- F. **HV: Historic Village.** These are existing historical villages that typically have a plaza and a mix of land uses associated with them that are intended for future growth in a manner that represents the traditional settlement pattern. This pattern is of a clustered mixed use around a public space or church with residential housing in compounds close to the street (no setback) and on the dry uplands away from the irrigated agriculture lands.
- G. **HC: Highway Commercial Corridor Purpose.** A highway corridor is a zoning overlay of a designated state or county highway corridor to a distance of between 100' and 200' from the right of way edge. The purpose of the zone is to recognize the already established pattern of existing, traditional and potential retail and service uses along the corridor, accessibility to high retail business traffic, readily accessible regional transportation corridors, mixed uses, and access to deliveries and public safety with minimal disruption to residential neighborhoods.
- H. **ER: Existing Resort District.** This district is intended to set out development guidelines for existing resort facilities so that future development complements the natural and cultural attractiveness of the area without significant adverse effects on natural and environmental features. The district provides for recognition of existing, self-contained, indoor and outdoor recreational facilities that are outside of urban growth areas and in a rural or resource area setting of significant natural amenities.

SECTION 5.4 Rezoning

Section 5.4.1 Rezoning Requirements

- A. **Criteria for Consideration.** This rezoning process is only applicable in County Zone Overlays and may be used by the Planning Department, a neighborhood association, or an individual property owner to correct technical errors in a Zone Overlay established zoning or zone borders for an individual property or area of properties (including existing lots split by a zone boundary), to reflect changes in the character or circumstances of a neighborhood subsequent to the original zoning, to accommodate or prohibit new uses not anticipated at the time of zoning, or to amend current requirements.
- B. A rezoning request must be specific to a lot or group of adjacent or related lots and density. Rezoning cannot be used by an individual owner as an appeal mechanism to circumvent, overturn or provide an exemption from the approved zoning in order to allow that property owner or owners to construct or carry on an otherwise prohibited use. A request for rezoning shall only be granted when:

1. The proposed change is consistent with the County Comprehensive Plan;
 2. The zone change being proposed is appropriate for the proposed use(s);
 3. The proposed change must be consistent with the general character of the existing and surrounding zoning or to provide a reasonable transition or buffer between uses;
 4. The rezoning does not create or increase the risk to public health and safety or general good of the community beyond that of the existing zoning and, where possible, it improves existing conditions; and
 5. The rezoning does not create "spot zoning"; i.e. an isolated use that is "out of place" or inconsistent with surrounding land use patterns, or which grants a special privilege to one property owner over others by imposing a lesser standard, or is done for the sole financial benefit of an individual owner.
- C. **Initiation.** Rezoning may be initiated by the Board of County Commissioners, the Planning Commission, the Planning Director, or the legal owner of a property proposed for rezoning, or the authorized agent of that owner. No rezoning request shall be processed unless it is accompanied by a request to conduct a specific land use including the basis for why that activity cannot be conducted on the property as it is currently zoned and cites evidence of a specific technical error in the current zoning, zoning map or zone boundary description.
- D. **Application.** An application for rezoning shall be submitted to the Planning Director or his or her designee, and shall contain the materials specified in Section 6.4, with the following additional submittal requirements:
1. A description of the existing uses of the subject property and of each property within 500' of the subject property.
 2. A description of the proposed use, density, and the timetable for development.
- E. **Survey.** An application shall include a survey and legal description prepared by a New Mexico Licensed Surveyor, which accurately describes the dimensions of the subject property, including its size in square feet or acres.
- F. **Compliance with Rezoning Standards.** A report that explains how the rezoning would satisfy the approval standards for a rezoning set forth in Section 6.4.
- G. **Preliminary Plan Application.** When rezoning is necessary to a land use that requires subdivision, then the applicant shall submit the subdivision preliminary plat application along with the rezoning request.
- H. **Special Use Permit Application Materials.** Any other materials required as part of the special use permit application for the use that will be conducted if the rezoning is approved.
- I. **Impact Analysis.** An analysis and description of the impacts of the rezoning, and a complete description of how impacts will be mitigated and standards will be satisfied by the applicant.

Section 5.4.2 Review and Approval Procedure for Rezoning

- A. **Pre-application Conference.** A pre-application conference shall be held in accordance with Section 4.4.1.
- B. **Review of Application Materials by the Director.** The Director shall review and prepare a report on an application for Rezoning in accordance with the provisions of Section 4.7. Upon a determination of completeness, the Director or designee shall schedule the application for review and recommendation by the Planning Commission.

- C. **Public hearing.** A public hearing by the Planning Commission shall be scheduled within forty-five (45) calendar days of the date of the determination of completeness.
- D. **Public notice.** Public notice of the hearing shall be made in conformance with Section 7.1 and all costs for giving meeting the notice shall be the responsibility of the applicant.
- E. **Referral for Agency Review.** The Administrator shall cause the application materials or any portion thereof to be submitted for referral agency review and comment. The referral agency review and comment period shall be for a period of time up to thirty (30) calendar days from the date that the application is deemed complete.
- F. **Review and Recommendation by Planning Commission.** An application for rezoning shall be considered by the Planning Commission at a public hearing, after proper notice, in accordance with the provisions of Section 7, together with the special use permit, major development permit, or preliminary plan accompanying the rezoning request. The Planning Commission shall recommend approval, approval with conditions or denial of the rezoning based on the approval standards set forth in Section 4.7.
- G. **Public Hearing and Action by Board of County Commissioners.** The final decision to approve, approve with conditions or deny the application for rezoning shall be made by the Board of County Commissioners at a public hearing.
 - 1. A public hearing by the Board of County Commissioners shall be scheduled within forty-five (45) calendar days of the filing of the Planning Commission recommendation.
 - 2. Public notice of the hearing shall be made in conformance with Section 7 and shall be the responsibility of the applicant.
 - 3. If more than 20% of those neighboring property owners within 150 ft. of the property lines of the parcel or parcels for which rezoning is being proposed or the area of required notification submit a petition of objection to the change, the Board of County Commissioners must approve the proposed rezoning by a 2/3 majority of the full Board of Commissioners (4 votes).
- H. **Zoning Map and Zone Boundary Description.** An affirmative decision by the Board of County Commissioners to rezone any property or area shall be considered as also approving the amendment of the zoning map and accompanying zone boundary description for that property or area. The corresponding changes to the map and description shall be instituted and made available to the public within 30 days of the vote by the Board of County Commissioners.

SECTION 5.5 Split Zones

Section 5.5.1 New Split Zones

- A. **Existing lots.** When implementing a Zone Overlay, all reasonable efforts should be made to avoid creating split lot zoning through existing lots.
- B. **Creating future lots in split zones.** When subdividing existing lots within an implemented Overlay Zone, the creation of split lots should be discouraged unless the subdivision into lots consistent with the applicable zoning would render the lot otherwise undevelopable.

Section 5.5.2 Existing Split Zones

- A. **Applicable zoning for existing split lots.** When a lot is divided by two or more zones, the zone that covers the largest portion of a lot shall be deemed the zoning for the lot.
- B. If a lot is divided into two or more equal portions by different zones, the total area of the bisected lot shall be the same zone as that portion abutting the front lot line. Re-zoning of county zoned split lots: A lot divided by two or more zones may be rezoned consistent with Section 6.4, at the request of the property owner.

SECTION 5.6
APPEALS

Any aggrieved party may appeal the written decision of Board of County Commissioners regarding a Zone Overlay or Zone Overlay rezoning to the District Court, pursuant to NMSA 1978, § 39-3-1.1. and Rule 74 of the Rules of Civil Procedure by filing a Notice of Appeal in the District Court within thirty (30) days of the filing of the decision with the County Clerk.

SECTION 5.7
Adopted County Zone Overlays

This section shall be reserved for County Zone Overlays adopted for specific locations in the future. Each location for which a County Zone Overlay is adopted shall receive a sequential subsection number.

**ARTICLE 6:
NEIGHBORHOOD ZONE OVERLAYS**

**SECTION 6.1
Neighborhood Associations Role**

Section 6.1.1 Roles of County Neighborhood Associations

- A. **Application for Neighborhood Zone Overlay.** A Neighborhood Zone Overlay may only be initiated by an application to the Planning Department from a Neighborhood Association that has formally been recognized by Taos County as provided for in this Article. The procedures set out in Section 5.1.1 A. B. C. D. and E for County Zone Overlays shall apply to applications for Neighborhood Zone Overlays.
- B. **County Role.** Taos County encourages neighborhood associations, property owners and residents to become involved in defining neighborhood association boundaries, planning neighborhood land use, and recommending zoning. The County Planning Department provides technical assistance as needed to assist neighborhood associations in the development, approval and implementation of their vision, goals and objectives.

The County will provide prospective neighborhood associations with a package with specific procedures and forms for obtaining recognition by the County, which shall include a map of the neighborhood borders and a mailing list of property owners within the neighborhood who shall be contacted and included in the process.

- C. **Recognition of Neighborhood Associations.** To be a County recognized neighborhood association, the association must be organized as an unincorporated association or a non-profit corporation under the laws of the State of New Mexico, with by-laws that include a membership provision for property owners and residents, filed with and recognized by Taos County. Evidence that the association and its meetings are open to all residents of the neighborhood, an outreach plan for assuring a representative and informed membership, a copy of the articles of association or incorporation and rules or by-laws, a map and written description of the neighborhood and contact information for all officers must be filed with the County Planning Department and recorded with the County Clerk. The association must then be recognized by a resolution of the Board of County Commissioners. For the association to maintain status in good standing with the County, the approved association will provide a copy of the minutes of its annual meeting and updated membership and officers list. The County Planning Department will respond within sixty (60) days with a certificate of good standing with the County for the neighborhood association to the current chairman or president of record.
- D. **Jurisdiction.** Only one neighborhood association shall be recognized by the County to serve any area. Neighborhoods shall not overlap in their jurisdiction. Established neighborhoods or neighborhood associations may voluntarily combine to form a single, or combined, Neighborhood Zone Overlay.
- E. **Revocation.** County recognition of neighborhood associations may be revoked upon 30 days written notice to the association chairman for failure to comply with the above provisions, failure to hold annual elections, loss of recognition by the State or IRS (if applicable), financial insolvency, failure to adequately involve, educate or represent the residents and property owners of the neighborhood, failure to respond within the thirty (30) days allocated for review and comment on development or rezoning applications, or failure to respond to requests from the County.
- F. **Comprehensive Plan.** Consistent with this purpose, the Taos County Comprehensive Plan endeavors to incorporate the evolving long range vision statements, goals and recommendations of neighborhood associations, property owners and residents.
- G. **Review.** Once a Neighborhood Zone Overlay has been adopted, the role of the neighborhood associations in the overall planning process includes reviewing and advising the County on applications, as set forth in Section 6.1.2, as well as recommending changes to the Neighborhood Zone Overlay.

Section 6.1.2 **Neighborhood Association Notification.** In Neighborhood Zone Overlays, the Planning Department shall require the applicant to notify the applicable Neighborhood Association in writing within five (5) working days of any Special Use, Major Development, zone change or variance application within the Neighborhood Zone Overlay's approved boundaries. The Neighborhood Association may submit comments and/or findings of fact to the Planning Department for its consideration within thirty (30) calendar days of notification.

Section 6.1.3 **Neighborhood Zone Overlay Standards.** A Neighborhood Zone Overlay approved by the Board of County Commissioners sets forth the standards to be applied in that neighborhood. The applicant within a Neighborhood Zone Overlay shall comply with all applicable review procedures set forth in these regulations.

SECTION 6.2 **Neighborhood Zone Overlays**

Section 6.2.1 **Regulations Applicable to All Neighborhood Zone Overlays.**

A. All provisions of this Ordinance shall apply in a Neighborhood Zone Overlay except as follows:

1. A use that is specifically prohibited in a Neighborhood Zone Overlay shall not be allowed even if otherwise allowed by this Ordinance.
2. A use that is specifically allowed in a Neighborhood Zone Overlay shall be allowed, subject to the permitting required, even if not otherwise allowed by this Ordinance.
3. If a use is allowed in a Neighborhood Zone Overlay the Compatibility Standards of Article 4 shall not apply.
4. If a Neighborhood Zone Overlay specifically provides that a particular provision of this Ordinance shall not apply..

B. **Interpretation.** For a proposed use that does not specifically fit the definitions for a permitted use, the Planning Director, in consultation with the County Attorney's Office shall make an interpretation whether a proposed use fits within a permitted use. If the proposed use does not fit, the use is not allowed absent approval of an amendment of this ordinance, or rezoning. The Planning Director's decision will be made in writing and is appealable as outlined in the Taos County Land Use Regulations.

Section 6.2.2 **Zone Designations and Development Restrictions**

The allowed Neighborhood Zone Overlay designations and each designation's purpose are set out in the following sections. Applications and recommendations for Neighborhood Zone Overlays must be for one or more of the following designations. All applications and recommendations for a Neighborhood Zone Overlay must include details for each Neighborhood Zone Overlay designation. The County Planning Department will develop a template to assist in developing such details.

- A. **R: Residential.** Residential use as defined in this Ordinance, including single-family residence and multiple-family/multi-family residence.
- B. **A: Agricultural.** This zone reflects an area that is presently under agricultural uses including areas that were historically or are presently irrigated. Agricultural also includes grazing or dry land farming that has low development sensitivity. The area may be appropriate for future development, but due to distance from services and infrastructure the area should remain undeveloped and re-evaluated when there are adequate roads or the area is comprehensively master-planned.

