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SPONSORED BY: Klarissa J. Peña, by request

2 ADOPTING A NEW ARTICLE IN THE REVISED ORDINANCES OF
3 ALBUQUERQUE 1994, CHAPTER 6, ADDING ARTICLE 12, TO BE KNOWN AS
4 THE “STORM WATER UTILITY ORDINANCE;” AMENDING CHAPTER 6,
5 ARTICLE 11 STORM WATER QUALITY ORDINANCE, SECTION 2,
6 DEFINITIONS, TO INCLUDE A DEFINITION OF ARID ADAPTED GREEN
7 STORMWATER INFRASTRUCTURE, AND ADDING A NEW SECTION 15.

8 WHEREAS, the United States Environmental Protection Agency (EPA) has
9 issued a watershed-based National Pollutant Discharge Elimination System
10 (NPDES) Municipal Separate Storm Sewer System (MS4) permit (Permit No.
11 NMR04A014) pursuant to the federal Clean Water Act, 33 U.S.C. § 1251 et seq.,
12 which obligates the City of Albuquerque to comply with all conditions of its
13 MS4 permit and may be subject to enforcement actions, penalties, and
14 liabilities for noncompliance, and to develop, implement, and enforce a
15 comprehensive stormwater management program, including the use of green
16 stormwater infrastructure (GSI) and low impact development (LID) approaches
17 to the maximum extent practicable to reduce pollutants in stormwater
18 discharges and protect water quality within the watershed; and

19 WHEREAS, stormwater runoff causes nuisance flooding within the City and
20 conveys pollutants including sediment, E. coli, heavy metals, and
21 hydrocarbons to arroyos, the Rio Grande, and other receiving waters,
22 degrading water quality and posing risks to public health, safety, welfare, and
23 infrastructure; and

WHEREAS, the New Mexico Legislature, through NMSA 1978, § 3-23-1 and
§ 3-23-11 (2025), has expressly authorized municipalities to establish
stormwater utilities by ordinance and to impose equitable service charges,

1 fees, or assessments to provide for storm water services, including the
2 collection, treatment, storage or disposal of storm water; and

3 WHEREAS, the City of Albuquerque is authorized pursuant to its home rule
4 powers under Article X, Section 6 of the New Mexico Constitution and the
5 Albuquerque City Charter to adopt ordinances necessary to protect public
6 health, safety, and welfare, and the City has recognized green stormwater
7 infrastructure as a best practice through adoption of Chapter 6, Article 5, Part
8 6 ROA 1994, the Complete Streets Ordinance, which supports the integration
9 of green infrastructure into the planning, design, and construction of public
10 rights-of-way including medians, stormwater bumpouts, chicanes, and buffer
11 or parkway strips; and

12 WHEREAS, additional funding sources for stormwater management will
13 support meeting the water quality regulatory requirements and equitable
14 expansion and maintenance of both gray and green stormwater infrastructure;
15 and

16 WHEREAS, the establishment of a stormwater utility, including a Green
17 Stormwater Infrastructure Program, and dedicated fund supported through
18 user-based fees proportionate to system demand, is necessary to provide
19 sustainable financing, support regulatory compliance, improve water quality,
20 reduce nuisance flooding, and protect public infrastructure, and promote
21 environmental stewardship for current and future residents of Albuquerque.

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

24 SECTION 1. A new Article 12 of Chapter 6 of the Revised Ordinances of
25 Albuquerque, 1994, is hereby created as follows:

26 § 6-12-1 CREATION OF A STORMWATER UTILITY:

27 (A) The City hereby establishes a Stormwater Utility, including a Green
28 Stormwater Infrastructure (GSI) Program and associated fund, within the
29 Department of Municipal Development (DMD).

30 (B) The Stormwater Utility shall be responsible for planning, design,
31 construction, operation, maintenance, and regulatory compliance of
32 stormwater systems, including both gray and green infrastructure.

