

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. C/S O-25-83

ENACTMENT NO. 0.2025.031

SPONSORED BY: Joaquín Baca, by request

ORDINANCE

REPEALING CHAPTER 14, ARTICLE 5, PART 1 AND PART 2 (THE FLOOD HAZARD AND DRAINAGE ORDINANCES), ADOPTING A NEW “FLOOD DAMAGE PREVENTION ORDINANCE” IN ITS PLACE, AND AMENDING THE TITLE OF CHAPTER 14.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. The Flood Hazard and Draining Ordinances, Chapter 14, Article 5, Part 1 and Part 2 of the Revised Ordinances of Albuquerque, are hereby repealed in their entirety.

SECTION 2. A new “Flood Damage Prevention Ordinance” is hereby adopted as Chapter 14, Article 5 of the Revised Ordinances of Albuquerque, as follows:

ARTICLE 5: FLOOD DAMAGE PREVENTION ORDINANCE

PART 1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND METHODS

§ 14-5-1-1 STATUTORY AUTHORIZATION

The Legislature of the State of New Mexico has in NMSA 1978, Section 3-18-7 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Council of the City of Albuquerque, New Mexico does ordain as follows:

§ 14-5-1-2 FINDINGS OF FACT

(1) The flood hazard areas of the City of Albuquerque are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and

1 extraordinary public expenditures for flood protection and relief, all of which
2 adversely affect the public health, safety and general welfare.

3 (2) These flood losses are created by the cumulative effect of obstructions
4 in floodplains which cause an increase in flood heights and velocities, and by
5 the occupancy of flood hazard areas by uses vulnerable to floods and
6 hazardous to other lands because they are inadequately elevated,
7 floodproofed or otherwise protected from flood damage.

8 § 14-5-1-3 STATEMENT OF PURPOSE

9 It is the purpose of this Ordinance to promote the public health, safety and
10 general welfare and to minimize public and private losses due to flood
11 conditions in specific areas by provisions designed to:

12 (1) Protect human life and health.

13 (2) Minimize expenditure of public money for costly flood control
14 projects.

15 (3) Minimize the need for rescue and relief efforts associated with
16 flooding and generally undertaken at the expense of the general public.

17 (4) Minimize prolonged business interruptions.

18 (5) Minimize damage to public and private property, public facilities and
19 utilities such as water and gas mains, electric, telephone and sewer lines,
20 streets and bridges located in floodplains.

21 (6) Help maintain a stable tax base by providing for the sound use and
22 development of flood-prone areas in such a manner as to minimize future
23 flood blight areas.

24 (7) Ensure that potential buyers are notified that property is in a flood
25 area.

26 (8) Ensure that those who occupy the areas of special flood hazard
27 assume responsibility for their actions.

28 (9) Provide for timely and effective construction and maintenance of
29 flood control facilities.

30 (10) Preserve the capacity of flood control and storm drainage facilities
31 to accept, convey or store drainage flows by limiting the introduction of
32 groundwater cleanup flows to such flood control and storm drainage facilities.

1 (11) Prevent the creation of public safety hazards and seek to eliminate
2 existing problems.

3 (12) Minimize the discharge of storm runoff from public facilities onto
4 private property.

5 (13) Minimize damage to private property caused by storm runoff from
6 other private property.

7 (14) Provide a reasonable level of public health and convenience at
8 reasonable cost.

9 (15) As to stormwater control, sediment and erosion control to:

10 (i) Help protect the hydraulic capacity of flood control and storm
11 drainage facilities from losses due to sedimentation, trash, debris, and other
12 such stormwater constituents, and degradation.

13 (ii) Preserve public health, safety and convenience from jeopardy
14 due to quality impairment, erosion and sedimentation in private and public
15 facilities of all types.

16 (iii) Preserve the quality of the surface runoff.

17 (16) As relating to groundwater cleanup impacts to storm flow water
18 quality, to limit the quantity, quality, frequency, location and means of
19 introduction of groundwater cleanup flows into flood and storm drainage
20 control systems in order that such introductions do not result in a mixed flow
21 of lower quality than that of flood or storm flows without such introductions of
22 groundwater cleanup flows or of lower quality than adopted federal, state and
23 city standards, whichever is most stringent.

24 (17) As to stormwater quality to:

25 (i) Address construction and post-construction stormwater quality
26 management within the limits of New Mexico water law and within flood
27 control agency authorities and limitations.

28 (ii) Work cooperatively with the MRGCD, AMAFCA, and the County of
29 Bernalillo and other co-permittees, to best manage the discharge of storm
30 runoff into co-permittee facilities, maximize efficient use of stormwater quality
31 facilities, and minimize impact on downstream water quality and storm
32 drainage facilities.

33 § 14-5-1-4 METHODS OF REDUCING FLOOD LOSSES

1 In order to accomplish its purposes, this Ordinance uses the following
2 methods:

3 (1) Restrict or prohibit uses that are dangerous to health, safety or
4 property in times of flood, or cause excessive increases in flood heights or
5 velocities.

6 (2) Require that uses vulnerable to floods, including facilities which
7 serve such uses, be protected against flood damage at the time of initial
8 construction.

9 (3) Control the alteration of natural floodplains, stream channels, and
10 natural protective barriers, which are involved in the accommodation of flood
11 waters.

12 (4) Control filling, grading, dredging and other development which may
13 increase flood damage.

14 (5) Prevent or regulate the construction of flood barriers which will
15 unnaturally divert flood waters, or which may increase flood hazards to other
16 lands.

17 **PART 2: DEFINITIONS**

18 **§ 14-5-2-1 DEFINITIONS**

19 Unless specifically defined below, words or phrases used in this Ordinance
20 shall be interpreted to give them the meaning they have in common usage and
21 to give this Ordinance its most reasonable application.

22 **ACCESSORY STRUCTURES** - Means structures that are on the same
23 parcel of property as a principal structure, the use of which is incidental to the
24 use of the principal structure. Accessory structures must be used for parking
25 or storage, be small and represent a minimal investment by owners, and have
26 low damage potential. Accessory structure size limits based on flood zone, no
27 larger than a one story, two-car garage in flood zones identified as A zones (A,
28 AE, A1-30, AH, AO, A99, and AR) and not larger than 100 square feet in flood
29 zones identified as V zones (V, VE, V1-30, and VO). Examples of small
30 accessory structures include, but are not limited to, detached garages,
31 storage and tool sheds, and small boathouses.

32 **AGRICULTURAL STRUCTURES** - Means structures that are used
33 exclusively for agricultural purposes or uses in connection with the

1 production, harvesting, storage, raising, or drying of agricultural commodities
2 and livestock.

3 **ALLUVIAL FAN FLOODING** - Means flooding occurring on the surface of
4 an alluvial fan or similar landform which originates at the apex and is
5 characterized by high-velocity flows; active processes of erosion, sediment
6 transport, and deposition; and unpredictable flow paths.

7 **AMAFCA** - The Albuquerque Metropolitan Arroyo Flood Control
8 Authority.

9 **APEX** - Means a point on an alluvial fan or similar landform below which
10 the flow path of the major stream that formed the fan becomes unpredictable
11 and alluvial fan flooding can occur.

12 **APPEAL** - A request for a review of the City Engineer's interpretation of
13 any provision of this Flood Damage Prevention Ordinance or a decision on a
14 request for a variance.

15 **APPURTENANT STRUCTURE** - Means a structure which is on the same
16 parcel of property as the principal structure to be insured and the use of which
17 is incidental to the use of the principal structure.

18 **AREA OF FUTURE CONDITIONS FLOOD HAZARD** - Means the land area
19 that would be inundated by the 1-percent-annual chance (100 year) flood
20 based on future hydrological conditions.

21 **AREA OF SHALLOW FLOODING** - Means a designated AO, AH, AR/AO,
22 AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a
23 1 percent or greater annual chance of flooding to an average depth of 1 to 3
24 feet where a clearly defined channel does not exist, where the path of flooding
25 is unpredictable and where velocity flow may be evident. Such flooding is
26 characterized by ponding or sheet flow.

27 **AREA OF SPECIAL FLOOD HAZARD** - Is the land in the floodplain within
28 a community subject to a 1 percent or greater chance of flooding in any given
29 year. The area may be designated as Zone A on the Flood Hazard Boundary
30 Map (FHBM). After detailed rate making has been completed in preparation for
31 publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30,
32 AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

1 **BASE FLOOD** - Means the flood having a 1 percent chance of being
2 equaled or exceeded in any given year.

3 **BASE FLOOD ELEVATION (BFE)** - The elevation shown on the Flood
4 Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance
5 Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the
6 water surface elevation resulting from the flood that has a 1% chance of
7 equaling or exceeding that level in any given year - also called the Base
8 Flood.

9 **BASEMENT** - Means any area of the building having its floor subgrade
10 (below ground level) on all sides.

11 **BMPs - Best Management Practices.** Those best management practices
12 described within the MS4 Permit.

13 **BREAKAWAY WALL** - Means a wall that is not part of the structural
14 support of the building and is intended through its design and construction to
15 collapse under specific lateral loading forces, without causing damage to the
16 elevated portion of the building or supporting foundation system.

17 **CHANNEL** - Any natural or constructed drainage facility, including but
18 not limited to an arroyo, stream, swale, ditch, diversion, or water course that
19 conveys storm runoff.

20 **CHANNEL STABILITY** - A condition in which a channel neither degrades
21 to the degree that structures, utilities or private property are endangered, nor
22 aggrades to the degree that flow capacity is significantly diminished as a
23 result of one or more storm runoff events or moves laterally to the degree that
24 adjacent property is endangered.

25 **CHANNEL TREATMENT MEASURE** - A physical alteration of a channel
26 for any purpose.

27 **CIP** - The City's Capital Improvement Program.

28 **CITY ATTORNEY** - The chief legal counsel for the City or their designee.

29 **CITY ENGINEER** - The chief administrative engineer of the Engineering
30 Division of the Planning Department of the City or their designee.

31 **CITY HYDROLOGIST** - A staff professional Engineer designated by the
32 City Engineer to exercise primary responsibility for drainage control, flood
33 control and erosion control matters assigned to the office of the City Engineer.

1 **COMPREHENSIVE PLAN - The Albuquerque/Bernalillo County**
2 **Comprehensive Plan and amendments thereto.**

3 **CONCEPTUAL GRADING AND DRAINAGE PLAN - A plan prepared in**
4 **graphical format showing existing and proposed grading, drainage control,**
5 **flood control, runoff management and erosion control information in sufficient**
6 **detail to determine project feasibility.**

7 **CONSTRUCTION GENERAL PERMIT - The National Pollutant Discharge**
8 **Elimination System General Permit for Discharges from Construction**
9 **Activities, most current version.**

10 **COOPERATOR/COOPERATIVE AGREEMENT - Any arrangement,**
11 **organization, or joint functioning of the co-permittees, or in combination with**
12 **other governmental agencies, which works constructively with the City to**
13 **address mutual stormwater and/or stormwater quality issues.**

14 **CRITICAL FEATURE - Means an integral and readily identifiable part of a**
15 **flood protection system, without which the flood protection provided by the**
16 **entire system would be compromised.**

17 **DESIGN STORM - A storm which deposits a specific amount of**
18 **precipitation within a specified period over a defined area. Used in calculating**
19 **storm runoff and in designing structural and operational measures for**
20 **drainage, flood, stormwater control, and erosion control.**

21 **DEVELOPED LAND - Any lot or parcel of land occupied by an artificial**
22 **surface or by any structure intended for human occupation, including**
23 **structures intended for commercial enterprise.**

24 **DEVELOPER - Any individual, public entity, estate, trust, receiver,**
25 **cooperative association, club, corporation, company, firm, partnership, joint**
26 **venture, syndicate or other entity engaging in the platting, subdivision, filling,**
27 **grading, paving, excavating, or construction of structures. Farming related**
28 **work is exempted as is AMAFCA Operations and Maintenance.**

29 **DEVELOPMENT - Means any man-made change to improved and**
30 **unimproved real estate, including but not limited to buildings or other**
31 **structures, mining, dredging, filling, grading, paving, excavation or drilling**
32 **operations or storage of equipment or materials.**

1 **DEVELOPMENT PROCESS MANUAL (DPM)** - A compilation of City
2 legislative requirements and administrative rules and procedures governing
3 development activities in the Albuquerque area.