- C. **SC: Sustainable Community Purpose.** These are areas that should be developed in a manner that encourages sustainable community practices such as clustered housing, alternative energy, energy conservation, mixed and affordable/workforce housing, alternative construction standards, community-based infrastructure (alternative water, fire prevention, wastewater and energy systems), a mix of alternative or low-impact land uses and densities, and adequate community facilities such as schools, parks, community centers and neighborhood retail. These facilities such as schools, parks, community centers and neighborhood retail. These areas should encourage multi-modal transportation (bicycling, equestrian, ride-share, park and ride, access to public transit) and walk ability (pathways and connectivity).
- D. **CE: Commercial.** These are areas that contain larger commercial retail, industrial, institutional/civic uses that are clustered along highway corridors to serve the region
- E. **LC: Light Commercial.** These are districts between residential areas of existing medium-density residential development and commercial development. The LC zone is intended for neighborhood-oriented, small-scale commercial uses primarily to supply convenience goods and services to the residents of the neighborhood areas in which the LC District is located. Mixed-use is encouraged in the LC zone.
- F. **HV: Historic Village.** These are existing historical villages that typically have a plaza and a mix of land uses associated with them that are intended for future growth in a manner that represents the traditional settlement pattern. This pattern is of a clustered mixed use around a public space or church with residential housing in compounds close to the street (no setback) and on the dry uplands away from the irrigated agriculture lands.
- G. **HC: Highway Commercial Corridor Purpose.** A highway corridor is a zoning overlay of a designated state or county highway corridor to a distance of between 100' and 200' from the right of way edge. The purpose of the zone is to recognize the already established pattern of existing, traditional and potential retail and service uses along the corridor, accessibility to high retail business traffic, readily accessible regional transportation corridors, mixed uses, and access to deliveries and public safety with minimal disruption to residential neighborhoods.
- H. **ER: Existing Resort District.** This district is intended to set out development guidelines for existing resort facilities so that future development complements the natural and cultural attractiveness of the area without significant adverse effects on natural and environmental features. The district provides for recognition of existing, self-contained, indoor and outdoor recreational facilities that are outside of urban growth areas and in a rural or resource area setting of significant natural amenities.

SECTION 6.3 Rezoning

Section 6.3.1 Rezoning Requirements

- A. **Criteria for Consideration.** This rezoning process is only applicable in Neighborhood Zone Overlays and may be used by the Planning Department, a neighborhood association, or an individual property owner to correct technical errors in a Neighborhood Overlay Zone's established zoning or zone borders for an individual property or area of properties (including existing lots split by a zone boundary), to reflect changes in the character or circumstances of a neighborhood subsequent to the original zoning, to accommodate or prohibit new uses not anticipated at the time of zoning, or to amend current requirements.
- B. A rezoning request must be specific to a lot or group of adjacent or related lots and density. Rezoning cannot be used by an individual owner as an appeal mechanism to circumvent, overturn or provide an exemption from the approved zoning in order to allow that property owner or owners to construct or carry on an otherwise prohibited use. A request for rezoning shall only be granted when:

1. The proposed change is consistent with the County Comprehensive Plan;
 2. The zone change being proposed is appropriate for the proposed use(s);
 3. The proposed change must be consistent with the general character of the existing and surrounding zoning or to provide a reasonable transition or buffer between uses;
 4. The rezoning does not create or increase the risk to public health and safety or general good of the community beyond that of the existing zoning and, where possible, it improves existing conditions; and
 5. The rezoning does not create “spot zoning”; i.e. an isolated use that is “out of place” or inconsistent with surrounding land use patterns, or which grants a special privilege to one property owner over others by imposing a lesser standard, or is done for the sole financial benefit of an individual owner.
- C. **Initiation.** Rezoning may be initiated by the Board of County Commissioners, the Planning Commission, the Planning Director, or the legal owner of a property proposed for rezoning, or the authorized agent of that owner. No rezoning request shall be processed unless it is accompanied by a request to conduct a specific land use including the basis for why that activity cannot be conducted on the property as it is currently zoned and cites evidence of a specific technical error in the current zoning, zoning map or zone boundary description.
- D. **Application.** An application for rezoning shall be submitted to the Planning Director or his or her designee, and shall contain the materials specified in Section 6.4, with the following additional submittal requirements:
1. A description of the existing uses of the subject property and of each property within 500 feet of the subject property.
 2. A description of the proposed use, density, and the timetable for development.
- E. **Survey.** An application shall include a survey and legal description prepared by a New Mexico Licensed Surveyor, which accurately describes the dimensions of the subject property, including its size in square feet or acres.
- F. **Compliance with Rezoning Standards.** A report that explains how the rezoning would satisfy the approval standards for a rezoning set forth in Section 6.4.
- G. **Preliminary Plan Application.** When rezoning is necessary to a land use that requires subdivision, then the applicant shall submit the subdivision preliminary plan application along with the rezoning request.
- H. **Special Use Permit Application Materials.** Any other materials required as part of the special use permit application for the use that will be conducted if the rezoning is approved.
- I. **Impact Analysis.** An analysis and description of the impacts of the rezoning, and a complete description of how impacts will be mitigated and standards will be satisfied by the applicant.

Section 6.3.2

Review and Approval Procedure for Rezoning

- A. **Pre-application Conference.** A pre-application conference shall be held in accordance with Section 4.4.1.
- B. **Review of Application Materials by the Director.** The Director shall review and prepare a report on an application for Rezoning in accordance with the provisions of Section 4.7. Upon a determination of completeness, the Director or designee shall schedule the application for review and recommendation by the Planning Commission.

- C. **Public hearing.** A public hearing by the Planning Commission shall be scheduled within forty-five (45) calendar days of the date of the determination of completeness.
- D. **Public notice.** Public notice of the hearing shall be made in conformance with Section 7.1 and all costs for giving meeting the notice shall be the responsibility of the applicant.
- E. **Referral for Agency Review.** The Administrator shall cause the application materials or any portion thereof to be submitted for referral agency review and comment. The referral agency review and comment period shall be for a period of time up to thirty (30) calendar days from the date that the application is deemed complete.
- F. **Review and Recommendation by Planning Commission.** An application for rezoning shall be considered by the Planning Commission at a public hearing, after proper notice, in accordance with the provisions of Article 7, together with the special use permit, major development permit, or preliminary plan accompanying the rezoning request. The Planning Commission shall recommend approval, approval with conditions or denial of the rezoning based on the approval standards set forth in Section 4.8.
- G. **Public Hearing and Action by Board of County Commissioners.** The final decision to approve, approve with conditions or deny the application for rezoning shall be made by the Board of County Commissioners at a public hearing.
 - 1. A public hearing by the Board of County Commissioners shall be scheduled within forty-five (45) calendar days of the filing of the Planning Commission recommendation.
 - 2. Public notice of the hearing shall be made in conformance with Section 7 and shall be the responsibility of the applicant.
 - 3. If more than 20% of those neighboring property owners within 150 ft. of the property lines of the parcel or parcels for which rezoning is being proposed or the area of required notification submit a petition of objection to the change, the Board of County Commissioners must approve the proposed rezoning by a 2/3 majority of the full Board of Commissioners (4 votes).
- H. **Zoning Map and Zone Boundary Description.** An affirmative decision by the Board of County Commissioners to rezone any property or area shall be considered as also approving the amendment of the zoning map and accompanying zone boundary description for that property or area. The corresponding changes to the map and description shall be instituted and made available to the public within 30 days of the vote by the Board of County Commissioners.

SECTION 6.4

Split Zones

Section 6.4.1 New Split Zones

- A. **Existing lots.** When implementing a Neighborhood Zone Overlay, all reasonable efforts should be made to avoid creating split lot zoning through existing lots.
- B. **Creating future lots in split zones.** When subdividing existing lots within an implemented county overlay zone, the creation of split lots should be discouraged unless the subdivision into lots consistent with the applicable zoning would render the lot otherwise undevelopable.

Section 6.4.2 Existing Split Zones

- A. **Applicable zoning for existing split lots.** When a lot is divided by two or more zones, the zone that covers the largest portion of a lot shall be deemed the zoning for the lot.
- B. If a lot is divided into two or more equal portions by different zones, the total area of the bisected lot shall be the same zone as that portion abutting the front lot line. Re-zoning of county zoned split lots: A lot divided by two or more zones may be rezoned consistent with Section 6.4, at the request of the property owner.

SECTION 6.5
Appeals

Section 6.5.1

Appeal of County Commission Decision: Any aggrieved party may appeal the written decision of Board of County Commissioners regarding a Neighborhood Zone Overlay or Neighborhood Zone Overlay rezoning to the District Court, pursuant to NMSA 1978, § 39-3-1.1 and Rule 74 of the Rules of Civil Procedure by filing a Notice of Appeal in the District Court within thirty (30) days of the filing of the decision with the County Clerk.

SECTION 6.6
Approved Neighborhood Zone Overlays

This section shall be reserved for Neighborhood Zone Overlays adopted for specific locations in the future. Each location for which a Neighborhood Zone Overlay is adopted shall receive a sequential subsection number.

ARTICLE 7: PUBLIC NOTICE

SECTION 7.1 Public Notice

Section 7.1.1 Applications, appeals and/or hearings identified in the Taos County Land Use Regulations that require public notice, unless otherwise specified, shall require three (3) types of notification by the applicant to persons and entities, as more fully described in Sections 7.1.2, 7.1.3, and 7.1.4 of these regulations. They are:

- A. Notice by publication in a newspaper of record.
- B. Posting of property at property line on all adjacent roads.
- C. Notification by first class mail to property owners and certain other persons and entities.
- D. Different application types and amendments to this ordinance require different types of notification, and in the case of notification by U.S. mail, different distances from the project. The different types and distances of notification are set out in Section 7.1.5 below.

Section 7.1.2 **Notice by Publication:** Notice of the time and place of public hearings required by these regulations shall be published at least once or more frequently if required by statute, at least fifteen (15) calendar days prior to the date of the hearing, in a newspaper published and having general circulation in Taos County. The applicant is responsible for the publication, mailings and payment of costs of publication. The notices shall be approved by the Planning Director or his or her designee prior to publication. The notice shall contain the information outlined in Section 7.1.4.B.1-9.

Section 7.1.3 **Notice by Posting**

- A. At least one poster shall be posted on the property identifying all the information identified in section 7.1.4.B.1-9. The poster shall be prominently displayed, and the subject property shall be clearly identified and described thereon. If more than one property is the subject of the application, notice as required in this section shall be posted on each property.
- B. The size of the posting shall be 11 inches by 17 inches, laminated and secured by stapling, nailing or other secure means to a fixed post or object at 40 inches above the ground.
- C. The notice shall be posted by the applicant on each property at least 15 calendar days prior to the scheduled public hearing.
- D. If the property abuts more than one public street or road, additional posters shall be prominently displayed, visible from each public street or road. If the property does not border a public street or road, at least one notice shall be placed at the entrance of the driveway or access to the property from the nearest public street or road.
- E. Placement of the posters shall be in such a manner as not to compromise public safety.
- F. Photographic proof of posting is required and shall be the responsibility of the applicant.
- G. Notices for property posting shall be approved by the Planning Director or his or her designee prior to posting by the applicant.

Section 7.1.4 Notification by First Class U.S. Mail

- A. Notices shall be mailed by first class U.S. mail to:
1. All property owners of record owning property located within the number of feet of the property lines of a proposed development set out in Section 7.1.5. (the notification distance).
 2. Neighborhood associations in which the development is located within their jurisdiction.
 3. Federal, state, local and tribal government entities whose territory is within the notification distance of the property lines of a proposed development.
 4. The agent of record for any National Heritage Site within one (1) mile of the proposed development.
 5. Any acequia that is within the property of the development or contiguous to the property.
 6. Where a development occupies less than all of a lot, parcel, or tract of land, and is located more than the notification distance away from any property line of the lot, parcel or tract of land on which it is located, then the distances in this section shall be measured only from those portions of any property line within the notification distance of the development, or if no property line is within the notification distance of the development, then from the closest point on the property line closest to the development.
 7. The identification of property owners, neighborhood associations, government entities, National Heritage Sites and acequias is the responsibility of the applicant. It shall be conclusively presumed that only property owners whose uniform property code numbers appear on the maps maintained by the Taos County Assessor are property owners within the area of notice, even if those maps are inaccurate or incomplete, and the mailing address for such property owners found in the Assessor's records shall be used for notification. It shall be the responsibility of the applicant, not the Assessor, to search the Assessor's records to identify property owners and their addresses.
- B. The applicant shall prepare the notice and it must contain the following:
1. Name of reviewing or decision-making body.
 2. Day, date, time, and place of the meeting.
 3. Name of the applicant, owner and any agent(s) who will represent the applicant at the hearing. If the owner/applicant is a corporation, the notice shall specify that owners of the corporation are identified in the application.
 4. Location, physical address and legal description of the subject property.
 5. Nature of the proposed action.
 6. Purpose of the meeting.
 7. Deadline for receiving written comments regarding the request, as determined by the Planning Department.
 8. That written comments should be sent to the Planning Director at the address provided to the applicant by the Planning Department.

9. That the full application and any staff report(s) are available for public inspection at the Planning Department with the Planning Department's phone number and website.
 10. Mailing of the notice shall not be later than fifteen (15) calendar days prior to the public hearing.
- C. The applicant shall submit to the Planning Department, upon mailing of the notices, an affidavit with a list of the names and addresses of the persons and entities identified in Section 7.1.3.A.1-5 attached, which certifies the applicant's mailing by first class mail to persons and entities named on the list and the date of mailing. The applicant shall bear all costs of mailing.

Section 7.1.5 Types of Notification and Distances Required

- A. Quasi-judicial Hearings and Appeals.
1. All quasi-judicial hearings and appeals shall require all three types of notification: (1) publication, (2) posting of the property, and (3) individual notice by U.S. mail.
 2. Notification Distances to Property Owners and Other Government Entities for Quasi-judicial Hearings and Appeals.
 - a. Applications requiring administrative approval or a variance application shall require notice to adjacent property owners and all other notice pursuant to Section 7.1.4.
 - b. Special use permit applications shall require notice to property owners within 1000 feet and all other notice pursuant to Section 7.1.4.
 - c. Major development permit applications shall require notice to property owners within 1000 feet and all other notice pursuant to Section 7.1.4.
- B. Zoning Clearance.
1. Applications only requiring zoning clearance shall not require notification by U.S. mail to property owners.
 2. Applications only requiring zoning clearance shall require all other notification set out in Section 7.1.4.
- C. Administrative Review Applications.
1. Applications only requiring administrative review shall require notice to adjacent property owners.
 2. Applications only requiring administrative review shall require all other notifications set out in Section 7.1.4.
 3. Anyone entitled to notice of an administrative review application who wants to receive notice of the Planning Director's decision shall notify the Planning Director in writing by certified U.S. mail, return receipt requested, within five (5) business days of receipt of notice of the administrative review application. The notification to the Planning Director shall include the mailing address at which notification of the decision shall be sent.

