Z-02-02

SUBDIVISION REGULATIONS

for the

TOWN OF MOUNTAINAIR, NEW MEXICO

Adopted by the
Town Council
on
October 22, 2002
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This document was prepared with the technical assistance of the Mid Region Council of Governments through the Locality Planning Assistance Program.

MID REGION COUNCIL OF GOVERNMENTS OF NEW MEXICO
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Ordinance No. 02-01

AN ORDINANCE REGULATING THE SUBDIVISION OF LAND WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE TOWN OF MOUNTAINAIR, TORRANCE COUNTY, NEW MEXICO

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF MOUNTAINAIR, NEW MEXICO, AS FOLLOWS:

SECTION 1. TITLE

This ordinance shall be known as "The Subdivision Regulations for the Town of Mountainair, New Mexico" and is referred to herein as "these Regulations." The Town of Mountainair shall hereinafter be referred to as "the Town".

SECTION 2. AUTHORITY AND JURISDICTION

A. **Authority.** These Regulations are created pursuant to enabling legislation set forth in Section 3-19-6 NMSA 1978.

B. **Jurisdiction.** These Regulations are designed to accomplish the procedures for the processing, consideration, and filing of plats lying within the corporate boundaries of the Town and /or within a radius of three miles from the Town boundaries, which area is the Town planning and platting jurisdiction pursuant to Section 3-19-5 and Section 3-20-5 NMSA 1978.

SECTION 3. PURPOSE

These Regulations are intended to create orderly, harmonious, and economically sound development of land in order to establish conditions favorable to the health, safety, and general welfare of citizens of the Town and its planning and platting jurisdiction. More specifically, provisions of these Regulations are designed to achieve adequate provision for light and air, public open spaces, water supply, drainage, wastewater treatment; economy in governmental expenditures and efficiency in governmental operations; safe, convenient circulation of people, goods, and vehicles; accurate and complete surveying, and preparation and recording of plats thereof; safety and suitability of land for contemplated development; and coordination of land development in accordance with official plans and policies as may have been or may be hereafter adopted by the Town.

SECTION 4. INTERPRETATION

These Regulations are held to be minimum requirements to carry out the purpose stated herein and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any of the provisions of these Regulations are more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.

SECTION 5. DEFINITIONS

A. **Word Forms.** Words used in the present tense include the future tense, and words used in the future tense include the present tense; the singular includes the plural, and the plural includes the singular; the word "may" is permissive, and the words "shall" and "will" are mandatory.

B. **Definitions.** The following definitions apply:

1. "Alley" means a public thoroughfare which affords only a secondary means of access to abutting property.

2. "Block" means property bounded on one side by a street and on the other sides by a street, railroad right-of-way, waterway, unsubdivided areas, or other definite barriers.

3. "Centerline" means the line halfway between the street right-of-way lines.

4. "Council" means the Town Council, the governing body of the Town of Mountainair.

5. "Cul de sac" means a short street intersecting another street and terminating in a vehicular turnaround.

6. "Easement" means an acquired or granted right of use which one person may have in the land of another.

7. "Future Street Line" means a line, established by the Town, running more or less parallel to the centerline of an existing or proposed street for the purpose of delineating the future boundaries of public right-of-way.

8. "Lot" means a tract or parcel of land platted and placed on the Torrance County Clerk's record in accordance with laws and ordinances, generally as a portion of a subdivision intended for development purposes.

9. "Master Plan" means a comprehensive plan or any of its parts, adopted by the Town, for the general purpose of guiding and accomplishing coordinated and harmonious development.

10. "Monument" means one or more of the following:

    a. "Bench Mark"-- a brass cap, set in a permanent base with the elevation (mean sea level datum) and the land surveyor's registration number inscribed thereon.

    b. "Permanent Survey Monument"-- a brass cap set in a permanent base or a standard U.S. Bureau of Land Management monument marking sectionalized corners, containing coordinates referenced to the New Mexico Coordinate System and the land surveyor's registration number inscribed thereon.

    c. "Subdivision Control Monument"-- a metal stake or pipe with the land surveyor's registration number affixed thereto.

11. "Person" means any individual, estate, trust, receiver, association, club, corporation, company, firm, or other entity.

12. "Planning Commission" means the Planning Commission of the Town of Mountainair.

13. "Plat" means a map, chart, survey, plan, or replat certified by a registered land surveyor which contains a description of subdivided land with ties to monuments or other points of reference acceptable to the Planning Commission, said plat to be placed on record with the Torrance County Clerk.

14. "Replat" means to prepare and record a new plat replacing all or a portion of a previously recorded plat that has been vacated. A replat includes any change to a lot line, right-of-way line, or easement line, unless the change is the result of a modification granted by the Council.

15. "Right-of-way" means a strip of land occupied or intended to be occupied by a street, railroad, drainage facility, utility line, or other special use. Every right-of-way established and shown on a plat is to be separate and distinct from the lots adjoining such right-of-way and not included within the dimensions of areas of such lots. Rights-of-way intended for uses involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

16. "Sketch Plan" means a preliminary sketch drawing of a subdivision plat conforming with the requirements stated herein, and used in the pre-application procedure prior to submission of the preliminary plat.

