

# **BY-LAWS OF EXTRA-TERRITORIAL ZONING AUTHORITY**

## **ARTICLE I: ESTABLISHMENT OF AUTHORITY**

The Las Cruces Extra-territorial Zoning Authority (hereinafter referred to as the "Authority") was established on May 12, 1987 by a Joint Powers Agreement between the City of Las Cruces and Doña Ana County. The Authority is a joint City/County board of elected officials that coordinates and administers growth management, zoning and land use, and subdivisions for the five-mile perimeter surrounding the City of Las Cruces known as the Extra-territorial Zone (hereinafter referred to as the "ETZ"). The Authority shall exercise those powers delegated to it within the ETZ by New Mexico State Statutes and the Joint Powers Agreement between the City of Las Cruces and Doña Ana County.

## **ARTICLE II: MEMBERSHIP**

### **SECTION 1: MEMBERS**

The Authority shall consist of two (2) members of the Las Cruces City Council appointed by the Mayor with the advice and consent of the City Council and three (3) members of the Doña Ana County Commission appointed by the County Commission.

### **SECTION 2: ALTERNATES**

Under the Joint Powers Agreement between the City and the County, the City Council and the County Commission shall each select one Alternate Member of the Extra-territorial Zoning Authority. The Alternate Members shall serve on the Extra-territorial Zoning Authority when a regular member of the Authority is unavailable to attend a scheduled or special meeting. Each Regular Member of the Authority who is unable to attend a scheduled or special meeting shall designate the Alternate to attend the meeting in his or her place by notifying the Authority Chairperson one (1) calendar day prior to said meeting. The Alternate Member designee shall be a member of the City Council, when an Extra-territorial Zoning Authority Member from the City Council is unavailable, and the Alternate Member designee shall be a member of the County Commission, when an Extra-territorial Zoning Authority Member from the County Commission is unable to attend a scheduled meeting or special meeting. The Alternate Member designees shall not attend emergency meetings, and shall not vote during work sessions, the election of officers, or on the adoption of, or amendments to, the text of the Extra-territorial Zoning Ordinance and Extra-territorial Zone Subdivision Ordinance.

### **SECTION 3: OFFICERS**

The officers of the Authority shall consist of a Chairperson and Vice-Chairperson, elected by a majority vote of a quorum of the Authority Members present at the annual meeting. Each term shall be for one year and no member shall serve more than two (2) consecutive terms in the same office. Any untimely vacancy in an office shall be filled at the subsequent regular or special meeting by a majority vote of a quorum of the Authority Members present at that meeting.

The Chairperson of the Authority shall act as the presiding officer at all meetings of the Authority. If the Chairperson is absent or unable to act at a meeting, then the Vice-Chairperson shall preside at that meeting and shall exercise all powers and duties of the

Chairperson. If both the Chairperson and Vice-Chairperson are absent or are unable to act at a meeting, then a member of the Authority decided upon by a majority vote of the Members present shall preside at that meeting and shall exercise all powers and duties of the Chairperson.

The duties and powers of the officers of the Extra-territorial Zoning Authority shall be as follows:

- A. The Chairperson shall:
  - a) preside at all meetings of the Authority;
  - b) preserve strict order and decorum during meetings;
  - c) state questions presented before the Authority as needed for clarity;
  - d) call special meetings and/or work sessions of the Authority in accordance with Article III, Section 3 of these By-Laws;
  - e) sign official documents previously approved by the Authority; and
  - f) ensure that all actions of the Authority are properly taken.
  
- B. The Vice-Chairperson shall:
  - a) exercise or perform all duties, and be subject to all the responsibilities of, the Chairperson during the absence, disability or disqualification of the Chairperson.

#### **SECTION 4: VACANCIES**

Should any vacancy occur among Members of the Authority by reason of death, resignation, disability, or otherwise, immediate notice thereof shall be given to the presiding Chairperson, remaining Members, and planning staff. The remainder of the membership of the Authority shall conduct business as normal and the alternate designee of the absent Authority member shall be appointed to the board in the missing member's place. Should any vacancy occur among the officers of the Authority, the vacant office shall be filled in accordance with Article II, Section 2 and with Article III, Section 7 of these By-Laws.

### **ARTICLE III: MEETINGS**

#### **SECTION 1: ANNUAL MEETINGS**

The Annual Meeting of the Members of the Authority shall be held on the third Wednesday of January of each year at 5:30 p.m., in the County Commission Chambers at the Doña Ana County Government Center, 845 North Motel Blvd., Las Cruces, New Mexico, for the purpose of electing officers, reviewing the Authority's By-laws (including the Statement of Reasonable Notice for Meetings), and transacting other business or policies related to the ensuing year. Only items listed on the agenda may be considered during annual meetings.

