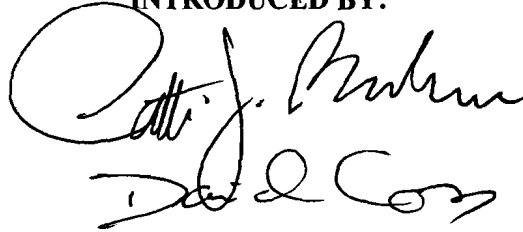


CITY OF SANTA FE, NEW MEXICO

BILL NO. 2008 - 33

INTRODUCED BY:



AN ORDINANCE

AMENDING SECTION 14-3.9 SFCC 1987 REGARDING DEVELOPMENT IN SPECIAL
FLOOD HAZARD AREAS, SECTION 14-8.3 SFCC 1987 REGARDING FLOOD
REGULATIONS, SECTION 14-11.5(C) SFCC 1987 REGARDING PENALTIES FOR
VIOLATIONS OF FLOOD REGULATIONS; AND MAKING SUCH OTHER RELATED
CHANGES TO CHAPTER 14 SFCC 1987 AS ARE NECESSARY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Table 14-2.2-1: Review and Decision-Making Bodies and
Responsibilities (being Ord. No. 2001-38, §2) as amended is amended to read:

TABLE 14-2.1-1: Review and Decision-Making Bodies and Responsibilities								
PROCEDURE	§	GB	PC	BOA	BCD DRC	HDRB	AC	PLUD STAFF
Amendments to the General Plan	14-3.2	R/D	R/REC	-	-	-	-	R/REP
Amendments to the Text of the	14-3.3	R/D	R/REC	-	-	R/REC (some)	R/REC (some)	R/REP

TABLE 14-2.1-1: Review and Decision-Making Bodies and Responsibilities

PROCEDURE	§	GB	PC	BOA	BCD DRC	HDRB	AC	PLUD STAFF
Code								
Annexations	14-3.4	R/D	R/REC	-	-	-	-	R/REP
Rezoning	14-3.5	R/D	R/REC	-	R (for Redvt. Districts)	R (if referred)	R (if referred)	R/REP
Special Exceptions	14-3.6	A		R/D	-	-	-	-
Subdivisions of Land	14-3.7	A	R/D A (some)	-	-	-	-	R/REP
Development Plans	14-3.8	A	R/D A (some)	-	R/D (some)	-	-	R D (some)
Development in <u>Special Flood Hazard</u>	14-3.9	-	<u>A</u>	[A]	-	-	-	R/D [(City Eng)] <u>Floodplain</u> <u>Administrator</u>
Building Permits	14-3.10	-	A (some)	A	-	-	-	R/D
Certificates of Occupancy	14-3.11	-	-	-	-	-	-	R/D (I&E Office)
Archaeological Clearance Permits	14-3.13	A	-	-	-	-	R/D	-
Demolition of Historic Structure	14-3.14	A	-	-	-	R/D	R (if referred)	-
Minor Modifications	14-3.15							

TABLE 14-2.1-1: Review and Decision-Making Bodies and Responsibilities								
PROCEDURE	§	GB	PC	BOA	BCD DRC	HDRB	AC	PLUD STAFF
Variances	14-3.16	-	R/D (some)	R/D	R/D (some)	-	-	-
NOTES: GB = Governing Body PC = Planning Commission BOA = Board of Adjustment BCD = BCD Design Review Committee HDRB = Historic Design Review Board AC = Archaeological Committee PLUD = Land Use Department Staff				"A" = Appeal "R" = Review "R/D" = Review and Decision "R/REC" = Review and Recommendation "R/REP" = Review and Report				

1 **Section 2. Section 14-2.3(C)(5) SFCC 1987 (being Ord. No. 2001-38, §2 as**
 2 **amended) is amended to read:**

3 (5) Appeals

4 The Planning Commission is the principal City administrative board
 5 reviewing and granting or denying appeals from decisions of:

- 6 (a) The Summary Committee;
- 7 (b) City staff regarding the zoning regulations set forth in all areas
 8 except the Historical Districts and the Archaeological Review
 9 Districts, and the subdivision regulations set forth in Article 14-
 10 9, provided that the request is also part of a development plan or
 11 subdivision request requiring the Planning Commission's
 12 approval;
- 13 (c) City staff regarding the terrain management regulations (§14-
 14 8.2) and the Escarpment Overlay District (§14-5.6)[-]; and
 15 (d) Floodplain Administrator regarding development in Special

1 Flood Hazard Areas (§14-3.9) and the flood regulations (§14-
2 8.3) when it is alleged there is an error in any requirement,
3 decision, or determination in the enforcement or administration
4 of these sections.

5 **Section 3. Section 14-2.3(C)(6) SFCC 1987 (being Ord. No. 2001-38, §2 as**
6 **amended) is amended to read:**

7 (6) Variances of Escarpment Regulations and Flood Regulations

8 (a) The Planning Commission is the principal City administrative
9 board reviewing and granting or denying requests for variances
10 from escarpment regulations set forth in §14-5.6. When deciding
11 variances the Planning Commission shall use the criteria set
12 forth in §14-5.6(K)(1).

13 (b) The Planning Commission is the principal City administrative
14 board reviewing and granting or denying requests for variances
15 from development in Special Flood Hazard Areas set forth in
16 §14-3.9 and flood regulations set forth in §14-8.3. When
17 deciding variances the Planning Commission shall use the
18 criteria set forth in §14-3.9(E).

19 **Section 4. Section 14-3.9 SFCC 1987 (being Ord. No. 2001-38, §2) is amended**
20 **to read:**

21 **14-3.9 DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS**

22 **(A) Applicability**

23 Any plat governed by Article 14-9 [~~and~~] or in some part within the Special Flood
24 Hazard Area shall meet the requirements of this section and §14-8.3 and shall
25 have the approval and signature of the [~~City Engineer~~] Floodplain Administrator.