17. "Street" means property acquired or dedicated to and accepted by the Town as right-of-way, other than an alley, for the principal means of public access to abutting property. The term includes the following:

    a. "Arterial Street"-- a street which is designed and used primarily for serving large volumes of traffic.

    b. "Collector Street"-- a street which carries traffic from local streets to the arterial streets and highways.

    c. "Local Street"-- a street which is primarily used for access to abutting properties and carries low volume traffic.

18. "Subdivider" means any person creating a subdivision, including the owner, equitable owner, or any authorized representative.

19. "Subdivision" means the division of any lot or tract of land into two or more lots for the purpose, whether immediate or in the future, of sale, lease, or development. Subdivision does not include the following:

    a. Any residual land retained by the subdivider after subdivision but which has not been divided for subdivision purposes.

    b. The sale or lease of apartments, offices, stores or similar space within a building.

    c. Any division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land.

    d. Any division of land created by court order.

    e. The leasing of land for grazing or farming activities.

20. "Subdivision, Land-Split" means a type of minor subdivision resulting in two lots which are exempt from the dedicated public right-of-way access requirement and from the non-addition of public facilities requirement.

21. "Subdivision, Minor" means a subdivision containing not more than four lots fronting on an existing street, not involving any new streets or the creation of any public improvements, and not in conflict with any provision of these Regulations,

or the Master Plan or Zoning Ordinances of the Town. Minor Subdivision may also include the replat of all or a portion of an existing subdivision plat wherein the number of lots is not increased and no changes are made to public rights-of-way.

22. "Town Clerk" means the chief administrative officer of the Town as so designated by the Council.

23. "Vacation" means the act which removes all or part of a recorded subdivision plat including legal dedications and grants of easements, and recorded in the Office of the Torrance County Clerk.

SECTION 6. GENERAL INFORMATION AND GUIDANCE

A. **General.** Every person who desires to subdivide land into two or more lots shall furnish a plat of the proposed subdivision prepared by a surveyor, registered and licensed by the State of New Mexico, and shall comply with the requirements of these Regulations. Upon request, the Town Clerk shall furnish the subdivider with basic information on the requirements.

B. **Subdivision within Corporate Limits of the Town.** Any proposed subdivision, replat or vacation of plat occurring within the corporate limits of the Town shall conform to the requirements of these Regulations, and shall be submitted for review and approval by the Planning Commission prior to filing with the Torrance County Clerk, before beginning improvement activities or negotiating sale or lease of any lot within the proposed subdivision.

C. **Subdivision outside Corporate Limits of the Town.** Any proposed subdivision, replat or vacation of plat occurring outside the corporate limits but within the three-mile planning and platting jurisdiction of the Town shall conform to the requirements of these regulations and as supplemented by the provisions of the Torrance County Land Subdivision Regulations, and shall be submitted for concurrent review and approval by the Planning Commission and the Board of County Commissioners prior to filing with the Torrance County Clerk, before beginning improvement activities or negotiating sale or lease of any lot within the proposed subdivision.

D. **Considerations for Good Subdivision Platting.** In order to provide guidance to subdividers concerning acceptable proposed plats, the following matters are fundamental:

1. Geographic Suitability

a. With reference to any officially adopted plans of the Town, an area shall not be unsuited to the purpose for which it is to be subdivided.

b. The availability of adequate streets, fire protection, police protection, refuse service, public schools, parks and recreation facilities, and utility services shall all be weighed in considering the subdividing of land. They are not all necessarily required.

c. Land with the following types of problems shall have subdivision approval withheld until it is demonstrated that such hazards have been or will be eliminated:

1) Special drainage or flooding conditions, and

2) Soil conditions which are unusually limiting to development.

2. Grading

a. No subdivider shall proceed with any land grading specifically in relation to a proposed subdivision before conditional approval has been given for the preliminary plat by the Planning Commission.

b. The subdivider shall preserve major trees, scenic points, historic places, and other community landmarks wherever feasible or required.

SECTION 7. PRE-APPLICATION PROCEDURE

A. **Sketch Plan Submittal.** Prior to filing an application for approval of the preliminary plat, the subdivider shall submit to the Planning Commission a sketch plan at a regularly scheduled meeting and data as specified herein. This step does not require formal application, payment of fee, or filing of a plat with the Planning Commission.

B. **Advice.** The pre-application procedure affords the subdivider the opportunity to receive the advice and assistance of the Planning Commission early and informally before preparation of the preliminary plat and before formal application for its approval. The Planning Commission may assist the subdivider in analyzing the development and plan for its sound integration with the community, and may give informal guidance to the development at a stage when potential points of difference can be more easily resolved, thus saving unnecessary expense and delay to the subdivider. The Planning Commission shall not assume any liability for possible lack of understanding on the part of the subdivider.

