

**CITY of ALBUQUERQUE**  
**TWENTY SIXTH COUNCIL**

COUNCIL BILL NO. O-24-2 ENACTMENT NO. O-2024-004

**SPONSORED BY: Tammy Fiebelkorn, by request**

**1 ORDINANCE**

2 AMENDING CHAPTER 14, ARTICLE 5, PART 1, SECTION 4 AND 9, A PORTION  
3 OF FLOOD HAZARD AND DRAINAGE CONTROL TO REPLACE FEMA ZONES  
4 DESIGNATIONS WITH FEMA DESIGNATED 100-YEAR FLOODPLAIN,  
5 REPLACE NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929 TO  
6 VERTICAL DATUM OF 1988 (NAVD 88) OR OTHER DATUM ADOPTED BY  
7 FEMA; AMENDING CHAPTER 14, ARTICLE 5, PART 1, SECTION 8, 9 AND 11,  
8 TO INCLUDE MECHANICAL EQUIPMENT; AMENDING CHAPTER 14, ARTICLE  
9 5, PART 2, SECTION 15 TO CHANGE THE APPEAL DEADLINE FROM 30 DAYS  
0 TO 15 DAYS AND AMENDING THE HEARING TO BE CONDUCTED NOT  
1 EARLIER THAN 15 DAYS AND NOT LATER THAN 45 DAYS VERSUS NOT  
2 EARLIER THAN 10 DAYS AND NOT LATER THAN 30 DAYS; AMENDING  
3 CHAPTER 14, ARTICLE 5, PART 2, TO INCLUDE A NEW SECTION 18  
4 SENSITIVE LANDS.  
5 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
6 ALBUQUERQUE:

17 Section 1. Section 14-5-1-1 ROA 1994, is amended to read:  
18 “§ 14-5-1-4 DEFINITIONS. For the purpose of §§ 14-5-1-1 et seq., the following  
19 definitions shall apply unless the context clearly indicates or requires a  
20 different meaning.

**ELEVATED BUILDING. A nonbasement building built, in the case of a building in a FEMA-designated 100-year floodplain to have the top of the elevated floor elevated above the ground by means of pilings, columns, (posts and piers), or shear walls parallel to the flow of the water, and adequately anchored so as not to impair the structural integrity of the building during a**

1 flood of up to the magnitude of the base flood. In the case of a FEMA-  
2 designated 100-year floodplain, ELEVATED BUILDING also includes a building  
3 elevated by means of fill or solid foundation perimeter walls with openings  
4 sufficient to facilitate the unimpeded movement of flood waters.

5 MEAN SEA LEVEL. For purposes of the National Flood Insurance Program,  
6 the National American Vertical Datum of 1988 (NAVD 88) or other datum  
7 adopted by FEMA, to which base flood elevations shown on a community's  
8 Flood Insurance Rate Map are referenced.

9 WATER SURFACE ELEVATION. The height, in relation to the National  
10 American Vertical Datum of 1988 (NAVD 88) or other datum adopted by FEMA,  
11 for floods of various magnitudes and frequencies in the floodplains of riverine  
12 areas.

13 ('74 Code, § 7-3-4) (Ord. 99-1981; Am Ord. 77-1983; Am. Ord. 66-1987)

14 § 14-5-1-8 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION. In all  
15 areas of special flood hazards the following standards are required:

16 (B) Construction Materials and Methods.

17 (1) All new construction and substantial improvements shall be  
18 constructed with materials and utility equipment resistant to flood damage;

19 (2) All new construction and substantial improvements shall be  
20 constructed using methods and practices that minimize flood damage.

21 (C) Utilities.

22 (1) All new and replacement water supply systems shall be designed to  
23 minimize or eliminate infiltration of flood waters into the system;

24 (2) New and replacement sanitary sewage systems shall be designed to  
25 minimize or eliminate infiltration of flood waters into the systems and  
26 discharge from the systems into flood waters; and

27 (3) On-site waste disposal systems shall be located to avoid impairment  
28 to them or contamination from them during flooding.

29 (4) All new construction or substantial improvements shall be  
30 constructed with electrical, mechanical, heating, plumbing, ventilation, and air  
31 conditioning equipment, and other service facilities that are designed and/or

1 located so as to prevent water from entering or accumulating within the  
2 components during conditions of flooding.

3 **§ 14-5-1-9 SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION.**

4 In all areas of special flood hazards where base flood elevation data have  
5 been provided as set forth in § 14-5-1-6 or in § 14-5-1-7(B)(2), the following  
6 standards are required:

7 (A) Residential Construction. New construction and substantial  
8 improvement of any residential structure shall have the lowest floor (including  
9 basement and mechanical equipment) elevated to a minimum of one foot  
10 above the base flood elevation. A registered professional engineer or land  
11 surveyor shall submit a certification to the Floodplain Administrator [i.e., the  
12 Administrator] that the standard of this division as proposed in § 14-1-8 is  
13 satisfied.

