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# **TORRANCE COUNTY**

## **NEW MEXICO SUBDIVISION REGULATIONS**

**Adopted by the Torrance County Commission  
on  
December 11, 1996  
[Including revisions to: April 23, 2008]**



Ordinance No. 96 - 7

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# TORRANCE COUNTY SUBDIVISION REGULATIONS

## ARTICLE 1. GENERAL PROVISIONS

### Section 1.1. Title

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

### Section 1.2. Authority

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

### Section 1.3. Purpose

These Regulations are adopted for the following purposes:

1. To provide for and protect the public health, safety, and general welfare of the County;
2. To guide the future growth and development of the County in accordance with any official plans adopted by the County;
3. To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population;
4. To protect and conserve the value of land throughout the County and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings, and to protect private property rights;
5. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the County, having particular regard to the avoidance of congestion in the streets and highways, and pedestrian traffic movements appropriate to the various uses of land and buildings; and to provide for the proper location and width of streets;
6. To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land and to ensure proper legal descriptions and monumenting of subdivided land;
7. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water supply, and to encourage the wise use and management of natural resources

- throughout the County in order to preserve the integrity, stability, and beauty of the community and the value of the land; and
8. To encourage adequate housing opportunities for all of the citizens of the County and future generations, in balance with the County's natural resource base.

Section 1.4. Jurisdiction

These Regulations shall govern all subdivision of land not within the boundaries of municipalities but within the County. The County and a municipality shall exercise concurrent jurisdiction over the territory within the platting jurisdiction of both the County and the municipality, as provided in §§3.20.5 and 3.20.9 NMSA 1978.

Section 1.5. Written Decisions

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

Section 1.6. Interpretation

The provisions of these Regulations are held to be minimum requirements. Whenever any provisions of these Regulations conflict with other laws, rules, regulations, covenants, or ordinances, the more restrictive shall govern. These Regulations shall be construed broadly to promote the purposes for which they were adopted. Particular reference shall be made to the land use requirements of the Torrance County Zoning Ordinance in considering the provisions of these Regulations.

**ARTICLE 2. DEFINITIONS**

<b>common promotional plan</b>	Any plan or scheme of operation, undertaken by a single subdivider or a group of subdividers acting in concert, to offer for sale or lease parcels of land where such land is either contiguous or part of the same area of land or is known, designated or advertised as a common unit or by a common name
<b>County</b>	The County of Torrance
<b>contiguous</b>	Refers to adjacent parcels sharing a boundary line or separated only by a road, right-of-way, or easement
<b>disclosure statement</b>	Statement required to be given to persons acquiring

an interest in subdivided land; this statement complies with the requirements of §47-6-17 NMSA 1978 and these Regulations.

**final plat**

Map, chart, survey, plat, or replat, certified by a registered land surveyor licensed in the State of New Mexico, which contains a description of the subdivided land with ties to permanent monuments, prepared in a form suitable for filing record

**immediate family member**

Family relations up to and including the Grandparent, Parent, Brother, Sister, and Child. Relationships of the half blood shall be recognized as natural relationships so long as the step relationship is legally extant at the time of a land transfer  
[REV: Ord. No. 2008-004, 4/23/08]

**lease**

To lease or offer to lease land

**parcel**

Land capable of being described by location and boundaries and not dedicated for public or common use

**person**

Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity

**preliminary plat**

Map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it; the map need not be based upon an accurate and detailed survey of the land

**resubdivision**

Any change to a lot line, right-of-way line, or utility easement, unless the change is the result of a vacation of plats or a variance granted by action of the Board of County Commissioners

**sell**

To sell or offer to sell land

**subdivide**

To divide a surface area of land into a subdivision

**subdivider**

Any person who creates or who has created a subdivision, individually or as part of a common promotional plan, or any person engaged in the sale,



lease, or other conveyance of subdivided land; however, "subdivider" does not include any duly licensed real estate broker or salesperson acting on another's account

**subdivision**

Division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease, or other conveyance; or for building development, whether immediate or future; however, "subdivision" does not include:

- 1) sale, lease, or other conveyance of any parcel that is forty (40) acres (or 1/16 of a section) or larger in size within any twelve (12) month period; provided that the land has been used primarily and continuously for agricultural purposes, in accordance with §7-36-20 NMSA 1978, for the preceding three (3) years; and provided further that any residual parcel or parcels resulting from a land division comply with the minimum lot standards for the appropriate zoning district as established by the Torrance County Zoning Ordinance; [REV: Ord. No. 2008-004, 4/23/08]
- 2) sale or lease of apartments, offices, stores or similar space within a building;
- 3) division of land within the boundaries of a municipality;
- 4) division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;
- 5) division of land created by court order where the order creates no more than one parcel per party;
- 6) division of land for grazing or farming activities, provided the land continues to be used for grazing or farming activities;
- 7) division of land resulting only in the alteration of parcel boundaries where parcels are altered

for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased;

- 8) division of land to create burial plots in a cemetery;
- 9) division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel of land per immediate family member; furthermore gifts of land may be transferred by father or mother to their children, natural or adopted, or grandchildren, or transferred by a person who as a legal guardian has performed the function of father, mother, grandfather or grandmother to an individual to whom the land is being transferred;  
[REV: Ord. No. 2008-004, 4/23/08]
- 10) division of land created to provide security for mortgages, liens, or deeds of trust, provided that the division of land is not the result of a seller-financed transaction;
- 11) sale, lease, or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres;
- 12) division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in §501 (c) (3) of the United States Internal Revenue Code of 1986, as amended; school, college, or other institution with a defined curriculum and a student body and faculty which conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship, religious teaching, or other specifically religious activity; or
- 13) sale, lease, or other conveyance of a single

parcel from a tract of land, except from a tract within a previously approved subdivision, within any five (5) year period, provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five (5) years of the first sale, lease, or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act; provided further that a survey shall be filed with the County Clerk indicating the five (5) year holding period for both the original tract and newly created tract.

