CITY of ALBUQUERQUE
TWENTY SEVENTH COUNCIL

COUNCIL BILL NO. O-26-26 ENACTMENT NO. _____

SPONSORED BY: Klarissa J. Peña, by request

ORDINANCE

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

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

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

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

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

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

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

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

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

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

§ 6-12-1 CREATION OF A STORMWATER UTILITY

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

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

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

(C) The Stormwater Utility may create passive or active rainwater harvesting incentive, credit or rebate programs or collaborate with other agencies such as the Albuquerque Bernalillo County Water Utility (ABCWUA) Xeriscape Program to incentivize the use of green stormwater infrastructure practices, conserve potable water, and enhance ecosystem services.

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

§ 6-12-2 DEFINITIONS

ACTIVE RAINWATER HARVESTING. **A method of capturing rainwater from rooftops or other impervious areas in a container such as a rain barrel, cistern, or tank to be redistributed at a later point in time, typically for supplemental irrigation, thereby reducing the volume of stormwater runoff.**

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

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

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

INFILTRATION. **The movement of water from the land's surface into the soil.**

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

NONPOINT SOURCE POLLUTION. **Pollution that comes from diffuse sources like auto oil, pet waste, herbicides, and sediment. It is picked up by**

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

stormwater flowing over roofs, driveways, lawns, and streets, and is carried to streams and rivers.

STORMWATER MANAGEMENT FUND. **A non-reverting fund created by this Ordinance. Resources from this fund may be used for the design, construction, management, maintenance and operation of the Stormwater Utility, including the Green Stormwater Infrastructure Program.**

STORMWATER RUNOFF. **Water from rain or melting snow that is not absorbed into the ground. Areas with higher proportions of impervious surface, such as streets, parking lots, and buildings, generate more stormwater runoff.**

STORMWATER UTILITY. **A municipal utility housed in the Department of Municipal Development, created by this ordinance, which is established to manage stormwater quality, drainage, and regulatory compliance through a combination of gray and green infrastructure.**

XERISCAPE. **Xeric or xeriscape refers to a landscaping technique that uses regionally adapted or native plants with low water demand to reduce supplemental watering and overall water use.**

§ 6-12-3 STORMWATER MANAGEMENT FUND

(A) A dedicated Stormwater Management Fund is hereby established.

(B) All revenues collected pursuant to this Ordinance shall be deposited into the Fund. The Fund shall be non-reverting to the General Fund and shall not be commingled with the General Fund. The fund shall be managed by the Department of Municipal Development (DMD).

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

§ 6-12-4 FEE FOR SERVICE

(A) A stormwater service fee is hereby established.

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

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

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

(D) The Department of Municipal Development (DMD) will acquire necessary data and establish the procedure for quantifying stormwater runoff from each parcel based on impervious square footage within three (3) years of the enactment date of this Ordinance. Upon review of that data and the overall operations of the stormwater utility, DMD may propose an adjustment of the fee assessment structure based on the volume of runoff each property discharges to the storm drainage system. Any adjustment in fee assessment structure is subject to Administration and Council approval.

(E) It is further provided that a low-income credit of 15% per month shall apply to owner occupied residences who qualify under the current United States Office of Management and Budget income guidelines. The Administration shall establish procedures regarding certification for the above-mentioned credit and shall periodically make administrative changes to the income guidelines, as circumstances require.

(F) Responsibility of Payments.

(1) The charges provided for herein are the personal responsibility of the owner of the property served; any fee, payment, or fee shifting arrangement with a tenant or any other person is a third-party arrangement between the owner and the other person or entity and is not binding on the city.

(2) The city may file a lien on such property for such charges including any interest or penalties accruing on same.

§ 6-12-5 GREEN STORMWATER INFRASTRUCTURE PROGRAM

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

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

(B) The GSI Program must include at least 3 additional staff members to manage the design, construction, inspection, and maintenance of green stormwater infrastructure projects. A minimum of 40% of the annual revenue deposited to the Stormwater Management Fund must be spent on the GSI Program.

