



# SANDOVAL COUNTY ADMINISTRATIVE OFFICES

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## SANDOVAL COUNTY PLANNING AND ZONING COMMISSION

### RULES, REGULATIONS AND PROCEDURES

DEBBIE HAYS  
County Manager

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#### I. Authority and History

##### A. Authority

These rules, regulations and procedures are adopted by the Planning and Zoning Commission for the conduct of its business pursuant to authority granted by the Sandoval County Board of County Commissioners in Section 4B of the Sandoval County Planning and Zoning Commission Ordinance adopted and filed August 24, 1988.

##### B. History

These rules, regulations and procedures amend and supersede Rules of Order and Procedure adopted by the Sandoval County Planning and Zoning Commission December 16, 1997.

#### II. Definitions

As used herein, the following words have the following meanings:

- A. Department- The Sandoval County Planning and Zoning Department.
- B. Director – The Director of the Sandoval County Planning and Zoning Department.
- C. Member – A member of the Sandoval County Planning & Zoning Commission.

**III. Organization**

**A. Quorum**

The Planning and Zoning Commission consists of seven (7) members appointed by the Board of County Commissioners. Pursuant to Section 4B of the Planning and Zoning Commission Ordinance, four (4) members must be present to constitute a quorum for the transaction of business. Unless otherwise specified herein, a majority of a quorum is necessary and sufficient for any action or decision by the Planning and Zoning Commission.

**B. Chairperson, Vice-Chairperson, and Chairperson Pro Tempore**

**1. Selection**

Annually at the first public meeting in January, and whenever a permanent vacancy may occur, the Planning and Zoning Commission shall elect a Chairperson and Vice Chairperson. In the temporary absence of both the Chairperson and Vice Chairperson, the members present shall select a Chairperson Pro Tempore.

**2. Presiding Member**

The Chairperson, the Vice Chairperson (in the absence of the Chairperson), or the Chairperson Pro Tempore (in the absence of both the Chairperson and Vice Chairperson), shall preside at all meetings of the Planning and Zoning Commission. In the event of disability, disqualifying interest in a matter under consideration, or for other good cause, the presiding member of the Planning and Zoning Commission may delegate such presiding authority to another member.

**3. Participation of Presiding Member**

The presiding member shall vote, but may not make or second motions.

**IV. Meetings**

The Planning and Zoning Commission shall hold regular meetings and such additional meetings as may be necessary. The Planning and Zoning Commission will abide by the requirements of the Open Meetings Act.

**A. Regular Meetings**

Regular meetings shall be held for the purpose of conducting any business of the Planning and Zoning Commission.

Regular meetings of the Planning and Zoning Commission shall be held at 6:00 p.m. on the fourth Tuesday of each month, unless such day is a public holiday or the Planning and Zoning Commission votes to cancel or reschedule a regular meeting date.

If a regular meeting is not to be held on the fourth Tuesday of a given month, it may be rescheduled to another date within a week earlier or later as may be selected either by vote of the members or, in the absence of such vote, by the Chairperson in coordination with the Director.

**B. Additional Meetings**

Additional meetings may be called for the purpose of receiving and discussing information, hearing presentations, studying proposals and such other purposes as may be deemed necessary. Such meetings may be scheduled either by vote or, in the absence of such vote, by the Chairperson in coordination with the Director.

**C. Notice of Meetings**

The Director shall notify all members and the public of any rescheduling of a regular meeting and of the scheduling of any additional meeting.

In addition, the Director shall assure compliance with all notice and publication provisions applicable to any particular item of business to be considered at any meeting.

**D. Location of Meetings**

Unless notice of another location is otherwise provided, all meetings shall be held in the Sandoval County Commission Chambers located at 711 Camino del Pueblo, Bernalillo, New Mexico.

**E. Meeting Agenda**

At least one week prior to any public meeting of the Planning and Zoning Commission, the Director shall prepare and circulate to members and make available to the public a draft agenda containing a list of specific items of business to be discussed or

transacted. The draft agenda shall include such items of business as may be requested by any member and such additional items as may be included by the Director.

If the draft agenda is amended, the Director shall make a revised agenda available to the public at least twenty-four (24) hours prior to the public meeting. Excluding "emergency matters" as defined in the New Mexico Open Meetings Act, NMSA 1978, §10-15-1F, no item not included in the draft or revised agenda may be considered at the meeting.

The Department may prepare an agenda packet containing such documents for consideration by members as may assist members in the performance of their duties. Documents provided by the Department to members shall at the same time be made available to the public.