C. **Review.** The Planning Commission, within 30 days of sketch plan receipt, shall inform the subdivider whether the sketch plan and data meet the intent of these Regulations. If the sketch plan and data do not meet the intent, the Planning Commission shall express the reasons therefore and advise the subdivider in bringing the proposed plan into conformance.

SECTION 8. PLANS AND DATA FOR PRE-APPLICATION

A. **Location Map.** A location map shall show the relationship of the proposed subdivision to existing community facilities which serve it; all abutting streets and land uses; and north arrow.

B. **Sketch Plan.** A simple sketch plan shall show the proposed layout of streets, lots, topography, and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch made directly on a print of the topographic survey.

C. **Written Information.** General plat information shall list the name and mailing address of the subdivider and his agent, if any; the total area of the proposed plat; the area of each proposed use; and a description of the existing conditions of the site and the proposed development as necessary to supplement the sketch plan. This information may include data on property covenants and land characteristics including surface drainage, grading, landfill areas, and available private and municipal utilities. This information may also describe the subdivision proposal, such as the number and typical lot width and depth of residential lots, business areas, public areas, and proposed utilities.

SECTION 9. PRELIMINARY PLAT PROCEDURE

A. **Application.** Upon reaching a general understanding established by the pre-application review, the subdivider shall submit to the Planning Commission a written application on prescribed forms, together with six copies of the preliminary plat, improvement plans and other supplementary material as specified herein. The application package shall be submitted at least 15 days prior to the regular meeting of the Planning Commission at which the plat is to be presented for review. Payment of the required administrative fee shall be made with submittal of the application package.

B. **Review.** The Planning Commission shall review the required preliminary plat and supplementary material and shall request comments from Town staff and other governmental agencies as may be appropriate.

C. **Annexation and/or Re-Zoning.** If annexation and/or rezoning is proposed or required to accomplish the development envisioned in connection with the plat, the Planning Commission shall withhold conditional approval of the preliminary plat until such time as annexation and/or re-zoning shall be officially adopted by the Council. The Planning Commission shall submit a written report containing its recommendation to the Council prior to the public hearing on the annexation or re-zoning.

D. **Decision.** Following review of the required preliminary plat and other material, and following negotiations with the subdivider on changes as may be deemed advisable, the Planning Commission shall, within 35 days of the Commission meeting for the application package, act thereon as submitted, or modified. However, if it is found that any agency other than the staff of the Town should be requested to review the submitted materials, the time period within which the Planning Commission must act may require reasonable extension. After the last opinion requested of an agency is received, the Planning Commission shall act on the preliminary plat within 21 days.

If the preliminary plat is approved, the Planning Commission shall express its conditional approval and state the conditions of such approval, if any. If the plat is disapproved, the Planning Commission shall express its disapproval in writing and its reasons therefore. The action of the Planning Commission shall be noted on two copies of the preliminary plat, referenced and attached to any condition determined. One copy shall be returned to the subdivider and the other retained by the Planning Commission.

Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval to the site layout submitted on the preliminary plat as a guide to the preparation of the final plat.

E. **Public Hearing.** No plat shall be acted upon without a public hearing. Public Notice shall be given at least 15 days prior to the day of the hearing. Public notice may be by publishing in a newspaper of general circulation in the Town or by posting at five locations within the Town, including the Post Office, Town Hall and Banks .The notice shall be published at the subdivider's expense and shall indicate the location of the proposed subdivision as well as where interested persons may examine the preliminary plat and file comments. Notice of the time and place of the hearing on the preliminary plat shall be sent by certified mail to the subdivider not less than five days before the date of the hearing.

F. **Longevity.** Approval of a preliminary plat is effective for one year unless extended by the Planning Commission, based on a finding that the delay has been unavoidable and that extension is in the public interest.

SECTION 10. PLANS AND DATA FOR PRELIMINARY APPROVAL

A. **Preliminary Plat.** The subdivider shall submit six copies of the preliminary plat to the Planning Commission. The preliminary plat shall identify all land owned or controlled by the subdivider, which may be suitable for subdivision or development, and which adjoins the land proposed to be subdivided. The preliminary plat shall be drawn to a scale of 1 inch equal to 200 feet for the purpose of showing all details clearly. An adequate number of sheets, no larger than 28 by 36 inches, shall be used to show the proposed subdivision in its entirety. Where more than one sheet is required, each sheet shall be numbered in relation to the total number of sheets involved, and each sheet shall have a small key map showing its relationship to the whole.

B. **Information.** The preliminary plat shall contain the following information:

1. Name of proposed subdivision, name and address of subdivider, agent, and principal persons preparing the preliminary plat.

2. Scale and north arrow.

3. Proposed benchmark locations, proposed method of tie to permanent survey monuments, and proposed location and type of subdivision control monuments. Descriptions of all monuments found or set.

4. Plat boundary lines: bearing in degrees, minutes, and seconds, with basis for bearings noted or shown. Distances shall be stated in feet and hundredths.