D. Amendments to this Ordinance.

1. Amendments to this ordinance that are not zone changes shall meet the general state statutory notification requirements for county ordinances in effect at the time of notification, which currently requires only publication, not individual notice (NMSA 1978 § 4-37-7).
2. Amendments to this ordinance that are zone changes shall meet the State statutory notification requirements for zone changes in effect at the time of notification. As of the effective date of this ordinance, the New Mexico Court of Appeals, in the case *Miles v. Board of County Commissioners of the County of Sandoval*, 125 N.M. 608 (NMCA 1998), has determined that where a rule of general applicability affecting a large number of people is proposed, the notification provisions of NMSA 1978 § 3-21-14, which require only publication, shall apply. The Court of Appeals has determined that where a proposed ordinance affects a single individual or a small group, then NMSA 1978 § 3-21-6, which requires individual notice, shall apply.
3. Where the applicable State statute pursuant to paragraphs 1 and 2 above requires only publication, the individual notice requirements of this section shall not apply.
4. Where the applicable State statute pursuant to paragraphs 1 and 2 above requires individual notice, the individual notice requirements of the statute, not the individual notice requirements of Article 7, shall apply.

ARTICLE 8: PUBLIC HEARINGS

SECTION 8.1 Public Hearings

- Section 8.1.1** **Quasi-Judicial Proceedings:** For purposes of these regulations, special use applications, major development applications, variances, zoning matters affecting only a limited area and limited number of individuals, and appeals, are quasi-judicial matters to be determined in a public hearing.
- Section 8.1.2** **Quasi-Judicial Requirements:** The following requirements shall apply in public hearings on quasi-judicial matters:
- A. The parties to a quasi-judicial matter shall be limited to those persons or entities as defined as a party in Article 2, of these Land Use Regulations.
 - B. A party, as recognized by these Land Use Regulations, shall be accorded an opportunity to present evidence and argument, and to question and cross-examine witnesses on all relevant issues. The Planning Commission, Board of Adjustment, or the Board of County Commissioners may also ask questions, impose reasonable limitations on the number of witnesses heard and on the nature and length of the testimony and questioning to avoid unnecessary duplicative testimony or questioning and to ensure that the testimony and questioning is relevant to the case.
 - C. Members of the public shall have a reasonable amount of time, as determined by the reviewing body's chairperson, in which to comment and present relevant evidence.
 - D. The Planning Director and/or Board of Adjustment and/or the Planning Commission, and/or the Board of County Commissioners may require additional information and written materials on their own motion.
 - E. The Planning Director shall keep a record of the proceedings in all quasi-judicial hearings heard by the Board of Adjustment and Planning Commission. The County Clerk shall keep a record of the proceedings in all quasi-judicial hearings heard by the Board of County Commissioners.
 - F. All testimony shall be made under oath or affirmation.
 - G. Public notice shall be consistent with the requirements of Article 7: Public Notice.
 - H. The Board of Adjustment, the Planning Commission and the Board of County Commissioners shall make written findings which set forth the reason for their decision.
 - I. The hearing body, in its discretion, may deliberate in executive session, but final action shall occur in open meeting.
- Section 8.1.3** **Other Hearings.** Hearings on other matters not quasi-judicial shall comply with New Mexico law, including but not limited to the New Mexico Open Meetings Act, and with rules and bylaws adopted by the Board of County Commissioners, the Planning Commission, and the Board of Adjustment.

ARTICLE 9: VARIANCES

SECTION 9.1 Variances

Section 9.1.1

Variances may be granted by the Board of Adjustment or Planning Commission such that an applicant will be allowed to depart from the literal requirements of these regulations in appropriate situations, including applications for administrative permits. For special use and major development applications, the applicant may concurrently or separately apply for a variance. If the variance is approved separately from the special use or major development application, the applicant shall submit a special use or major development application within ninety (90) calendar days after the approval of the variance or the approved variance shall be deemed void.

- A. **Applications for Variances.** A completed application for a variance shall be submitted to the Planning Director by the owner of the property or by the owner's agent with the non-refundable filing fee. All applications for variances shall bear the notarized signature of the owner of the property. The Planning Director shall submit all applications for variances from performance standards not associated with a special use or major development application to the Board of Adjustment for a public hearing. Variance requests associated with special use permit applications or major development permit applications shall be submitted to the Planning Commission for a public hearing.

It is required that the variance application be submitted with a site plan and proof of payment of the required filing fee, at which time it shall be reviewed for completeness.

- B. **Findings and Recommendation.** The Planning Director or designee must submit findings of fact relevant to a variance request and a recommendation to the Board of Adjustment or Planning Commission before it may hear or act on the application.
- C. **Public Notice.** Public notice of a public hearing before the Board of Adjustment or the Planning Commission on a variance application shall be consistent with the requirements of Article 7: Public Notice. In addition, adjacent property owners shall be notified by U.S. Mail-

Section 9.1.2

Types of Variances

- A. **Bulk Variance.** A bulk variance refers to a request for relief from a dimensional requirement of the land use regulations, such as a setback or other performance requirement. These are generally minor in nature and only affect the immediately adjacent property owners. When granting a bulk variance, the Board of Adjustment or Planning Commission should seek, if possible, as a condition of approval, an offsetting correction from the applicant, such as eliminating other non-conforming conditions on the property. The applicant shall have the burden of proving that the facts regarding the application meet the following criteria, without which a variance shall not be granted:
1. Does not constitute a grant of special privilege inconsistent with limitations on other properties in the area of notice; and
 2. Upholds the intent of these regulations, is consistent with the County Comprehensive Plan, and will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice; and
 3. Is justified, because the existing size or shape of the site, lot, or existing structures thereon, or topographic or physical conditions on the site or in the area of required notice make compliance not literally or economically feasible or advisable and such conditions are neither the fault of, nor reasonably remediable by, the applicant; and that the exceptional or extraordinary circumstances or conditions applicable to the site do not apply generally to other properties in the vicinity; and
 4. Strict or literal interpretation and enforcement of the specified performance standards or regulation would result in unnecessary hardship inconsistent with the purpose of these regulations; and
 5. That the hardship the applicant is asking to be relieved from was not self-created.

- B. **Use Variance.** A use variance is limited to property within a Zone Overlay, and allows for a type of structure or land use that would not otherwise be permitted within a Zone Overlay and for which rezoning, in the sole discretion of the Planning Director, is not indicated. The applicant shall have the burden of proving that the facts regarding the application meet the criteria set forth in Section 9.1.2.A, and additionally, at least one of the following criteria are satisfied and without which a use variance shall not be granted:
1. The proposed use is a less intensive or disruptive use than what is currently permitted by zoning or grandfathering; or
 2. That the proposed development when taken as a whole would mitigate existing and overriding public health or safety concerns in the neighborhood; or
 3. That the proposed use or structure would constitute an inherently beneficial use to the community or general public, or is an otherwise essential service; or
 4. That the proposed deviation is essential or integral, and proportionately minor as it relates to the property or development.
- C. **Conditions on Variances.** In granting variances, the Planning Department may recommend and the Board of Adjustment or Planning Commission may impose conditions regarding further expansions, maximum height limits, time limitation, type of construction, setbacks, and buffering, as will ensure that the use of the property to which the variance applies will be as compatible as practicable with and not adversely affect properties within the area of notification.
- D. **Notification of Action.** A decision shall be sent by the Planning Director to the applicant following determination regarding the variance(s) application by the Board of Adjustment, Planning Commission or Board of County Commissioners. The decision shall state the nature and conditions of approval, denial, or approval with conditions of the variance(s), as well as outline the appeals process. The decision shall also outline the timeframe and process for the applicant to fulfill any conditions, and any additional approvals or processes that may be required for the proposed use.
- E. **Appeal of County Commission Decision.** Any aggrieved party may appeal the written decision of Board of County Commissioners regarding a variance to the District Court, pursuant to NMSA 1978, § 39-3-1.1 and Rule 74 of the Rules of Civil Procedure by filing a Notice of Appeal in the District Court within thirty (30) days of the filing of the decision with the County Clerk.

ARTICLE 10: APPEALS

SECTION 10.1

Appeals

Section 10.1.1 Appeals of Decisions of the Planning Director: A party, as defined herein, may appeal.

- A. All appeals of a decision on a zoning clearance application of the Planning Director in the enforcement of these regulations shall be heard by the Board of Adjustment *de novo*.
- B. All appeals of a decision on an administrative application of the Planning Director in the enforcement of these regulations shall be heard by the Planning Commission *de novo*.
- C. The notice of appeal shall describe how the appellant is a party affected by the decision and the specific factual errors and legal errors allegedly made by the Planning Director.
- D. Appellant must specify the provision(s) of this ordinance or an Overlay Zone that is being improperly applied and the reasons in support of the claim that the challenged provision(s) were improperly applied. The County shall dismiss, with prejudice, any appeal that fails to adequately comply with this provision.
- E. Applicants may proceed, at their own risk, during an appeal process.
- F. Notice of appeal of a decision by the Planning Director shall be submitted to the Planning Department and recorded with the Taos County Clerk within thirty (30) calendar days from the date the Planning Director enters a written decision on the application, and it must be accompanied by the required nonrefundable appeal fee.
- G. Within forty-five (45) calendar days of receipt of a notice of appeal, the Planning Director shall present the appeal to the Board of Adjustment or Planning Commission for hearing.
- H. Notice of the hearing shall be mailed by the Planning Director to the appellant and to the applicant, if they are not the same person, at least fifteen (15) working days prior to any appeal hearing.
- I. The appellant shall, not later than fifteen (15) working days prior to the appeal hearing, give notice of the hearing by mail to the applicant, if they are not the same person, and all property owners consistent with the requirements of Article 7 herein. Additionally, the appellant, in cooperation with the Planning Department, shall cause notice of the time and place of the public hearing to be published at least fifteen (15) working days prior to the date of the hearing, in a newspaper published and having general circulation in Taos County. The appellant shall be responsible for all notice costs.
- J. All materials which formed the basis of the decision by the Planning Director shall be presented by the Planning Director or his designee at the Board of Adjustment hearing or Planning Commission hearing. The appellant shall be responsible for creating all copies of the record, binding all information, and creating a table of contents and page numbers on all consecutive pages that will be presented to the Board of Adjustment or Planning Commission. Additional new evidence, not considered by the Planning Director, may be offered and considered at the public hearing. Relevant evidence offered by the public may also be considered.
- K. The Board of Adjustment or Planning Commission shall affirm, reverse or affirm with conditions any administrative decision by the Planning Director, and the decision must be supported by findings of fact.
- L. The Board of Adjustment or the Planning Commission, in their discretion, may deliberate in executive session, but final action shall occur in open meeting.
- M. The Board of Adjustment or the Planning Commission must file its decision with the County Clerk within thirty (30) calendar days of the conclusion of the hearing.

Section 10.1.2 Appeals of Decisions of the Board of Adjustment or Planning Commission: A party, as defined herein, that entered a Statement of Appearance at the public hearing, may appeal.

- A. Appeals of decisions by the Board of Adjustment or Planning Commission shall be heard by the Board of County Commissioners, *de novo*.
- B. A recommendation by the Planning Commission to the Board of County Commissioners, such as recommendations on a major development, shall not be the subject of an appeal.
- C. The notice of appeal shall describe how the appellant is a party affected by the decision and the specific factual errors and legal errors allegedly made.
- D. Appeal of a decision made by the Board of Adjustment or Planning Commission must be filed with the Planning Department and recorded with the County Clerk within thirty (30) calendar days from the filing of the written decision of the Board of Adjustment or Planning Commission, and must be accompanied by the required non-refundable appeal fee.
- E. For purposes of an appeal of a decision of the Board of Adjustment or Planning Commission, the appellant shall, not later than fifteen (15) working days prior to the appeal hearing, give notice of the hearing, limited to all parties that were of record at the hearing before the Board of Adjustment or Planning Commission, consistent with the requirements of Article 7 herein. Additionally, the appellant, in cooperation with the Planning Department, shall cause notice of the time and place of the public hearing to be published at least fifteen (15) working days prior to the date of the hearing, in a newspaper published and having general circulation in Taos County. The appellant shall be responsible for all notice costs.
- F. The Board of County Commissioners shall affirm, reverse, or affirm with conditions the decision of the Board of Adjustment or Planning Commission, and the decision must be supported by findings of fact.
- G. The appellant shall be responsible for creating all copies of the record, binding all information, and creating a table of contents and page numbers on all consecutive pages that will be presented to the Board of County Commissioners. Because there is a *de novo* standard of review, relevant new evidence shall be allowed. In addition, the parties and the Planning Department may present relevant parts of the record to the Board of County Commissioners, and such evidence shall be considered *de novo*. Relevant evidence submitted by the public may also be considered.
- H. Within forty-five (45) calendar days of receipt of an appeal of a decision of the Board of Adjustment or Planning Commission, the Planning Director shall present the appeal to the Board of County Commissioners for hearing.
- I. The Board of County Commissioners must file its decision with the County Clerk within thirty (30) calendar days of the conclusion of the hearing.

Section 10.1.3 Appeals of Decisions of the Board of County Commissioners. A party, as defined herein, that entered a Statement of Appearance at the public hearing, may appeal.

Appeals of decisions of the Board of County Commissioners shall be filed in the District Court pursuant to NMSA 1978, § 39-3-1.1, and Rule 74 of the Rules of Civil Procedure by filing a Notice of Appeal in the District Court within thirty (30) calendar days of the filing of the decision of the Board of County Commissioners with the County Clerk.

SECTION 10.2
Appeal Hearing Procedures

Section 10.2.1 Uniform procedures at appeal hearings before the Board of Adjustment, the Planning Commission, and the Board of County Commissioners shall be observed as follows, with discretion to amend for good cause by the Chairperson as follows:

- A. The appellant(s) shall speak first. The appellant(s) shall have a reasonable amount of time, as determined by the reviewing body's chairperson, in which to present appellant's(s') position.
- B. The appellee(s) shall have a reasonable amount of time, as determined by the reviewing body's chairperson, in which to present the appellee's(s') response.
- C. Members of the public shall have a reasonable amount of time, as determined by the reviewing body's chairperson, in which to comment and present relevant evidence.
- D. Planning Department shall make its presentation.
- E. Appellee shall have a reasonable amount of time, as determined by the reviewing body's chairperson to reply to the Planning Department presentation and to any comments or evidence presented by the public.
- F. Appellant shall be allotted a reasonable amount of time to reply as determined by the reviewing body's chairperson.
- G. Speakers shall be sworn in by a notary public, and cross-examination or questions by the parties, staff, or reviewing board will be allowed. Cross-examination or questions shall not be allowed by one not a party to the appeal.
- H. Time allotted to speakers shall be monitored by a county staff person.
- I. The chairperson shall have the right to prevent repetitious and repetitive statements by asking any speaker who is being repetitious to end his/her remarks and, if appropriate, to leave the podium or floor.
- J. The chairperson shall have the right to take any and all appropriate actions to insure that appeal hearings are orderly and equitably conducted so that all persons having a right to speak shall have the opportunity to do so. Only the speaker having the floor shall be allowed to speak. Members of the public attending the hearing shall not speak, comment, or disrupt, when another has been given the floor by the chairperson.
- K. The chairperson shall enforce the rules, and may, at his option, appoint a Sergeant at Arms to assist in enforcing these rules.
- L. The reviewing body, in its discretion, may deliberate in executive session, but final action shall occur in open meeting.

