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DATE:	JANUARY 10, 2006	NO. OF PAGES (INCLUDING COVER):	11
FROM:	RACHEL BROWN		
RE:	DRAFT LEGISLATION		
COMMENT:	I LOOK FORWARD TO DISCUSSING THIS PROPOSED LEGISLATION WITH YOU. YOU MAY CALL ME AT MY WORK NUMBER (505) 986-6326 OR CELL (505) 699-6991.		

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AN ACT

RELATING TO THE EXTRATERRITORIAL POWERS OF MUNICIPALITIES IN A
CLASS A COUNTY WITH MORE THAN ONE HUNDRED TWENTY NINE
THOUSAND PERSONS.

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

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

"3-7-3. LIMITATION ON ANNEXATION.--No municipality may annex territory within the boundary of another municipality or territory within a class A county with a population of more than one three hundred twenty-nine thousand persons unless approved by the board of county commissioners for that county."

Section 2. Section 3-7-17.1 NMSA 1978 (being Laws 1998, Chapter 42, Section 2) is amended 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 located in a class A county with a population of less than one three hundred twenty-nine thousand persons 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 ~~sixty two hundred~~ sixty two 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 fewer 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 located in a class A county with a population of more than one three-hundred twenty-nine thousand persons shall not have planning and platting jurisdiction in the unincorporated area of the county.

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 fewer 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 3-21-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-20-2, as amended) is amended to read:

"3-21-2. JURISDICTION OF A COUNTY OR MUNICIPAL ZONING AUTHORITY.--To carry out the purposes of Sections 3-21-1 through 3-21-14 NMSA 1978:

A. a county zoning authority may adopt a zoning ordinance applicable to all or any portion of the territory within the county that is not within the zoning jurisdiction of a municipality;

B. a municipal zoning authority may adopt a zoning ordinance applicable to the territory within the municipal boundaries and, if not within a class A county with a population of more than one three-hundred twenty-nine thousand persons according to the last federal decennial census, shall have concurrent authority with the county to zone all or any portion of the territory within its extraterritorial zoning jurisdiction that is within:

(1) two miles of the boundary of any municipality having a population of twenty thousand or more persons, provided such territory is not within the boundary of another municipality;

(2) one mile of the boundary of any municipality having a population of one thousand five hundred or more but less than twenty thousand persons, provided such territory is not within the boundaries of another municipality;

(3) the limits of the boundaries of a municipality having a population of one thousand five hundred persons or less; or

(4) territory not lying within the boundary of a municipality but within the extraterritorial jurisdiction of more than one municipality; provided that the extraterritorial zoning jurisdiction of each municipality shall terminate equidistant from the boundary of each municipality unless one municipality has a population according to the most recent federal decennial census of less than two thousand five hundred and another municipality has a population according to the most recent federal decennial census of more than two thousand five hundred, in which case the extraterritorial zoning jurisdiction of the municipality having the greatest population extends to such territory; and

(5) territory in addition to the extraterritorial zoning jurisdiction provided by Paragraphs (1), (2), (3) and (4) of this subsection that the governing bodies of a county and a municipality agree to place within the extraterritorial zoning jurisdiction of the municipality by agreement entered into pursuant to the provisions of the Joint Powers Agreements Act, provided such additional territory is not within the boundary of another municipality and is contiguous to the exterior boundaries of the territory within the extraterritorial zoning jurisdiction of the municipality;

C. concurrent authority shall be exercised pursuant to an extraterritorial zoning authority or joint powers agreement; provided, however, this

authority may be exercised regardless of whether a county has enacted a comprehensive zoning ordinance; and

D. in the absence of a county zoning ordinance, a qualified elector may file a petition, signed by the qualified electors of the county equal in number to not less than twenty-five percent of the votes cast for the office of governor at the last preceding general election, seeking the adoption of a zoning ordinance by the county zoning authority. Within one year of the filing of the petition seeking the adoption of a county zoning ordinance, the board of county commissioners shall adopt a county zoning ordinance."

Section 5. Section 3-21-3.2 NMSA 1978 (being Laws 1998, Chapter 42, Section 5, as amended) is amended to read:

"3-21-3.2. EXTRATERRITORIAL ZONING IN CLASS A
COUNTIES--PROCEDURES.--

A. In a class A county in which a municipality is located that has a population of:

(1) more than one ~~three~~-hundred twenty-nine thousand persons according to the last federal decennial census, there shall be no extraterritorial zoning; or

(2) ~~one three~~-hundred twenty-nine thousand or fewer people, concurrent extraterritorial zoning jurisdiction between that municipality and the county may be determined by an "extraterritorial land use authority" pursuant to ordinances adopted by the municipal and county governing bodies stating that the county or municipality will create 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. Alternates to the extraterritorial land use authority shall be appointed by the board of county commissioners from among the remaining county commissioners and by the municipality from among the remaining city councilors. The alternates shall be notified prior to a meeting of the extraterritorial land use authority if an appointed member cannot attend. When replacing a member, an alternate shall have the same duties, privileges and powers as other appointed members.

B. The extraterritorial zoning commission in a class A county shall be known as the "extraterritorial land use commission" if it is formed by a municipality and a class A county that have adopted ordinances pursuant

to Paragraph (2) of Subsection A of this section stating that the county and municipality will create an extraterritorial land use authority.

C. The extraterritorial zoning 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. Alternates to the extraterritorial land use commission shall be appointed by the board of county commissioners from the remaining members of the county planning commission and by the municipality from the remaining members of the environmental planning commission, who shall be notified prior to a meeting of the extraterritorial land use commission if an appointed member cannot attend. When replacing a member, the alternate shall have the same duties, privileges and powers as other appointed members.

D. 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.

E. 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. **EFFECTIVE DATE.**--The effective date of the provisions of this act is

July 1, 2007.