5. Existing conditions of the site and its environs including the following:

   a. Present site designation or subdivision name.

   b. Easements on site: Location, width, and purpose.

   c. Public right-of-way on and within 150 feet of the site; name, width, type and dimensions of paving.

   d. Utilities on and adjacent to the site: location and, if obtainable, size of water wells, water reservoirs, water lines, sanitary and storm sewers; location of gas lines, fire hydrants, electric and telephone lines and poles, and street lights. If water mains and sewer are not on or adjacent to the tract, indication of the direction, distance to, and size of nearest lines showing invert elevation of sewer.

e. Ground elevation on the site shall be based on mean sea level datum as established by the U.S. Coast and Geodetic Survey. For land that slopes less than five percent, contour lines at intervals of not more than two feet shall be delineated. For land that slopes five percent or more, contour lines at intervals of not more than five feet shall be delineated.

f. Existing storm drainage features and facilities on and adjacent to the site.

g. Other significant conditions on the site: unstable soils, notable vegetation, structures, etc.

h. Conditions on adjacent land significantly affecting design of the subdivision: approximate direction and gradients of ground slope; character and location of development.

i. Zoning on and adjacent to the site.

6. Location map showing location of the site in relation to well known landmarks, abutting property owners, and municipal boundaries.

7. Proposed lot lines and public right-of-way and street widths; indicate roadways intended to be private; locations of planned water wells, reservoirs, and pump stations; locations, dimensions, and purpose of all easements, public or private; rights-of-way for public services or utilities, and any limitations thereof.

8. Number or letter to identify each proposed lot and block.

9. Locations, dimensions, approximate areas, and purposes of lots proposed to be dedicated or reserved for the public.

10. Sites and approximate area for any multi-family dwellings or nonresidential use.

11. Proposed changes to ground elevations, showing both the original and proposed ground surfaces, with grades, slopes, and elevation noted.

C. **Schedule of Development.** The subdivider shall provide an estimated schedule of lot development. In particular, the schedule shall indicate when street construction, water service, or sewer service will be provided.

D. **Special Problems Analysis.** For land with difficult topography, potential threats due to storm water runoff, or other geographic hazards to life, health, or property, a report and proposed solution shall be prepared satisfactory to the Planning Commission.

SECTION 11. FINAL PLAT PROCEDURE

A. **Submission.** Application for approval of the final plat shall be submitted on prescribed forms to the Planning Commission at least 15 days prior to the meeting at which it is to be considered. An original and two copies of the final plat and other required exhibits shall be submitted to the Planning Commission within 12 months following approval of the preliminary plat; otherwise such preliminary plat approval shall become null and void unless an extension of the time has been granted by the Planning Commission. The final plat shall conform substantially to the preliminary plat as approved.

B. **Review.** The Planning Commission shall review the final plat and other exhibits submitted for conformity to these Regulations, and shall insure that the conditions of the preliminary plat as approved have been met. This review shall occur at a public meeting.

C. **Decision.** If the final plat is in conformance with the preliminary plat and with these Regulations and no other issues remain, it shall be approved by the Planning Commission.

Should the final plat be disapproved, the Planning Commission shall express in writing the reasons for disapproval. The reasons for disapproval shall be referenced and attached to two copies of the final plat. One of said copies shall be returned to the subdivider and the other shall become a part of the files of the Town Clerk's Office.

Approval or disapproval shall be given within 35 days of the date of final plat Commission meeting, unless the subdivider agrees in writing to a deferral.

If the final plat is approved by the Planning Commission, such approval shall be recorded on the face of the original drawing of the final plat and on two copies thereof and shall be dated and verified by the signature of the Chairman of the Planning Commission.

D. **Recording.** The final plat is in full force and effect only after having been duly recorded in the Office of the Torrance County Clerk and copies filed with the Town Clerk. Approval of the final plat shall become null and void if the plat is not recorded within six months after the date of approval, unless an extension of time is granted by the Planning Commission. Submittal for recording is the subdividers responsibility.

In the case of a replat, the Planning Commission shall request the Torrance County Clerk to mark the original plat with the words "replatted" or "partially replatted" and refer on the original plat to the filed location of the replat. The Planning Commission shall mark the copies of the original plat on file in the offices of the Town in a similar manner.

After having filed the original drawing of the final plat with the Torrance County Clerk, which copy shall be the official copy, the subdivider shall submit to the Town two copies of the final plat as recorded and properly stamped by the Torrance County Clerk. No building permits shall be issued until copies of the recording of the final plat have been placed on file with the Town.

E. **Replat.** After final approval of any plat, no lot or block shall be further subdivided or the area of any platted lot diminished, and no change shall be made in the platting of any street, alley or easement established by said plat except upon the filing of a replat, showing such proposed change, or changes, with the Planning Commission and securing its approval in accordance with the procedures established herein. The provisions of this paragraph shall apply to all proposed replats or changes in lot lines, dimensions of lots, streets, alleys and easements in any platted area within the Town planning and platting jurisdiction.