14 (B) Nonresidential Construction. New construction and substantial  
15 improvement of any commercial, industrial or other nonresidential structure  
16 shall either have the lowest floor, including basement and mechanical  
17 equipment, elevated a minimum of one foot above the base flood elevation; or  
18 together with attendant utility and sanitary facilities, shall:

19 (1) Be floodproofed so that below one foot above the base flood level the  
20 structure is watertight with walls substantially impermeable to the passage of  
21 water;

22 (2) Have structural components capable of resisting hydrostatic and  
23 hydrodynamic loads and effects of buoyancy; and

24 (3) Be certified by a professional engineer that the standards of this  
25 division (B) are satisfied. Such certifications shall be provided to the official  
26 [i.e., the Administrator] as set forth in § 14-5-1-7(B)(3).

27 (D) Manufactured Homes.

28 (1) Require that all manufactured homes to be placed within Zone A, shall  
29 be installed using methods and practices which minimize flood damage. For  
30 the purpose of this requirement, manufactured homes and mechanical  
31 equipment must be elevated and anchored to resist flotation, collapse, or  
32 lateral movement. Methods of anchoring may include, but are not limited to,

1 use of over-the-top or frame ties to ground anchors. This requirement is in  
2 addition to applicable State and local anchoring requirements for resisting  
3 wind forces.

4 (2) All manufactured homes shall be in compliance with division (A) of  
5 this section.

6 (3) Require that all manufactured homes to be placed or substantially  
7 improved within FEMA designated 100-year floodplains on the community's  
8 FIRM be elevated on a permanent foundation such that the lowest floor of the  
9 manufactured home and mechanical equipment is a minimum of one foot  
10 above the base flood elevation; and be securely anchored to an adequately  
11 anchored foundation system in accordance with the provision of division (1)  
12 above.

13 ('74 Code, § 7-3-7B) (Ord. 99-1981; Am. Ord. 77-1983; Am Ord. 66-1987)

14 § 14-5-1-11 STANDARDS OF AREAS OF SHALLOW FLOODING (AO AND AH  
15 ZONES).

16 Located within the areas of special flood hazard established in § 14-5-1-6 are  
17 areas designated as shallow flooding. These areas have special flood hazards  
18 associated with base flood depths of one to three feet where a clearly defined  
19 channel does not exist and where the path of flooding is unpredictable and  
20 indeterminate; therefore, the following provisions apply:

21 (A) All new construction and substantial improvements of residential  
22 structures have the lowest floor (including basement and mechanical  
23 equipment) elevated above the highest adjacent grade at least one foot higher  
24 than the depth number specified in feet on the community's FIRM (at least two  
25 feet if no depth number is specified).

26 (B) All new construction and substantial improvements of nonresidential  
27 structures must:

28 (1) Have the lowest floor (including basement and mechanical equipment)  
29 elevated above the highest adjacent grade at least one foot higher than the  
30 depth number specified in feet on the community's FIRM (at least two feet if no  
31 depth number is specified); or

32 PART 2: DRAINAGE CONTROL

1    **§ 14-5-2-15 APPEALS; TECHNICAL STANDARDS COMMITTEE.**

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

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

31      **(C) There is hereby created a Technical Standards Committee, consisting of**  
32      **five members who shall be appointed by the Mayor with the advice and**

1 consent of the City Council, and who shall serve without pay. Two members  
2 shall serve for a term ending August 1, 1983, one member shall serve for a  
3 term ending August 1, 1984, and two members shall serve for terms ending  
4 August 1, 1985. Subsequent terms shall be for three years. Four of such  
5 members shall be registered in this state as professional engineers, be  
6 competent in the science of surface water hydrology, and have experience in  
7 solving surface drainage problems. The members shall select one member to  
8 serve as Chairperson, and their decisions shall be by majority vote of the  
9 members attending a hearing. A quorum shall consist of three members. The  
10 Technical Standards Committee shall hear and determine all appeals as  
11 provided by this section. The Committee may from time to time recommend  
12 modifications of §§ 14-5-2-1 et seq. to the Mayor. The City Engineer shall  
13 provide such facilities, supplies, and services, including postage, stationery  
14 and secretarial assistance, as may be required by the Committee.

15 ('74 Code, § 7-9-15) (Ord. 63-1982; Am. Ord. 89-1989; Am. Ord. 2013-016)

16 § 14-5-2-18 SENSITIVE LANDS.

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

20 Section 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
21 clause, word or phrase of this ordinance is for any reason held to be  
22 invalid or unenforceable by any court of competent jurisdiction, such  
23 decision shall not affect the validity of the remaining provisions of this  
24 ordinance. The Council hereby declares that it would have passed this  
25 ordinance and each section, paragraph, sentence, clause, word or  
26 phrase thereof irrespective of any provision being declared  
27 unconstitutional or otherwise invalid.