**F. Recording of Meetings**

The Director shall appoint an employee of the Department to make and keep an audio recording of each meeting of the Planning and Zoning Commission.

Such audio recordings shall be preserved by the Department for a period of at least two (2) years, or for such longer period as may be necessary in the event of an appeal of any decision on a matter.

If through inadvertence or excusable neglect an audio recording of any meeting is defective, lost, destroyed, or otherwise lacking, the absence of a verbatim transcript of the proceedings shall not invalidate any action taken by the Planning and Zoning Commission at such meeting.

**G. Minutes of Meetings**

The Director shall direct an employee of the Department to prepare and circulate to members, at least one week prior to the next regular meeting, draft minutes of any meeting of the Planning and Zoning Committee for which minutes have not yet been adopted.

At the outset of each regular meeting, the Planning and Zoning Commission shall consider, amend as necessary, and adopt minutes for the preceding regular and any additional meeting held.

V. Discussions, Recommendations, and Quasi-Judicial Hearings

Pursuant to authority granted by ordinances of the Sandoval County Board of County Commissioners, the Planning and Zoning Commission considers matters involving the use of land in Sandoval County. The nature of the Planning and Zoning Commission's consideration of land use issues varies depending upon the issue at hand.

A. Meetings for Discussion of Land Use Issues

With respect to some issues, the Planning and Zoning Commission meets solely to gather information, to engage in public discussion and to evaluate matters affecting the use of land. At its discretion, the Planning and Zoning Commission may make such recommendations to the Board of County Commissioners regarding any such issue, as it deems appropriate.

B. Meetings to Prepare Recommendations

With respect to other land use issues, the Planning and Zoning Commission is directed by Sandoval County ordinances to hold initial public meetings and to make non-binding recommendations for action to the Board of County Commissioners.

Included in this category of issues are citizen requests for zoning ordinance amendments and zone changes under Section 24 of the Comprehensive Zoning Ordinance and requests for approval of the preliminary plats for subdivisions under Sections 6.2.3, 6.2.5, and 6.3.5 of the Sandoval County Subdivision Regulations. See Appendix A hereto, which contains copies of these provisions.

Such proceedings are not quasi-judicial hearings because the Planning and Zoning Commission has no authority to affect any party's substantive rights, but only the capacity to recommend approval or disapproval of action to the Board of County Commissioners. In each such case, any interested party may seek a "quasi-judicial" hearing of the issue before the Board of County Commissioners.

C. Quasi-Judicial Hearings

With respect to other land use issues, the Planning and Zoning Commission does have authority to affect the rights of the parties who come before it. Included in this category are (1) requests for approval of conditional uses under Section 22 of the Comprehensive Zoning Ordinance; and (2) requests for approval of variances under Section 23 of the Comprehensive Zoning Ordinance. See Appendix A hereto, which contains copies of these provisions. In cases where the substantive rights of the parties

may be affected by a decision of the Planning and Zoning Commission, the proceedings of the Planning and Zoning Commission constitute "quasi-judicial" hearings and must comport with certain constitutional requirements of due process to ensure fair presentation of the issues.

**VI. Procedure**

**A. General Principles**

The Planning and Zoning Commission shall endeavor to assure fair and orderly participation by members of the public in its public proceedings.

Every person desiring to speak shall first address the presiding member, and upon recognition, shall confine his or her remarks to the material issues that have been presented. All persons shall avoid inappropriate language, general attacks on a person's character, and comments or argument that appeal to prejudice, emotion, or special interest rather than to intellect or reason.

In the conduct of quasi-judicial hearings, all persons present shall conduct themselves with such order, good behavior and decorum as is customarily observed in proceedings before a court of law.

**B. Order of Presentation**

In considering an application before the Planning and Zoning Commission, the order of presentation shall be as follows:

1. Chairman's introduction of item;
2. Identification of witnesses; notice of time limitations; and, administration of oath;
3. Disclosures relating to impartiality or ex parte communications;
4. Disqualification of members;
5. Member reports of independent site inspections;
6. Planning Staff report;
7. Applicant's presentation;
8. Presentations by other concerned parties;
9. Comments by Sandoval County Planning and Zoning Commission members;
10. Chairman's summary of issues (in complex cases only); and,
11. Motions, including any conditions that may be required.

The Planning and Zoning Commission may impose reasonable time limits prior to any hearing. Such limits will attempt as nearly as possible to permit equal time to the applicant and to the opponents of the application.

The Planning and Zoning Commission may at any time seek the advice and counsel of Department staff and of the County Attorney.