#### **SECTION 2: REGULAR MEETINGS**

Regular Meetings of the Members of the Authority shall be held on a monthly basis on the third Wednesday of each month at 5:30 p.m., in the County Commission Chambers at the Doña Ana County Government Center, 845 North Motel Blvd. Las Cruces, New Mexico. Such meetings shall be held in compliance with the Open Meetings Act (1978 NMSA, Sections 10-15-1 through 10-15-4); and in compliance with the Authority's Statement of Reasonable Notice of Meetings, which shall be adopted by the Authority during the Annual Meeting. Regular meetings may be held at other locations at the

direction of the Authority, and upon proper notice. Only items listed on the agenda may be considered during regular meetings.

### **SECTION 3: SPECIAL MEETINGS**

Special meetings, work sessions, and emergency meetings shall be held on an “as needed” basis, as directed by the Chairperson, or as directed by a majority of the quorum of the Authority present in a duly noticed public meeting. Only items listed on the agenda may be considered during these special meetings.

### **SECTION 4: NOTICE OF MEETINGS**

Written notice of public meetings shall be sent by mail, email and published, in a manner consistent with the applicable provisions of the Extra-territorial Zoning Ordinance, the Extra-territorial Zone Subdivision Ordinance, and the New Mexico Open Meetings Act (1978 NMSA, Sections 10-15-1 through 10-15-4). In addition, reasonable notice of public meetings of the Authority shall include the issuance, distribution, and posting of an agenda, including the agenda packet and supporting documentation, for each regular meeting by 5:00 p.m. five (5) days prior to a regular Wednesday meeting.

Reasonable notice for a special meeting or work session shall require the issuance, distribution, and posting of an agenda at least three (3) days prior to the special meeting. Emergency meetings shall be called only under unforeseen circumstances that demand immediate action to protect the health, safety and property of citizens or to protect the public body from substantial financial loss. The Chairperson or two (2) of the Members of the Authority may call an emergency meeting. Reasonable notice of an emergency meeting shall require the issuance, distribution, and posting of an agenda at least seventy-two (72) hours prior to the time of the emergency meeting unless the threat of personal injury or property damage requires/justifies less notice for an emergency meeting. Within ten (10) days of taking action on an emergency matter, the public body shall report to the Attorney General’s Office the action taken and the circumstances creating the emergency.

### **SECTION 5: ORDER OF BUSINESS**

The order of business at regular meetings of the Authority may be as follows:

1. Roll Call
2. Approval or Changes to the Agenda
3. Approval of minutes of the previous meeting(s)
4. Presentations
5. Old Business
6. New Business
7. Committee Reports
8. Administrative Approvals
9. Staff Input
10. Commission Input
11. Adjournment

## **SECTION 6: QUORUM**

At all meetings of the Authority, three (3) of the five (5) Members of the Authority shall constitute a quorum, based on a declaration of a quorum by the Chairperson, except as follows: at least four (4) of the five (5) Members of the Authority must be present to consider action on the adoption, repeal, or amendment of the text of the Extra-territorial Zoning Ordinance or Extra-territorial Zone Subdivision Ordinance. No action shall be taken in the absence of a quorum of the Authority, except to adjourn the meeting to a subsequent date.

In the event that a member of the Authority cannot attend a public meeting, then the member shall inform staff, the Chairperson, and his or her alternate designee, thereby giving adequate notice to determine whether a quorum shall be reached.

## **SECTION 7: VOTING**

Each member shall be entitled to one vote upon such matters submitted during any regular, special, or emergency meeting. Unless otherwise directed by these By-Laws, or by the requirements of any other law, all questions shall be decided by a majority of the membership of the Authority, which consists of three (3) of the five (5) Members of the Authority.

An affirmative vote of at least four (4) of five (5) Members of the Authority shall be required for the adoption or repeal of, or amendment to, text of the Extra-territorial Zoning Ordinance or Extra-territorial Zone Subdivision Ordinance, or to the Extra-territorial Zoning Authority By-Laws.

The election of officers of the Authority, which shall consist of a Chairperson, Vice-Chairperson, may be by ballot determined by a majority vote of the Authority Members present at the annual meeting, provided such Members present constitute a quorum of the Authority. Any untimely vacancy of an officer shall be filled at the subsequent regular or special meeting by a majority vote of the Authority Members present at that meeting, provided such Members present constitute a quorum of the Authority.

