

AN ACT

RELATING TO SUBDIVISIONS; PROVIDING FOR DELEGATION OF
SUBDIVISION APPROVAL AUTHORITY IN CERTAIN CLASS A COUNTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-6-2 NMSA 1978 (being Laws 1973,
Chapter 348, Section 2, as amended) is amended to read:

"47-6-2. DEFINITIONS.--As used in the New Mexico
Subdivision Act:

A. "board of county commissioners" means the
governing board of a county;

B. "common promotional plan" means a 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 the 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;

C. "final plat" means a map, chart, survey, plan
or replat certified by a licensed, registered land surveyor
containing a description of the subdivided land with ties to
permanent monuments prepared in a form suitable for filing of
record;

D. "immediate family member" means a husband,
wife, father, stepfather, mother, stepmother, brother,
stepbrother, sister, stepsister, son, stepson, daughter,

stepdaughter, grandson, stepgrandson, granddaughter, stepgranddaughter, nephew and niece, whether related by natural birth or adoption;

E. "lease" means to lease or offer to lease land;

F. "parcel" means land capable of being described by location and boundaries and not dedicated for public or common use;

G. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity;

H. "preliminary plat" means a map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it and need not be based upon an accurate and detailed survey of the land;

I. "sell" means to sell or offer to sell land;

J. "subdivide" means to divide a surface area of land into a subdivision;

K. "subdivider" means 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;

L. "subdivision" means the 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; but "subdivision" does not include:

(1) the sale, lease or other conveyance of any parcel that is thirty-five acres or larger in size within any twelve-month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with Section 7-36-20 NMSA 1978, for the preceding three years;

(2) the sale or lease of apartments, offices, stores or similar space within a building;

(3) the division of land within the boundaries of a municipality;

(4) the division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;

(5) the division of land created by court order where the order creates no more than one parcel per party;

(6) the division of land for grazing or farming activities; provided the land continues to be used for grazing or farming activities;

(7) the division of land resulting only in the alteration of parcel boundaries where parcels are altered

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

(8) the division of land to create burial plots in a cemetery;

(9) the division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member;

(10) the division of land created to provide security for mortgages, liens or deeds of trust; provided that the division of land is not the result of a seller-financed transaction;

(11) the sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty acres;

(12) the division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in Section 501 (c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis; or church or group organized for the purpose of divine worship, religious

teaching or other specifically religious activity; or

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

M. "terrain management" means the control of floods, drainage and erosion and measures required for adapting proposed development to existing soil characteristics and topography;

N. "time of purchase, lease or other conveyance" means the time of signing any document obligating the person signing the document to purchase, lease or otherwise acquire a legal interest in land;

O. "type-one subdivision" means any subdivision containing five hundred or more parcels, any one of which is less than ten acres in size;

P. "type-two subdivision" means any subdivision containing not fewer than twenty-five but not more than four hundred ninety-nine parcels, any one of which is less than ten

acres in size;

Q. "type-three subdivision" means any subdivision containing not more than twenty-four parcels, any one of which is less than ten acres in size;

R. "type-four subdivision" means any subdivision containing twenty-five or more parcels, each of which is ten acres or more in size; and

S. "type-five subdivision" means any subdivision containing not more than twenty-four parcels, each of which is ten acres or more in size."

Section 2. Section 47-6-9 NMSA 1978 (being Laws 1973, Chapter 348, Section 9, as amended) is amended to read:

"47-6-9. SUBDIVISION REGULATION--COUNTY AUTHORITY.--

A. The board of county commissioners of each county shall regulate subdivisions within the county's boundaries. In regulating subdivisions, the board of county commissioners of each county shall adopt regulations setting forth the county's requirements for:

(1) preliminary and final subdivision plats, including their content and format;

(2) quantifying the maximum annual water requirements of subdivisions, including water for indoor and outdoor domestic uses;

(3) assessing water availability to meet the maximum annual water requirements of subdivisions;

- (4) water conservation measures;
- (5) water of an acceptable quality for human consumption and for protecting the water supply from contamination;
- (6) liquid waste disposal;
- (7) solid waste disposal;
- (8) legal access to each parcel;
- (9) sufficient and adequate roads to each parcel, including ingress and egress for emergency vehicles;
- (10) utility easements to each parcel;
- (11) terrain management;
- (12) phased development;
- (13) protecting cultural properties, archaeological sites and unmarked burials, as required by the Cultural Properties Act;
- (14) specific information to be contained in a subdivider's disclosure statement in addition to that required in Section 47-6-17 NMSA 1978;
- (15) reasonable fees approximating the cost to the county of determining compliance with the New Mexico Subdivision Act and county subdivision regulations while passing upon subdivision plats;
- (16) a summary procedure for reviewing certain type-three and all type-five subdivisions as provided in Section 47-6-11 NMSA 1978;

(17) recording all conveyances of parcels with the county clerk;

(18) financial security to assure the completion of all improvements that the subdivider proposes to build or to maintain;

(19) fencing subdivided land, where appropriate, in conformity with Section 77-16-1 NMSA 1978, which places the duty on the purchaser, lessee or other person acquiring an interest in the subdivided land to fence out livestock; and

(20) any other matter relating to subdivisions that the board of county commissioners feels is necessary to promote health, safety or the general welfare.

B. Subsection A of this section does not preempt the authority of any state agency to regulate or perform any activity that it is required or authorized by law to perform.

C. Nothing in the New Mexico Subdivision Act shall be construed to limit the authority of counties to adopt subdivision regulations with requirements that are more stringent than the requirements set forth in the New Mexico Subdivision Act, provided that:

(1) the county has adopted a comprehensive plan in accordance with Section 3-21-5 NMSA 1978;

(2) the comprehensive plan contains goals, objectives and policies that identify and explain the need for

requirements that are more stringent; and

(3) the more stringent regulations are specifically identified in the comprehensive plan.

D. The board of county commissioners of a class A county with a population according to the most recent federal decennial census of greater than three hundred thousand may delegate the authority to review and approve preliminary plats and final plats to a county administrative officer or to the planning commission; provided that the delegation complies with the public hearing requirements contained in Section 47-6-14 NMSA 1978."

Section 3. Section 47-6-15 NMSA 1978 (being Laws 1973, Chapter 348, Section 15, as amended) is amended to read:

"47-6-15. APPEALS.--

A. A party who is or may be adversely affected by a decision of a delegate of the board of county commissioners shall appeal the delegate's decision to the board of county commissioners within thirty days of the date of the delegate's decision. The board of county commissioners shall hear the appeal and shall render a decision within thirty days of the date the board receives notice of the appeal. Thereafter, the procedure for appealing the decision of the board of county commissioners set out in Subsection B of this section shall apply.

B. A party who is or may be adversely affected by

a decision of the board of county commissioners may appeal to
the district court pursuant to the provisions of Section
39-3-1.1 NMSA 1978." _____

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