

1 (A) To establish policies, procedures, criteria and requirements ~~[to]~~[that]
2 complement and~~[to]~~ supplement the Flood Hazards Ordinance set forth in §§
3 14-5-1-1 et seq. of this article for the assistance and guidance of city officials,
4 city staff and all persons and entities within the jurisdiction of the city.

5 (B) As to flood control, to:

6 (1) Prevent ~~[the loss of or injury]~~[harm] to human life.

7 (2) Minimize flood damages to public and private property.

8 (3) Provide for timely and effective construction and maintenance of
9 flood control facilities.

10 (4) Preserve the capacity of flood control and storm drainage facilities
11 to accept ~~[and]~~ [,] convey or store ~~[flood and storm]~~ drainage flows by limiting
12 the introduction of groundwater cleanup flows to such flood control and storm
13 drainage facilities.

14 (C) As to storm drainage, to:

15 (1) Prevent the creation of public safety hazards and seek to eliminate
16 existing problems.

17 (2) ~~[Prevent to the extent feasible,]~~ [Minimize] the discharge of storm
18 runoff from public facilities onto private property.

19 (3) ~~[Prevent the increased risk of]~~ [Minimize] damage to private
20 property caused by storm runoff from other private property.

21 (4) Provide a reasonable level of public health and convenience at
22 reasonable cost.

23 (5) Provide for timely and effective construction and maintenance of
24 storm drainage facilities.

25 (6) Preserve the capacity of flood control and storm drainage facilities
26 to accept ~~[and]~~ [,] convey or store ~~[flood and storm drainage]~~ flows by limiting
27 the introduction of groundwater cleanup flows to such flood control and storm
28 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 drainage
32 facilities from losses due to sedimentation[, trash, debris, and other such
33 stormwater quality constituents accumulation,] and degradation.

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

4 (3) Preserve 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
12 of groundwater cleanup flows or of lower quality than adopted federal, state
13 and city standards, whichever is most stringent.

14 § 14-5-2-4 DEFINITIONS.

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

17 **AMAFCA.** The Albuquerque Metropolitan Arroyo Flood Control Authority.

18 [BMPs. Best Management Practices. BMPs include the preconstruction,
19 during construction, and post construction measures provided to control the
20 quality of stormwater leaving a development site.]

21 **CHANNEL.** Any arroyo, stream, swale, ditch, diversion, or water course that
22 conveys storm runoff~~[, including manmade facilities].~~

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

28 **CHANNEL TREATMENT MEASURE.** A physical alteration of a channel for
29 any purpose.

30 **CIP.** The city's Capital Improvement Program.

31 **CITY ATTORNEY.** The chief legal counsel for the city or his~~[/her]~~ designee.

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1 **CITY ENGINEER.** The chief administrative engineer of the Engineering
2 Division of the ~~[Municipal Development]~~ [Planning] Department of the city or
3 his~~/her~~ designee.

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

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

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

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

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

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

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

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 facilities to
5 accept and safely convey runoff generated upstream from the 100-year design
6 storm.

7 ***DRAINAGE.*** Storm drainage.

8 ***DRAINAGE CONTROL.*** The treatment and/or management of surface runoff
9 from all storms up to and including a 10-year Design Storm.

10 **[DRAINAGE MANAGEMENT PLAN. A comprehensive drainage analysis**
11 **and report which covers a large area or an entire basin or watershed. A**
12 **Drainage Management Plan may include descriptions of infrastructure needed**
13 **to solve existing or anticipated drainage and flood control problems and may**
14 **establish allowable discharge rates and/or volumes and stormwater quality**
15 **controls for future development within the boundaries of the plan.]**

16 ***DRAINAGE PLAN.*** A short detailed plan prepared in graphical format with
17 or on a detailed grading plan addressing on-site and off-site drainage control,
18 flood control[, stormwater quality control,] and erosion control issues for [a]
19 lot[s] or parcel of less than five acres.

20 ***DRAINAGE REPORT.*** A comprehensive analysis of the drainage, flood
21 control[, stormwater quality control,] and erosion control constraints on and
22 impacts resulting from a proposed platting, development or construction
23 project.

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

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

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

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1 **EROSION [AND SEDIMENT] CONTROL.** Treatment measures for the
2 prevention of damages due to soil movement and to deposition from the
3 ~~[40]~~[2]-year design storm runoff.

4 **EROSION [AND SEDIMENT] CONTROL PLAN.** A plan ~~[for the mitigation of~~
5 ~~damages due to soil erosion and to deposition from the 10-year design storm~~
6 ~~runoff]~~ [prepared by a licensed New Mexico Professional Engineer submitted
7 to ensure that minimum design standards are met to reduce potential
8 stormwater pollutants from demolition and construction activities from
9 entering the MS4].

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

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

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

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

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

24 **FREEBOARD.** ~~[That part of a drainage channel that is designed to contain~~
25 ~~the wave action of the 100-year design storm]~~ [The additional height in a
26 drainage or flood control facility above the design water surface elevation
27 available for storage or flow capacity].

28 **FULLY DEVELOPED WATERSHED.** A hydrologic condition in which all
29 areas upstream and downstream of a point in question are assumed
30 completely developed, including any undeveloped areas which are assumed
31 to be developed in accordance with mid-range development densities as
32 established by the Comprehensive Plan, appropriate area plans or sector

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1 plans, adopted facilities master plans and the hydraulic and hydrologic
2 standards established by §§ 14-5-2-1 et seq.

3 ***GRADING PLAN.*** A plan describing the existing topography and proposed
4 grading, including retaining wall locations and details, interfaces with adjacent
5 properties, streets, alleys and channels, referenced to mean sea level based
6 on a City Bench Mark, and showing sufficient contours, spot elevations[,
7 stormwater quality controls,] and cross-sections to allow a clear
8 understanding by reviewers, contractors and inspectors.

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

12 **[LARGER COMMON PLAN OF DEVELOPMENT. A contiguous area where**
13 **multiple separate and distinct construction activities may be taking place at**
14 **different times on different schedules under one plan.]**

15 ***MAINTENANCE.*** The cleaning, shaping, grading, repair and minor
16 replacement of drainage, flood control and erosion control facilities, but not
17 including the cost of power consumed in the normal operation of pump
18 stations.

19 ***MAJOR ARROYO.*** Any channel whose watershed exceeds 320 acres in a
20 100-year design storm whether such watershed is in its natural or unaltered
21 state or has been altered by development, runoff diversions, or detention
22 facilities.

