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- 1 Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4)
2 permit by provisions designed:
- 3 (A) To establish policies, procedures, criteria, and requirements
4 that complement and supplement the Flood Hazards Ordinance set forth in §§
5 14-5-1-1 et seq. of this article for the assistance and guidance of City officials,
6 City staff and all persons and entities within the jurisdiction of the City.
- 7 (B) As to flood control, to:
- 8 (1) Prevent harm to human life.
9 (2) Minimize flood damages to public and private property.
10 (3) Provide for timely and effective construction and maintenance
11 of flood control facilities.
12 (4) Preserve the capacity of flood control and storm drainage
13 facilities to accept, convey, or store flows by limiting the introduction of
14 groundwater cleanup flows to such flood control and storm drainage facilities.
- 15 (C) As to storm drainage, to:
- 16 (1) Prevent the creation of public safety hazards and seek to
17 eliminate existing problems.
18 (2) Minimize the discharge of storm runoff from public facilities
19 onto private property.
20 (3) Minimize damage to private property caused by storm runoff
21 from other private property.
22 (4) Provide a reasonable level of public health and convenience at
23 reasonable cost.
24 (5) Provide for timely and effective construction and maintenance
25 of storm drainage facilities.
26 (6) Preserve the capacity of flood control and storm drainage
27 facilities to accept, convey, or store flows by limiting the introduction of
28 groundwater cleanup flows to such flood control and storm drainage facilities.
- 29 (D) As to stormwater quality protection; sediment and erosion control;
30 and, waste control and the proper disposal of waste to:
- 31 (1) Protect the hydraulic capacity of flood control and storm
32 drainage facilities from losses due to sedimentation; trash, debris, and other
33 such stormwater quality constituents accumulation; and, degradation.

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1 (2) Preserve public health, safety and convenience from jeopardy
2 due to water quality impairment, erosion, and sedimentation in private and
3 public facilities of all types.

4 (3) Protect the quality of the surface runoff in compliance with the
5 Clean Water Act and the current US EPA National Pollution Discharge
6 Elimination System (NPDES) MS4 Permit.

7 (E) As relating to groundwater cleanup impacts to storm flow water
8 quality; to limit the quantity, quality, frequency, location, and means of
9 introduction of groundwater cleanup flows into flood and storm drainage
10 control systems such that such introductions do not result in a mixed flow of
11 lower quality than that of flood or storm flows without such introductions of
12 groundwater cleanup flows or of lower quality than adopted federal, state and
13 City standards, whichever is most stringent.
14 ('74 Code, § 7-9-3) (Ord. 63-1982; Am. Ord. 89-1989)

15 §§ 14-5-2-4 DEFINITIONS.

16 For the purpose of §§ 14-5-2-1 et seq., the following definitions shall
17 apply unless the context clearly indicates or requires a different meaning.

18 **AMAFCA.** The Albuquerque Metropolitan Arroyo Flood Control
19 Authority.

20 **BMPs.** Best Management Practices. BMP's include the pre-
21 construction , during construction, and post construction measures provided
22 to control the quality of stormwater leaving a development site.

23 **CHANNEL.** Any arroyo, stream, swale, ditch, diversion, or water
24 course that conveys storm runoff.

25 **CHANNEL STABILITY.** A condition in which a channel neither
26 degrades to the degree that structures, utilities, or private property are
27 endangered, nor aggrades to the degree that flow capacity is significantly
28 diminished as a result of one or more storm runoff events or moves laterally to
29 the degree that adjacent property is endangered.

30 **CHANNEL TREATMENT MEASURE.** A physical alteration of a
31 channel for any purpose.

32 **CIP.** The City's Capital Improvement Program.

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1 **CITY ATTORNEY.** The chief legal counsel for the City or his/her
2 designee.

3 **CITY ENGINEER.** The chief administrative engineer of the
4 Engineering Division of Planning Department of the City or his/her designee.

5 **CITY HYDROLOGIST.** A staff Professional Engineer designated by
6 the City Engineer to exercise primary responsibility for drainage control, flood
7 control and erosion control matters assigned to the office of the City Engineer.

8 **CLEAN WATER ACT.** *An act passed by the U.S. Congress to control*
9 *water pollution (formerly referred to as the Federal Water Pollution Control Act*
10 *of 1972). Public Law 92-500, as amended. 33 U.S.C. 1251 et seq.*

11 **COMPREHENSIVE PLAN.** The Albuquerque/ Bernalillo County
12 Comprehensive Plan and amendments thereto.

13 **CONCEPTUAL GRADING AND DRAINAGE PLAN.** A plan prepared in
14 graphical format showing existing and proposed grading, drainage control,
15 flood control, stormwater quality control and erosion control information in
16 sufficient detail to determine project feasibility.

17 **CONSTRUCTION SITE WASTE(s).** As defined by the US EPA.
18 Examples include discarded building materials, concrete truck washout,
19 chemicals, litter, and sanitary wastes at construction sites that may cause
20 adverse impacts to water quality.

21 **DESIGN STORM.** A storm that deposits a specific amount of
22 precipitation within a specified period over a defined area. Used in calculating
23 storm runoff and in designing structural and operational measures for
24 drainage , flood , water quality, and erosion control. .

