

**Appendix Q**  
**Rio Arriba County Subdivision Land Regulations**

**COUNTY OF RIO ARRIBA**  
**AGRICULTURAL PROTECTION AND ENHANCEMENT ORDINANCE**

AN ORDINANCE ESTABLISHING THE AGRICULTURAL PROTECTION AND ENHANCEMENT SUBDIVISION CRITERIA AS APPENDIX Q OF THE LAND SUBDIVISION REGULATIONS AND AMENDING ORDINANCE 2000-01, RIO ARRIBA COUNTY DESIGN AND DEVELOPMENT REGULATION SYSTEM.

**Section 1. Short Title.** This Ordinance shall be referred to as the Agricultural Protection and Enhancement Ordinance.

**Section 2. Authority.** This Ordinance is adopted pursuant to §§47-6-1 through 47-6-29 NMSA 1978 (1995 Repl.) and §4-37-1 NMSA 1978 (1992 Repl.) and §§3-21-1 through 3-21-26 NMSA 1978 (1999 Repl.), §§NMSA through 47-9-7NMSA 1978 (1995 Repl.) and §§4-57-1 through 4-57-3 NMSA 1978 (1992 Repl.).

**Section 3. Purpose.** The purpose of this Ordinance is to protect and enhance the agricultural lands, the acequia systems, and the ground and surface water resources of Rio Arriba County by establishing criteria for review and approval of land use zoning, subdivisions, or division of land, located within irrigated agricultural lands. The specific purposes are:

1. To promote the clustering of lots, homes and structures on irrigated agricultural land in order to protect agricultural uses in Rio Arriba County while accommodating new development.
2. To ensured the integrity and conservation of the irrigated agricultural land and water resources of Rio Arriba County for future generations.

3. To minimize and reduce potential contamination of underground and surfaces water supplies from the proliferation of septic systems associated with new development.
4. To protect the water supply of Rio Arriba County by regulating land use zoning, the development of subdivisions or division of land, homes, private and community wells and liquid wastewater disposal systems on irrigated agricultural land where the environmental impacts from development are greater.
5. To require more compact development with open space set aside to protect the historic settlement patterns and important visual qualities which made Rio Arriba County a special place to live.
6. To protect the agricultural uses from the negative impacts of development and from uses that are not compatible with irrigated agriculture.
7. To create development, land use zoning and subdivision or division of land criteria that allows for harmonious development within irrigated agricultural land.
8. To provide for and protect the public health, safety and general welfare.

**Section 4. Definitions.** In addition to the definitions included in Article III, Section 1 of the Rio Arriba County Subdivision Regulations and Appendix P Summary Plat Review Process and Procedure, the following terms shall have the following meanings.

Advanced Liquid Disposal System – Any treatment system, which stabilizes liquid waste through the addition of supplemental air or dissolved oxygen by means of mechanical or diffused aeration.

Agricultural Open Space – The area designated on the plat to be set aside as permanent open space and such area shall not be further divided.

Buildable Area – The area designated on the plat, which may be used and subdivided for building purposes.

Cluster Subdivision – A subdivision or division of land that provides buildable lots grouped together so that permanent open space on the irrigated agricultural land is maintained.

Impervious Surface – Impervious surfaces are those which do not absorb water. They consist of all buildings, parking areas, driveways, road, sidewalks, and any areas of concrete or asphalt.

Irrigated Agricultural Land – This definition includes: lands listed as “Irrigated Agricultural Land” by the Rio Arriba County Assessor on the effective date of this Ordinance, those lands identified by hydrographic survey which will describe if the said land was historically been used for irrigated agriculture or those land which are shown to be irrigated in the records of the acequia.

Liquid Waste Disposal System – A generally recognized system for disposing of the discharge from a liquid waste treatment unit and includes, but is not limited to seepage pits, drain fields, evaporation systems and mounds, and filters, and approved surface applications, as defined by the New Mexico Environment Department.