4 **DOWNSTREAM CAPACITY** - The ability of downstream major facilities
5 to accept and safely convey runoff generated upstream from the 100-year
6 design storm.

7 **DRAINAGE** - Storm drainage.

8 **DRAINAGE CONTROL** - The treatment and/or management of surface
9 runoff from all storms up to and including a 10-year Design Storm.

10 **DRAINAGE MANAGEMENT PLAN** - A comprehensive drainage analysis
11 and report which covers a large area or an entire basin or watershed. A
12 Drainage Management Plan may include descriptions of infrastructure needed
13 to solve existing or anticipated drainage and flood control problems and may
14 establish allowable discharge rates and/or volumes and stormwater controls
15 for future development within the boundaries of the plan.

16 **DRAINAGE PLAN** - A short, detailed plan prepared in graphical format
17 with or on a detailed grading plan addressing on-site and off-site drainage
18 control, flood control, stormwater control, and erosion control issues for a lot
19 or parcel of less than five acres.

20 **DRAINAGE REPORT** - A comprehensive analysis of the drainage, flood
21 control, stormwater control, and erosion control constraints on and impacts
22 resulting from a proposed platting, development or construction project.

23 **DRAINAGE RIGHT-OF-WAY** - A public right-of-way acquired, whether in
24 fee or in easement, by the City, County, AMAFCA, or the State for the primary
25 purpose of handling storm drainage.

26 **80TH PERCENTILE STORM EVENT** - The runoff from a precipitation
27 event that is less than or equal to 80 percent of all rainfall events. The 80th
28 percentile storm event applies to projects where developed land is being
29 redeveloped. The volume to be managed is stated in the Development Process
30 Manual.

31 **ELEVATED BUILDING** - Means, for insurance purposes, a non-basement
32 building, which has its lowest elevated floor, raised above ground level by
33 foundation walls, shear walls, posts, piers, pilings, or columns.

1 **EROSION AND SEDIMENT CONTROL** - Treatment measures for the
2 prevention of damages due to soil movement and to deposition from the two-
3 year, 24-hour design storm runoff.

4 **EROSION AND SEDIMENT CONTROL PLAN** - A plan prepared by a
5 licensed New Mexico Professional Engineer or Certified Professional in
6 Erosion and Sediment Control (CPESC) submitted to ensure that minimum
7 design standards are met to reduce potential pollutants that may result from
8 demolition and construction activities.

9 **EXISTING CONSTRUCTION** - Means for the purposes of determining
10 rates, structures for which the "start of construction" commenced before the
11 effective date of the FIRM or before January 1, 1975, for FIRMs effective before
12 that date. "Existing construction" may also be referred to as "existing
13 structures."

14 **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - Means a
15 manufactured home park or subdivision for which the construction of facilities
16 for servicing the lots on which the manufactured homes are to be affixed
17 (including, at a minimum, the installation of utilities, the construction of
18 streets, and either final site grading or the pouring of concrete pads) is
19 completed before the effective date of the floodplain management regulations
20 adopted by a community.

21 **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR**
22 **SUBDIVISION** - Means the preparation of additional sites by the construction
23 of facilities for servicing the lots on which the manufactured homes are to be
24 affixed (including the installation of utilities, the construction of streets, and
25 either final site grading or the pouring of concrete pads).

26 **FARMING** - Working of the soil for agricultural purposes that does not
27 change the historic flow path or significantly change the amount of runoff
28 from the worked area.

29 **FLOOD OR FLOODING** - Means a general and temporary condition of
30 partial or complete inundation of normally dry land areas from:

31 (1) the overflow of inland or tidal waters.

32 (2) the unusual and rapid accumulation or runoff of surface waters from
33 any source.

1 FLOOD CONTROL - The treatment measures necessary to protect life
2 and property from the 100-year design storm runoff.

3 FLOOD ELEVATION STUDY - Means an examination, evaluation and
4 determination of flood hazards and, if appropriate, corresponding water
5 surface elevations, or an examination, evaluation and determination of
6 mudslide (i.e., mudflow) and/or flood-related erosion hazards.

7 FLOOD HAZARD AREA - An area subject to inundation from the 100-
8 year design storm runoff.

9 FLOOD INSURANCE RATE MAP (FIRM) - Means an official map of a
10 community, on which the Federal Emergency Management Agency has
11 delineated both the special flood hazard areas and the risk premium zones
12 applicable to the community.

13 FLOOD INSURANCE STUDY (FIS) - See *Flood Elevation Study*.

14 FLOODPLAIN OR FLOOD-PRONE AREA - Means any land area
15 susceptible to being inundated by water from any source (see definition of
16 flooding).

17 FLOODPLAIN MANAGEMENT - Means the operation of an overall
18 program of corrective and preventive measures for reducing flood damage,
19 including but not limited to emergency preparedness plans, flood control
20 works and floodplain management regulations.

21 FLOODPLAIN MANAGEMENT REGULATIONS - Means zoning
22 ordinances, subdivision regulations, building codes, health regulations,
23 special purpose ordinances (such as a floodplain ordinance, grading
24 ordinance and erosion control ordinance) and other applications of police
25 power. The term describes such state or local regulations, in any combination
26 thereof, which provide standards for the purpose of flood damage prevention
27 and reduction.

28 FLOOD PROTECTION SYSTEM - Means those physical structural works
29 for which funds have been authorized, appropriated, and expended and which
30 have been constructed specifically to modify flooding in order to reduce the
31 extent of the area within a community subject to a "special flood hazard" and
32 the extent of the depths of associated flooding. Such a system typically
33 includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These

1 specialized flood modifying works are those constructed in conformance with
2 sound engineering standards.

3 FLOOD PROOFING - Means any combination of structural and non-
4 structural additions, changes, or adjustments to structures which reduce or
5 eliminate flood damage to real estate or improved real property, water and
6 sanitary facilities, structures and their contents.

7 FLOODWAY - See *Regulatory Floodway*.

8 FREEBOARD - The additional height in a drainage or flood control
9 facility above the design water surface elevation available for storage or flow
10 capacity.

11 FULLY DEVELOPED WATERSHED - A hydrologic condition in which all
12 areas upstream and downstream of a point in question are assumed
13 completely developed, including any undeveloped areas which are assumed
14 to be developed in accordance with mid-range development densities as
15 established by the Comprehensive Plan, appropriate area plans or sector
16 plans, adopted facilities master plans and the hydraulic and hydrologic
17 standards established by this Flood Damage Prevention Ordinance.

18 FUNCTIONALLY DEPENDENT USE - Means a use, which cannot perform
19 its intended purpose unless it is located or carried out in close proximity to
20 water. The term includes only docking facilities, port facilities that are
21 necessary for the loading and unloading of cargo or passengers, and ship
22 building and ship repair facilities, but does not include long-term storage or
23 related manufacturing facilities.

24 GI/LID, GREEN INFRASTRUCTURE (GI), LOW IMPACT DEVELOPMENT
25 (LID) - Any array of products, technologies, and practices that preserve or use
26 natural systems, or engineered systems that mimic natural processes and
27 systems, to enhance overall environmental quality and more specifically that
28 provide treatment resulting in stormwater quality improvement, as specified in
29 the DPM.

30 GRADING PLAN - A plan describing the existing topography and
31 proposed grading, including retaining wall locations and details, interfaces
32 with adjacent properties, streets, alleys and channels, referenced to mean sea
33 level based on a City Benchmark, and showing sufficient contours, spot

1 elevations, stormwater controls, and cross-sections to allow a clear
2 understanding by reviewers, contractors and inspectors.

3 **GROUNDWATER CLEANUP** - The process necessary to remove
4 contaminants, as defined by state and/or federal groundwater standards, from
5 groundwater for the purpose of restoring the water quality of the aquifer.

6 **HIGHEST ADJACENT GRADE** - Means the highest natural elevation of
7 the ground surface prior to construction next to the proposed walls of a
8 structure.

9 **HISTORIC STRUCTURE** - Means any structure that is:

10 (1) Listed individually in the National Register of Historic Places (a
11 listing maintained by the Department of Interior) or preliminarily determined by
12 the Secretary of the Interior as meeting the requirements for individual listing
13 on the National Register.

14 (2) Certified or preliminarily determined by the Secretary of the Interior
15 as contributing to the historical significance of a registered historic district or
16 a district preliminarily determined by the Secretary to qualify as a registered
17 historic district.

18 (3) Individually listed on a state inventory of historic places in states
19 with historic preservation programs which have been approved by the
20 Secretary of the Interior.

21 (4) Individually listed on a local inventory of historic places in
22 communities with historic preservation programs that have been certified
23 either:

24 (a) By an approved state program as determined by the Secretary of
25 the Interior; or

26 (b) Directly by the Secretary of the Interior in states without approved
27 programs.

28 **LARGER COMMON PLAN OF DEVELOPMENT** - A contiguous area
29 where multiple separate and distinct construction activities may be taking
30 place at different times on different schedules under one plan.

31 **LEVEE** - Means a man-made structure, usually an earthen embankment,
32 designed and constructed in accordance with sound engineering practices to

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

1 contain, control, or divert the flow of water so as to provide protection from
2 temporary flooding.

3 **LEVEE SYSTEM** - Means a flood protection system which consists of a
4 levee, or levees, and associated structures, such as closure and drainage
5 devices, which are constructed and operated in accordance with sound
6 engineering practices.

7 **LOWEST FLOOR** - Means the lowest floor of the lowest enclosed area
8 (including basement). An unfinished or flood resistant enclosure, usable
9 solely for parking or vehicles, building access or storage in an area other than
10 a basement area is not considered a building's lowest floor, provided that
11 such enclosure is not built so as to render the structure in violation of the
12 applicable non-elevation design requirement of Section 60.3 of the National
13 Flood Insurance Program regulations.

14 **MAINTENANCE** - The cleaning, shaping, grading, repair and minor
15 replacement of drainage, flood control and erosion control facilities, but not
16 including the cost of power consumed in the normal operation of pump
17 stations.

18 **MAJOR ARROYO** - Any channel whose watershed exceeds 320 acres in
19 a 100-year design storm whether such watershed is in its natural or unaltered
20 state or has been altered by development, runoff diversions, or detention
21 facilities.

22 **MANAGEMENT ON SITE** - To control, direct, and treat the stormwater
23 quality volume on the property, or if from an area of common development,
24 then at an alternate location designed for stormwater management or as
25 otherwise approved by the City Engineer. The control and treatment will be for
26 water quality and/or flood volume purposes prior to discharge of the
27 stormwater to the City's MS4. Nothing in this definition shall be construed to
28 require an action which is contrary to state law, or to written state agency
29 guidance regarding flood control or surface water capture, or which requires
30 acquisition or amendment of a water right to legally implement.

31 **MANUFACTURED HOME** - Means a structure transportable in one or
32 more sections, which is built on a permanent chassis and is designed for use
33 with or without a permanent foundation when connected to the required

1 utilities. The term "manufactured home" does not include a "recreational
2 vehicle".

3 **MANUFACTURED HOME PARK OR SUBDIVISION** - Means a parcel (or
4 contiguous parcels) of land divided into two or more manufactured home lots
5 for rent or sale.

6 **MASTER PLANNED FACILITY** - Any drainage control, flood control or
7 erosion control facility recommended in the adopted "Albuquerque Master
8 Drainage Plan" (1981), amendments thereto, or any approved Drainage
9 Management or Drainage Master Plan, or any voter approved general
10 obligation bond financed drainage control, flood control or erosion control
11 facility.

12 **MEAN SEA LEVEL** - Means, for purposes of the National Flood
13 Insurance Program, the North American Vertical Datum (NAVD) of 1988 or
14 other datum, to which base flood elevations shown on a community's Flood
15 Insurance Rate Map are referenced.

