



1 definitions are to be inserted alphabetically with existing definitions (all other  
2 definitions to remain unless specifically repealed or amended herein):

3 **“§ 14-5-2-4 DEFINITIONS.**

4 ***BMPs. Best Management Practices.*** Those best management practices  
5 described within the MS4 Permit.

6 ***CONSTRUCTION GENERAL PERMIT.*** The National Pollutant Discharge  
7 Elimination System General Permit for Discharges from Construction  
8 Activities, most current version.

9 ***COOPERATOR / COOPERATIVE AGREEMENT.*** Any arrangement,  
10 organization, or joint functioning of the co-permittees, or in combination with  
11 other governmental agencies, which works constructively with the City to  
12 address mutual stormwater and/or stormwater quality issues.

13 ***80<sup>TH</sup> PERCENTILE STORM EVENT.*** The runoff from a precipitation event  
14 that is less than or equal to 80 percent of all rainfall events. The 80th  
15 Percentile storm event applies to projects where developed land is being  
16 redeveloped. The volume to be managed is stated in the Development Process  
17 Manual.

18 ***EROSION AND SEDIMENT CONTROL.*** Treatment measures for the  
19 prevention of damages due to soil movement and to deposition from the 2-  
20 year, 24 hour design storm runoff.

21 ***EROSION AND SEDIMENT CONTROL PLAN.*** A plan prepared by a licensed  
22 New Mexico Professional Engineer or Certified Professional in Erosion and  
23 Sediment Control (CPESC) submitted to ensure that minimum design  
24 standards are met to reduce potential pollutants that may result from  
25 demolition and construction activities.

26 ***GI/LID, GREEN INFRASTRUCTURE (GI), LOW IMPACT DEVELOPMENT***  
27 ***(LID).*** Any array of products, technologies, and practices that preserve or use  
28 natural systems, or engineered systems that mimic natural processes and  
29 systems, to enhance overall environmental quality and more specifically that  
30 provide treatment resulting in stormwater quality improvement, as specified in  
31 the DPM.

32 ***MANAGEMENT ON SITE.*** To control, direct, and treat the stormwater  
33 quality volume on the property, or if from an area of common development,

1 then at an alternate location designed for stormwater management or as  
2 otherwise approved by the City Engineer. The control and treatment will be  
3 for water quality and/or flood volume purposes prior to discharge of the  
4 stormwater to the City's MS4. Nothing in this definition shall be construed to  
5 require an action which is contrary to state law, or to written state agency  
6 guidance regarding flood control or surface water capture, or which requires  
7 acquisition or amendment of a water right to legally implement.

8 **NEW DEVELOPMENT.** The process of adding improvements to a parcel of  
9 land, such as grading, subdivisions, drainage, access, roadway/street  
10 improvements, impervious driving surfacing and utilities. This applies to  
11 parcels of lands with little to no previous human-caused disturbances, or  
12 otherwise in a natural condition.

13 **90<sup>TH</sup> PERCENTILE STORM EVENT.** The runoff from a precipitation event  
14 that is less than or equal to ninety percent of all rainfall events. The 90<sup>th</sup>  
15 percentile storm event applies to new development. The volume to be  
16 managed is stated in the Development Process Manual.

17 **PAYMENT-IN-LIEU FOR PUBLIC OFF-SITE MITIGATION** ("*Payment in*  
18 *Lieu*"). A payment collected and used by the City, or collected by the City and  
19 distributed to a cooperator for its use pursuant to an agreement with the City,  
20 for purposes the maintenance, retrofit, or upgrade of public drainage  
21 infrastructure for stormwater quality improvements, and made in lieu of  
22 management on-site or private off-site mitigation.

23 **PRIVATE OFFSITE MITIGATION.** Approved management of the stormwater  
24 quality volume or a portion of the stormwater quality volume at a private  
25 offsite location. The private offsite location may be an existing facility or the  
26 facility may be constructed or modified to manage the stormwater quality  
27 volume.

28 **REDEVELOPMENT.** Improvements made to a parcel of land that was  
29 previously developed (see "new development").

30 **STORMWATER QUALITY VOLUME.** See 80<sup>th</sup> Percentile and 90<sup>th</sup> Percentile  
31 storm events."