ARTICLE 11: ENFORCEMENT

SECTION 11.1 ENFORCEMENT

Section 11.1.1 **Enforcement of the Taos County Land Use Regulations:** It shall be unlawful to violate these regulations or any building code adopted by or administered by the county. Any person, firm, corporation or other entity violating these regulations or any building code adopted by or administered by the county shall be subject to the criminal and civil penalties or remedies as provided herein.

Section 11.1.2 **Remedies Available to County for Violation of Regulations**

- A. **Criminal Violation.** Willful failure to respond, as required in Section 11.1.3.B, to a notice of violation or a cease and desist order issued for violation of a provision of this ordinance, is a petty misdemeanor punishable by a fine not to exceed three hundred dollars (\$300.00) or imprisonment for ninety (90) days or both the fine and imprisonment. Each day of such failure to respond shall be deemed a separate offense.

- B. **Civil Penalties.** Taos County hereby adopts and incorporates all civil penalties that state law authorizes any county to impose for the violation of the regulations, including such penalties authorized by state law in the future. For purposes of this provision, each day of a violation shall be considered a separate offense. Civil penalties and remedies authorized under this ordinance include, but are not limited to:
 - 1. Injunction. Taos County shall have the right to seek an injunction to restrain, correct, or abate any violation of the regulations or any illegal act, conduct, business or use in or about the premises, prevent the occupancy of a structure or land, prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, and to perform any act necessary to compliance, or to remediate any condition not in compliance with the regulations.

 - 2. Damages, including but not limited to costs of abatement.

- C. **Other Remedies.** Administrative remedies set forth herein and remedies provided for in any building code adopted by Taos County are authorized for violations of such building code and of these regulations.

- D. **Jurisdiction.** Actions brought for criminal penalties or civil penalties and damages may be brought in any court of competent jurisdiction in Taos County. Actions that include requests for injunctive relief shall be brought in the district court.

- E. **Authorization to Bring Action.** The Taos County Attorney or his or her designee is hereby authorized to bring any criminal or civil action authorized herein. The Taos County Planning Director or his designee is hereby authorized to exercise any administrative enforcement action authorized herein.

- G. **Nonexclusive Remedies.** These remedies are cumulative and in addition to any other remedies available to Taos County pursuant to law. They are not exclusive.

- H. **Attorney Fees and Expenses.** Any person, firm or corporation, whether as principal, agent, employee, tenant, landlord, or otherwise, found by a court of competent jurisdiction to be in violation of any provision(s) of this ordinance, or permits issued hereunder, shall be liable to the County of Taos for the costs incurred by the county, its agents, and departments, including but not be limited to the expenses incurred in detecting, investigating, or prosecuting the violation, and attorneys' fees. Attorney's fees and expenses are to be calculated as though provided by outside counsel, even if provided by the county legal department.

Section 11.1.3 Enforcement Procedures

- A. **Notification of Violators.** The county shall send a notice of violation of the regulations to the occupant, developer, and owner (if not the same) by first class mail to each person's last known address and/or by hand delivery or by posting a notice on the site in a clearly visible location near the entrance or access road to said property. The notice shall contain the following information:
1. **List of violations.** A list and description of all violations with references to the section or sections of these regulations violated.
 2. **An order to the occupant,** developer, and/or owner to cease all prohibited activities and desist in same or to perform certain acts required for compliance in no less than thirty (30) calendar days.
- B. **Response.** Any person or entity receiving notice of a violation of the Taos County Land Use Regulations shall immediately cease all prohibited activities and desist in same, and:
1. **Restore the premises.** Within thirty (30) days, restore the site to compliance and request an inspection of the property by the Planning Department to demonstrate that compliance has been achieved; or
 2. **Request for Extension of Time.** Within thirty (30) days, file a written request with the Planning Director for an extension of time to achieve compliance, showing good cause for such extension. Extensions may or may not be granted by the Planning Director in his sole discretion.
- C. **Legal Action.** If compliance has not occurred within thirty (30) calendar days plus any extensions granted, then the county may file a criminal or civil action or both.
- D. **30-Day Notice Abrogated If Threat Immediate.** If violations of the regulations pose an immediate threat to the public health, safety, or welfare, the thirty (30)-day notice requirement of section 10.2.2.A. is hereby suspended and abrogated, and suit by Taos County may be filed immediately seeking any appropriate remedy, including injunctive relief.

Section 11.1.4 Administrative Sanctions

- A. **Withholding Land Use Permits.** The County may withhold or deny land use permits, building permits, plat approvals, and any other administrative action or actions to an applicant regarding land for which a notice of violation has been issued, unless the violation is timely corrected. The County may require correction of the violation as a condition of issuance of land use permits, plat approvals, or administrative action or actions. This remedy shall apply regardless of whether or not the applicant for the permit is the person responsible for the uncorrected violation.
- B. **Withdrawing Land Use Permits.** The county may withdraw land use permits previously issued, plat approvals or other administrative actions issued regarding property as to which a notice of violation is issued and the violation has not been timely corrected. Upon correction, the land use permit shall be reinstated.
- C. **Cease and Desist Orders.** The county may order work halted on any land upon which there is a violation of a provision of these regulations or of a permit issued hereunder, through issuance of a cease and desist order. All work shall immediately halt and cease upon issuance of such order.

D. Inspections shall be conducted as follows:

1. **Consent to Enter Deemed Granted.** As a condition of any application to the Planning Department, the applicant shall be deemed to have granted consent to Taos County to enter onto the subject land and its buildings or structures that are the subject of the application, without notice, in the circumstances and for purposes as follows:
 - a. To conduct inspections of the subject property during regular county business hours.
 - b. To conduct inspections within the scope of another official document, such as a duly executed zoning compliance affidavit, which grants express or implied consent to enter and inspect;
 - c. To make observations of the premises in plain view from public property or from portions of the premises that are open or accessible to the public, or from other private property with permission, or in which the owner or occupant otherwise lacks a reasonable expectation of privacy; or
 - d. In emergency situations in which the enforcing official has reason to believe that the public health or safety is in imminent danger and could be jeopardized by any delay in securing entry.
2. **Situations in Which Consent To Enter Is Not Deemed Granted As Condition of Application.** In situations other than those set forth above, i.e., in situations in which consent is not deemed granted as a condition of an application pursuant hereto, and when the enforcing official has reasonable cause to believe that a violation of these regulations exists on a premises and entry onto the premises is necessary to verify the violation, the enforcing official shall make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof desired to be inspected; and the enforcing official shall request consent to enter and inspect the premises. If the owner or other person in charge or control of the premises cannot be located or if entry is refused, the Planning Director and County Attorney may, in their discretion, cause suit to be filed in the district court and request inspection of the premises pursuant to the Rules of Civil Procedure for the District Courts.

Nothing in this subsection D shall preclude Taos County, where consent is not deemed granted, from making observations of the premises in plain view from public property or from portions of the premises that are open or accessible to the public, or from other private property with permission, or in which the owner or occupant otherwise lacks a reasonable expectation of privacy.

3. This subsection D shall be posted in plain view in the Planning Department offices.

APPENDICES

APPENDIX 1

ROAD STANDARDS AND SPECIFICATIONS AND UTILITY EASEMENTS

SECTION 1 ROAD DESIGN STANDARDS

- A. Roads, streets, parking areas, intersections, crosswalks and all improvements required for vehicular, pedestrian and bicycle traffic as well as associated rights-of-way shall be designed to the New Mexico Department of Transportation (NMDOT) and American Association of State Highway and Transportation Officials (ASHTO) standards and meet the road design requirements of the most recent version of the International Code Conference (ICC) International Fire Code, as adopted by the State of New Mexico Construction Industries Division (NM CID), as applicable.
- B. The need for and type of signage required for all roads, streets, drives and parking areas shall meet the Federal Highway Administration Manual on Uniform Traffic Control Devices (FHWA MUTCD) and the requirements of the Taos County Public Works Department.
- C. All designs for parking, crosswalks, and sidewalks shall meet the most recent American with Disabilities Act (ADA) design requirements.
- D. All transportation-related infrastructure proposed as part of a development application shall be submitted to the Taos County Public Works Department for compliance with the above and Taos County road requirements, as applicable, prior to site plan review by the Planning Department.

A site plan or similar transportation infrastructure plan drawn and originally stamped by a NM Licensed Engineer indicating location, size, capacity, cross sections showing road bed composition, drainage and any other information required to assess the adequacy of the proposed improvements shall be submitted to the Taos County Public Works Department and Taos County Planning Director, along with a geotechnical report identifying the soils types impacting the improvements and a traffic study projecting the impact of the development on existing traffic counts and safety, including the nearest county roads serving the development. Inadequate proposals shall be denied.

- E. The requirements for a site plan or similar transportation infrastructure plan originally stamped by a New Mexico engineer, a geotechnical study and/or a traffic study may be waived by the County Planning Director if determined by both the Public Works Director and Planning Department to not be necessary for evaluating the development, due to the scale or location of the project or availability of alternative sources of information.
- F. All applications for the development or improvement of roads, streets, drives, and buildings, whether public or private, regardless of the size or purpose of the project proposed, shall be submitted to the Taos County Rural Addressing Coordinator for the review and verification or assignment of an approved street name and building numbers.
- G. In the case of a single family residence, home occupation, or agricultural use, the requirements in this Section 1 may be waived by the Planning Director.
- H. The requirements in this Section 1 do not apply to property in a subdivision approved pursuant to Taos County Ordinance 2005-8, as amended.

SECTION 2
SPECIAL USE AND MAJOR DEVELOPMENT APPLICATIONS

- A. Access roads, roads and/or streets within the project shall provide unobstructed ingress and egress for emergency and fire vehicles. The amount of traffic generated by a new project shall not, at any time, cause the roads and/or streets to operate at or over design capacity. A traffic study may be required by the Planning Department. If so, a request for study shall be submitted to the New Mexico Department of Transportation and the Taos County Public Works Department. The Taos County Planning Department shall forward the completed traffic study to the appropriate State Agencies for review.
- B. If phased projects are contemplated with separate permits by the applicant, then the roads and/or streets within the initial permitted phase shall be designed to accommodate the full planned project. If the project has direct ingress and egress from a state or federal highway then the permit plat shall include engineered drawings of the proposed intersection with the highway, and the plat and traffic study, shall be forwarded by the Planning Department to the New Mexico Department of Transportation for review and approval.
- C. The project's interior traffic plan shall include all the roads, and/or streets and fire lanes within the permit plat. The interior traffic plan shall incorporate the following requirements and prohibitions:
1. Parking for residents or guests shall not be permitted on the roads, streets or fire lanes.
 2. The project's interior traffic plan shall make a reasonable effort to avoid a single ingress/egress road and/or street.
 3. All roads and streets shall be engineered for proper drainage that will minimize erosion. All drainage must be engineered to avoid flood runoff to contiguous or adjacent properties and/or public roads and rights of way.
 4. The minimum culvert size shall meet the flow requirements of a fifty (50)-year storm.
 5. All project buildings shall be sited to allow for proper fire suppression. In the event that building unit sites are constructed to the edge of required setbacks then the applicant shall dedicate right of way and construct an adequate fire lane within the setback area.
 6. The interior traffic plan shall designate pedestrian walkways and bicycle paths or lanes, which may be Class 1, Class 2 or Class 3 USDOT designed bicycle lanes.
- D. Roads and streets shall be located, aligned and designed to:
1. Preserve natural features, vegetation and topography and protect the natural environment;
 2. Protect public health, safety, and welfare;
 3. Require the appropriate amount of road surface necessary to adequately serve the type and intensity of the proposed uses within the project, calculating the future traffic demand according to vehicle type and anticipated volume, and providing access for public service and emergency vehicles;
 4. Provide proper signage (i.e., Stop, Yield, Pedestrian Crossing, Speed Limit, Street signs) or any other necessary signs;
 5. Provide for proper re-vegetation for cut and fill slopes;
 6. Provide proper drainage for protection against erosion to roads and road surfaces; and
 7. Provide speed control features, where specified by the County Planning Department.
- E. The applicant shall demonstrate the adequacy of roads serving the project in accordance with the performance standards and documentation required under these regulations. In addition, the applicant must comply with the following regulations:

1. Road Improvements

All roads within the project, and all access roads from county roads to the project, shall be developed in accordance with the design standards set forth in these regulations. A county road is any road that is listed in the current Inventory of County Maintained Roads provided to the state under state statute. All plans for road improvements required under these regulations shall be provided by a licensed New Mexico engineer at the applicant's expense and submitted to the Planning Department.

2. Road Maintenance

- a. The applicant shall remain responsible for periodic road maintenance within the project unless and until either the county accepts road maintenance responsibility or a Homeowners/Property Owners Association is duly constituted as described in the disclosure statement, and/or the Declaration, if applicable, to accept road maintenance responsibility. The Board of County Commissioners shall have sole authority to determine if county maintenance is justified. No roads or streets shall be maintained by the county until such time as the Board of County Commissioners formally declares such roads or streets eligible for county maintenance and they have been listed on the current Inventory of County Maintained Roads.
- b. Homeowners/Property Owners Associations: The applicant shall transfer responsibility for road maintenance to a Homeowners/Property Owners Association if the applicant has clearly stated in the Disclosure Statement and indicated on the plat that purchasers of units or lots within the project are responsible for road maintenance. If road maintenance responsibilities are assessed on a per-unit or lot basis the applicant remains responsible for paying road maintenance assessments on unsold units or lots.