23 ~~***[MAJOR FACILITY. Any facility, including a street or alley, which would***~~
24 ~~***collect, divert or convey a peak discharge of more than 50 cubic feet per***~~
25 ~~***second (50 cfs) or store more than 2.0 acre-feet of runoff in the event of a 100-***~~
26 ~~***year design storm.]***~~

27 ***MASTER PLANNED FACILITY.*** Any drainage control, flood control or
28 erosion control facility recommended in the adopted "Albuquerque Master
29 Drainage Plan" (1981), amendments thereto, [or any approved Drainage
30 Management or Drainage Master Plan,] or any voter approved general
31 obligation bond financed drainage control, flood control or erosion control
32 facility.

33 **[MEP. Maximum Extent Practicable as defined by US EPA.**

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1 **MS4. Municipal Separate Storm Sewer System as defined by US EPA.]**

2 ~~**[MINOR FACILITY. Any facility which would collect, divert or convey a**~~
3 ~~**peak discharge of 50 cubic feet per second (50 cfs) or less in the event of the**~~
4 ~~**100-year design storm.]**~~

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

9 **[90TH PERCENTILE STORM EVENT. The precipitation event that is less**
10 **than or equal to ninety percent of all rainfall events in a calendar year based**
11 **on available precipitation records for a region. For the purposes of this**
12 **ordinance the 90th Percentile Storm Event is 0.44 inches.]**

13 **NUISANCE WATERS.** Those waters leaving a site and entering a public
14 street ~~**[which]**~~ **[that]** do not result from precipitation~~**[, such as]**~~. **Examples**
15 **include]** landscape over-watering or car washing.

16 **100-YEAR DESIGN STORM.** That storm whose precipitation within a six-
17 hour period and resulting runoff has a 1% chance of being equaled or
18 exceeded in any given year.

19 **[PRIVATE STORMWATER FACILITY. A stormwater facility on private**
20 **property.**

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

23 **PUBLIC STORMWATER FACILITY. Any stormwater facility within public**
24 **property, public right-of-way or a public drainage easement.**

25 **STORMWATER CONTROL MEASURE (SCM). See BMPs.**

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

31 **STORMWATER QUALITY PERMIT FOR EROSION AND SEDIMENT**
32 **CONTROL. A permit issued to authorize work to be performed as regulated**
33 **and authorized by this ordinance.]**

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1 **TEMPORARY DRAINAGE FACILITY.** A nonpermanent drainage control,
2 flood control or erosion control facility constructed as part of a phased project
3 or to serve until such time that a permanent facility is in place, including but
4 not limited to desilting ponds, berms, diversions, channels, detention [and
5 retention] ponds, bank protection and channel stabilization measures.

6 **10-YEAR DESIGN STORM.** That storm whose precipitation within a six-
7 hour period and resulting runoff has a 10% chance of being equaled or
8 exceeded in any given year.

9 **TRAFFIC ENGINEER.** ~~[The chief administrative engineer of the city's Traffic~~
10 ~~Engineering Division or his authorized representative.]~~ [A staff Professional
11 Engineer designated by the City Engineer to exercise primary responsibility
12 for transportation matters assigned.]

13 **§ 14-5-2-5 JURISDICTION.**

14 Sections 14-5-2-1 et seq. shall apply to all lands within the city and, with
15 respect to planning and platting matters, it shall also apply to all lands within
16 its extraterritorial planning and platting jurisdiction. This jurisdiction is not
17 exclusive; in particular, [, in matters of flood control] AMAFCA shares
18 jurisdiction ~~[in matters of flood control]~~.

19 **§ 14-5-2-6 GENERAL PROVISIONS.**

20 (A) The city is and shall remain an active participant in the National Flood
21 Insurance Program. The city endorses the program goal of flood damage
22 reduction through the regulation of development within flood hazard areas
23 and the preservation of floodways. Sections 14-5-2-1 et seq. are intended to
24 complement and supplement the Flood Hazard Ordinance set forth in §§ 14-5-
25 1-1 et seq. of this article and shall be administered in concert therewith.

26 (B) All developed land within the city shall be provided with adequate
27 drainage [control], flood control [, stormwater quality control,] and erosion
28 control facilities. The protection of life [, health,] and property shall be
29 considered the primary function in the planning, design, construction and
30 maintenance of drainage control, flood control [, stormwater quality control,]
31 and erosion control facilities ~~[, but]~~ [. However,] other concerns, not limited to
32 the following, shall be addressed: channel capacity, watershed
33 characteristics, channel stability, maintenance, transitions between treatment

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1 types, multiple use goals[, and] appearance. The needs of the community in
2 transportation, utility services, recreation, and open space shall be considered
3 in planning, design, construction, and maintenance [~~(especially)~~ [-particularly]
4 in the selection of channel treatment measures[)]. These needs shall always
5 be considered subsidiary to the primary function[s] of the drainage control,
6 flood control[, stormwater quality control,] and[~~/or~~] erosion control [~~facility~~
7 facilities].

8 (C) ~~[The design, construction and maintenance of dams, levees and~~
9 ~~diversions that fall within the jurisdiction of the State Engineer shall meet or~~
10 ~~exceed standards established by the State Engineer.]~~ [The city shall ensure
11 compliance with requirements of its MS4 Permit by meeting the EPA's
12 Maximum Extent Practicable (MEP) standard, thereby ensuring compliance
13 with programs mandated by the permit. MEP is the standard for water quality
14 that applies to all MS4 operators regulated under the NPDES program.
15 Because no precise definition of MEP exists, it allows for maximum flexibility
16 on the part of the city as it further develops and implements its programs. The
17 iterative process of MEP consists of the city developing a program consistent
18 with specific requirements, implementing the program, evaluating the
19 effectiveness of the BMPs as part of the program, and revising those parts that
20 are not effective.]

21 (D) The design, construction and maintenance of flood control facilities
22 shall be coordinated with AMAFCA [or other public agencies as appropriate].

23 (E) All ~~[major]~~ facilities [receiving water from public facilities and rights-
24 of-way] shall be constructed within dedicated rights-of-way or recorded
25 drainage easements granted to and accepted by the proper public authority
26 [or a private entity with an agreement for operations and maintenance].

27 (F) All ~~[detention ponds defined as minor]~~ facilities [which receive only
28 runoff from private property] shall be constructed on private property unless
29 otherwise authorized by the City Engineer. ~~[Except as is necessary for the~~
30 ~~treatment of nuisance water, all ponds shall be designed and constructed to~~
31 ~~be emptied in 24 hours or less.]~~ The use of individual [on-]lot ponding shall be
32 governed by the standards established by the City Engineer [in the
33 Development Process Manual].