1 (C) The Stormwater Utility may create passive or active rainwater
2 harvesting incentive, credit or rebate programs and collaborate with other
3 agencies such as the Albuquerque Metropolitan Arroyo Flood Control
4 Authority (AMAFCA), Bernalillo County, and the Albuquerque Bernalillo
5 County Water Utility Authority (ABCWUA) Xeriscape Program to incentivize
6 the use of green stormwater infrastructure practices, conserve potable water,
7 and enhance ecosystem services. The Department of Municipal Development
8 shall propose such incentive, credit, or rebate programs to Council for review
9 and approval within two years of enactment of this Ordinance.

10 (D) The Administration shall submit to City Council annually a report on the
11 Stormwater Management Fund and the Green Stormwater Infrastructure
12 Management Program.

13 § 6-12-2 DEFINITIONS:

14 *ACTIVE RAINWATER HARVESTING.* A method of capturing rainwater from
15 rooftops or other impervious areas in a container such as a rain barrel,
16 cistern, or tank to be redistributed at a later point in time, typically for
17 supplemental irrigation, thereby reducing the volume of stormwater runoff. All
18 projects that capture rainwater must comply with applicable State of New
19 Mexico laws and regulations regarding management of water resources.

20 *ECOSYSTEM SERVICES.* Anthropocentric term referring to the benefits that
21 humans receive from an ecosystem.

22 *GRAY STORMWATER INFRASTRUCTURE.* Traditional stormwater
23 infrastructure in the built environment designed to collect, convey, and
24 manage stormwater runoff from developed areas, including but not limited to
25 gutters, drains, inlets, pipes, culverts, tanks, channels, pump stations, and
26 retention basins.

27 *GREEN STORMWATER INFRASTRUCTURE (GSI).* A term referring to
28 constructed features that leverage the ecological functions of living, natural
29 systems to provide ecosystem services, such as capturing, cleaning, and
30 infiltrating stormwater, creating wildlife habitat, shading and cooling streets
31 and buildings, and calming traffic.

32 *IMPERVIOUS SURFACE.* Refers to any surface that prevents or significantly
33 impedes infiltration of stormwater.

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1 **INFILTRATION.** The movement of water from the land's surface into the soil.
2 **LOW IMPACT DEVELOPMENT (LID).** LID is an approach to land development
3 (or re-development) that works with nature to manage stormwater runoff as
4 close to its source as possible. LID employs principles such as preserving and
5 recreating natural landscape features and minimizing effective
6 imperviousness to create functional and appealing site drainage that treats
7 stormwater as a resource rather than a waste product. In arid climates, the
8 techniques and applications of LID are different than in other climates.
9 **NONPOINT SOURCE POLLUTION.** Pollution that comes from diffuse sources
10 like auto oil, pet waste, herbicides, and sediment. It is picked up by
11 stormwater flowing over roofs, driveways, lawns, and streets, and is carried to
12 streams and rivers.
13 **STORMWATER MANAGEMENT FUND.** A non-reverting fund created by this
14 Ordinance. Resources from this fund may be used for the design,
15 construction, management, maintenance and operation of the Stormwater
16 Utility, including the Green Stormwater Infrastructure Program.
17 **STORMWATER RUNOFF.** Water from rain or melting snow that is not absorbed
18 into the ground. Areas with higher proportions of impervious surface, such as
19 streets, parking lots, and buildings, generate more stormwater runoff.
20 **STORMWATER UTILITY.** A municipal utility housed in the Department of
21 Municipal Development, created by this Ordinance, which is established to
22 manage stormwater quality, drainage, discharge, and regulatory compliance
23 through a combination of gray and green stormwater infrastructure.
24 **XERISCAPE.** Xeric or xeriscape refers to a landscaping technique that uses
25 regionally adapted or native plants with low water demand to reduce
26 supplemental watering and overall water use.
27 **§ 6-12-3 STORMWATER MANAGEMENT FUND:**
28 (A) A dedicated Stormwater Management Fund is hereby established.
29 (B) All revenues collected pursuant to this Ordinance shall be deposited
30 into the Fund. The Fund shall be non-reverting to the General Fund and shall
31 not be commingled with the General Fund. The fund shall be managed by the
32 Department of Municipal Development (DMD).

