

**LINCOLN COUNTY**

**ORDINANCE NO. 2008-5**

**LINCOLN COUNTY PLANNING COMMISSION**

AN ORDINANCE REPEALING THE PLANNING COMMISSION ORDINANCE ADOPTED DECEMBER 20, 1983, AS AMENDED BY ORDINANCE NOS. 1991-12, 1993-6 AND 2002-03; REAFFIRMING THE CREATION OF THE LINCOLN COUNTY PLANNING COMMISSION; PROVIDING QUALIFICATIONS, APPOINTMENT, TERMS, AND REMOVAL OF MEMBERS; PROVIDING FOR REIMBURSEMENT OF EXPENDITURES; MAKING ATTENDANCE REQUIREMENTS; DESIGNATING LEGAL COUNSEL FOR THE PLANNING COMMISSION; ~~DESIGNATING PURPOSES AND AUTHORITY;~~ STATING REQUIREMENTS FOR MEETINGS AND VOTING; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.



**WHEREAS**, the Board of County Commissioners desires to repeal its initial Planning Commission Ordinance adopted December 20, 1983, and amendments thereto of October 22, 1991, April 1, 1993 and March 21, 2002, and to reaffirm the creation of the Lincoln County Planning Commission; and,

**WHEREAS**, the rapid changes in population, economic climate and land use within the County of Lincoln indicate that planning for effective, harmonious, and appropriate uses of the land be done in order to ensure Lincoln County as a desirable place to live and visit; and,

**WHEREAS**, Section 4-57-1 through 4-57-3 et. seq., N.M.S.A. 1978 Compilation provide that Counties may adopt ordinances to discharge those powers necessary and proper to provide for the safety, preserve the health and welfare, promote the prosperity, comfort and support the values of the County and its citizens,

**WHEREAS**, the creation and utilization of a Planning Commission for the purposes of advising the Board of County Commissioners and to promote planning and prevent unchecked growth and development would be in the best interests of the citizens of Lincoln County.

**NOW, THEREFORE**, be it enacted by the Board of County Commissioners of Lincoln County as follows:

**Section 1. Short Title.**

This Ordinance shall be known as the Lincoln County Planning Commission Ordinance.

**Section 2. Restating the Creation of Planning Commission.**

The Lincoln County Planning Commission was created under Ordinance adopted December 20, 1983, known as the Planning Commission Ordinance, and the creation of same is hereby reaffirmed. The purposes of the Planning Commission are to:

- A. Develop plans and/or recommend orderly and appropriate development within Lincoln County; and
- B. Serve in an advisory capacity to the Board of County Commissioners.

**Section 3. Members' Qualifications.**

In order to be eligible for appointment, the prospective member must be domiciled and registered to vote within the County of Lincoln. There shall be no requirement for an appointee to be domiciled in any particular voting district of the County.

**Section 4. Appointment.**

A. Planning Commission members shall serve at the pleasure of the Board of County Commissioners.

B. The Planning Commission shall consist of seven (7) members. All seven members shall be selected and appointed by the Board of County Commissioners. Each Commissioner shall nominate one member to the Planning Commission, with approval by majority vote of the Board of County Commissioners. Two at-large members will be selected and appointed by a majority vote of the Board of County Commissioners. In making appointments to the Planning Commission, the Board of County Commissioners shall give consideration both to maintaining a balance of interests and skills within the Planning Commission, and to the individual qualifications of the candidates, including their experience and knowledge of the County.

**Section 5. Terms.**

The regular term of each member of the Planning Commission shall be two (2) years. Each initial member will be appointed to a term of two years or less, so that there will be an overlapping of tenure of a majority of the members of the Planning Commission. Vacancies will be filled in the same manner as original appointments.

**Section 6. Removal.**

Removal of a member shall be by a majority vote by the Board of County Commissioners unless the member has failed the attendance requirement of Section 8 hereof, in which case removal is automatic, to be followed by formal notification of the Board of County Commissioners and of the former Planning Commission member.

**Section 7. Compensation.**

Members may receive mileage and per-diem compensation in accordance with Lincoln County Policy. Under special circumstances, and when approved in advance by and upon submission of a request to the County Manager, other mileage and/or per-diem compensation may be approved.

**Section 8. Attendance Requirements for Board Members.**

Any member of the Planning Commission who misses three (3) consecutive regular meetings, or four (4) regular or special meetings during any calendar year, shall automatically vacate his/her seat. Former members absent for cause under extenuating circumstances may apply for formal reappointment by the Board of County Commissioners.