32 **SECTION 3. Chapter 14, Article 5, Part 2, Section 5 "Jurisdiction" is**  
33 **amended as follows:**

1       **“§ 14-5-2-5 JURISDICTION.**

2           **Sections 14-5-2-1 et seq. shall apply to all lands within the city and, with**  
3 **respect to planning and platting matters, it shall also apply to all lands within**  
4 **its extraterritorial planning and platting jurisdiction.”**

5           **SECTION 4. Chapter 14, Article 5, Part 2, Section 6 “General Provisions” is**  
6 **amended as follows:**

7       **“§ 14-5-2-6 GENERAL PROVISIONS.**

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

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

29           **(C) The design, construction and maintenance of dams, levees and**  
30 **diversions that fall within the jurisdiction of the state engineer shall meet or**  
31 **exceed standards established by the State Engineer.**

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

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

5           **(F) All facilities which receive only runoff from private property shall be**  
6 **constructed on private property unless otherwise authorized by the City**  
7 **Engineer. The use of individual on-lot ponding shall be governed by the**  
8 **standards established by the City Engineer in the Development Process**  
9 **Manual.**

10          **(G) Wherever flood control, drainage control, stormwater control, or**  
11 **erosion control improvements are necessary within dedicated public open**  
12 **space, such improvements shall be designed and constructed in a manner**  
13 **reasonably consistent with the natural surroundings. All construction and**  
14 **maintenance activities in dedicated open space shall be performed so as to**  
15 **minimize the disruption and destruction of vegetation and adjacent land forms.**  
16 **Where such disturbance or destruction is unavoidable, revegetation shall be**  
17 **performed at the earliest practical time by those responsible for such**  
18 **disturbance and/or destruction.**

19          **(H) All new development and redevelopment projects shall apply best**  
20 **management practices to manage stormwater quality volume by management**  
21 **on-site, or payment-in-lieu, or private offsite mitigation. The Best Management**  
22 **Practices (BMPs) shall be appropriate for the specific circumstances. On-site**  
23 **mitigation solutions shall be landscaped or otherwise utilize required**  
24 **landscape areas within the site. The basis for requesting payment-in-lieu or**  
25 **private offsite mitigation is to be clearly demonstrated on the drainage plan.**  
26 **Management on site shall not be required where stormwater quality can be**  
27 **effectively controlled through private off site mitigation, or through an**  
28 **arrangement to utilize a\_cooperator's existing regional stormwater**  
29 **management infrastructure or facilities that are available to control stormwater**  
30 **quality, and where:**

31               **(i) the lot is too small to accommodate management on site while**  
32 **also accommodating the full plan of development;**

33               **(ii) the soil is not stable;**

1 (iii) the site use is inconsistent with the capture and reuse of  
2 stormwater;

3 (iv) other physical conditions exist where compliance with on-site  
4 stormwater quality control requirement leaves insufficient area;

5 (v) public or private off-site facilities provide an opportunity to  
6 effectively accomplish the mitigation requirements of this ordinance;

7 (vi) there is an opportunity to develop a project to replenish regional  
8 ground water supplies at an offsite location; or

9 (vii) a waiver to state water law or acquisition of water rights would  
10 be required in order to implement management on site.

11 (I) In new development and redevelopment cases where the stormwater  
12 quality volume cannot be met in total through either management on site or  
13 private off site mitigation, payment-in-lieu is required for the difference  
14 between the amount met and the total required. Determination of payment-in-  
15 lieu is described in the DPM; except that payment in lieu that would be  
16 otherwise owed is waived for both new development and redevelopment in  
17 Metropolitan Redevelopment Areas or within the City of Albuquerque  
18 Annexation Boundary of 1950-1959 (per Figure 4-1: Growth Through  
19 Annexation Over Time in Albuquerque of the Albuquerque/Bernalillo County  
20 Comprehensive Plan).

21 (J) Where practicable, Stormwater Control Measures shall be designed to  
22 manage the stormwater quality volume and control runoff generated by  
23 contributing surfaces.

24 (K) The City Engineer is responsible for establishing criteria, procedures  
25 and standards for design and construction of flood control, drainage control,  
26 stormwater control, stormwater quality control, and erosion control  
27 improvements within the city. The city standards for design and construction  
28 are published in the Development Process Manual (DPM) and the Standard  
29 Specifications for Public Works Construction (latest versions). The City  
30 Engineer shall provide for variance from normal criteria and standards when  
31 appropriate. When a variance is required or requested, the City Engineer shall  
32 document the justification for his/her decision and retain as public records  
33 such actions and justifications. Appeal of the City Engineer's variance

1 decisions is as provided in § 14-5-2-15. The City Engineer is also the  
2 designated flood control official for the city in accordance with the  
3 requirements of the Federal Insurance Administration.

