

BYLAWS
OF
TIMBERON WATER AND SANITATION DISTRICT
TIMBERON, OTERO COUNTY, NEW MEXICO

Organized pursuant to Section 73-21-1, NMSA 1978, as a governmental subdivision of the State of New Mexico and a body corporate with all the powers of a public or quasimunicipal corporation. Established by Order of The District Court for Otero County, New Mexico, Cause Number CV-88-290 on March 8, 1990.

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ARTICLE 1 Name and Location

1.01 The name of the special district shall be Timberon Water and Sanitation District, herein referred to as TWSD. The statutes provide that the district shall be known under the name ordered by the court; the district may not change its name.

1.02 The principal office (TWSD Office) shall be located at the Timberon Community Center (A.K.A. Community Lodge), 1 Bobwhite Circle, Timberon, New Mexico.

ARTICLE 2 Declaration of Purpose

2.01 The Timberon Water and Sanitation District, has all the purposes provided in the New Mexico state law, in sections NMSA 1978 73-21-1 through 73-21-55 and may be cited as the "Water and Sanitation District Act" and all other purposes permitted under the laws of the State of New Mexico whether or not enumerated within these Bylaws and attachments. (See Addendum 14.04)

2.02 The purposes of the Timberon Water and Sanitation District include, but are not limited to the following:

- A. The Timberon Water and Sanitation District shall manage all of the surface and groundwater resources of the District.
- B. TWSD shall construct, maintain, repair and manage a collection, storage, treatment and delivery system or systems for potable water.
- C. TWSD may construct, maintain, repair and manage a collection, storage, and delivery system or systems for untreated water.
- D. TWSD may establish, construct and maintain park and recreational facilities such as fishing lakes, golf course and recreation area, playgrounds, and swimming pool/s.
- E. TWSD shall manage and maintain the Timberon Memorial Park cemetery.
- F. TWSD may manage, acquire, establish, construct and maintain certain public and leased facilities, buildings, sheds, office space and public meeting places.
- G. TWSD shall provide water for fire suppression.
- H. TWSD shall be responsible for the maintenance of the public streets and roads of the District with the exception of those that are maintained by Federal, State, County or other governmental entities. Maintenance will be done in accordance with TWSD rules, policies and guidelines.
- I. TWSD shall provide at least one site within the district for the collection and removal of trash.
- J. TWSD may acquire, establish, construct, lease and maintain any other facilities or provide other services as permitted by New Mexico Statute.
- K. TWSD may take any action it deems necessary that is permitted under the laws of the United States and The State of New Mexico in order to maintain and protect the quantity and quality of the surface and ground waters allocated to the District.
- L. TWSD may purchase, acquire, establish, construct or operate other public facilities or economic development projects as provided in NMSA 1978 73-21-3E.

ARTICLE 3 Definitions

For the purposes of these Bylaws, the following definitions will apply.

3.01 "district" means a water and sanitation district that is established pursuant to the Water and Sanitation District Act ;

3.02 "board" means the seated (installed) members of the board of directors (BOD) of a district;

3.03 "Taxpaying elector of a district", "qualified elector" or "elector" means a person, registered to vote in any precinct in the state as defined by NMSA 1978 73-21-4:

3.04 "publication" means once a week for three consecutive weeks in at least one newspaper of general circulation in the county in which all or the major portion of the district is located. It is not necessary that publication be made on the same day of the week in each of the three weeks, but not less than fourteen days, excluding the day of first publication, shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication.

3.05 "Work Session" is a regular meeting of the board, the primary purpose of which is to set the agenda for the next regularly scheduled meeting.

3.06 "in-good-standing" means a person or entity that, according to the records of the district and/or the records of the county in which the district is located, has paid all rates, tolls, charges, taxes, fees, levies, and assessments or other forms of payment due to the district or county on or before the due date.

