

AN ACT

RELATING TO LAND USE; PROVIDING FOR METHODS OF ANNEXATION,  
ZONING, SUBDIVISION, PLANNING AND PLATTING IN  
EXTRATERRITORIAL ZONES OF CERTAIN MUNICIPALITIES AND  
COUNTIES; CREATING AN EXTRATERRITORIAL LAND USE COMMISSION  
AND AN EXTERRITORIAL LAND USE AUTHORITY; PROVIDING POWERS AND  
DUTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 3-7-17 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-7-17, as amended) is amended to read:

"3-7-17. ANNEXATION--PETITION BY OWNERS OF CONTIGUOUS  
TERRITORY--DUTY OF GOVERNING BODY--ORDINANCE--APPEAL.--

A. Except as provided in Sections 3-7-17.1 and  
3-57-4 NMSA 1978, whenever a petition:

- (1) seeks the annexation of territory  
contiguous to a municipality;
- (2) is signed by the owners of a majority of  
the number of acres in the contiguous territory;
- (3) is accompanied by a map that shows the  
external boundary of the territory proposed to be annexed and  
the relationship of the territory proposed to be annexed to  
the existing boundary of the municipality; and
- (4) is presented to the governing body,  
the governing body shall by ordinance express its consent or

rejection to the annexation of such contiguous territory.

B. If the ordinance consents to the annexation of the contiguous territory, a copy of the ordinance, with a copy of the plat of the territory so annexed, shall be filed in the office of the county clerk. After the filing, the contiguous territory is part of the municipality. The clerk of the municipality shall also send copies of the ordinance annexing the territory and of the plat of the territory so annexed to the secretary of finance and administration and to the secretary of taxation and revenue.

C. Within thirty days after the filing of the copy of the ordinance in the office of the county clerk, any person owning land within the territory annexed to the municipality may appeal to the district court questioning the validity of the annexation proceedings. If no appeal to the district court is filed within thirty days after the filing of the ordinance in the office of the county clerk or if the court renders judgment in favor of the municipality, the annexation shall be deemed complete."

Section 2. A new Section 3-7-17.1 NMSA 1978 is enacted to read:

"3-7-17.1. ANNEXATION--CERTAIN MUNICIPALITIES IN CLASS A COUNTIES--PROCEDURES--LIMITATIONS.--

A. A petition seeking the annexation of territory contiguous to a municipality with a population over two

hundred thousand persons and located in a class A county shall be presented to the city council and be accompanied by a map that shows the external boundary of the territory proposed to be annexed and the relationship of the territory proposed to be annexed to the existing boundary of the municipality.

B. If the petition is signed by the owners of a majority of the number of acres in the contiguous territory:

(1) the city council shall submit the petition to the board of county commissioners of the county in which the municipality is located for its review and comment. Any comments shall be submitted by the board of county commissioners to the city council within thirty days of receipt; and

(2) not less than thirty days nor more than sixty days after receiving the petition, the city council shall by ordinance approve or disapprove the annexation after considering any comments submitted by the board of county commissioners.

C. Except as provided in Subsection D of this section, if the petition is not signed by the owners of a majority of the number of acres in the contiguous territory, the extraterritorial land use commission shall consider the matter and make a recommendation to the extraterritorial land use authority. The extraterritorial land use authority shall

approve or disapprove the petition. If approved by the extraterritorial land use authority, the city council may by ordinance approve the annexation.

D. When the nonconsenting property owners' properties are entirely surrounded by consenting property owners, the city council may approve the annexation without approval or disapproval of the extraterritorial land use authority.

E. In considering an annexation pursuant to this section, the city council shall consider the impact of the annexation on existing county contracts and provisions of services, including fire protection, solid waste collection or water and sewer service, and may make agreements with the county to continue such services if it is in the interest of the county, the residents of the proposed annexed area or the municipality.

F. A municipality with a population over two hundred thousand persons and located in a class A county shall not force a resident or business located in the unincorporated area of the county to agree to annexation as a condition of extending sewer and water service to that person or business, if that sewer or water service extension is paid for all or in part by federal, state or county money. The municipality may make agreement to annexation a condition of extending sewer and water service if the extension of the

service is paid for entirely with municipal money."

Section 3. Section 3-19-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-18-5, as amended) is amended to read:

"3-19-5. PLANNING AND PLATTING JURISDICTION. --

A. Each municipality shall have planning and platting jurisdiction within its municipal boundary. Except as provided in Subsection B of this section, the planning and platting jurisdiction of a municipality:

(1) having a population of twenty-five thousand or more persons includes all territory within five miles of its boundary and not within the boundary of another municipality; or

(2) having a population of less than twenty-five thousand persons includes all territory within three miles of its boundary and not within the boundary of another municipality.

B. A municipality having a population over two hundred thousand persons located in a class A county shall have planning and platting jurisdiction within five miles of the boundary of the municipality shared with the county and not within the boundary of another municipality through the extraterritorial land use commission that shall make recommendations to the extraterritorial land use authority.