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1 (G) Wherever flood control, drainage control, stormwater quality
2 control, or erosion control improvements are necessary within dedicated
3 public open space, such improvements shall be designed and constructed in a
4 manner reasonably consistent with the natural surroundings. All construction
5 and maintenance activities in dedicated open space shall be performed so as
6 to minimize the disruption and destruction of vegetation and adjacent land
7 forms. Where such disturbance or destruction is unavoidable, revegetation
8 shall be performed at the earliest practical time by those responsible for such
9 disturbance and/or destruction.

10 [(H) All new development projects shall capture the runoff from all
11 precipitation events of an amount that is less than or equal to the 90th
12 percentile storm event and to the Maximum Extent Practicable retain and
13 dispose of said runoff by infiltration, extended filtration, water harvesting, or
14 other appropriate techniques and any combination of these practices. This
15 requirement may be amended, altered, or waived in cases where full
16 compliance conflicts with water rights appropriations requirements or due to
17 slope or soils limitations on the site.

18 [(I) Stormwater quality control facilities shall be designed to the
19 Maximum Extent Practicable to address first flush runoff and control water
20 quality from runoff generated by contributing area impervious surfaces.]

21 ~~[(H)]~~[(J)] The City Engineer is responsible for establishing criteria,
22 procedures and standards for design and construction of flood control,
23 drainage control~~[, stormwater quality control,]~~ and erosion control
24 improvements within the city. [The city standards for design and construction
25 are published in the Development Process Manual (DPM) and the Standard
26 Specifications for Public Works Construction (latest versions).] The City
27 Engineer shall provide for variance from normal criteria and standards~~[; when]~~
28 [. When] a variance is required or requested, the City Engineer shall
29 document the justification for his~~/her~~ decision and retain as public records
30 such actions and justifications~~[; appeals]~~ [. Appeal] of the City Engineer's
31 variance decisions is as provided in § 14-5-2-15. The City Engineer is also the
32 designated flood control official for the city in accordance with the
33 requirements of the Federal Insurance Administration.

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1 ~~(H)~~(K) The introduction of groundwater cleanup flow to either natural or
2 constructed storm drainage and flood control facilities shall be prohibited
3 except as herein provided.

4 § 14-5-2-7 SURFACE USE OF STREETS FOR DRAINAGE AND FLOOD
5 CONTROL PURPOSES.

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

9 (B) The 100-year design storm runoff shall not exceed a depth of 0.87 feet
10 at any point within the street right-of-way, or 0.2 feet above top of curb, in any
11 street nor enter private property from a street, except in recorded drainage or
12 flood control easements ~~[or]~~ [,] rights-of-way, ~~[{]~~ or historic channels
13 and watercourses where easements or rights-of-way cannot be obtained~~]~~).

14 (C) The 10-year design storm runoff shall not exceed a depth of 0.5 feet in
15 any arterial street and shall flow such that ~~[12.0 feet]~~ [one] driving lane in each
16 direction is free of flowing or standing water. The 10-year design storm runoff
17 shall not exceed a depth of 0.5 feet in any collector street. Arterial and
18 collector streets that are in the state highway system may require more
19 stringent drainage criteria.

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

24 (E) The discharge of nuisance waters to public streets shall be
25 discouraged. Arterial and collector streets shall be protected from damages
26 to the pavement surface and from the safety hazards created by surface flow
27 of nuisance waters across them.

28 (F) All developed land within the city shall be served by at least one
29 ~~[paved]~~ access that shall be an all-weather facility during a 100-year design
30 storm, with all channel-crossing structures beneath the road-way being able to
31 pass a 100-year design storm runoff event.

32 § 14-5-2-8 CROSSINGS.

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

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

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

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

17 (E) Temporary crossings required for access, including those on arterials
18 and collectors, shall be constructed at developer expense.

19 § 14-5-2-9 FINANCIAL RESPONSIBILITY.

20 (A) The city may participate in the construction of permanent flood
21 control facilities to the extent that public benefits are derived from such
22 construction and consistent with Capital Improvements Program (CIP)
23 priorities. Reimbursement for private funding of such projects may also be
24 available under these conditions.

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

29 (C) The city shall not participate in the funding of flood control facilities
30 whose sole ~~[intent]~~ [purpose] is the reclamation of undeveloped land located
31 within a flood hazard area for private development purposes.

32 (D) All drainage control ~~[and]~~ [,] flood control~~[, stormwater quality~~
33 control, and erosion control] facilities which directly result from a proposed

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1 land use change are the responsibility of the developer. Developer financed
2 facilities include all those within the boundaries of the development, those
3 required for development adjacent to a major arroyo or within a flood hazard
4 area and, all temporary and permanent off-site drainage facilities. Master
5 planned facilities shall be the responsibility of the city and in some instances
6 AMAFCA. However, if such facilities are not programmed and funded at the
7 time of development, the developer shall construct the master planned
8 facilities or provide for temporary facilities, constructed to City Engineer
9 standards within a temporary or permanent drainage easement until such time
10 that the city or AMAFCA constructed facilities are in place. If the construction
11 of such facilities is a condition of plat approval or building permit issuance,
12 then financial guarantees of such construction satisfactory to the City
13 Engineer shall also be provided as a prerequisite. The City Engineer shall
14 coordinate the construction and location of temporary facilities with AMAFCA
15 and other city departments. If the ultimate on-site drainage control, flood
16 control[, stormwater quality control,] [~~and~~] or erosion control facilities require
17 permanent rights-of-way or easements, such rights-of-way or easements shall
18 be dedicated at the time of platting or building permit issuance[,] whichever
19 occurs first.

20 (E) Except as allowed by AMAFCA Resolution 81-8 and amendments
21 thereto, the dedication of land for public purposes does not relieve a
22 developer of responsibilities for the construction of drainage control, flood
23 control[, stormwater quality control,] and erosion control facilities that would
24 otherwise be necessary. The dedication of rights-of-way or easements for
25 drainage control, flood control[, stormwater quality control,] or erosion control
26 facilities does not relieve a developer of responsibilities that would otherwise
27 exist for the construction of other public infrastructure.