1 **(B) Administration by ~~[City Engineer]~~ Floodplain Administrator**

2 (1) The ~~[City Engineer]~~ Floodplain Administrator shall administer and
3 enforce this section and other appropriate sections of 44 CFR (National
4 Flood Insurance Program Regulations) pertaining to floodplain
5 management. If the ~~[City Engineer]~~ Floodplain Administrator finds a
6 violation of the provisions of ~~[this section]~~ §§14-3.9 and 14-8.3, ~~[he]~~ the
7 Floodplain Administrator shall notify the person responsible for such
8 violation, indicating the nature of the violation and ordering the action
9 necessary to correct it. If the violation is not corrected, legal action shall
10 be taken 30 days after notification of the violation.

11 (2) Duties and responsibilities of the ~~[City Engineer]~~ Floodplain
12 Administrator shall include, but not be limited to, the following:

- 13 (a) Maintain and hold open for public inspection all records
14 pertaining to the provisions of ~~[this section]~~ §§14-3.9 and 14-8.3;
- 15 (b) Review permit application to determine whether proposed
16 building site will be reasonably safe from flooding;
- 17 (c) Review, approve or deny all applications for development
18 permits required by adoption of ~~[this section]~~ §§14-3.9 and 14-
19 8.3;
- 20 (d) Review permits for proposed development to assure that all
21 necessary permits have been obtained from those federal, state or
22 local governmental agencies (including §404 of the federal water
23 pollution control act amendments of 1972, 33 U.S.C. 1334) from
24 which prior approval is required;
- 25 (e) Where interpretation is needed as to the exact location of the

1 boundaries of the ~~[areas of special]~~ flood hazards area (for
2 example, where there appears to be a conflict between a mapped
3 boundary and actual field conditions) the ~~[City Engineer]~~
4 Floodplain Administrator shall make the necessary
5 interpretation;

6 (f) Notify, in riverine situations, adjacent communities and the state
7 coordinating agency that is the state engineer, prior to any
8 alteration or relocation of a watercourse, and submit evidence of
9 such notification to the Federal Emergency Management Agency
10 (FEMA);

11 (g) Assure that the flood carrying capacity within the altered or
12 relocated portion of any watercourse is maintained;

13 (h) When base flood elevation data has not been provided in
14 accordance with §14-8.3(B), the ~~[City Engineer]~~ Floodplain
15 Administrator shall obtain, review and reasonably utilize any
16 base flood elevation data and floodway data available from
17 federal, state or other source, in order to administer the
18 provisions of §14-8.3(C);

19 (i) When a regulatory floodway has not been designated, the ~~[City~~
20 ~~Engineer]~~ Floodplain Administrator ~~[must]~~ shall require that no
21 new construction, substantial improvements, or other
22 development (including fill) shall be permitted within Zones A1-
23 30 and AE on the City's Flood Insurance Rate Map (FIRM),
24 unless it is demonstrated that the cumulative effect of the
25 proposed development, when combined with all other existing

1 and anticipated development, will not increase the [water
2 surface] base flood elevation of the base flood more than one
3 foot at any point within the City;

- 4 (j) Establish a floodplain management program to meet the
5 prerequisites for the sale of flood insurance as set forth in the
6 National Flood Insurance Program Regulations (44 CFR part
7 59.22); and
8 (k) Maintain a record of all actions involving an appeal and shall
9 report variances to the Federal Emergency Management Agency
10 upon request.

11 **(C) Enforcement**

- 12 (1) An application for a permit, license, or certificate pertaining to the use of
13 land or building in any Special Flood Hazard Area shall be approved by
14 the [~~City Engineer~~] Floodplain Administrator.
- 15 (2) The [~~City Engineer~~] Floodplain Administrator [~~or his authorized~~
16 ~~representative~~] may make reasonable entry upon any lands and waters
17 within the City's jurisdiction for the purpose of making any investigation,
18 survey, removal or repair contemplated by [~~this section~~] §§14-3.9 and
19 14-8.3. An investigation of any obstruction shall be made by the [~~City~~
20 ~~Engineer~~] Floodplain Administrator either on [~~his~~] the Floodplain
21 Administrator's own initiative, or the written request of any titleholder
22 abutting the channel or drainageway involved.
- 23 (3) Whenever it is necessary to make an inspection to enforce any of the
24 provisions of [~~this section~~] §§14-3.9 and 14-8.3, the [~~City Engineer~~]
25 Floodplain Administrator [~~or his authorized representative~~] may enter

1 such buildings or premises at a reasonable time to inspect the same or to
2 perform any duty imposed upon ~~[him]~~ the Floodplain Administrator by
3 this section provided that if such building or premises be occupied, ~~[he]~~
4 the Floodplain Administrator shall first present proper ~~[credentials]~~
5 identification and demand entry, and if such building or premises be
6 unoccupied, ~~[he]~~ the Floodplain Administrator shall first make a
7 reasonable effort to locate the owner or other persons having charge or
8 control of the building or premises and demand entry. If entry is refused,
9 the City shall proceed to obtain a search warrant by filing a complaint
10 made before the magistrate court or district court upon oath or
11 affirmation. The complaint shall state:

- 12 (a) ~~[Set forth]~~ the particular building, premises or portion thereof
13 sought to be inspected;
- 14 (b) ~~[State]~~ that the owner or occupant of the building, premises or
15 portion thereof, has refused entry;
- 16 (c) ~~[State]~~ that inspection of the building, premises or portions
17 thereof is necessary to determine whether it complies with the
18 requirements of this section;
- 19 (d) ~~[Set forth]~~ the particular provisions of ~~[this section]~~ §§14-3.9 and
20 14-8.3 sought to be enforced;
- 21 (e) ~~[Set forth]~~ any other reason necessitating the inspection,
22 including knowledge or belief that a particular condition exists in
23 the building, premises or portion thereof which constitutes a
24 violation of ~~[this section]~~ §§14-3.9 and 14-8.3; and
- 25 (f) ~~[State]~~ that the complainant is authorized by the City to make the

inspection.