ARTICLE 4 Board of Directors

4.01 The affairs and business of TWSD shall be managed and directed by the Board of Directors (BOD) and shall have powers as provided in 73-21-16 NMSA 1978 (see Addendum 14.04):

4.02 Organization Chart - The BOD shall prepare and maintain a current organizational chart that accurately shows the reporting relationship between the board and all employees of TWSD. [See Addendum 14.01]

4.03 Five Director Board - The BOD shall consist of five members duly elected by taxpaying electors in accordance to 73-21-14, & 73-21-15 NMSA 1978. (See Addendum 14.04)

4.04 Vacancy - In case of vacancy on the BOD, the board shall identify the position number of the vacancy and by majority vote shall appoint a taxpaying elector to fill that vacancy until the next biennial election, at which time a candidate will be elected for the remainder of the term. If the BOD shall fail, neglect, or refuse to fill any vacancy within thirty days (30) after the same occurs, the district court having jurisdiction over TWSD may fill such vacancy.

4.05 Participation by Communications Equipment - In the event of a called emergency meeting, special meeting, closed meeting or a regular meeting lacking a quorum, board members may participate by means of telephone or other communication equipment, and participation by such means shall constitute presence in person at a meeting.

4.06 Conflict of Interest - Board members are subject to the same standards of conduct applicable to a full-time State employee. Board members are prohibited from personally and substantially participating, influencing or voting as a Board member in any particular matter or enterprise in which the Board member or the Board member's family, as defined in NMSA 1978 10-16-2 Government Conduct Act, spouse, child, or employee has a significant financial interest. "Significant financial interest" shall mean the current percentage of ownership exceeds 5%, or annual income from the entity exceeds \$10,000, or the current equity value exceeds \$10,000. This restriction also applies if the Board member is negotiating or has any

arrangement concerning prospective employment with TWSD that has a significant financial interest in any particular matter before the BOD.

4.07 Gratuities - BOD members shall not knowingly receive or solicit from persons having business with TWSD anything of value as a gift, gratuity, loan or favor while serving on the BOD or in connection with such service.

4.08 Disclosure Statement - Before acting upon any matter coming before the Board, involving any organization in which a Director has a financial interest, the Director shall file a financial disclosure statement with the Secretary of State in accordance with NMSA 1978 10-16A. Prior to any action being taken, the Director shall publicly announce, in a public meeting of the Board, the fact that the financial disclosure has been filed and those copies are available to the public. It is the responsibility of the Director to insure filing with the Secretary of State.

4.09 The BOD shall initiate procedures for the removal of the Director who has not complied with NMSA 1978 10-16A.

4.10 Legal Duties - require Board Members to:

- A. Use reasonable care and good judgment in making their decisions on behalf of the interests of TWSD;
- B. Be faithful to the organization, avoiding conflicts of interest;
- C. Comply with governing documents (i.e. Bylaws; policies; etc).

4.11 Unilateral Conduct-Directors shall not engage in unilateral or independent activities under the assumption of "official duties" to create or cause an obligation in any manner to the District without approval by a quorum of the BOD. A director acting alone and without approval, as a public official shall not engage nor encumber TWSD in any pursuit that would constitute a contract or agreement by which an expressed obligation to do or forbear is imposed. (i.e.; professional services or fees such as engineer, C.P.A., attorney, hydrologist, or any other services) All members of the BOD, including the chairman, vice-chairman and treasurer shall conduct the district's business within the standards applied to a governing body acting collectively and in a majority to serve the public. All official communications received by directors that are related to TWSD business shall be stamped and dated as officially received and copies distributed to all board members.

4.12 Reimbursement-BOD members shall be reimbursed for direct expenses related to conducting TWSD business. Reimbursement of travel shall be in accordance to Regulations Governing the Per Diem and Mileage Act, NMAC 2.42.2. All expenses for reimbursement shall be submitted on a travel voucher. (Addendum 14.05)

ARTICLE 5 Meetings

5.01 All meetings of a quorum of members of the BOD, except those meetings as may be closed as defined by the Open Meetings Act, are declared to be public meetings open to the public at all times and subject to the provisions of the Open Meetings Act. At least annually, a resolution shall be passed by the BOD to define meeting procedures and notice requirements.

5.02 Citizen Participation: All persons so desiring shall be permitted to attend and listen to the deliberations or proceedings. Four methods of receiving comments from the public are available.

- A. Members of the public may request that items for consideration be placed on the agenda. The process for doing so is established in an annual resolution by the BOD. The deadline for making requests to add agenda items by the public is 5:00 PM on the Tuesday preceding the regular Saturday monthly meeting. There is a five-minute limit for presentations. If that amount of time is insufficient the remaining information may be presented to the BOD in written form for consideration at a later time.