<b>terrain management</b>	Control of floods, drainage and erosion, and measures necessary to adapt proposed development to existing soil characteristics and topography
<b>time of purchase, lease or other conveyance</b>	Time of signing any document obligating the person signing the document to purchase, lease, or otherwise acquire a legal interest in land
<b>Type One subdivision</b>	Any subdivision containing five hundred (500) or more parcels, any one of which is less than ten (10) acres in size
<b>Type Two subdivision</b>	Any subdivision containing twenty-five (25) or more, but not more than four hundred ninety-nine (499) parcels, any one of which is less than ten (10) acres in size
<b>Type Three subdivision</b>	Any subdivision containing not more than twenty-four (24) parcels any one of which is less than ten (10) acres in size
<b>Type Four subdivision</b>	Any subdivision containing twenty-five (25) or more parcels, each of which is ten acres (10) or more in size
<b>Type Five subdivision</b>	Any subdivision containing not more than twenty-four (24) parcels, each of which is ten (10) acres or more in size

Types of Subdivisions

Type	Number of Parcels	Size of Smallest Parcel
One	500 or more	Less than 10 acres
Two	25 to 499	Less than 10 acres
Three	2 to 24	Less than 10 acres
Four	25 or more	10 acres or more
Five	2 to 24	10 acres or more

**vacation**

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

**ARTICLE 3. PRE-APPLICATION PROCESS**

Section 3.1. Pre-Application Procedure

- 3.1.1. Conference, optional. For the purpose of expediting applications and reducing subdivision design and development costs, and with the exception of subdivisions that qualify for summary procedure, a subdivider may request an informal pre-application conference in accordance with the requirements provided in these Regulations. The pre-application conference is intended to provide general advice to the subdivider about the procedures and data requirements for subdivision review and approval in the County.
- 3.1.2. Summary procedure conference. All proposed subdivisions which qualify for approval under the summary procedure provided in Article Six of these Regulations shall begin with a pre-application conference.
- 3.1.3. Scheduling. At the request of the subdivider, the County Zoning Clerk shall schedule a pre-application conference in order for the subdivider to meet with appropriate County representatives and to become acquainted with the necessary requirements for subdivision review and approval.
- 3.1.4. Fee. No fee shall be required for a pre-application conference.
- 3.1.5. Statements non binding. Neither the subdivider nor the County

shall be bound by any statements made during the pre-application conference.

- 3.1.6. Application/forms. At the request of the subdivider, the County Zoning Clerk shall provide sufficient information and application forms for preliminary plat submittal in order to proceed with the County subdivision process and to fulfill the requirements of the New Mexico Subdivision Act.

### Section 3.2. Pre-application Data Requirements

- 3.2.1. Sketch plan. A sketch plan shall be prepared by the subdivider which shows the proposed layout of streets and lots, with estimated dimensions and other relevant site information. The location of the proposed subdivision must be adequately described on a general map of the area.
- 3.2.2. Additional information. In addition to the sketch plan and location map, the subdivider shall provide information including, but not limited to, the following:
  - a. name and mailing address of the subdivider and designated agent, if any;
  - b. name of owner or owners of land to be subdivided;
  - c. a legal description of the proposed subdivision;
  - d. a description of surrounding land uses; and
  - e. accessibility of site to roads and utilities.

## **ARTICLE 4. PRELIMINARY PLAT REVIEW PROCESS**

### Section 4.1. Preliminary Plat Submittal

- 4.1.1. Preliminary plat required. Preliminary plats shall be submitted for Type One, Type Two, Type Three, and Type Four subdivisions. Certain Type Three and all Type Five subdivisions are subject to review under the summary procedure set forth in Article Six of these Regulations.
- 4.1.2. Application/fees. A subdivider shall prepare a preliminary plat and supporting documentation in accordance with the requirements provided in these Regulations. Preliminary plat submittal is initiated by completing an application on a prescribed form available from the County Zoning Clerk, and upon payment of the required administrative fees.
- 4.1.3. Plat deemed complete. On receipt of the application, fees,

preliminary plat, and supporting documentation, the County Zoning Clerk shall review all materials in order to determine if the preliminary plat is ready to begin the review process. If there are no deficiencies, the preliminary plat is deemed complete for review by written notice to the subdivider within thirty (30) days after the date of application. If the preliminary plat is incomplete or does not comply with the submittal requirements provided in these Regulations, the subdivider shall be notified and be given a maximum time period of sixty (60) days to correct the deficiencies and return the preliminary plat for consideration.