Maximum Development Potential – The greatest number of new lots that may be created within the buildable area.

Primary Liquid Waste Disposal System – A liquid waste treatment process that takes place in a treatment unit and allows those substances in wastewater that readily settle or float to be separated from the water being treated, as defined by the New Mexico Environment Department. Primary Liquid Disposal Systems are associated with conventional wastewater septic systems used in lots  $\frac{3}{4}$  acre and larger.

Secondary Liquid Waste Disposal System – A wastewater treatment system process used to convert dissolved or suspended materials into a form more readily separated from the water being treated. The process is commonly a biological treatment process followed by settling a clarification, as defined by the New Mexico Environment Department.

Shared Well – A well that is shared by more than one lot.

Shared Alternative Liquid Waste Disposal System – A liquid waste disposal system shared among the lots using a secondary or advanced waste water system, depending on the design of the subdivision or division of land and the approval of the New Mexico Environment Department.

**Section 5. Cluster Development Agricultural Overlay Zone.**

1. Article II, Section III of the Rio Arriba County Design and Development Regulation System is amended to include the Cluster Development Agricultural Overlay Zone.
2. All lots defined as “irrigated agricultural land” in this ordinance.
3. The purpose of the Cluster Development Agricultural Overlay Zone is to provide additional site design criteria for the creation of a new lot or lots and new development, in addition to the requirements of the base County Rural Agricultural District.

**Section 6. Maximum Development Potential Within the 30% “Buildable Area”**

Existing lots within the Cluster Development Agricultural Overlay Zone shall have a maximum development potential as follows:

<u>Existing Lot Size</u>	<u>Potential Number of New Lots Created</u>
Less than 1.5 acre	1 lot
1.5 to 2.99 acres	1 to 2 lots
3.0 to 3.99 acres	1 to 3 lots

4.0 to 4.99 acres 1 to 4 lots

5.0 to 9.99 acres 1 to 5 lots

Subdivisions or division of land in irrigated agricultural land that are larger than 10 acres will be required to subdivide within the same criteria for the “cluster development agricultural overlay zone” for the placement of lots within the 30% “buildable area” as well as maintaining the remaining 70% of the parcel within the “Agricultural Open Space” designation. The minimum lot size within the 30% “buildable area” shall be 7,500 square feet as stated in Section 9.1 of this appendix. Any subdivision or division of land that creates more than 5 lots in irrigated land will be required to meet New Mexico Environment Department Standards for waste water disposal, provide for an adequate community water system, and abide by development standards set forth by the Rio Arriba Design and Development Regulation System (2001-01) and the Rio Arriba County Land Subdivision Regulations.

**Section 7. Development to Open Space Ratio.**

1. All lots within the Cluster Development Agricultural Overlay Zone shall maintain at least 70% of the lot as “agricultural open space” and no more than 30% of the lot as “buildable area” for new residential lots.
2. The area to remain as “agricultural open space” shall be designated on the plat as “agricultural open space” and a standard restriction shall be filed with the approved plat which prohibits re-subdivision of the “agricultural open space”.
3. The area to be subdivided for residential lots shall be designated on the plat as the “buildable area”, which shall not exceed 30% of the lot.

**Section 8. Permitted Uses.**

1. Permitted Uses within the “agricultural open space” shall be limited to agriculture, liquid waste disposal systems required for development in the “buildable area”, parks and recreation areas, and accessory structures associated with agricultural uses such as a greenhouse, garage for farm equipment, corral, barn or other similar uses and structures.
2. A disclosure statement shall be noted on the plat which states that the uses in the “agricultural open spaces” are limited to agriculture, liquid waste disposal systems required for development in the “buildable area”, parks and recreation areas, and accessory structures associated with agricultural uses such as a greenhouse, garage for farm equipment, corral, barn or other similar uses and structures.