4 (L) The introduction of groundwater cleanup flow to either natural or  
5 constructed storm drainage and flood control facilities shall be prohibited  
6 except as herein provided.”

7 SECTION 5. Chapter 14, Article 5, Part 2, Section 7 “Surface Use of Streets  
8 for Drainage and Flood Control Purposes” and Section 8 “Crossings” is  
9 amended as follows:

10 “§ 14-5-2-7 SURFACE USE OF STREETS FOR DRAINAGE AND FLOOD  
11 CONTROL PURPOSES.

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

15 (B) The 100-year design storm runoff shall not exceed the top of curb or  
16 the right-of-way in a sump condition, in any street nor enter private property  
17 from a street, except in recorded drainage or flood control easements, rights-  
18 of-way, or historic channels and watercourses where easements or rights-of-  
19 way cannot be obtained.

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

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

30 (E) The discharge of nuisance waters to public streets is prohibited.  
31 Arterial and collector streets shall be protected from damages to the pavement  
32 surface and from the safety hazards created by surface flow of nuisance  
33 waters across them.

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

5 **§ 14-5-2-8 CROSSINGS.**

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

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

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

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

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

24 (F) The maintenance of facilities constructed at private expense on  
25 public property is the responsibility of the owner or owner's agent until  
26 permanent facilities are in place.

27 (G) The developer shall be responsible for maintaining or replacing  
28 temporary crossing structures for a period of six years or until a permanent  
29 structure is built, whichever comes first. The city shall maintain temporary  
30 crossings which are designed and built such that they may be directly  
31 incorporated into the ultimate facilities."

32 SECTION 6. Chapter 14, Article 5, Part 2, Section 10 "Multiple Use Rights-  
33 of-Way and Easements" is amended as follows:



**1 § 14-5-2-10 MULTIPLE USE RIGHTS-OF-WAY AND EASEMENTS.**

**2 (A) Multiple use is encouraged for drainage rights-of-way and drainage**  
**3 easements including, but not limited to, utility corridors, recreation trails, and**  
**4 parks. Where multiple use is planned by the city, another public agency, or a**  
**5 public utility, the city may require that dedication statements include language**  
**6 which permits said specified multiple uses in addition to the primary drainage**  
**7 function, flood control, stormwater or stormwater quality control, or erosion**  
**8 control. However, land required to be dedicated for drainage related rights-of-**  
**9 way shall be limited to those land areas necessary for drainage control, flood**  
**10 control, stormwater quality control, and erosion control and necessary**  
**11 appurtenances.**

**12 (B) Certain drainage rights-of-way may be credited for open space as may**  
**13 be required by the IDO, except for any area which is exclusively used for the**  
**14 drainage control, flood control, stormwater quality control, or erosion control**  
**15 function.**

**16 SECTION 7. Chapter 14, Article 5, Part 2, Section 11 “Stormwater Control**  
**17 Permitting for Erosion and Sediment Control, Inspection and Maintenance**  
**18 Responsibility” is amended as follows:**

**19 “§ 14-5-2-11 CONSTRUCTION SITE RESPONSIBILITY BY PROPERTY OWNER.**

**20 (A) For projects that disturb one acre or more, or less than one acre but**  
**21 are part of a larger common plan of development exceeding one acre, the**  
**22 property owner is to provide the Construction General Permit (CGP) Electronic**  
**23 Notice of Intent (eNOI) documentation that contains the property owner name**  
**24 and contact information a minimum of 14 days prior to earth disturbance and**  
**25 prior to obtaining Work Order or Building Permit approval. To be accepted,**  
**26 the eNOI is to be properly filled out and certified. If the eNOI is a Low**  
**27 Erosivity Waiver by the contractor, then an Erosion and Sediment Control**  
**28 Permit per paragraph § 14-5-2-11(B) is to be approved by the City.**

**29 (B) For projects that are less than one acre and are not part of a larger**  
**30 common plan of development, but meet the criteria as specified in section 14-**  
**31 5-2-12(B)(6), an approved Erosion and Sediment Control Permit is required**  
**32 prior to earth disturbance, Work Order approval and Building Permit approval.**

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

7           **(2) A project will be approved for earth disturbance, work order,**  
8 **or building permit only upon approval of plans and conditions by the City**  
9 **Engineer.**