(4) Each [inspector] Floodplain Administrator shall ~~[be furnished with an]~~ carry identification ~~[card]~~ indicating ~~[his]~~ the Floodplain Administrator's authority and ~~[must]~~ shall present ~~[the card]~~ such identification to the magistrate court or district court for the purpose of this section and to other persons, when requested to do so during the performance of ~~[his]~~ the Floodplain Administrator's duty. No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made ~~[as herein provided]~~, to promptly permit entry ~~[therein]~~ by the ~~[authorized inspector]~~ Floodplain Administrator for the purpose of inspection and examination pursuant to this section.

(5) The powers and duties of the ~~[City Engineer]~~ Floodplain Administrator relative to obstructions in a Special Flood Hazard Area shall include the following:

- (a) Where an obstruction to a floodway has been created by fallen trees, silt, debris and like matter, the City may remove the obstruction; and
- (b) Where, after investigation, an order has been issued to the owner of an obstruction for its removal or repair and the order is not complied with, within such reasonable time as may be prescribed by the City or if the owner cannot be found or determined, the City may cause such removal or repairs to be made. The reasonable cost of the removal or repairs shall constitute a lien against the lot from which the obstruction was removed or on

1 which it was repaired. The lien shall be foreclosed in the manner
2 provided in §§ 3-36-1 through 3-36-5 NMSA 1978.

3 **(D) Appeals**

4 ~~[(1) Board of Appeals Created~~

5 ~~In order to provide for reasonable interpretations of this section, there is~~
6 ~~created a "Board of Appeals" as a special committee of the City,~~
7 ~~consisting of three members who are qualified by experience and training~~
8 ~~to adequately assess hydraulic and hydrologic matters in flood hazard~~
9 ~~areas. The City Engineer is an ex-officio member and the secretary of~~
10 ~~the board. The mayor appoints the Board of Appeals with the~~
11 ~~concurrence of the Governing Body and the members hold office at the~~
12 ~~pleasure of the Governing Body. The Board of Appeals shall adopt~~
13 ~~reasonable rules and regulations for conducting its investigations and~~
14 ~~shall render all decisions and findings in writing to the City Manager,~~
15 ~~with a duplicate copy to the appellant.~~

16 ~~(2) Appeal Procedure~~

17 ~~(a) An adverse decision by the City Engineer may be appealed to the~~
18 ~~Board of Appeals. An appeal shall be filed using a form~~
19 ~~prescribed by the Planning and Land Use Director and shall be~~
20 ~~accompanied by the required filing fee. When application is~~
21 ~~withdrawn, the application fee shall not be refunded.~~

22 ~~(b) An appeal shall be decided within 60 days of its filing. A vote~~
23 ~~by two of the three members of the Board is required to reverse a~~
24 ~~determination by the City Engineer.~~

25 ~~(c) A denial by the Board may be further appealed to the Governing~~

1 Body. ~~A majority vote of all the members of the Governing~~
2 Body ~~is required to reverse a determination by the Board of~~
3 Appeals.]

4 The Planning Commission shall hear appeals as set forth in §14-2.3(C)(5)(d).

5 **(E) Variances**

6 Variances to §14-8.3 may be approved by the Planning Commission as follows:

7 (1) Variances may be issued for the reconstruction, rehabilitation or
8 restoration of structures listed on the National Register of Historic Places
9 or the State Inventory of Historic Places, without regard to the
10 procedures set forth in this paragraph (E).

11 (2) Variances may be issued for new construction and substantial
12 improvements to be erected on a lot of one-half acre or less in size
13 contiguous to and surrounded by lots with existing structures constructed
14 below the base flood level, providing the relevant factors in paragraphs
15 (5) and (6) below have been fully considered. As the lot size increases
16 beyond the one-half acre, the technical justification required for issuing
17 the variance increases.

18 (3) Variances shall not be issued within any designated floodway if any
19 increase in flood levels during the base flood discharge would result.

20 (4) Variances may be issued for the repair or rehabilitation of historic
21 structures upon a determination that the proposed repair or rehabilitation
22 will not preclude the structure's continued designation as a historic
23 structure and the variance is the minimum necessary to preserve the
24 historic character and design of the structure.

25 (5) Variances may be approved for new construction and substantial

1 improvements and for other development necessary for the conduct of a
2 functionally dependent use provided that:

3 (a) The criteria outlined in paragraphs (2), (3) and (6) of this
4 paragraph (E) are met, and

5 (b) The structure or other development is protected by methods that
6 minimize flood damages during the base flood and create no
7 additional threats to public safety.

8 (6) The prerequisites for granting variances are:

9 (a) Variances shall only be issued upon a determination that the
10 variance is the minimum necessary, considering the flood
11 hazard, to afford relief.

12 (b) Variances shall only be issued upon:

13 (i) Showing a good and sufficient cause;

14 (ii) A determination that failure to grant the variance would
15 result in exceptional hardship to the applicant, and

16 (iii) A determination that the granting of a variance will not
17 result in increased flood heights, additional threats to
18 public safety, extraordinary public expense, create
19 nuisances, cause fraud on or victimization of the public,
20 or conflict with existing local laws or ordinances.

21 (7) The Planning Commission may attach such conditions to the granting of
22 variances as it deems necessary to further the purpose and objectives of
23 §14-8.3.

24 (8) Any application to whom a variance is granted shall be given written
25 notice that the structure will be permitted to be built with the lowest floor

1 elevation below the base flood elevation, and that the cost of flood
2 insurance will be commensurate with the increased risk resulting from
3 the reduced lowest floor elevation.