3. Existing Access Roads

Access roads are those public and private roads that are legally necessary to access the property. The applicant shall provide the Planning Department with proof of the applicant's legal right to use the access road and to improve the access road in accordance with the design standards contained in these regulations. The proof of legal access shall be in the form of a duly recorded document conveying real property or an easement or a court order. These regulations recognize that said proof is not always obtainable and that a waiver of this requirement may be considered. However, the granting of a waiver for a project on any access road does not act as a precedent for the granting of a waiver on any future project using the same access road. Additional waivers may be denied due to the increased burden on the access road created by the subsequent project.

4. New Access Road Requirements

- a. **Shared Costs to Improve Access Roads:** Applicants shall be required to share in the cost of all improvements to access roads and Taos County shall be held harmless in any disputes between applicants regarding shared costs. The following requirements shall apply:
 - 1) The first applicant(s) requiring the use of an access road shall be financially responsible to improve the road in accordance with the standards set forth in these regulations.
 - 2) Any subsequent application for a project that requires the use of any access road that was improved under these regulations shall submit proof to the Planning Department that the subsequent applicant has offered to reimburse the original applicant, who bore the cost of the improvement of the access road, a proportional amount of that cost, including engineering costs. The proportional amount shall be determined by the number of units or lots using the access road. For example, if the project contained 10 units or lots and the cost to improve the access road, including engineering, was \$1,000, and the subsequent project contains a total of 5 units or lots, then the second applicant shall deliver proof that he/she offered the original applicant \$333 as his or her share of the cost of installation of the subsequent access road improvements (\$1,000 divided by 15 units or lots equals \$66 times 5 units or lots for a total of \$333 for the 5 unit or lot project).

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- b. **Access Road Maintenance.** Obligations for maintenance of any access road improved pursuant to these regulations be included in the Road Maintenance Agreement of the Homeowners/Property Owners Association.

5. **Dedication of Roads**

As required by the Planning Department, the applicant shall dedicate access roads and roads within the project as follows:

- a. "Dedicated to private use" is an easement or land conveyance granted by the applicant for use by the owners of units or lots within the project and accepted by the Homeowners/Property Owners Association. All roads that are accepted by the Homeowners/Property Owners Association shall be maintained under a recorded Road Maintenance Agreement entered into by and between the owners of the units or lots within the project. The agreement shall assess sufficient annual dues to owners so that the shared roads can be properly maintained.
 - b. "Dedicated to public use" is an easement or land conveyance granted by the applicant for use by the public and accepted by the Homeowners/Property Owners Association or Taos County. All roads that are accepted by the Homeowners/Property Owners Association shall be maintained under a recorded Road Maintenance Agreement entered into by and between the owner(s) of the property that is binding on the owner(s) and their successors in interest.
 - c. "Dedicated to the County and accepted for maintenance" is an acceptance of land or easement by the County on behalf of the public for public use and an acceptance of responsibility to maintain the road.
 - d. The plat shall contain a certificate stating that the Board of County Commissioners or a Homeowners/Property Owner Association has accepted, accepted subject to improvement, or rejected, on behalf of the public any land or easements offered for dedication for public use in conformity with the terms of the offer of dedication. If the project is subject to a Road Maintenance Agreement, it shall be filed along with the approved plat. If the dedication is made to a Homeowners/Property Owners Association and accepted, then the Homeowners/Property Owners Association's articles and restrictive covenants shall be filed along with the approved plat at the Office of the County Clerk. Acceptance of offers of dedication on a plat shall not be effective until the plat is filed in the Office of the Taos County Clerk and a resolution of acceptance by the Board of County Commissioners or Homeowners/Property Owners Association is filed in such office.
6. It is unlawful for an applicant to grade or otherwise commence construction of roads, unless such construction conforms to the schedule of road development directed by the Board of County Commissioners or its designee.

SECTION 3
UTILITY EASEMENTS

- A. Utility easements shall be located such that each lot can be served by all proposed utilities. Utility easements shall be adjacent to the lot lines. Such easements shall be located according to a plan approved by the appropriate utility companies. Easements placed diagonally across tracts shall be avoided. Utility easements shall be at least twelve (12) feet wide.
- B. Utility easements are encouraged to be placed parallel to access easements so that maintenance of electric, gas or water lines will not create the need to disturb the road or street. In the event utility installation or maintenance requires disturbance of a road or street, such road or street will be restored to a condition equal to or better than its original status.
- C. Access and utility easements are normally combined and should be located outside of or adjacent to right-of-way reserved for roads, unless topographical or other conditions or existing utility easements make location there impracticable.

SECTION 4

Nothing in this Appendix 1 shall impose any obligation on Taos County regarding the design or maintenance of County maintained roads or other roads dedicated to public use.

APPENDIX 2

WATER SUPPLY

**This appendix applies to Major Developments only.
Other permitted uses are required to follow state law with respect to water use.**

SECTION 1 WATER AVAILABILITY ASSESSMENT

- A. **Water Availability Requirements.** Requirements of the water availability assessment are dependent on the source of water supply.
1. Where the source of water will be from domestic wells permitted pursuant to § 72-12-1, NMSA 1978, the applicant shall demonstrate a fifty (50)-year supply and shall submit a geo-hydrologic report in accordance with the standards set forth in Section 1.B of this appendix.
 2. Where the source of water will be a potable water supply system dependent on a new groundwater diversion permitted pursuant to §§ 72-12-3 or 72-12-7, NMSA 1978, the applicant shall demonstrate a fifty (50)-year supply, and shall submit a geo-hydrologic report in accordance with the standards set forth in Section 1.B of this appendix.
 3. Where the source of water will be a potable water supply system dependent on a new surface water diversion permitted pursuant to §§ 72-5-1, 72-5-23 or 72-5-24, NMSA 1978, the applicant shall submit a hydrologic report in accordance with the standards set forth in section 1.C of this appendix.
 4. Where the source of water will be an existing potable water supply system or municipal water supply system permitted pursuant to §§ 72-5-1, 72-5-23, 72-5-24, 72-12-1 or 72-12-3, and 72-12-7, NMSA 1978, the applicant shall submit a water utility plan in accordance with the standards set forth in section 2 of this appendix.
 5. In areas where the Office of the State Engineer (OSE) determines groundwater will be supplied from geologic formations that yield minimal amounts of water, fail to recover adequately from pump tests, experience seasonal depth to water, or experience excessive draw downs, the county may reject the application.
 6. In areas where the groundwater is to be supplied from geologic formations where wells have been determined to produce three (3) gallons per minute or less or where available information suggests the likelihood of low yielding wells, the county may reject the application.
 7. In areas where the seasonal high water table is four (4) feet or less, the county may reject the application.
- B. **Geo-hydrologic Groundwater Report.** If a geo-hydrologic report is required under these regulations, it shall be prepared in accordance with the specifications listed below:
1. Geo-hydrologic reports shall demonstrate that the maximum annual water requirement is physically available from the aquifer to be utilized and can be practically recovered to sustain the land use for a continuous period of fifty (50) years. These analyses shall take into account the production of existing wells and shall demonstrate that the wells, as proposed or as designed, will be capable of producing the full annual demand for at least fifty (50) years to sustain the land use.
 2. Aquifer pump tests shall be conducted on wells within the boundaries of the proposed land use to characterize the aquifer performance. The duration of these pump tests shall be sufficient to provide reliable drawdown and recovery data for the determination of transmissivity, and to identify any boundary conditions that affect long-term water availability. Water levels in any observation wells that are monitored during the pump test shall be recorded. The analysis of the pump test shall include descriptions of all assumptions, analytical procedures, and references used. The requirement for the pump test data may be waived where there is substantial evidence documented in geo-hydrologic investigations conducted in the study area that demonstrate that wells have consistently produced substantial volumes of water for many years without increasing the depth to water or decreasing the yield (gallons per minute) of wells.

3. The assessment shall include a calculated fifty (50)-year schedule of effects of the proposed land use production well(s) on existing demands and from the increase of groundwater withdrawals for the land use. Analyses shall be done to assess whether future water level declines will be within the limits of allowable drawdown in the land use production wells. Predicted draw downs shall be calculated in a conservative manner that estimates maximum drawdown. These calculations shall include estimates of future water uses.
 4. The applicant shall calculate the lowest practical pumping water level in the proposed land use. Pumping wells by any of the following methods, as appropriate, is acceptable, *provided* there shall be no presumption made as to additional available water below the bottom of the proposed production well, and *further provided* that the total available drawdown shall be reduced by a factor of twenty percent (20%) as a margin of safety to account for seasonal fluctuations, drought allowance, reduction of well efficiency over time, and peak production requirements:
 - a. By using the results of acceptable on-site aquifer pump tests. The lowest allowable pumping level may be the lowest water level reached during the test.
 - b. By setting the level at the top of the uppermost screened interval.
 - c. In wells completed in fractured aquifers, the lowest practical pumping water level shall be above the top of the fracture zone.
 - d. In wells completed in alluvial aquifers, the lowest practical pumping water level may be defined by a maximum allowable drawdown equal to seventy (70%) of the initial water column.
 5. The geo-hydrologic report shall present all hydrologic information pertinent to the study area including that available from past hydrologic studies. All sources of information used in the report shall 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 the estimated thickness of saturation in the aquifer. Tables and maps of historical draw-downs shall be included. Basic data for the immediate area of the land use shall be adequate for the State Engineer to make a reliable assessment of water availability. The report on the investigation shall be in the format of a technical narrative. Well logs, spreadsheets, tables, graphs, maps and cross-sections shall be included.
 6. Where NMSA 1978, § 72-12-1 wells are proposed, the geo-hydrologic report shall also include a calculated fifty (50)-year schedule of off-site effects (draw-downs) and surface water depletions resulting from the increase of groundwater withdrawals from the land use. The report shall identify by name and location, all wells, springs, acequias (ditches), canals and drains, within one thousand (1000) feet of the proposed well. All natural or man-made ponds, lakes, reservoirs, or wetlands that will be impacted shall also be identified.
- C. **Hydrologic Report.** If a hydrologic report is required under these regulations, the hydrologic report shall demonstrate that surface water sufficient to meet the maximum annual water requirement of the development is physically available.
1. Narrative and analytical demonstration that the surface water will suffice for the proposed land use, given short-term and long-term fluctuations (base flow analysis) due to climatic cycles or other factors (such as induced recharge due to groundwater diversion), and analyses of relevant historical runoff records, and projected water supply available for the land use requirements. Applicable legal or water rights constraints on water availability shall be considered.
 2. If the analysis of the historical runoff record indicates possible fluctuations in the projected water supply available for the land use requirements, the applicant shall provide for either storage or a supplemental groundwater supply sufficient to meet the shortage.
 3. If a supplemental groundwater supply is proposed, the applicant shall provide a geo-hydrologic assessment in accordance with Section 1.B of this appendix.
 4. The applicant shall provide a copy of a water right permit issued by the Office of the State Engineer for sufficient surface water to meet the maximum annual water requirement of the proposed land use, including authorization for this purpose, prior to the approval of the proposed land use by the Board of County Commissioners.
 5. The applicant shall provide any other information necessary to demonstrate the capability to meet the water requirements of the proposed land use.

SECTION 2
POTABLE WATER SUPPLY REQUIREMENTS

All new land uses shall:

A. **Water Access Priority.** Adhere to the following water access priority and show that the well(s) meets state environmental requirements:

1. Municipal Water systems
2. Mutual Domestic Water Associations
3. Water and Sanitation Districts
4. Community Water Systems (private)
5. Shared Domestic Wells
6. Individual Wells

B. **Cost of Hook-up.** Show that the fifty (50)-year life-cycle cost of hook-up is 110% greater than the lower priority options.

C. **Existing Water Supply Systems.** For existing water supply systems, the applicant shall provide a letter from the water supplier certifying availability of adequate water.

The applicant shall identify the management entity type for the water supply system; e.g. non-profit, water cooperative, investor owned, or private for-profit corporation, or whether the applicant will continue as the management entity.

D. **Publicly Regulated Water Supply Systems.** For water supply systems in which existing utility companies are proposed as the source of water supply, the applicant shall submit a water supply plan that meets the following requirements:

1. Name of the water supply system proposed as the source of supply.
2. Letter of intent from the utility that it is ready, willing and able to provide the maximum annual water requirements for the land use for at least fifty (50) years. The letter shall also state any requirement of the utility for the applicant to provide water rights.
3. Documentation showing the quantity of water presently produced annually, quantity of water supply commitments to date, and proof of sufficient water rights to meet both existing commitments and the requirements of the proposed land use for a period of no less than fifty (50) years.
4. For New Mexico Public Regulatory Commission (PRC)-certified utilities, a copy of the most recent annual report submitted to the PRC shall be included in the water supply plan.
5. Plans for the existing water system into which the proposed system will connect. The plans shall show diversion point locations, and water storage and distribution system. The size and capacity of the water system components shall also be indicated on the plans.
6. Any other information necessary to demonstrate the capability to meet the requirements of the proposed land use.

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APPENDIX 3

TERRAIN MANAGEMENT

**This appendix applies to Special Use and Major Development applications.
Permitted uses are required to follow state law with respect to terrain management.**

Developers who are subject to the requirements of this appendix shall submit a terrain management plan as described in Section 1 below. The plan shall be developed under the performance standards set forth in Section 2 below.

SECTION 1 TERRAIN MANAGEMENT PLAN

The developer shall submit a terrain management plan that includes the following:

- A. **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, water courses and water bodies within three miles of the site. This map shall display the topographic intervals. (A suitable example would be from a USGS topographic map, 1:24,000).
- B. **Natural Features Map.** A map of the development (at the same scale as the preliminary plat map) showing directly by overlay:
1. The boundaries of the development.
 2. The existing contours with intervals of not less than 2 feet where the slope is less than 8%, and not more than 5 feet where the slope is 8% or greater.
 3. All areas with natural slopes of 20% or greater clearly recorded by scale, line or color.
 4. The location of all drainage channels, watercourses, water bodies, floodways, flood fringes, and flood plains.
 5. The location of all major rock outcroppings, faults and geologic resources.
 6. 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, if available, which is of a satisfactory scale with an appropriate legend.
- C. **Soil Survey.** A soil survey of the site including:
1. An overlay of the natural features map showing the location of each soil type. Soil surveys will be in keeping with national standards set forth by the USDA Natural Resources Conservation Service.
 2. A description of the soil types. Detailed soil profiles may be required, if deemed necessary by the Soil and Water Conservation District.
 3. Interpretation of limitations demonstrated by a detailed soil survey indicating each soil type and its relation to the intended land uses common to the development.
- D. **Grading Plan.** A series of maps, cross sections, and design profiles showing the location of the planned development features and their impact upon the natural land form.
1. 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.
 2. 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.

