



1 in accordance with applicable law. The City is responsible for and will meet all  
2 capital improvement needs associated with existing development in the City as  
3 established by the level of service adopted in this ordinance. Only capital  
4 improvement needs that are rationally related to new development in accordance  
5 with applicable law will be paid by impact fees. Impact fees shall not exceed the  
6 cost to pay for a proportionate share of the cost of system improvements based  
7 upon service units needed to serve new development. Subject to the provisions  
8 of this ordinance and the Development Fees Act (NMSA 1978, § 5-8-1 et seq.),  
9 impact fees shall be spent on new or enlarged capital facilities and equipment  
10 which benefit those developments which pay the fees. Impact fees may also be  
11 spent on:

12 (1) The estimated costs and professional fees paid for preparing and  
13 updating the Component Capital Improvements Plan (CCIP);

14 (2) For costs and fees charged by qualified professionals who are  
15 not employees of the City for services directly related to the construction of  
16 capital improvements or facility expansions; and

17 (3) For administrative costs associated with this ordinance for City  
18 employees who are qualified professionals. Such administrative costs shall not  
19 exceed three percent of the total impact fees collected, as provided by NMSA  
20 1978, § 5-8-4.

21 **Section 4. DEFINITIONS.**

22 The following words, terms and phrases, when used in this ordinance shall  
23 have the meanings ascribed to them in this Section, except where the context  
24 clearly indicates a different meaning:

25 **ADVISORY COMMITTEE** means the standing committee required to be  
26 appointed under the Development Fees Act (NMSA 1978, § 5-8-1 et seq.).

27 **AMAFCA** means Albuquerque Metropolitan Area Flood Control Agency.

28 **APPLICANT** means a person, including any governmental entities, seeking  
29 subdivision or development approval, a building permit, a refund, a waiver or a  
30 credit, whichever is applicable.

31 **ASSESSMENT** means the determination of the amount of the impact fee.  
32 (See also COLLECTION.)

1           **BUILDING PERMIT** means the building permit required by the Uniform  
2 **Building Code**, as adopted by the City.

3           **CAPITAL IMPROVEMENTS** means storm water, drainage and flood control  
4 **facilities**.

5           **CITY** means the City of Albuquerque.

6           **CITY CAPITAL IMPLEMENTATION PROGRAM (CIP)** means the City's  
7 **Capital Improvements Program** as set out and regulated by Section 2-12-1 R.O.  
8 **1994 et seq.** The CIP is funded by **General Obligation Bonds** and includes  
9 **projects that support rehabilitation, deficiency remediation and growth.** The CIP  
10 **will contain, as an additional component, the list of growth-supporting projects**  
11 **that are funded by impact fees.**

12           **CITY COUNCIL** means the duly constituted governing body of the City of  
13 **Albuquerque.**

14           **COLLECTION** means the payment of the applicable impact fees. (See also  
15 **ASSESSMENT.**)

16           **COMPONENT CAPITAL IMPROVEMENTS PLAN (CCIP)** means a plan  
17 **required by the Development Fees Act (NMSA 1978, Section 5-8-1 et seq.) that**  
18 **identifies types of capital improvements or facility expansions for which impact**  
19 **fees may be assessed.** This component of the City's **Capital Improvement Plan** is  
20 **funded by impact fees and limited to projects that support growth.**

21           **COUNTY** means the County of Bernalillo.

22           **COMPREHENSIVE PLAN** means the City of Albuquerque/Bernalillo County  
23 **Comprehensive Plan.**

24           **CREDIT** means credit for the value of the construction, contribution or  
25 **dedication of system improvements or the contribution of money for system**  
26 **improvements accepted by the City.**

27           **CREDIT-HOLDER** means the person entitled to transfer, apply or seek  
28 **reimbursement for excess credits.**

29           **DEEMED COMPLETE** means that an applicant has submitted an application  
30 **and requisite fees for a building permit and the City has accepted such**  
31 **application and fees.**

32           **DEVELOPER** means any person, corporation, organization or other legal  
33 **entity constructing or creating new development.**

1           **DEVELOPMENT** means the division of land, reconstruction, redevelopment,  
2 conversion, structural alteration, relocation or enlargement of any structure; or  
3 any use, change of use or extension of the use of land, any of which increases  
4 the number of service units.

5           **DEVELOPMENT AGREEMENT** means a written agreement entered into  
6 between the City and a developer whereby the developer agrees to dedicate or  
7 construct capital improvements.

8           **DEVELOPMENT APPROVAL** means written authorization, such as approval  
9 of a subdivision application or issuance of a building permit, or other forms of  
10 official action required by the City prior to commencement of construction.

11           **DEVELOPMENT SITE** means the property under consideration for  
12 development at the time of application for a building permit.

13           **DRAINAGE FACILITY** means storm water, drainage and flood control  
14 facilities.

15           **EFFECTIVE DATE** means six months after publication of the adopted  
16 ordinance.

17           **ENCUMBERED** means impact fee funds committed for a specified capital  
18 improvement on a specified time schedule which does not exceed seven years  
19 from the date of payment of the impact fees.

20           **EXCESS CREDITS** means that portion of the credit granted for system  
21 improvements which exceeds the value of the impact fees otherwise due from the  
22 development.

23           **FACILITY EXPANSION** means the expansion of the capacity of an existing  
24 facility (in service units) that serves the same function as an otherwise necessary  
25 new capital improvement, in order that the existing facility may serve new  
26 development. The term does not include the repair, maintenance, modernization  
27 or expansion of an existing facility to improve service to existing development.

28           **FIRST IN, FIRST OUT** means expenditures of impact fee revenues reflecting  
29 the chronological order in which the impact fee revenues were collected.

30           **GROSS FLOOR AREA** means the sum of all the floor areas of a building,  
31 measured from the exterior of outer supporting walls, including all accessory  
32 buildings on the same lot.

1           **IMPACT FEE** means a charge or assessment imposed by the City on new  
2 development in order to generate revenue for funding or recouping the costs of  
3 capital improvements or facility expansions rationally related to new development  
4 in accordance with applicable law. The term includes amortized charges, lump-  
5 sum charges, capital recovery fees, contributions in aid of construction,  
6 development fees and any other fee that functions as described by this definition.  
7 The term does not include hook-up fees, dedication of rights-of-way or  
8 easements or construction or dedication of on-site water distribution, wastewater  
9 collection or drainage facilities, or streets, sidewalks or curbs if the dedication or  
10 construction is required by a previously adopted valid ordinance or regulation  
11 and is rationally related to new development in accordance with applicable law.

12           **IMPACT FEES ADMINISTRATOR** means the person designated to  
13 administer the impact fee program established by this ordinance.

