

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 quasi municipal corporation. Established by Order of The District Court for Otero County, New Mexico, Cause Number CV-88-290 on March 8, 1990. 73-21-1 (Declaration of purpose.) It is hereby declared that the organization of water and sanitation districts, having the purposes and powers provided in this act, will serve a public use, and will promote the health, safety, prosperity, security and general welfare of the inhabitants of said district.

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1. 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, Suite 1, Timberon, New Mexico, 88350.

2. 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.

3. 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 No person shall become a candidate in a regular local election unless the person physically resides within the boundaries of the district or districted area in which the person desires to be elected or to represent, and the person's record of voter registration shows that the person is both a qualified elector of the state and was registered to vote in the area to be elected to represent on the date the proclamation calling a local election is filed in the office of the Secretary of State.

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.

4. 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. Use of communication equipment by the community may be allowed provided that the use of the equipment does not interfere with conducting the meeting. If the communication equipment interferes with the meeting the Chairman or any Director may discontinue the use of the communication equipment.

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 Page 3 TWSD BYLAWS Revised/Approved September 05, 2022, arrangement concerning prospective employment with TWSD that has a significant financial interest in any 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 a financial disclosure has been filed and those copies are available to the public. It is the responsibility of the Director to ensure filing with the Secretary of State.

4.09 The court having jurisdiction of the district shall have the power to remove directors for cause shown, on petition, notice and hearing.

4.10 Legal Duties - require Board Members to: Use reasonable care and good judgment in making their decisions on behalf of the interests of the Timberon Community and TWSD; Be faithful to the Timberon Community and organization, avoiding conflicts of interest; 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 with 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)

5. 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, NMSA 1978, Chapter 10, Article 15. 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. The methods of receiving comments from the public are hereby listed. Members of the public may request that items for consideration be placed on the agenda at the regular meetings of the BOD where the agenda for the regular meeting is discussed and set. 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 72 hours prior to the bi-monthly scheduled meetings. 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 later. 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, special meeting, or emergency 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 five-minute time limit for each speaker. All comments shall be addressed to the chair. Members of the public may be permitted to make comments at any time during a meeting, if recognized by the Chairman, 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", "Closed Meeting" and "Informational Meeting."

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

- A. Type of meeting (Regular, Special, Emergency, Closed, Informational Meetings).
- B. Who authorized meeting (Chairman's name or names of Directors representing quorum);
- C. Date and time notice were 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 seventy-two 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 (575) 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. All regular meetings shall be scheduled so that overnight travel is not required. 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.

4. Within ten days of acting on an emergency matter, the public body shall report to the attorney general's office the action taken and the circumstances creating the emergency; provided that the requirement to report to the attorney general is waived upon the declaration of a state or national emergency.

D. CLOSED MEETINGS

1. Closed meetings are closed to 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 public. Only those subjects specified may be discussed in the closed meeting and no BOD action may be taken at the meeting. 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. If any meeting is closed pursuant to the exclusions contained in Subsection H of this section, the closure:

(a) If made in an open meeting, shall be approved by a majority vote of a quorum of the policymaking body; the authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting; the vote shall be taken in an open meeting; and the vote of each individual member shall be recorded in the minutes. Only those subjects announced or voted upon prior to closure by the policymaking body may be discussed in a closed meeting; and

(b) if called for when the policymaking body is not in an open meeting, shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the

law authorizing the closed meeting and stating with reasonable specificity the subject to be discussed, is given to the members and to the public.

(c) Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the public body under Subsection G of this section as part of the minutes.

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 in attendance shall constitute a quorum at any meeting.

6. 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. 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 by a sitting judge, The court having jurisdiction of the district shall have the power to remove directors for cause shown, on petition, notice and hearing. 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 12th District Court for Otero County, New Mexico, as

soon as possible 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 BOD can only be removed by a sitting Judge. NMSA 1978 73-21-12. The court having jurisdiction of the district shall have the power to remove directors for cause shown, on petition, notice and hearing.

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. The Chairman will be the liaison with any of the TWSD legal representatives.

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. The Vice Chairman will be the liaison with any of the TWSD legal representatives.

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 duty's 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 12th 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 as soon as possible, conditioned on faithful performance of the duties of the office of the Treasurer.

6.08 Secretary of The Board of Directors - The secretary and treasurer may be one person 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.

- B. See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.
- C. Except for medical records, be custodian of the Board of Directors of TWSD records only 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. The Secretary of the Board will communicate with the county clerk in the elections as identified in the Local Elections Act.
- 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/federal labor laws and Union rules/contracts.

7.03 Any additional headcount 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.

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.

8. ARTICLE 8 Purchasing

All purchasing shall be done in compliance with the NMSA 1978 Chapter 13 Public Purchases and Property, Article 1 Procurement. The General Manager will be responsible for all purchases. Two signatures will be required on the purchase requisition order. The general manager and one board member will sign the purchase requisition order. The board will review/approve the monthly expenditures. (See Addendum 14.07, Procurement Code)

9. 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) Page 9 TWSD BYLAWS Revised/Approved September 05, 2022, 9.02 TWSD BOD shall approve and file with the Local Government Division (LGD) and the Department of

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.

10. ARTICLE 10 Conduct of Elections

All Elections will be conducted by the County Clerk per the Local Elections Act.

11. ARTICLE 11 Committees

11.1. 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 the 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.

11.2. 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).

11.3. Standing Committees: Finance: The Finance Committee shall prepare, plan, and review the annual budget for consideration by the BOD. The Finance Committee will also help with any other financial matters of the district. This will include capital planning as well. The committee will consist of the Treasurer of the BOD and members of the community. The other board members are encouraged to attend. 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 members of the community.

11.4. Advisory Committees: The Advisory Committees shall be: Water Advisory, Water Rate Committee, Water System, Water Rules and Rights, Five Year Capital Planning, Road Advisory, Recreation Advisory, 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. All committees should consist of one board member and members of the community.

12. 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.

13. ARTICLE 13 Parliamentary Authority

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

14. ARTICLE 14 Addendums

14.01 Organizational Chart

14.02 Bylaws Declaration of Approval

14.03 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

14.04 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