4 **Section 5. Section 14-8.3 SFCC 1987 (being Ord. No. 2001-38, §2 as amended)**
5 **is amended to read:**

6 **14-8.3 FLOOD REGULATIONS**

7 **(A) ~~[Flowline and Flood Hazard Area; Delineation and Establishment]~~ Adoption**
8 **of Special Flood Hazard Areas**

9 ~~[The City adopts and establishes the flood hazard areas and flowlines delineated~~
10 ~~in the following:]~~

11 (1) ~~[The flood hazard boundary map or Flood Insurance Rate Map~~
12 ~~promulgated by the department of housing and urban development,~~
13 ~~federal insurance administration; and]~~ The Special Flood Hazard Areas
14 identified by the Federal Emergency Management Agency (FEMA) in
15 the current scientific and engineering report entitled, "The Flood
16 Insurance Study (FIS) for Santa Fe County, New Mexico and
17 Incorporated Areas", effective date June 17, 2008, with accompanying
18 Flood Insurance Rate Maps (FIRM) effective date June 17, 2008 and
19 subsequent Letters of Map Amendment and Letters of Map Revision as
20 approved by FEMA.

21 (2) The City adopts and establishes other flood hazard areas or elevations as
22 identified in:

23 ~~[(a) — Corps of Engineers, U.S. Army, floodplain information, Santa Fe~~
24 ~~River and Arroyo Masearas, January 1973, Santa Fe River, May~~
25 ~~16, 1968, Arroyo de los Chamises and Arroyo Hondo,~~

1 ~~December, 1967;~~

2 ~~((b))~~(a) Subsequent drainage studies prepared for and accepted by the
3 City; ~~and]~~

4 (b) Subsequent Letters of Map Amendment and Letters of Map
5 Revision, as prepared for and accepted by FEMA; and

6 (c) Other known flood hazard areas identified by the ~~[City Engineer]~~
7 Floodplain Administrator and adopted by the Governing Body.

8 **(B) Engineering Criteria**

9 (1) When the analysis and determination of [flowline] base flood elevation,
10 Special Flood Hazard Area, floodway [and] or flood fringe are required
11 by the Floodplain Administrator, these designations shall adhere to
12 professional hydrologic and hydraulic engineering techniques. In this
13 regard, engineering practice manuals of the American Society of Civil
14 Engineers and similar competent manuals of professional hydrologic and
15 hydraulic engineering techniques will be used. In all cases, the [flowline]
16 base flood elevation or the boundary of the Special Flood Hazard Area or
17 flood fringe, or the floodway shall be delineated by a given area's
18 topographic land features and its physical characteristics. Professional
19 hydrologic and hydraulic techniques, supplemented with data obtained
20 by field examination and surveys as necessary, will initially be used to
21 delineate Special Flood Hazard Areas [and] or [flowlines] base flood
22 elevations on topographic maps.

23 (2) The following objectives shall be evaluated by the ~~[City Engineer]~~
24 Floodplain Administrator wherever a floodway is defined through
25 hydrological methods. The ~~[City Engineer]~~ Floodplain Administrator

1 may, as becomes necessary, draft more detailed rules and regulations,
2 pursuant to §14-3.9(B)(2):

- 3 (a) A floodway shall be designed to minimize erosion. Preferably a
4 floodway shall be designed with a pervious bottom to allow
5 infiltration to the subsurface;
- 6 (b) Initial construction costs and estimated maintenance and repair
7 costs evaluated over the project life shall be considered;
- 8 (c) City plans, ordinances and policies adopted by the Governing
9 Body shall be considered;
- 10 (d) The effect of storm runoff shall be analyzed by hydrologic
11 methods to ensure that any change in the Special Flood Hazard
12 Area will not unreasonably or adversely affect the Special Flood
13 Hazard Area or cause its capacity to be exceeded;
- 14 (e) Standing wave action and superelevation at horizontal curve
15 shall be determined and adequate freeboard heights established;
16 and
- 17 (f) Channel slope and alignment shall be established by analysis of
18 engineering data and hydraulic calculations.

19 **(C) Use Regulations**

- 20 (1) The requirements of this section are in addition to and not in lieu of other
21 provisions of this chapter.
- 22 (2) No new [~~construction~~] development or substantial improvements shall be
23 undertaken on lands within a Special Flood Hazard Area unless such
24 erection or alteration shall be in compliance with the provisions of this
25 section.

1 (3) No uses shall be permitted within the floodway, except those set out in
2 this paragraph provided that the uses do not constrict the flow or reduce
3 the carrying capacity, as follows:

- 4 (a) Cultivating and harvesting of crops according to recognized soil
5 conservation practices;
- 6 (b) Pasture, grazing land and outdoor plant nursery;
- 7 (c) Wildlife sanctuary, woodland preserve, arboretum;
- 8 (d) Outlet installations for sewage treatment plants, sealed public
9 water supply wells;
- 10 (e) Passive recreational uses such as parks, ~~[or] picnic areas~~ or trails;
- 11 (f) Open area residential uses, such as lawns, gardens and play
12 areas; ~~[provided that paved areas, walls or fences are not erected~~
13 ~~within the floodway;]~~ and
- 14 (g) Stormwater management and arroyo or watercourse stabilization
15 structures, such as check dams and gabions, if these structures
16 are in compliance with all applicable state and federal
17 regulations.

18 (4) The provisions applying to the ~~[flood hazard area or "AO" Zone of the~~
19 ~~FIRM]~~ flood fringe are that:

- 20 (a) All permits for construction within a ~~[flood hazard area]~~ flood
21 fringe shall be reviewed by the ~~[City Engineer]~~ Floodplain
22 Administrator;
- 23 (b) No uses shall be permitted within the floodway except those
24 specifically provided for in paragraph (3) above;
- 25 (c) Storage, processing or disposal of materials that in time of

1 flooding are buoyant, flammable, explosive, toxic or could be
2 injurious to human, animal or plant life, are prohibited within the
3 floodplain;

4 (d) Railroads, streets, bridges, private and public utility lines and
5 facilities, structural works for the control and handling of
6 floodflows, such as dams, embankments, floodwalls, velocity
7 control structures or required storm drainage control and
8 handling works, may be allowed within the ~~[floodplain]~~ Special
9 Flood Hazard Area if properly floodproofed and approved by the
10 ~~[City Engineer]~~ Floodplain Administrator;

11 (e) All newly created lots shall contain a buildable area that is
12 entirely outside of a Special Flood Hazard Area;

13 (f) Except as permitted in paragraph (5)~~[(d)]~~ of this section, if an
14 existing lot contains land both within and outside of ~~[a flood~~
15 ~~fringe area]~~ the Special Flood Hazard Area, any new
16 construction, including roads and driveways, shall only occur on
17 the portion outside of the ~~[flood fringe area]~~ floodplain.