25 **DEVELOPED LAND.** Any lot or parcel of land occupied by any
26 structure intended for human occupation, including structures intended for
27 commercial enterprise

28 **DEVELOPER.** Any individual, public entity, estate, trust, receiver,
29 cooperative association, club, corporation, company, firm, partnership, joint
30 venture, syndicate or other entity engaging in the platting, subdivision, filling,
31 grading, paving, excavating, or construction of structures. Farming related
32 work is exempted.

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

4 **DOWNSTREAM CAPACITY.** The ability of downstream major
5 facilities to accept and safely convey runoff generated upstream from the 100-
6 year 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 PLAN.** A short detailed plan prepared in graphical format
11 with or on a detailed grading plan addressing on-site and off-site drainage
12 control, flood control, stormwater quality control, and erosion control issues
13 for lots or parcel of less than five acres.

14 **DRAINAGE REPORT.** A comprehensive analysis of the drainage,
15 flood control, stormwater quality control, and erosion control constraints on
16 and impacts resulting from a proposed platting, development or construction
17 project.

18 **DRAINAGE MANAGEMENT PLAN.** A comprehensive drainage
19 analysis and report which covers a large area or an entire basin or watershed.
20 A Drainage Management Plan may include descriptions of infrastructure
21 needed to solve existing or anticipated drainage and flood control problems
22 and may establish allowable discharge rates and/or volumes and stormwater
23 quality controls for future development within the boundaries of the plan.

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

27 **ENSURE.** *Level of certainty of environmental compliance as*
28 *determined or interpreted by the US EPA.*

29 **EPA ENFORCEMENT ASSISTANCE.** *Assistance to the City as*
30 *provided by the US EPA if a construction site operator fails to comply with*
31 *procedures and policies established by the City as required for*
32 *implementation of the City's MS4 Permit.*

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

4 **EROSION AND SEDIMENT CONTROL PLAN.** A plan prepared by a
5 licensed New Mexico Professional Engineer submitted to ensure that
6 minimum design standards are met to reduce potential stormwater pollutants
7 from demolition and construction activities from entering the MS4.

8 **FARMING.** Working of the soil for agricultural purposes that does
9 not change the historic flow path or significantly change the amount of runoff
10 from the worked area.

11 **FIRST FLUSH.** The stormwater runoff during the early stages of a
12 storm that can deliver a potentially high concentration of pollutants due to the
13 washing effect of runoff from impervious areas directly connected to the
14 storm drainage system.

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

17 **FLOOD HAZARD AREA.** An area subject to inundation from the 100-
18 year design storm runoff.

19 **FLOODWAY.** The channel of a river, arroyo or other water course
20 and adjacent land areas that must be reserved in order to safely discharge the
21 100 year design storm runoff.

22 **FREEBOARD.** The additional height in a drainage or flood control
23 facility above the design water surface elevation available for storage or flow
24 capacity.

25 **FULLY DEVELOPED WATERSHED.** A hydrologic condition in which
26 all areas upstream and downstream of a point in question are assumed
27 completely developed, including any undeveloped areas which are assumed
28 to be developed in accordance with mid-range development densities as
29 established by the Comprehensive Plan, appropriate area plans or sector
30 plans, adopted facilities master plans and the hydraulic and hydrologic
31 standards established by §§ 14-5-2-1 et seq.

32 **GRADING PLAN.** A plan describing the existing topography and
33 proposed grading, including retaining wall locations and details, interfaces

1 with adjacent properties, streets, alleys and channels, referenced to mean sea
2 level based on a City Bench Mark, and showing sufficient contours, spot
3 elevations, stormwater quality controls, and cross-sections to allow a clear
4 understanding by reviewers, contractors, and inspectors.

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

8 **LARGER COMMON PLAN OF DEVELOPMENT.** Defined as a
9 contiguous area where multiple separate and distinct construction activities
10 may be taking place at different times on different schedules under one plan.

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

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

19 **MASTER PLANNED FACILITY.** Any drainage control, flood control or
20 erosion control facility recommended in the adopted "Albuquerque Master
21 Drainage Plan" (1981), amendments thereto, or any approved Drainage
22 Management or Drainage Master Plan , or any voter approved general
23 obligation bond financed drainage control, flood control or erosion control
24 facility.

25 **MEP.** Maximum Extent Practicable as defined by US EPA.

26 **MS4.** Municipal Separate Storm Sewer System as defined by US
27 EPA.

28 **MULTIPLE USE FACILITY.** A drainage control, flood control or
29 erosion control facility in which other secondary uses are planned or allowed,
30 including but not limited to recreation, open space, transportation and utility
31 location.

32 **90th PERCENTILE STORM EVENT.** The precipitation event that is less
33 than or equal to ninety percent of all rainfall events in a calendar year based

1 on available precipitation records for a region. For the purposes of this
2 ordinance the 90th Percentile Storm Event is 0.44 inches.

3 ***NUISANCE WATERS.*** Those waters leaving a site and entering a
4 public street that do not result from precipitation. Examples include
5 landscape over-watering or car washing.

6 ***100-YEAR DESIGN STORM.*** That storm whose precipitation within a
7 six-hour period and resulting runoff has a 1% chance of being equaled or
8 exceeded in any given year.

9 ***PRIVATE STORMWATER FACILITY.*** A stormwater facility on private
10 property.

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

13 ***PUBLIC STORMWATER FACILITY.*** Any stormwater facility within
14 public property, public Right-Of-Way or a public drainage easement.