28 ~~[(F) Introduction of groundwater cleanup flows shall not normally be~~
29 ~~permitted, however, when such introduction of groundwater cleanup flow is by~~
30 ~~special agreement permitted, the entity responsible for such groundwater~~
31 ~~cleanup flow introduction (hereinafter termed "the discharger") shall also be~~
32 ~~responsible for all costs of installing, operating and removing the means of~~
33 ~~such introduction and shall provide public liability protection as required. The~~

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1 ~~discharger of such groundwater cleanup flows shall also be responsible for~~
2 ~~payment of such permit fees, user fees, and effluent sampling fees according~~
3 ~~to the following schedule:~~

4 (1) ~~Permit fees.~~

5 (a) ~~Initial Permit Fee, \$2,273~~

6 (b) ~~Permit Renewal Fee required every three years, \$931.~~

7 (2) ~~Annual user fees.~~

8 (a) ~~Discharge Monitoring Fee, \$3,185~~

9 (b) ~~Effluent Sampling, \$2,200~~

10 (c) ~~If field monitoring indicates the need for additional water~~
11 ~~quality testing, the discharger will be charged \$1,100.00 per sample.~~

12 (d) ~~Conveyance Cost, \$22.72 per GPM/year.~~

13 (e) ~~A minimum user fee will be calculated on the agreed~~
14 ~~annual discharge rate and will be a minimum annual fee. If the instantaneous~~
15 ~~discharge from the groundwater cleanup exceeds the contracted amount by~~
16 ~~more than 10% on three consecutive days or ten total days in any quarterly~~
17 ~~period, the discharger shall pay an additional fee equivalent to one half of the~~
18 ~~annual user fee for each quarterly exceedance. If such exceedance occurs in~~
19 ~~more than two quarters in any year or more than thirty total days in any~~
20 ~~quarter, the agreement shall be terminated at the city's option. Exceedance~~
21 ~~shall be determined as provided for in regulations promulgated by the Mayor~~
22 ~~pursuant to § 14-5-2-13(G).]~~

23 § 14-5-2-10 MULTIPLE USE RIGHTS-OF-WAY AND EASEMENTS.

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

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1 (B) Certain drainage rights-of-way in Sector Development Plans may be
2 credited for Zoning Code detached open space, except for any area which is
3 exclusively used for the drainage control ~~[or][,]~~ flood control[, stormwater
4 quality control, or erosion control] function.

5 ~~[(1) The amount of drainage right-of-way required exclusively for~~
6 ~~drainage control is defined as the width that would be necessary to contain a~~
7 ~~trapezoidal concrete-lined channel designed to convey the full 100-year design~~
8 ~~storm, including all necessary freeboard and also the outer limits of a 12 foot~~
9 ~~maintenance road on one side of the channel. In order to receive detached~~
10 ~~open space credit for a portion of the drainage right-of-way, the developer~~
11 ~~shall be responsible for reseeding any disturbed land within the drainage~~
12 ~~right-of-way except roads, trails, and the channel which is designed or~~
13 ~~retained to carry the 100-year design storm runoff; reseeding shall be with~~
14 ~~native and naturalized plant materials in the species, amounts, and~~
15 ~~proportions of plants associated with undisturbed soils in a specific area, to~~
16 ~~the satisfaction of the Director of the city's Park and General Services~~
17 ~~Department and Recreation Department and the City Engineer. Upon~~
18 ~~completion of said reseeding, the developer shall also be responsible for~~
19 ~~maintaining reseeded areas until whichever comes first, the end of three years~~
20 ~~or when the city gives notice of termination of the developer's responsibility~~
21 ~~caused by governmental undertaking of significant additional development or~~
22 ~~treatment in a given area; such maintenance shall be to the satisfaction of the~~
23 ~~Director of the City Parks and Recreation Department. Subsequently,~~
24 ~~maintenance becomes the responsibility of the city.~~

25 (2) ~~Alternatively, a more intensive landscaping scheme proposed~~
26 ~~by the developer may be approved for open space credit by the Director of the~~
27 ~~City Parks and Recreation Department and the City Engineer; the developer~~
28 ~~shall then be responsible in perpetuity, for the maintenance of the~~
29 ~~landscaping.~~

30 (3) ~~Any developer maintenance obligation specified by divisions~~
31 ~~(1) and (2) above shall be detailed by a binding legal agreement between the~~
32 ~~developer and the city specifying the type and schedule of maintenance~~
33 ~~required by the developer. Such agreement shall be satisfactory to the~~

1 ~~Director of the City Parks and Recreation Department and the City Attorney.~~
2 ~~Such agreement shall be executed before any benefits of open space~~
3 ~~designation accrue to the developer. The city's remedies for a developer's~~
4 ~~failing to meet the obligations of the maintenance agreement include but are~~
5 ~~not limited to terminating the developer's credit for detached open space.~~
6 ~~Where appropriate, a developer's obligations may run with the land. Further~~
7 ~~detailing of these provisions may be adopted as regulations in the city's~~
8 ~~Development Process Manual. See the Zoning Code, § 14-16-3-8(C).]~~

9 § 14-5-2-11 [STORMWATER QUALITY PERMITTING FOR EROSION AND
10 SEDIMENT CONTROL, INSPECTION, AND] MAINTENANCE RESPONSIBILITY.

11 ~~[(A)—Except as otherwise noted herein, all permanent major facilities shall~~
12 ~~be maintained by the city or other public body. The maintenance of multiple~~
13 ~~use facilities to which the general public is denied access shall be the~~
14 ~~responsibility of the owners and shall be performed to City Engineer~~
15 ~~standards. The City Engineer may allow private maintenance within public~~
16 ~~right-of-way or easement provided that adequate guarantees and~~
17 ~~indemnifications are supplied.~~

18 ~~(B)—Minor facilities shall be maintained by their owners to City Engineer~~
19 ~~standards.~~

20 ~~(C)—The maintenance of temporary facilities constructed at private~~
21 ~~expense (except crossing structures) is the responsibility of the developer~~
22 ~~until permanent facilities are in place.~~

23 ~~(D)—The developer shall be responsible for maintaining or replacing~~
24 ~~temporary crossing structures for a period of six years or until a permanent~~
25 ~~structure is built, whichever comes first. The city shall maintain temporary~~
26 ~~crossings which are designed and built such that they may be directly~~
27 ~~incorporated into the ultimate facilities.~~

28 ~~(E)—Maintenance and operation of any groundwater cleanup flow~~
29 ~~connection to any public storm drainage or flood control facility shall be the~~
30 ~~responsibility of the originator of such a connection. Groundwater cleanup~~
31 ~~flow connection shall only be allowed by special agreement.]~~

32 [(A) A current Stormwater Quality Permit for Erosion and Sediment
33 Control is required for all construction, demolition clearing, and grading

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1 operations within the City of Albuquerque that disturbs the soil on one acre or
2 more of land.