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

(1) Known water quality or nuisance flooding issues or large upstream areas contributing runoff;

(2) Higher percentage of heat vulnerable populations;

(3) Lower percentage of existing tree canopy; and

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

(D) The GSI Program may use the Stormwater Management Fund to support GSI capital projects that may be managed or led by other City Departments, to meet best practices and industry standards through site selection, design, construction and ongoing maintenance of GSI features.

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

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

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

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

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

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

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

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

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

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

(E) The requirements of this section shall apply to City-funded capital projects to the extent allowable under applicable law, and shall be implemented in a manner consistent with existing City ordinances, including the Storm Water Utility Ordinance, Street Tree Ordinance, Drainage Control Ordinance, and Complete Streets policies.

SECTION 4. SEVERABILITY. If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not

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

affect the validity of the remaining provisions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

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

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

CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM April 13, 2026

TO: Klarissa J. Peña, President, City Council

FROM: Timothy M. Keller, Mayor

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

The attached legislation creates a new Stormwater Utility Ordinance and amends the Stormwater Quality Ordinance to add a requirement for use of arid-adapted green stormwater infrastructure and low impact development for City and City-funded stormwater management activities. This legislation is enacted pursuant to a new state law, NMSA 1978, § 3-23-1 and § 3-23-11 (2025), which authorizes municipalities to establish stormwater utilities by ordinance and to impose equitable service fees to provide for storm water services. These changes will support the City in meeting water quality regulatory requirements and equitable expansion and maintenance of both gray and green stormwater infrastructure.

The proposed Stormwater Utility Ordinance does the following:

- Creates a Stormwater Utility, including a Green Stormwater Infrastructure Program and associated fund, within the Department of Municipal Development (DMD).
- Identifies responsibilities of the Utility as well as authority to create incentive programs related to green stormwater infrastructure programs.
- Establishes a dedicated Stormwater Management Fund, separate from the General Fund, the revenues of which shall be used solely for stormwater management-related purposes.
- Establishes a stormwater services fee, which will be assessed to all properties within the city that are Albuquerque Bernalillo County Water Utility Authority (ABCWUA)

customers, initially to be structured based on potable water usage. The fee is initially set at $0.35 per unit of CCF (748 gallons) of water used.

- Establishes criteria for adjustment of the fee assessment structure, to be based on the volume of runoff each property discharges into the storm drainage system.
- Provides for a low-income credit of 15% per month for owners who qualify, identical to the Solid Waste low-income credit currently administered through the ABCWUA.
- Establishes a Green Stormwater Infrastructure (GSI) Program within DMD to manage the design, construction, inspection, and maintenance of green stormwater infrastructure projects, with a minimum of 40% of the annual revenue to the Stormwater Management fund to be spent on the GSI Program.

This legislation is submitted for Council's consideration.

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

Approved:

4/14/26

Samantha Sengel, EdD Date
Chief Administrative Officer

Approved as to Legal Form:

4/13/26

Date
City Attorney

Recommended:

4-13-26

Jennifer Turner Date
Director, Municipal Development

Docusign Envelope ID: BE3C33F4-1ECB-4393-8E3E-B1CAE2BD6D66

City of Albuquerque

Mayor's Office

Timothy M. Keller, Mayor

Inter-Office Memorandum

April 13, 2026

To: **Timothy M. Keller, Mayor**

From: **Dr. Samantha Sengel, Chief Administrative Officer** DS

Subject: **Signature Authority**

I will be out of the office Monday, April 13, 2026 through Friday April 17, 2026 returning to the office on Monday, April 20, 2026.