**C. Inclusion of Documents and Other Materials in the Record**

Unless (1) withdrawn by the submitter prior to the Planning and Zoning Commission hearing or meeting as to the issue; or (2) used only for demonstrative purposes at the hearing to facilitate witness testimony, all documents and other tangible materials presented to the Department shall constitute a part of the record of the proceeding. (This rule applies also to late-submitted materials, whether or not considered by the Planning and Zoning Commission.) Unless withdrawn by the submitter, the Department shall maintain as part of the record of the proceedings all documents or other materials presented to the Planning and Zoning Commission and/or to the Department for a period of at least two (2) years, or for such longer period as may be necessary in the event of an appeal of any decision on the matter.

**D. Late-Submitted Documents and Tangible Materials**

All documents and other tangible materials, excluding materials used only for demonstrative purposes at the hearing to facilitate witness testimony, should be submitted at least seventy-two (72) hours prior to the hearing or meeting of the Planning and Zoning Commission.

With respect to late-submitted documents and tangible materials, the presiding member has discretion (1) to consider same; (2) to decline to consider same; or (3) to table the matter to a subsequent meeting or hearing date.

In exercising this discretion, the presiding member will evaluate whether consideration of such documents or tangible materials would tend materially to prejudice the ability of the applicant, opponents of the application, and/or the Department fairly, reasonably and adequately to evaluate or respond to such documents or materials. On motion of any member, the decision of the presiding member may be presented for a vote to determine the effect of late submission. In the absence of any ruling by the presiding member or a vote by the Planning and Zoning Commission, any late-submitted documents and tangible materials will be deemed to have been considered by the Planning and Zoning Commission.

**E. Witness Testimony**

**1. Oath**

At quasi-judicial hearings and at meetings pursuant to which the Planning and Zoning Commission is directed to make recommendations, witnesses shall testify under oath by affirmative response to the following question:

“Do you [and each of you] solemnly swear or affirm under penalty of law that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?”

The oath may be administered by a notary public or by any other person authorized by law to administer oaths.

**2. Cross-Examination**

A witness who testifies under oath may be cross-examined with questions concerning his or her statements at the direction of the presiding member. Subject to the discretion of the presiding member, the normal order of such questioning is as follows: questions of members, staff, parties, and any other person. Questions must be submitted through the presiding member of the Planning and Zoning Commission.

The presiding member shall exercise discretion in assessing whether the witness should be directed to answer the question. In exercising this discretion, the presiding member should consider whether the question seeks evidence that:

1. is relevant to the material issues of the matter before the Planning and Zoning Commission; or,
2. is not substantially outweighed by the danger of unfair prejudice; and,
3. will not cause undue delay, waste of time or needless presentation of cumulative evidence.

**F. Time Limitations**

As required by NMSA 1978, Section 3-21-6 B, all parties in interest and citizens shall be provided an opportunity to be heard on any zoning regulation, restriction or boundary. However, at the outset of any meeting or hearing, the time allowed for presentations or testimony on any matter may be limited at the discretion of the presiding member. The presiding member may exercise such discretion in consideration of the following factors: (1) the importance and significance of the matter to be considered; (2)



the number of persons desiring to make presentations or to give testimony; (3) whether and to what degree particular persons may be affected or aggrieved by the outcome of the matter; and, (4) the total time available for consideration of all matters to be considered at the meeting.

In limiting time for presentations or testimony, the presiding member may (1) allocate total time equally to the proponents and opponents of an application; or (2) allocate equal time to each presenter or witness. In making such allocation, the presiding member may grant additional time to (1) a person who demonstrates that an adverse decision would render him or her an "aggrieved person" entitled to appeal within the meaning of such words in NMSA1978, Section 3-21-8 and Section 3-21-9; (2) an expert witness; or, (3) any other person for good cause.

## **VII. Code of Ethics**

### **A. Public Trust**

Members occupy positions of public trust.

A member shall refrain from using his or her influence as a member in an attempt to secure zoning, permits or other favorable action for friends, customers, clients, family members or business associates and shall refrain from actions benefiting special interest groups at the expense of the County as a whole. Members shall refrain from making personal or private use of special knowledge or information before it is made available to the general public.

### **B. Ex Parte Communications**

An ex parte communication is any communication between a member and any person interested in a pending application that is conducted outside the presence of other interested parties

#### **1. Written Communications and Tangible Materials**

Any applicant or opponent to an application who communicates outside a hearing with a member concerning the substance of a pending application should do so only in writing or by printed material and should supply copies of said communications to the Department at least seventy-two (72) hours before any hearing on the application. A member who receives such written communication or materials shall provide same or a copy thereof to the Department as soon as possible prior to the meeting or hearing on the matter. All such materials shall be made a part of the record on the matter.