Alternate designees of Authority Members shall only cast votes on regular agenda items and cases during regularly scheduled or special meetings. Alternate designees shall not attend and vote during the annual meeting or emergency meetings and shall not vote during work sessions, the election of officers, the adoption of, or amendment to, the Extra-territorial Zoning Ordinance and Extra-territorial Zone Subdivision Ordinance, or to the adoption of, or amendment to, the ETA By-Laws.

## **ARTICLE IV: CODE OF CONDUCT**

### **SECTION 1: ETHICS**

Any Member of the Authority, and any Alternate Member when serving on the Authority, shall disclose any conflict of interest, and shall disqualify himself or herself from any official act, including discussion or vote, directly affecting a financial interest, or any other interest, which would impair his or her ability to fairly and impartially decide the matter before him or her. In the event any member of the Authority, or Alternate Member of the Authority when serving on the Authority, questions the existence of a conflict of interest, either personally or in reference to another Member or Alternate Member, he or she shall

state the question as to the possible conflict prior to deliberation on the matter before the Authority. The Authority shall then determine by majority vote of the Members and Alternate Members present, whether such a conflict of interest exists. Should a conflict of interest be found to exist, the Member or Alternate Member having the conflict shall not participate in any discussion or vote on that matter before the Authority.

In the interest of fairness to the applicants and appellants appearing before the Authority and those appearing in opposition to the same, no member of the Authority shall engage in, or consider, any ex-parte communications from an applicant, appellant, proponent or opponent concerning the merits of an application, an appeal, or other quasi-judicial matter that is, or will come before the Authority for adjudication, including, but not limited to, written or oral communications received at the member's home or office, in person discussions, telephone discussions, letters or other documents. Members of the Authority shall direct all persons attempting such communications to City or County staff, who will ensure that appropriate matters are included in the agenda packets distributed to all Members of the Authority, and made available to the public. The prohibitions contained in this section shall not apply to communications with City and County staff, including attorney-client privileged communications with legal counsel, or to documents, staff analysis, and staff recommendations submitted to the Authority by City and County staff.

## **SECTION 2: DECORUM AND DEBATE**

When a member of the Authority desires to speak or make a motion, the member shall address himself or herself through the Chairperson. Upon being recognized by the Chairperson, the member may address the Authority. If more than one member addresses the Chairperson, the Chairperson shall name the person who is to speak, recognizing the person who first addressed the Chairperson. No member shall interrupt another, except to call to the attention of the Chairperson a point of order or to correct a mistake.

When an employee of the City or County first desires to speak at a hearing, the staff member shall address the Chairperson, and upon being recognized, shall state his or her name and position with the City or County, and such person shall be placed under oath by the Chairperson in a form substantially as follows: "Do you promise to tell the truth under penalty of law?"

Persons desiring to speak at a hearing shall address the Chairperson. Upon being recognized, such person shall state his or her full name, address, and whom he or she represents, and such person shall be placed under oath by the Chairperson in a form substantially as follows: "Do you promise to tell the truth under penalty of law?"

Orderly procedure requires that each person be allowed to proceed without interruption from the audience, that all arguments be addressed to the Authority, and that there is no questioning or arguing between individuals. The Members of the Authority may ask questions and make appropriate comments; however, no member of the Authority shall argue or debate an issue with members of the public during or outside of the meeting. A majority of the quorum may take any matter under advisement for later consideration and determination, or may defer action when it concludes that additional evidence is needed or further study is required; provided that all requirements of state law and local ordinances are followed.

**SECTION 3: CRITERIA FOR DECISIONS**

The Authority shall be consistent with the provisions of applicable Federal Statutes, New Mexico State Statutes, judicial decisions, the Extra-territorial Zoning Ordinance, and the Extra-territorial Zone Subdivision Ordinance in the evaluation and formulation of decisions.

**ARTICLE V: AMENDMENTS**

The foregoing By-Laws shall be amended or repealed only by an affirmative vote of four (4) of the five (5) Members of the Authority, in a duly noticed regular or special meeting. The Agenda for such meeting shall set forth the proposed amendment, addition, or repeal.

**Approved by the Las Cruces Extra-Territorial Zoning Authority, at the Annual Meeting, held on February 17, 2016.**

**THE EXTRA-TERRITORIAL ZONING AUTHORITY**

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Benjamin L. Rawson, Chairperson

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Kasandra Gandara, Member

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Jack Eakman, Member

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Leticia Dúarte-Benavídez, Member

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Wayne Hacock, Member