During this time, COO Matthew Whelan will have full signature authority for the office. COO Whelan can be reached via the following:

COO Matthew Whelan
Office: 505-331-7663
Email: mwhelan@cabq.gov

CC/ Email distribution:
Mayor Keller's Executive Team
Department Directors

Docusign Envelope ID: 63152C99-2D18-4ACB-A106-490DE9395422

City of Albuquerque
Legal Department

Timothy M. Keller, Mayor

Interoffice Memorandum

April 8, 2026

To: Dr. Samantha Sengel, Chief Administrative Officer

From: Lauren Keefe, City Attorney DS

Subject: **Acting City Attorney and Signature Authority**

I will be out of the office from Thursday, April 9 through Friday, April 17, 2026. During this time, Deputy City Attorney Devon King, will be assisting to fulfill all duties as Acting City Attorney and will have full signature authority:

Devon King, Deputy City Attorney
Cell – (505) 274-2963
Email – dking@cabq.gov

Paralegal – Sandra Jamison:
Office – (505) 768-4542
Email – sjamison@cabq.gov

Please also feel free to contact the front desk of the Legal Department at 768-4500.

cc: Email distribution:
Legal Department Managing Attorneys
Front End Administration Staff
Department Directors
Executive Assistants

Cover Analysis

1. **What is it?**
   This legislation creates a Storm Water Utility Ordinance and amends the Storm Water Quality Ordinance.

2. **What will this piece of legislation do?**
   The new ordinance proposed by this legislation creates a Stormwater Utility in the Department of Municipal Development (DMD), establishes a dedicated Stormwater Management Fund, establishes a stormwater services fee, and establishes a Green Stormwater Infrastructure (GSI) Program. This legislation is enacted pursuant to a new state law, NMSA 1978, § 3-23-1 and § 3-23-11 (2025), which authorizes municipalities to establish stormwater utilities by ordinance and to impose equitable service fees to provide for storm water services. The legislation also amends the Storm Water Quality Ordinance to add a requirement for use of arid-adapted green stormwater infrastructure and low impact development for City and City-funded stormwater management activities.

3. **Why is this project needed?**
   This project is needed to support the City in meeting water quality regulatory requirements and the equitable expansion and maintenance of both gray and green stormwater infrastructure.

4. **How much will it cost and what is the funding source?**
   The Stormwater Management Fund will be funded through the stormwater service fee established by this legislation.

5. **Is there a revenue source associated with this contract? If so, what level of income is projected?**
   The revenue source for the Stormwater Management Fund is the stormwater services fee, which will be assessed to all properties within the city that are Albuquerque Bernalillo County Water Utility Authority (ABCWUA) customers. Projected revenue is estimated at $8,372,293 in the first year, subject to a reduction for a credit for low-income residents.

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

The City will not have a Stormwater Utility, a Green Stormwater Infrastructure Program, or a dedicated Stormwater Management Fund to support the City in meeting water quality regulatory requirements and the equitable expansion and maintenance of both gray and green stormwater infrastructure.

7. **Is this service already provided by another entity?**
   No.

FISCAL IMPACT ANALYSIS

TITLE: Storm Water Utility

R:
O: X
FUND: New

DEPT: DMD

[x] No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.

[ ] (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	Fiscal Years 2025	2026	2027	Total
Base Salary/Wages				-
Fringe Benefits at				-
Subtotal Personnel	-	-	-	-
Operating Expenses		-		-
Property		-	-	-
Indirect Costs	-	-	-	-
Total Expenses	$ -	$ -	$ -	$ -
[x] Estimated revenues not affected				
[ ] Estimated revenue impact				
Revenue from program				0
Amount of Grant		-	-	
City Cash Match				
City Inkind Match				
City IDOH	-	-	-	-
Total Revenue	$ -	$ -	$ -	$ -

These estimates do not include any adjustment for inflation.
* Range if not easily quantifiable.

Number of Positions created

COMMENTS: The attached ordinance establishes a new fund for green stormwater infrastructure. New revenue will be generated estimated at $8 million and there is no fiscal impact to existing funds or fund balance.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY:

FISCAL ANALYST

APPROVED:

DIRECTOR

REVIEWED BY:

EXECUTIVE BUDGET ANALYST

BUDGET OFFICER

CITY ECONOMIST