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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2019-12

INTRODUCED BY:

Councilor Roman “Tiger” Abeyta

AN ORDINANCE

AMENDING VARIOUS SECTIONS OF CHAPTER 14, THE LAND DEVELOPMENT CODE, TO REPEAL THE SUMMARY COMMITTEE, A SUBCOMMITTEE OF THE PLANNING COMMISSION, REPEAL OBSOLETE REFERENCES TO THE BUSINESS CAPITOL DISTRICT DEVELOPMENT REVIEW COMMITTEE, AND MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO PROVIDE CONSISTENCY.

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

Section 1. Section 14-2.1 of the Land Development Code (being Ord. #2011-37 § 1, as amended) is hereby amended to read:

14-2.1 SUMMARY OF ORDINANCE ADMINISTRATION AND REVIEW ROLES

Table 14-2.1-1 summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of Chapter 14 and, particularly, the procedures set forth in Article 14-3 (Review and Approval Procedures). Other duties and responsibilities of these entities are set forth in the following sections of this article.

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TABLE 14-2.1-1: Review and Decision-Making Bodies and Responsibilities								
PROCEDURE	SECTION	GB	PC	BOA	[BCDDRC*]	HDRB	ARC	LUD DIRECTOR
Amendments to General Plan	14-3.2	R/D	R/REC	-	-	-	-	R/REP
Amendments to the Text of the Code	14-3.3	R/D	R/REC	-	-	R/REC (some)	R/REC (some)	R/REP
Annexations	14-3.4	R/D	R/REC	-	-	-	-	R/REP
Rezoning	14-3.5	R/D	R/REC	-	[R (if referred)]	R (if referred)	R (if referred)	R/REP
Special Use Permits	14-3.6	A	R/D (some)	R/D	-	-	-	R/REP
Subdivisions of Land	14-3.7	A	R/D A (some)	-	-	-	-	R/REP <u>R/D (some)</u>
Development Plans	14-3.8	A	R/D A (some)	-	-	-	-	R/REP R/D (some)
Certificates of Occupancy	14-3.11	-	-	-	-	-	-	R/D
Archaeological Clearance Permits	14-3.13	A	-	-	-	-	R/D	R/REP
Demolition of Historic Structure	14-3.14	A	-	-	-	R/D	R (if referred)	R/REP
Demolition of Landmark Structure	14-3.14	R/D				R/REC (some)		R/REP

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Minor Modifications	14-3.15	R/D	R/D	R/D	[R/D]	R/D	R/D	R/D
Variances	14-3.16	-	R/D (some)	R/D	[R/D (some)]	-	-	R/REP
Utility Conformity Review	14-3.18	A	R/D (some) A (some)	-	-	-	-	R/REP (some) R/D (some)
Notes: GB = Governing Body PC = Planning commission BOA = Board of Adjustment [BCDDRC = BCD Design Review Committee] HDRB = Historic Districts Review Board AC = Archaeological Committee LUD = Land Use Department Staff				"A" = Appeal "R" = Review "R/D"= Review and Decision "R/REC"= Review and Recommendation "R/REP"= Review and Report				

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1 **Section 2. Section 14-2.3(C) of the Land Development Code (being Ord. #2011-**
2 **37 § 2, as amended) is hereby amended to read:**

3 (C) **Powers and Duties.** The planning commission has the review and decision-
4 making responsibilities set forth in Table 14-2.1-1, to be carried out in accordance with the
5 terms of Chapter 14. In addition, the planning commission is the principal *city* land use
6 administrative board and has the powers and duties specified in this section.

7 (1) Development Plans and Subdivision Plats.

8 Unless otherwise provided in Chapter 14, the planning commission shall review
9 and approve or disapprove various specific *development* plans, requests and
10 subdivision *plats*. When specifically authorized by Chapter 14, the decision of the
11 planning commission is final, subject to any appeal right provided in this chapter. In all
12 other instances, the planning commission shall provide advice and nonbinding
13 recommendations.

14 (2) Amendments and Modifications of Approved Plans.

15 The planning commission shall review and approve or disapprove amendments,
16 modifications or time extensions of plans, designs, *plats*, restrictions and other matters
17 previously approved by the planning commission. Nothing in this section precludes [the
18 ~~summary committee and~~] the *land use director* from approving minor amendments or
19 modifications as authorized in Chapter 14.