14           **INDEPENDENT FEE DETERMINATION** means a finding by the impact fees  
15 administrator that an independent fee study does or does not meet the  
16 requirements for such a study as established by this chapter and, if the  
17 requirements are met, the fee calculated by the impact fees administrator  
18 therefrom.

19           **INDEPENDENT FEE STUDY** means the engineering, financial and/or  
20 economic documentation prepared by an applicant in accordance with Section 18  
21 to allow an individual determination of an impact fee other than by use of the  
22 applicable fee schedule.

23           **LAND USE** means the primary category of use for any principal or  
24 accessory building, structure or use located on a development site.

25           **LAND USE ASSUMPTIONS (LUA)** means the land use assumptions adopted  
26 or as may be amended by the City Council, pursuant to Section 14-13-5-2 ROA  
27 1994.

28           **LEVEL OF SERVICE (LOS)** means a standardized measure of capacity  
29 provided by a system of public facilities as further described in Section 7 (G)  
30 herein.

31           **NEW DEVELOPMENT** means the division of land; reconstruction,  
32 redevelopment, conversion, structural alteration, relocation or enlargement of

1 any structure; or any use, change of use or extension of the use of land; any of  
2 which increases the number of service units.

3 **OFFSET** means the amount by which an impact fee is reduced to fairly  
4 reflect the credits applied for system improvements.

5 **OWNER OF RECORD** means the persons having legal and equitable title to  
6 the property as recorded in the real property records of the County.

7 **PROJECT IMPROVEMENTS** means site specific improvements or facilities  
8 that are planned, designed or built to provide service for a specific development  
9 project and that are necessary for the use of the occupants or users of that  
10 project, and that do not provide additional service units as defined for each  
11 impact fee category. The addition of service units shall control a determination of  
12 whether an improvement or facility is a project improvement or a system  
13 improvement, and the physical location of the improvement or facility, on-site or  
14 off-site, shall not be considered determinative of whether it is a project  
15 improvement or a system improvement. No improvement or facility specifically  
16 identified in the CCIP shall be considered a project improvement. If an  
17 improvement or facility provides or will provide new service units the  
18 improvement or facility shall not be considered a project improvement.

19 **PROPORTIONATE SHARE** means that portion of the cost of system  
20 improvements which is reasonably and fairly related to the service demands and  
21 needs of new development.

22 **QUALIFIED PROFESSIONAL** means a professional engineer, surveyor,  
23 financial analyst or planner providing services within the scope of his/her license,  
24 education or experience.

25 **REFUND** means reimbursement of impact fees to the owner of record of  
26 property for which impact fees have been paid.

27 **SERVICE AREAS** means geographically defined areas within the City that  
28 have been designated in the CCIP in which development potential may create the  
29 need for capital improvements to be funded by drainage facilities impact fees.

30 **SERVICE AREAS MAP** means a map of service areas in which impact fees  
31 are imposed. A map illustrating the service areas for the capital improvements  
32 covered by this ordinance is attached hereto as Appendix A and incorporated by  
33 reference.

1           **SERVICE UNIT** means a standardized measure of consumption, use,  
2 generation or discharge attributable to an individual unit of development  
3 calculated in accordance with generally accepted engineering or planning  
4 standards for a particular category of capital improvements or facility  
5 expansions. For drainage facilities impact fees, one service unit = one impervious  
6 acre.

7           **SINGLE-FAMILY** means a building arranged or designed to be occupied by  
8 one family, including mobile homes, the structure having only one dwelling unit.

9           **SYSTEM IMPROVEMENTS** means the addition or provision of new service  
10 units as defined for each impact fee category.

11           **SYSTEM IMPROVEMENTS COSTS** means costs incurred to provide system  
12 improvements needed to serve new development including, but not limited to, the  
13 costs of system capacity and/or system impact studies, planning, design and  
14 construction, land acquisition, land improvement, design and engineering related  
15 thereto, including the cost of constructing or reconstructing system  
16 improvements or facility expansions including, but not limited to, the  
17 construction contract price, surveying and engineering fees, related land  
18 acquisition costs and expenses incurred for qualified staff or any qualified  
19 engineer, planner, architect, landscape architect, or financial consultant for  
20 preparing or updating the capital improvements program and administrative  
21 costs not to exceed three percent of the total amount of the impact fees collected.  
22 Projected interest charges and other finance costs may be included if the  
23 development impact fees are to be used for the payment of principal and interest  
24 on bonds, notes, or other financial obligations issued by or on behalf of the City  
25 to finance system improvements, but such costs do not include routine and  
26 periodic maintenance expenditures, personnel training and other operating costs.

27           **SYSTEM STUDIES** means any study, analysis or report, or portion thereof,  
28 required by the City to determine the system improvements for new development.

29           **WAIVED** means to relinquish or abandon a claim or right.

### 30           **Section 5. AUTHORITY OF ORDINANCE.**

31           The City is authorized to impose impact fees under the Development Fees  
32 Act (NMSA 1978, § 5-8-1 et seq.). The provisions of this ordinance shall not be  
33 construed to limit the power of the City to use any other methods or powers

1 otherwise available for accomplishing the purposes set forth in this ordinance,  
2 either in substitution or in conjunction with this ordinance, provided that such  
3 methods or powers are not inconsistent with or prohibited by this ordinance or  
4 the Development Fees Act.

5 **Section 6. APPLICABILITY OF ORDINANCE.**

6 This ordinance shall be applicable to all development that occurs within the  
7 corporate jurisdiction of the City, as may be amended in the future, and shall  
8 apply uniformly within each service area.

9 **Section 7. FINDINGS AND DECLARATIONS.**

10 The City Council hereby finds and declares that:

11 (A) The City is committed to the funding and provision of drainage  
12 facilities necessary to cure any deficiencies that may exist in already developed  
13 areas of the City.

14 (B) Such facilities shall be provided by the City using existing funding  
15 sources allocated for such facilities, other than impact fees, including, but not  
16 limited to, the general fund, general obligation bonds, special assessment  
17 districts and metropolitan redevelopment districts.

18 (C) New development causes and imposes increased demands on public  
19 facilities, including drainage facilities.

20 (D) The City Council appointed an advisory committee, pursuant to  
21 NMSA 1978, § 5-8-37, to review land use assumptions (LUA), and the component  
22 capital improvements plan (CCIP). The advisory committee reviewed the LUA and  
23 the CCIP.

24 (E) The land use assumptions, incorporated in this ordinance by  
25 reference, indicate that new development will continue and will place increasing  
26 demands on the City to provide drainage facilities.

27 (F) New development should pay an amount not to exceed its  
28 proportionate share of the capital costs related to the additional drainage  
29 facilities needed to accommodate that new development.