#### Section 4.2. Agency Review

- 4.2.1. Plat transmittals. Within ten (10) days after the date that the preliminary plat is deemed complete, the County Zoning Clerk shall forward a copy of the preliminary plat and supporting documentation to the following state and local agencies by certified mail "return receipt requested" with a request for review and opinions:
- a. New Mexico State Engineer Office;
  - b. New Mexico Environment Department;
  - c. New Mexico Department of Transportation; and
  - d. Soil and Water Conservation District in which the proposed subdivision is located.
- 4.2.2. Additional transmittals. Copies of the preliminary plat and supporting documentation shall also be transmitted in an appropriate manner to the following organizations for information and comment if necessary: [REV: Ord. No. 96-7, 6/25/97]
- a. Gas and Electric Utility Companies;
  - b. Torrance County Rural Addressing Department;
  - c. Torrance County Road Department;
  - d. Applicable Fire District;
  - e. Applicable School District;
  - f. Estancia Basin Water Planning Committee; and
  - g. Any such other public agencies as the County deems necessary.
- 4.2.3. Agency response. The state and local agencies shall have thirty (30) days from their receipt of the preliminary plat to review and return an opinion regarding the preliminary plat. The County Zoning Clerk shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency.

Any adverse agency response should detail all deficiencies.

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

### Section 4.3. Public Hearings on Preliminary Plats

- 4.3.1. Scheduling. The County shall conduct a public hearing within the time periods specified in these Regulations. Notice of the public hearing shall be given at least twenty-one (21) days before the hearing date.
- 4.3.2. Notice. The notice of public hearing shall be published in a newspaper of general circulation in the County and shall contain the following information:
  - a. subject of the hearing;
  - b. time and place of the hearing;
  - c. manner for interested persons to present their views; and
  - d. place and manner for interested persons to get copies of any favorable or adverse opinion of the subdivider's proposal.
- 4.3.3. Notification. Copies of the notice of public hearing shall be

transmitted to the following:

- a. the subdivider filing the application for preliminary plat approval;
- b. those public agencies which initially received copies of the preliminary plat and supporting documentation with a request for opinion;
- c. any interested person who previously requested such notice and provided a stamped, self-addressed envelope for such purpose; and
- d. owners of property contiguous to land proposed to be subdivided.

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

4.3.5. Planning Commission review. Prior to the date of the public hearing, the Torrance County Planning and Zoning Commission shall be given the opportunity to review the preliminary plat and submit comments orally or in writing to the Board of County Commissioners.

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

#### Section 4.4. Expiration of Preliminary Plat

4.4.1. Expiration. An approved or conditionally approved preliminary plat shall expire twenty-four (24) months after its approval or conditional approval. Upon request by the subdivider, an additional period of no more than twelve (12) months may be added to the expiration date by the Board of County Commissioners.

4.4.2. Phased development. If the preliminary plat was approved for phased development, the subdivider may file final plats for portions of the development, and the expiration date of the preliminary plat



shall be extended for an additional thirty-six (36) months after the date of the filing of each final plat. The maximum time allowed for all phases shall be ten (10) years from the preliminary plat to the final plat of the last phase.

- 4.4.3. Extension. Before the expiration date of the approved or conditionally approved preliminary plat, the subdivider may submit to the Board of County Commissioners an application for extension of the preliminary plat for a period of time not exceeding thirty-six (36) months.
- 4.4.4. Expiration effect. The expiration of the approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and no final plat shall be filed without first processing a new preliminary plat.

#### Section 4.5. Preliminary Plat Data Requirements

- 4.5.1. Purpose. At a minimum, the supporting documentation required for the preliminary plat review shall provide sufficient information for the County to determine that:
  - a. water is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses;
  - b. water is of an acceptable quality for human consumption and measures are taken to protect the water supply from contamination;
  - c. there is a means of liquid waste disposal for the subdivision;
  - d. there is a means of solid waste disposal for the subdivision;
  - e. there are satisfactory roads to each parcel, including entry and exit for emergency vehicles, and there are appropriate utility easements to each parcel;
  - f. terrain management protects against flooding, inadequate drainage and erosion;
  - g. there are protections for cultural properties, archaeological sites and unmarked burials that may be directly affected by the subdivision, as required by the Cultural Properties Act;
  - h. the subdivider can fulfill the proposals contained in the disclosure statement for the subdivision; and
  - i. the subdivision will conform with the New Mexico Subdivision Act and these Regulations.
- 4.5.2. Minimum documentation. Supporting documentation shall be compiled into a singular report and shall include the following components prepared with reference to the "Supplemental

Guidelines for the Torrance County Subdivision Regulations”.

- a. Water Supply Plan
  - 1) water availability assessment
  - 2) annual water requirements
  - 3) community water system (if applicable)
  - 4) water conservation measures
  - 5) fire protection
  - 6) water rights
  - 7) water quality
- b. Liquid Waste Disposal Plan
  - 1) individual on-site liquid waste systems
  - 2) community liquid waste system (if applicable)
- c. Solid Waste Disposal Plan
  - 1) solid waste collection system
  - 2) on-lot disposal procedures (if applicable)
- d. Access Plan for Roads and Utilities
  - 1) relationship of site to regional highway network
  - 2) transportation access and site circulation
  - 3) road design criteria
  - 4) traffic impact analysis (50 parcels or more)
  - 5) relationship of site to regional utility lines
  - 6) livestock fencing
- e. Terrain Management Plan
  - 1) site geography
  - 2) soil survey
  - 3) grading plan
  - 4) landscaping plan
  - 5) erosion and drainage plan
  - 6) construction schedule
- f. Cultural Properties Protection
  - 1) unmarked human burials
  - 2) registered cultural properties
  - 3) archaeological sites

4.5.3. Filing specifications. The subdivider shall submit twenty-five (25) copies of the preliminary plat and supporting documentation for local review and distribution to public agencies. Preliminary plat maps shall be prepared at a scale of two-hundred (200) feet to one (1) inch or larger, and printed on sheets no larger than twenty-eight by thirty-six (28 x 36) inches. Sheets shall be numbered in sequence if more than one sheet is used.