2. **Oral Communications**

A member who receives an oral communication from an applicant or opponent to an application concerning the substance of a pending application shall inform such person of the provisions of Section VII B 1. At the meeting or hearing on the matter, the member shall disclose the fact and substance of an oral communication on the record if the member believes any such oral communication might (1) create the appearance of partiality; or (2) affect his or her opinion of the merits of the pending matter.

B. **Impartiality and Disqualification**

1. **General Rule for Disqualification**

A member should disqualify himself or herself from participating in any action or proceeding of the Commission in which his or her impartiality might be reasonably questioned, whether due to (1) personal or pecuniary interest; (2) personal bias or prejudice regarding a party; (3) prejudgment of the matter at issue; and/or (4) any other reason.

2. **Circumstances for Evaluation**

Circumstances in which a member should evaluate his or her ability impartially to hear or make a recommendation on a matter include, but are not limited to, instances where:

- a. the member has a financial interest or other personal interest in the subject matter that could be affected by the outcome;
- b. the member is a party, or is closely associated with a party, e.g., majority shareholder, officer, director;
- c. the member is a closely related to a party by blood or marriage; and/or,
- d. the member has otherwise demonstrated prejudgment of the matter or of any party involved to the extent that the member will be unable to evaluate the evidence and testimony presented impartially.

**3. Disqualification Procedure**

Any member whose impartiality might be questioned shall:

- (1) voluntarily withdraw from participation in the proceeding; or,
- (2) prior to participation in the matter or as soon thereafter as such potential lack of impartiality is known to the member, disclose to the other members present the circumstances upon which his or her impartiality might be questioned and state on the record that such will not in fact affect his or her decision.

Any such disclosure shall be recorded in the minutes, but shall not disqualify a member from participating and voting unless, following a motion made and seconded, a majority of the other members present determine that the disclosing member should not participate and vote on the matter.

When a member learns of information upon which the impartiality of another member might be reasonably questioned, such member shall disclose such information to all the members. Any person may present sworn testimony regarding any information that may bring into question the impartiality of any member. On this information and following a motion made and seconded, the remaining members may determine by majority vote to exclude the member whose impartiality might be reasonably questioned.

**C. Independent Site Inspections**

Individual members may at their discretion make independent site inspection of property and areas pertaining to matters brought before them for consideration or decision. Any member making such an independent inspection must report his or her observations on the record as part of the meeting or hearing on the matter. Such member shall be subject to questioning on such observations to the extent permitted by the presiding member.

Subsection VII C does not authorize entry onto premises without the consent of the property owner or occupant. Other than for the purpose of obtaining consent and making other necessary arrangements to conduct an independent site inspection, members should not have ex parte oral communications with interested parties regarding the matter to be considered by the Sandoval County Planning and Zoning Commission.

SANDOVAL COUNTY ADMINISTRATIVE OFFICES

VIII. Amendment

Following inclusion in a meeting agenda circulated to members and made available to the public at least ten (10) days prior to any meeting to address proposed changes, these rules, regulations and procedures may be amended by a majority vote of all of the members of the Planning and Zoning Commission. The Planning and Zoning Commission shall endeavor on an annual basis to review and, as may be necessary or beneficial, update these rules, regulations and procedures.

PASSED AND ADOPTED BY THE SANDOVAL COUNTY PLANNING AND ZONING COMMISSION THIS 24<sup>th</sup> DAY OF October 2000.

[Signature]  
JOHN B. ARANGO, CHAIRMAN

[Signature]  
GORDON HAWLEY, VICE-CHAIRMAN

[Signature]  
TERRY KOPCAK, MEMBER

[Signature]  
RALPH MARTINEZ, MEMBER

[Signature]  
ANN RUSTEBAKKE, MEMBER

[Signature]  
HENRY STREET, MEMBER

[Signature]  
JIM TREHERN, MEMBER

ATTEST:

[Signature]  
SALLY PADILLA  
SANDOVAL COUNTY CLERK

APPROVED AS TO FORM:

[Signature]  
WALTER HART  
SANDOVAL COUNTY ATTORNEY

STATE OF NEW MEXICO } SS  
COUNTY OF SANDOVAL }  
This instrument was filed for record at  
10:01 (A.M. P.M. on  
**DEC 20 2000**  
Recorded in Vol. \_\_\_\_\_  
of records of said county, folio \_\_\_\_\_  
By: [Signature] Clk. & Recorder  
\_\_\_\_\_, Deputy