15 ***STORMWATER CONTROL MEASURE (SCM).*** See BMP

16 ***STORMWATER QUALITY CONTROL.*** An engineered facility or
17 method that will reduce pollutants from entering the Rio Grande. Stormwater
18 Quality Control is ideally implemented as close to the source of runoff as
19 possible, but not later than at the end of a pipe, channel or pump station
20 discharge before entering the Rio Grande.

21 ***STORMWATER QUALITY PERMIT FOR EROSION AND SEDIMENT***
22 ***CONTROL.*** A permit issued to authorize work to be performed as regulated
23 and authorized by this ordinance.

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

30 ***10-YEAR DESIGN STORM.*** That storm whose precipitation within a
31 six-hour period and resulting runoff has a 10% chance of being equaled or
32 exceeded in any given year.

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1 **TRAFFIC ENGINEER.** A staff Professional Engineer designated by
2 the City Engineer to exercise primary responsibility for transportation matters
3 assigned.('74 Code, § 7-9-5) (Ord. 63-1982; Am. Ord. 9-1986; Am. Ord. 89-1989)

4 **§§ 14-5-2-5 JURISDICTION.**

5 14-5-2-1 et seq. shall apply to all lands within the City and, with
6 respect to planning and platting matters, it shall also apply to all lands within
7 its extraterritorial planning and platting jurisdiction. This jurisdiction is not
8 exclusive; in particular in matters of flood control; AMAFCA shares
9 jurisdiction.

10 ('74 Code, § 7-9-2) (Ord. 63-1982)

11 **§§ 14-5-2-6 GENERAL PROVISIONS.**

12 **(A)** The City is and shall remain an active participant in the
13 National Flood Insurance Program. The City endorses the program goal of
14 flood damage reduction through the regulation of development within flood
15 hazard areas and the preservation of floodways. Sections 14-5-2-1 et seq. are
16 intended to complement and supplement the Flood Hazard Ordinance set forth
17 in §§ 14-5-1-1 et seq. of this article and shall be administered in concert
18 therewith.

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

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1 (C) The City shall ensure compliance with requirements of its MS4
2 Permit by meeting the EPA’s Maximum Extent Practicable (MEP) standard,
3 thereby ensuring compliance with programs mandated by the permit. MEP is
4 the standard for water quality that applies to all MS4 operators regulated
5 under the NPDES program. Because no precise definition of MEP exists, it
6 allows for maximum flexibility on the part of the City as it further develops and
7 implements its programs. The iterative process of MEP consists of the City
8 developing a program consistent with specific requirements, implementing the
9 program, evaluating the effectiveness of the BMPs as part of the program, and
10 revising those parts that are not effective.

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

14 (E) All facilities receiving water from public facilities and rights of
15 ways shall be constructed within dedicated rights-of-way or recorded drainage
16 easements granted to and accepted by the proper public authority or a private
17 entity with an agreement for operations and maintenance.

18 (F) All facilities which receive only runoff from private property
19 shall be constructed on private property unless otherwise authorized by the
20 City Engineer. The use of individual on-lot ponding shall be governed by the
21 standards established by the City Engineer in the Development Process
22 Manual.

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

32 (H) All new development projects shall capture the runoff from all
33 precipitation events of an amount that is less than or equal to the 90th

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1 percentile storm event and to the Maximum Extent Practicable retain and
2 dispose of said runoff by infiltration, extended filtration, water harvesting, or
3 other appropriate techniques and any combination of these practices. This
4 requirement may be amended, altered, or waived in cases where full
5 compliance conflicts with water rights appropriations requirements or due to
6 slope or soils limitations on the site.

7 (I) Stormwater quality control facilities shall be designed to the
8 Maximum Extent Practicable to address first flush runoff and control water
9 quality from runoff generated by contributing area impervious surfaces.

10 (J) The City Engineer is responsible for establishing criteria,
11 procedures, and standards for design and construction of flood control,
12 drainage control, stormwater quality control, and erosion control
13 improvements within the City. The City's standards for design and
14 construction are published in the Development Process Manual (DPM) and the
15 Standard Specifications for Public Works Construction (latest versions). The
16 City Engineer shall provide for variance from normal criteria and standards.
17 When a variance is required or requested, the City Engineer shall document
18 the justification for his/her decision and retain as public records such actions
19 and justifications. Appeals of the City Engineer's variance decisions is as
20 provided in § 14-5-2-15. The City Engineer is also the designated flood control
21 official for the City in accordance with the requirements of the Federal
22 Insurance Administration.

23 (K) The introduction of groundwater cleanup flow to either natural
24 or constructed storm drainage and flood control facilities shall be prohibited
25 except as herein provided.

26 ('74 Code, § 7-9-6) (Ord. 63-1982; Am. Ord. 89-1989)

27 §§ 14-5-2-7 SURFACE USE OF STREETS FOR DRAINAGE AND FLOOD
28 CONTROL PURPOSES.

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

32 (B) The 100-year design storm runoff shall not exceed a depth of
33 0.87 feet at any point within the street right-of-way, or 0.2 feet above top of

1 curb, in any street nor enter private property from a street, except in recorded
2 drainage or flood control easements, rights-of-way, or historic channels
3 and watercourses where easements or rights-of-way cannot be obtained.