20 (3) Variances and Special Use Permits as Part of Subdivision or
21 Development Plan Review.

22 If a request for variance or special use *permit* is part of a *development* plan or
23 subdivision request requiring planning commission review, the planning commission
24 shall hear and decide requests for variances pursuant to Section 14-3.16 and special
25 use *permits* pursuant to Section 14-3.6.

1 (4) Appeals.

2 The planning commission shall hear appeals of:

3 (a) *final actions* of the *land use director* applying Chapter 14;
4 provided that the *application* is made in conjunction with a *development* plan
5 or subdivision request [~~requiring the planning commission's approval~~];

6 (b) *final actions* of the *land use director* applying the terrain
7 management regulations in Section 14-8.2 and the escarpment overlay district
8 regulations in Section 14-5.6; and

9 (c) *final actions* of the *floodplain administrator*.

10 (5) Variances of Specified Regulations and Waivers to Flood and
11 Supplementary Retail Regulations.

12 (a) The planning commission shall review and grant or deny
13 requests for variances from Section 14-5.6 (Escarpment Overlay
14 District); Section 14-8.2 (Terrain and Stormwater Management); Section 14-
15 8.3 (Flood Regulations); Section 14-8.11 (Santa Fe Homes Program);
16 and Section 14-9 (Infrastructure Design, Improvement and Dedication
17 Standards). When deciding variances, the planning commission shall comply
18 with Section 14-3.16.

19 (b) The planning commission shall review and grant or deny
20 requests for waivers as set forth in Section 14-3.10 (Development in Special
21 Flood Hazard Areas) and *flood* regulations set forth in Section 14-8.3 (Flood
22 Regulations). When deciding the waiver requests, the planning commission
23 shall comply with notice and procedural provisions referenced in Section 14-
24 3.16(Variances), but shall use the approval criteria set forth in Section 14-
25 3.10(E).

1 (c) The planning commission shall review and grant or deny
2 requests for waivers as set forth in Section 14-8.8 (Supplementary Regulations
3 for Retail Structures Thirty Thousand Square Feet or Larger). When deciding
4 the waiver requests, the commission shall comply with notice and procedural
5 provisions referenced in Section 14-3.16 (Variances), but shall use the approval
6 criteria set forth in Section 14-8.8(B)(4).

7 (d) The planning commission shall review and grant or deny
8 requests for waivers as set forth in Sections 14-6.2(E) (Telecommunication
9 Facilities) and 14-6.2(F) (Electric Facilities).

10 (6) Long-Range Policy Recommendations.

11 The planning commission may:

12 (a) provide to administrative and governmental officials of
13 the *city* recommendations for public improvements and the financing of such
14 improvements. Public officials shall, upon request, furnish to the planning
15 commission within a reasonable time such available information as it may
16 require for its work; and

17 (b) make reports and recommendations relating to
18 the *development* of the *city* to public officials and agencies; *public utilities* ;
19 civic, educational, professional and other organizations; and citizens with
20 regard to:

21 (i) growth management, land use,
22 transportation, *development* review procedures, urban design
23 and *capital improvements* ; and

24 (ii) neighborhood and community planning and other
25 community issues as they relate to long-term planning.

1 (7) Other Recommendations to Governing Body.

2 The planning commission shall review and make recommendations to
3 the *governing body* regarding:

4 (a) the adoption of the *general plan* and proposed revisions and
5 amendments to the *general plan* ;

6 (b) annexations;

7 (c) rezonings; and

8 (d) proposed amendments to Chapter 14, except for proposed
9 amendments to Sections 14-2.7 (Archaeological Review Committee), 14-
10 3.13 (Archaeological Clearance Permits) and 14-5.3 (Archaeological Review
11 Districts), on which the archaeological review committee shall review and issue
12 recommendations; to Sections 14-3.14 (Demolition of Historic or Landmark
13 Structure) and 14-5.2 (Historic Districts) on which the historic districts review
14 board shall make recommendations; and to Section 14-8.13 (Development
15 Water Budgets) on which the public utilities committee shall review and issue
16 recommendations.

17 (8) Other Powers and Duties.