3. The location of all cuts and fills, including grades, lengths, and depths thereof, displayed using the necessary cross-section and profiles to adequately describe the planned action.
 4. The location of all areas where the natural elevation of the land will be changed by more than three feet.
 5. The location of all areas where the grading of land will disturb more than 1,000 contiguous square feet.
 6. Profiles showing the existing ground surface and proposed street grades and typical cross-sections of the proposed grading.
 7. Description of methods of stabilization in areas of cut and fill, embankment compaction, and re-vegetation on steep slopes.
- E. **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.
1. Location and type of materials to be used in re-vegetation and slope stabilization.
 2. Location of all areas where vegetation will be preserved and a description of all methods that will be used for protection.
 3. Duration of exposure of the disturbed sites prior to reclamation of the site, with methods to be used to minimize erosion of the disturbed sites prior to reclamation.
 4. Description of the vegetative characteristics to be present after re-vegetation.
 5. The plan for preparation, fertilization, seeding rates, dates and amounts by species, mulching type and amount for grass, shrubs and trees. If watering is a planned part of the re-vegetation procedure, a description of the planned irrigation system and amounts of water needed will be included.
- F. **Erosion and Drainage Plan.** This shall include the necessary charts, drawings, location maps, and calculations to support the plan:
1. A watershed map showing all the upper watershed area draining into or through the site, showing the watercourses and topographic conditions and indicating the soil and vegetative types and their locations within the watershed.
 2. Storm drainage computations for a 100-year frequency storm both reaching and leaving the site in the pre-development conditions as per Natural Resource Conservation Service (NRCS) standards.
 3. Storm drainage calculations for estimated runoff after full development of the site and calculations for the estimated runoff before and after any mitigation of the increased flows.
 4. Quantities of water carried by the major watercourses. Calculations shall be provided for both pre- and post-development.
 6. The location, type and size of all proposed drainage structures with adequate detail of the drawings or designs.
 7. The locations and size of all drainage easements for all flood plains, floodways, flood fringes, and other natural water courses, 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.
 8. An overlay indicating the depth to ground water in all areas where the seasonal high water table is within four (4) feet of the ground surface.
 9. All appropriate design details necessary to clearly explain the construction of all surface and subsurface structures.
 10. All acequias and irrigation ditches.

G. **Construction Schedule.** The applicant shall supply a construction schedule that includes:

1. The start and finish dates for all clearing, grubbing and grading activities.
2. Duration of exposure of disturbed areas.
3. Stabilization date for disturbed areas.
4. Installation date of all storm drainage system components.
5. Installation date for all roads and related structural measures.
6. Paving dates for all roads or parking areas included in the site plan.
7. Installation date of each utility to be provided and whether said utility will be above or below ground.
8. Installation date for homes, recreational structures, and other community facilities and improvements.

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H. **Disclosure Statement.** A Disclosure Statement regarding terrain management shall describe:

1. The suitability of the soils in the development for residential and commercial use, whether permanent or seasonal;
2. Measures necessary for overcoming soil and topographic limitations, and who will be responsible for implementing these measures;
3. The location of all lots with land areas within a flood way, flood fringe or flood plain, in accordance with FEMA standards;
4. The location of all lots located on slopes in excess of eight (8) percent;
5. The known subsurface drainage for all lots;
6. The surface drainage for all lots;
7. All storm drainage systems including the completion date of systems required to be constructed.

SECTION 2 **TERRAIN MANAGEMENT PERFORMANCE STANDARDS**

The following performance standards are guidelines to the development of the terrain management plan.

- A. **Soils.** Soils having severe limitations, or which are unsuitable for the intended purposes, shall not be used or utilized for development, unless the developer has already shown in the terrain management plan how these limitations will be overcome.
- B. **Categories of Land Use.** Below are major categories of land use used in reviewing the terrain management plan. Information about any of these categories that is pertinent to the development proposal shall be included in the terrain management plan.
 1. Building Site Development
 2. Construction Materials
 3. Local Roads and Streets
 4. Underground Utilities
 5. Water Control Structures
 6. Erosion Control Structures
 7. Playgrounds
 8. Paths and Trails
 9. Sewage Disposal

- C. **Grading.** Land grading, filling, and clearing operation must be performed responsibly to avoid issues such as, for one example, leaving large areas open to wind or water erosion. Accordingly, the development shall be designed to fulfill the following requirements in order to avoid such issues and to preserve, match or blend with the natural contours of the land:
1. The plan shall adequately describe how grading operations will be performed to blend slopes and fills into the natural contours of the land.
 2. The plan shall indicate whether the developer intends to replace trees and other native vegetation, to stabilize hillsides and cut/fill slopes, retain moisture, reduce erosion, reduce runoff, and preserve the natural scenic beauty.
 3. Cut and fills shall be designed to minimize the area of exposure and reduce the sharp angles at the toe and sides.
 4. The plan shall prevent the deposit of sediment into flood plains, drainage channels, watercourses, and water bodies.
- D. **Prohibited Discharge.** The following discharges attributable to grading are prohibited, whether the discharge is direct or indirect:
1. Sediment and other organic or earthen materials discharged into a watercourse, water body, drainage channel or floodplain.
 2. Materials placed in any position that would make it susceptible to erosion and deposit into a watercourse, water body, drainage channel or floodplain.
 - a. The plan for grading, land forming, and protective cover shall provide for the prevention of soil sedimentation.
 - b. The plan shall call for temporary or permanent structural measures to prevent damaging runoff waters from originating on the slope itself, if applicable.
 - c. Planned structural measures shall adequately provide for the limitations of the site.
- E. **Exposed Surface.** Whenever the existing ground cover is removed or disturbed, or whenever fill material is placed on the site, the plan shall provide for the exposed surface to be treated to the extent necessary to prevent dust from blowing off the construction site.
- F. **Duration of Exposure.** The work schedule for the grading or filling operations shall limit the time soil is exposed to the shortest possible period before cover is established.
- G. **Disposal of Vegetation.** Provisions shall be made for disposal of vegetation during the clearing operation.
- H. **Disposition of Soil.** The plan shall describe the disposition of earth removed during grading operations.
- I. **Cut and Fill.** The maximum cut and fill slopes shall be compatible with soil stability and to the soil's susceptibility to erosion, as shown on the soil survey.
- J. **Runoff.** The plan shall include provisions to prevent runoff from flowing over the face of the slope.
- K. **Mechanical Stabilization.** If mechanical stabilization measures are planned for slope containment:
 1. These structures shall blend with the landscape.
 2. If structures do not blend in, landscape screening shall be planned.
- L. **Borrow Area.** If a borrow area is shown, re-vegetation shall be planned for the distributed area.
- M. **Arroyos.** If arroyos or other overall areas are in the planning area, plans shall include rundowns to a safe outlet.
- N. **Erosion Control.** Plans shall include provisions for water and erosion control in bar ditches along streets and roads.

SECTION 3 **FLOOD PLAIN MANAGEMENT**

Flood Plain identification and management shall be included in the planning, construction and maintenance of all projects and a Flood Plain Review of all development by the County Flood Plain Coordinator shall be conducted consistent with the County Flood Plain Ordinance 2010-46, as amended, with his or her recommendations attached to all submissions.

A separate soils and drainage review by the Taos County Soils and Water Conservation District may also be required by the County Planning Dept., dependent of site specific conditions.

- A. Dwellings shall not be located within the hundred (100)-year flood plain, or the developer shall submit a Flood Plain Certificate for all structures identified in the application and an elevation certificate, as per the Taos County Flood Plain Ordinance, as amended.
- B. Structures, materials deposits, or excavations, alone or in combination with present or future works, shall not adversely affect the capacity of the floodplain.
- C. Roads are not to be located in the floodplain, unless specifically approved by the New Mexico Department of Transportation, and roads shall not conflict with B above.
- D. Structures with the potential for high flood damage and confining animal shelters shall not be located in the floodplain.
- E. Existing and proposed utilities shall be free from threat of flood damage.
- F. The preferred method of watershed hydrology evaluation is NRCS Technical Release 55, "Urban Hydrology for Small Watersheds" or Chapter 2 of the NRCS Engineering Field Manual. Other methods such as HEC2, HYMO/AHYMO, or the rational method are acceptable, if sufficient supporting data is presented and deemed adequate by the reviewer.
- G. All 100-year flood line elevations and locations shall be shown on the site plan and, if applicable, the plat map. Damage from flooding is a function of flow depths and velocity. In appraising the flood damage potential, the magnitude and location of the velocities shall be considered. Erosion and sediment disposition are good indicators of damage having occurred in the past.
- H. Areas of potential flooding are indicated by soil types and limitations. While these are not usually accurate enough to identify the 100-year flood zone, they will be useful indicators of areas needing careful study by the developer. The use of FEMA Flood Hazard Maps, by themselves, may not be considered sufficient for locating all possible 100-year flood plains within the development. These maps may note the presence of the larger drainage flood hazard areas, but do not delineate the smaller areas needed to be identified within the proposed development.
- I. Even the smallest of watersheds has a floodplain, but the intent of the review is to note those drainage courses that will flood and impact the proposed land use of the development. The smaller drainage course must not be overlooked. It must be properly identified as a potential floodplain hazard, if the drainage course crosses numerous lots where activities by the upstream lot owner may directly or indirectly change or alter the flow pattern of these watercourses. The developer must note the major watercourses having floodplains on the plat maps, but additionally, the developer must identify those smaller drainage channels and water courses that may originate on or off the development and cross a number of lots and present a potential hazard, if altered by upstream activities.
- J. Rather than identify smaller drainage channels as 100-year floodplain drainage easements, the designations and evaluations required for the larger drainage channels – the platting of a natural water course with a perpetual easement for facilitating the natural water patterns shall be encouraged, or required when deemed necessary. This will allow the floodwaters to move through the natural, as well as the man made flood channels, without being obstructed. Care must be given to consider those watercourses that do not have definite and distinct banks, but are floodplains due to an overland flow condition.

SECTION 4
STORM DRAINAGE

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Developments shall be planned, constructed and maintained to:

- A. Protect and preserve existing natural drainage channels, except where erosion and water control measures are found necessary and approved by the local district.
- B. Provide temporary measures to prevent damaging runoff waters from leaving the site, until construction is completed and permanent controls are installed.
- C. Protect structures and other works from flood hazards using the 100-year frequency storm for calculating flood levels.
- D. Provide a system wherein runoff water within the development is removed without causing harm or damage to the environment, property, or persons, inside or outside the development area.
- E. Assure that water drained from the development does not contain pollutants or sedimentary materials of any greater quantity than would occur in the absence of the development.
- F. Assure that waters are drained from the development in such a manner that they will not cause erosion outside of the development to any greater extent than would occur in the absence of the development.
- G. Assure that road construction provides proper drainage by:
 - 1. Avoiding water-ponding areas resulting from road construction, unless plans are developed that will adequately address the conditions.
 - 2. Roads planned for use in collecting or disposing of runoff shall be designed to ensure adequate control of the flows that prevent erosion and sedimentation.
 - 3. Road-drain outlets into an existing drainage course shall be designed to prevent erosion in the drainage course.
 - 4. Road-drain outlets into a controlled area.
 - 5. Road culverts shall be properly sized and located and of adequate length, and described in the plan.
 - 6. Road culverts and outlets shall be adequately protected.
- H. All storm drainage systems shall be constructed in accordance with the standards of the local district as deemed necessary for the site conditions of the proposed development. If the drainage basin where the development is located is only partially developed, the local district shall require that the design and construction of the drainage system shall have sufficient flow capabilities based on the assumption the entire basin will be developed.
- I. Development of an area is almost certain to cause an increase in runoff and sediment. The possible adverse effects of such increase shall be analyzed. Special consideration shall be given to the existing or planned bridge, culvert, and road crossing sizes, and the stability and capacity of the existing or planned watercourses. All planned construction of roads and their appurtenances shall be reviewed to ensure they do not adversely impact the storm drainage flows. It is recognized that stable water courses may start to degrade, when exposed to larger, more frequent or longer flows that may result from development.
- J. Diversions, debris basins, retaining walls, terraces, berms, and vegetative means shall be used as needed to reduce sediment and runoff. It is recognized that, once treated and sediment levels of storm runoff are reduced, the water is once again more likely to be able to increase erosion in areas not previously impacted due to its new-found ability to erode and transport sediments.
- K. The shaping of large natural channels usually increases the channel runoff velocity, which may result in increased erosion absent measures to slow velocities and protect the banks.
- N. Excavated and filled slopes shall generally be 3:1 or flatter.

- O. Utilize Green Infrastructure and Low Impact Development techniques to control pollution from storm water during high velocity flows.

SECTION 5
EROSION CONTROL

The terrain management plan shall clearly indicate that installed measures will prevent or control erosion. The following items shall be considered:

- A. Road grades shall be designed flat enough to prevent erosion, based on the soils involved.
- B. Borrow areas or drainage features shall be designed to prevent erosion or sediment deposition.
- C. Culvert inlets and outlets shall be properly protected from erosion and sedimentation.
- D. Critical area treatment or special plantings may be needed. If so, the plans shall be in keeping with the landscaping and re-vegetation plan procedures.
- E. Temporary soil stabilization may be needed during development. If so, it shall be adequately planned in accordance with local Soil & Water Conservation District Field Office Technical Guides.
- F. Soil stabilization methods shall be required on permanent slopes where found necessary by the local soil district.