**Section 9. Legal Counsel.**

The County Attorney or his designated representative shall be the legal advisor to the Lincoln County Planning Commission.

**Section 10. Purpose and Authority.**

The Commission shall make use of expert advise and information which may be secured from the appropriate Federal, State, County and Municipal Officials and Departments, and such other information as might be necessary to carry out the purposes of this Commission. Said Commission shall make and plan for the development of Lincoln County in accordance with existing and future needs in the best interests of Lincoln County and its residents, and may also review the necessary maps, plats, charts and other descriptive explanatory materials which shall show the Planning Commission's recommendations for the development of Lincoln County. The Planning Commission shall do all within its power to promote public interest in and an understanding of the Lincoln County Comprehensive Plan and may forward its recommendations or any report thereof along with recommended revisions to the Board of County Commissioners.

The responsibility of the Planning Commission is limited to the unincorporated areas of the County of Lincoln unless otherwise provided by subsequent ordinance.

- A. The Planning Commission shall act as a review body for the Board of County Commissioners and shall make recommendations to the Board of County Commissioners regarding development and development applications within the

unincorporated areas of Lincoln County, in accordance with NMSA 1978, §§4-57-1 through 4-57-3. Such planning shall be made with the general purpose of guiding development resulting in coordinated, appropriate and harmonious growth, which will, in accordance with existing and future needs, best promote health, safety, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development.

- B. The Planning Commission shall have the authority to call before it any and all department heads, officers, and employees of the County who shall, at the request of the Planning Commission, furnish within a reasonable time to said Commission such data, information, and reports as said Commission may require for its work.
- C. The Planning Commission shall be responsible for review of all Type-one, Type-two, and Type-four subdivision applications for compliance with the latest Lincoln County Subdivision Ordinance as amended, but not applications for:
  - 1. Type-three subdivisions, unless the land within a subdivision has been previously identified by the Board of County Commissioners of Lincoln County as an area subject to unique circumstances or conditions that require additional review; and
  - 2. All Type-five subdivisions.

The aforementioned subdivision applications are eligible for summary review procedure.

- D. Members of the Planning Commission, in the performance of its function, may:
  - 1. enter upon any land with permission of the land owner;
  - 2. make examinations and review of surveys of land in question; and
- E. The Board of County Commissioners shall have the authority to select and appoint a Chair and Vice Chair and such other officers as they may deem necessary. The powers and duties of such officers shall be such as may be established by said Commission by resolution. The Planning Commission shall have such other powers, authority and jurisdiction as may be from time to time delegated by resolution of the Board of County Commissioners.
- F. The Planning Commission shall periodically review and monitor the Lincoln County Comprehensive Plan and provide recommendations to the Board of County Commissioners.

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**Section 11. Meetings and Voting.**

- A. The Planning Commission shall meet at reasonable times and places as called by the Board of County Commissioners. All meetings shall be open to the public. Election of officers, meetings and keeping of records shall be as set forth by the Board of County Commissioners of Lincoln County in their Open Meetings Act resolution, as it may be amended.
- B. A majority of the members shall constitute a quorum at any meeting of the Planning Commission. If a quorum is present, the affirmative vote of the majority of the members present at the meeting shall be the act of the Planning Commission, unless otherwise required by law.
- C. There shall be no proxy voting.
- D. Planning Commission members are required to abstain from voting on any action in which their financial or personal interest or those of their immediate families are directly involved.
- E. The Planning Commission shall keep a record of its proceedings, a signed copy of which shall be on file for public inspection at the Office of the County Commission. The meetings shall be conducted in compliance with the open meetings provisions of NMSA 1978, §10-15-1, and according to rules of parliamentary procedure as adopted by the Board of County Commissioners. The Secretary of the Planning Commission shall take minutes of each meeting, regular or special, which shall contain a record of its resolutions, transactions, findings and determinations. Within ten (10) working days of any meeting, the Secretary shall forward a copy of the minutes to the County Manager. Notices shall be posted at the Lincoln County Courthouse on the officially designated bulletin boards, located as follows:
  - 1. Bulletin Board located in the Administration Building entrance of the Lincoln County Courthouse, Carrizozo, New Mexico.
  - 2. Notice of Regular Meetings will be posted a minimum of (72) hours prior to any meeting. An Agenda will be available twenty-four (24) hours prior to the meeting.
  - 3. Notice of Special Meetings will be posted seventy-two (72) hours prior to the meeting. An Agenda will be available twenty-four (24) hours prior to the meeting.
  - 4. Emergency meetings may be called by the Board of County Commissioners under circumstances which demand immediate action. Although emergency

meetings will be avoided whenever possible, such circumstances may occasionally arise.