3 (1) The Stormwater Quality Permit for Erosion and Sediment
4 Control holder must be either the owner of the property or an authorized agent
5 of the owner in order for the permit to legally cover the activities occurring at
6 the site. If the permit holder is other than the owner, evidence of delegation of
7 authority acceptable to the city shall be provided prior to issuance of a permit
8 by the city.

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

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

21 (1) Self-inspections by permittee. At a minimum a routine
22 compliance self- inspection is required to review onsite and immediately
23 adjacent property vegetation, erosion and sediment control measures, and
24 other protective measures identified in the Erosion and Sediment Control Plan
25 and the associated Stormwater Quality Permit for Erosion and Sediment
26 Control . Until the site construction has been completed and the Stormwater
27 Quality Permit for Erosion and Sediment Control closed out, the owner or
28 his/her agent shall make a thorough inspection of the stormwater
29 management system as established by the Erosion and Sediment Control
30 Plan. These inspections' frequency shall be based on site conditions and
31 project circumstances as noted in the site's Erosion and Sediment Control
32 Plan. Regardless of the planned frequency, inspections shall occur after any
33 precipitation event large enough to result in surface runoff from the

1 site. Reports of these inspections shall be kept by the person or entity
2 authorized to direct the construction activities on the site and shall be
3 conducted during progress of the work, during work suspensions, and until
4 final acceptance of site stabilization by the city. An owner's or his/her agent's
5 failure to properly maintain records as required by Erosion and Sediment
6 Control Plan shall subject that owner to the penalty provisions of this
7 ordinance.

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

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

30 (b) Maintenance of Temporary Control Measures. The
31 property owner or the owner's agent carrying out the soil erosion and
32 sediment control measures shall maintain all temporary control measures,
33 retaining walls, structures, plantings, and other protective devices. Should

1 the applicant, or any other subsequent property owners fail to maintain the
2 temporary control facilities, retaining walls, structures, plantings, and other
3 protective devices, the city reserves the authority to enter affected property,
4 provide needed maintenance, and to charge the owner for the work performed
5 by the city or its contractors and to place a lien on the property to cover the
6 costs of said actions. Such municipal lien shall be a statutory lien against the
7 real property. This provision is in addition to the city's ability to assess
8 penalties or pursue any other remedies as necessary to effectuate the purpose
9 of this ordinance.

10 1. The maintenance of temporary facilities
11 constructed at private expense on public property is the responsibility of the
12 owner or owner's agent until permanent facilities are in place.

13 2. The developer shall be responsible for maintaining
14 or replacing temporary crossing structures for a period of six years or until a
15 permanent structure is built, whichever comes first. The city shall maintain
16 temporary crossings which are designed and built such that they may be
17 directly incorporated into the ultimate facilities.

18 (3) The city will utilize sanctions and penalties to enforce upon
19 violations of permit requirements. Progressive enforcement escalation
20 procedures will be used and strictly enforced for recalcitrant or repeat
21 offenders. If a construction site operator fails to comply with Erosion and
22 Sediment Control Permit requirements, procedures, or policies established by
23 the city with regard to these inspections or the construction site's program,
24 the city at its sole discretion may request the EPA's enforcement assistance.

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

26 (1) Except as otherwise noted herein, all Public Stormwater
27 Facilities shall be maintained by the city or other public body. The
28 maintenance of multiple use facilities to which the general public is denied
29 access shall be the responsibility of the owners and shall be performed to City
30 Engineer standards. The City Engineer may allow private maintenance within
31 public right-of-way or easement provided that adequate guarantees and
32 indemnifications are supplied.

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

9 **(3) Maintenance and operation necessitated by the discharge of**
10 **any groundwater cleanup flow to any public storm drainage, flood control,**
11 **stormwater quality control, or erosion facility shall be the responsibility of the**
12 **originator of such a discharge. Groundwater cleanup flow discharges shall**
13 **only be allowed by special agreement.]**

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

15 **(A) The design, construction and maintenance of all drainage control,**
16 **flood control**~~[, **stormwater quality control,**]~~ **and erosion control facilities within**
17 **the city shall be performed in accordance with procedures, criteria and**
18 **standards formulated by the City Engineer and in accordance with the policies**
19 **established in §§ 14-5-2-1 et seq.**

20 **(B) All construction activities within the jurisdiction of the city shall**
21 **conform to the requirements of the City Engineer with respect to drainage**
22 **control, flood control**~~[, **stormwater quality control,**]~~ **and erosion**
23 **control. ~~[Original construction and modifications and/or additions to existing~~**
24 **~~structures constituting less than 500 square feet, in plan view, are excluded.]~~**

25 **(1) Structures constituting less than 1,000 square feet, in plan**
26 **view, are excluded.]**

27 **~~[(1)]~~[(2)] Construction, grading or paving on any lot within the**
28 **jurisdiction of the city shall not increase the damage potential to upstream,**
29 **downstream or adjacent properties or public facilities. Damages shall**
30 **be defined as those caused by flooding from the 100-year design storm and all**
31 **smaller storms and from erosion and sedimentation resulting from the 10-year**
32 **design storm and all smaller storms.**

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1 (3) Construction, grading, paving or repaving of any lot, tract, or
2 parcel which exceeds jurisdictional size limitations established by this
3 ordinance, to the Maximum Extent Practicable shall not result in discharges
4 exceeding the standards established by the city's current US EPA NPDES MS4
5 permit.]

6 ~~((2))~~((4)) During the ~~[months of July, August or September,]~~
7 [period of May 1 through October 31,] any grading within or adjacent to a
8 ~~[watercourse defined as a major facility shall provide for erosion control]~~
9 [facility that conveys a minimum of 50 cfs or holds 2.0 acre-feet must provide
10 for stormwater quality control, erosion control,] and the safe passage of the
11 10-year design storm runoff during the construction phase.

12 ~~((3))~~((5)) Grading, cut, fill or importation of material in excess of
13 500 cubic yards or grading of any area of one acre or more shall conform to
14 drainage control, flood control~~[, stormwater quality control,]~~ and erosion
15 control policies and to standards, criteria and procedures established by the
16 City Engineer with respect to drainage, flood control~~[, stormwater quality~~
17 control,] and erosion control. A grading permit, issued by the City Engineer,
18 shall be required for projects involving more than 500 cubic yards of material
19 or one acre or more in area. Applications for development of areas known to
20 have been sanitary landfills shall be accompanied by a report which discusses
21 potential health and soil mechanics problems and their solutions. Such
22 reports shall be prepared by a New Mexico Professional Engineer competent
23 in soil mechanics.