4 (C) The 10-year design storm runoff shall not exceed a depth of
5 0.5 feet in any arterial street and shall flow such that one driving lane in each
6 direction is free of flowing or standing water. The 10-year design storm runoff
7 shall not exceed a depth of 0.5 feet in any collector street. Arterial and
8 collector streets that are in the state highway system may require more
9 stringent drainage criteria.

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

14 (E) The discharge of nuisance waters to public streets shall be
15 discouraged. Arterial and collector streets shall be protected from damages
16 to the pavement surface and from the safety hazards created by surface flow
17 of nuisance waters across them.

18 (F) All developed land within the City shall be served by at least
19 one access that shall be an all-weather facility during a 100-year design
20 storm, with all channel-crossing structures beneath the road-way being able to
21 pass a 100-year design storm runoff event.

22 ('74 Code, § 7-9-7) (Ord. 63-1982)

23 §§ 14-5-2-8 CROSSINGS.

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

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

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

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

8 (E) Temporary crossings required for access, including those on
9 arterials and collectors, shall be constructed at developer expense.
10 ('74 Code, § 7-9-8) (Ord. 63-1982)

11 §§ 14-5-2-9 FINANCIAL RESPONSIBILITY.

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

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

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

24 (D) All drainage control, flood control, stormwater quality control,
25 and erosion control facilities which directly result from a proposed land use
26 change are the responsibility of the developer. Developer financed facilities
27 include all those within the boundaries of the development, those required for
28 development adjacent to a major arroyo or within a flood hazard area, and all
29 temporary and permanent off-site drainage facilities. Master planned facilities
30 shall be the responsibility of the City and in some instances AMAFCA.

31 However, if such facilities are not programmed and funded at the time of
32 development, the developer shall construct the master planned facilities or
33 provide for temporary facilities, constructed to City Engineer standards within

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1 a temporary or permanent drainage easement until such time that the City or
2 AMAFCA constructed facilities are in place. If the construction of such
3 facilities is a condition of plat approval or building permit issuance, then
4 financial guarantees of such construction satisfactory to the City Engineer
5 shall also be provided as a prerequisite. The City Engineer shall coordinate
6 the construction and location of temporary facilities with AMAFCA and other
7 City departments. If the ultimate on-site drainage control, flood control,
8 stormwater quality control, or erosion control facilities require permanent
9 rights-of-way or easements, such rights-of-way or easements shall be
10 dedicated at the time of platting or building permit issuance whichever occurs
11 first.

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

20 ('74 Code, § 7-9-9) (Ord. 63-1982; Am. Ord. 89-1989)

21 §§14-5-2-10 MULTIPLE USE RIGHTS-OF-WAY AND EASEMENTS.

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

32 (B) Certain drainage rights-of-way in Sector Development Plans
33 may be credited for Zoning Code detached open space, except for any area

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1 which is exclusively used for the drainage control, flood control, stormwater
2 quality control or erosion control function.

3 **§ 14-5-2-11 STORMWATER QUALITY PERMITTING FOR EROSION AND**
4 **SEDIMENT CONTROL, INSPECTION, AND MAINTENANCE RESPONSIBILITY.**

5 (A) A current Stormwater Quality Permit for Erosion and Sediment
6 Control is required for all construction, demolition clearing, and grading
7 operations within the City of Albuquerque that disturbs the soil on one acre or
8 more of land.

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

15 (2) Upon approval of plans and conditions by the City
16 Engineer, a Stormwater Quality Permit for Erosion and Sediment Control will
17 be issued as set forth in the *Development Process Manual*. The permit shall
18 specify the time period covered by the permit, not to exceed two years after
19 execution of the permit. Such time period may be extended by the City
20 Engineer for good cause which shall be determined in the manner established
21 in the Development Process Manual. An owner's or his/her agent's failure to
22 properly maintain or extend a Stormwater Quality Permit for Erosion and
23 Sediment Control shall subject that owner to the penalty provisions of this
24 ordinance.

25 (B) Stormwater Quality Permit for Erosion and Sediment Control
26 inspections and quality controls shall include:

27 (1) Self-inspections by permittee. At a minimum a routine
28 compliance self- inspection is required to review onsite and immediately
29 adjacent property vegetation, erosion and sediment control measures, and
30 other protective measures identified in the Erosion and Sediment Control Plan
31 and the associated Stormwater Quality Permit for Erosion and Sediment
32 Control . Until the site construction has been completed and the Stormwater
33 Quality Permit for Erosion and Sediment Control closed out, the owner or

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1 his/her agent shall make a thorough inspection of the stormwater
2 management system as established by the Erosion and Sediment Control
3 Plan. These inspections' frequency shall be based on site conditions and
4 project circumstances as noted in the site's Erosion and Sediment Control
5 Plan. Regardless of the planned frequency, inspections shall occur after any
6 precipitation event large enough to result in surface runoff from the site.
7 Reports of these inspections shall be kept by the person or entity authorized
8 to direct the construction activities on the site and shall be conducted during
9 progress of the work, during work suspensions, and until final acceptance of
10 site stabilization by the City. An owner's or his/her agent's failure to properly
11 maintain records as required by Erosion and Sediment Control Plan shall
12 subject that owner to the penalty provisions of this ordinance.

13 (2) City Compliance Inspections. The City will require
14 compliance inspections in accordance with its current MS4 Permit and the
15 permittee's Erosion and Sediment Control Plan, conducting annual compliance
16 inspections of all construction projects cumulatively disturbing one acre or
17 more. Site inspections will be followed by any necessary compliance or
18 enforcement action to ensure corrective maintenance has occurred. All
19 projects will be inspected at completion for confirmation of stabilization.