F. **Acceptance of Land.** Approval of the final plat by the Planning Commission shall be deemed to constitute acceptance by the Town of dedication of public rights-of-way, other proposed public easements, and public areas shown on the plat, provided the final plat is properly recorded with the Torrance County Clerk and the Town Clerk.

SECTION 12. PLANS AND DATA FOR FINAL APPROVAL

A. **Final Plat.** The subdivider shall submit the original and two copies of the final plat to the Planning Commission for approval in accordance with the following provisions.

B. **Size, Scale, Material.** The final plat shall be submitted in waterproof ink on Mylar or acetate or other durable material suitable for reproducing copies on sheets no larger than 28 by 36 inches, and shall be at a scale of 1 inch equal to 200 feet. Enough sheets shall be used to show the subdivision in its entirety, with each sheet numbered in relation to the total number of sheets involved, and each shall have a small key map showing its relationship to the whole.

C. **Information.** The final plat shall contain the following information:

1. Name of subdivision.

2. Title, scale, north arrow, and date of survey.

3. Location and description of all monuments found or set within the plat area, and all these referred to, including bench marks with elevation shown, and property corners.

4. Plat boundary lines: bearing in degrees, minutes, and seconds, with basis for bearings noted or shown; distances in feet and hundredths, or other functional reference system; both the recorded and measured bearings and distances.

5. Reference the plat to the New Mexico State Plane Coordinate System. Total acreage of the subdivision shall be calculated to four decimal places.

6. Lot lines, and right-of-way lines, existing and proposed; lines to be eliminated shown as dashed lines. Numbers or letters shall identify each lot and block. Names of streets, right-of-way widths, and centerline data on all streets and alleys, including private streets and alleys. The length, central angle, and radius of all curves.

7. Location, dimensions, and purpose of all easements existing or proposed, and any limitations thereof.

8. Location, dimensions, areas, and purposes of lots proposed to be dedicated or reserved for the public.

9. Reference to recorded subdivision plats of adjoining platted land by recorded name, date, book, and page number in the Office of the Torrance County Clerk.

10. Mileage of streets created.

11. Certification by the Torrance County Treasurer or by a duly qualified Title company that the previous ten year's property taxes due and payable have been paid in full.

12. Statement that the subdivision is with the free consent and in accordance with the desire of the undersigned owner of the land, acknowledged in a manner required for acknowledgment of deeds.

13. Signed statements by the subdivider dedicating public rights-of-way, any sites for public use, and granting the shown easements for public use.

14. Certification and seal by a registered land surveyor, in accordance with the laws of the State of New Mexico, certifying the accuracy of the survey and plat, that he prepared or supervised preparation of the plat, that he has shown all easements of record, and that it meets Design Standards for Surveying.

15. Certification that all monuments are in place.

16. Such other certificates, affidavits, endorsements, or dedications as may be required by the Planning Commission in the enforcement of these Regulations.

SECTION 13. PROCEDURE FOR MINOR SUBDIVISION

A. **Process.** Minor subdivision as defined by these Regulations may be approved by the Planning Commission in a 2-step process of pre-application review and submission of final plat.

B. **Qualifications.** In order to qualify for approval as a minor subdivision, the following conditions must exist:

1. The subdivision shall contain no more than four lots, with the exception of certain replats which satisfy all other conditions stated herein.

2. All subdivided lots shall front on existing dedicated public right-of-way with the exception of land-splits which satisfy all other conditions stated herein.

3. No new public right-of-way is created and no existing right-of-way is changed.

4. The subdivision will not create a need for any addition to public facilities which currently exist to serve the area of the subdivision with the exception of land-splits which satisfy all other conditions herein.

5. In order for a replat to qualify as a minor subdivision, the total number of replatted lots shall not increase the total number of previously existing lots.

6. Subdividers with certain tracts of land which may not have adequate access off an existing dedicated public right-of-way, and may require an addition to the public facilities, may be granted a land-split subdivision by the Planning Commission. In order to quality as a land split subdivision, the following conditions must be met:

   a. The land-split subdivision divides the tracts into two lots. These two lots or any part thereof shall not be further subdivided as a land-split subdivision.

   b. The two lots shall conform to the zoning regulations governing that zone district.

c. Adequate ingress and egress to both lots must be provided by the subdivider by either a public dedicated roadway or a private roadway easement of at least 20 feet in width.

d. The Town shall not be responsible for any private roadway easements developed in a land-split subdivision.

e. Application and approval for a land-split subdivision shall be made in accordance with the procedures for Minor Subdivision as stated here.

7. The subdivision shall not be in conflict with any provision of these Regulations, or the Master Plan or Zoning Ordinance of the Town.

C. **Application, Review, and Decision.** Application for a minor subdivision must be preceded by a pre-application review as required by these Regulations. Following the pre-application review, the subdivider shall transmit an application on prescribed forms to the Town at least 30 days prior to a scheduled Planning Commission meeting wherein the final plat will be formally submitted for review. Approval or disapproval shall be given within 35 days of the date of final plat submission, unless the subdivider agrees in writing to a deferral. The recording of an approved final plat for a minor subdivision shall be made in accordance with the final plat procedures stated in these Regulations.