30 (G) The City Council hereby adopts the following standards for a  
31 minimum level of service (LOS) for drainage facilities: The LOS for drainage  
32 facilities is flood protection in the 100 year design-storm.



1           **(H) The City Council, after careful consideration of the matter, hereby**  
2 **finds and declares that it is in the best interest of the general welfare of the City**  
3 **and its residents to impose impact fees upon new development in order to**  
4 **finance drainage facilities in the designated service areas for which demand is**  
5 **created by the new development.**

6           **(I) The City Council further finds and declares that impact fees provide**  
7 **a reasonable method of assessing new development to ensure that such new**  
8 **development pays a portion of the costs of drainage facilities that are rationally**  
9 **related to the new development in accordance with applicable law.**

10           **(J) The City Council further finds and declares that such impact fees**  
11 **are equitable, and impose a fair assessment on new development by requiring**  
12 **that new development pay a portion of the cost, and deems it advisable to adopt**  
13 **this ordinance as set forth.**

14           **(K) The City Council further finds that there exists a rational relationship**  
15 **between the capital costs of providing drainage facilities at the level of service**  
16 **adopted and the impact fees imposed on development under this ordinance.**

17           **(L) The City Council further finds that there exists a rational relationship**  
18 **between the impact fees to be collected pursuant to this ordinance and the**  
19 **expenditure of those funds on capital costs related to drainage facilities as**  
20 **limited and restricted by this ordinance.**

21           **(M) The City Council further finds and declares that this ordinance is**  
22 **consistent with both the procedural and substantive requirements of the New**  
23 **Mexico Development Fees Act (NMSA 1978, § 5-8-1 et seq.).**

24           **(N) The City Council has carefully considered the Report prepared by**  
25 **Integrated Utilities Group, Inc. for the City of Albuquerque titled “Drainage Impact**  
26 **Fee Study Final Report” dated September 2004, and as amended November 2004,**  
27 **and further finds that said Report sets forth reasonable and equitable**  
28 **methodology and assumptions consistent with the New Mexico Development**  
29 **Fees Act for the formulation and imposition of a Drainage Facilities Development**  
30 **Impact Fee Program for the City of Albuquerque.**

31           **Section 8. LAND USE ASSUMPTIONS.**

32           **The land use assumptions provide a projection of changes in land uses,**  
33 **densities, intensities and population within planning information areas over at**

1 least a five-year period. The City Council hereby incorporates by reference the  
2 land use assumptions set forth in Section 14-3-5-2, ROA 1994, as amended. The  
3 land use assumptions shall be reviewed and updated, if necessary, in  
4 conjunction with the update of the CCIP.

5 **Section 9. COMPONENT CAPITAL IMPROVEMENTS PLAN.**

6 (A) The component capital improvements plan (CCIP) identifies types of  
7 capital improvements or facility expansions for which impact fees may be  
8 assessed. The CCIP is a component of the local infrastructure capital  
9 improvements program (CIP) and lists the growth-supporting projects that will be  
10 funded by impact fees. The CIP sets forth an inventory of existing capital  
11 improvements deficiencies and growth needs, planned capital projects and  
12 sources of funding for these projects, which sources may include revenues other  
13 than impact fees. The CCIP consists of capital improvements plans for drainage  
14 facilities that support the infrastructure demands created by growth.

15 (B) The City Council hereby adopts by reference the CCIP, attached  
16 hereto as Appendix C, approved by the City Council at the same hearing at which  
17 this ordinance is adopted, particularly as it relates to the allocation of a fair share  
18 of the costs of new facilities for drainage facilities to be borne by new users of  
19 such facilities and the levels of service to be provided to the citizens of the City  
20 for these facilities. Henceforth, the City Council shall adopt and revise the CCIP  
21 at the same time and via the same process that it adopts and revises the CIP.

22 (C) The CCIP shall be updated at least every two years from the effective  
23 date of this ordinance in conjunction with the CIP ordinance. Updates of the land  
24 use assumptions shall occur at least every five years from the effective date of  
25 this ordinance. Appropriate revisions and amendments to the impact fees  
26 schedules and this ordinance shall be made following either form of update, if  
27 necessary.

28 **Section 10. ADVISORY COMMITTEE.**

29 The advisory committee is a standing committee established pursuant to  
30 Section 14-13-1-4 ROA 1994. The advisory committee shall meet at the direction  
31 of the City Council. The functions of the advisory committee shall include:

32 (A) Advise and assist the City in adopting land use assumptions;

33 (B) Review the CCIP and file written comments;

- 1           **(C) Monitor and evaluate implementation of the CCIP;**  
2           **(D) File annual written reports with respect to the progress of the CCIP**  
3 **and report to the City any perceived inequities in implementing the plan or**  
4 **imposing the impact fees;**  
5           **(E) Advise the City of the need to update or revise the land use**  
6 **assumptions, CCIP and impact fees; and**  
7           **(F) Any other tasks the City Council may direct the advisory committee**  
8 **to perform.**

9           **Section 11. ESTABLISHMENT OF SERVICE AREAS.**

10 **Service areas for drainage facilities are established as follows (as depicted on the**  
11 **map attached hereto as Appendix A and incorporated herein by reference).**

12           **Section 12. PRESUMPTION OF MAXIMUM IMPACT.**

13 **New development shall be presumed to have maximum impact on the**  
14 **necessary drainage facilities at the level of service established by this ordinance.**

15           **Section 13. IMPOSITION.**

16           **(A) Any developer engaging in new development after the effective date**  
17 **of this ordinance shall pay impact fees in the manner and in the amounts required**  
18 **in this ordinance, unless otherwise specified in this Section. No building permit**  
19 **shall be issued for development within the City unless the impact fees are**  
20 **assessed and collected pursuant to this ordinance.**

21           **(B) Payment of impact fees specified in this Section shall constitute full**  
22 **and complete payment of the project's proportionate share of system**  
23 **improvements for which such fee was paid and shall constitute compliance with**  
24 **the requirements of this ordinance.**

25           **(C) Notwithstanding any other provision of this ordinance, applications**  
26 **for building permits which have been filed and deemed complete by the City**  
27 **prior to the effective date of this ordinance shall not be subject to impact fees**  
28 **established pursuant to this ordinance. Notwithstanding this exemption, such**  
29 **projects shall be subject to any and all fees applicable prior to the effective date,**  
30 **whether assessed and paid prior to or subsequent to the effective date of this**  
31 **ordinance.**

32           **(D) Notwithstanding any other provision of this ordinance, development**  
33 **approvals resulting in vested rights acquired prior to the enactment date of this**

1 ordinance are deemed to have satisfied the requirements of this ordinance and  
2 no additional impact fees shall be assessed or collected against such properties  
3 under this ordinance. Vested rights arising from approvals shall expire if a  
4 building permit has not been issued within two years from the date of the  
5 approval and impact fees may be assessed and collected thereafter.

