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1 SECTION 1. A new Section 12-2-30 is hereby added to the Criminal Code,
2 Chapter 12, Article 2 of the Revised Ordinances of Albuquerque, 1994, as
3 follows:

4 “[§12-2-30 UNAUTHORIZED PRESENCE AND CAMPING IN DRAINAGE
5 CHANNELS, ARROYOS AND IRRIGATION CHANNELS.

6 (A) Definitions. For purposes of this section, the following definitions shall
7 apply unless the context clearly indicates or requires a different meaning:

8 Arroyo. A natural or naturalistic water course formed by the action of fast-
9 flowing water that is owned and maintained by a public agency.

10 Camping. The setting up of any tent, shack, or other permanent or
11 temporary structure or shelter, or preparing a sleeping bag or other bedding
12 material for use in a water conveyance system.

13 Drainage channel or piping. Engineered structures designed to convey
14 water flow that is owned, maintained or under the authority of a public agency,
15 and that may consist of earthen, concrete, metal, rock, brick and/or heavy-duty
16 plastic or other materials.

17 Irrigation channel. An engineered waterway structure, used for the
18 purpose of carrying water from a source to soil used for farming or
19 landscaping that is owned, maintained or under the authority of a public
20 agency, and that may consist of earthen, concrete, metal, rock, brick and/or
21 heavy-duty plastic or other materials.

22 Public agency. The City of Albuquerque, the County of Bernalillo, the
23 Albuquerque Metropolitan Arroyo Flood Control Authority, or the Middle Rio
24 Grande Conservancy District.

25 Right of way. The right of way includes all land within the parameters of the
26 area within which the public agency owns, operates or maintains the drainage
27 channel, arroyo, irrigation channel or piping, and is not restricted to the
28 drainage channel, arroyo, irrigation channel, or piping.

29 Water Conveyance System. An engineered or natural channel intended to
30 transport water, including an arroyo, drainage channel, irrigation channel, and
31 piping.

- 1 (B) It is unlawful for any person to enter or to remain in a water conveyance
2 system which is owned, maintained or operated by a public agency and
3 which is not designated as an open space area or recreational path,
4 except for public safety personnel and employees of the public agency
5 that owns, maintains or operates said water conveyance system, or those
6 persons authorized by such agency.
- 7 (C) It is unlawful for any person to camp or loiter upon any part of the right of
8 way in which a water conveyance system owned, maintained or operated
9 by a public agency is located, including any portion of such right of way
10 that designated as “Open Space.”
- 11 (D) It is unlawful for any person remain in an open space or recreational trail
12 that is within the right of way of a water conveyance channel after having
13 been instructed to leave by an employee of the public agency that
14 controls the water conveyance sytem, their designated representative, or
15 a law enforcement official, due to a public safety issue or to allow the
16 agency to conduct facility maintenance.
- 17 (E) It is unlawful for any person to operate a motor vehicle or an off highway
18 vehicle in the right of way of a water conveyance system, that is owned,
19 maintained or operated by a public agency, including any water
20 conveyance system designated as “Open Space” or as a recreation trail,
21 except for public safety personnel and employees of the public agency
22 that owns, maintains or operates said water conveyance system, or those
23 persons authorized by such agency.
- 24 (F) The penalties set forth in § 12-1-99 shall apply for a violation of this
25 section; provided, however, that a law enforcement officer, shall first
26 issue a written warning to a person for violating this section in lieu of a
27 citation or conducting an arrest. However, in the event of an immediate
28 danger, a verbal warning prior to a citation or arrest is permitted]”

29 SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause,
30 word, or phrase of this Ordinance is for any reason held to be invalid or
31 unenforceable by any court of competent jurisdiction, such decision shall not
32 affect the validity of the remaining provisions of this Ordinance. The Council

1 hereby declares that it would have passed this ordinance and each section,
2 paragraph, sentence, clause, word, or phrase thereof irrespective of any
3 provision being declared unconstitutional or otherwise invalid.

4 SECTION 3. COMPILATION. Section 1 of this Ordinance shall amend, be
5 incorporated in, and made part of the Revised Ordinances of Albuquerque,
6 New Mexico, 1994, as a new Section 12-2-30 to be added to Article 2, Chapter
7 12 and titled "Unauthorized Presence and Camping in Water Conveyance
8 Channels."

9 SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect five days
10 after publication by title and general summary.

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30 x/cl/users/ccotgm/Fiebelkor/Arroyo and Ditch Safety/Study Phase/Stormwater Conveyance
31 Channel Safety Resolution.