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

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

- 30 (a) The site is part of a larger common plan of development;
31 (b) The site is identified as having a significant potential for
32 erosion, based on observation or site characteristics including very steep
33 topography;

1 (c) The site is known to contain contaminated soils or
2 preexisting environmental impairment; or

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

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

10 ~~[(4)]~~[(9)] Paving an area larger than ~~[1,000]~~ [2,000] square feet [other
11 than right-of-way] shall require a paving permit. Applications for paving
12 permit[s] shall be accompanied by a ~~[drainage]~~ [grading] plan ~~[and Erosion~~
13 ~~and Sediment Control Plan]~~ if deemed necessary by ~~[the]~~ [the] City
14 Engineer. Repaving of ~~[existing paved areas in which no grading is planned]~~
15 [right-of-way] is excluded.

16 ~~[(5)]~~[(10)] The City Engineer shall not issue a grading ~~[or]~~ [permit,] paving
17 permit~~[, or Stormwater Quality Permit-Erosion and Sediment Control]~~ unless
18 the proposed ~~[grading or paving]~~ [permit] is in compliance with the policies of
19 §§ 14-5-2-1 et seq. and the standards and criteria of the City Engineer as
20 provided for by § 14-5-2-13.

21 [(11) Permit Fees. Permit fees shall be established by the Mayor.]

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

31 (D) It shall be the responsibility of the City Engineer to produce, approve,
32 make and retain records of all drainage plans, drainage reports, design
33 analyses, design drawings, as-built drawings, and maintenance schedules

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1 related to all drainage control, flood control~~[, stormwater quality control,]~~ and
2 erosion control facilities constructed within city rights-of-way or easements.

3 (E) Applications for all land use changes shall address drainage control,
4 flood control~~[, stormwater quality control,]~~ and erosion control in terms of the
5 interactions of these parameters with other requirements and needs produced
6 by the proposed land use changes.

7 (F) Requests for the platting of land for the purpose of subdivision or
8 development shall be accompanied by appropriate drainage control, flood
9 control~~[, stormwater quality control,]~~ and erosion control information.

10 (G) ~~[(4)]~~ The City Engineer shall not approve any plan or report pertaining
11 to proposed construction, platting or other development where the proposed
12 activity or change in the land affected would result in downstream capacity
13 being exceeded [and for which stormwater quality control has not been
14 addressed in compliance with this ordinance and standards established by the
15 City Engineer in the Development Process Manual].

16 ~~[(2)(a)]~~[(1)] Downstream capacity is determined based on the
17 assumption of fully developed watersheds. This assumption prevents "the
18 first come, first served" approach where downstream development unduly
19 constrains upstream development. Parameters used in the determination of
20 downstream capacity include, but are not limited to:

21 ~~[1.]~~[(a)] Channel stability.

22 ~~[2.]~~[(b)] Crossing structure hydraulic capacity.

23 ~~[3.]~~[(c)] Reservoir capacity.

24 ~~[4.]~~[(d)] Hydraulic capacity of street, storm sewer, or channel.

25 ~~[5.]~~[(e)] Public [health and] safety.

26 ~~[6.]~~[(f)] Maintenance constraints.

27 ~~[(b)]~~[(2)] Planned public storm drainage facilities are assumed as in
28 place in determining downstream capacity, provided that construction funds
29 are available and design has progressed to the point where capacity can be
30 ascertained.

31 (H) Temporary facilities are only allowed ~~[and/or required]~~ on a case-by-
32 case basis as determined by the City Engineer. The level of protection to be
33 provided by temporary facilities shall be determined by considering:

- 1 (1) The likelihood and consequences of a failure.
- 2 (2) Length of time until permanent facilities will be in place.
- 3 (3) The acceptance of maintenance responsibilities and legal
- 4 liabilities.
- 5 (I) Requests for approvals of development and/or platting proposals to
- 6 the City Engineer shall be accompanied by drainage control, flood control[,
- 7 stormwater quality control,] and erosion control information and/or
- 8 commitments. The particular nature, location and scope of the proposed
- 9 development defines the degree of detail. One or more of the following levels
- 10 of submittal may be required based on the following:
- 11 (1) Conceptual Grading and Drainage Plan. A graphic representation
- 12 of existing and proposed grading, drainage, flood control and erosion control
- 13 information. The information should be of sufficient detail to determine
- 14 project feasibility. The purposes of this plan are to check the compatibility of
- 15 the proposed development within grading, drainage, flood hazard and erosion
- 16 control constraints as dictated by on-site physical features as well as adjacent
- 17 properties, streets, alleys and channels. Modifications to the Comprehensive
- 18 Plan and the development of area plans, sector plans, site development plans
- 19 and landscaping plans on tracts of five acres or more are appropriate
- 20 applications of conceptual grading and drainage plans.
- 21 (2) Drainage Plan. A short detailed presentation required for approval
- 22 of small, simple development approvals. Drainage plans are prepared with or
- 23 on the detailed grading plan and address both on-site and off-site drainage
- 24 control, flood control[, stormwater quality control,] and erosion control
- 25 issues. Drainage plans are required for building permits, site development
- 26 plans and landscaping plans for developments involving less than five acres.
- 27 (3) Drainage Report.
- 28 (a) A drainage report is a comprehensive analysis of the drainage
- 29 control, flood control[, stormwater quality control,] and erosion control
- 30 constraints on and impacts resulting from a proposed platting, development
- 31 or construction project.
- 32 (b) Drainage reports are required for subdivisions containing more
- 33 than ten lots or constituting five acres or more, platting or construction within

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1 a designated flood hazard area and for any platting or development adjacent
2 to a major arroyo.

3 (4) Erosion [and Sediment] Control Plan. ~~[An erosion control plan is~~
4 ~~usually incorporated into the drainage plan or drainage report.]~~ Erosion [and
5 Sediment C]ontrol plan[s] address all phases of each project from initial
6 grading through and including final occupancy [and periodic post
7 construction maintenance]. Phased projects require special attention. All
8 construction projects, both public and private, within the jurisdiction of §§ 14-
9 5-2-1 et seq. unless specifically excluded require an approved [E]rosion [and
10 Sediment C]ontrol plan prior to start of construction.