6 (E) Nothing in this ordinance shall prevent the City from requiring a  
7 developer to construct reasonable project improvements in connection with the  
8 new development.

9 (F) Nothing in this ordinance shall prevent the City from requiring a  
10 developer to construct reasonable system improvements necessitated by and  
11 attributable to the new development as a condition of development approval or  
12 pursuant to a development agreement with the City, provided that services are  
13 not available from existing facilities with actual capacity to serve the new  
14 development. If the system improvement is on the CCIP, the City shall grant  
15 applicable credits to the developer for constructing such system improvements.

16 (G) Nothing in this ordinance shall abrogate the City's authority to  
17 require the applicant to prepare necessary studies, analyses or reports required  
18 as a part of the development approval process.

19 (H) Nothing in this ordinance shall prevent the City from rejecting an  
20 application for development if it determines that such development is  
21 inconsistent with adopted City plans, regulations or ordinances.

22 (I) The impact fees established pursuant to this ordinance shall be  
23 phased in the following manner:

24 (1) At the effective date, fees are assessed at 34%.

25 (2) Six months after the effective date, fees are assessed at 67%.

26 (3) Eighteen months after the effective date, fees are assessed at  
27 100%.

#### 28 Section 14. ASSESSMENT AND COLLECTION.

29 (A) The impact fees administrator or his/her designee shall calculate and  
30 assess the impact fees at the earliest possible time.

31 (1) For land that is platted or replatted on or after the effective  
32 date, the impact fees shall be assessed for development no later than at the time  
33 that the subdivision plat is recorded.

1           (2) For land that was platted or replatted prior to the effective date  
2 or for development that occurs on existing lots of record, the impact fees shall be  
3 assessed at the time of development approval, plan check or issuance of a  
4 building permit.

5           (3) For land that was platted or replatted prior to the effective  
6 date, or for development that occurs on existing lots of record wherein the owner  
7 has already paid or constructed the required off-site improvements within the  
8 prior thirty six (36) months, such payment or construction shall be credited  
9 against the impact fees to be assessed as long as the improvement paid for or  
10 constructed is on the CCIP.

11           (B) The assessment of impact fees shall be in writing and shall be valid  
12 for a period of at least four years.

13           (C) Notwithstanding the provisions of this Section, the assessment of  
14 impact fees may be revised if the number of service units in the specific  
15 development increases, provided that such revision shall be limited to the impact  
16 fees for the additional service units.

17           (D) The impact fees administrator, or his/her designee, shall calculate  
18 and assess all other impact fees as follows:

19                 (1) Determine the applicable service area;

20                 (2) Determine the applicable land use category;

21           (E) If the assessment occurs at the time of subdivision plat or site plan  
22 approval, the assessment may be based on the applicable fee schedule.

23           (F) If an application proposes a use that does not directly match an  
24 existing land use category upon which fees are based, the impact fees  
25 administrator shall assign the proposed use to the existing land use category that  
26 most closely resembles the proposed use.

27           (G) When new development for which an application for a building  
28 permit has been made includes two or more buildings, structures or other land  
29 uses in any combination, including two or more uses within a building or  
30 structure, the total impact fee assessment shall be the sum of the fees for each  
31 and every building, structure, or use, including each and every use within a  
32 building or structure or, an independent fee determination may be conducted.

1           **(H)**    When a change of use, plat or replat, redevelopment or modification  
2 of an existing use or building requires the issuance of a building permit, the  
3 impact fee shall be based on the difference between the impact fee calculated for  
4 the previous use and the impact fee calculated for the proposed use. Should a  
5 redevelopment or modification of an existing use or building that requires the  
6 issuance of a building permit but does not involve a change in use result in a net  
7 increase in gross floor area, the impact fee shall be based on the net increase, if  
8 the service units are calculated on gross floor area. Should a change of use,  
9 redevelopment or modification of an existing use or building result in a net  
10 decrease in gross floor area or calculated impact fee, no refund or credit for past  
11 impact fees paid shall be made or created.

12           **(I)**    In addition to the cost of new or expanded system improvements  
13 needed to serve new development, the impact fee shall also include the  
14 proportionate cost of existing system improvements, but only to the extent that  
15 such drainage facilities have excess capacity and new development as well as  
16 existing development will be served by such facilities.

17           **(J)**    The impact fees administrator shall retain a record of the impact fees  
18 assessment. A copy shall be provided to the applicant on the forms prescribed by  
19 the City. A notice of impact fees assessment for the site shall be recorded in the  
20 appropriate real property title records of the County Clerk.

21           **(K)**    The impact fees shall be due and payable at the time of issuance of a  
22 building permit. Impact fees for mobile homes shall be collected at the time of  
23 issuance of a building permit or issuance of a certificate of occupancy.

24           **Section 15. SCHEDULE.**

25           The following drainage facilities impact fees (as set forth on the Schedule  
26 attached hereto as Appendix B) incorporated herein by reference, are hereby  
27 imposed upon all new development in the City.

28           **Section 16. USE OF FEES COLLECTED.**

29           **(A)**    The funds collected pursuant to this ordinance shall be used solely  
30 for the purpose of planning, design, land acquisition, construction, expansion  
31 and development of system improvements for the service area from which the  
32 impact fees were collected.

1           **(B) The City shall be entitled to expend up to three percent of the impact**  
2 **fees collected annually to offset the permissible administrative costs associated**  
3 **with the collection and use of such funds.**

4           **(C) The City may issue bonds, revenue certificates and other obligations**  
5 **of indebtedness in such manner and subject to such limitations as may be**  
6 **provided by law in furtherance of the provision of capital improvement projects.**  
7 **Funds pledged toward retirement of bonds, revenue certificates or other**  
8 **obligations of indebtedness for such projects may include impact fees and other**  
9 **City revenues as may be allocated by the City Council. The impact fees paid**  
10 **pursuant to this ordinance, however, shall be restricted to use solely and**  
11 **exclusively for financing directly, or as a pledge against bonds, revenue**  
12 **certificates and other obligations of indebtedness for the cost of capital**  
13 **improvements or facility expansions as specified in this section.**

14           **Section 17. EXEMPTIONS.**

15           **(A) The following types of new development shall be exempt from the**  
16 **impact fees imposed pursuant to this ordinance:**

17                   **(1) Any addition or expansion to a building which does not**  
18 **increase the number of service units in the building.**

19                   **(2) Any accessory building for a subordinate or incidental use to a**  
20 **dwelling unit on residential property, which building does not constitute a**  
21 **dwelling unit.**

22                   **(3) Any reconstruction of a destroyed or partially destroyed**  
23 **building, provided that the destruction of the building occurred other than by**  
24 **willful razing or demolition. The exemption only applies to the replacement of the**  
25 **previous facility. A change of land use or increase in dwelling units shall be**  
26 **addressed through Section 14.**

27           **(B) Applications for exemptions.**

28                   **(1) An applicant for an exemption from impact fees shall have the**  
29 **burden of claiming and proving that a development project qualifies for any of the**  
30 **exemptions listed in this Section prior to the issuance of a building permit. Such**  
31 **exemptions shall be granted or denied in writing by the impact fees administrator**  
32 **or his/her designee, subject to appeal pursuant to Section 22.**

1           (2)    An application for an exemption shall be made on forms  
2 provided by the City. An application not filed before the issuance of a building  
3 permit shall be deemed waived.