20 (a) Erosion and Sediment Control Compliance. If
21 the City finds that erosion and sediment controls are not preventing
22 accelerated erosion and removing sediment and waste prior to the drainage
23 leaving the construction site, the City may direct the owner or his/her agent by
24 written order to implement additional erosion control measures to prevent
25 said soil erosion and sediment and waste migration. If immediate additional
26 erosion and sediment control or repair is necessary, the owner or his/her
27 agent shall be verbally notified with a follow-up written confirmation occurring
28 later. It shall be the duty of the owner or his/her agent to immediately take all
29 necessary steps to prevent such migration of sediment and waste off the
30 premises or from entering receiving waters. Delivery of an order by the City to
31 the owner or his/her agent shall be deemed to be notice thereof, and binding
32 upon the owner. An owner's or his/her agent's failure to substantially comply

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1 with the order shall subject that owner to the penalty provisions of this
2 ordinance.

3 (b) Maintenance of Temporary Control Measures.

4 The property owner or the owner’s agent carrying out the soil erosion and
5 sediment control measures shall maintain all temporary control measures,
6 retaining walls, structures, plantings, and other protective devices. Should
7 the applicant, or any other subsequent property owners fail to maintain the
8 temporary control facilities, retaining walls, structures, plantings, and other
9 protective devices, the City reserves the authority to enter affected property,
10 provide needed maintenance, and to charge the owner for the work performed
11 by the City or its contractors and to place a lien on the property to cover the
12 costs of said actions. Such municipal lien shall be a statutory lien against the
13 real property. This provision is in addition to the City’s ability to assess
14 penalties or pursue any other remedies as necessary to effectuate the purpose
15 of this ordinance.

16 1. The maintenance of temporary facilities
17 constructed at private expense on public property is the responsibility of the
18 owner or owner’s agent until permanent facilities are in place.

19 2. The developer shall be responsible
20 for maintaining or replacing temporary crossing structures for a period of six
21 years or until a permanent structure is built, whichever comes first. The City
22 shall maintain temporary crossings which are designed and built such that
23 they may be directly incorporated into the ultimate facilities.

24 (3) The City will utilize sanctions and penalties to enforce
25 upon violations of permit requirements. Progressive enforcement escalation
26 procedures will be used and strictly enforced for recalcitrant or repeat
27 offenders. If a construction site operator fails to comply with Erosion and
28 Sediment Control Permit requirements, procedures, or policies established by
29 the City with regard to these inspections or the construction site’s program,
30 the City at its sole discretion may request the EPA’s enforcement assistance.

31 (C) Post-Construction Maintenance shall be performed as follows:

32 (1) Except as otherwise noted herein, all Public Stormwater
33 Facilities shall be maintained by the City or other public body. The

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1 maintenance of multiple use facilities to which the general public is denied
2 access shall be the responsibility of the owners and shall be performed to City
3 Engineer standards. The City Engineer may allow private maintenance within
4 public right-of-way or easement provided that adequate guarantees and
5 indemnifications are supplied.

6 (2) Private Stormwater Facilities shall be maintained by the
7 facilities' owner to standards established by the City Engineer and published
8 in the DPM. Periodic inspection and certifications of facilities are hereby
9 required and shall be reported to the City Engineer on forms established by
10 the City. Inspections and Certifications by a New Mexico Professional
11 Engineer shall occur not less frequently than once every 3 years from the date
12 the Notice of Termination is signed. Ongoing Stormwater Quality Permit
13 obligations may be required as to Stormwater Quality Controls.

14 (3) Maintenance and operation necessitated by the
15 discharge of any groundwater cleanup flow to any public storm drainage,
16 flood control, stormwater quality control, or erosion facility shall be the
17 responsibility of the originator of such a discharge. Groundwater cleanup
18 flow discharges shall only be allowed by special agreement.

19 ('74 Code, § 7-9-11) (Ord. 63-1982; Am. Ord. 89-1989)

20 §§ 14-5-2-12 GENERAL ADMINISTRATION.

21 (A) The design, construction and maintenance of all drainage control,
22 flood control, stormwater quality control, and erosion control facilities within
23 the City shall be performed in accordance with procedures, criteria and
24 standards formulated by the City Engineer and in accordance with the policies
25 established in §§ 14-5-2-1 et seq.

26 (B) All construction activities within the jurisdiction of the City shall
27 conform to the requirements of the City Engineer with respect to drainage
28 control, flood control, stormwater quality control, and erosion control.

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

31 (2) Construction, grading or paving on any lot within the
32 jurisdiction of the City shall not increase the damage potential to upstream,
33 downstream or adjacent properties or public facilities. Damages shall be

1 defined as those caused by flooding from the 100-year design storm and all
2 smaller storms and from erosion and sedimentation resulting from the 10-year
3 design storm and all smaller storms.

4 (3) Construction, grading, paving, or repaving of any lot, tract, or
5 parcel which exceed jurisdictional size limitations established by this
6 ordinance, shall to the maximum extent practicable not result in discharges
7 exceeding the standards established by the City's current USEPA NPDES MS4
8 permit.