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

- a. title, scale, north arrow, and date;
- b. existing topography and any regrading plans, indicating contour intervals sufficient for planning purposes;
- c. existing and proposed boundary lines, in bearings and distances, for the subdivision;
- d. proposed lot lines, with lot and block numbers, and approximate acreage of each lot;
- e. the location, dimensions, and purpose of existing and proposed easements;
- f. names and right-of-way widths of existing and proposed streets on and adjacent to the subdivision;
- g. existing and proposed utilities on and adjacent to the site;
- h. locations, dimensions, and purpose of any land to be dedicated to the public use, including any improvements to be made to that land;
- i. location of subdivision in relation to well-known landmarks;
- j. location of archaeological, historical, or culturally significant features on the site;
- k. delineation, if applicable, of any 100-year flood plain as designated by the Federal Emergency Management Agency;
- l. names and addresses of the owner or owners of land to be subdivided, the subdivider if other than the owner, and the land surveyor; and
- m. legal description indicating the range, township, and section within which the subdivision is located.

4.5.5. Phased subdivisions. Subdivisions which are proposed to be phased and filed in multiple final plats shall include an anticipated phasing schedule for the final plats and a schedule of improvements.

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

## **ARTICLE 5. FINAL PLAT REVIEW PROCESS**

## Section 5.1. Final Plat Submittal

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

## Section 5.2. Decision on Final Plat

- 5.2.1. Action. Final plats submitted to the County for approval shall be approved or disapproved by the Board of County Commissioners at a public meeting within thirty (30) days after the date the final plat is deemed complete.
- 5.2.2. Denial. The Board of County Commissioners shall not deny a final plat if it has previously approved a preliminary plat for the proposed subdivision and it finds that the final plat is in substantial compliance with the previously approved preliminary plat. Denial of a final plat shall be accompanied by a finding identifying the requirements that have not been met.
- 5.2.3. Improvement agreement. If, at the time of approval of the final plat,

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

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

### Section 5.3. Final Plat Data Requirements

- 5.3.1. Filing specifications. The original drawing of the final plat shall be submitted in waterproof ink on mylar or acetate or other durable material suitable for reproducing copies. Final plat maps shall be drawn at a scale of two-hundred (200) feet to one (1) inch or larger and printed on sheets no larger than twenty-eight by thirty-six (28 x 36) inches. When more than one sheet is used to include the entire subdivision, all sheets shall be cut to the same size and shall show appropriate references to other sheets of the subdivision. The subdivider shall also submit four (4) paper copies of the final plat map and accompanying information.
- 5.3.2. Map specifications. The final plat map shall include the following information:
- a. name of subdivision, scale, north arrow, and date;
  - b. permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;
  - c. State plane coordinates on one primary corner within the subdivision;
  - d. tract boundary lines, easement and right-of-way lines, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves;
  - e. accurate description of legal access to, roads to, and utility easements for each parcel, and if the access or easement is based upon an agreement, the recording data in the land records for the agreement;

- f. name, right-of-way width, and centerline data of each road or other right-of-way;
- g. location, dimensions, and purpose of all easements and dedicated public sites;
- h. number of each parcel in progression, with its dimensions, and the dimensions of all land dedicated for public use or for the use of the owners of parcels fronting on or contiguous to the land;
- i. names of owners of contiguous unplatted land;
- j. delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency;
- k. the names of the owner or owners of the subdivision, and the developer if other than the owner;
- l. the certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey;
- m. legal description indicating the range, township, and section within which the subdivision is located; and
- n. rural addressing number assigned to each lot.

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

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

5.3.5. Disclosure statement. For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format

provided in the “Supplemental Guidelines for the Torrance County Subdivision Regulations”. It is unlawful to sell, lease, or otherwise convey land in a subdivision until the required disclosure statement has been filed with the County Clerk, the Board of County Commissioners, and the Attorney General's Office; and until the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement.

- 5.3.6. Conformity. The Board of County Commissioners shall not approve the plat of any subdivision if the subdivider cannot reasonably demonstrate that he can fulfill the proposals contained in his disclosure statement or if the subdivider has not conformed with the New Mexico Subdivision Act and these Regulations.
- 5.3.7. Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record in lieu of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to the statement of record.
- 5.3.8. Environment Department approval. For any subdivision requiring construction of a public water supply system or a community liquid waste system, documentation of approval from the New Mexico Environment Department shall be required for final plat approval.
- 5.3.9. Recording. The final plat is in full force and effect only after having been recorded in the office of the County Clerk within one (1) year after the date of approval by the Board of County Commissioners.
- 5.3.10. Water permit. For all subdivisions containing twenty (20) or more parcels, any one of which is two (2) acres or less in size, the subdivider shall provide a copy of the water permit issued by the State Engineer for subdivision water use. The Board of County Commissioners shall not approve the final plat unless the State Engineer has issued a water permit for the subdivision water use.
- 5.3.11. Certifications. Upon approval of the final plat, the following certifications shall be made and indicated by signature on the plat map:
- a. land surveyor who prepared the plat;
  - b. authorized representatives of relevant public utility companies whose services will be required for the

- subdivision;
- c. Chairman of the Board of County Commissioners;
- d. Torrance County Rural Addressing Department;
- e. Torrance County Assessor; and
- f. Torrance County Treasurer.