4           (3)    The City may adopt administrative procedures and guidelines  
5 to implement exemptions granted pursuant to this Section.

6           **Section 18. INDEPENDENT FEE DETERMINATION.**

7           An independent determination of impact fees may be made as follows:

8           (A)    An applicant for development approval may elect to have an  
9 independent determination of the impact fees due for their development project in  
10 accordance with this Section. Any applicant who makes this election shall  
11 prepare and submit to the impact fees administrator an independent fee study for  
12 the development project for which development approval is sought.

13          (B)    All independent fee studies shall be prepared for review and  
14 submitted to the impact fees administrator no later than the time of application  
15 for a building permit. Any submission not so made shall be deemed waived.

16          (C)    Each independent fee study shall comply in all respects with the  
17 requirements of this Section and be organized in a manner that will allow the  
18 impact fees administrator to readily ascertain such compliance.

19          (D)    Each independent fee study shall comply with all other written  
20 specifications as may be required by the impact fees administrator from time to  
21 time.

22          (E)    The impact fees administrator shall determine the appropriate impact  
23 fees based on the results of the independent fee study and the applicable impact  
24 fee schedule established in Section 15.

25          (F)    Any impact fee calculated in accordance with this Section and  
26 approved and certified in writing by the impact fees administrator shall be valid  
27 for four years following the certification. Following such period, a new  
28 application for an independent fee study must be made. Any change in the  
29 submitted development plan that in any material way affects said fee calculation  
30 shall void the certification of the fee.

31          (G)    An independent determination of impact fees will be required under  
32 the following conditions:



1           A development is proposed that will exceed the population or employment  
2 forecasts (for the data analysis subzone(s) in which the proposed development is  
3 located) in the adopted land use assumptions. In these cases an independent fee  
4 determination will be required for all infrastructure categories and the City may  
5 establish a separate service area, establish appropriate impact fees and add  
6 facilities as necessary to the CCIP. The proposed fees, service area, and  
7 additions to the CCIP will be included in a development agreement which shall be  
8 approved by the Albuquerque City Council.

9           **Section 19. ADMINISTRATION OF THE FEES.**

10          **(A) Collection of impact fees by the impact fees administrator or his/her**  
11 **designee. The impact fees administrator or his/her designee shall be responsible**  
12 **for collection of the impact fees. Upon receipt of impact fees, the impact fees**  
13 **administrator or his/her designee shall place such funds into separate accounts**  
14 **as specified in this ordinance. All such funds shall be deposited in interest-**  
15 **bearing accounts in a bank authorized to receive deposits of City funds. Interest**  
16 **earned by each account shall be credited to that account and shall be used solely**  
17 **for the purposes specified for funds of such account.**

18          **(B) Establishment and maintenance of records. The impact fees**  
19 **administrator or his/her designee shall establish and maintain accurate financial**  
20 **records for the impact fees collected pursuant to this ordinance which shall**  
21 **clearly identify for each impact fee payment the payor of the impact fee, the**  
22 **specific development project for which the fee was paid, the date of receipt of the**  
23 **impact fee, the amount received, the category of capital improvement for which**  
24 **the fee was collected, and the applicable service area. The financial records shall**  
25 **show the disbursement of all impact fees, including the date and purpose of each**  
26 **disbursement.**

27          **(C) Annual reports. The impact fees administrator or his/her designee**  
28 **shall prepare and present to the City Council an annual report describing the**  
29 **amount of any impact fees collected, encumbered and used during the preceding**  
30 **year by category of capital improvement and service area.**

31          **(D) Public inspection. The records of the accounts shall be available for**  
32 **public inspection and copying at the City during ordinary City business hours.**

1           **(E) Expenses of administration. An amount not to exceed three percent**  
2 **of the total of all impact fees collected may be allocated and applied for**  
3 **administration of this ordinance for City employees who are qualified**  
4 **professionals.**

5           **Section 20. REFUNDS.**

6           **(A) The current owner of record of property on which an impact fee has**  
7 **been paid shall be entitled to a refund of such fee if:**

8                   **(1) The current owner of record of the property submits an**  
9 **application for refund within one year of the event giving rise to the right to claim**  
10 **a refund.**

11                   **(2) All or a portion of the impact fees paid by the development are**  
12 **not spent within seven years after the date of payment. The determination of**  
13 **whether the impact fees paid by a development have been spent shall be**  
14 **determined using a first in, first out accounting standard if a portion of the impact**  
15 **fees paid by the development are not spent within seven years after the date of**  
16 **payment.**

17                   **(3) Existing City facilities of the type for which the impact fees**  
18 **have been paid are available to provide service to the development, but service**  
19 **from such facilities is not provided by the City.**

20                   **(4) Existing City facilities of the type for which the impact fees**  
21 **have been paid are not available to the development, and the construction of**  
22 **improvements that would serve the development are not completed and available**  
23 **to provide service to the development within seven years from the date of**  
24 **payment of the impact fees.**

25           **(B) An application for refund must be submitted to the impact fees**  
26 **administrator or his/her designee on a form provided by the City for such**  
27 **purpose and must contain information and documentation sufficient to permit the**  
28 **impact fees administrator to determine whether the refund claimed is proper and,**  
29 **if so, the amount of such refund. A refund not applied for within the time period**  
30 **specified or not submitted in the manner specified shall be deemed deferred.**

31           **(C) In no event shall an applicant be entitled to a refund for impact fees**  
32 **assessed and paid to recover the costs of excess capacity in existing system**  
33 **improvements.**

1           **(D)**    Within 30 days from the date of receipt of an application for refund,  
2 the impact fees administrator or his/her designee must provide the applicant, in  
3 writing, with a decision on the refund request including the reasons for the  
4 decision. If a refund is due the applicant, the City shall issue a refund payment to  
5 the applicant within 30 days of the impact fees administrator's written decision on  
6 the refund request.