1 (C) Revenues shall be used solely for stormwater management-related
2 purposes, such as but not limited to street sweeping, trash and debris
3 diversion and removal, storm drainage inlet/outlet cleaning, maintenance of
4 pervious pavements, and including design, construction, operation,
5 inspection, and maintenance of stormwater infrastructure; retention and
6 infiltration infrastructure; Green Stormwater Infrastructure (GSI) Program
7 management, projects and public education and outreach; and stormwater
8 quality regulatory compliance and monitoring.

9 § 6-12-4 FEE FOR SERVICE:

10 (A) A stormwater service fee is hereby established.

11 (B) The fee will be assessed to all properties within the City limits that are
12 Albuquerque Bernalillo County Water Utility Authority (ABCWUA) customers.

13 (C) The fee structure will be based on potable water usage as a proxy for
14 stormwater runoff generated by each property, subject to subsection (D)
15 below. Each customer will initially pay a rate of \$0.35 per unit or CCF (748
16 gallons) of water used, into the Stormwater Management Fund. The rate will
17 increase by \$0.01 each fiscal year until such time that a new fee structure is
18 implemented consistent with subsection (D) below.

19 (D) The Department of Municipal Development (DMD) will acquire
20 necessary data and establish the procedure for quantifying stormwater runoff
21 from each parcel based on impervious square footage within two (2) years of
22 the enactment date of this Ordinance. Upon review of that data and the overall
23 operations of the stormwater utility, DMD shall propose an adjustment of the
24 fee assessment structure based on the volume of runoff each property
25 discharges to the storm drainage system. Any adjustment in fee assessment
26 structure is subject to Administration and Council approval. If the
27 Administration and City Council do not approve an adjustment in fee
28 assessment structure within three (3) years of the effective date of this
29 Ordinance, the stormwater service fee shall sunset at the end of the following
30 fiscal year.

31 (E) It is further provided that a low-income credit of 15% per month shall
32 apply to owner occupied residences who qualify under the current United
33 States Office of Management and Budget income guidelines. The

1 Administration shall establish procedures regarding certification for the
2 above-mentioned credit and shall periodically make administrative changes to
3 the income guidelines, as circumstances require.

4 (F) Responsibility of Payments. The charges provided for herein are the
5 personal responsibility of the owner of the property served; any fee, payment,
6 or fee shifting arrangement with a tenant or any other person is a third-party
7 arrangement between the owner and the other person or entity and is not
8 binding on the City.

9 (G) The fee established and assessed by subsection (C) may be substituted
10 for a flat rate, assessed yearly, if a commercial property owner provides
11 documentation of the commercial property's water use that indicates that the
12 commercial property:

13 (1) Has high potable water usage; and

14 (2) Generates no substantial runoff.

15 DMD will administer and manage applications to flat rate assessment in lieu of
16 the fee established and assessed in subsection (C).

17 **§ 6-12-5 GREEN STORMWATER INFRASTRUCTURE PROGRAM:**

18 (A) The City shall establish and maintain a Green Stormwater Infrastructure
19 (GSI) Program. The GSI Program shall be administered by a GSI Program
20 Manager or designated employee within the Department of Municipal
21 Development.

22 (B) The GSI Program must include additional staff members to manage the
23 design, construction, inspection, and maintenance of green stormwater
24 infrastructure projects. A minimum of 40% of the annual revenue deposited to
25 the Stormwater Management Fund must be spent on the GSI Program
26 including relevant administrative costs, and the remainder will be spent on
27 gray stormwater infrastructure and associated costs.

28 (C) Site selection for GSI capital projects will be prioritized based on:

29 (1) Social vulnerability index scores;

30 (2) Known water quality or nuisance flooding issues or large upstream
31 areas contributing runoff;

32 (3) Higher percentage of heat vulnerable populations;

33 (4) Lower percentage of existing tree canopy; and

1 (5) Cost effectiveness (i.e., leverages other City departmental project
2 funding or external funding for project design and construction).