11 ~~[(J)—Drainage control considerations specifically address safety,~~
12 ~~convenience and economic for both private property and public facilities.]~~

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

28 ~~[(2)—Design circumstances may require larger or smaller storm~~
29 ~~volumes; Examples are emergency spillways for dams and erosion control~~
30 ~~plans respectively. The sources for rainfall data are current NOAA~~
31 ~~publications and the City Engineer. When the need for other design storms is~~
32 ~~apparent, the City Engineer will provide requirements concerning appropriate~~
33 ~~storms, frequencies and durations.]~~

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1 ~~[(L)]~~**[(K)]** The City Engineer shall, within ~~[14 to]~~ 30 calendar days after the
2 submission to him~~[/her]~~ of a request in writing for ~~[the]~~ **[an]** approval ~~[of a plat,~~
3 ~~development plan, drainage submittal or exemption,]~~ **[under the Drainage**
4 **Ordinance,]** approve or deny the request and ~~[mail]~~ **[provide]** a copy
5 of his~~[/her]~~ decision to the applicant. If the request is denied, the reasons for
6 such denial shall be stated in writing. Appeal of such decisions is as provided
7 in § 14-5-2-15.

8 ~~[(M)]~~**[(L)]** Discharge of any groundwater cleanup flows to ~~[any public~~
9 ~~storm drainage or flood control facility, whether natural or constructed, shall~~
10 ~~only be allowed by means of special agreement according to rules established~~
11 ~~by the Mayor. A specific regulation governing discharges resulting from~~
12 ~~groundwater cleanup activities shall be established by the Mayor]~~ **[the city's**
13 **storm drainage and flood control system shall not normally be permitted,**
14 **however, when such discharge of groundwater cleanup flow is by special**
15 **agreement permitted, the entity responsible for such groundwater cleanup**
16 **flow discharge shall also be responsible for all costs of installing, operating**
17 **and removing the means of such discharges and shall provide public liability**
18 **protection as required. The discharger of such groundwater cleanup flows**
19 **shall also be responsible for payment of such permit fees, user fees, and**
20 **effluent sampling fees according to an agreement with the city.]** All discharges
21 to public storm drainage and flood control facilities shall comply with adopted
22 local and applicable state and federal water quality requirements.

23 § 14-5-2-13 ADMINISTRATIVE PROCEDURES, CRITERIA AND STANDARDS.

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

27 (B) Proposed rule changes relating to procedures, criteria and standards
28 pursuant to §§ 14-5-2-1 et seq. are initiated by the City Engineer or any person
29 may submit such proposed rule changes to the City Engineer. If a person
30 other than an official of the city submits such a proposal, there may be a
31 processing fee ~~[of up to \$50]~~ set by a rule of the City Engineer.

32 (C) Prior to the adoption, amendment or repeal of any rule pursuant to §§
33 14-5-2-1 et seq. (hereafter, "rule change"), the City Engineer shall:

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

5 (2) Send the proposed rule change to all [applicable] city departments
6 [, as determined by the City Engineer,] and AMAFCA and solicit written
7 comments.

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

11 (4) Solicit written comment on proposed rule changes for a period of
12 30 days from the date of their distribution and consider all comments before
13 ruling on proposed rule changes.

14 (5) Upon adoption of a contested rule change, issue a concise
15 statement of his/her] principal reasons for the rule change and statement of
16 positions rejected in adopting the rule change together with the reasons for
17 the rejection. All persons who submit any writing to be considered in
18 connection with the proposed rule change shall promptly be given a copy of
19 the decision, by mail or otherwise.

20 (D) If a proposed rule change is approved by the City Engineer after
21 receiving comments, notice shall be posted in a conspicuous place in City Hall
22 and a reasonable effort shall be made to notify all interested
23 parties. Proposed rule changes shall not take effect sooner than 30 days from
24 posting of notice or sooner than 90 days from original distribution for
25 comment.

26 (E) In the event of an emergency, the Mayor may direct that rules
27 concerning procedures, criteria or standards take effect immediately upon
28 their posting and distribution. The Mayor's finding of an emergency and brief
29 statement of the reasons for this finding shall be incorporated in the
30 emergency rule change. Upon adoption of an emergency rule change which
31 change shall remain in effect for longer than 60 days, notice to the public shall
32 be given within seven days and opportunity for public comment shall be given
33 in the manner required in this section for proposed rules.

1 (F) Appeal of the City Engineer's rule-making decisions is as provided in
2 § 14-5-2-15. Regular rules, adopted under division (D) of this section, do not
3 take ~~[affect]~~ [effect] until an appeal is decided if they are appealed prior to
4 taking effect. Emergency rules adopted under division (E) of this section and
5 regular rules which have taken effect prior to appeal are in effect until such
6 time as they may be reversed by appeal action.

7 (G) Regulation relating to groundwater cleanup flows discharged to
8 public storm drainage and flood control facilities shall be executed from the
9 provisions of this section. ~~[Regulations]~~ [Requirements] relating to
10 groundwater cleanup flows shall be ~~[formulated by the Mayor]~~ [established by
11 the City Engineer on a case by case basis.] based on public health and safety
12 needs, operations needs, and state and federal regulatory compliance
13 requirements current at time of promulgation. ~~[Such rules may be changed by~~
14 ~~the Mayor as necessary to accommodate changes in foregoing needs and~~
15 ~~requirements. The regulations shall also establish requirements for provision~~
16 ~~of public liability protection for groundwater cleanup flow connections.~~
17 ~~Regulations and amendments to regulations proposed pursuant to this~~
18 ~~division (G) shall be enacted only by publishing legal notice of hearing once a~~
19 ~~week for two consecutive weeks prior to a hearing held to receive comments~~
20 ~~on the proposed regulations. A hearing officer appointed by the CAO shall~~
21 ~~conduct such hearings and make findings, conclusions and recommendations~~
22 ~~to the Mayor after considering all city and public comments.]~~ [The
23 requirements and conditions shall include provisions for public liability
24 protection from groundwater cleanup flow discharges to the city's systems.]

25 § 14-5-2-14 ENFORCEMENT.

26 (A)~~[(1)]~~ [Inspection Procedures.]

27 (1) Whenever [it is] necessary to make an inspection to enforce any
28 of the provisions of §§ 14-5-2-1 et seq., the City Engineer or his~~[/her]~~
29 authorized representative may enter such premises at all reasonable times to
30 inspect the same or to perform any duty imposed upon him by §§ 14-5-2-1 et
31 seq.; provided that if such premises be occupied, he~~[/she]~~ shall first present
32 proper credentials and demand entry; and if such premises be unoccupied, he
33 shall first make a reasonable effort to locate the owner or other persons

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1 having charge or control of the premises and demand entry. If entry is refused
2 or if the owner or other responsible person is not found, the City Engineer or
3 his[her]authorized representative shall proceed to obtain a search warrant by
4 filing a complaint made in the Metropolitan Court or District Court upon oath
5 or affirmation. The complaint shall:

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

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

10 (c) State that inspection of the premises, or portion thereof is
11 necessary to determine whether it complies with the requirements of §§ 14-5-
12 2-1 et seq.;

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

15 (e) Set forth any other reason necessitating the inspection,
16 including knowledge or belief that a particular condition exists in the
17 premises, or portion thereof which constitutes a violation of §§ 14-5-2-1 et
18 seq.; and

19 (f) State that the complainant is authorized by the city to make the
20 inspection.