28 Section 3. COMPILATION. Section 1 of this ordinance shall be  
29 incorporated in and made part of the Revised Ordinances of  
30 Albuquerque, New Mexico, 1994.

31 Section 4. EFFECTIVE DATE. This ordinance shall take effect five  
32 days after publication by title and general summary.

1 PASSED AND ADOPTED THIS 4<sup>th</sup> DAY OF March, 2024  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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10 Dan Lewis, President  
11 City Council  
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16 APPROVED THIS 14 DAY OF March, 2024

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20 Bill No. O-24-2

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23 Timothy M. Keller, Mayor  
24 City of Albuquerque  
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27 ATTEST:

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30 Ethan Watson, City Clerk  
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**CITY OF ALBUQUERQUE**  
**Albuquerque, New Mexico**  
**Office of the Mayor**

Mayor Timothy M. Keller

**INTER-OFFICE MEMORANDUM**

**TO:** Dan Lewis, President, City Council

**FROM:** Timothy M. Keller, Mayor *AK*

**SUBJECT: Amendments to ARTICLE 5, §14-5 FLOOD HAZARD AND DRAINAGE CONTROL ORDINANCE**

During the City of Albuquerque's major Community Rating System (CRS) audit, the Federal Emergency Management Agency (FEMA) identified changes that need to be made to the Flood Hazard And Drainage Ordinance. The proposed amendments update the FLOOD HAZARD AND DRAINAGE CONTROL ORDINANCE, and incorporates the changes required by FEMA, as follows:

- a. Defining the Flood Zones as the "FEMA designated 100-year floodplains" versus different "Zones".
- b. Updating the Vertical Datum to Current Datum or other datum adopted by FEMA.
- c. Adding language to require placement of "Mechanical Equipment" above the designated 100-year floodplain elevation to meet the FEMA requirements under our Community Rating System (CRS). By maintaining a favorable rating with FEMA, Albuquerque property owners will be able obtain larger discounts on their flood insurance through the National Federal Insurance Program (NFIP).
- d. Streamlining the appeal deadline from 30 days to 15 days to be consistent with other City appeal deadlines and reducing scheduling the Technical Standard Committee hearing from within 45 days to within 30 days.
- e. Add § 14-5-2-18 SENSITIVE LANDS - Where a Sensitive Lands Analysis is reviewed and the Planning Director determines sensitive land features must be preserved, then the City Engineer must approve a Sensitive Lands Preservation Plan that must be implemented on the development site prior to any clearing, grubbing, and dirt work.

Approved:

Approved as to Legal Form:

*Samantha Sengel* 1/29/24  
Dr. Samantha Sengel Date  
Chief Administrative Officer

*[Signature]* 1/29/24  
City Attorney Date

Recommended:

*[Signature]* 1/29/24  
Alan Varela Date  
Director



## **Cover Analysis**

### **1. What is it?**

This is an amendment to ARTICLE 5, Section 14-5, FLOOD HAZARD AND DRAINAGE CONTROL ORDINANCE of the City of Albuquerque.

### **2. What will this piece of legislation do?**

The proposed updates and changes to the ordinance will accomplish the following purposes:

- a. Define the Flood Zones as the “FEMA designated 100-year floodplains” versus different “Zones”.
- b. Update the Vertical Datum to Current Datum or other datum adopted by FEMA.
- c. Add language to require placement of “Mechanical Equipment” above the designated 100-year floodplain elevation to meet the FEMA requirements under the City of Albuquerque’s Community Rating System (CRS). By maintaining a good rating with FEMA, Albuquerque property owners will be able obtain larger discounts on their flood insurance through the National Federal Insurance Program (NFIP).
- d. Streamline the appeal process by reducing the appeal time from 30 days to 15 days to be consistent with other City appeal deadlines, and reduce the scheduling of the Technical Standard Committee hearing from within 45 days to within 30 days.
- e. Add a section to address sensitive lands by requiring a Sensitive Lands Analysis to be reviewed by the Planning Director, who determines whether sensitive land features must be preserved. If so, the City Engineer must approve a Sensitive Lands Preservation Plan that must be implemented on site prior to any clearing, grubbing, and dirt work.

### **3. Why is this project needed?**

Per FEMA’s major audit of the City’s CRS, FEMA is requiring definition updates to the Flood Hazard And Drainage Control Ordinance and assurance that mechanical equipment will be installed at least one (1) foot above base flood elevation. Additionally,

sensitive lands may be irreversibly damaged during site preparation without implementation of an approved preservation plan.

**4. How much will it cost and what is the funding source?**

There will be no cost for these changes.

**5. Is there a revenue source associated with this contract? If so, what level of income is projected?**

N/A

**6. What will happen if the project is not approved?**

The City will jeopardize its favorable CRS rating with FEMA and lose flood insurance discounts through NFIP for Albuquerque property owners, and sensitive lands will not be preserved.

**7. Is this service already provided by another entity?**

No.