3 (D) The GSI Program may use the Stormwater Management Fund to
4 support GSI capital projects that may be managed or led by other City
5 Departments, to meet best practices and industry standards through site
6 selection, design, construction and ongoing maintenance of GSI features.
7 Such GSI capital projects managed or led by other City Departments must
8 meet the same prioritization criteria in subsection (C), above.

9 SECTION 2. Chapter 6, Article 11, of the Revised Ordinances of
10 Albuquerque, 1994, is hereby amended to insert new definitions in
11 § 6-11-2 definitions:

12 *ARID ADAPTED GREEN STORMWATER INFRASTRUCTURE (GSI)*. A set of
13 practices adapted to arid and semi-arid climates that mimic natural processes
14 to retain and use stormwater. By promoting infiltration, evapotranspiration,
15 green stormwater infrastructure preserves and restores the natural hydrologic
16 cycle.

17 *LOW IMPACT DEVELOPMENT (LID)*. LID is an approach to land development
18 (or re-development) that works with nature to manage stormwater runoff as
19 close to its source as possible. LID employs principles such as preserving and
20 recreating natural landscape features and minimizing effective
21 imperviousness to create functional and appealing site drainage that treats
22 stormwater as a resource rather than a waste product. In arid climates, the
23 techniques and applications of LID are different than in other climates.

24 SECTION 3. Chapter 6, Article 11, of the Revised Ordinances of
25 Albuquerque, 1994, is hereby amended to insert new SECTION 15 is hereby
26 created as follows:

27 § 6-11-15 REQUIRED USE OF ARID-ADAPTED GREEN STORMWATER
28 INFRASTRUCTURE AND LOW IMPACT DEVELOPMENT:

29 (A) To the maximum extent practicable, all stormwater management
30 activities undertaken or funded by the City shall incorporate green stormwater
31 infrastructure and low impact development practices designed to improve
32 stormwater quality and reduce pollutant discharges to the municipal separate
33 storm sewer system (MS4) and receiving waters.

1 (B) Green stormwater infrastructure and low impact development practices
2 shall be designed and implemented using arid-adapted and drought-tolerant
3 approaches appropriate to the climatic conditions of the Albuquerque region,
4 including the use of native or desert adapted (non-invasive) vegetation, water
5 harvesting techniques, and soil-based infiltration systems.

6 (C) Stormwater management practices shall prioritize surface-based,
7 distributed systems that promote infiltration, support drought-tolerant
8 landscaping, and enable on-site stormwater capture, where feasible, in order
9 to reduce reliance on conventional conveyance systems and potable water
10 resources for landscape irrigation.

11 (D) The Department of Municipal Development, in coordination with the City
12 Engineer, is authorized to develop and adopt technical standards, design
13 criteria, guidance documents, and approval process to implement the
14 requirements of this section consistent with the City's MS4 permit and best
15 available science.

16 (E) The requirements of this section shall apply to City-funded capital
17 projects to the extent allowable under applicable law, and shall be
18 implemented in a manner consistent with existing City ordinances, including,
19 but not limited to, the Storm Water Utility Ordinance, Street Tree Ordinance,
20 Drainage Control Ordinance, and Complete Streets policies.

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

28 SECTION 5. COMPILATION. SECTION 1 of this Ordinance is to be compiled
29 as a new Article 12 of Chapter 6, of the Revised Ordinances of Albuquerque,
30 New Mexico, 1994, titled "Stormwater Utility Ordinance." SECTION 2 of this
31 Ordinance is to be compiled as an amendment to Section 2 of Chapter 6,
32 Article 11, of the Revised Ordinances of Albuquerque, 1994. SECTION 3 of this

Ordinance is to be compiled as a new Section 15 of Chapter 6, Article 11, of the Revised Ordinances of Albuquerque, 1994.

SECTION 6. EFFECTIVE DATE. This Ordinance takes effect 60 days after publication by title and general summary of this Ordinance or July 1, 2026, whichever is later.

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