18 ~~[Applicants who propose construction within the flood fringe on~~
19 ~~an existing lot with no other buildable area, shall obtain]~~ If an
20 existing lot contains no land outside of the floodplain, any new
21 construction, including roads and driveways shall only occur in
22 the flood fringe upon approval of a variance from the Planning
23 Commission as set forth in §14-3.9(E) and shall conform to the
24 provisions set forth in paragraph (5), [subparagraphs, (a) through
25 (i)] of [the] this section;

- 1 (g) On any application for ~~[land]~~ subdivision plat or development
2 plan approval, where the tract of land or portions thereof are
3 located within a Special Flood Hazard Area, the ~~[City Engineer]~~
4 Floodplain Administrator ~~[or Planning Commission]~~ shall
5 require the submittal of detailed hydrologic data indicating the
6 water surface elevations for a ~~[one-hundred-year flood]~~ one
7 percent chance event, to be shown for sections of the drainage
8 channel at intervals of no greater than 100 feet. The Special
9 Flood Hazard Area shall be further defined as floodway and
10 flood fringe. Upon on-site investigation, the ~~[City Engineer]~~
11 Floodplain Administrator may waive the requirement for the
12 submittal of detailed hydrologic data. A surveyor licensed in the
13 State of New Mexico shall certify on the subdivision plat the
14 FIRM zones, FIRM panel number and date. The Special Flood
15 Hazard Area shown on the plat shall be accurately depicted by
16 an architect, surveyor or engineer licensed in the State of New
17 Mexico on the development plan. ~~[The flood hazard area shall be~~
18 ~~further defined as floodway and flood fringe];~~
19 (h) All excavation and fill operations within ~~[the drainageways of]~~
20 Special Flood Hazard Areas shall receive approval from the
21 ~~[City Engineer]~~ Floodplain Administrator prior to beginning any
22 work;
23 (i) In ~~[drainage ways]~~ drainageways where there is evidence of
24 undercutting and bank erosion, the ~~[City Engineer]~~ Floodplain
25 Administrator may require an additional set back. The additional

- 1 [~~setback~~] set back distance shall be determined by the [City
2 Engineer] Floodplain Administrator based on soils and
3 hydrologic information supplied by the applicant;
- 4 (j) For purposes of this section, the flood hazard zone shall be as
5 shown on the appropriate FIRM, [~~flood hazard map, unless an~~
6 ~~applicant can demonstrate that the site under discussion is~~
7 ~~located where the FIRM map does not show base flood~~
8 ~~elevations and the parcel, lot, or buildable area under discussion~~
9 ~~would be situated above the base flood elevation;~~] Flood fringe,
10 flood way and base flood elevation shall be shown as required by
11 the Floodplain Administrator;
- 12 (k) No fence, wall, or similar structure shall be erected in or across
13 any arroyo, stream, or watercourse~~[-]; and~~
- 14 (l) In A1-30, AH and AE Zones, recreational vehicles shall be:
- 15 (i) Elevated and anchored; or
- 16 (ii) On the site for less than 180 consecutive days; or
- 17 (iii) Fully licensed and highway ready.
- 18 (5) [~~Special provisions applying to the flood fringe portion of the flood~~
19 ~~hazard area permit~~] Structures or uses within the flood fringe portion of
20 the Special Flood Hazard Area upon the approval of a variance by the
21 [City Engineer] Planning Commission, to the extent that they are not
22 prohibited by any other city ordinances, plans and policies, [and] shall
23 meet the following requirements:
- 24 (a) Residential or nonresidential structures, to be constructed or
25 substantially improved in the flood fringe, shall have the [~~lowest~~]

1 elevation of the [~~finished~~] lowest floor [~~grade~~] not less than one
2 foot above the level of the [~~one hundred year flood~~] base flood
3 elevation. Where existing streets or utilities are at elevations
4 which make compliance with this provision [~~impractical~~]
5 infeasible, or in other special circumstances, the [~~City Engineer~~]
6 Floodplain Administrator may authorize other techniques for
7 protection of the structures. [~~Accessory land uses such as parking~~
8 ~~lots, may be located at an elevation below the level of the one-~~
9 ~~hundred year flood~~];

10 (b) Foundations of all structures shall be designed and constructed to
11 withstand flood conditions at the proposed construction site;

12 (c) New construction and substantial improvements, with fully
13 enclosed areas below the lowest floor that are subject to flooding
14 shall be designed to automatically equalize hydrostatic flood
15 forces on exterior walls by allowing for the entry and exit of
16 floodwaters. Designs for meeting this requirement [~~must~~] shall
17 either be certified by a New Mexico registered professional
18 engineer or architect or meet or exceed the following minimum
19 criteria:

- 20 (i) A minimum of two openings on different walls having a
21 total net area of not less than one square inch for every
22 square foot of enclosed area subject to flooding shall be
23 provided;
- 24 (ii) The bottom of all openings shall be no higher than one
25 foot above finished grade; and

1 (iii) Openings may be equipped with screens, louvers, valves,
2 or other coverings or devices provided that they permit
3 the automatic entry and exit of floodwaters.