C. If territory not lying within the boundary of a municipality is within the planning and platting

jurisdiction of more than one municipality, the planning and platting jurisdiction of each municipality shall terminate equidistant from the boundary of each municipality unless one municipality has a population of less than two thousand five hundred persons and another municipality has a population of more than two thousand five hundred persons according to the most recent census. Then the planning and platting jurisdiction of the municipality having the greatest population extends to such territory."

Section 4. Section 3-20-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-19-5, as amended) is amended to read:

"3-20-5. COUNTY AND MUNICIPAL JURISDICTION OVER SUBDIVISION-- CONCURRENT JURISDICTION-- ACCEPTANCE OF UNAPPROVED STREETS-- EXERCISE OF JURISDICTION. --

A. For the purpose of approving the subdivision and platting of land:

(1) the jurisdiction of a county includes all territory not within the boundary of a municipality;

(2) except as provided in Paragraph (4) of this subsection, the jurisdiction of a municipality having a population of twenty-five thousand or more persons according to the most recent census includes all territory within five miles of the boundary of the municipality and not within the boundary of another municipality;

(3) the jurisdiction of a municipality

having a population of less than twenty-five thousand persons according to the most recent census includes all territory within three miles of the municipal boundary and not within the boundary of another municipality; and

(4) a municipality having a population over two hundred thousand persons according to the most recent census located in a class A county shall share approval authority with the county of subdivisions and platting of land within five miles of the municipal boundary. Approval shall be through the actions of the extraterritorial land use commission and extraterritorial land use authority.

B. Each municipality shall have jurisdiction over the territory within its boundary.

C. If territory not lying within the boundary of a municipality is within the platting jurisdiction of more than one municipality, the platting jurisdiction of each municipality shall terminate equidistant from the boundary of each municipality unless one municipality has a population according to the most recent census of less than two thousand five hundred persons and another municipality has a population according to the most recent census of more than two thousand five hundred persons. Then the platting jurisdiction of the municipality having the greatest population extends to such territory.

D. Except as provided in Paragraph (4) of

Subsection A of this section, the county and a municipality shall exercise concurrent jurisdiction over territory within the platting jurisdiction of both the county and the municipality.

E. The governing body of a municipality or the board of county commissioners may not locate, construct or accept any street dedication until the street dedication is first submitted to the planning authority for approval or disapproval. If disapproved by the planning authority, the street dedication may be approved by a two-thirds vote of all the members of the governing body of the municipality having jurisdiction or of the board of county commissioners having jurisdiction. A street dedication accepted by the planning authority or by a two-thirds vote of all the members of the governing body of the municipality having jurisdiction or of the board of county commissioners having jurisdiction shall have the same status as any other public street."

Section 5. A new section of Chapter 3, Article 21 NMSA 1978 is enacted to read:

"EXTRATERRITORIAL ZONING IN CLASS A COUNTY WITH MUNICIPALITY OVER TWO HUNDRED THOUSAND PERSONS--PROCEDURES.--

A. In a class A county that has a municipality with a population over two hundred thousand persons, concurrent extraterritorial zoning jurisdiction between that municipality and the county shall be determined by an



"extraterritorial land use authority". The extraterritorial land use authority shall have the jurisdiction and powers of an extraterritorial zoning authority and shall carry out its duties related to planning and platting jurisdiction, extraterritorial zoning, subdivision approval and annexation approval or disapproval as provided in the Municipal Code. The extraterritorial land use authority shall consist of four county commissioners appointed by the board of county commissioners and three city councilors or two city councilors and the mayor appointed by the municipality.

B. The extraterritorial zoning commission in a class A county having a municipality with a population over two hundred thousand persons that is concerned with extraterritorial zoning between that municipality and the county shall be known as the "extraterritorial land use commission". The commission shall be composed of five members of the county planning commission appointed by the board of county commissioners and five members of the environmental planning commission of the municipality appointed by the city council.

C. The composition of the extraterritorial land use commission shall not affect the composition of any other extraterritorial zoning commission that may be established in that county with any other municipality.

D. The extraterritorial land use commission shall

have the authority to carry out duties related to planning and platting jurisdiction, subdivision and extraterritorial zoning. "

Section 6. Section 3-57-4 NMSA 1978 (being Laws 1967, Chapter 248, Section 4, as amended) is amended to read:

"3-57-4. METHODS OF ANNEXATION. -- There shall be two methods of annexing territory to a municipality within class A counties:

A. by petition to a municipality as provided by Section 3-57-5 NMSA 1978 or, if the municipality has over two hundred thousand persons, as provided by Section 3-7-17.1 NMSA 1978; and

B. by petition to the district court as provided by Sections 3-57-6 through 3-57-8 NMSA 1978.

Any other method provided by the Municipal Code or any other act shall have no application within class A counties. "