16 **MULTIPLE USE FACILITY** - A drainage control, flood control or erosion
17 control facility in which other secondary uses are planned or allowed,
18 including but not limited to recreation, open space, transportation and utility
19 location.

20 **NEW CONSTRUCTION** - Means, for the purpose of determining
21 insurance rates, structures for which the "start of construction" commenced
22 on or after the effective date of an initial FIRM or after December 31, 1974,
23 whichever is later, and includes any subsequent improvements to such
24 structures. For floodplain management purposes, "new construction" means
25 structures for which the "start of construction" commenced on or after the
26 effective date of a floodplain management regulation adopted by a community
27 and includes any subsequent improvements to such structures.

28 **NEW MANUFACTURED HOME PARK OR SUBDIVISION** - Means a
29 manufactured home park or subdivision for which the construction of facilities
30 for servicing the lots on which the manufactured homes are to be affixed
31 (including at a minimum, the installation of utilities, the construction of
32 streets, and either final site grading or the pouring of concrete pads) is

completed on or after the effective date of floodplain management regulations adopted by a community.

90TH PERCENTILE STORM EVENT - The runoff from a precipitation event that is less than or equal to 90% of all rainfall events. The 90th percentile storm event applies to new development. The volume to be managed is stated in the Development Process Manual.

NUISANCE WATERS - Those waters leaving a site and entering a public street that do not result from precipitation. Examples include landscape overwatering or car washing.

100-YEAR DESIGN STORM - That storm whose precipitation within a six-hour period and resulting runoff has a 1% chance of being equaled or exceeded in any given year.

PAYMENT-IN-LIEU FOR PUBLIC OFF-SITE MITIGATION ("PAYMENT IN LIEU") - A payment collected and used by the City, or collected by the City and distributed to a cooperator for its use pursuant to an agreement with the City, for purposes of the maintenance, retrofit, or upgrade of public drainage infrastructure for stormwater quality improvements, and made in lieu of management on-site or private off-site mitigation.

PRIVATE OFFSITE MITIGATION - Approved management of the stormwater quality volume or a portion of the stormwater quality volume at a private offsite location. The private offsite location may be an existing facility, or the facility may be constructed or modified to manage the stormwater quality volume.

PRIVATE STORMWATER FACILITY - A stormwater facility on private property.

PROJECT - Any activity which disturbs or exposes the surface of the ground to erosion. Farming activities are exempt.

PUBLIC STORMWATER FACILITY - Any stormwater facility within public property, public right-of-way or a public drainage easement.

RECREATIONAL VEHICLE - Means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent

1 dwelling but as temporary living quarters for recreational, camping, travel, or
2 seasonal use.

3 REDEVELOPMENT - Improvements made to a parcel of land that was
4 previously developed (see "new development").

5 REGULATORY FLOODWAY - Means the channel of a river or other
6 watercourse and the adjacent land areas that must be reserved in order to
7 discharge the base flood without cumulatively increasing the water surface
8 elevation more than a designated height.

9 RIVERINE - Means relating to, formed by, or resembling a river
10 (including tributaries), stream, brook, etc.

11 SPECIAL FLOOD HAZARD AREA - See *Area of Special Flood Hazard*.

12 START OF CONSTRUCTION - For other than new construction or
13 substantial improvements under the Coastal Barrier Resources Act (Pub. L.
14 97-348), includes substantial improvement and means the date the building
15 permit was issued, provided the actual start of construction, repair,
16 reconstruction, rehabilitation, addition placement, or other improvement was
17 within 180 days of the permit date. The actual start means either the first
18 placement of permanent construction of a structure on a site, such as the
19 pouring of slab or footings, the installation of piles, the construction of
20 columns, or any work beyond the stage of excavation; or the placement of a
21 manufactured home on a foundation. Permanent construction does not
22 include land preparation, such as clearing, grading and filling; nor does it
23 include the installation of streets and/or walkways; nor does it include
24 excavation for basement, footings, piers or foundations or the erection of
25 temporary forms; nor does it include the installation on the property of
26 accessory buildings, such as garages or sheds not occupied as dwelling units
27 or not part of the main structure. For a substantial improvement, the actual
28 start of construction means the first alteration of any wall, ceiling, floor, or
29 other structural part of a building, whether or not that alteration affects the
30 external dimensions of the building.

31 STORMWATER CONTROL MEASURE (SCM) - Any Best Management
32 Practice, or combination thereof, aimed at reducing pollutants from entering
33 the Rio Grande.

1 **STORMWATER CONTROL PERMIT FOR EROSION AND SEDIMENT**
2 **CONTROL** - A permit issued to authorize work to be performed as regulated
3 and authorized by this Flood Damage Prevention Ordinance.

4 **STORMWATER QUALITY VOLUME** - See 80th Percentile and 90th
5 Percentile storm events.

6 **STRUCTURE** - Means, for floodplain management purposes, a walled
7 and roofed building, including a gas or liquid storage tank, that is principally
8 above ground, as well as a manufactured home.

9 **SUBSTANTIAL DAMAGE** - Means damage of any origin sustained by a
10 structure whereby the cost of restoring the structure to its before damaged
11 condition would equal or exceed 50 percent of the market value of the
12 structure before the damage occurred.

13 **SUBSTANTIAL IMPROVEMENT** - Means any reconstruction,
14 rehabilitation, addition, or other improvement of a structure, the cost of which
15 equals or exceeds 50 percent of the market value of the structure before "start
16 of construction" of the improvement. This term includes structures which
17 have incurred "substantial damage", regardless of the actual repair work
18 performed. The term does not, however, include either: (1) Any project for
19 improvement of a structure to correct existing violations of state or local
20 health, sanitary, or safety code specifications which have been identified by
21 the local code enforcement official and which are the minimum necessary to
22 assure safe living conditions or (2) Any alteration of a "historic structure",
23 provided that the alteration will not preclude the structure's continued
24 designation as a "historic structure", or any construction or alteration of a
25 structure less than 250 square feet when measured in plan view.

26 **TEMPORARY DRAINAGE FACILITY** - A nonpermanent drainage control,
27 flood control or erosion control facility constructed as part of a phased project
28 or to serve until such time that a permanent facility is in place, including but
29 not limited to desilting ponds, berms, diversions, channels, detention and
30 retention ponds, bank protection and channel stabilization measures.

31 **10-YEAR DESIGN STORM** - That storm whose precipitation within a six-
32 hour period and resulting runoff has a 10% chance of being equaled or
33 exceeded in any given year.

1 **TRAFFIC ENGINEER** - A staff Professional Engineer designated by the
2 City Engineer to exercise primary responsibility for transportation matters
3 assigned.

4 **VARIANCE** - Means a grant of relief by a community from the terms of a
5 floodplain management regulation. (For full requirements see Section 60.6 of
6 the National Flood Insurance Program regulations.)

7 **VIOLATION** - Means the failure of a structure or other development to be
8 fully compliant with the community's floodplain management regulations. A
9 structure or other development without the elevation certificate, other
10 certifications, or other evidence of compliance required in Section 60.3(b)(5),
11 (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of Code of Federal Regulations is
12 presumed to be in violation until such time as that documentation is provided.

13 **WATER SURFACE ELEVATION** - Means the height, in relation to the
14 North American Vertical Datum (NAVD) of 1988 (or other datum, where
15 specified), of floods of various magnitudes and frequencies in the floodplains
16 of riverine areas.

17 **PART 3: GENERAL PROVISIONS**

18 **§ 14-5-3-1 LANDS TO WHICH THIS ORDINANCE APPLIES**

19 The ordinance shall apply to all areas of special flood hazard with the
20 jurisdiction of the City of Albuquerque, which includes its extraterritorial
21 planning and platting jurisdiction.

22 **§ 14-5-3-2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD**
23 **HAZARD**

24 The areas of special flood hazard identified by the Federal Emergency
25 Management Agency in the current scientific and engineering report entitled,
26 "The Flood Insurance Study (FIS) for Bernalillo County, New Mexico," dated
27 November 4, 2016, with accompanying Flood Insurance Rate Maps and/or
28 Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated November 4, 2016,
29 and any revisions thereto are hereby adopted by reference and declared to be
30 a part of this Ordinance.

31 **§ 14-5-3-3 ESTABLISHMENT OF DEVELOPMENT PERMIT**

32 A Floodplain Development Permit shall be required to ensure conformance
33 with the provisions of this Ordinance.

1 **§ 14-5-3-4 COMPLIANCE**

2 No structure or land shall hereafter be located, altered, or have its use
3 changed without full compliance with the terms of this Ordinance and other
4 applicable regulations.

5 **§ 14-5-3-5 ABROGATION AND GREATER RESTRICTIONS**

6 This Ordinance is not intended to repeal, abrogate, or impair any existing
7 easements, covenants, or deed restrictions. However, where this Ordinance
8 and another ordinance, easement, covenant, or deed restriction conflict or
9 overlap, whichever imposes the more stringent restrictions shall prevail.

10 **§ 14-5-3-6 INTERPRETATION**

11 In the interpretation and application of this Ordinance, all provisions shall
12 be:

13 (1) considered as minimum requirements;

14 (2) liberally construed in favor of the governing body;

15 (3) deemed neither to limit nor repeal any other powers granted under State
16 statutes; and

17 (4) Not deemed to repeal or limit any other ordinance adopted by the City
18 Council unless expressly so stated herein.

19 **§ 14-5-3-7 WARNING AND DISCLAIMER OR LIABILITY**

20 The degree of flood protection required by this Ordinance is considered
21 reasonable for regulatory purposes and is based on scientific and engineering
22 considerations. On rare occasions greater floods can and will occur and flood
23 heights may be increased by man-made or natural causes. This Ordinance
24 does not imply that land outside the areas of special flood hazards or uses
25 permitted within such areas will be free from flooding or flood damages. This
26 Ordinance shall not create liability on the part of the community or any official
27 or employee thereof for any flood damages that result from reliance on this
28 Ordinance or any administrative decision lawfully made hereunder.

29 **PART 4: ADMINISTRATION**

30 **§ 14-5-4-1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

31 The City Engineer is hereby appointed the Floodplain Administrator to
32 administer and implement the provisions of this Ordinance and other
33 appropriate sections of 44 CFR (Emergency Management and Assistance -

1 National Flood Insurance Program Regulations) pertaining to floodplain
2 management.

3 § 14-5-4-2 DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN
4 ADMINISTRATOR

5 Duties and responsibilities of the Floodplain Administrator shall include,
6 but not be limited to, the following:

7 (1) Maintain and hold open for public inspection all records pertaining to
8 the provisions of this Ordinance.

9 (2) Review permit application to determine whether to ensure that the
10 proposed building site project, including the placement of manufactured
11 homes, will be reasonably safe from flooding.

12 (3) Review, approve or deny all applications for development permits
13 required by adoption of this Ordinance.

14 (4) Review permits for proposed development to assure that all necessary
15 permits have been obtained from those Federal, State or local governmental
16 agencies (including Section 404 of the Federal Water Pollution Control Act
17 Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

18 (5) Where interpretation is needed as to the exact location of the
19 boundaries of the areas of special flood hazards (for example, where there
20 appears to be a conflict between a mapped boundary and actual field
21 conditions) the Floodplain Administrator shall make the necessary
22 interpretation.

23 (6) Notify, in riverine situations, adjacent communities, the State Engineer,
24 and the State Coordinating Agency which is the New Mexico Department of
25 Homeland Security and Emergency Management (DHSEM), prior to any
26 alteration or relocation of a watercourse, and submit evidence of such
27 notification to the Federal Emergency Management Agency.

28 (7) Assure that the flood carrying capacity within the altered or relocated
29 portion of any watercourse is maintained.

30 (8) When base flood elevation data has not been provided in accordance
31 with § 14-5-3-2, the Floodplain Administrator shall obtain, review and
32 reasonably utilize any base flood elevation data and floodway data available

1 from a Federal, State or other source, in order to administer the provisions of
2 § 14-5-5.