10       **(C) Construction site inspections and quality controls shall include:**

11           **(1) Self-inspections by permittee. At a minimum a routine**  
12 **compliance self-inspection is required to review the project for compliance**  
13 **with the Construction General Permit once every 14 days and after any**  
14 **precipitation even of ¼ inch or greater until the site construction has been**  
15 **completed and the site determined as stabilized by the City. Reports of these**  
16 **inspections shall be kept by the person or entity authorized to direct the**  
17 **construction activities on the site and shall be conducted during progress of**  
18 **the work, during work suspensions, and until final acceptance of site**  
19 **stabilization by the city. An owner's or his/her agent's failure to properly**  
20 **maintain records shall subject that owner to the penalty provisions of this**  
21 **ordinance.**

22           **(2) City Compliance Inspections. The city will conduct routine**  
23 **compliance inspections of projects for compliance with the Construction**  
24 **General Permit. The City will conduct routine compliance inspections of all**  
25 **construction projects cumulatively disturbing one acre or more or as specified**  
26 **in section 14-5-2-12(B)(6) for compliance with the Construction General**  
27 **Permit. Site inspections will be followed by any necessary compliance or**  
28 **enforcement action to ensure corrective action has occurred. Corrective**  
29 **action is to be completed within seven days or the owner is subject to**  
30 **escalation per this ordinance. All projects will be inspected at completion for**  
31 **confirmation of stabilization.**

32           **(a) Construction Site Compliance. If the City finds that the site**  
33 **is not in compliance with the Construction General Permit and that stormwater**

1 controls will not prevent sediment and waste from entering the City's drainage  
2 system and/or leaving the construction site the city may direct the owner or  
3 his/her agent by written order to come into compliance. If deficiencies are  
4 required to be mitigated, the owner or his/her agent shall be verbally notified  
5 with a follow-up written confirmation occurring later. It shall be the duty of the  
6 owner or his/her agent to immediately take all necessary steps to prevent such  
7 migration of sediment and waste off the premises or from entering receiving  
8 waters. Delivery of an order by the city to the owner or his/her agent shall be  
9 deemed to be notice thereof, and binding upon the owner. An owner's or  
10 his/her agent's failure to substantially comply with the order shall subject that  
11 owner to the penalty provisions of this ordinance.

12 (b) Maintenance of Control Measures. The property owner or  
13 the owner's agent carrying out the Construction General Permit requirements  
14 shall maintain all control measures, retaining walls, structures, plantings, and  
15 other protective devices. Should the applicant, or any other subsequent  
16 property owners fail to maintain the temporary control facilities, retaining  
17 walls, structures, plantings, and other protective devices, the city reserves the  
18 authority to enter affected property, provide needed maintenance, and to  
19 charge the owner for the work performed by the city or its contractors and to  
20 place a lien on the property to cover the costs of said actions. Such municipal  
21 lien shall be a statutory lien against the real property. This provision is in  
22 addition to the city's ability to assess penalties or pursue any other remedies  
23 as necessary to effectuate the purpose of this ordinance.

24 1. The maintenance of facilities constructed at private  
25 expense on public property is the responsibility of the owner or owner's agent  
26 until permanent facilities are in place.

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

32 (3) The city will utilize sanctions and penalties to enforce upon  
33 violations of permit requirements. Progressive enforcement escalation

1 procedures will be used and strictly enforced for recalcitrant or repeat  
2 offenders.

3 (D) Post-Construction Maintenance shall be performed as follows:

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

11 (2) Private Stormwater Facilities:

12 a) Maintenance of Drainage Facility – The Owner shall  
13 maintain the Drainage Facility at the Owner’s cost in accordance with this  
14 Ordinance.

15 b) City Compliance Inspections – The City’s post-construction  
16 inspection program will begin routine compliance inspections of projects at  
17 three (3) years after final acceptance of the BMP’s. Notwithstanding, nothing  
18 herein prevents the City from performing an unscheduled inspection when  
19 reasonably necessary to implement the goals and requirements of this  
20 ordinance.