9 (4) During the period May 1 through October 31, any grading
10 within or adjacent to a facility that conveys a minimum of 50 cfs or holds 2.0
11 acre-feet must provide for stormwater quality control, erosion control, and the
12 safe passage of the 10-year design storm runoff during the construction
13 phase.

14 (5) Grading, cut, fill, or importation of material in excess of 500
15 cubic yards or grading of any area of one acre or more shall conform to
16 drainage control, flood control, stormwater quality control, and erosion
17 control policies and to standards, criteria and procedures established by the
18 City Engineer with respect to drainage, flood control, stormwater quality
19 control, and erosion control. A grading permit, issued by the City Engineer,
20 shall be required for projects involving more than 500 cubic yards of material
21 or one acre or more in area. Applications for development of areas known to
22 have been sanitary landfills shall be accompanied by a report which discusses
23 potential health and soil mechanics problems and their solutions. Such
24 reports shall be prepared by a New Mexico Professional Engineer competent
25 in soil mechanics.

26 (6) Where practicable, active construction sites shall utilize non-
27 structural controls, such as phased construction, dust control, good
28 housekeeping practices, and spill prevention and response.

29 (7) Sites with less than one acre of total land disturbance shall be
30 required to obtain a Stormwater Quality Permit—Erosion and Sediment
31 Control if:

32 (a) The site is part of a larger common plan of development.

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

4 (c) The site is known to contain contaminated soils or
5 preexisting environmental impairment.

6 (d) The site is directly adjacent to receiving waters such as
7 directly connected storm drains, directly connected concrete arroyos or the
8 Rio Grande.

9 (8) Underground utilities, street reconstruction, drainage-way
10 improvements, and landscaping construction projects shall obtain a
11 Stormwater Quality Permit—Erosion and Sediment Control if the entire project
12 will disturb the soil in an area of one acre or more.

13 (9) Paving an area larger than 2,000 square feet, other than right-
14 of-way shall require a paving permit. Applications for paving permit shall be
15 accompanied by a grading plan and Erosion and Sediment Control Plan if
16 deemed necessary by the City Engineer. Repaving of right-of-way is
17 excluded.

18 (10) The City Engineer shall not issue a grading permit, paving
19 permit, or Stormwater Quality Permit—Erosion and Sediment Control unless
20 the proposed permit is in compliance with the policies of §§ 14-5-2-1 et seq.
21 and the standards and criteria of the City Engineer as provided for by § 14-5-2-
22 13.

23 (a) Permit Fees. Permit fees shall be established by the
24 Mayor.

25 (C) The City may participate with the private sector, other MS4
26 Permittees, public bodies and agencies operating within the jurisdiction of this
27 policy in order to accomplish the goals and implement the policies adopted in
28 §§ 14-5-2-1 et seq. This includes, but shall not be limited to, the development
29 and approval of master plans for flood control, drainage and stormwater
30 quality control, in the construction of projects and exercising control through
31 the planning, platting, zoning, and permitting processes. Projects involving
32 City funding shall be prioritized, funded and scheduled within the guidelines
33 of the CIP and with CIP Projects.

1 (D) It shall be the responsibility of the City Engineer to produce,
2 approve, make and retain records of all drainage plans, drainage reports,
3 design analyses, design drawings, as-built drawings, and maintenance
4 schedules related to all drainage control, flood control, stormwater quality
5 control and erosion control facilities constructed within City rights-of-way or
6 easements.

7 (E) Applications for all land use changes shall address drainage control,
8 flood control, stormwater quality control and erosion control in terms of the
9 interactions of these parameters with other requirements and needs produced
10 by the proposed land use changes.

11 (F) Requests for the platting of land for the purpose of subdivision or
12 development shall be accompanied by appropriate drainage control, flood
13 control, stormwater quality control and erosion control information.

14 (G) The City Engineer shall not approve any plan or report pertaining to
15 proposed construction, platting or other development where the proposed
16 activity or change in the land affected would result in downstream capacity
17 being exceeded and for which stormwater quality control has not been
18 addressed in compliance with this ordinance and standards established by the
19 City Engineer in the Development Process Manual.

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

- 25 (a) Channel stability.
- 26 (b) Crossing structure hydraulic capacity.
- 27 (c) Reservoir capacity.
- 28 (d) Hydraulic capacity of street, storm sewer, or channel.
- 29 (e) Public health and safety.
- 30 (f) Maintenance constraints.

31 (2) Planned public storm drainage facilities are assumed as in
32 place in determining downstream capacity, provided that construction funds

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1 are available and design has progressed to the point where capacity can be
2 ascertained.

3 (H) Temporary facilities are only allowed on a case-by-case basis
4 as determined by the City Engineer. The level of protection to be provided by
5 temporary facilities shall be determined by considering:

- 6 (1) The likelihood and consequences of a failure.
- 7 (2) Length of time until permanent facilities will be in place.
- 8 (3) The acceptance of maintenance responsibilities and legal
9 liabilities.

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

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

26 (2) Drainage Plan. A short detailed presentation required for
27 approval of small, simple development approvals. Drainage plans are
28 prepared with or on the detailed grading plan and address both on-site and
29 off-site drainage control, flood control, stormwater control and erosion control
30 issues. Drainage plans are required for building permits, site development
31 plans and landscaping plans for developments involving less than five acres.

32 (3) Drainage Report.