7           **(E)**    The applicant may appeal the determination of the impact fees  
8 administrator within 30 days of such determination, as provided in Section 22.

9           **(F)**    A refund shall bear interest calculated from the date of collection of  
10 the impact fee to the date of refund at the statutory rate as set forth in NMSA  
11 1978, § 56-8-3.

12           **(G)**    The impact fees administrator shall review the impact fee revenues  
13 collected and expenditures made by service area seven years following the  
14 effective date and annually thereafter. If revenues exceed expenditures by more  
15 than ten percent, the City shall refund a pro rata share of the difference to the  
16 owner of record of each property for which impact fees have been paid within the  
17 previous seven years in the service area due a refund.

18           **Section 21. CREDITS.**

19           The City shall grant credit against impact fees imposed pursuant to this  
20 ordinance under the following circumstances:

21           **(A)**    Credits shall be granted against drainage facilities impact fees  
22 imposed pursuant to this ordinance for the value of any construction of  
23 improvements or contribution or dedication of land, easements or money for  
24 system improvements or system studies made by a developer or his/her  
25 predecessor in title or interest as a condition of development approval or  
26 pursuant to a development agreement with the City for drainage improvements  
27 which are, or upon completion will be, owned and operated by AMAFCA.

28           **(B)**    Credits shall be granted only for the value of any construction of  
29 improvements or contribution or dedication of land, easements or money for  
30 system improvements or system studies listed on the CCIP made by a developer  
31 or his/her predecessor in title or interest as a condition of development approval  
32 or pursuant to a development agreement with the City, or for payments made or  
33 to be made pursuant to the terms of any special assessment district (SAD), Public

1 Improvement District (PID), Subdivision Improvement Agreement (SIA), Business  
2 Improvement District (BID), Metropolitan Redevelopment District (MRD) or other  
3 program by which off-site system improvements are paid or constructed, as long  
4 as the projects are listed on the CCIP.

5 (C) Credits shall only be granted for system improvements listed on the  
6 CCIP or system studies listed on the CCIP for the same category of system  
7 improvements and within the same service areas for which impact fees are  
8 imposed pursuant to this ordinance.

9 (D) Credits shall only be granted for contributions, dedications or  
10 improvements accepted by the City. Cash contributions shall be deemed  
11 accepted when payment is received and accepted by the City. Land or  
12 easements shall be deemed accepted when conveyed or dedicated to and  
13 accepted by the City. All conveyances and dedications of land or easements  
14 shall be conveyed to the City free and clear of all liens, claims and  
15 encumbrances. Improvements shall be deemed accepted when:

16 (1) The construction of the creditable improvement is complete  
17 and accepted by the City;

18 (2) A suitable maintenance and warranty bond or letter of credit is  
19 received and approved by the City; and

20 (3) All design, construction, testing, bonding and acceptance  
21 procedures are verified by the City to be in strict compliance with the current City  
22 standards as shown by a certificate of completion and acceptance issued by the  
23 City Engineer.

24 (E) Notwithstanding Subsection (D) of this Section, the City may, by  
25 agreement, grant credits for system improvements which have not been  
26 completed if the applicant for such credits provides the City with acceptable  
27 security to ensure completion of the system improvements in the form of a  
28 performance bond, irrevocable letter of credit, or escrow agreement or other form  
29 of security payable to or for the benefit of the City in an amount determined by  
30 the impact fees administrator to be equal to 120 percent of the estimated  
31 completion cost of the system improvements, including land acquisition costs  
32 and planning and design costs. The value of such system improvements for

1 computing credits shall be their estimated completion cost, based on  
2 documentation acceptable to the City.

3 (F) No credits shall be granted for:

4 (1) System improvements that fail to meet applicable City  
5 standards;

6 (2) Project improvements;

7 (3) The construction of local on-site facilities required by zoning,  
8 subdivision, or other City regulation intended to serve only a particular  
9 development;

10 (4) System improvements made in excess of the level of service  
11 established in this ordinance unless such system improvements are listed on the  
12 CCIP and are required as a condition of development approval; or

13 (5) Any study, analysis or report, or portion thereof, required by the  
14 City to determine the project improvements for a development project.

15 (G) Development agreements for system improvements may be  
16 negotiated and entered into between the City and a developer, subject to the  
17 following requirements:

18 (1) A developer may offer to construct, contribute, dedicate or pay  
19 the cost of a capital improvement included as a project in the CCIP;

20 (2) The City may accept such offer on terms satisfactory to the  
21 City;

22 (3) The terms of the agreement shall be memorialized in a written  
23 agreement between the City and the developer prior to the issuance of a building  
24 permit;

25 (4) The agreement shall establish the estimated value of the  
26 system improvements, the schedule for initiation and completion of the system  
27 improvements, a requirement that the system improvements be completed to  
28 accepted City standards, and such other terms and conditions as deemed  
29 necessary by the City; and

30 (5) The City must review the system improvements plan, verify  
31 costs and time schedules, determine if the system improvements are eligible  
32 system improvements, determine if the completed improvement meets applicable  
33 City standards, calculate the applicable impact fees otherwise due, determine the

1 amount of the credits for such system improvements to be applied to the  
2 otherwise applicable impact fees, and determine if excess credits are created.

3 (H) Credits for system improvements shall be applied for as follows:

4 (1) Credits shall be applied for no later than the time of  
5 application for a building permit on forms provided by the City. Credits not  
6 applied for within such time period shall be deemed waived.

7 (2) Credits created pursuant to a development agreement with the  
8 City entered into between the City and a developer from and after the effective  
9 date shall be applied for no later than the time the development agreement is  
10 approved by the City.

11 (I) The value of credits and the calculation of excess credits shall be  
12 determined by the impact fees administrator, in writing, subject to appeal  
13 pursuant to Section 22.

14 (J) The value of credits for system improvements shall be computed as  
15 follows:

16 (1) The value of cash contributions shall be based on the face  
17 value of the cash payment at the time of payment to the City;

18 (2) The value of unimproved land or easements shall, at the  
19 option of the applicant, be:

20 (a) The fair market value of the land or easement prior to  
21 any increase in value resulting from development approval demonstrated by an  
22 appraisal prepared by an appraiser acceptable to the City.

23 (b) The acquisition cost of the land or easement to the  
24 developer or his/her predecessor in title or interest demonstrated by  
25 documentation acceptable to the City.

26 (3) The value of system improvements shall, at  
27 the option of the applicant, be:

28 (a) The fair market value of the completed system  
29 improvement at the time of acceptance by the City demonstrated by an appraisal  
30 prepared by an appraiser acceptable to the City;

31 (b) The actual construction cost of the completed system  
32 improvement, including planning and design costs, demonstrated by  
33 documentation acceptable to the City.