21 c) City’s Right of Entry – No owner, occupant or any other  
22 person having charge, care or control of any building or premises shall fail or  
23 neglect, after proper request is made, as herein provided, to promptly permit  
24 entry by authorized City officials for the purpose of inspection and  
25 investigation pursuant to this ordinance, or to provide maintenance or repair  
26 of the Drainage Facilities as it deems appropriate without liability to the City.  
27 In the event that the City is denied reasonable entry for purposes of inspection  
28 on a voluntary basis, the authorized City official shall obtain a proper  
29 inspection warrant or other remedy provided by law to secure entry. In the  
30 event of an emergency, where immediate entry is necessary to protect life or  
31 property, the City has the right to enter and perform inspections, maintenance  
32 or repair of the Drainage Facilities as it deems appropriate, without liability to  
33 the City.

1                   d) Demand for Construction or Repair – The City may send  
2 written notice (“Notice”) to the Owner requiring maintenance, construction, or  
3 repair to the Drainage Facility within thirty (30) days (“Deadline”) of receipt of  
4 the Notice, and the Owner, at their expense, must comply with the  
5 requirements of the Notice by the Deadline provided.

6                   e) Failure to Perform by Owner and Emergency Work by City –  
7 If the Owner fails to comply with the terms of the Notice by the Deadline, or if  
8 the City determines that an emergency condition exists, the City may perform  
9 the work itself. The City may assess the Owner for the cost of the work and  
10 for any other expenses or damages, which result from Owner’s failure to  
11 perform. The Owner shall pay the City the amount assessed. If the Owner  
12 fails to pay the City within thirty (30) days after the City gives the Owner  
13 written notice of the amount due, the City may impose a lien against Owner’s  
14 Property for the total resulting amount.

15                   f) Liability of City for Repair after Notice or as a Result of  
16 Emergency – The City shall not be liable to the Owner for any damages  
17 resulting from the City’s maintenance or repair following Notice to the Owner  
18 as required in this Ordinance, or in an emergency, unless the damages are the  
19 result of the reckless conduct or gross negligence of the City.

20                   g) Indemnification – The City, its officials, agents and  
21 employees are indemnified and shall be held harmless from all claims,  
22 actions, suits and proceedings, whether known or unknown arising out of, or  
23 resulting from the Owner’s negligent maintenance, construction, repair or use  
24 of the Drainage Facility. Such indemnification shall encompass actions are  
25 brought by third parties against any non-City party when such actions related  
26 to the aforementioned Drainage Facility. Furthermore, and notwithstanding  
27 the provisions of Section 56-7-1 NMSA 1978 (if applicable), such  
28 indemnification specifically extends to liability, for all claims, whether known  
29 or unknown, damages, losses or expenses, including attorneys’ fees, arising  
30 out of: (1) the preparation or approval of maps, drawings, opinions, reports,  
31 surveys, change orders, designs or specifications (except those created by  
32 the City or its agents or employees); or (2) the giving of or the failure to give  
33 directions or instructions by the City.

1                   h) This ordinance is not intended to replace, supersede,  
2                   undermine or otherwise alter or replace any existing covenant or other written  
3                   agreement between the City and any property owner. To the extent that the  
4                   provisions herein conflict with the covenant or other agreement's language,  
5                   then the covenant language or other agreement's language shall apply."

6                   SECTION 8. Chapter 14, Article 5, Part 2, Section 12 "General  
7                   Administration" is amended as follows:

8                   "§ 14-5-2-12 GENERAL ADMINISTRATION.

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

14                  (B) All construction activities within the jurisdiction of the city shall  
15                  conform to the requirements of the City Engineer with respect to drainage  
16                  control, flood control, stormwater control, stormwater quality control, and  
17                  erosion control.

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

20                         (2) Construction, grading or paving on any lot within the jurisdiction  
21                         of the city shall not increase the damage potential to upstream, downstream or  
22                         adjacent properties or public facilities. Damages shall be defined as those  
23                         caused by flooding from the 100-year design storm and all smaller storms and  
24                         from erosion and sedimentation resulting from the 10-year design storm and  
25                         all smaller storms.

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

30                         (4) Grading, cut, fill or importation of material in excess of 500 cubic  
31                         yards or grading of any area of one acre or more shall conform to drainage  
32                         control, flood control, stormwater control, and erosion control policies and to  
33                         standards, criteria and procedures established by the City Engineer with

1 respect to drainage, flood control, stormwater control, and erosion control. A  
2 grading permit, issued by the City Engineer, shall be required for projects  
3 involving more than 500 cubic yards of material or one acre or more in area.  
4 Applications for development of areas known to have been sanitary landfills  
5 shall be accompanied by a report which discusses potential health and soil  
6 mechanics problems and their solutions. Such reports shall be prepared by a  
7 New Mexico Professional Engineer competent in soil mechanics.