D. **Information.** The final plat for a minor subdivision shall include the following:

1. Title, scale, north arrow, and date of survey.

2. Name and address of person filing the plat.

3. Legal description of the subdivided land with any necessary ties to permanent markers.

4. Lot lines, and right-of-way widths, and centerline data of all streets and alleys, including private streets and alleys.

5. Location, dimensions, and purpose of all easements, and any limitations thereof.

6. Number or letter to identify each lot.

7. Certification by the Torrance County Treasurer or by a duly qualified Title company that the previous ten years' property taxes due and payable have been paid in full.

8. Certification and seal by a registered land surveyor, in accordance with the laws of the State of New Mexico, certifying the accuracy of the survey and plat, that he prepared or supervised preparation of the plat, that he has shown all easements of record, and that it meets Design Standards for Surveying.

9. Certification of acceptance of public utility easements by the Public Utility Companies.

10. Signed statement by subdivider that subdivision or land-split is with free consent and in accordance with the desires of the undersigned owners and/or proprietors thereof, and that said owners and/or proprietors grant all easements shown on plat.

11. Such other certificates, affidavits, or endorsements, as may be required by the Planning Commission.

SECTION 14. REQUIRED IMPROVEMENTS

A. **Authorization.** Receipt of the signed copy of the preliminary plat is authorization for the subdivider to proceed with the minimum improvements required by these Regulations. Prior to the construction of any improvements or to the submission of any bond, the subdivider shall furnish the Planning Commission with all plans and data necessary for the construction of said improvements. These plans shall be examined by the Planning Commission and will be approved if in accordance with the following requirements. Following the approval, construction can be started or the amount of bond determined.

B. **Installation Assurance.** Plans for improvement shall be prepared by an engineer registered in accordance with the laws of New Mexico. The Town is to be assured of the installation of these improvements in a satisfactory manner by one or more of the following methods:

1. Complete installation of the improvements prior to approval of the final plat.

2. Submission of a satisfactory performance or cash bond, a letter of credit, or the establishment of an escrow account in an amount and with surety and conditions satisfactory to the Town, providing for and securing to the Town the actual construction and installation of such improvements. The guarantee shall be for no less than 125 percent of the estimated cost of the required improvement.

3. Completion of an approved assessment procedure whereby the Town is put in an assured position to do said work and make said installations at the cost of the owners of the property within the subdivision.

C. **Installation of Improvements.** The subdivider may prepare and secure approval of the preliminary plat and then install improvements in the area covered by the preliminary plat. Improvements must be installed only in that part of the area for which a final plat will be submitted for approval and filing. The improvements to be installed shall include the following:

1. Permanent Markers. All subdivision boundary corners and the four corners of all street intersections shall be marked with permanent monuments. A permanent monument shall be deemed to be concrete with a minimum dimension of four inches, extending three feet below the surface of the ground. Should conditions prohibit the placing of monuments on line, offset marking will be permitted; provided, however, that offset courses and distances are shown on the plat. A permanent benchmark shall be accessibly placed within the subdivision, the elevation of which shall be referred to the U.S.G.S. datum and accurately noted on the subdivision plat.

2. Street improvements. All streets shall be properly graded and the roadway improved by adequate paving or surfacing under the supervision of the Town and subject to approval in accordance with the Design Standards provided herein.

3. Water and sewer mains. The subdivider shall make necessary arrangements to serve each lot from water and sewer mains of the Town municipal systems where feasible and in conformity to Council policy. Where, for any reason, municipal services cannot be provided, the subdivider shall present evidence that adequate water and sewer service to each lot will be provided in compliance with the requirements of the New Mexico Environment Department and in conformity to the standard specifications of the Town. Construction of all water and sewer lines shall be under the supervision and approval of the Town.

4. Drainage. Construction of any necessary drainage improvements and other means of storm water management shall be under the supervision and approval of the Town.

5. Electricity, Gas lines, and Telecommunications. Commitments may be requested from franchised or private utility systems when such acceptance is deemed appropriate by the Planning Commission.

SECTION 15. DESIGN STANDARDS

All subdivisions within the Town planning and platting jurisdiction shall conform to minimum design standards established by the Town. It shall be the burden of the subdivider to show compliance with the design standards listed below for approval by the Town.

A. **Street Standards.** The character, extent, width and location of all streets shall conform to any master plan or policies established by the Council and shall be consistent and appropriate in their relationship to existing and planned streets, topographic conditions, public convenience, safety, and the proposed uses of the land to be served by such streets.

1. Where an arterial or collector street is not shown and defined in a master plan of the Town and there is not an adopted future street line, the arrangement of streets in a subdivision shall conform and connect directly to the existing street system.

2. Minor streets shall be so laid out that their use by through traffic will be discouraged.

3. Half streets shall be prohibited, except where used as an addition to another half street which was platted and filed before the effective date of these Regulations.