3 (9) When a regulatory floodway has not been designated, the Floodplain
4 Administrator must require that no new construction, substantial
5 improvements, or other development (including fill) shall be permitted within
6 Zones A1-30 and AE on the City of Albuquerque's FIRM, unless it is
7 demonstrated that the cumulative effect of the proposed development, when
8 combined with all other existing and anticipated development, will not
9 increase the water surface elevation of the base flood more than one foot at
10 any point within the community.

11 (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the
12 National Flood Insurance Program regulations, a community may approve
13 certain development in Zones A1-30, AE, AH, on the community's FIRM which
14 increases the water surface elevation of the base flood by more than 1 foot,
15 provided that the City of Albuquerque first completes all of the provisions
16 required by Section 65.12.

17 § 14-5-4-3 PERMIT PROCEDURES

18 (1) Application for a Floodplain Development Permit shall be presented to
19 the Floodplain Administrator on forms furnished by him/her and may include,
20 but not be limited to, plans in duplicate drawn to scale showing the location,
21 dimensions, and elevation of proposed landscape alterations, existing and
22 proposed structures, including the placement of manufactured homes, and the
23 location of the foregoing in relation to areas of special flood hazard.

24 Additionally, the following information is required:

25 (a) Elevation (in relation to mean sea level), of the lowest floor (including
26 basement) of all new and substantially improved structures.

27 (b) Elevation in relation to mean sea level to which any nonresidential
28 structure shall be floodproofed.

29 (c) A certificate from a registered professional engineer or architect that the
30 nonresidential floodproofed structure shall meet the floodproofing criteria of §
31 14-5-5-2(2).

32 (d) Description of the extent to which any watercourse or natural drainage
33 will be altered or relocated as a result of proposed development.

1 (e) Maintain a record of all such information in accordance with § 14-5-4-
2 2(2).

3 (2) Approval or denial of a Floodplain Development Permit by the
4 Floodplain Administrator shall be based on all of the provisions of this
5 Ordinance and the following relevant factors:

6 (a) The danger to life and property due to flooding or erosion damage.

7 (b) The susceptibility of the proposed facility and its contents to flood
8 damage and the effect of such damage on the individual owner.

9 (c) The danger that materials may be swept onto other lands to the injury of
10 others.

11 (d) The compatibility of the proposed use with existing and anticipated
12 development.

13 (e) The safety of access to the property in times of flood for ordinary and
14 emergency vehicles.

15 (f) The costs of providing governmental services during and after flood
16 conditions including maintenance and repair of streets and bridges, and
17 public utilities and facilities such as sewer, gas, electrical and water systems.

18 (g) The expected heights, velocity, duration, rate of rise and sediment
19 transport of the floodwaters and the effects of wave action, if applicable,
20 expected at the site.

21 (h) The necessity to the facility of a waterfront location, where applicable.

22 (i) The availability of alternative locations, not subject to flooding or
23 erosion damage, for the proposed use.

24 § 14-5-4-4 VARIANCE PROCEDURES

25 (1) The City Engineer, as established by the City of Albuquerque, shall hear
26 and render judgment on requests for variances from the requirements of this
27 Ordinance.

28 (2) The Mayor shall hear and render judgment on an appeal only when it is
29 alleged there is an error in any requirement, decision, or determination made
30 by the Floodplain Administrator in the enforcement or administration of this
31 Ordinance.

32 (3) Any person or persons aggrieved by the decision of the Mayor may
33 appeal such decision in the courts of competent jurisdiction.

1 (4) The City Engineer shall maintain a record of all actions involving an
2 appeal and shall report variances to the Federal Emergency Management
3 Agency upon request.

4 (5) Variances may be issued for the reconstruction, rehabilitation or
5 restoration of structures listed on the National Register of Historic Places or
6 the State Inventory of Historic Places, without regard to the procedures set
7 forth in the remainder of this Ordinance.

8 (6) Variances may be issued for new construction and substantial
9 improvements to be erected on a lot of 1/2 acre or less in size contiguous to
10 and surrounded by lots with existing structures constructed below the base
11 flood level, providing the relevant factors in § 14-5-4-3(2) have been fully
12 considered. As the lot size increases beyond the 1/2 acre, the technical
13 justification required for issuing the variance increases.

14 (7) Upon consideration of the factors noted above and the intent of this
15 Ordinance, the City Engineer may attach such conditions to the granting of
16 variances as it deems necessary to further the purpose and objectives of this
17 Ordinance (§ 14-5-1-3).

18 (8) Variances shall not be issued within any designated floodway if any
19 increase in flood levels during the base flood discharge would result.

20 (9) Variances may be issued for the repair or rehabilitation of historic
21 structures upon a determination that the proposed repair or rehabilitation will
22 not preclude the structure's continued designation as a historic structure and
23 the variance is the minimum necessary to preserve the historic character and
24 design of the structure.

25 (10) Prerequisites for granting variances:

26 (a) Variances shall only be issued upon a determination that the variance is
27 the minimum necessary, considering the flood hazard, to afford relief.

28 (b) Variances shall only be issued upon:

29 (i) showing a good and sufficient cause;

30 (ii) a determination that failure to grant the variance would result in
31 exceptional hardship to the applicant; and

32 (iii) a determination that the granting of a variance will not result in
33 increased flood heights, additional threats to public safety, extraordinary

1 public expense, create nuisances, cause fraud on or victimization of the
2 public, or conflict with existing local laws or ordinances.

3 (c) Any application to which a variance is granted shall be given written
4 notice that the structure will be permitted to be built with the lowest floor
5 elevation below the base flood elevation, and that the cost of flood insurance
6 will be commensurate with the increased risk resulting from the reduced
7 lowest floor elevation.

8 (11) Variances may be issued by a community for new construction and
9 substantial improvements and for other development necessary for the
10 conduct of a functionally dependent use provided that:

11 (a) The criteria outlined in § 14-5-4-4(1)-(9) are met; and

12 (b) The structure or other development is protected by methods that
13 minimize flood damages during the base flood and create no additional threats
14 to public safety.

15 PART 5: PROVISIONS FOR FLOOD HAZARD REDUCTION

16 § 14-5-5-1 GENERAL STANDARDS

17 In all areas of special flood hazards the following provisions are required
18 for all new construction and substantial improvements:

19 (1) All new construction or substantial improvements shall be designed (or
20 modified) and adequately anchored to prevent flotation, collapse or lateral
21 movement of the structure resulting from hydrodynamic and hydrostatic
22 loads, including the effects of buoyancy.

23 (2) All new construction or substantial improvements shall be constructed
24 by methods and practices that minimize flood damage.

25 (3) All new construction or substantial improvements shall be constructed
26 with materials resistant to flood damage.

27 (4) All new construction or substantial improvements shall be constructed
28 with electrical, heating, ventilation, plumbing, and air conditioning equipment
29 and other service facilities that are designed and/or located so as to prevent
30 water from entering or accumulating within the components during conditions
31 of flooding.

32 (5) All new and replacement water supply systems shall be designed to
33 minimize or eliminate infiltration of flood waters into the system.

1 (6) New and replacement sanitary sewage systems shall be designed to
2 minimize or eliminate infiltration of flood waters into the system and discharge
3 from the systems into flood waters.

4 (7) On-site waste disposal systems shall be located to avoid impairment to
5 them or contamination from them during flooding.

6 § 14-5-5-2 SPECIFIC STANDARDS

7 In all areas of special flood hazards where base flood elevation data has
8 been provided as set forth in (i) § 14-5-3-2; (ii) § 14-5-4-2(8); or (iii) § 14-5-5-
9 3(3), the following provisions are required:

10 (1) Residential Construction - New construction and substantial
11 improvement of any residential structure shall have the lowest floor (including
12 basement), elevated to or above the base flood elevation. A registered
13 professional engineer, architect, or land surveyor shall submit a certification
14 to the Floodplain Administrator that the standard of this subsection as
15 proposed in § 14-5-4-3(1)(a), is satisfied.

16 (2) Nonresidential Construction - New construction and substantial
17 improvements of any commercial, industrial or other nonresidential structure
18 shall either have the lowest floor (including basement) elevated to or above
19 the base flood level or together with attendant utility and sanitary facilities, be
20 designed so that below the base flood level the structure is watertight with
21 walls substantially impermeable to the passage of water and with structural
22 components having the capability of resisting hydrostatic and hydrodynamic
23 loads and effects of buoyancy. A registered professional engineer or architect
24 shall develop and/or review structural design, specifications, and plans for the
25 construction, and shall certify that the design and methods of construction are
26 in accordance with accepted standards of practice as outlined in this
27 subsection. A record of such certification which includes the specific
28 elevation (in relation to mean sea level) to which such structures are
29 floodproofed shall be maintained by the Floodplain Administrator.

30 (3) Enclosures - New construction and substantial improvements, with fully
31 enclosed areas below the lowest floor that are usable solely for parking of
32 vehicles, building access or storage in an area other than a basement and
33 which are subject to flooding shall be designed to automatically equalize

1 hydrostatic flood forces on exterior walls by allowing for the entry and exit of
2 floodwaters. Designs for meeting this requirement must either be certified by a
3 registered professional engineer or architect or meet or exceed the following
4 minimum criteria:

5 (a) A minimum of two openings on separate walls having a total net area of
6 not less than 1 square inch for every square foot of enclosed area subject to
7 flooding shall be provided.

8 (b) The bottom of all openings shall be no higher than 1 foot above grade.

9 (c) Openings may be equipped with screens, louvers, valves, or other
10 coverings or devices provided that they permit the automatic entry and exit of
11 floodwaters.

12 (4) Manufactured Homes -

13 (a) Require that all manufactured homes to be placed within Zone A on a
14 community's FHBM or FIRM shall be installed using methods and practices
15 which minimize flood damage. For the purposes of this requirement,
16 manufactured homes must be elevated and anchored to resist flotation,
17 collapse, or lateral movement. Methods of anchoring may include, but are not
18 limited to, use of over-the-top or frame ties to ground anchors. This
19 requirement is in addition to applicable State and local anchoring
20 requirements for resisting wind forces.

21 (b) Require that manufactured homes that are placed or substantially
22 improved within Zones A1-30, AH, and AE on the community's FIRM on sites;

23 (i) outside of a manufactured home park or subdivision,

24 (ii) in a new manufactured home park or subdivision,

25 (iii) in an expansion to an existing manufactured home park or subdivision;

26 or

27 (iv) in an existing manufactured home park or subdivision on which a
28 manufactured home has incurred "substantial damage" as a result of a flood,
29 be elevated on a permanent foundation such that the lowest floor of the
30 manufactured home is elevated to or above the base flood elevation and be
31 securely anchored to an adequately anchored foundation system to resist
32 flotation, collapse, and lateral movement.

1 (c) Require that manufactured homes be placed or substantially improved
2 on sites in an existing manufactured home park or subdivision with Zones A1-
3 30, AH and AE on the community's FIRM that are not subject to the provisions
4 of this § 14-5-5-2(4) be elevated so that either:

5 (i) the lowest floor of the manufactured home is at or above the base flood
6 elevation; or

7 (ii) the manufactured home chassis is supported by reinforced piers or
8 other foundation elements of at least equivalent strength that are no less than
9 36 inches in height above grade and be securely anchored to an adequately
10 anchored foundation system to resist flotation, collapse, and lateral
11 movement.

12 (5) Recreational Vehicles - Require that recreational vehicles placed on
13 sites within Zones A1-30, AH, and AE on the City of Albuquerque's FIRM
14 either:

15 (i) be on the site for fewer than 180 consecutive days; or

16 (ii) be fully licensed and ready for highway use; or

17 (iii) meet the permit requirements of § 14-5-4-3(1), and the elevation and
18 anchoring requirements for "manufactured homes" in § 14-5-5-2(4).

19 A recreational vehicle is ready for highway use if it is on its wheels or
20 jacking system, is attached to the site only by quick disconnect type utilities
21 and security devices, and has no permanently attached additions.

22 (6) Accessory Structure - Accessory structures to be placed on sites within
23 Zones A1-30, AH, AO and AE on the City of Albuquerque FIRM shall comply
24 with the following:

25 (a) The structure shall be used only for parking and limited storage.