8 (5) Where practicable, active construction sites shall utilize non-  
9 structural controls, such as phased construction, dust control, good  
10 housekeeping practices, and spill prevention and response.

11 (6) Sites with less than one acre of total land disturbance and that  
12 are not part of a larger common plan of development shall be required to  
13 obtain an Erosion and Sediment Control Permit if:

14 (a) The site is identified as having a significant potential for  
15 erosion, based on observation or site characteristics including very steep  
16 topography;

17 (b) The site is known to contain contaminated soils; or

18 (c) The site is directly adjacent to receiving waters such as  
19 directly connected storm drains, directly connected concrete arroyos or the  
20 Rio Grande.

21 (d) The site contains a building to be demolished and the  
22 building is 10,000 square feet or larger and was built or renovated prior to  
23 January 1, 1980.

24 (7) Paving an area larger than 10,000 square feet other than right-of-  
25 way shall require a paving permit. Applications for paving permits shall be  
26 accompanied by a grading plan and Erosion and Sediment Control Plan if  
27 deemed necessary by the City Engineer. Repaving of right-of-way is excluded.

28 (8) The City Engineer shall not issue a grading permit, paving  
29 permit, Work Order, or Building Permit unless the proposed project is in  
30 compliance with the policies of §§ 14-5-2-1 et seq.

31 (9) Permit Fees. Permit fees shall be established by the Mayor.

32 (C) The city may participate with the private sector, and other public  
33 bodies and agencies operating within the jurisdiction of this policy in order to

1 accomplish the goals and implement the policies adopted in §§ 14-5-2-1 et  
2 seq. This includes, but shall not be limited to, the development and approval  
3 of master plans for flood control, drainage and stormwater control, and  
4 stormwater quality control; participation in the construction of projects and  
5 exercising control through the planning, platting, zoning, and permitting  
6 processes. Projects involving city funding shall be prioritized, funded and  
7 scheduled within the guidelines of the CIP and with CIP Projects.

8 (D) It shall be the responsibility of the City Engineer to produce, approve,  
9 make and retain records of all drainage plans, drainage reports, design  
10 analyses, design drawings, as-built drawings, and maintenance schedules  
11 related to all drainage control, flood control, stormwater control, stormwater  
12 quality control, and erosion control facilities constructed within city rights-of-  
13 way or easements.

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

20 (1) Downstream capacity is determined based on the assumption of  
21 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 place  
32 in determining downstream capacity, provided that construction funds are



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

3 (F) Temporary facilities are only allowed on a case-by-case basis as  
4 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 (G) Requests for approvals of development and/or platting proposals to  
11 the City Engineer shall be accompanied by drainage control, flood control,  
12 stormwater control, stormwater quality control, and erosion control  
13 information and/or commitments. The particular nature, location and scope of  
14 the proposed development defines the degree of detail. One or more of the  
15 following levels 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, stormwater quality  
30 control, and erosion control issues. Drainage plans are required for building  
31 permits, site development plans and landscaping plans for developments  
32 involving less than five acres.

33 (3) Drainage Report.

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

5                   (b) Drainage reports are required for subdivisions containing  
6 more than ten lots or constituting five acres or more, platting or construction  
7 within a designated flood hazard area and for any platting or development  
8 adjacent 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 and including final occupancy. Phased projects require special attention. All  
12 construction projects, both public and private, within the jurisdiction of §§ 14-  
13 5-2-1 et seq., unless specifically excluded, require an approved Erosion and  
14 Sediment Control plan prior to start of construction. An Erosion and Sediment  
15 Control Plan is required for sites that meet the criteria specified in § 14-5-2-  
16 11(A), § 14-5-2-11(B) and § 14-5-2-12(B)(6).

17                  (H) The Albuquerque 100-year design storm is the 100-year storm as  
18 defined by the National Oceanic Atmospheric Administration (NOAA) and by  
19 the storm distributions for time and areas as developed by the City Engineer  
20 and documented in the DPM. Design circumstances may require larger or  
21 smaller storm volumes. The sources for the rainfall data are current NOAA  
22 publications and the City Engineer. When the need for other design storms is  
23 apparent, the City Engineer will provide requirements concerning appropriate  
24 storms, frequencies and durations.