SECTION 6
LANDSCAPING AND VEGETATION

Re-vegetation is an important requirement of any development plan. A definitive "Schedule for Installing Plant Cover" is necessary to prevent erosion and must be included with the development application. The need for re-vegetation is an integral part of an approved approach to terrain management. The following items will be considered when reviewing the vegetation portion of a development plan:

- A. Species scheduled for planting shall be adapted to the soils and the local climate. The use of any species considered noxious, or a weed species that could enhance the distribution of undesirable species, will not be allowed.
- B. The source and frequency of watering for all proposed plantings, especially during the first year while plantings become established, must be identified.
- C. Seeding and planting methods and dates shown in the plan shall be compatible with the Taos Soil and Water Conservation District Field Office Technical Guides.
- D. Seeding rates shown in the plan shall meet the minimum set forth in the Taos Soil and Water Conservation District Field Office Technical Guides.
- E. Mulching of seeding areas shall be part of the plan, and shall be compatible to the Taos Soil and Water Conservation District Field Office Technical Guides and the Critical Area Treatment for Urban Development publication.
- F. Existing vegetation shall be left undisturbed whenever possible. The plan shall adequately ensure these areas are not adversely impacted during the construction phase of development.

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SECTION 7
WATER POLLUTION HAZARDS

The following land uses and/or activities are designated as potential water pollution hazards and must be set back from any stream or water body by the distance indicated below:

- A. Storage of hazardous substances—(150 feet)
- B. Aboveground or underground petroleum storage facilities—(150 feet)
- Drainfields from onsite sewage disposal and treatment systems (i.e., septic systems)—(100 feet)
- C. Raised septic systems—(250 feet)
- D. Solid waste landfills or junkyards—(300 feet)
- E. Confined animal feedlot operations—(250 feet)
- F. Subsurface discharges from a wastewater treatment plant—(100 feet)
- G. Land application of biosolids—(100 feet)

[This language is recommended by EPA for buffers for Hazardous Substances
http://water.epa.gov/polwaste/nps/upload/2002_09_19_NPS_ordinanceuments_Buffer_model_ordinancel.pdf]

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APPENDIX 4

CULTURAL PROPERTIES

A. Protection of Cultural Properties, Archaeological Sites and Unmarked Human Burials

1. Taos County hereby declares that the historical and cultural heritage of the county is one of the county's most valued and important assets; that the public has an interest in the preservation of all antiquities, historic and prehistoric ruins, sites, structures, objects and similar places and things for their scientific and historical information and value; that the neglect, desecration and destruction of historical and cultural sites, structures, places and objects results in an irreplaceable loss to the public; and that therefore it is the purpose of the ordinance to provide for the preservation, protection and enhancement of structures, sites and objects of historical significance within the county, in a manner conforming with, but not limited by, the Cultural Properties Act [18-6-1 to 18-6-17 NMSA 1978] and the National Historic Preservation Act of 1966 (P.L. 89-665).
2. Applicants are responsible for obtaining archaeological reports required under the Cultural Properties Act and the National Historic Preservation Act of 1966.

B. Archaeological Review Sites/Unexpected Discoveries/Human Remains/Penalties

1. A report of any unexpected discoveries of cultural remains during construction activities shall be made to the County Planning Department and to the State Historic Preservation Division. Construction activities shall cease within the area of the discovery that in any way endangers the cultural remains. An archaeologist authorized by the State Historic Preservation Division shall visit the site within forty eight (48) hours, excluding weekends or holidays, and determine the archaeological significance and the data potential of the site. If the site is determined to be significant and to have data potential, then:
 - a. The archaeologist will determine a buffer area in which construction activities shall temporarily cease;
 - b. The property owner shall present a treatment plan to the State Historic Preservation Office for approval; and
 - c. The treatment plan shall meet the requirements of these regulations.
2. Human remains are considered part of an archaeological record, and should be afforded special treatment pursuant to the NMSA 1978, §24-11-5. If human remains are discovered, any construction activities affecting the remains shall cease and county officials shall be contacted. If the human remains are less than seventy-five (75) years of age, a determination of jurisdiction will be made by the Office of the New Mexico Medical Examiner. If the remains are determined to be prehistoric or isolated burials of early historical age, the site is considered to be significant and a treatment plan shall indicate consideration of local Native American or other religious concerns, or if applicable, shall include notification of possible relatives or descendants. If the remains represent permanent interment in any church, church yard, or cemetery, they may not be disturbed without a district court order. NMSA 1978, § 30-12-12.

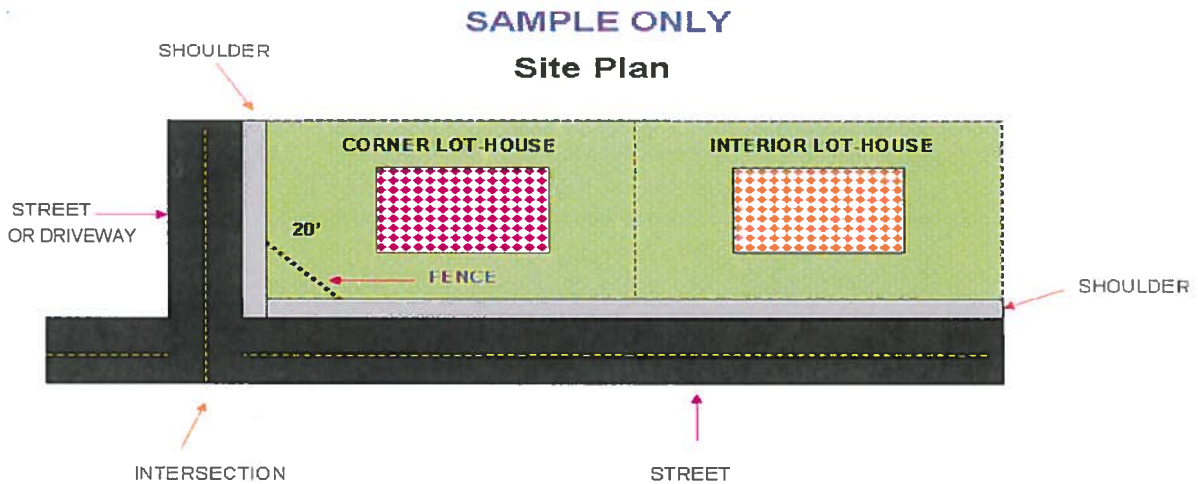
Failure to report such finds could result in the imposition of penalties provided for by the law.

APPENDIX 5

SCHEMATICS FOR SITE TRIANGLE AREA, HEIGHT OF BUILDING

A. Obstruction of View:

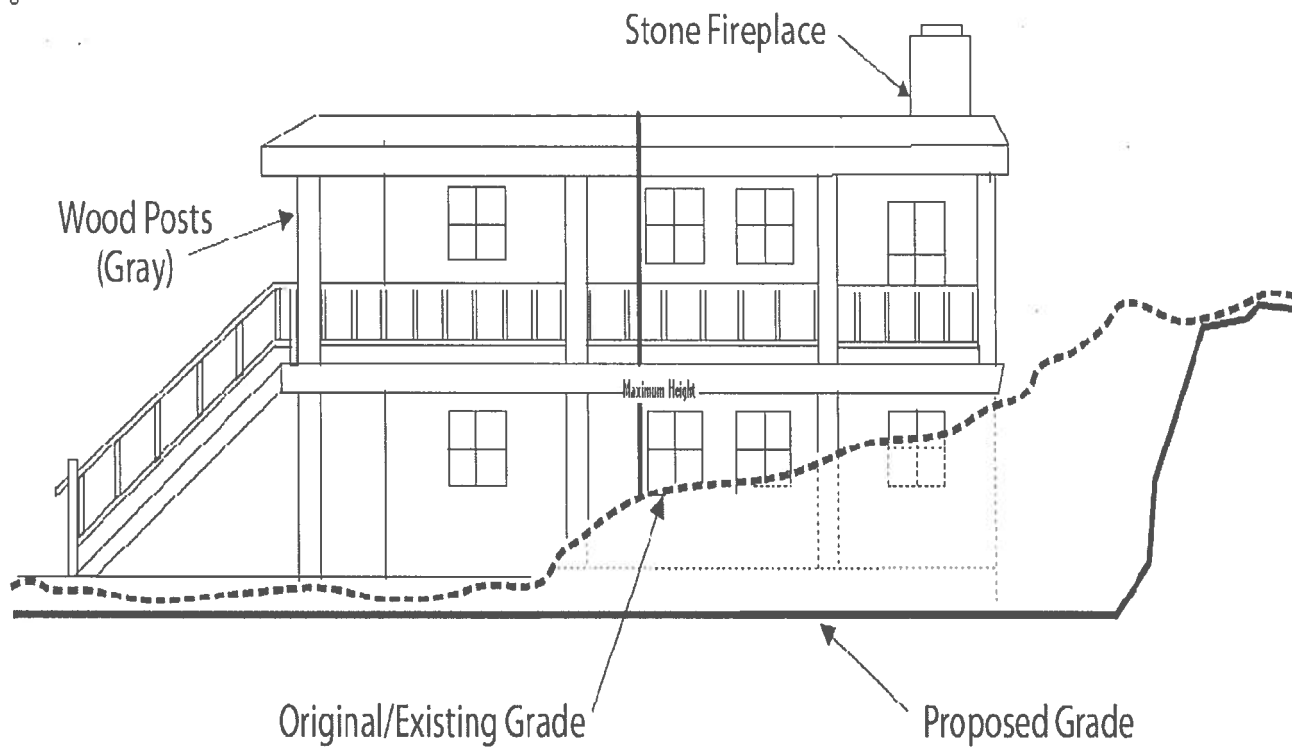
1. **Sight Triangle Area:** Defined as that portion of a corner lot lying within a triangle area formed by measuring back along the property lines adjacent to the intersecting streets and driveways to a point on each property line twenty feet (20') from the intersection of said property lines and then connecting the two (2) points thus establishing a third line.
2. **Maintenance In Site Triangle Area:** It shall be unlawful for the owner, occupant, or person in control of any corner lot to erect, maintain or permit to grow any obstruction to the view of drivers of motor vehicles over a height of three feet (3'), and all trees shall be trimmed so that no foliage hangs down closer than seven feet (7') to the ground within the "sight triangle area" of the lot.
3. **Violation:** The Planning Director shall have the authority to order removal of any tree, plant, shrub, fence or other object that violates the provisions of this section.



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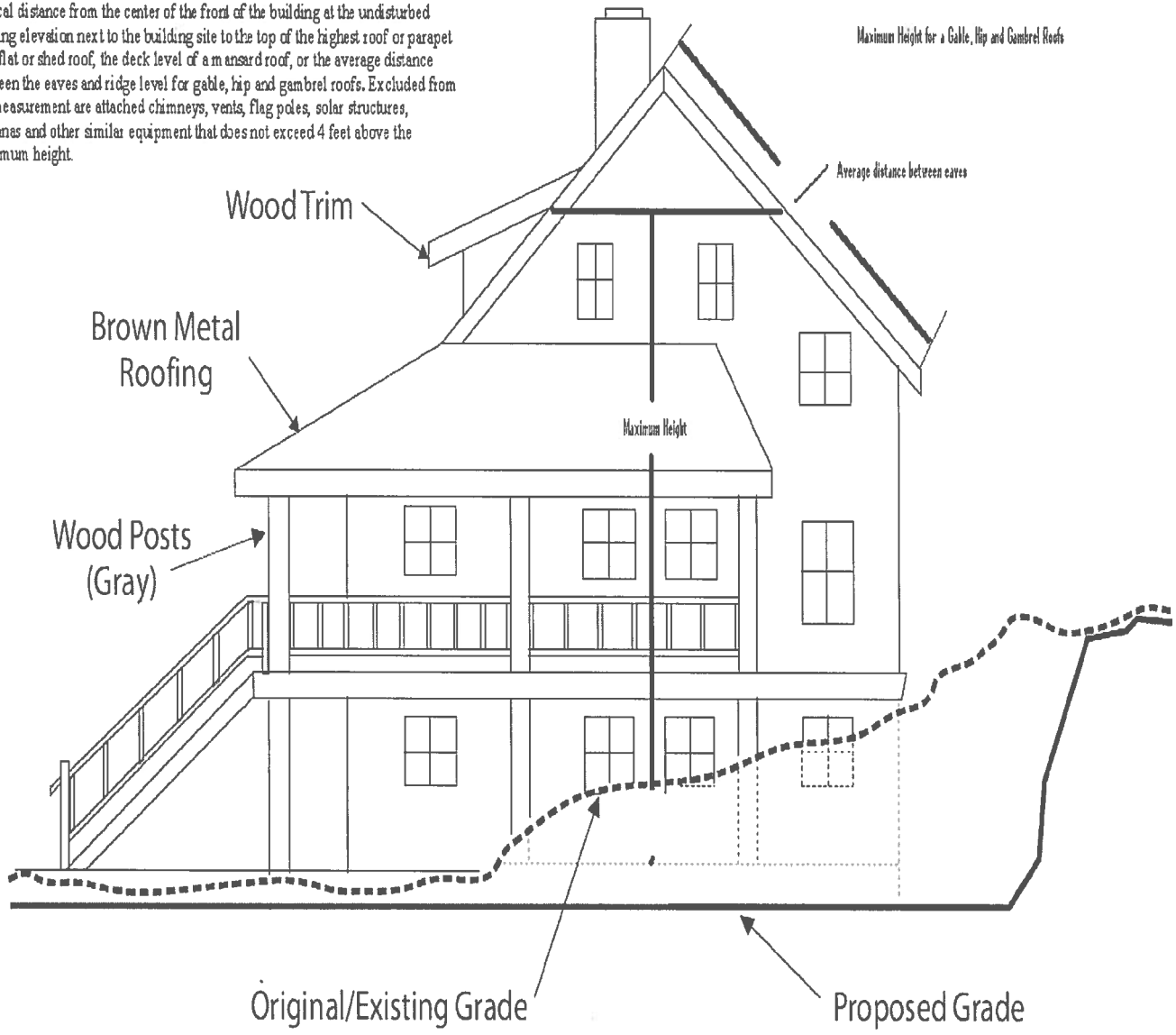
Maximum Height: Flat, Shed, or Mansard Roof

MAXIMUM HEIGHT - Maximum height, as regulated herein, is measured as vertical distance from the center of the front of the building at the undisturbed existing elevation next to the building site to the top of the highest roof or parapet on a flat or shed roof, the deck level of a mansard roof, or the average distance between the eaves and ridge level for gable, hip and gambrel roofs. Excluded from the measurement are attached chimneys, vents, flag poles, solar structures, antennas and other similar equipment that does not exceed 4 feet above the maximum height.