26 (b) The structure shall not be used for human habitation. Prohibited
27 activities or uses include but are not limited to working, sleeping, living,
28 entertainment, cooking, or restroom use.

29 (c) The structure shall be unfinished on the interior.

30 (d) Structures shall be small in size, not exceed the size of a single-story
31 two car garage.

- 1 (e) Structures exceeding the size of a single story two car garage will be
2 required to meet all applicable standards of § 14-3, § 14-4, and § 14-5
3 including relevant subsections.
- 4 (f) Service facilities such as electrical and heating equipment must be
5 elevated to or above the BFE plus 1 foot.
- 6 (g) The structure shall be constructed and placed on the building site so as
7 to offer the minimum resistance to the flow of floodwaters.
- 8 (h) The structure shall be considered low in value, designed to have low
9 flood damage potential and constructed with flood resistance materials.
- 10 (i) The structure shall be firmly anchored to prevent flotation, collapse, and
11 lateral movement.
- 12 (j) Floodway requirements must be met in the construction of the structure.
- 13 (k) Openings to relieve hydrostatic pressure during a flood shall be
14 provided below the BFE; and be placed on opposing walls with the net area of
15 not less than 1 square inch for every square foot of the size of the footprint of
16 the structure (Flood Vents).
- 17 (l) The openings (flood vents) shall be located no higher than 1 foot above
18 grade.
- 19 (m) The openings may be equipped with screens, louvers, valves or other
20 coverings or devices provided that they permit the automatic entry and exit of
21 floodwaters.
- 22 **§ 14-5-5-3 STANDARDS FOR SUBDIVISION PROPOSALS**
- 23 (1) All subdivision proposals including the placement of manufactured
24 home parks and subdivisions shall be consistent § 14-5-1-2, § 14-5-1-3, and §
25 14-5-1-4 of this Ordinance.
- 26 (2) All proposals for the development of subdivisions including the
27 placement of manufactured home parks and subdivisions shall meet
28 Floodplain Development Permit requirements of § 14-5-3-3, § 14-5-4-3, and the
29 provisions of § 14-5-5.
- 30 (3) Base flood elevation data shall be generated for subdivision proposals
31 and other proposed development including the placement of manufactured
32 home parks and subdivisions which is greater than 50 lots or 5 acres,

1 whichever is lesser, if not otherwise provided pursuant to § 14-5-3-2 or § 14-5-
2 4-2(8) of this Ordinance.

3 (4) All subdivision proposals including the placement of manufactured
4 home parks and subdivisions shall have adequate drainage provided to
5 reduce exposure to flood hazards.

6 (5) All subdivision proposals including the placement of manufactured
7 home parks and subdivisions shall have public utilities and facilities such as
8 sewer, gas, electrical and water systems located and constructed to minimize
9 or eliminate flood damage.

10 § 14-5-5-4 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH
11 ZONES)

12 Located within the areas of special flood hazard established in § 14-5-3-2,
13 are areas designated as shallow flooding. These areas have special flood
14 hazards associated with flood depths of 1 to 3 feet where a clearly defined
15 channel does not exist, where the path of flooding is unpredictable, and where
16 velocity flow may be evident. Such flooding is characterized by ponding or
17 sheet flow; therefore, the following provisions apply:

18 (1) All new construction and substantial improvements of residential
19 structures have the lowest floor (including basement) elevated to or above the
20 base flood elevation or the highest adjacent grade at least as high as the
21 depth number specified in feet on the community's FIRM (at least 2 feet if no
22 depth number is specified).

23 (2) All new construction and substantial improvements of non-residential
24 structures.

25 (a) Have the lowest floor (including basement) elevated to or above the
26 base flood elevation or the highest adjacent grade at least as high as the
27 depth number specified in feet on the community's FIRM (at least 2 feet if no
28 depth number is specified); or

29 (b) Together with attendant utility and sanitary facilities be designed so that
30 below the base specified flood depth in an AO Zone, or below the Base Flood
31 Elevation in an AH Zone, level the structure is watertight with walls
32 substantially impermeable to the passage of water and with structural

1 components having the capability of resisting hydrostatic and hydrodynamic
2 loads of effects of buoyancy.

3 (3) A registered professional engineer or architect shall submit a
4 certification to the Floodplain Administrator that the standards of this Section,
5 as proposed in § 14-5-4-3 are satisfied.

6 (4) Require within Zones AH or AO adequate drainage paths around
7 structures on slopes, to guide flood waters around and away from proposed
8 structures.

9 § 14-5-5-5 FLOODWAYS

10 Floodways - located within areas of special flood hazard established in §
11 14-5-3-2 are areas designated as floodways. Since the floodway is an
12 extremely hazardous area due to the velocity of flood waters which carry
13 debris, potential projectiles and erosion potential, the following provisions
14 shall apply:

15 (1) Encroachments are prohibited, including fill, new construction,
16 substantial improvements and other development within the adopted
17 regulatory floodway unless it has been demonstrated through hydrologic and
18 hydraulic analyses performed in accordance with standard engineering
19 practice that the proposed encroachment would not result in any increase in
20 flood levels within the community during the occurrence of the base flood
21 discharge.

22 (2) If § 14-5-5-5(1) above is satisfied, all new construction and substantial
23 improvements shall comply with all applicable flood hazard reduction
24 provisions of § 14-5-5.

25 (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National
26 Flood Insurance Program Regulations, a community may permit
27 encroachments within the adopted regulatory floodway that would result in an
28 increase in base flood elevations, provided that the community first completes
29 all of the provisions required by Section 65.12.

30 § 14-5-5-6 SEVERABILITY

31 If any section, clause, sentence, or phrase of this Ordinance is held to be
32 invalid or unconstitutional by any court of competent jurisdiction, then said

1 holding shall in no way affect the validity of the remaining portions of this
2 Ordinance.

3 § 14-5-5-7 PENALTIES FOR NON-COMPLIANCE

4 No structure or land shall hereafter be constructed, located, extended,
5 converted, or altered without full compliance with the terms of this court order
6 and other applicable regulations. Violation of the provisions of this court order
7 by failure to comply with any of its requirements (including violations of
8 conditions and safeguards established in connection with conditions) shall
9 constitute a misdemeanor. Any person who violates this court order or fails to
10 comply with any of its requirements shall upon conviction thereof be fined not
11 more than \$500 for each violation, and in addition shall pay all costs and
12 expenses involved in the case. Each day of violation is considered a separate
13 offense. Nothing herein contained shall prevent the City of Albuquerque from
14 taking such other lawful action as is necessary to prevent or remedy any
15 violation.

16 PART 6: DRAINAGE CONTROL

17 § 14-5-6-1 GENERAL PROVISIONS

18 (A) The City is and shall remain an active participant in the National Flood
19 Insurance Program. The City endorses the program goal of flood damage
20 reduction through the regulation of development within flood hazard areas
21 and the preservation of floodways.

22 (B) All developed land within the City shall be provided with adequate
23 drainage control, flood control, stormwater control, and erosion control
24 facilities. The protection of life, health, and property shall be considered the
25 primary function in the planning, design, construction and maintenance of
26 drainage control, flood control, stormwater control, and erosion control
27 facilities. However, other concerns, not limited to the following, shall be
28 addressed: channel capacity, watershed characteristics, channel stability,
29 maintenance, transitions between treatment types, multiple use goals, and
30 appearance. The needs of the community in transportation, utility services,
31 recreation, and open space shall be considered in planning, design,
32 construction, and maintenance – particularly in the selection of channel
33 treatment measures. These needs shall always be considered subsidiary to

1 the primary functions of the drainage control, flood control, stormwater
2 control, and erosion control facilities.

3 (C) The design, construction and maintenance of dams, levees and
4 diversions that fall within the jurisdiction of the State Engineer shall meet or
5 exceed standards established by the State Engineer.

6 (D) The design, construction and maintenance of flood control facilities
7 shall be coordinated with AMAFCA or other public agencies as appropriate.

8 (E) All facilities receiving water from public facilities and right-of-way shall
9 be constructed within dedicated right-of-way or recorded drainage easements
10 granted to and accepted by the proper public authority or a private entity with
11 an agreement for operations and maintenance.

12 (F) All facilities which receive only runoff from private property shall be
13 constructed on private property unless otherwise authorized by the City
14 Engineer. The use of individual on-lot ponding shall be governed by the
15 standards established by the City Engineer in the Development Process
16 Manual.

17 (G) Wherever flood control, drainage control, stormwater control, or
18 erosion control improvements are necessary within dedicated public open
19 space, such improvements shall be designed and constructed in a manner
20 reasonably consistent with the natural surroundings. All construction and
21 maintenance activities in dedicated open space shall be performed so as to
22 minimize the disruption and destruction of vegetation and adjacent landforms.
23 Where such disturbance or destruction is unavoidable, revegetation shall be
24 performed at the earliest practical time by those responsible for such
25 disturbance and/or destruction.

26 (H) All new development and redevelopment projects shall apply best
27 management practices to manage stormwater quality volume by management
28 on-site, or payment-in-lieu, or private offsite mitigation. The Best Management
29 Practices (BMPs) shall be appropriate for the specific circumstances. On-site
30 mitigation solutions shall be landscaped or otherwise utilize required
31 landscape areas within the site. The basis for requesting payment-in-lieu or
32 private offsite mitigation is to be clearly demonstrated on the drainage plan.
33 Management on site shall not be required where stormwater quality can be

effectively controlled through private off-site mitigation, or through an arrangement to utilize a cooperator's existing regional stormwater management infrastructure or facilities that are available to control stormwater quality, and where:

(1) The lot is too small to accommodate management on site while also accommodating the full plan of development.

(2) The soil is not stable.

(3) The site use is inconsistent with the capture and reuse of stormwater.

(4) Other physical conditions exist where compliance with on-site stormwater quality control requirement leaves insufficient area.

(5) Public or private off-site facilities provide an opportunity to effectively accomplish the mitigation requirements of this Flood Damage Prevention Ordinance.

(6) There is an opportunity to develop a project to replenish regional ground water supplies at an offsite location; or

(7) A waiver to state water law or acquisition of water rights would be required in order to implement management on site.

(I) In new development and redevelopment cases where the stormwater quality volume cannot be met in total through either management on site or private off-site mitigation, payment-in-lieu is required for the difference between the amount met and the total required. Determination of payment-in-lieu is described in the DPM; except that payment-in-lieu that would be otherwise owed is waived for both new development and redevelopment in Metropolitan Redevelopment Areas or within the City of Albuquerque Annexation Boundary of 1950-1959 (per Figure 4-1: Growth Through Annexation Over Time in Albuquerque of the Albuquerque/Bernalillo County Comprehensive Plan).

(J) Where practicable, Stormwater Control Measures shall be designed to manage the stormwater quality volume and control runoff generated by contributing surfaces.

(K) The City Engineer is responsible for establishing criteria, procedures and standards for design and construction of flood control, drainage control, stormwater control, stormwater quality control, and erosion control

1 improvements within the City. The City standards for design and construction
2 are published in the Development Process Manual (DPM) and the Standard
3 Specifications for Public Works Construction (latest versions). The City
4 Engineer shall provide for variance from normal criteria and standards when
5 appropriate. When a variance is required or requested, the City Engineer shall
6 document the justification for their decision and retain as public records such
7 actions and justifications. Appeal of the City Engineer's variance decisions is
8 as provided in § 14-5-6-10. The City Engineer is also the designated flood
9 control official for the City in accordance with the requirements of the Federal
10 Insurance Administration.

11 (L) The introduction of groundwater cleanup flow to either natural or
12 constructed storm drainage and flood control facilities shall be prohibited
13 except as herein provided.

14 § 14-5-6-2 SURFACE USE OF STREETS FOR DRAINAGE AND FLOOD
15 CONTROL PURPOSES

16 (A) The surface of streets may be used for drainage and flood control
17 purposes, to the extent such use does not interfere with the safe
18 transportation of people and vehicles.