- B. Members of the public may participate in the discussion of agenda items that have received a motion and second by Board members in the following manner. At least ten minutes prior to the start of a regular or special meeting, members of the public may place their names on a list stating which agenda item they would like to discuss. After each Board member has had an opportunity to speak the chairman will call on members of the public in the order that their names appear on the list. There will be a three-minute time limit for each speaker. All comments shall be addressed to the chair.
- C. Members of the public may make comments not to exceed three minutes during the agenda item "Unscheduled Citizen Communications" when it appears on the published agenda for the regular monthly meetings.
- D. Members of the public may be permitted to make comments at any time during a meeting as allowed by Robert's Revised Rules of Order.

5.03 All TWSD BOD meetings shall be strictly conducted in accordance to the "Open Meetings Act", NMSA 1978 10-15 NMSA 1978 73-21-13. (See Addendum 14.06)

5.04 All public notices of the TWSD BOD meetings shall be titled "Regular Meeting" or "Special Meeting" or "Emergency Meeting" or "Closed Meeting".

5.05 The public notice of any meeting shall include without exception the following:

- A. Type of meeting (Regular, Special, Emergency, Closed);
- B. Who authorized meeting (Chairman's name or names of Directors representing quorum);
- C. Date and time notice was posted;
- D. Date of meeting;
- E. Time of meeting;
- F. Place of meeting.
- G. The agenda will be included in the meeting notice. The last revision must be posted no later than twenty-four hours prior to the time of the meeting.
- H. All notices shall include the following language, "If you are an individual with a disability who is in need of service to attend or participate in the meeting, please contact The Public Information Officer at the TWSD office at 987-2250 at least one week prior to the meeting or as soon as possible".

5.06 Conduct of Meetings

The Board shall meet in accordance with the Open Meetings Act, Chapter 10-15-1 NMSA 1978 (See Addendum 14.06)

A. REGULAR MEETINGS

- 1. All regular meetings shall be scheduled so that overnight travel is not required.
- 2. The agenda must be posted at the time of the notice.

B. SPECIAL MEETINGS

1. Special meetings may be held as often as the needs of the district require.
2. Special meetings of the BOD may be called by the Chairman of the Board, or by a majority of the BOD, as specified in the annual resolution.

C. EMERGENCY MEETINGS

1. An emergency meeting will be called only under unforeseen circumstances, which demand immediate action to protect the health, safety or property of citizens or to protect the public body from substantial financial loss.
2. Emergency meetings may be called by the chairman or by a majority of the BOD as specified in the annual resolution, unless immediate action is required to protect the health, safety or property of citizens or to protect the public body from substantial financial loss.
3. The notice for all emergency meetings shall include only the agenda item/s for the meeting. Only the subject/s pertaining to the emergency may be discussed.

D. CLOSED MEETINGS

1. Closed meetings are closed to general public attendance and shall be held in accordance with Section 10-15-1 of the Open Meetings Act.
2. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity and given to the general public. Only those subjects specified may be discussed in the closed meeting and no BOD action may be taken on the subject of the meeting.
3. Following completion of any closed meeting, the minutes of the next regular meeting shall also include a statement as to whether the matters discussed in the closed meeting were limited only to those specified in the notice for closure.

5.07 Manner of Acting - An act of the majority of the directors present at a meeting at which a quorum is present shall constitute an act of the BOD.

5.08 Quorum: A majority of the directors seated shall constitute a quorum at any meeting.

ARTICLE 6 Officers of the Board

6.01 At the first regular meeting in January following the biennial election there shall be an election of officers consisting of the Chairman of the BOD who shall be a director, a Vice-Chairman of the BOD who shall be a director, a Treasurer of the BOD who shall be a director and shall not be an employee of the TWSD, and a Secretary of the BOD who may or may not be a director or may or may not be an employee of the TWSD. This election shall be conducted by the Chairman, Vice-Chairman, or Secretary, respectively.

6.02 Term of Officers - The officers shall serve in these positions until the results of the next biennial election are declared or they resign or are removed, whichever occurs first NMSA 1978 73-21-14C.