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

30                  (J) Discharge of any groundwater cleanup flows to the city's storm  
31 drainage and flood control system shall not normally be permitted, however,  
32 when such discharge of groundwater cleanup flow is by special agreement  
33 permitted, the entity responsible for such groundwater cleanup flow discharge

1 shall also be responsible for all costs of installing, operating and removing the  
2 means of such discharges and shall provide public liability protection as  
3 required. The discharger of such groundwater cleanup flows shall also be  
4 responsible for payment of such permit fees, user fees, and effluent sampling  
5 fees according to an agreement with the city. All discharges to public storm  
6 drainage and flood control facilities shall comply with adopted local and  
7 applicable state and federal water quality requirements.”

8 SECTION 9. Subsection ‘G’ of Chapter 14, Article 5, Part 2, Section 13  
9 “Administrative Procedures, Criteria and Standards” is amended as follows:

10 “§ 14-5-2-13 ADMINISTRATIVE PROCEDURES, CRITERIA AND  
11 STANDARDS.

12 . . .

13 (G) Regulation relating to groundwater cleanup flows discharged to public  
14 storm drainage and flood control facilities shall be exempted from the  
15 provisions of this section. Requirements relating to groundwater cleanup  
16 flows shall be established by the City Engineer on a case by case basis, based  
17 on public health and safety needs, operational needs, and state and federal  
18 regulatory compliance requirements current at time of promulgation. The  
19 requirements and conditions shall include provisions for public liability  
20 protection from groundwater cleanup flow discharges to the city’s systems.”

21 SECTION 10. Subsection ‘B’ of Chapter 14, Article 5, Part 2, Section 14  
22 “Enforcement” is amended as follows:

23 “§ 14-5-2-14 ENFORCEMENT.

24 . . .

25 (B) Where, after investigation, an order has been issued by the City  
26 Engineer to the owner of the property on which a violation has occurred and  
27 the order is not complied with within thirty (30) days for post-construction  
28 violations and within seven (7) days for construction violations, or such longer  
29 reasonable time as may be prescribed by the City Engineer, or if the  
30 responsible party or violator cannot be found or determined, the violator shall  
31 be subject to the penalty provisions set forth in § 1-1-99 of this code of  
32 ordinances up to \$500 per day. Each day of violation is considered a separate  
33 offense.”

1           **SECTION 11. SEVERABILITY CLAUSE.** If any section, paragraph, word or  
2 phrase of this ordinance is for any reason held to be invalid, or unenforceable  
3 by any court of competent jurisdiction, such decision shall not affect the  
4 validity of the remaining provisions of this ordinance. The Council hereby  
5 declares that it would have passed this ordinance and each section,  
6 paragraph, sentence, clause, word or phrase thereof irrespective of any  
7 provision being declared unconstitutional or otherwise invalid.

8           **SECTION 12. COMPILATION.** Sections 1 through 10 of this ordinance shall  
9 amend, be incorporated in and made part of the Revised Ordinances of  
10 Albuquerque, New Mexico, 1994.

11           **SECTION 13. RE-EVALUATION.** The City shall coordinate with cooperators  
12 and stakeholders within eighteen-months of adoption of this ordinance to  
13 evaluate other alternatives to on-site mitigation that may be advanced through  
14 by better utilization of existing or planned public drainage infrastructure.

15           **SECTION 14. EFFECTIVE DATE.** This ordinance shall take effect five days  
16 following publication by title and general summary.

1 PASSED AND ADOPTED THIS 17<sup>th</sup> DAY OF September, 2018  
2 BY A VOTE OF: 8 FOR 0 AGAINST.

3  
4 **Excused: Borrego**

5  
6 

7  
8 **Ken Sanchez, President**  
9 **City Council**

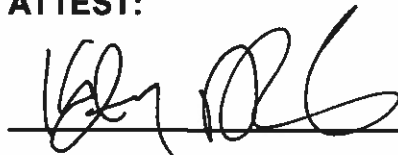
10  
11  
12  
13  
14 APPROVED THIS 27 DAY OF September, 2018

15  
16  
17 **Bill No. C/S O-18-2**

18  
19 

20  
21 **Timothy M. Keller, Mayor**  
22 **City of Albuquerque**

23  
24  
25 **ATTEST:**

26 

27  
28 **Katy Duhigg, City Clerk**

29  
30  
31  
32  
33  
[ + Bracketed/Underscored Material + ] - New  
[ - Bracketed/Strikethrough Material - ] - Deletion