19 (B) The 100-year design storm runoff shall not exceed the top of curb or the
20 right-of-way in a sump condition, in any street nor enter private property from
21 a street, except in recorded drainage or flood control easements, right-of-way,
22 or historic channels and watercourses where easements or right-of-way
23 cannot be obtained.

24 (C) The 10-year design storm runoff shall not exceed a depth of 0.5 feet in
25 any arterial street and shall flow such that one driving lane in each direction is
26 free of flowing or standing water. The 10-year design storm runoff shall not
27 exceed a depth of 0.5 feet in any collector street. Arterial and collector streets
28 that are in the state highway system may require more stringent drainage
29 criteria.

30 (D) The product of depth times velocity shall not exceed 6.5 at any location
31 in any street in the event of a 10-year design storm (with velocity calculated as
32 the average velocity measured in feet per second and depth measured at the
33 gutter flow line in feet).

1 (E) The discharge of nuisance waters to public streets is prohibited.
2 Arterial and collector streets shall be protected from damages to the pavement
3 surface and from the safety hazards created by surface flow of nuisance
4 waters across them.

5 (F) All developed land within the City shall be served by at least one access
6 that shall be an all-weather facility during a 100-year design storm, with all
7 channel-crossing structures beneath the roadway being able to pass a 100-
8 year design storm runoff event.

9 § 14-5-6-3 CROSSINGS

10 (A) Channel crossing structures shall be provided on all arterial and
11 collector streets to safely pass the 100-year design storm runoff from major
12 arroyos assuming a fully developed watershed.

13 (B) Streets other than arterial, collector and sole access may cross major
14 arroyos and other watercourses by means of a "dip section" or "overflow
15 section" provided depth times velocity (with velocity calculated as the average
16 velocity measured in feet per second and depth measured in feet at the
17 upstream edge of the roadway including sidewalk) does not exceed 6.5 for that
18 portion of the 10-year storm runoff crossing on the street.

19 (C) Where feasible, temporary crossings shall be designed so they may be
20 incorporated into the future permanent crossing structure and so that they
21 meet street design standards established by the Traffic Engineer.

22 (D) Crossings of major arroyos by arterial and collector streets shall be at
23 public expense. Crossings of arroyos by streets other than arterials and
24 collectors shall be constructed at developer expense and shall meet street
25 design standards established by the Traffic Engineer.

26 (E) Temporary crossings required for access, including those on arterials
27 and collectors, shall be constructed at developer expense.

28 (F) The maintenance of facilities constructed at private expense on public
29 property is the responsibility of the owner or owner's agent until permanent
30 facilities are in place.

31 (G) The developer shall be responsible for maintaining or replacing
32 temporary crossing structures for a period of six years or until a permanent
33 structure is built, whichever comes first. The City shall maintain temporary

1 crossings which are designed and built such that they may be directly
2 incorporated into the ultimate facilities.

3 § 14-5-6-4 FINANCIAL RESPONSIBILITY

4 (A) The City may participate in the construction of permanent flood control
5 facilities to the extent that public benefits are derived from such construction
6 and consistent with Capital Improvements Program (CIP) priorities.
7 Reimbursement for private funding of such projects may also be available
8 under these conditions.

9 (B) The City may participate in the costs of channel crossing structures on
10 arterial and collector streets which are required for sole access to a
11 development. The developer's share shall not exceed the cost required to
12 meet the minimum street width standards established by the Traffic Engineer.

13 (C) The City shall not participate in the funding of flood control facilities
14 whose sole purpose is the reclamation of undeveloped land located within a
15 flood hazard area for private development purposes.

16 (D) All drainage control, flood control, stormwater control, and erosion
17 control facilities which directly result from a proposed land use change are the
18 responsibility of the developer. Developer financed facilities include all those
19 within the boundaries of the development, those required for development
20 adjacent to a major arroyo or within a flood hazard area, and all temporary and
21 permanent off-site drainage facilities. Master planned facilities shall be the
22 responsibility of the City and in some instances AMAFCA. However, if such
23 facilities are not programmed and funded at the time of development, the
24 developer shall construct the master planned facilities or provide for
25 temporary facilities, constructed to City Engineer standards within a
26 temporary or permanent drainage easement until such time that the City or
27 AMAFCA constructed facilities are in place. If the construction of such
28 facilities is a condition of plat approval or building permit issuance, then
29 financial guarantees of such construction satisfactory to the City Engineer
30 shall also be provided as a prerequisite. The City Engineer shall coordinate
31 the construction and location of temporary facilities with AMAFCA and other
32 City departments. If the ultimate on-site drainage control, flood control,
33 stormwater control, or erosion control facilities require permanent right-of-

way or easements, such right-of-way or easements shall be dedicated at the time of platting or building permit issuance, whichever occurs first.

(E) Except as allowed by AMAFCA Resolution-81-8 and amendments thereto, the dedication of land for public purposes does not relieve a developer of responsibilities for the construction of drainage control, flood control, stormwater control, and erosion control facilities that would otherwise be necessary. The dedication of right-of-way or easements for drainage control, flood control, stormwater control, or erosion control facilities does not relieve a developer of responsibilities that would otherwise exist for the construction of other public infrastructure.

§ 14-5-6-5 MULTIPLE USE RIGHT-OF-WAY AND EASEMENTS

(A) Multiple use is encouraged for drainage right-of-way and drainage easements including, but not limited to, utility corridors, recreation trails, and parks. Where multiple use is planned by the City, another public agency, or a public utility, the City may require that dedication statements include language which permits said specified multiple uses in addition to the primary drainage function, flood control, stormwater, or stormwater quality control, or erosion control. However, land required to be dedicated for drainage related right-of-way shall be limited to those land areas necessary for drainage control, flood control, stormwater quality control, and erosion control and necessary appurtenances.

(B) Certain drainage right-of-way may be credited for open space as may be required by the IDO, except for any area which is exclusively used for the drainage control, flood control, stormwater quality control, or erosion control function.

§ 14-5-6-6 CONSTRUCTION SITE RESPONSIBILITY BY PROPERTY OWNER

(A) For projects that disturb one acre or more, or less than one acre but are part of a larger common plan of development exceeding one acre, the property owner is to provide the Construction General Permit (CGP) Electronic Notice of Intent (eNOI) documentation that contains the property owner name and contact information a minimum of 14 days prior to earth disturbance and prior to obtaining Work Order or Building Permit approval. To be accepted, the eNOI

1 is to be properly filled out and certified. If the eNOI is a Low Erosivity Waiver
2 by the contractor, then an Erosion and Sediment Control Permit § 14-5-6-6(B)
3 below is to be approved by the City.

4 (B) For projects that are less than one acre and are not part of a larger
5 common plan of development, but meet the criteria as specified in § 14-5-6-
6 7(B)(6), an approved Erosion and Sediment Control Permit is required prior to
7 earth disturbance, Work Order approval and Building Permit approval:

8 (1) The Erosion and Sediment Control Permit or eNOI holder must be either
9 the owner of the property or an authorized agent of the owner in order for the
10 permit to legally cover the activities occurring at the site. If the permit holder
11 is other than the owner, evidence of delegation of authority acceptable to the
12 City shall be provided prior to issuance of a permit by the City.

13 (2) A project will be approved for earth disturbance, work order, or building
14 permit only upon approval of plans and conditions by the City Engineer.

15 (C) Construction site inspections and quality controls shall include:

16 (1) Self-inspections by permittee. At a minimum a routine compliance self-
17 inspection is required to review the project for compliance with the
18 Construction General Permit once every 14 days and after any precipitation
19 event of 1/4 inch or greater until the site construction has been completed and
20 the site determined as stabilized by the City. Reports of these inspections
21 shall be kept by the person or entity authorized to direct the construction
22 activities on the site and shall be conducted during progress of the work,
23 during work suspensions, and until final acceptance of site stabilization by the
24 City. An owner's or their agent's failure to properly maintain records shall
25 subject that owner to the penalty provisions of this Flood Damage Prevention
26 Ordinance.

27 (2) City compliance inspections. The City will conduct routine compliance
28 inspections of projects for compliance with the Construction General Permit.
29 The City will conduct routine compliance inspections of all construction
30 projects cumulatively disturbing one acre or more or as specified in § 14-5-6-
31 7(B)(6) for compliance with the Construction General Permit. Site inspections
32 will be followed by any necessary compliance or enforcement action to ensure
33 corrective action has occurred. Corrective action is to be completed within

1 seven days, or the owner is subject to escalation per this Flood Damage
2 Prevention Ordinance. All projects will be inspected at completion for
3 confirmation of stabilization:

4 (a) Construction site compliance. If the City finds that the site is not in
5 compliance with the Construction General Permit and that stormwater
6 controls will not prevent sediment and waste from entering the City's drainage
7 system and/or leaving the construction site, the City may direct the owner or
8 their agent by written order to come into compliance. If deficiencies are
9 required to be mitigated, the owner or their agent shall be verbally notified
10 with a follow-up written confirmation occurring later. It shall be the duty of the
11 owner or their agent to immediately take all necessary steps to prevent such
12 migration of sediment and waste off the premises or from entering receiving
13 waters. Delivery of an order by the City to the owner or their agent shall be
14 deemed to be notice thereof, and binding upon the owner. Owner's or their
15 agent's failure to substantially comply with the order shall subject that owner
16 to the penalty provisions of this Flood Damage Prevention Ordinance.

17 (b) Maintenance of control measures. The property owner or the owner's
18 agent carrying out the Construction General Permit requirements shall
19 maintain all control measures, retaining walls, structures, plantings, and other
20 protective devices. Should the applicant or any other subsequent property
21 owners fail to maintain the temporary control facilities, retaining walls,
22 structures, plantings, and other protective devices, the City reserves the
23 authority to enter affected property, provide needed maintenance, and to
24 charge the owner for the work performed by the City or its contractors and to
25 place a lien on the property to cover the costs of said actions. Such municipal
26 lien shall be a statutory lien against the real property. This provision is in
27 addition to the City's ability to assess penalties or pursue any other remedies
28 as necessary to effectuate the purpose of this Flood Damage Prevention
29 Ordinance:

30 (i) The maintenance of facilities constructed at private expense on public
31 property is the responsibility of the owner or owner's agent until permanent
32 facilities are in place.

1 (ii) The developer shall be responsible for maintaining or replacing
2 temporary crossing structures for a period of six years or until a permanent
3 structure is built, whichever comes first. The City shall maintain temporary
4 crossings which are designed and built such that they may be directly
5 incorporated into the ultimate facilities.

6 (3) The City will utilize sanctions and penalties to enforce upon violations
7 of permit requirements. Progressive enforcement escalation procedures will
8 be used and strictly enforced for recalcitrant or repeat offenders.

9 (D) Post-construction maintenance shall be performed as follows:

10 (1) Except as otherwise noted herein, all public stormwater facilities shall
11 be maintained by the City or other public body. The maintenance of multiple
12 use facilities to which the general public is denied access shall be the
13 responsibility of the owners and shall be performed to City Engineer
14 standards. The City Engineer may allow private maintenance within public
15 right-of-way or easement provided that adequate guarantees and
16 indemnifications are supplied.

17 (2) Private stormwater facilities:

18 (a) Maintenance of drainage facility - The owner shall maintain the drainage
19 facility at the owner's cost in accordance with this Flood Damage Prevention
20 Ordinance.

21 (b) City compliance inspections - The City's post-construction inspection
22 program will begin routine compliance inspections of projects at three years
23 after final acceptance of the BMP's. Notwithstanding, nothing herein prevents
24 the City from performing an unscheduled inspection when reasonably
25 necessary to implement the goals and requirements of this Flood Damage
26 Prevention Ordinance.