6.03 Fidelity Bonds - The directors and the Secretary of the Board if not a Director on the BOD, other than the treasurer (reference 6.07), shall file with the clerk of the District Court for Otero County, New Mexico, at the expense of TWSD, a corporate fidelity bond in an amount not less than \$1,000.00 conditioned on faithful performance of the duties of his/her office.

6.04 Removal - Any officer elected or appointed by the BOD may be removed by a quorum vote of the BOD, whenever in its judgment; the best interest of TWSD would be served thereby.

6.05 Chairman of the Board of Directors - The Chairman shall preside at all meetings of the BOD. In general he/she shall perform all duties incidental to the offices of Chairman and other duties as may be prescribed by the BOD from time to time.

6.06 Vice-Chairman Of The Board Of Directors - In the absence of the Chairman, or in the event of his/her death, inability, or refusal to act, the Vice-Chairman shall perform the duties of the Chairman.

6.07 Treasurer of The Board Of Directors - The Treasurer shall act as Chairman in the absence of the Chairman and Vice-Chairman. The Treasurer shall:

- A. In general perform all of the duties incidental to the office of Treasurer.
- B. Be responsible for overseeing that strict and accurate accounts of all money received by and disbursed for and on behalf of TWSD are maintained in permanent records.
- C. File with the clerk of the District Court for Otero County, New Mexico, at the expense of TWSD, a corporate fidelity bond in an amount not less than \$5,000.00, conditioned on faithful performance of the duties of the office of the Treasurer.

6.08 Secretary Of The Board Of Directors - The Secretary of the BOD shall:

- A. Keep, in a well bound book, the minutes and records of all proceedings, minutes of all open meetings, certificates, contracts, bonds given by employees and all corporate acts which shall be open to public inspection, keep audio and/or video tape recordings of all meetings which will be kept on file for a period of at least three years.
- B. See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.
- C. With the exception of medical records, be custodian of TWSD records and of the seal of TWSD and see that the seal of TWSD is affixed to all documents, the execution of which on behalf of TWSD under its seal is duly authorized.
- D. Keep a register of the post office address and phone number of each director.
- E. Arrange and oversee elections. In the event that the Secretary of the Board is a member of the board, the BOD will appoint an alternate to oversee elections.
- F. In general perform all duties incidental to the Office of Secretary.
- G. The Secretary of the Board shall be indemnified for all acts related to official TWSD duties in the same manner as if he/she is a member of the board.

ARTICLE 7 Management and Administration

7.01 The powers of BOD stated by New Mexico statutes or the Bylaws herein shall not be delegated to TWSD employees or others without written documentation stating the limits and authority of such delegation of duties and any delegation shall be approved by the majority of the BOD.

7.02 The approval of policies and procedures, employee handbook, hourly wage scales, salary limits, and benefits shall be the responsibility of the BOD. All of the above mentioned activities shall be in compliance with applicable state and federal labor laws.

7.03 Any additional headcount that exceeds the annual budget shall be approved by the majority of the BOD. The person requesting the additional headcount shall prepare a written request with position description and justification and shall be submitted to the BOD for consideration. This will include full-time, part-time and any other category of additional headcount to TWSD that is not included in the annual budget.

7.04 Non-disclosure agreement: Employees, volunteers or members of some committees who may be exposed to sensitive or confidential information shall be required to execute a non-disclosure agreement, provided by the General Manager or the Chairman of the Board.

ARTICLE 8 Purchasing

8.01 All purchasing shall be authorized by the TWSD purchasing office and in compliance with the NMSA 1978 Chapter 13 Public Purchases and Property, Article 1 Procurement. (see Addendum 14.07, Procurement Code)

ARTICLE 9 Fiscal Policy

9.01 All money received or spent by TWSD shall be budgeted and accounted for in accordance with New Mexico laws. Chapter 6, Article 6 of the Statutes Annotated NMSA 1978 requires the LGD (Local Government Division, Department of Finance and Administration) to make rules and regulations relating to budgets, records, reports, and the disbursement of public monies, including transfers between funds. TWSD is required to keep all books, make all reports, and to conform to all rules and regulations as directed by the LGD. (See Addendums 14.08 & 14.09)

9.02 TWSD BOD shall approve and file with the Local Government Division (LGD) and the Department of Finance and Administration a proposed annual budget for the next fiscal year as required by the LGD.