4 (d) All new construction or substantial improvements shall be
5 constructed with electrical, heating, ventilation, plumbing, and
6 air conditioning equipment and other service facilities that are
7 designed and/or located so as to prevent water from entering or
8 accumulating within the components during conditions of
9 flooding;

10 (e) Sanitary and storm sewer drains shall be equipped with valves
11 capable of being closed, manually or automatically, to prevent
12 backup of sewage and storm waters into the building or
13 structure;

14 (f) The base flood elevation [~~attained by the one hundred-year~~
15 ~~flood~~] shall be certified by a surveyor licensed in the State of
16 New Mexico and superimposed on the site plan. The base flood
17 elevation shall be accurately depicted by an architect licensed in
18 the State of New Mexico on the elevation drawings for all sides
19 of the building. The site plan and elevation drawings shall be
20 submitted to the Land Use Department for issuance of a building
21 permit [~~for all sides of the building~~]. The elevation drawings
22 shall also indicate the [~~finished~~] lowest floor grade and location
23 of all windows, doors or other openings. The Floodplain
24 Administrator may request additional data for the building
25 permit if deemed necessary;

1 (g) Before issuance of a building permit for the construction of a
2 structure in the flood fringe, a professional engineer licensed in
3 the state of New Mexico shall certify that the structure has been
4 designed to conform with the provisions of [~~paragraph (4), items~~
5 ~~(i) through (v)~~] paragraphs (5)(c)(i) through (5)(c)(iii) of this
6 section, and that the bottom of all openings in the [~~structure~~
7 enclosure] are no [~~less~~] more than one foot above the base flood
8 elevation [~~of the one-hundred-year flood~~]. The same professional
9 engineer that certifies that the structure is designed to conform
10 with the provisions of [~~paragraph (4), items (i) through (v)~~]
11 paragraphs (5)(c)(i) through (5)(c)(iii) of this section shall also
12 certify, upon completion of the structure, that construction
13 complies with the submitted plans;

14 (h) [~~The~~] A manufactured home or mobile home shall be elevated on
15 compacted fill or pilings. The lowest floor of the manufactured
16 home or mobile home shall be no less than one foot above the
17 level of the [~~one-hundred-year flood~~] base flood elevation;

18 (i) Manufactured or mobile homes shall be anchored to resist
19 flotation, collapse or lateral movement by providing:

20 (i) Over-the-top ties at each of the four corners, with two
21 additional ties per side at intermediate locations and for
22 manufactured or mobile homes less than 50 feet long,
23 one over the-top tie at each of the four corners is
24 required;

25 (ii) Frame ties at each corner of the manufactured or mobile

home with five additional ties per side at intermediate points and for manufactured or mobile homes less than 50 feet long, four ties are required per side;

(iii) All components of the anchor system shall be capable of carrying a force of 4,800 pounds; and

(iv) Additions to the manufactured home or mobile home shall be similarly anchored.

[(10)] (j) For existing manufactured or mobile home parks located in the ~~[flood hazard area]~~ Special Flood Hazard Area, a vehicular circulation plan indicating alternative vehicular access and escape routes during the ~~[one hundred year flood]~~ one percent chance event shall be submitted as part of any improvement, construction or development project.

(k) No new manufactured homes, mobile homes or foundations for either type of structure shall be permitted in the Special Flood Hazard Area.

(D) Amendment to ~~[Flood Hazard Boundary Map or]~~ Flood Insurance Rate Map (FIRM)

(1) Amendments to the established ~~[system of flowlines]~~ base flood elevations and Special Flood Hazard Areas ~~[are]~~ may be initiated either by the ~~[City Engineer]~~ Floodplain Administrator or by any other person through application to ~~[the City Engineer]~~ FEMA. Such application shall be accompanied by sufficient copies of supporting plans and reports as may be required by ~~[the City Engineer]~~ Floodplain Administrator meeting the minimum requirements of the National Flood Insurance Program (NFIP). Submission of inaccurate information with an

1 application is grounds for denial.

2 ~~[(2) The federal insurance administration shall be notified of any~~
3 ~~amendments to the FIRM prior to the adoption of an amendment to the~~
4 ~~FIRM. The City Engineer must secure approval of such amendment from~~
5 ~~the federal insurance administration and the state coordinator for the~~
6 ~~federal flood insurance program, the state engineer.]~~

7 ~~[(3)]~~(2) In addition to the amendment described in paragraph (1) above and on
8 the basis of [plans and policies adopted by ordinances and resolutions by
9 the Governing Body of the City and submittal of] hydrologic data, the
10 [City Engineer] the Governing Body [is authorized to approve or deny a]
11 may change [of] the established [system of flowlines] base flood
12 elevations [and] or flood hazard areas by adoption of an ordinance. Such
13 amendment may be for non-FEMA approved changes but shall be more
14 restrictive than FEMA requirements. Where the change affects land
15 owned by persons other than the applicant, all affected property owners
16 [will] shall be notified of the [alterations] change in the Special Flood
17 Hazard Area by certified mail, return receipt requested. The signed
18 receipts shall be submitted to the [City Engineer] Floodplain
19 Administrator.

20 [(4)] (a) The ~~[City Engineer's]~~ Governing Body's decision to amend a
21 Special Flood Hazard Area shall be based on any appropriate
22 information, including changes in ~~[flowlines]~~ base flood
23 elevations and Special Flood Hazard Area recommended by
24 reports and plans done by or for the City or other governing
25 agencies, including those prepared for building permits and

subdivisions.

~~[(5)]~~ (b) If the ~~[City Engineer]~~ Governing Body denies a change in the ~~[system of flowlines]~~ base flood elevations ~~[and]~~ or Special Flood Hazard Area, the reasons for denial shall be stated in a written report.

~~(c)~~ Prior to approval by the Governing Body, the Floodplain Administrator shall notify the State Coordinator for the NFIP at the New Mexico Department of Homeland Security and Emergency Management.

~~[(6)]~~(3) If major alterations to a watercourse are proposed adjacent to the corporate limits of the City of Santa Fe, the ~~[City Engineer]~~ Floodplain Administrator shall notify the Santa Fe County Manager and Santa Fe County Floodplain Administrator of such proposal.