21 (2) Each inspector shall be furnished with [~~an~~] [a City of
22 Albuquerque] identification card [~~signed by the City Engineer and by the~~
23 ~~Mayor indicating his authority~~] and must present same to [~~the Metropolitan~~
24 ~~Court or District Court for the purpose of this division (A) and to~~] other
25 persons, when requested to do so during the performance of his[her]
26 duty. No owner or occupant or any other person having charge, care or
27 control of any premises shall fail or neglect, after proper demand is made as
28 herein provided, to promptly permit entry therein by the authorized inspector
29 for the purpose of inspection and examination pursuant to §§ 14-5-2-1 et seq.

30 (B) Where, after investigation, an order has been issued by the City
31 Engineer to the owner of the property on which a violation has occurred and
32 the order is not complied with, within such reasonable time as may be
33 prescribed by the City Engineer, or if the responsible party or violator cannot

1 be found or determined, the ~~[City Engineer may cause such remedies as are~~
2 ~~necessary to be made. The reasonable cost of such remedies shall constitute~~
3 ~~a lien against the property on which the violation occurred and was remedied.~~
4 ~~The lien shall be imposed and foreclosed in the manner provided in Sections 3-~~
5 ~~36-1 through 3-36-6 NMSA 1978] violator shall be subject to the penalty~~
6 provisions set forth in § 1-1-99 of this code of ordinances up to \$500 per day.
7 Each day of violation is considered a separate offense.

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

16 § 14-5-2-15 APPEALS; TECHNICAL STANDARDS COMMITTEE.

17 (A) Any applicant aggrieved by a decision as to actions provided for in §§
18 14-5-2-6, 14-5-2-12 and 14-5-2-13 of the City Engineer or absence of such
19 decision, may appeal such decision to the Technical Standards Committee of
20 the city. Such appeal shall be made by notice of appeal in writing addressed
21 to the Chairperson of the Technical Standards Committee and delivered to the
22 office of the City Engineer within 30 days after the date the decision was
23 mailed to the applicant. The Chairperson of the Technical Standards
24 Committee shall notify the applicant and the City Engineer of the date, time,
25 and place of the appeal hearing at least five days prior to the hearing
26 date. Such hearing shall be conducted not earlier than ten days nor later than
27 30 days after the filing of the notice of appeal. At the hearing, the Technical
28 Standards Committee may consider such facts, exhibits, and engineering
29 principles as may be presented by the appellant or the City Engineer or
30 his/her designee, or of which the members may have knowledge or
31 experience, and may affirm, reverse or modify the decision appealed from, and
32 attach as conditions to their decision such requirements as in their opinion
33 may be necessary or appropriate in compliance with the policies of §§ 14-5-2-1

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1 et seq. to safeguard persons and property from stormwater runoff. Each
2 decision of the Technical Standards Committee shall be in writing and shall
3 state reasons therefore. A copy of the decision shall be promptly mailed to
4 the applicant and to the City Engineer.

5 (B) The City Engineer or applicant aggrieved by any decision of the
6 Technical Standards Committee may appeal such decision to the City
7 Council. Such appeal shall be requested by notice of appeal in writing
8 addressed to the President of the City Council and delivered to the office of
9 the City Council within 30 days after the date a copy of the decision was
10 mailed to the applicant. Such appeal shall be heard after notice at the first
11 available meeting of the City Council. The City Council may affirm, reverse, or
12 modify the decision of the Technical Standards Committee.

13 (C) There is hereby created a Technical Standards Committee, consisting
14 of five members who shall be appointed by the Mayor with the advice and
15 consent of the City Council, and who shall serve without pay. Two members
16 shall serve for a term ending August 1, 1983, one member shall serve for a
17 term ending August 1, 1984, and two members shall serve for terms ending
18 August 1, 1985. Subsequent terms shall be for three years. Four of such
19 members shall be registered in this state as professional engineers, be
20 competent in the science of surface water hydrology, and have experience in
21 solving surface drainage problems. The members shall select one member to
22 serve as Chairperson, and their decisions shall be by majority vote of the
23 members attending a hearing. A quorum shall consist of three members. The
24 Technical Standards Committee shall hear and determine all appeals as
25 provided by this section. The Committee may from time to time recommend
26 modifications of §§ 14-5-2-1 et seq. to the Mayor. The City Engineer shall
27 provide such facilities, supplies, and services, including postage, stationery
28 and secretarial assistance, as may be required by the Committee.

29 ~~[(D) Matters relating to groundwater cleanup flows discharged to public~~
30 ~~storm drainage shall be excluded from the provisions of this section and shall~~
31 ~~be governed by regulations as promulgated by the Mayor and other normal~~
32 ~~administrative appeal procedures.]~~

33 § 14-5-2-16 INTERPRETATION.

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

- 3 (1) Considered as minimum requirements;
- 4 (2) Liberally construed in favor of the city;
- 5 (3) Deemed neither to limit nor repeal any other powers granted under
6 state statutes;
- 7 (4) Not deemed to repeal or limit any other ordinance adopted by the
8 City Council unless expressly so stated herein.

9 § 14-5-2-17 WARNING AND DISCLAIMER OF LIABILITY.

10 The degree of flood protection required by §§ 14-5-2-1 et seq. is considered
11 reasonable for regulatory purposes and is based on scientific and engineering
12 considerations. Larger floods can and will occur on rare occasions. Flood
13 heights may be increased by manmade or natural causes. Sections 14-5-2-1 et
14 seq. do not imply that land outside flood hazard areas or uses permitted within
15 such areas will be free from flooding or flood damages. Sections 14-5-2-1 et
16 seq. shall not create liability on the part of the city or on any officer or
17 employee thereof for any flood damages that result from reliance on §§ 14-5-2-
18 1 et seq. or any administrative decision lawfully made thereunder.

19 ~~§ 14-5-2-99 PENALTY.~~

20 ~~A person who violates any provisions of §§ 14-5-2-1 et seq. shall be subject~~
21 ~~to the penalty provisions set forth in § 1-1-99 of this code of ordinances. Each~~
22 ~~day of violation is considered a separate offense.]~~

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

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

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

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2 legislation\amendments\fso-13-47

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