1           **(4) The value of system studies shall be the cost of the study**  
2 **demonstrated by documentation acceptable to the City.**

3           **(5) An applicant for credits shall be responsible for providing at**  
4 **his/her own expense the appraisals, construction and acquisition cost**  
5 **documentation and other documentation necessary for the valuation of credits by**  
6 **the impact fees administrator. The City shall not be obligated to grant credits to**  
7 **any applicant who cannot provide such documentation in such form as the**  
8 **impact fees administrator may require.**

9           **(6) In lieu of the appraisals referred to in Subsections (l)(2)(a) and**  
10 **(l)(3)(a) of this Section, the impact fees administrator may accept an appraisal**  
11 **prepared by an appraiser acceptable to the City that demonstrates the combined**  
12 **fair market value of land, easements or completed improvements at the time of**  
13 **acceptance by the City, less the increase in land value resulting from**  
14 **development approval.**

15           **(7) The impact fees administrator may accept an appraisal that**  
16 **was prepared contemporaneously with the original contribution, dedication or**  
17 **construction of a system improvement if he/she determines that such appraisal is**  
18 **reasonably applicable to the computation of the credit due.**

19           **(8) The impact fees administrator retains the right to obtain, at the**  
20 **City's expense, additional engineering and construction cost estimates and/or**  
21 **property appraisals that may, at the impact fees administrator's option, be used**  
22 **to determine the value of credits.**

23           **(K) Credits granted for system improvements and system studies shall**  
24 **be applied as follows:**

25           **(1) Credits shall be given in the year the project appears in the**  
26 **CCIP.**

27           **(2) Credits shall be applied first to offset the impact fees**  
28 **otherwise due for the development project for which the credit was granted. If the**  
29 **value of the credit exceeds the impact fees otherwise due, the excess credits**  
30 **shall become the property of the applicant, subject to the requirements of this**  
31 **ordinance.**

32           **(3) Credits shall only be applied to offset impact fees for projects**  
33 **within the same service area for which the credit was granted. Credits shall not**

1 be used to offset impact fees for other categories of system improvements or for  
2 other service areas.

3 (4) If an applicant is entitled to excess credits, the impact fees  
4 administrator shall issue a certificate of excess credit to the applicant which  
5 denotes the dollar amount of the excess credit, the category of system  
6 improvement and service area to which the excess credit may be applied, the  
7 name of the applicant as the original credit-holder and a description of the  
8 development project for which the credit was granted, and the year in which the  
9 credit will become available. The certificate of excess credit shall be signed by  
10 both the impact fees administrator and the credit-holder. The impact fees  
11 administrator shall retain a copy of the certificate of excess credit and the credit-  
12 holder shall be given the original certificate.

13 (5) Excess credits shall be freely transferable in accordance with  
14 the provisions of this ordinance.

15 (6) The credit-holder of excess credits may do any of the  
16 following:

17 (a) Apply all or part of the excess credits to offset impact  
18 fees due for new development for the same category of system improvements  
19 within the same service area for which the credit was granted;

20 (b) Transfer all or part of the certificate of excess credits to  
21 another person who shall become the credit-holder upon written notice to the  
22 impact fees administrator, subject to the same rights and restrictions as the  
23 original credit-holder, in addition to additional restrictions that apply to  
24 transferred excess credits; and/or

25 (c) Request reimbursement from the City for all or part of  
26 the amount of the excess credits from revenue generated by impact fees paid by  
27 new development for system improvements within the same service category and  
28 service area for which the credit was granted.

29 (7) Excess credits shall be subject to the following restrictions:

30 (a) Excess credits shall not accrue interest and shall not be  
31 considered public money, public funds or public credit within the meaning of any  
32 law or ordinance relating to public money, public funds or public credit.



1                   (b)    Excess credits shall not be reimbursed from the City 's  
2 general fund or from any other City funding source other than impact fees paid  
3 by new development for system improvements within the same service category  
4 and service area for which the credit was granted.

5                   (c)    The City shall, upon request from the credit-holder of  
6 excess credits, after acceptance by the City of the project creating credits,  
7 provide reimbursements for excess credits on a first in, first out basis and shall  
8 not be obligated to provide reimbursements in the event there is no  
9 unencumbered account balance in the City's impact fee account for the  
10 appropriate service category and service area.

11                  (d)    Except as otherwise provided in this ordinance, excess  
12 credits shall not constitute a liability of the City and the City shall not be  
13 obligated to reimburse excess credits.

14                  (e)    Excess credits transferred from the original credit-  
15 holder may be applied to offset up to 100 percent of the impact fees otherwise  
16 due from new development for system improvements within the same service  
17 category and service area for which the credit was granted.

18                  (f)    Excess credits must be applied for, used, sold, or  
19 redeemed, if at all, within seven (7) years after their issuance.

20    **Section 22. ADMINISTRATIVE APPEALS.**

21            **(A)    Notice of appeal; filing; fee.**

22            An applicant who chooses to appeal the assessment or calculation of  
23 impact fees; determination of exemptions, credits, excess credits; or other  
24 decision of the impact fees administrator shall submit a notice of appeal and  
25 payment of a nonrefundable processing fee to the impact fees administrator or  
26 his/her designee within 30 days following the date of the decision or  
27 determination of the impact fees administrator giving rise to the appeal.

28            **(B)    Bond.**

29            If the notice of appeal is accompanied by a bond or other sufficient surety  
30 satisfactory to the City Attorney, in an amount equal to the impact fee assessed,  
31 the City Building Official or his/her duly designated agent shall issue the building  
32 permit.

33            **(C)    Staying of impact fee collection; requirement.**

1           **The filing of a notice of appeal shall not stay the collection of the impact**  
2 **fee unless a bond or other sufficient surety has been filed.**

3           **(D) Action by Environmental Planning Commission.**

4           **Appeals shall be considered by the Environmental Planning Commission in**  
5 **accordance with the rules and regulations of that administrative body. Upon**  
6 **hearing such appeals, the Environmental Planning Commission may affirm,**  
7 **change or modify the decision of the impact fees administrator or, in lieu thereof,**  
8 **make such other or additional determination as it deems proper. The decision of**  
9 **the Environmental Planning Commission upon the appeal shall be in writing,**  
10 **concurrent in by a majority of the members present, which shall forthwith transmit**  
11 **a copy of the decision to the applicant and to the impact fees administrator.**

12           **(E) Appeal of Environmental Planning Commission's decision.**

13           **Either the applicant or the impact fees administrator may appeal the**  
14 **decision of the Environmental Planning Commission to the City Council within 30**  
15 **days following the decision of the Environmental Planning Commission.**