4. No street names shall be used which will duplicate or be confused with the names of existing streets within the jurisdiction of the Town. New street names and street name changes shall be subject to the approval of the Council upon the recommendation of the Planning Commission. A street name shall only be changed if the applicant shows that there will be a public benefit which clearly outweighs the public confusion which would be created by the name change.

5. Streets shall be laid out to intersect as nearly as possible at 90 degree angles, and no street shall intersect any other street at an angle less than 60 degrees.

6. Property lines at street intersections shall be rounded with a radius of ten feet, or of greater radius where the Planning Commission may deem it necessary. Comparable cut-offs or chords in place of round corners may be permitted.

7. Dead end streets (cul-de-sacs), designed to be so permanently, shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 60 feet.

8. Streets and alleys shall be provided in accordance with the following minimum standards:

STREET TYPE	RIGHT OF WAY WIDTH	ROADWAY WIDTH
Arterial	80 Feet	48 Feet
Collector	50 Feet	36 Feet

Local	40 Feet	24 Feet
Alleys	20 Feet	16 Feet

9. All streets shall be graded and the roadway paved or surfaced in accordance with standard specifications provided by the Town and with the supervision and approval of the Town.

10. Alleys shall be provided in commercial and industrial districts, except that the Planning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking adequate for the uses proposed. Alleys may be provided in residential areas at the option of the subdivider, but are to be discouraged where they would serve no useful public purpose or where easements would better serve the purpose.

11. Sidewalks, curbs, and gutters may be provided along paved streets. The sidewalks shall have a minimum width of 42 inches and shall be constructed under the supervision of and subject to the approval of the Town.

12. Walkways, bike paths, and trails, when incorporated into the subdivision, shall provide a minimum easement or right-of-way width of 10 feet.

B. **Drainage.** It is the intent of the Town to minimize water runoff and soil erosion problems caused by development. Adequate provisions shall be made to ensure storm drainage and flood protection for the subdivision.

C. **Easements.** Easements of at least five feet in width shall be provided and dedicated on each side of all rear lot lines (except where there are alleys) and along side lot lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and other mains. An adequate easement shall be dedicated along major watercourses for the purpose of widening, deepening, sloping, improving or protecting the channel for storm water drainage purposes. Where a cut or fill road slope is outside the normal right-of-way of the street, then a slope easement shall be provided of sufficient width to permit maintenance of the slopes.

D. **Blocks.** The lengths, widths and shapes of blocks shall be determined with due regard to:

1. Provision of adequate building sites suitable for the type of use contemplated;

2. Zoning requirements for minimum lot sizes and dimensions;

3. Needs for convenient access, circulation, control and safety of street traffic;

4. Limitations and opportunities related to topography.

E. **Lots.** The arrangement and design of all lots shall provide satisfactory and desirable building sites properly related to topography and the character of adjacent development.

SECTION 16. CHARACTER OF DEVELOPMENT

The Planning Commission shall confer with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may negotiate with the subdivider as to certain minimum restrictions to be placed upon the property to prevent the construction of substandard buildings, and to control the type and use of structures and the use of lots which, unless so controlled, would clearly depreciate the character and value of the proposed subdivision and of adjoining property. The Planning Commission shall have power to negotiate with the subdivider upon the use, height, area or bulk restrictions governing building and premises within the zoning jurisdiction of the Town.

SECTION 17. MODIFICATIONS AND EXCEPTIONS

Whenever the tract to be subdivided is of such unusual size or shape, or is surrounded by such development or unusual physical conditions, that the strict application of these Regulations would result in practical difficulties and substantial hardships, the Planning Commission may vary or modify the requirements, so that the subdivider is allowed to develop his property in a reasonable manner, but at the same time so that the public welfare and interests of the Town are protected and the general intent and spirit of these Regulations are preserved. However, such relief may not be granted if it is detrimental to the public good or impairs the intent and purpose of these Regulations or the desirable development of the community in accordance with plans and policies of the Council. Any modification granted shall be entered in the records of the Planning Commission setting forth the reasons which justified the modification. Further, in granting modifications and exceptions, the Planning Commission may place conditions which will substantially secure the objectives of the standards or requirements involved.

SECTION 18. VACATION OF A PLAT

A. **Necessity.** Nothing in this section requires that a vacation be undertaken if a replat accomplishing the elimination of lot lines is duly approved. A vacation is required when no replatting is undertaken but elimination of lot lines, right-of-way, or easement lines dividing a parcel is to be accomplished.

B. **Application Procedure.** Any plat filed in the Office of the Torrance County Clerk and within the planning and platting jurisdiction of the Town may be vacated according to the following procedures:

1. The owner of the land proposed to be vacated, exclusive of public rights-of-way, shall sign a duly acknowledged statement declaring the plat or a portion of the plat is to be vacated and shall apply to the Planning Commission for approval.