#### Section 5.4. Advertising Standards

- 5.4.1. Filing requirements. Copies of all brochures, publications, and advertising relating to subdivided land shall be filed with the Board of County Commissioners and the Attorney General within fifteen (15) days after initial use by the subdivider.
  
- 5.4.2. Requirements/restrictions. Brochures, disclosure statements, publications, and advertising of any form relating to subdivided land shall:
  - a. not misrepresent or contain false or misleading statements of fact;
  - b. not describe deeds, title insurance, or other items included in a transaction as "free" and shall not state that any parcel is "free" or given as an "award" or "prize" if any consideration is required for any reason;
  - c. not describe parcels available for "closing costs only" or similar terms unless all such costs are accurately and completely itemized; or when additional parcels must be purchased at a higher price;
  - d. not include an asterisk or other reference symbol as a means of contradicting or substantially changing any statement;
  - e. accurately portray, if subdivision illustrations are used, the subdivision in its present state; and, if illustrations are used portraying points of interest outside the subdivision, state the actual road miles from the subdivision;
  - f. not contain artists' conceptions of the subdivision or any facilities within it unless clearly labeled as such, and shall not contain maps unless accurately drawn to scale with the scale indicated;
  - g. not contain references to any facilities, points of interest or municipalities located outside the subdivision unless the distances from the subdivision are stated in the advertisement in actual road miles; and
  - h. refer to the location where the subdivider's disclosure statement may be obtained.



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

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

- 5.5.1. Final plat approval. The final plat shall be approved by the Board of County Commissioners and shall be filed with the clerk of the county in which the subdivision is located. If a subdivision lies within more than one county, the final plat shall be approved by the Board of County Commissioners of each county in which the subdivision is located and shall be filed with the County Clerk of each county in which the subdivision is located.
- 5.5.2. Relevant documents. The subdivider shall furnish the Board of County Commissioners a sample copy of sales contracts, leases and any other documents which will be used to convey an interest in the subdivided land.
- 5.5.3. Permanent marks. All corners of all parcels and blocks within a subdivision shall be permanently marked with metal stakes in the ground and a reference stake shall be placed beside one corner of each parcel.

## Section 5.6. Recording Parcels

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

(30) days after the date on which the document is signed, whichever comes first.

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

5.6.5. Plat attachment. The deed, lease, real estate contract, notice of lease, notice of real estate contract, or other document of conveyance shall have a survey plat and a legal description of the parcel attached to it. The survey plat shall show the surveyor's seal, the boundaries of the parcel, the means of access to the parcel, and any easements to which the parcel is subject.

#### Section 5.7. Water Permits

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

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

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

### **ARTICLE 6. SUMMARY REVIEW PROCESS**

#### Section 6.1. Summary Review Procedure

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

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

preceding approval of the summary review plat, require the subdivider to enter into an agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense.

- 6.1.7. Failure to act. If the Torrance County Planning and Zoning Commission does not act upon a summary review plat within the required period of time, the subdivider shall give the Board of County Commissioners written notice of the County's failure to act. If the Board of County Commissioners fails to approve or reject the summary review plat within thirty (30) days after such notice, the Board of County Commissioners shall, upon demand by the subdivider, issue a certificate that the summary review plat has been approved.

## Section 6.2. Summary Review Data Requirements

- 6.2.1. Filing Specifications. The original drawing of the summary review plat shall be submitted in waterproof ink on mylar or acetate or other durable material suitable for reproducing copies. Summary review plat maps shall be drawn at a scale of two hundred (200) feet to one (1) inch or larger and printed on sheets that are no larger than twenty-eight by thirty-six (28 x 36) inches. The subdivider shall also submit four paper copies of the summary review plat map and accompanying information.
- 6.2.2. Map specifications. The summary review plat map shall include the following information:
- a. title, scale, north arrow, and date;
  - b. name and mailing address of subdivider and designated agent, if any;
  - c. names of owners of land to be subdivided and of contiguous property;
  - d. subdivision boundary lines, easement and right-of-way lines, and property lines of all lots, with accurate dimensions, and ties to monuments;
  - e. acreage measurements and identification numbers for each lot;
  - f. location, dimensions, and purpose of all easements;
  - g. delineation of any 100-year flood plain as designated by the Federal Emergency Management Agency;
  - h. the certification of a surveyor registered in New Mexico attesting to the accuracy of the plat, and the date of the survey;

- i. legal description indicating the range, township, and section within which the subdivision is located; and
  - J. rural addressing number assigned to each lot.
- 6.2.3. Affidavit. The summary review plat shall contain a statement that the land being subdivided will be subdivided in accordance with the summary review plat. The summary review plat shall be acknowledged by the owner and subdivider, or authorized agents, in the manner required for the acknowledgment of deeds. Every summary review plat submitted to the County Clerk as a final plat shall be accompanied by an affidavit of the owner and subdivider, or authorized agents, stating whether the proposed subdivision lies within the subdivision jurisdiction of the County. A copy of the summary review plat shall be provided to every purchaser, lessee, or other person acquiring an interest in the subdivided land prior to sale, lease or other conveyance.
- 6.2.4. Dedication. The summary review plat shall contain a certificate stating that the Board of County Commissioners has accepted, accepted subject to improvement, or rejected, on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication. Upon full conformity with County road construction standards, the roads may be accepted for maintenance by the County. Acceptance of offers of dedication on a summary review plat shall not be effective until the summary review plat is filed in the office of the County Clerk or a resolution of acceptance by the Board of County Commissioners is filed in that office.
- 6.2.5. Disclosure statement. For all subdivisions, a disclosure statement shall be prepared in accordance with the standardized format provided in the "Supplemental Guidelines for the Tarrant County Subdivision Regulations". It is unlawful to sell, lease or otherwise convey land in a subdivision until the required disclosure statement has been filed with the County Clerk, the Board of County Commissioners, and the Attorney General's Office; and until the prospective purchaser, lessee or other person acquiring an interest in the subdivided land has been given a copy of the disclosure statement.
- 6.2.6. Land Sales Act. Any subdivider who has satisfied the disclosure requirement of the Interstate Land Sales Full Disclosure Act may submit the approved statement of record instead of the disclosure statement required by the New Mexico Subdivision Act. However, any information required in the New Mexico Subdivision Act and not covered in the subdivider's statement of record shall be attached to

the statement of record.