9.03 The proposed annual budget, including the budget recap page, shall be presented and reviewed for public input in a public meeting or hearing prior to BOD approval for filing to the LGD.

9.04 The BOD shall adopt the budget by resolution and provide LGD with a copy of the resolution.

9.05 The BOD shall determine and direct, within budgetary and LGD guidelines, the amount of cash balances and amount of capital reserve funds to be maintained annually in the funding accounts established for this purpose.

ARTICLE 10 Conduct of Elections

A. Election of Board Members

10.01 The election board or boards shall conduct the election in the manner prescribed by law for the holding of elections in accordance with NMSA 1978 1-1-19, and shall make their returns to the Secretary of the Board. At the discretion of the BOD, the County Clerk may be asked to oversee the election.

10.02 The regular election for TWSD Board members shall be a biennial election held on the second Tuesday, in January, in even numbered years, by publication of the election resolution in accordance with NMSA 1978 73-21-14C. All Board elections will be conducted and canvassed in the same manner that regular elections are conducted in accordance with NMSA 1978 73-21-14. (See Addendum 14.04)

10.03 The Secretary of the BOD shall prepare and post an election notice for the Biennial Election n in November prior to the January election.

10.04 Any person who desires to become a candidate for election to the TWSD BOD shall submit a completed and notarized Declaration of Candidacy to the Secretary of the Board or if the Secretary is a candidate, to a designated alternate appointed by the BOD. The Secretary of the Board or designated alternate shall certify the candidates for election to the BOD. All candidates must declare by position number and shall declare for only one position. The election resolution adopted by the BOD shall establish the deadline for filing of all Declarations of Candidacy. That deadline shall not be later than 45 days prior to the election. The Declaration of Candidacy for candidates whose names are to appear on the ballot shall be received in the TWSD Office no later than the close of business seven (7) calendar days prior to the deadline for filing established by the election resolution. The Declaration of Candidacy for write-in candidates shall be received in the TWSD Office no later than the close of business on the date of the

deadline for filing established by the election resolution. The names of candidates who withdraw after the deadline for filing will remain on the ballot. The official Declaration of Candidacy form is available from the TWSD.

10.05 The district shall publish three (3) legal notices; the first after the candidate withdrawal date and one each of the next two weeks thereafter. The first notice should be no less than twenty (20) days prior to the election.

10.06 Each voter may cast one vote for one candidate in each position on the ballot. The candidate receiving the highest number of votes in each position on the ballot shall be declared elected to the BOD. Terms shall remain constant by position number regardless of resignations.

10.07 Open positions will be placed on the ballot in numerical order. Candidate positions shall be determined by a blind drawing at the TWSD Office. Candidates shall be notified of the date and time ballot positions shall be determined. The candidate or his/her representative may be present.

10.08 The last day for voter registration shall be twenty-eight (28) days prior to the election date.

10.09 Absentee voting shall be conducted in compliance with the NMSA 1978 1-6.

10.10 A voter may vote in person at the polls at the Timberon Community Center (A.K.A. Community Lodge) on the day of election from 7 am to 7 pm.

10.11 The BOD shall appoint an election board consisting of one (1) presiding judge and two (2) election judges and one (1) clerk to staff the polls. These judges shall be compensated by TWSD at the rate established by the County Clerk.

10.12 The election results shall be canvassed and certified by the BOD at an open meeting pursuant to NMSA 1978 73-21-14 (C). The current board shall preside at this meeting and immediately prior to adjournment the Chairman shall administer the oath of office to the Directors-elect. In the event that the BOD fails to certify the election results, the existing BOD shall retain their positions on the BOD and shall issue a special election resolution to be held within six (6) months of the date of the regular biennial election. The BOD shall define, by election resolution, the procedures for this special election.

10.13 Write-in Candidates: In the event of a nomination for a write-in candidate, the nominee must also comply with all requirements of paragraph 10.04 above. The names of write-in candidates are public information.