18 (a) The planning commission may request any other committee or
19 board to review a proposed official zoning map amendment or a proposed
20 amendment to Chapter 14, and that committee or board shall issue comments
21 and nonbinding recommendations in response to the request.

22 (b) In the performance of its duties, the planning commission may
23 enter on any land, make examinations and surveys and place and maintain
24 necessary monuments and markers on land.

25 (c) As authorized by *state* law and Chapter 14, the planning

1 commission may make decisions affecting the physical *development* of
2 the *city* , including physical *development* authorized by a public agency or
3 official not under the jurisdiction of the *governing body* . These decisions shall
4 be consistent with the *general plan* and other adopted *city* policies.

5 (d) The planning commission has all powers necessary to enable it
6 to fulfill and perform its functions and carry out the duties authorized in the
7 Santa Fe City Code.

8 (9) Regulations; Planning and Platting; Development Review.

9 (a) To carry out the planning and platting duties
10 and *development* review responsibilities granted to the planning commission,
11 including the adoption of an amendment to the *general plan* and approval and
12 disapproval of *plats* and replats, the planning commission may adopt
13 regulations, procedures and a schedule of fees; provided that such regulations,
14 procedures and schedules of fees are consistent with the Santa Fe City Code
15 and do not become effective and enforceable until approved by the *governing*
16 *body*.

17 (b) Among other regulations, the planning commission may adopt
18 flow charts and checklists for matters within the planning commission's
19 jurisdiction in order to provide information and assistance to the general public
20 in complying with the provisions of the Santa Fe City Code.

21 (c) Approved *plats* and *development* plans shall be signed by the
22 chair and the secretary of the planning commission.

23 **Section 3. [REPEAL] Subsection 14-2.3(E) of the Land Development Code**
24 **(being Ord. #2011-37 § 2) is hereby repealed.**

25 **Section 4. Subsection 14-2.11(C) of the Land Development Code (being Ord.**

1 #2011-37 § 3) is hereby amended to read:

2 **14-2.11 Land Use Director**

3 (C) **Approval Authority**

4 (1) Alternate Means of Compliance

5 The *land use director* may allow alternate means of compliance with the
6 requirements of Chapter 14 when:

7 (a) the proposed alternate means satisfy the intent of this chapter;

8 (b) the requirements include quantitative standards and those
9 quantitative standards are satisfied by the alternate means of compliance; and

10 (c) site conditions, including the configuration of the *lot*,
11 topography and existing vegetation make following the standards prescribed in
12 this chapter impossible or impractical.

13 (2) Minor Modifications to Development Approvals

14 The *land use director* may approve minor quantitative and qualitative
15 modifications on an approved master plan, *development* plan, subdivision *plat*,
16 special use *permit* or other *development* approval, subject to the following:

17 (a) written request by the *applicant* explaining the need for the
18 modification;

19 (b) written finding by the *land use director* that the modifications
20 do not substantially change the function or appearance of the *development*, and
21 will not result in any negative health or safety impacts on the community or
22 negatively impact a neighboring *property*;

23 (c) the minor modification may not allow increased *density* or
24 allow uses not otherwise shown on the approved plan or *plat*; and

25 (d) the minor modification complies with all standards and

1 requirements of Chapter 14, except as otherwise allowed by this section.

2 (3) Administrative Deviations

3 The *land use director* may approve minor dimensional deviations of
4 twelve inches or less and minor quantitative deviations from the standards in
5 Chapter 14, including standards for the number of required *off-street*
6 *parking* spaces, when it is impossible or impractical to fully comply with the
7 standards. Approval of administrative deviation is subject to the following:

8 (a) written request by the *applicant* explaining the need for the
9 deviation;

10 (b) written finding by the *land use director* that the deviation will
11 not result in any negative health or safety impacts on the community or
12 negatively impact a neighboring *property*; and

13 (c) an administrative deviation may not allow increased *density* or
14 allow uses not otherwise permitted in the district.

15 (4) The *land use director* also has the approval authority provided
16 elsewhere in this chapter, including but not limited to the authority to review and approve
17 summary subdivisions pursuant to Subsection 14-3.7(D).