- 6.2.7. Advertising standards. The advertising standards covering the sale, lease, or other conveyance of subdivided land provided in Article Five/Section 4 of these Regulations shall be applicable to summary review plats.
- 6.2.8. Certifications. Upon approval of the summary review plat, the following certifications shall be made and indicated by signature on the plat map:
- a. land surveyor who prepared the plat;
  - b. authorized representatives of relevant public utility companies whose services will be required for the subdivision;
  - c. Chairman of the Torrance County Planning and Zoning Commission;
  - d. Torrance County Rural Addressing Department;
  - e. Torrance County Assessor; and
  - f. Torrance County Treasurer.

## **ARTICLE 7. SPECIAL PROCEDURES**

### Section 7.1. Succeeding Subdivisions

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

### Section 7.2. Resubdivision

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

prescribed in these Regulations for the subdivision of land.

### Section 7.3. Vacation of Plats

- 7.3.1. Cause. Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if:
- a. the owners of the land proposed to be vacated sign an acknowledged statement declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board of County Commissioners; or
  - b. the Board of County Commissioners finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.
- 7.3.2. Request for vacation. The vacation of all or a portion of a final plat shall be initiated by submittal of a request for vacation to the County Clerk, along with the names of all owners of record of property within the subdivided land to be vacated and the names of all owners of record of property contiguous to the subdivided land to be vacated. The request for vacation shall be considered filed upon payment of the required administrative fee. Copies of the request for vacation, including all supplemental information, shall be transmitted by the County Clerk within three (3) working days to the County Zoning Clerk who shall present such request to the Torrance County Planning and Zoning Commission for review and comment.  
[REV: Ord. No. 2008-004, 4/23/08]
- 7.3.3. Scheduling and notification. Within sixty (60) days after the date of receipt of the request for vacation, the Board of County Commissioners shall approve or deny the vacation, subject to the following:
- a. Action shall be taken at a public meeting;
  - b. The Torrance Planning and Zoning Commission shall be notified of the proposed vacation and allowed to comment;
  - c. At least fifteen (15) days before the proposed meeting, all owners of record of property within the subdivided land to be vacated and all owners of record of property contiguous to the subdivided land to be vacated shall have been notified by mail of the proposed vacation and the date, time and place of the public meeting at which the vacation will be considered by the Board of County Commissioners; and
  - d. Relevant utilities and other agencies have been notified.

- 7.3.4. Action. In approving or denying the vacation of all or a part of a final plat, the Board of County Commissioners shall decide whether or not the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a final plat, the Board of County Commissioners may require that roads dedicated to the County in the final plat continue to be dedicated to the County.  
[REV: Ord. No. 2008-004. 4/23/08]
- 7.3.5. Filing. The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office of the County Clerk. The County Clerk shall mark the final plat with the words "Vacated" or "Partially Vacated" and refer on the final plat to the volume and page on which the statement of vacation is recorded.
- 7.3.6. Utilities. The rights of any utility existing before the total or partial vacation of any final plat are not affected by the vacation of a final plat.

#### Section 7.4. Variances

- 7.4.1. Planned development area. The Torrance County Planning and Zoning Commission may grant a variance from the standards and requirements of these Regulations if it is presented with a plan and program for a new town, a complete community, or a neighborhood unit, which, in the judgment of the Torrance County Planning and Zoning Commission provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants and other legal provisions as will assure conformity to and achievement of the plan.
- 7.4.2. Conditions and limitations. A variance shall not be granted which will cause the County to absorb costs over and above those typically associated with subdivision approval. In granting variances, the Torrance County Planning and Zoning Commission may require such conditions as will:
- a. substantially secure the objectives of the standards of these Regulations; and
  - b. not adversely affect the health, safety, and general welfare of the public, if otherwise consistent with the general purpose and intent of these Regulations and if not injurious or detrimental to the surrounding area.



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

- a. Requests for variances shall be submitted in writing prior to or at the time of request for preliminary plat approval on the prescribed form available from the County Zoning Clerk for that purpose, and upon payment of the required administrative fee.
- b. Variance requests shall be reviewed by the Torrance County Planning and Zoning Commission in public hearings at the same time public hearings are held for approval of the preliminary plat.
- c. Notice of the request for variance shall be given in the same manner as notice is provided for any public hearing required in these Regulations and shall comply with the requirements of the Open Meetings Act of the State of New Mexico.
- d. Variance requests shall be submitted to the state or other reviewing agency having expertise in the subject matter for which the variance is sought, and shall be governed by the same time limits.
- e. The Torrance County Planning and Zoning Commission shall make written findings of fact regarding any affected requirements of these Regulations and shall produce those findings of facts as a portion of its decision and order on each request for variance.
- f. The decision and order shall be prepared, signed and filed within five (5) working days after the public hearing at which the variance is considered.