16           **(F) Final decision by City Council.**

17           **The City Council shall consider the appeal in accordance with the rules and**  
18 **regulations of that governing body. The decision of the City Council shall, in all**  
19 **instances, be the final administrative decision and shall be subject to judicial**  
20 **review in accordance with applicable law.**

21           **Section 23. PROMULGATION OF RULES**

22           **(A) The Mayor is responsible for the promulgation of rules necessary to**  
23 **fulfill the intent of this ordinance. Authorized rules shall be published in the**  
24 **Development Process Manual and shall have the same effect as the provisions**  
25 **within this ordinance. The following process shall be observed hereafter in**  
26 **rulemaking pursuant to this ordinance.**

27           **(B) Prior to the adoption, amendment or repeal of any rule, the Mayor**  
28 **shall, at least 30 days prior to the proposed action:**

29                   **(1) Publish notice of the proposed action in a daily newspaper of**  
30 **general circulation in the City; and**

31                   **(2) Notify any person or group filing written request, such request**  
32 **to be renewed yearly to assure notice of proposed action which may affect that**  
33 **person or group, notification being by mail or other method to the last address**

1 specified by the person or group. A fee may be charged those requesting notice  
2 to cover reasonable city costs.

3 (3) The notice of proposed action shall:

4 (a) State the manner in which data, views or arguments may  
5 be submitted to the Mayor by any interested person;

6 (b) Describe the substance of the proposed action or state  
7 the subjects and issues involved; and

8 (c) Include specific reference to the division of this article  
9 under which the rule is proposed.

10 (C) All interested persons shall be given reasonable opportunity to  
11 submit data, views, and arguments concerning any proposed rule change. If the  
12 Mayor finds that oral presentation is unnecessary or impracticable, the Mayor  
13 may require that the presentation be made in writing. The Mayor shall consider  
14 fully all submissions related to the proposed rule change. All persons making a  
15 presentation, verbally or in writing, shall promptly be given a copy of the  
16 decision, by mail or otherwise.

17 (D) Each rule or set of rules adopted is effective upon recording as an  
18 adopted rule with the City Clerk and promulgated as an amendment of the  
19 Development Process Manual or as specified in the rule itself.

20 (E) Regarding filing of rules and copying:

21 (1) The Mayor shall promptly record with the City Clerk one copy  
22 of each proposed rule, adopted final rule, or amendment or repeal thereof,  
23 including all rules existing on the effective date of this ordinance.

24 (2) The Mayor shall promptly publish each final rule or  
25 amendment, or repeal thereof, including all rules existing on the effective date of  
26 this ordinance, as amendments to the Development Process Manual.

27 (3) The City Clerk shall maintain and update as necessary an  
28 index of adopted rules on file in the Clerk's office and shall make copies of the  
29 rules available to the public. The City Clerk shall allow the public to make copies  
30 of rules recorded in the Clerk's office. A reasonable fee may be charged

31 Section 24. EFFECT OF IMPACT FEE ON ZONING AND SUBDIVISION  
32 REGULATIONS.

1           **This ordinance shall not affect, in any manner, the permissible use of**  
2 **property, density of development, design and improvement standards and**  
3 **requirements, or any other aspect of the development of land or provision of**  
4 **capital improvements subject to the zoning and subdivision regulations of the**  
5 **City, which shall be operative and remain in full force and effect without limitation**  
6 **with respect to all such development.**

7           **Section 25. IMPACT FEE AS ADDITIONAL AND SUPPLEMENTAL**  
8 **REQUIREMENT TO CITY REGULATIONS.**

9           **The impact fee is additional and supplemental to, and not in substitution of,**  
10 **any any non-financial requirements imposed by the City on the development of**  
11 **land or the issuance of building permits. Payment of the impact fee shall not**  
12 **wave or otherwise alter compliance with zoning or other City requirements. It is**  
13 **intended to be consistent with and to further the objectives and policies of the**  
14 **comprehensive plan and other City policies, ordinances and resolutions by which**  
15 **the City seeks to ensure the provision of public facilities in conjunction with the**  
16 **development of land.**

17           **Section 26. REVIEW AND AMENDMENT.**

18           **The advisory committee shall review, update and propose any amendments**  
19 **to the land use assumptions and the impact fees at least every five years from the**  
20 **effective date. The advisory committee shall be consulted during such review and**  
21 **file its written comments concerning any amendments with the City Council. The**  
22 **City Council shall take action on any proposed amendments consistent with the**  
23 **provisions of the Development Fees Act.**

24           **Section 27. EVALUATION.**

25           **The Council shall evaluate the Drainage Facilities Impact Fees Ordinance**  
26 **within one year of its effective date.**

27           **Section 28. PENALTY FOR VIOLATION OF ORDINANCE.**

28           **The City shall have the power to sue in law or equity for relief in civil court**  
29 **to enforce this ordinance including, but not limited to, injunctive relief to enjoin**  
30 **and restrain any person from violating the provisions of this ordinance and to**  
31 **recover such damages as may be incurred by the implementation of specific**  
32 **corrective actions. Knowingly furnishing false information to the City on any**  
33 **matter relating to the administration of this ordinance shall constitute an**

1 actionable violation. The impact fees administrator may revoke or withhold the  
2 issuance of any building permit or other development permits if the provisions of  
3 this ordinance have been violated by the owner or his/her assigns. Subject to  
4 applicable law, the City shall have the right to inspect the lands affected by this  
5 ordinance and shall have the right to issue cease and desist orders, stop work  
6 orders and other appropriate citations for violations.

7 **Section 29. ENFORCEMENT OF ORDINANCE.**

8 The enforcement of this ordinance will be the responsibility of the impact  
9 fees administrator and such City personnel as he/she may designate from time to  
10 time.

11 **Section 30. COMPILATION.**

12 This Ordinance shall be incorporated in and compiled as part of the  
13 Revised Ordinances of Albuquerque, New Mexico (1994).

14 **Section 31. REPEALER.**

15 All ordinances, code sections or parts thereof in conflict herewith are  
16 hereby repealed to the extent of the conflict.

17 **Section 32. SEVERABILITY.**

18 Should any sentence, section, clause, part or provision of this ordinance  
19 be declared by a court of competent jurisdiction to be invalid, the same shall not  
20 affect the validity of the ordinance as a whole, or any part thereof, other than the  
21 part declared to be invalid.

22 **Section 33. LIBERAL CONSTRUCTION.**

23 The provisions of this ordinance are hereby found and declared to be in  
24 furtherance of the public health, safety, and welfare and convenience, and shall  
25 be liberally construed to effectively carry out its purposes.

26 **Section 34. EFFECTIVE DATE.**

27 This ordinance shall become effective six months after publication by title  
28 and general summary.

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