

1 **CITY OF SANTA FE, NEW MEXICO**

2 **BILL NO. 2009-58**

3 **INTRODUCED BY:**

4
5 Councilor Calvert

6 Councilor Chavez

7 Councilor Romero

8
9
10 **AN ORDINANCE**

11 **AMENDING SECTIONS 14-8.3(C)(2) AND 14-8.3(C)(3) SFCC 1987 REGARDING**
12 **DEVELOPMENT WITHIN A SPECIAL FLOOD HAZARD AREA AND PERMITTED**
13 **USES WITHIN A FLOODWAY AND MAKING SUCH CHANGES AS ARE NECESSARY.**

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

16 **Section 1. Section 14-8.3(C)(2) SFCC 1987 (being Ord. #2001-38, §2 as amended)**
17 **is amended to read:**

- 18 (2) No new development or substantial improvements shall be undertaken on
19 lands within a special flood hazard area unless such erection or alteration
20 shall be in compliance with the provisions of this section, provided that a
21 legal nonconforming structure in existence on _____, 2009
22 (date of adoption of this Ordinance) located within a special flood hazard
23 area that is substantially damaged by flood, fire, or other casualty may be
24 replaced subject to the following:

- 25 (a) If there is a site on the property outside the special flood hazard

1 area that will accommodate a structure of the same gross floor
2 area as the legal nonconforming structure, the structure shall be
3 built on such site and not replaced within the special flood
4 hazard area.

5 (b) If the legal nonconforming structure was located within the flood
6 fringe, and there is no other site on the property that will
7 accommodate a structure of the same gross floor area, a new
8 structure may be constructed on such site in the flood fringe
9 provided that the new structure does not exceed the gross floor
10 area nor the footprint of the legal nonconforming structure and
11 the footprint is sized to minimize flood hazard.

12 (c) If the legal nonconforming structure was located in the floodway
13 but there is a site on the property within the flood fringe that will
14 accommodate a structure of the same gross floor areas as the
15 legal nonconforming structure, any new structure shall be
16 constructed on such site within the flood fringe and not replaced
17 within the floodway. The footprint of the new structure shall be
18 sized to minimize flood hazard and shall in no case exceed the
19 footprint of the legal nonconforming structure.

20 (d) If the legal nonconforming structure was located within the
21 floodway, and there is no other site on the property that will
22 accommodate a structure of the same gross floor area, a new
23 structure may be constructed on such site in the floodway
24 provided that the new structure does not exceed the gross floor
25 area nor the footprint of the legal nonconforming structure and

1 the footprint is sized to minimize flood hazard.

2 (e) Any new structure constructed within the special flood hazard
3 area in accordance with this paragraph (2) shall comply with all
4 applicable FEMA requirements and all provisions of §14-8.3 that
5 are more stringent than the FEMA requirements.

6 (f) A new structure built in accordance with this paragraph (2) shall
7 not require a variance to be constructed in a special flood hazard
8 area; provided that, if the new structure's location requires
9 variances to other requirements of this Chapter, the Board of
10 Adjustment, Planning Commission or other review body, as
11 applicable, grants a variance from such other requirements
12 including, but not limited to, setbacks and terrain management.

13 (g) As a condition of building permit issuance for a new structure,
14 any remaining legal nonconforming structure in the flood hazard
15 area shall be demolished or removed.

16 **Section 2. Section 14-8.3(C)(3) SFCC 1987 (being Ord. #2001-38, §2 as**
17 **amended) is amended to read:**

18 (3) No uses shall be permitted within the floodway, except those set out in
19 this paragraph provided that ~~the~~ such uses do not constrict the flow or
20 ~~[reduce the carrying capacity]~~ create a rise in the base flood elevation
21 during the one percent chance event, as follows:

- 22 (a) Cultivating and harvesting of crops according to recognized soil
23 conservation practices;
- 24 (b) Pasture, grazing land and outdoor plant nursery;
- 25 (c) Wildlife sanctuary, woodland preserve, arboretum;

- 1 (d) Outlet installations for sewage treatment plants, sealed public
2 water supply wells;
- 3 (e) Passive recreational uses such as parks, picnic areas or trails;
- 4 (f) Open area residential uses, such as lawns, gardens and play
5 areas; ~~and~~
- 6 (g) Stormwater management and arroyo or watercourse stabilization
7 structures, such as check dams and gabions, if these structures
8 are in compliance with all applicable state and federal
9 regulations[-]; and
- 10 (h) Legal nonconforming uses occupying structures in existence
11 on _____, 2009 (date of adoption of this Ordinance),
12 provided that such uses may not be intensified and that the
13 structures which such uses occupy comply with all applicable
14 FEMA requirements and all provisions of §14-8.3 that are more
15 stringent than the FEMA requirements.

16 **Section 3. Section 14-8.3(C)(4)(e) SFCC 1987 (being Ord. #2001-38, §2 as**
17 **amended) is amended to read:**

- 18 (e) Except as permitted in paragraph (5) of this section, if an
19 existing lot contains land both within and outside of the special
20 flood hazard area, any new construction, including roads and
21 driveways, shall only occur on the portion outside of the special
22 flood hazard area. If an existing lot contains no land outside of
23 the special flood hazard area, any new construction, including
24 roads and driveways shall only occur in the flood fringe upon
25 approval of a variance from the Planning Commission as set

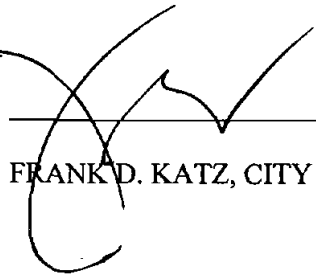
1 forth in §14-3.9(E) and shall conform to the provisions set forth
2 in paragraph (5), of this section. This paragraph (e) shall not
3 apply to legal nonconforming structures described in paragraph
4 (2) of this section;

5 **Section 4. A new Section 14-10.7 SFCC 1987 is ordained to read:**

6 **14-10.7 [NEW MATERIAL.] LEGAL NONCONFORMING STRUCTURES IN**
7 **SPECIAL FLOOD HAZARD AREAS**

8 Legal nonconforming structures located in special flood hazard areas may be
9 replaced as set forth in §14-8.3(C)(2).

10 APPROVED AS TO FORM:

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13 FRANK D. KATZ, CITY ATTORNEY
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