## Section 7.5. Exemptions

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

7.5.2. Verification of Exemption.

- a. Any person claiming entitlement to an exemption under the provisions of these Regulations shall file a written claim of exemption on the prescribed form available from the County Zoning Clerk with the Torrance County Planning and Zoning Commission before making the land division for which the

claim of exemption is made.

- b. The Torrance County Planning and Zoning Commission shall review the claim of exemption and supporting documents at the next regularly scheduled meeting following receipt of a completed Claim of Exemption Application with all supporting documents. The Claim of Exemption Application must be deemed complete by the County Zoning Clerk. The person claiming the exemption, or a designated agent, shall be present at the meeting of the Torrance County Planning and Zoning Commission wherein the Claim of Exemption is considered.  
[REV: Ord. No. 2008-004, 4/23/08]
- c. If the claim of exemption is approved by the Torrance County Planning and Zoning Commission, the person claiming the exemption may divide the land in the manner proposed in the claim of exemption without complying with the subdivision provisions of these Regulations; however, the division of land must be in compliance with all other ordinances, including but not limited to the Torrance County Zoning Ordinance, and all other regulations.  
[REV: Ord. No. 2008-004, 4/23/08]
- d. If the claim of exemption is denied, the person claiming the exemption may appeal the denial as provided in Article 10 of these Regulations or may submit an application for a subdivision as provided in these Regulations.

7.5.3. Exemptions for Inheritance or Family Transfer Land Divisions.

- a. A lot is created by inheritance if it is created by an order of the Court in probate proceedings for the purpose of transmitting property to heirs or beneficiaries, but not for the purpose of sale or lease. [REV: Ord. No. 2008-004, 4/23/08]
- b. Plats for inheritance transfers shall be submitted with the following documentation: [REV: Ord. No. 2008-004, 4/23/08]
  - 1) The court order or other appropriate legal instrument from probate proceedings;
  - 2) A deed(s) transferring the parcel(s) to the heirs or beneficiaries as set forth in the court order or similar document shall be recorded at the time the plat is filed.

- c. A lot is created by Family Transfer if it is a division of land that is sold or donated as a gift to an immediate family member; or transferred by a person who as the legal guardian has performed the function of a father, mother, grandfather or grandmother to an individual to whom the land is being transferred. However, this exemption shall be limited to allow the seller or donor to sell or give no more than one parcel of land per immediate family member.  
[REV: Ord. No. 2008-004, 4/23/08]
  
- d. Plats for family transfers shall be submitted with an affidavit or affidavits to the County Zoning Clerk containing the following documentation which shall be conditions of approval for a development permit:  
[REV: Ord. No. 2008-004, 4/23/08]
  - 1) A legal description of the property being transferred;
  - 2) A statement that the person transferring the lot has not made any transfers of any other lots to the same person under the family transfer provisions of these Regulations or the Zoning Ordinance in effect;
  - 3) Proof that the land has been in the lawful possession of the immediate family member for no less than five (5) years and that the recipient is an adult or emancipated minor;
  - 4) A notation on the face of the plat stating that the division of land is a family transfer;
  - 5) A deed(s) transferring the parcel(s) to family members shall be recorded at the time a family transfer plat is filed;
  - 6) An affidavit showing that notice of the application for approval of a family transfer plat has been mailed by certified mail to owners of property, as shown by the records of the County Assessor, adjacent to and within one hundred feet, excluding public rights of way, of the proposed family transfer parcel(s).
  
- e. Lots created by family transfer or inheritance shall meet special requirements as follows:  
[REV: Ord. No. 2008-004, 4/23/08]
  - 1) Provisions have been made to ensure potable water is available to the lot and is in compliance with the water supply regulations of the Office of the State Engineer of New Mexico;
  - 2) Provisions have been made for liquid waste disposal in compliance with the liquid waste regulations if the

- New Mexico Environment Department;
- 3) The natural drainage flow of all water courses, channels and streams shall be indicated on the plat and, where applicable, the one hundred (100) year flood hazard zone(s) shall be identified;
  - 4) Provisions have been made to provide adequate roadway access to the lot, and any rights-of-way and easements associated with the lot shall be indicated on the plat;
  - 5) Provisions have been made for applicable building and utility permits.

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

### 7.6.1. Unmarked Human Burials

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

7.6.2. Registered Cultural Properties. Any person desiring to subdivide land in the County shall comply with the Cultural Properties Act §§ 18-6-1 through 18-6-17 NMSA 1978. Registered cultural properties are those properties which are entered in the New Mexico Register of Cultural Properties. In the event that a subdivision may impact a registered cultural property, consultation with the State Historic Preservation Officer is required. Additional information for subdividers regarding the identification and protection of cultural properties is available in the "Supplemental Guidelines for the Torrance County Subdivision Regulations".

7.6.3. Archaeological sites. If any material evidence that an archaeological site exists or is discovered on lands within the proposed subdivision, the subdivider is responsible for contacting

the Historic Preservation Division, Office of Cultural Affairs in order to determine the significance of the site and the need for further investigation or mitigation for the protection of archaeological sites.