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1 (a) A drainage report is a comprehensive analysis of the drainage
2 control, flood control, stormwater quality control and erosion control
3 constraints on and impacts resulting from a proposed platting, development
4 or construction project.

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

9 (4) Erosion and Sediment Control Plan. Erosion and Sediment
10 Control Plans address all phases of each project from initial grading through
11 final occupancy and periodic post construction maintenance. Phased projects
12 require special attention. All construction projects, both public and private,
13 within the jurisdiction of §§ 14-5-2-1 et seq. unless specifically excluded
14 require an approved Erosion and Sediment Control Plan prior to start of
15 construction.

16 (J) The Albuquerque 100-year design storm is the 100-year 6-hour storm
17 as defined by the National Oceanic Atmospheric Administration (NOAA) and
18 by the storm distributions for time and areas as developed by the City
19 Engineer. The 100-year storm has a 1% probability of occurring in any year.
20 Watersheds with times of concentration greater than six hours will require the
21 use of the 100-year 24-hour storm volumes and distributions. Detention
22 basins within which at least 90% of the design storage volume is not
23 evacuated within 6 hours measured from the time the peak storage volume is
24 reached, shall use a 24-hour or longer storm volume and distribution. Design
25 circumstances may require larger or smaller storm volumes. The sources for
26 rainfall data are current NOAA publications and the City Engineer. When the
27 need for other design storms is apparent, the City Engineer will provide
28 requirements concerning appropriate storms, frequencies and durations.

29 (K) The City Engineer shall, within 30 calendar days after the submission
30 to him of a request in writing for an approval under the Drainage Ordinance,
31 approve or deny the request and provide a copy of his/her decision to the
32 applicant. If the request is denied, the reasons for such denial shall be stated
33 in writing. Appeal of such decisions is as provided in § 14-5-2-15.

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

12 ('74 Code, § 7-9-12) (Ord. 63-1982; Am. Ord. 89-1989)

13 §§14-5-2-13 ADMINISTRATIVE PROCEDURES, CRITERIA AND
14 STANDARDS.

15 (A) Rules concerning procedures, criteria and standards shall be
16 adopted, amended or abolished in compliance with the policies of §§ 14-5-2-1
17 et seq. and as provided by the procedures of this section.

18 (B) Proposed rule changes relating to procedures, criteria and standards
19 pursuant to §§ 14-5-2-1 et seq. are initiated by the City Engineer or any person
20 may submit such proposed rule changes to the City Engineer. If a person
21 other than an official of the City submits such a proposal, there may be a
22 processing fee set by a rule of the City Engineer.

23 (C) Prior to the adoption, amendment or repeal of any rule pursuant to
24 §§ 14-5-2-1 et seq. (hereafter, "rule change"), the City Engineer shall:

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

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

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

4 (4) Solicit written comment on proposed rule changes for a period
5 of 30 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
8 statement of the principal reasons for the rule change and statement of
9 positions rejected in adopting the rule change together with the reasons for
10 the rejection. All persons who submit any writing to be considered in
11 connection with the proposed rule change shall promptly be given a copy of
12 the decision, by mail 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.
16 Proposed rule changes shall not take effect sooner than 30 days from posting
17 of notice 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 § 14-5-2-15. Regular rules, adopted under division (D) of this section, do not
28 take affect until an appeal is decided if they are appealed prior to taking
29 effect. Emergency rules adopted under division (E) of this section and regular
30 rules which have taken effect prior to appeal are in effect until such time as
31 they may be reversed by appeal action.

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

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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,
3 based on public health and safety needs, operations needs, and state and
4 federal regulatory compliance requirements current at time of promulgation.
5 The requirements and conditions shall include provision for public liability
6 protection from groundwater cleanup flow discharges to the City's systems.
7 ('74 Code, § 7-9-13) (Ord. 63-1982; Am. Ord. 89-1989)

8 **§§ 14-5-2-14 ENFORCEMENT**

9 **(A) Inspection Procedures**

10 (1) Whenever it is necessary to make an inspection to enforce any
11 of the provisions of §§ 14-5-2-1 et seq., the City Engineer or his/her authorized
12 representative may enter such premises at all reasonable times to inspect the
13 same or to perform any duty imposed upon him by §§ 14-5-2-1 et seq.;

14 provided that if such premises be occupied, he shall first present proper
15 credentials and demand entry; and if such premises be unoccupied, he shall
16 first make a reasonable effort to locate the owner or other persons having
17 charge or control of the premises and demand entry. If entry is refused or if
18 the owner or other responsible person is not found, the City Engineer or
19 his/her authorized representative shall proceed to obtain a search warrant by
20 filing a complaint made in the Metropolitan Court or District Court upon oath
21 or affirmation. The complaint shall:

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

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

26 (c) State that inspection of the premises, or portion thereof
27 is necessary to determine whether it complies with the requirements of §§ 14-
28 5-2-1 et seq.;

29 (d) Set forth the particular provisions of §§ 14-5-2-1 et seq.
30 sought to be enforced;

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

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1 premises, or portion thereof which constitutes a violation of §§ 14-5-2-1 et
2 seq.; and

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

5 (2) Each inspector shall be furnished with a City of Albuquerque
6 employee identification card and must present same to other persons, when
7 requested to do so during the performance of his/her 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 §§ 14-5-2-1 et seq.