A write-in vote shall be counted and canvassed only if:

(1) the name written in is the name of a declared write-in candidate and shows two initials and last name; first name, middle initial or name and last name; first and last name; or the full name as it appears on the declaration of intent to be a write-in candidate and if misspellings of those combinations can be reasonably determined by a majority of the members of the election board to identify a declared write-in candidate; and

(2) the name is written on the proper line provided on the ballot for write-in votes for the position number for which the candidate has declared intent and the voter has followed the directions for voting for the write-in candidate; and

(3) a write-in vote shall be cast by writing in the name. As used in this section, "write-in" does not include the imprinting of any name by rubber stamp or similar device or the use of a preprinted sticker or label; and

(4) at the time of filing the declaration of candidacy to be a write-in candidate, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Board Election except that the write-in candidate's name shall not be printed on the ballot.

B. All Other Elections shall be held in compliance with NMSA 1978 73-21-29, 30 and 31.

ARTICLE 11 Committees

11.01 Committees:

- A. The committees do not have statutory power; they are formed as a research and advisory capacity to the BOD. The committees may not deal with any subject or information that would be construed as an invasion of privacy of an individual nor will the committee engage in any activity that would cause or imply a conflict of interest to any person. Other Board members are encouraged to attend all committee meetings. Only committee members may vote on issues before the committee.
- B. The BOD may add new committees and dissolve committees as the need dictates. In the event that the establishment of a committee becomes necessary; the BOD will clearly define the objective, and then appoint a board member who will recruit volunteers to achieve the committee's objective(s).
- C. Standing Committees :
 - 1. Budget: The Budget Committee shall prepare, plan, and review the annual budget for consideration by the BOD. This will include capital planning as well. The committee will consist of the Treasurer of the BOD and four members of the community. The other board members are encouraged to attend.
 - 2. Bylaws: The Bylaws Committee shall be responsible for revising, submitting amendments and publishing changes to the Bylaws as requested and approved by the BOD. The Bylaws Committee does not have statutory power and will consist of one board member and four members of the community.
- D. Advisory Committees:

The Advisory Committees shall be: Water Rate Committee, Water System, Water Rules and Rights, Five Year Capital Planning, Golf Enterprise and others as deemed necessary. The purpose of an advisory committee is to tap an abundance of volunteer resources in the community to obtain new ideas, propose improvements and promote community involvement in research and information gathering to be utilized by the BOD for project enhancement and development.

ARTICLE 12 Bylaws Amendments and Precedents

12.01 The BOD shall have the power to alter, amend, and repeal by majority vote these Bylaws at any regular meeting of the BOD or at any special meeting of the BOD. The proposed amendments or revisions shall be entered as an agenda item and read at two (2) meetings. At the second meeting the revision, amendment or repeal shall be entered on the agenda and the proposed action shall be decided by vote of the BOD.

12.02 All previous Bylaws and amendments are superseded by these Bylaws. These Bylaws are the only Bylaws of TWSD on this date, but are subject to amendment in the future as specified in ARTICLE 12.01 above.

12.03 Where there is a conflict between an existing resolution or rule and the TWSD Bylaws, the TWSD Bylaws shall control. Where there is not a state or federal law to establish precedent, the BOD shall rule by majority vote to establish the precedent.

12.04 If there is a conflict between any provisions of these Bylaws and state or federal statutes or the Constitution of New Mexico or the Constitution of the United States then the superseding law or regulation shall control.

12.05 In the event that any provision of these Bylaws is determined to be invalid, such determination shall not affect the remaining provisions of these Bylaws and they shall continue in full force and effect.

ARTICLE 13 Parliamentary Authority

13.01 Robert's Revised Rules of Order shall be the Parliamentary Authority.

ARTICLE 14 Addendums

14.01 Organizational Chart

14.02 Purchasing Process Decision Flow Chart

14.03 Bylaws Declaration of Approval

14.04 73-21-1 thru 73-21-55, NMSA 1978

14.05 NMAC 2.42.2 Regulations Governing the Per Diem & Mileage Act

14.06 Open Meetings Act, NMSA 1978, Article 10, and Chapter 15

14.07 NMSA 1978 Chapter 13 Public Purchases and Property, Article 1 Procurement. (Procurement Code)

14.08 New Mexico Laws, Chapter 6, Article 6 of the Statutes Annotated NMSA 1978

14.09 Local Government Division, Division of Finance and Administration Budget Guidelines