27 (c) City's right of entry - No owner, occupant or any other person having
28 charge, care or control of any building or premises shall fail or neglect, after
29 proper request is made, as herein provided, to promptly permit entry by
30 authorized City officials for the purpose of inspection and investigation
31 pursuant to this Flood Damage Prevention Ordinance, or to provide
32 maintenance or repair of the drainage facilities as it deems appropriate
33 without liability to the City. In the event that the City is denied reasonable

1 entry for purposes of inspection on a voluntary basis, the authorized City
2 official shall obtain a proper inspection warrant or other remedy provided by
3 law to secure entry. In the event of an emergency, where immediate entry is
4 necessary to protect life or property, the City has the right to enter and
5 perform inspections, maintenance or repair of the drainage facilities as it
6 deems appropriate, without liability to the City.

7 (d) Demand for construction or repair - The City may send written notice
8 ("notice") to the owner requiring maintenance, construction, or repair to the
9 drainage facility within 30 days ("deadline") of receipt of the notice, and the
10 owner, at their expense, must comply with the requirements of the notice by
11 the deadline provided.

12 (e) Failure to perform by owner and emergency work by City - If the owner
13 fails to comply with the terms of the notice by the deadline, or if the City
14 determines that an emergency condition exists, the City may perform the work
15 itself. The City may assess the owner for the cost of the work and for any
16 other expenses or damages, which result from owner's failure to perform. The
17 owner shall pay the City the amount assessed. If the owner fails to pay the
18 City within 30 days after the City gives the owner written notice of the amount
19 due, the City may impose a lien against owner's property for the total resulting
20 amount.

21 (f) Liability of City for repair after notice or as a result of emergency - The
22 City shall not be liable to the owner for any damages resulting from the City's
23 maintenance or repair following notice to the owner as required this Flood
24 Damage Prevention Ordinance, or in an emergency, unless the damages are
25 the result of the reckless conduct or gross negligence of the City.

26 (g) Indemnification - The City, its officials, agents and employees are
27 indemnified and shall be held harmless from all claims, actions, suits and
28 proceedings, whether known or unknown arising out of, or resulting from the
29 owner's negligent maintenance, construction, repair or use of the drainage
30 facility. Such indemnification shall encompass actions brought by third
31 parties against any non-City party when such actions are related to the
32 aforementioned drainage facility. Furthermore, and notwithstanding the
33 provisions of NMSA 1978, Section 56-7-1 (if applicable), such indemnification

1 specifically extends to liability, for all claims, whether known or unknown,
2 damages, losses or expenses, including attorneys' fees, arising out of:
3 (i) the preparation or approval of maps, drawings, opinions, reports,
4 surveys, change orders, designs or specifications (except those created by
5 the City or its agents or employees); or
6 (ii) the giving of or the failure to give directions or instructions by the City.
7 (h) This Flood Damage Prevention Ordinance is not intended to replace,
8 supersede, undermine or otherwise alter or replace any existing covenant or
9 other written agreement between the City and any property owner. To the
10 extent that the provisions herein conflict with the covenant or other
11 agreement's language, then the covenant language or other agreement's
12 language shall apply.

13 § 14-5-6-7 GENERAL ADMINISTRATION

14 (A) The design, construction and maintenance of all drainage control, flood
15 control, stormwater control, stormwater quality control, and erosion control
16 facilities within the City shall be performed in accordance with procedures,
17 criteria and standards formulated by the City Engineer and in accordance with
18 the policies established in this Flood Damage Prevention Ordinance.

19 (B) All construction activities within the jurisdiction of the City shall
20 conform to the requirements of the City Engineer with respect to drainage
21 control, flood control, stormwater control, stormwater quality control, and
22 erosion control.

23 (1) Structures constituting less than 1,000 square feet, in plan view, are
24 excluded.

25 (2) Construction, grading or paving on any lot within the jurisdiction of the
26 City shall not increase the damage potential to upstream, downstream or
27 adjacent properties or public facilities. Damages shall be defined as those
28 caused by flooding from the 100-year design storm and all smaller storms and
29 from erosion and sedimentation resulting from the 10-year design storm and
30 all smaller storms.

31 (3) During the period of May 1 through October 31, any grading within or
32 adjacent to a facility that conveys a minimum of 50 cfs or holds 2.0 acre-feet

1 must provide for stormwater control, erosion control, and the safe passage of
2 the 10-year design storm runoff during the construction phase.

3 (4) Grading, cut, fill or importation of material in excess of 500 cubic yards
4 or grading of any area of one acre or more shall conform to drainage control,
5 flood control, stormwater control, and erosion control policies and to
6 standards, criteria and procedures established by the City Engineer with
7 respect to drainage, flood control, stormwater control, and erosion control. A
8 grading permit, issued by the City Engineer, shall be required for projects
9 involving more than 500 cubic yards of material or one acre or more in area.
10 Applications for development of areas known to have been sanitary landfills
11 shall be accompanied by a report which discusses potential health and soil
12 mechanics problems and their solutions. Such reports shall be prepared by a
13 New Mexico Professional Engineer competent in soil mechanics.

14 (5) Where practicable, active construction sites shall utilize non-structural
15 controls, such as phased construction, dust control, good housekeeping
16 practices, and spill prevention and response.

17 (6) Sites with less than one acre of total land disturbance and that are not
18 part of a larger common plan of development shall be required to obtain an
19 Erosion and Sediment Control Permit if:

20 (a) The site is identified as having a significant potential for erosion, based
21 on observation or site characteristics including very steep topography.

22 (b) The site is known to contain contaminated soils.

23 (c) The site is directly adjacent to receiving waters such as directly
24 connected storm drains, directly connected concrete arroyos or the Rio
25 Grande.

26 (d) The site contains a building to be demolished and the building is 10,000
27 square feet or larger and was built or renovated prior to January 1, 1980.

28 (7) Paving an area larger than 10,000 square feet other than right-of-way
29 shall require a paving permit. Applications for paving permits shall be
30 accompanied by a grading plan and Erosion and Sediment Control Plan if
31 deemed necessary by the City Engineer. Repaving of right-of-way is excluded.

1 (8) The City Engineer shall not issue a grading permit, paving permit, Work
2 Order, or Building Permit unless the proposed project is in compliance with
3 the policies of this Flood Damage Prevention Ordinance.

4 (9) Permit fees. Permit fees shall be established by the Mayor.

5 (C) The City may participate with the private sector, and other public bodies
6 and agencies operating within the jurisdiction of this policy, in order to
7 accomplish the goals and implement the policies adopted in this Flood
8 Damage Prevention Ordinance. This includes, but shall not be limited to, the
9 development and approval of master plans for flood control, drainage and
10 stormwater control, and stormwater quality control; participation in the
11 construction of projects and exercising control through the planning, platting,
12 zoning, and permitting processes. Projects involving City funding shall be
13 prioritized, funded and scheduled within the guidelines of the CIP and with CIP
14 projects.

15 (D) It shall be the responsibility of the City Engineer to produce, approve,
16 make and retain records of all drainage plans, drainage reports, design
17 analyses, design drawings, as-built drawings, and maintenance schedules
18 related to all drainage control, flood control, stormwater control, stormwater
19 quality control, and erosion control facilities constructed within City right-of-
20 way or easements.

21 (E) The City Engineer shall not approve any plan or report pertaining to
22 proposed construction, or other development where the proposed activity or
23 change in the land affected would result in downstream capacity being
24 exceeded and for which stormwater control has not been addressed in
25 compliance with this Flood Damage Prevention Ordinance and standards
26 established by the City Engineer in the Development Process Manual.

27 (1) Downstream capacity is determined based on the assumption of fully
28 developed watersheds. This assumption prevents "the first come, first served"
29 approach where downstream development unduly constrains upstream
30 development. Parameters used in the determination of downstream capacity
31 include, but are not limited to:

32 (a) Channel stability.

33 (b) Crossing structure hydraulic capacity.

1 (c) Reservoir capacity.

2 (d) Hydraulic capacity of street, storm sewer, or channel.

3 (e) Public health and safety.

4 (f) Maintenance constraints.

5 (2) Planned public storm drainage facilities are assumed as in place in
6 determining downstream capacity, provided that construction funds are
7 available and design has progressed to the point where capacity can be
8 ascertained.

9 (F) Temporary facilities are only allowed on a case-by-case basis as
10 determined by the City Engineer. The level of protection to be provided by
11 temporary facilities shall be determined by considering:

12 (1) The likelihood and consequences of a failure.

13 (2) Length of time until permanent facilities will be in place.

14 (3) The acceptance of maintenance responsibilities and legal liabilities.

15 (G) Requests for approvals of development and/or platting proposals to the
16 City Engineer shall be accompanied by drainage control, flood control,
17 stormwater control, stormwater quality control, and erosion control
18 information and/or commitments. The particular nature, location and scope of
19 the proposed development defines the degree of detail. One or more of the
20 following levels of submittal may be required based on the following:

21 (1) Conceptual grading and drainage plan. A graphic representation of
22 existing and proposed grading, drainage, flood control and erosion control
23 information. The information should be of sufficient detail to determine project
24 feasibility. The purposes of this plan are to check the compatibility of the
25 proposed development within grading, drainage, flood hazard and erosion
26 control constraints as dictated by on-site physical features as well as adjacent
27 properties, streets, alleys and channels. Modifications to the Comprehensive
28 Plan and the development of area plans, sector plans, site development plans
29 and landscaping plans on tracts of five acres or more are appropriate
30 applications of conceptual grading and drainage plans.

31 (2) Drainage plan. A short, detailed presentation required for approval of
32 small, simple development approvals. Drainage plans are prepared with or on
33 the detailed grading plan and address both on-site and off-site drainage

1 control, flood control, stormwater control, stormwater quality control, and
2 erosion control issues. Drainage plans are required for building permits, site
3 development plans and landscaping plans for developments involving less
4 than five acres.

5 (3) Drainage report.

6 (a) A drainage report is a comprehensive analysis of the drainage control,
7 flood control, stormwater control, stormwater quality control, and erosion
8 control constraints on and impacts resulting from a proposed platting,
9 development or construction project.

10 (b) Drainage reports are required for subdivisions containing more than ten
11 lots or constituting five acres or more, platting or construction within a
12 designated flood hazard area and for any platting or development adjacent to
13 a major arroyo.

14 (4) Erosion and sediment control plan. Erosion and sediment control plans
15 address all phases of each project from initial grading through and including
16 final occupancy. Phased projects require special attention. All construction
17 projects, both public and private, within the jurisdiction of this Flood Damage
18 Prevention Ordinance, unless specifically excluded, require an approved
19 erosion and sediment control plan prior to start of construction. An erosion
20 and sediment control plan is required for sites that meet the criteria specified
21 in this Flood Damage Prevention Ordinance.

22 (H) The Albuquerque 100-year design storm is the 100-year storm as
23 defined by the National Oceanic Atmospheric Administration (NOAA) and by
24 the storm distributions for time and areas as developed by the City Engineer
25 and documented in the DPM. Design circumstances may require larger or
26 smaller storm volumes. The sources for the rainfall data are current NOAA
27 publications and the City Engineer. When the need for other design storms is
28 apparent, the City Engineer will provide requirements concerning appropriate
29 storms, frequencies and durations.

30 (I) The City Engineer shall, within 30 calendar days after the submission to
31 him/her of a request in writing for an approval under this Flood Damage
32 Prevention Ordinance, approve or deny the request and provide a copy of their
33 decision to the applicant. If the request is denied, the reasons for such denial

1 shall be stated in writing. Appeal of such decisions is as provided in this
2 Flood Damage Prevention Ordinance.

3 (J) Discharge of any groundwater cleanup flows to the City's storm
4 drainage and flood control system shall not normally be permitted, however,
5 when such discharge of groundwater cleanup flow is by special agreement
6 permitted, the entity responsible for such groundwater cleanup flow discharge
7 shall also be responsible for all costs of installing, operating and removing the
8 means of such discharges and shall provide public liability protection as
9 required. The discharge of such groundwater cleanup flows shall also be
10 responsible for payment of such permit fees, user fees, and effluent sampling
11 fees according to an agreement with the City. All discharges to public storm
12 drainage and flood control facilities shall comply with adopted local and
13 applicable state and federal water quality requirements.