(E) Warning and Disclaimer of Liability

The degree of flood protection intended to be provided by this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on occasions or the flood height may be increased by natural or man-made causes. This section does not imply that areas outside the Special Flood Hazard Area or land uses permitted within such area will always be totally free from flooding or flood damages. This section shall not create liability on the part of the Governing Body or any official, employee or agent thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

Section 6. [REPEAL.] Section 14-11.5(C) (being Ord. No. 2001-38, §2) is repealed.

1 Section 7. **[NEW MATERIAL.]** The following definitions shall be added to
2 Article 14-12 SFCC 1987 (being Ord. #2001-38, §2 as amended):

3 **BASE FLOOD ELEVATION**

4 The elevation of the base flood or one percent chance event.

5 **FLOOD HAZARD BOUNDARY MAP (FHBM)**

6 The official map of the City, issued by the Federal Emergency Management Agency, where the
7 boundaries of the flood related erosion areas having special hazards have been designated as
8 Zones A, M and/or E.

9 **FLOODPLAIN ADMINISTRATOR**

10 The person(s) designated by the Land Use Director to administer the city's flood regulations. The
11 person(s) shall be a New Mexico Certified Floodplain Manager as set forth in 3-18-7 NMSA
12 1978. The Floodplain Administrator may delegate any task assigned to the Floodplain
13 Administrator set forth in this Chapter to an appropriate staff member who is also a New Mexico
14 Certified Floodplain Manager.

15 **FLOODPROOFING**

16 Any combination of structural and non-structural additions, changes, or adjustments to structures
17 which reduce or eliminate flood damage to real estate or improved real property, water and
18 sanitary facilities, structures and their contents.

19 **ONE PERCENT CHANCE EVENT**

20 The flood having a one percent chance of being equaled or exceeded in any given year. Same as
21 base flood elevation.

22 **SUBSTANTIAL DAMAGE**

23 As used in §14-8.3, damage of any origin sustained by a structure whereby the cost of restoring
24 the structure to it's before damaged condition would equal or exceed 50 percent of the market
25 value of the structure before the damage occurred.

1 **Section 8. The following definitions in Article 14-12 SFCC 1987 (being Ord.**
2 **#2001-38, §2 as amended) are amended to read:**

3 **WATER SURFACE ELEVATION**

4 As used in §14-8.3, the height in relation to the National Geodetic Vertical Datum (NGVD) of
5 1929 (or other datum where specified) of floods of various magnitudes and frequencies in ~~[the~~
6 ~~floodplains of]~~ riverine ~~[areas]~~ floodplains.

7 **CITY ENGINEER**

8 An employee of the Land Use Department of the City who is both a registered professional
9 engineer and a certified floodplain manager in the State of New Mexico.

10 **DEVELOPMENT**

11 Any man-made change to improved or unimproved real estate, including but not limited to
12 buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling
13 operations. As used in §14-8.3, development also includes the storage of equipment or materials.

14 **FLOOD FRINGE**

15 As used in §14-8.3, that portion of the ~~[flood hazard area]~~ Special Flood Hazard Area in which
16 development is permitted by Article 27, Chapter 3 1981. The extent of the flood fringe is the
17 portion of the ~~[flood hazard area]~~ Special Flood Hazard Area that in the ~~[one-hundred-year~~
18 ~~frequency flood]~~ one percent chance event will:

- 19 (A) On a predominantly residential premises, neither attain a maximum depth greater
20 than one foot nor exceed a numerical product of four when the velocity of the
21 flood waters in feet-per-second is multiplied by the depth in feet; or
22 (B) On a premises not predominantly residential neither attain a maximum depth
23 greater than two feet nor exceed a numerical product of seven when the velocity
24 of the flood waters in feet-per-second is multiplied by the depth in feet.

25 **FLOODWAY**

1 ~~[That portion of the flood plain within the flood fringe which contains the higher velocity storm~~
2 ~~waters and is adjacent to the land areas]~~ The channel of a river or other watercourse and the
3 adjacent land areas that ~~[must]~~ shall be reserved in order to discharge the ~~[100-year flood]~~ one
4 percent chance event without cumulatively increasing the water surface elevation more than one
5 foot in height.

6 **FREEBOARD**

7 As used in §14-8.3, a factor of safety usually expressed in feet above a ~~[flood level]~~ a base flood
8 elevation for purposes of floodplain management. Freeboard tends to compensate for the many
9 unknown factors that could contribute to flood heights greater than the height calculated for a
10 selected size flood and floodway conditions, such as wave actions, bridge openings and the
11 hydrological effect or urbanization of the watershed.

12 **LOWEST FLOOR**

13 As used in §14-8.3, the lowest floor of the lowest enclosed area (including basement). An
14 unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or
15 storage in an area other than a basement area is not considered a building's lowest floor; provided
16 that such enclosure is not built so as to render the structure in violation of the applicable
17 nonelevation design requirement of §60.3 of the National Flood Insurance Program regulations.

18 **SPECIAL FLOOD HAZARD AREA**

19 ~~[As used in §14-8.3, Zone A on the flood hazard boundary map or Zones A and B on the flood~~
20 ~~insurance rate map, or the area of a channel or drainageway, which drains five or more acres, and~~
21 ~~which will be inundated by flood flows as a result of the one hundred year frequency flood,~~
22 ~~whether or not the flood hazard area or flow lines are shown upon the flood hazard boundary map~~
23 ~~or flood hazard rate map.] See "Area of Special Flood Hazard". *Editor's Note: reorder this*
24 *definition in alphabetical order.*~~

25 **START OF CONSTRUCTION**

1 As used in §14-8.3, [~~for other than new construction or substantial improvements under the~~
2 ~~coastal barrier resources act (Pub. L. 97-348))~~] the date the building permit was issued, provided
3 the actual start of construction, repair, reconstruction, placement, or other improvement was
4 within 180 days of the permit date. The actual start means either the first placement of permanent
5 construction of a structure on a site, such as the pouring of slabs or footings, the installation of
6 piles, the construction of columns, or any work beyond the stage of excavation; or the placement
7 of a manufactured home on a foundation. Permanent construction does not include land
8 preparation, such as clearing, grading and filling; nor does it include the installation of streets
9 and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or
10 the erection of temporary forms; nor does it include the installation on the property of accessory
11 buildings such as garages or sheds not occupied as dwelling units or not as part of the main
12 structure.