Auxiliary aides for persons with disabilities who wish to attend meetings will be made available by contacting the County Manager at least one week prior to a meeting or as soon as possible.

**Section 12. The Powers and Duties of the Planning Commission may include the following:**

The Planning Commission shall cooperate with the Planning Manager and other employees of Lincoln County in preparing and recommending to the Board of County Commissioners modifications or revisions to the Lincoln County Comprehensive Plan.

The Planning Commissions shall possess, subject to the conditions and limitations set out elsewhere in this Ordinance, all other permissible powers necessary or convenient for it to accomplish the purposes of this Ordinance within its jurisdiction, including the following specific powers with the approval of the Lincoln County Board of County Commissioners:

- A. The County Planning Commission may recommend to the Board of County Commissioners programs for public improvements and their financing.
- B. The County Planning Commission is authorized to confer with other municipal, county, regional, state or federal agencies as it deems necessary and as authorized by the Board of County Commissioners.
- C. Investigate and make recommendations regarding the implementation of the Lincoln County Comprehensive Plan.
- D. Prepare and review land development regulations, including but not limited to subdivision and land partitioning, and make recommendations to the County Commission.
- E. Upon recommendation of the Board of County Commissioners, conduct hearings, prepare findings of fact, conclusions and recommendations, and perform other such duties relating to the counties ordinances as may be prescribed by law (e.g., variance and other applications or appeals).
- F. Perform such other functions as indicated by county or state laws or as requested by the Board of County Commissioners.
- G. Make application in the name of Lincoln County to any Federal or State agency or to any other source, public or private, for grants or other financial assistance to aid land use planning as authorized by the Board of County Commissioners.

- H. Recommend fees, or other charges for County planning matters to accomplish the purposes set out in this Ordinance upon approval by the Board of County Commissioners.
- I. Select, supervise and coordinate with any consultant or consultants the preparation of any development, or master plans for Lincoln County, only with Board of County Commissioners approval.
- J. Recommend approval or recommend disapproval of subdivision applications submitted to the Planning Commission for review; and
- K. Perform any other functions which may be designated by the Board of County Commissioners.

**Section 13. Repeal and Effective Date.**

This Ordinance repeals the Lincoln County Planning Commission Ordinance adopted December 20, 1983, and the amendments thereto adopted October 22, 1991, April 1, 1993, and March 21, 2002. This Ordinance shall become effective thirty days after its filing with the County Clerk

**Section 14. Severability Clause.**

It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be deemed severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections hereof.

**Section 15. Conflict.**

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 16. Effective Date.**

This Ordinance shall take effect thirty days after recording of this Ordinance in the Public Records of Lincoln County, New Mexico.

**Section 17. Immunity from Certain Liability.**

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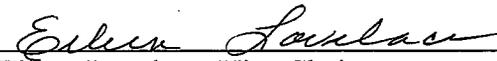
The Planning Commission shall be construed to be a part of Lincoln County and shall have the same immunity and exemption from tort liability and negligence as the County, and the members, officers, agents and employers of the Commission in the performance of the work of the Planning Commission shall have the same immunity and exemption from tort liability and negligence as the officers, agents and employees of the County when in the performance of their public duties or work of the County. The County shall maintain liability insurance covering the Planning Commission, its members and employees.

**PASSED, APPROVED, and ADOPTED** this 19<sup>th</sup> day of August, 2008.

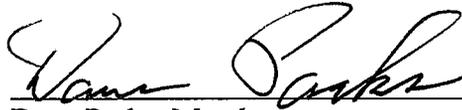
**BOARD OF COMMISSIONERS OF  
THE COUNTY OF LINCOLN, NEW MEXICO**



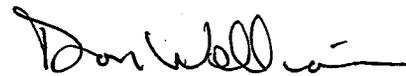
Tom Battin, Chair



Eileen Lovelace, Vice Chair



Dave Parks, Member



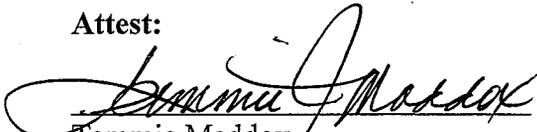
Don Williams, Member



Jackie Powell, Member



**Attest:**



Tammie Maddox  
Lincoln County Clerk

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