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

19 (C) In addition to any fines or penalty provisions set forth in §§ 14-5-2-1
20 et seq. and § 1-1-99 of this code, the City may enforce this ordinance through
21 any other legal or equitable actions deemed necessary and appropriate by the
22 City Engineer. Fines, costs of remedial action, damages, or any other
23 expenses attributable to an owner under this ordinance may be enforced by
24 the City as a lien against the property as provided in § 3-36-2 NMSA 1978.
25 Such municipal lien shall attach to the property and be subject to foreclosure
26 as provided in §§ 3-36-1 to -7 NMSA 1978.

27 ('74 Code, § 7-9-14A,B) (Ord. 63-1982)

28 **§§ 14-5-2-15 APPEALS; TECHNICAL STANDARDS COMMITTEE.**

29 (A) Any applicant aggrieved by a decision as to actions provided for in
30 §§ 14-5-2-6, 14-5-2-12 and 14-5-2-13 of the City Engineer or absence of such
31 decision, may appeal such decision to the Technical Standards Committee of
32 the City. Such appeal shall be made by notice of appeal in writing addressed
33 to the Chairperson of the Technical Standards Committee and delivered to the

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1 office of the City Engineer within 30 days after the date the decision was
2 mailed to the applicant. The Chairperson of the Technical Standards
3 Committee shall notify the applicant and the City Engineer of the date, time,
4 and place of the appeal hearing at least five days prior to the hearing date.
5 Such hearing shall be conducted not earlier than ten days nor later than 30
6 days after the filing of the notice of appeal. At the hearing, the Technical
7 Standards Committee may consider such facts, exhibits, and engineering
8 principles as may be presented by the appellant or the City Engineer or his/her
9 designee, or of which the members may have knowledge or experience, and
10 may affirm, reverse or modify the decision appealed from, and attach as
11 conditions to their decision such requirements as in their opinion may be
12 necessary or appropriate in compliance with the policies of §§ 14-5-2-1 et seq.
13 to safeguard persons and property from stormwater runoff. Each decision of
14 the Technical Standards Committee shall be in writing and shall state reasons
15 therefore. A copy of the decision shall be promptly mailed to the applicant
16 and to the City Engineer.

17 (B) The City Engineer or applicant aggrieved by any decision of the
18 Technical Standards Committee may appeal such decision to the City
19 Council. Such appeal shall be requested by notice of appeal in writing
20 addressed to the President of the City Council and delivered to the office of
21 the City Council within 30 days after the date a copy of the decision was
22 mailed to the applicant. Such appeal shall be heard after notice at the first
23 available meeting of the City Council. The City Council may affirm, reverse, or
24 modify the decision of the Technical Standards Committee.

25 (C) There is hereby created a Technical Standards Committee,
26 consisting of five members who shall be appointed by the Mayor with the
27 advice and consent of the City Council, and who shall serve without pay. Two
28 members shall serve for a term ending August 1, 1983, one member shall
29 serve for a term ending August 1, 1984, and two members shall serve for
30 terms ending August 1, 1985. Subsequent terms shall be for three years. Four
31 of such members shall be registered in this state as professional engineers,
32 be competent in the science of surface water hydrology, and have experience
33 in solving surface drainage problems. The members shall select one member

1 to serve as Chairperson, and their decisions shall be by majority vote of the
2 members attending a hearing. A quorum shall consist of three members. The
3 Technical Standards Committee shall hear and determine all appeals as
4 provided by this section. The Committee may from time to time recommend
5 modifications of §§ 14-5-2-1 et seq. to the Mayor. The City Engineer shall
6 provide such facilities, supplies, and services, including postage, stationery
7 and secretarial assistance, as may be required by the Committee.

8 ('74 Code, § 7-9-15) (Ord. 63-1982; Am. Ord. 89-1989)

9 **§§ 14-5-2-16 INTERPRETATION.**

10 In the interpretation and application of §§ 14-5-2-1 et seq. all provisions
11 shall be:

12 (1) Considered as minimum requirements;

13 (2) Liberally construed in favor of the City;

14 (3) Deemed neither to limit nor repeal any other powers granted under
15 state statutes;

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

18 ('74 Code, § 7-9-17) (Ord. 63-1982)

19 **§§ 14-5-2-17 WARNING AND DISCLAIMER OF LIABILITY.**

20 The degree of flood protection required by §§ 14-5-2-1 et seq. is considered
21 reasonable for regulatory purposes and is based on scientific and engineering
22 considerations. Larger floods can and will occur on rare occasions. Flood
23 heights may be increased by manmade or natural causes. Sections 14-5-2-1 et
24 seq. do not imply that land outside flood hazard areas or uses permitted within
25 such areas will be free from flooding or flood damages. Sections 14-5-2-1 et
26 seq. shall not create liability on the part of the City or on any officer or
27 employee thereof for any flood damages that result from reliance on §§ 14-5-2-
28 1 et seq. or any administrative decision lawfully made thereunder.

29 ('74 Code, § 7-9-16) (Ord. 63-1982)

30 ('74 Code, § 7-9-14C) (Ord. 63-1982)

31 **SECTION 2. SEVERABILITY CLAUSE.** If any section, paragraph, word or
32 phrase of this ordinance is for any reason held to be invalid or unenforceable
33 by any court of competent jurisdiction, such decision shall not affect the

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

5 SECTION 3. COMPILATION. This ordinance shall be incorporated in and
6 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

7 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days
8 following publication by title and general summary.

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