**Section 9. Design Criteria.**

1. The minimum lot size within the “buildable area” shall be 7,500 net square feet provided a liquid waste disposal system is permitted by the New Mexico Environment Department Lot size requirements standards shall be required as listed within Section V, Subsection E through J of the Design and Development Regulation System.
2. When a shared alternative liquid waste disposal system is proposed, a 20 foot wide ingress/egress easement connecting the “buildable area” to the “agricultural open space area” shall be designated on the plat.
3. A shared well shall be required for lots less than  $\frac{3}{4}$  acre in size within the “buildable area”. The appropriate easements shall be provided.
4. Individual domestic wells shall be allowed for lots which are  $\frac{3}{4}$  acre or larger within the “buildable area”.

5. Impervious surfaces within the “buildable area” shall be minimized. Shared driveways and access shall be encouraged.
6. All other development standards set forth in the Rio Arriba County Design and Development Regulation System shall apply. Design flexibility is encouraged to accomplish the purposes of the Cluster Development Agricultural Overlay Zone.

**Section 10. Plat Criteria and Contents for Subdivisions within the Cluster Development Agricultural Overlay Zone.**

1. All of the plat submittal requirements and review procedures contained in the Rio Arriba County Land Division Regulations shall apply to applications for subdivisions or land division within the Cluster Development Agricultural Overlay Zone.
2. In addition to the standard submittal requirements, the plat shall contain the information required in Sections 7, 8 and 9 above.
3. Applicants shall be responsible for notifying the appropriate acequia commission in writing of the proposed subdivision; as to the name of the proposed subdivision, or land division, the number of lots created, and new owners or parciantes created. The applicant shall provide proof of such notice to the County Planning Department by receipt of certified mail.
4. Before approval of the subdivision, division of land, or development permit, the applicant must transfer the water right, which is being displaced, by the “buildable area” and record this transfer of water right with the State Engineer, pursuant to its regulations, as well as with the office of the County Clerk. In addition, if any acequia commission requires transfer of water right approval, then written approval from the appropriate acequia commission shall be submitted to the County Planning Department.

**Section 11. Interpretation**

In the interpretation and application of this Ordinance all provisions shall be:

1. Considered as minimum requirements.
2. Liberally construed in favor of the County.
3. Deemed neither to limit nor repeal any other powers granted under state statutes.
4. Not deemed to repeal or limit any other ordinances or regulations adopted by the County unless expressly so stated herein.

**Section 12. Application.**

This Ordinance shall apply to all applications submitted to the County for subdivision or division of land approval after the effective date of this Ordinance.

**Section 13. Warning and disclaimer of liability.**

This Ordinance shall not create liability on the part of the County or on any officer or employee thereof for any damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**Section 14. Penalty.**

A person who violates any provisions of this Ordinance shall be subject to the penalty provisions contained in §§47-6-27 NMSA 1978 and 47-6-27.1 NMSA 1978. Each day of violation is considered a separate offense. In addition to these criminal penalties, the County may seek injunctive relief, mandatory injunctive relief, recession, and restitution, or civil penalties as provided by state law. This section shall not limit the County's right to seek other relief as the law permits.

**Section 15. Severability.**

The provisions of this Ordinance 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 this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section or part had not been included herein.

**Section 16.            Effective Date.**

The Board of County Commissioners hereby declares that it is necessary for the public peace, health and safety that this Ordinance takes effect immediately after passage. The effective date of this Ordinance shall be the date when it is recorded in the book kept by the County for that purpose and authenticated by the signature of the County Clerk.

**PASSED, AMENDED AND APPROVED THIS 31<sup>st</sup> day of January, 2002**

BOARD OF COUNTY COMMISSIONERS  
RIO ARRIBA COUNTY

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Alfredo Montoya,  
District II Commissioner, Chairman

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Ray Tafoya,  
District I Commissioner

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Moises Morales  
District III Commissioners

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Fred Vigil, County Clerk

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