13 Section 9. ~~[REPEAL.]~~ The following definitions in Article 14-12 SFCC 1987
14 (being Ord. #2001-38, §2) are repealed.

15 ~~[APPEAL~~

16 ~~As used in §14-8.3, a request for a review of the floodplain administrator's interpretation of any~~
17 ~~provision of this section or a request for a variance.]~~

18 ~~[AREA OF SHALLOW FLOODING~~

19 ~~As used in §14-8.3, a designated AO, AH, or VO zone on the City's flood insurance rate map~~
20 ~~(FIRM) with a 1 percent chance or greater annual chance of flooding to an average depth of 1 to 3~~
21 ~~feet where a clearly defined channel does not exist, where the path of flooding is unpredictable~~
22 ~~and where velocity flow may be evident. Such flooding is characterized by ponding or sheet~~
23 ~~flow.]~~

24 ~~[AREA OF SPECIAL FLOOD HAZARD~~

25 ~~As used in §14-8.3, the land in the floodplain within the City subject to a 1 percent or greater~~

chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHB). After detailed ratemaking has been completed in preparation for publication of the firm, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.]

[CRITICAL FEATURE

As used in §14-8.3, an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.]

[EXISTING CONSTRUCTION

As used in §14-8.3, for the purpose of determining rates, structures for which the start of construction commenced before the effective date of the flood insurance rate map or before January 1, 1975. Existing construction may also be referred to as existing structures.]

[FLOOD ELEVATION DETERMINATION

As used in §14-8.3, a determination by the federal insurance administration of the water surface elevations of the one hundred year flood.]

[FLOOD ELEVATION STUDY

As used in §14-8.3, an examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevation, or an examination, evaluation and determination of mudslide, i.e., mudflow, or flood related erosion hazards.]

[FLOOD PLAIN INSURANCE STUDY

As used in §14-8.3, the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary Floodway Map.]

[FLOOD PLAIN OR FLOOD PRONE AREA As used in §14-8.3, any land area susceptible to being inundated by water from any source (see definition of flooding).]

[FLOOD PROTECTION SYSTEM

1 As used in §14 8.3, those physical structural works for which funds have been authorized,
2 appropriated and expended and which have been constructed specifically to modify flooding in
3 order to reduce the extent of the areas within a City subject to a special flood hazard and the
4 extent of the depths of associated flooding. Such a system typically includes dams, reservoirs,
5 levees or dikes. These specialized flood modifying works are those constructed in conformance
6 with sound engineering standards.]

7 **[FLOODWAY ENCROACHMENT LINES**

8 As used in §14 8.3, the lines marking the limits of floodways on federal, state and local
9 floodplain maps.]

10 **[FLOWLINE**

11 As used in §14 8.3, a line following the lowest part of a drainageway or channel that drains 40
12 acres or more and which is shown on the official zone maps indicating flows which are either
13 continuous or intermittent but for which flood hazard areas have not been established.]

14 **[FUNCTIONALLY DEPENDENT USE**

15 As used in §14 8.3, a use that cannot perform its intended purpose unless it is located or carried
16 out in close proximity to water. The term includes only docking facilities, port facilities that are
17 necessary for the loading and unloading of cargo or passengers, and ship building and ship repair
18 facilities, but does not include long term storage or related manufacturing facilities.]

19 **[HABITABLE FLOOR**

20 Any floor usable for the following purposes; which includes working, sleeping, eating, cooking or
21 recreation, or a combination thereof. A floor used only for storage purposes only is not a
22 habitable floor.]

23 **[LEVEE SYSTEM**

24 A flood protection system that consists of a levee, or levees, and associated structures, such as
25 closure and drainage devices that are constructed and operated in accordance with sound

1 ~~engineering practices.]~~

2 **~~[MEAN SEA LEVEL~~**

3 ~~As used in §14-8.3, for purposes of the national flood insurance program, the national geodetic~~
4 ~~vertical datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a~~
5 ~~community's flood insurance rate map are referenced.]~~

6 **~~[ONE HUNDRED-YEAR FREQUENCY RAINSTORM~~**

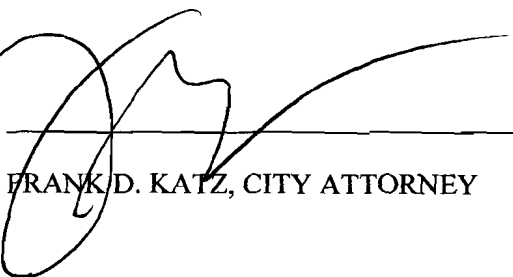
7 ~~The total accumulation of two and seventy-five hundredths inches of rain at the end of a one-hour~~
8 ~~period.]~~

9 **~~[VIOLATION~~**

10 ~~As used in §14-8.3, the failure of a structure or other development to be fully compliant with the~~
11 ~~City's floodplain management regulations. A structure or other development without the~~
12 ~~elevation certificate, other certificates, or other evidence of compliance required in §60.3(b)(5);~~
13 ~~(e)(4), (e)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that~~
14 ~~documentation is provided.]~~

15 *Editor's Note: The word "flood plain" shall be changed to the word "floodplain" throughout*
16 *Chapter 14.*

17 APPROVED AS TO FORM:

18 
19 _____
20 FRANK D. KATZ, CITY ATTORNEY
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22
23
24

25 jp/CAdrive/jpmb/2008 bills/flood hazard areas 2