2. Where a public right-of-way is proposed to be vacated:

   a. The Town shall mail letters to franchised utilities and to the owner(s) of record of all lots adjacent to the public right-of-way to be vacated, informing them of the nature of the proposed vacation, and notifying them of the date, time, and place of the hearing. At least 15 days shall be allowed for such comments before a decision is reached.

   b. If the public right-of-way proposed for vacation is paved, or if the entire width of the right-of-way is proposed for vacation, the applicant shall post and maintain one or more signs, as provided and where instructed by the Planning Commission at least 15 days prior to the date of the hearing. The applicant is responsible for removing such signs within five days after the hearing is completed. Failure to properly post signs is grounds for deferral of the request. No one except the applicant, the agent of the applicant, or the Town shall remove or tamper with any such required sign during the period it is required to be maintained under this paragraph.

   c. In considering the vacation of all or part of a public right-of-way, the Planning Commission shall determine whether or not the vacation will adversely affect the interests of persons owning contiguous land or land within the subdivision being vacated.

3. The rights-of-way of any public or private utility, including drainage, existing prior to the vacation, total or partial, of any plat are not affected by the vacation of a plat unless an authorized representative of the utility involved agrees in writing to have the rights vacated.

C. **Public Hearing.** A decision of approval and endorsement shall be made at a hearing by the Planning Commission. Public notice in a newspaper of general circulation in the Town shall be published at least 15 days before the date of the hearing; the notice shall indicate: the location of the proposed vacation, where a map of the proposed vacation may be viewed, and information on the hearing. If approved by the Planning Commission, the Statement of Vacation shall be endorsed with the words "Approved." Such endorsement shall be within 10 days of the conclusion of the hearing.

D. **Recording.** The vacation shall be in full force and effect only after the approved statement declaring the vacation has been recorded in the Office of the Torrance County Clerk. The Torrance County Clerk shall be requested to mark the original plat with the words "Vacated" or "Partially Vacated" and refer on the plat to the volume and page number on which the statement of vacation is recorded. The applicant shall also provide a copy of the recorded statement of vacation by the Torrance County Clerk to the Town Clerk.

SECTION 19. CONSTRUCTION VIOLATIONS

Construction which violates any provision of these Regulations is strictly prohibited and no building permit shall be authorized, except in those cases where modifications or exceptions have been granted by the Planning Commission prior to start of construction. Violations without authorization by the Planning Commission shall bring cause for legal action by the Town to have the construction violation stopped, corrected and/or removed, and a penalty assessed.

SECTION 20. FEES

A. **General Subdivision Fee.** To cover administrative expenses related to processing subdivisions, a subdivision fee will be charged prior to the preliminary plat approval. The subdivision fee shall be $50 per lot.

B. **Vacation and Replat Fees.** To cover expenses related to processing any replat or vacation of plat shall require a fee of $50 for each such action.

C. **Method of Payment.** Fees shall be made payable to the Town. Fees are non-refundable. All fees shall be paid to the Town Clerk following completion of the pre-application procedure and upon application for preliminary plat approval, or in the case of a minor subdivision, upon application for final approval.

SECTION 21. PENALTIES

A. **Transferring Lots in Unapproved Subdivision.** Any owner, or agent of the owner, of any land located within the planning and platting jurisdiction of the Town who leases, transfers, sells, agrees to sell, or negotiates to sell land by reference to a plat of such land before being duly approved by the Planning Commission and duly recorded in the Office of the Torrance County Clerk shall upon conviction be subject to a fine of one hundred dollars ($100) per offense. Each and every lot or portion thereof so leased, transferred, sold, agreed to be sold, or negotiated to be sold shall be prosecuted and treated as a separate offense.

B. **Improper Recording.** Any person who records with the Torrance County Clerk any plat in violation of these Regulations shall upon conviction be subject to a fine not exceeding three hundred dollars ($300) or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

C. **Legal Expenses.** All legal fees and costs incurred by the Town in prosecuting violations of these Regulations shall be paid by the violator.

SECTION 22. APPEALS

Any person aggrieved with any determination made by the Planning Commission acting under these Regulations may file an appeal to the Council by submitting a written application within 15 days of the Planning Commission's decision. Such appeal shall be considered by the Council at a public hearing within 60 days of its filing. The Council may overrule or modify any decision of the Planning Commission and make such findings as are not inconsistent with the provisions of these Regulations. Appeals shall be filed with the Town Clerk.

SECTION 23. AMENDMENT PROCEDURE

The Council may, from time to time, amend or modify these Regulations after public hearing, due notice of which shall be given as required by law.

SECTION 24. PUBLIC RECORDS

The Planning Commission shall keep public records of findings, decisions, and recommendations concerning all subdivision plats filed with it for review, including such actions as may be taken by the Council through appeals or amendments to these Regulations.

SECTION 25. SEPARABILITY OF PROVISIONS

If any portion of these Regulations is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of these Regulations.

SECTION 26. EFFECTIVE DATE

This ordinance shall become effective on the 4th day of November, 2002.

PASSED, APPROVED AND ADOPTED this 22nd day of October, 2002.

Lorraine Wardell
Mayor, Town of Mountainair

ATTEST:

Town Clerk