Maximum Height: Gable, Hip or Gambrel Roof

MAXIMUM HEIGHT - Maximum height, as regulated herein, is measured as vertical distance from the center of the front of the building at the undisturbed existing elevation next to the building site to the top of the highest roof or parapet on a flat or shed roof, the deck level of a mansard roof, or the average distance between the eaves and ridge level for gable, hip and gambrel roofs. Excluded from the measurement are attached chimneys, vents, flag poles, solar structures, antennas and other similar equipment that does not exceed 4 feet above the maximum height.

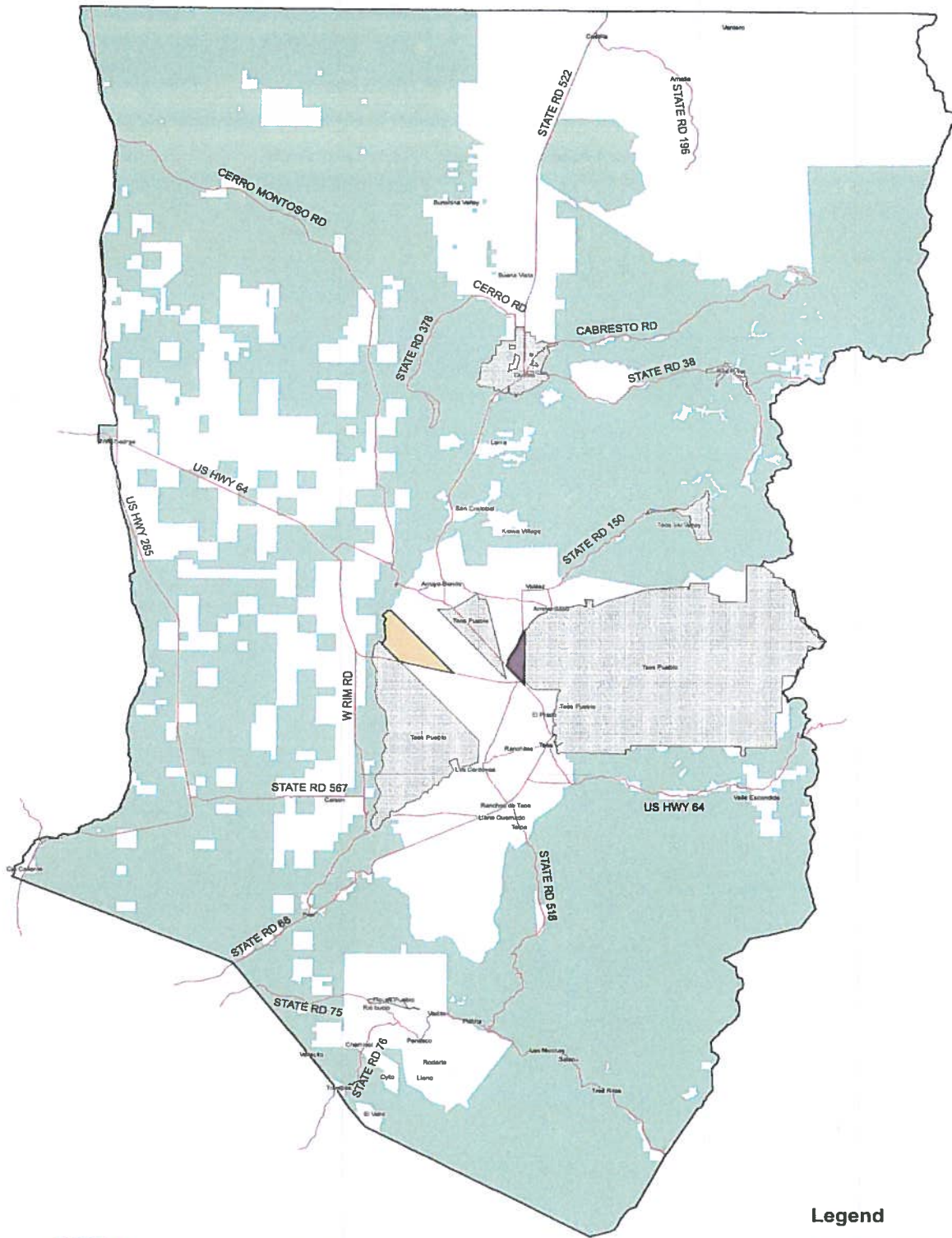


APPENDIX 6

OFFICIAL ZONING MAPS OF TAOS COUNTY

The Zoning Maps included in this Appendix 6 are reduced size copies of the full size originals that are filed in the Office of the County Clerk.

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**Taos County
 Zoning Map
 Master Sheet
 1 of 3**

CERTIFICATE OF APPROVAL

We the undersigned County Commissioners of the County of Taos, New Mexico, do hereby approve the filing of the Taos County Zoning Maps.

PASSED AND APPROVED this 3rd day of May, 2015 by the Taos County Board of Commissioners.

Tom Blankenhorn
 Tom Blankenhorn, Chairman -

Jim K. Fambro
 Jim K. Fambro, Vice-Chairman -

Mark Gallegos
 Mark Gallegos, Commissioner -

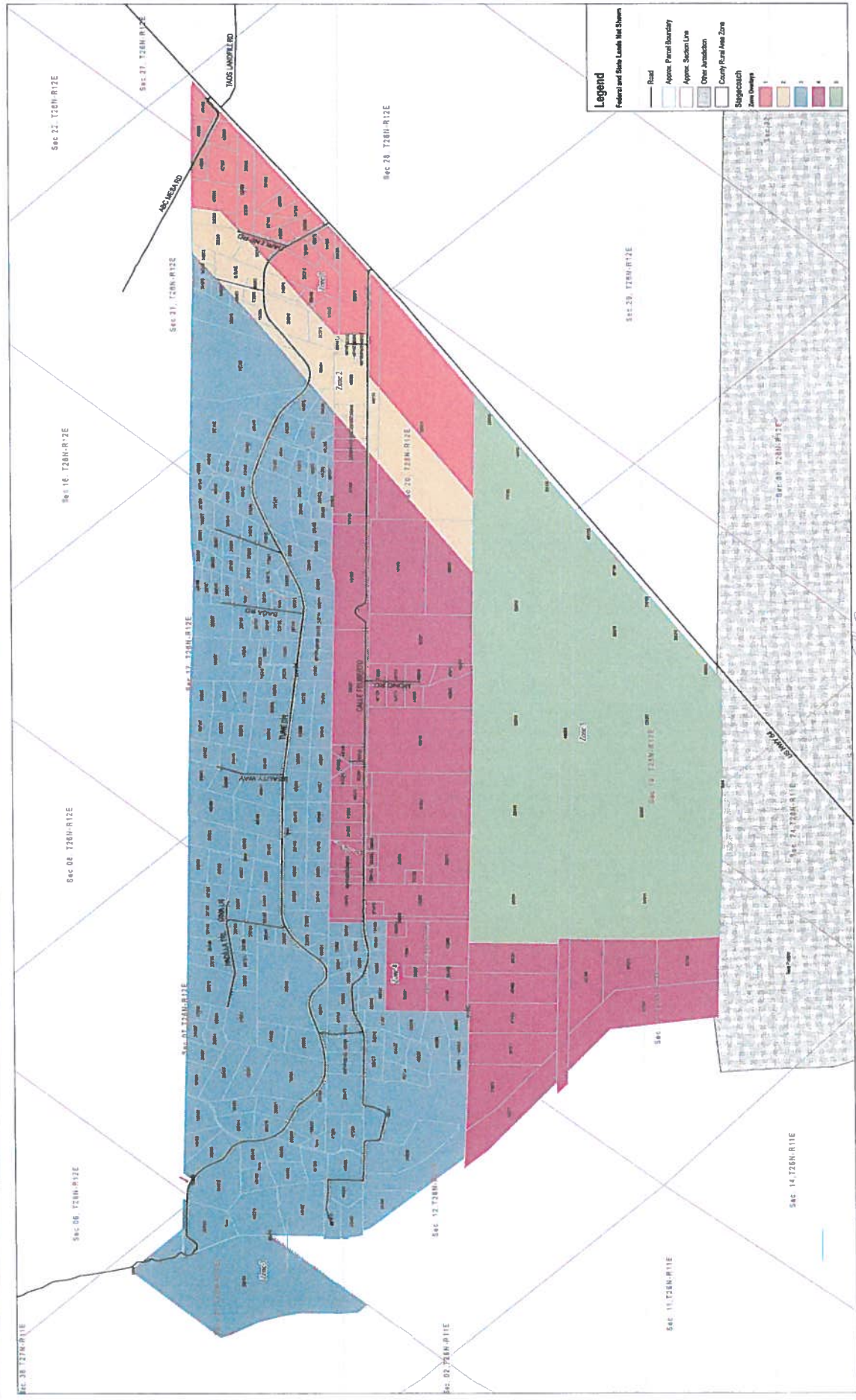
Gabriel J. Romero
 Gabriel J. Romero, Commissioner -

Candice O'Donnell
 Candice O'Donnell, Commissioner -

Legend

- Major Road
- Federal and State Land
- Other Jurisdiction
- County Rural Area Zone
- Zoned Neighborhoods**
- Stagecoach
- Upper Las Colonias





Constance D. ...
 Constance D. ...
 Clerk/Planner, Commission

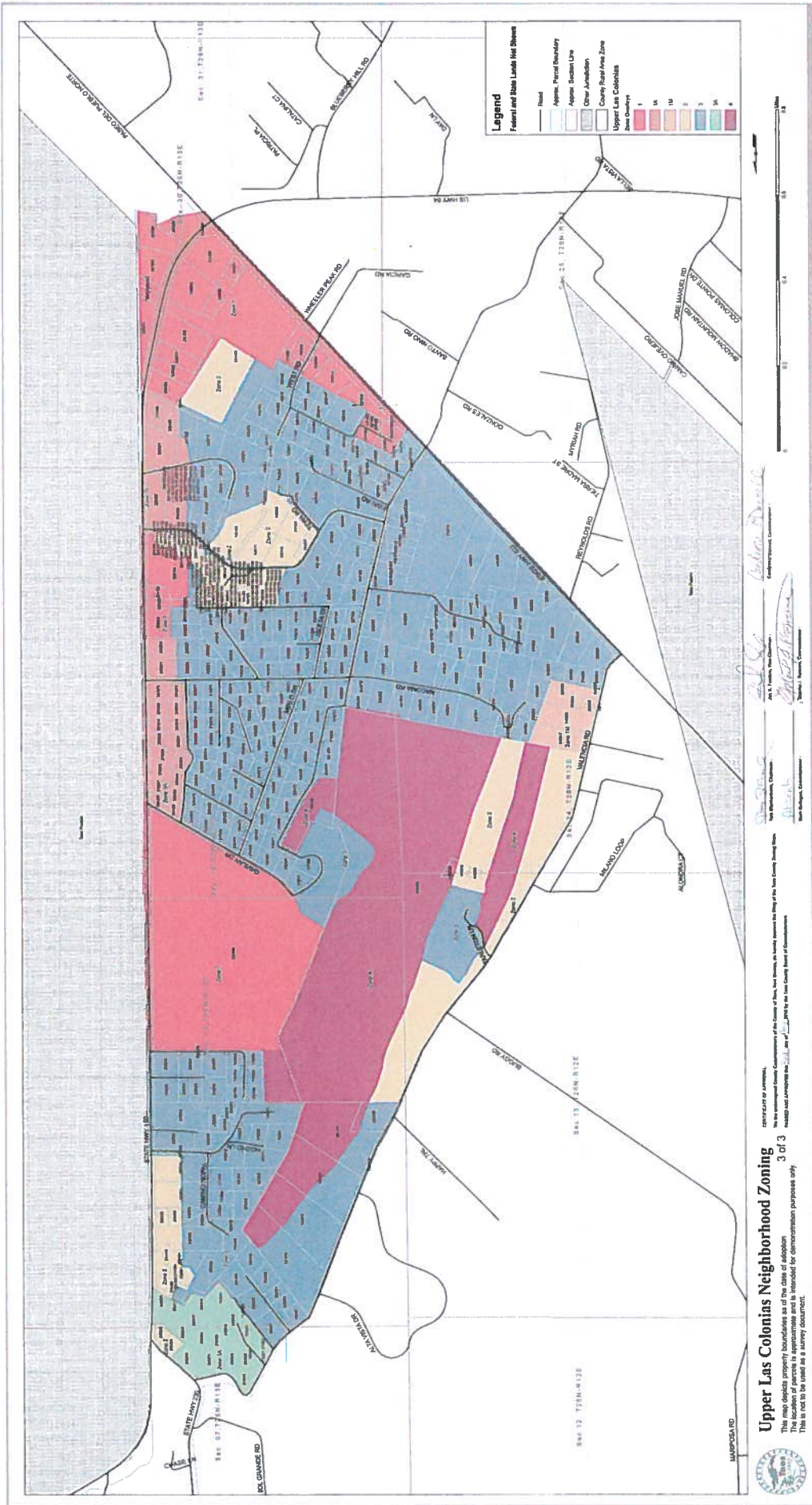
John ...
 John ...
 Clerk/Planner, Commission

John ...
 John ...
 Clerk/Planner, Commission

CONTRACTS OF APPEAL
 By the undersigned County Commissioners of the County of Inra, New Mexico, in open session and by the Inra County Zoning Board
 meeting and published on the 11th day of ... 2015 by the Inra County Board of Commissioners.

Stagecoach Neighborhood Zoning
 2 of 3
 The map depicts property boundaries as of the date of adoption.
 The locations of parcels are indicated for demonstration purposes only.
 This is not to be used as a survey document.







PASSED, APPROVED AND ADOPTED, this 3rd day of November 2015.

**BOARD OF COUNTY COMMISSIONERS
OF TAOS COUNTY, NEW MEXICO**

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Tom Blankenhorn, Chairman


Jim Fambro, Vice-Chair


ABSENT

Mark Gallegos, Commissioner


Gabriel J. Romero, Commissioner


Candyce O'Donnell, Commissioner

Attest:


Anna Martinez, Taos County Clerk



Approved as to form:


Robert J. Malone, Taos County Attorney

VOTE RECORD:

T. Blankenhorn	<u>yes</u>	no	abstain	absent
J. Fambro	<u>yes</u>	no	abstain	absent
M. Gallegos	yes	no	abstain	<u>absent</u>
G. J. Romero	<u>yes</u>	no	abstain	absent
C. O'Donnell	<u>yes</u>	no	abstain	absent