## **ARTICLE 8. REQUIRED IMPROVEMENTS**

### Section 8.1. Construction of Required Improvements

- 8.1.1. Improvement requirements. The subdivider shall install and construct such improvements, if any, as are required by these Regulations in the manner and to the design standards provided in these Regulations. Approval of the preliminary plat is authorization for the subdivider to proceed with the minimum improvements required by these Regulations. Before the construction of any improvements or the submission of any bond or other improvement guarantee, the subdivider shall furnish the County with all plans necessary for the construction of such improvements. These plans shall be reviewed by the County Attorney and, if in accordance with these Regulations, shall be approved by the County, allowing the subdivision development to proceed.
- 8.1.2. Improvement agreement. The County may enter into a subdivision improvement agreement with a subdivider. This agreement shall constitute a binding contract between the subdivider and the County and shall contain those terms and conditions agreed to by the subdivider and the County.

### Section 8.2. Road Development

- 8.2.1. Construction schedule. Roads within a subdivision shall be constructed only on a schedule approved by the Board of County Commissioners. In approving or disapproving a subdivider's road construction schedule, the Board of County Commissioners shall consider:
- a. the proposed use of the subdivision;
  - b. the period of time before the roads will receive substantial use;
  - c. the period of time before construction of homes will begin on the portion of the subdivision serviced by the road;
  - d. the county regulations governing phased development; and
  - e. the needs of prospective purchasers, lessees and other persons acquiring an interest in subdivided land in viewing the land within the subdivision.
- 8.2.2. Safety and Design. All proposed roads shall conform to minimum

County safety standards. Road design, as a minimum, shall be in conformance with the New Mexico Standard Specifications for Public Works Construction published by the New Mexico Chapter of the American Public Works Association. All constructed roads within a subdivision shall be graveled or otherwise surfaced to allow all-weather use, subject to approval by the County which may require a signed letter of compliance by a certified engineer licensed by the State of New Mexico.

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

### Section 8.3. Improvement Guarantees

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

- a. complete installation of the required improvements before approval of the final plat; or
- b. assure construction of required improvements after final plat approval.

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

## **ARTICLE 9. ADMINISTRATIVE FEES**

Any person desiring to subdivide land in the County shall pay the following administrative fees:

Preliminary plat	\$750.00 + \$10.00 per lot
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Final plat	\$250.00 + \$10.00 per lot
Summary review plat	\$250.00 + \$10.00 per lot
Variance	\$250.00
Appeal	\$150.00
Claim of exemption	\$200.00
Statement of vacation	\$250.00

## ARTICLE 10. APPEALS

### Section 10.1. Who May Appeal

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

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

### Section 10.2. Appeal Process

10.2.1. Nature of review. The appeal shall consist of a whole record review, and the reviewing authority, whether it be the Board of County Commissioners or the District Court, shall set aside the action of the lower tribunal only if it is found to be:

- a. arbitrary, capricious or an abuse of discretion; or
- b. not supported by substantial evidence; or
- c. otherwise not in accordance with law.

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

10.2.3. Notice of appeal. The appeal shall be perfected by filing a written notice of appeal which sets forth the specific portion or portions of the decision being appealed. A copy of the decision or order being appealed shall be attached to the notice of appeal. The appeal

shall be perfected upon filing of the notice required by these Regulations and payment of the required administrative fee.

## **ARTICLE 11. ENFORCEMENT, PENALTIES, AND REMEDIES**

### Section 11.1. Purpose and Authority

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

### Section 11.2. Investigation of Alleged Violations

All written, signed complaints alleging one or more violations of the provisions of the New Mexico Subdivision Act or these Regulations shall be referred to the County Attorney for investigation. The County Attorney shall investigate the complaint and take such action as is warranted, or make a written recommendation to the Board of County Commissioners of what action is warranted. The County Attorney shall inform the complainant in writing of what actions have been taken or will be taken in response to the complaint.

### Section 11.3. Penalties and Remedies.

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

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

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



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

- a. injunctive relief to prohibit a subdivider from selling, leasing, or otherwise conveying any interest in subdivided land until the subdivider complies with the terms of the New Mexico Subdivision Act and these Regulations;
- b. injunctive relief to compel compliance by any person with the provisions of the New Mexico Subdivision Act and these Regulations;
- c. rescission and restitution for persons who have purchased, leased, or otherwise acquired an interest in subdivided land that was divided, sold, leased or otherwise conveyed in material violation of the New Mexico Subdivision Act or these Regulations; or
- d. a civil penalty of up to five thousand dollars (\$5,000) for each parcel created in knowing, intentional or willful violation of the New Mexico Subdivision Act or these Regulations.

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

11.3.5. Criminal Penalties

- a. § 47-6-27 NMSA 1978 provides that:
  - i) any person who knowingly, intentionally, or willfully commits a material violation of the New Mexico Subdivision Act is guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000) per violation, or by imprisonment for not more than one year, or both; and
  - ii) any person who is convicted of a second or subsequent knowing, intentional, or willful violation of the New Mexico Subdivision Act is guilty of a fourth degree felony, punishable by a fine of not more than twenty-five thousand dollars (\$25,000) per violation or by imprisonment for not more than eighteen (18) months, or both.
- b. Any violation of the provisions of these Regulations is

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

## **ARTICLE 12. AMENDMENT**

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

## **ARTICLE 13. SEVERABILITY**

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

**ARTICLE 14. REPEAL AND EFFECTIVE DATE**

These Regulations repeal and replace the existing Land Subdivision Regulations of Torrance County, New Mexico. These Regulations shall become effective on the 10th day of January, 1997.

PASSED, APPROVED AND SIGNED this 11th day of December, 1996.

/s/ Bill R. Williams  
Chairman

/s/ Rodger Rayner  
Member

/s/ Roy Spencer  
Member

ATTEST:

/s/ Carla Clayton  
County Clerk