14 § 14-5-6-8 ADMINISTRATIVE PROCEDURES, CRITERIA AND
15 STANDARDS

16 (A) Rules concerning procedures, criteria and standards shall be adopted,
17 amended or abolished in compliance with the policies of this Flood Damage
18 Prevention Ordinance and as provided by the procedures of this section.

19 (B) Proposed rule changes relating to procedures, criteria and standards
20 pursuant to this Flood Damage Prevention Ordinance, are initiated by the City
21 Engineer or any person may submit such proposed rule changes to the City
22 Engineer. If a person other than an official of the City submits such a
23 proposal, there may be a processing fee set by a rule of the City Engineer.

24 (C) Prior to the adoption, amendment or repeal of any rule pursuant to this
25 Flood Damage Prevention Ordinance (hereafter, "rule change"), the City
26 Engineer shall:

27 (1) Publish summary notice of the proposed rule change and solicit
28 comments in a daily newspaper of general circulation in the City and also
29 where appropriate in trade, industrial, or professional publications as will
30 reasonably give public notice to interested persons.

31 (2) Send the proposed rule change to all applicable City departments, as
32 determined by the City Engineer, and AMAFCA and solicit written comments.

1 (3) Send the proposed rule change to any person or group filing written
2 request for notice of all such rule changes. A fee may be charged to those
3 requesting notices to cover reasonable City costs.

4 (4) Solicit written comment on proposed rule changes for a period of 30
5 days from the date of their distribution and consider all comments before
6 ruling on proposed rule changes.

7 (5) Upon adoption of a contested rule change, issue a concise statement of
8 their principal reasons for the rule change and statement of positions rejected
9 in adopting the rule change together with the reasons for the rejection. All
10 persons who submit any writing to be considered in connection with the
11 proposed rule change shall promptly be given a copy of the decision, by mail
12 or otherwise.

13 (D) If a proposed rule change is approved by the City Engineer after
14 receiving comments, notice shall be posted in a conspicuous place in City Hall
15 and a reasonable effort shall be made to notify all interested parties. Proposed
16 rule changes shall not take effect sooner than 30 days from posting of notice
17 or sooner than 90 days from original distribution for comment.

18 (E) In the event of an emergency, the Mayor may direct that rules
19 concerning procedures, criteria or standards take effect immediately upon
20 their posting and distribution. The Mayor's finding of an emergency and brief
21 statement of the reasons for this finding shall be incorporated in the
22 emergency rule change. Upon adoption of an emergency rule change which
23 change shall remain in effect for longer than 60 days, notice to the public shall
24 be given within seven days and opportunity for public comment shall be given
25 in the manner required in this section for proposed rules.

26 (F) Appeal of the City Engineer's rule-making decisions is as provided in
27 this Flood Damage Prevention Ordinance. Regular rules, adopted under § 14-
28 5-6-8(D) above, do not take effect until an appeal is decided if they are
29 appealed prior to taking effect. Emergency rules adopted under § 14-5-6-8(E)
30 above and regular rules which have taken effect prior to appeal are in effect
31 until such time as they may be reversed by appeal action.

32 (G) Regulation relating to groundwater cleanup flows discharged to public
33 storm drainage and flood control facilities shall be exempted from the

1 provisions of this section. Requirements relating to groundwater cleanup
2 flows shall be established by the City Engineer on a case-by-case basis, based
3 on public health and safety needs, operational needs, and state and federal
4 regulatory compliance requirements current at time of promulgation. The
5 requirements and conditions shall include provisions for public liability
6 protection from groundwater cleanup flow discharges to the City's systems.

7 § 14-5-6-9 ENFORCEMENT

8 (A) Inspection Procedures.

9 (1) Whenever it is necessary to make an inspection to enforce any of the
10 provisions of this Flood Damage Prevention Ordinance, the City Engineer or
11 their authorized representative may enter such premises at all reasonable
12 times to inspect the same or to perform any duty imposed upon him by this
13 Flood Damage Prevention Ordinance; provided that if such premises be
14 occupied, he or she shall first present proper credentials and demand entry;
15 and if such premises be unoccupied, he shall first make a reasonable effort to
16 locate the owner or other persons having charge or control of the premises
17 and demand entry. If entry is refused or if the owner or other responsible
18 person is not found, the City Engineer or their authorized representative shall
19 proceed to obtain a search warrant by filing a complaint made in the
20 Metropolitan Court or District Court upon oath or affirmation. The complaint
21 shall:

22 (a) Set forth the particular premises, or portion thereof, sought to be
23 inspected.

24 (b) State that the owner or occupant of the premises, or portion thereof,
25 has refused entry.

26 (c) State that inspection of the premises or portion thereof is necessary to
27 determine whether it complies with the requirements of this Flood Damage
28 Prevention Ordinance.

29 (d) Set forth the particular provisions of this Flood Damage Prevention
30 Ordinance sought to be enforced.

31 (e) Set forth any other reason necessitating the inspection, including
32 knowledge or belief that a particular condition exists in the premises, or

1 portion thereof which constitutes a violation of this Flood Damage Prevention
2 Ordinance; and

3 (f) State that the complainant is authorized by the City to make the
4 inspection.

5 (2) Each inspector shall be furnished with a City of Albuquerque
6 identification card and must present the same to other persons, when
7 requested to do so during the performance of their duty. No owner or
8 occupant or any other person having charge, care or control of any premises
9 shall fail or neglect, after proper demand is made as herein provided, to
10 promptly permit entry therein by the authorized inspector for the purpose of
11 inspection and examination pursuant to this Flood Damage Prevention
12 Ordinance.

13 (B) Where, after investigation, an order has been issued by the City
14 Engineer to the owner of the property on which a violation has occurred and
15 the order is not complied with within 30 days for post-construction violations
16 and within seven days for construction violations, or such longer reasonable
17 time as may be prescribed by the City Engineer, or if the responsible party or
18 violator cannot be found or determined, the violator shall be subject to the
19 penalty provisions set forth in § 1-1-99 of this code of ordinances up to \$500
20 per day. Each day of violation is considered a separate offense.

21 (C) In addition to any fines or penalty provisions set forth in this Flood
22 Damage Prevention Ordinance and § 1-1-99 of this code, the City may enforce
23 this Flood Damage Prevention Ordinance through any other legal or equitable
24 actions deemed necessary and appropriate by the City Engineer. Fines, costs
25 of remedial action, damages, or any other expenses attributable to an owner
26 under this Flood Damage Prevention Ordinance may be enforced by the City
27 as a lien against the property as provided in NMSA 1978, Section 3-36-2. Such
28 municipal lien shall attach to the property and be subject to foreclosure as
29 provided in NMSA 1978, Sections 3-36-1 to 3-36-7.

30 § 14-5-6-10 APPEALS; TECHNICAL STANDARDS COMMITTEE

31 (A) Any applicant aggrieved by a decision as to actions provided in this
32 Flood Damage Prevention Ordinance of the City Engineer or absence of such
33 decision, may appeal such decision to the Technical Standards Committee of

1 the City. Such appeal shall be made by notice of appeal in writing addressed
2 to the Chairperson of the Technical Standards Committee and delivered to the
3 office of the City Engineer within fifteen (15) calendar days after the date the
4 decision was mailed to the applicant. The Chairperson of the Technical
5 Standards Committee shall notify the applicant and the City Engineer of the
6 date, time, and place of the appeal hearing at least five days prior to the
7 hearing date. Such hearing shall be conducted not earlier than fifteen (15)
8 calendar days nor later than forty-five (45) calendar days after the filing of the
9 notice of appeal. At the hearing, the Technical Standards Committee may
10 consider such facts, exhibits, and engineering principles as may be presented
11 by the appellant or the City Engineer or their designee, or of which the
12 members may have knowledge or experience, and may affirm, reverse or
13 modify the decision appealed from, and attach as conditions to their decision
14 such requirements as in their opinion may be necessary or appropriate in
15 compliance with the policies of this Flood Damage Prevention Ordinance to
16 safeguard persons and property from stormwater runoff. Each decision of the
17 Technical Standards Committee shall be in writing and shall state reasons
18 therefore. A copy of the decision shall be promptly mailed to the applicant and
19 to the City Engineer.

20 (B) The City Engineer or applicant aggrieved by any decision of the
21 Technical Standards Committee may appeal such decision to the City Council.
22 Such appeal shall be requested by notice of appeal in writing addressed to the
23 President of the City Council and delivered to the office of the City Council
24 within fifteen (15) calendar days after the date a copy of the decision was
25 mailed to the applicant. Such appeal shall be heard after notice at the first
26 available meeting of the City Council. The City Council may affirm, reverse, or
27 modify the decision of the Technical Standards Committee.

28 (C) There is hereby created a Technical Standards Committee, consisting
29 of five members who shall be appointed by the Mayor with the advice and
30 consent of the City Council, and who shall serve without pay. Two members
31 shall serve for a term ending August 1, 1983, one member shall serve for a
32 term ending August 1, 1984, and two members shall serve for terms ending
33 August 1, 1985. Subsequent terms shall be for three years. Four of such

1 members shall be registered in this state as professional engineers, be
2 competent in the science of surface water hydrology, and have experience in
3 solving surface drainage problems. The members shall select one member to
4 serve as Chairperson, and their decisions shall be by majority vote of the
5 members attending a hearing. A quorum shall consist of three members. The
6 Technical Standards Committee shall hear and determine all appeals as
7 provided by this section. The Committee may from time to time recommend
8 modifications of this Flood Damage Prevention Ordinance to the Mayor. The
9 City Engineer shall provide such facilities, supplies, and services, including
10 postage, stationery and secretarial assistance, as may be required by the
11 Committee.

12 § 14-5-6-11 SENSITIVE LANDS

13 No site clearing, grubbing, and/or dirt work are permitted prior to the
14 approval of a site plan if a Sensitive Lands Analysis necessitates a Site Plan -
15 EPC approval per IDO Section 14-16-5-2(C).

16 § 14-5-6-12 PENALTY

17 A person who violates any provisions of this Flood Damage Prevention
18 Ordinance shall be subject to the penalty provisions set forth in § 1-1-99 of
19 this code of ordinances. Each day of violation is considered a separate
20 offense.

21 SECTION 3. The title of Chapter 14 of the Revised Ordinances of
22 Albuquerque is hereby amended as follows:

23 CHAPTER 14: ZONING, PLANNING, BUILDING, AND FLOOD DAMAGE
24 PREVENTION

25 SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, word or
26 phrase of this Ordinance is for any reason held to be invalid, or unenforceable
27 by any court of competent jurisdiction, such decision shall not affect the
28 validity of the remaining provisions of this Ordinance. The Council hereby
29 declares that it would have passed this Ordinance and each section,
30 paragraph, sentence, clause, word or phrase thereof irrespective of any
31 provision being declared unconstitutional or otherwise invalid.

1 **SECTION 5. COMPILATION.** Sections 1-3 of this Ordinance shall amend, be
2 incorporated in, and are to be compiled as part of the Revised Ordinances of
3 Albuquerque, New Mexico, 1994.

4 **SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect five (5)
5 days after publication by title and general summary.
6
7
8
9
10
11
12
13
14
15
16
17

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

1 PASSED AND ADOPTED THIS 6th DAY OF October, 2025
2 BY A VOTE OF: 8 FOR 0 AGAINST.

3
4 FOR: Baca, Bassan, Fiebelkorn, Grout, Lewis, Peña, Rogers, Sanchez
5 EXCUSED: Champine
6

7
8 
9

10 Brook Bassan, President
11 City Council
12

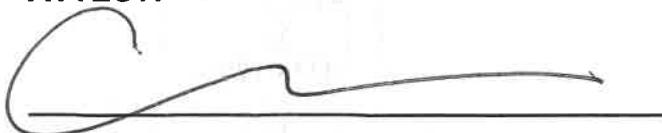
13
14 APPROVED THIS 16 DAY OF October, 2025
15
16

17
18 Bill No. C/S O-25-83
19

20
21 
22

23 Timothy M. Keller, Mayor
24 City of Albuquerque
25

26
27 ATTEST:

28 
29

30 Ethan Watson, City Clerk
31
32
33