18 **Section 5. Subsection 14-3.1(H) of the Land Development Code (being Ord.**
19 **#2011-37 § 3, as amended) is hereby amended to read:**

20 **14-3.1 GENERAL PROVISIONS**

21 (H) **Notice Requirements**

22 The notices required by this section shall indicate the nature of the change proposed;
23 the *property* affected; the time, date and place of the hearing or meeting; and the deadline for
24 receiving written comments regarding the request, if applicable. The notice shall be approved
25 by the *land use director*. Neighborhood associations that wish to receive notifications of

1 hearings and meetings and copies of agendas, including email notifications, must register with
2 the *land use director*.

3 (1) Notice of Public Hearing Before Land Use Boards and ENN Meetings.

4 (a) General Notice Requirements

5 The notice requirements in Subsections 14-3.1(H)(1)(b), (c) and (d)
6 below apply to public hearings required for all *applications* and ENN meetings,
7 except that:

8 (i) Public hearings concerning *development* review
9 actions initiated by the *city* require notification as described in
10 Subsection 14-3.1(H)(1)(e);

11 (ii) Public hearings concerning Archaeological Clearance
12 Permits require notification in accordance with Section 14-3.13(C)(3);

13 (iii) Public hearings concerning *projects* heard before the
14 historic districts review board shall meet the agenda and posting
15 requirements in Subsections 14-3.1(H)(1)(b) and (c) below, but mailed
16 notification in accordance with Subsection 14- 3.1(H)(1)(d) is not
17 required; and

18 (iv) Public hearings concerning appeals must provide
19 notice as described in Subsection 14-3.1(H)(4).

20 (b) Agenda Requirements

21 For all public hearings required before any *land use board*, the *land use*
22 *director* shall place the tentative meeting agenda in a local daily newspaper of
23 general circulation at least fifteen calendar days prior to the scheduled meeting.
24 In addition, the *land use director* shall post the tentative meeting agenda in City
25 Hall and send a copy to neighborhood associations that are registered with

1 the *land use director*, at least fifteen days prior to the scheduled meeting.

2 (c) Posting Requirements

3 (i) For all ENN meetings and public hearings required
4 before a *land use board*, except appeals, the *property* shall be posted by
5 the *applicant* with posters obtained from the *land use director* at
6 the *applicant's* expense. At least one poster shall be prominently
7 displayed, visible from each public and private *street* and road abutting
8 the *property*, and securely placed on the *property* at least fifteen
9 calendar days prior to the scheduled meeting. Placement of the posters
10 shall be in such a manner as to not compromise public safety.

11 (ii) The posters shall be removed within thirty days
12 after *final action*, and failure to do so may result in the *city* removing
13 the poster and charging the *applicant* a civil fee of fifty dollars
14 (\$50.00).

15 (d) Mailing and Emailing Requirements

16 Notice of a public hearing or ENN meeting shall be mailed via the
17 United States postal service by the *applicant* at least fifteen calendar days prior
18 the public hearing or meeting as follows:

19 (i) notices shall be mailed by first class mail to
20 the *owners of properties* within three hundred (300) feet of the
21 subject *property* as shown in the records of the *county* treasurer, and to
22 the physical addresses of such *properties* where the *property's* address
23 is different than the address of the *owner*;

24 (ii) notices shall also be mailed by first class mail to
25 neighborhood associations that have registered with the *land use*

1 *director* and that will be directly affected by the proposed action or that
2 have a boundary within three hundred (300) feet of the
3 subject *property*. Email notices to the neighborhood associations shall
4 be provided on the same day the *applicant* sends postal notices;

5 (iii) for zone changes of one block or less, notices
6 to *property owners* for public hearings before the *governing body* or
7 the planning commission shall be by certified mail with return receipt
8 requested as required by Section 3-21-6 NMSA 1978;

9 (iv) in the case of an *application* for a *telecommunications*
10 *facility*, all *property owners* within the
11 corresponding *setback* distances listed in Section 14-6.2(E) shall also
12 receive notices;

13 (v) if a notice by certified mail of a zoning change is
14 returned undelivered, the *city* shall attempt to discover
15 the *owner's* most recent address and shall send the notice by certified
16 mail to that address as required by Section 3-21-6 NMSA 1978;

17 (vi) copies of all required mailing lists, mailing certificates
18 and return receipts shall be provided to the *land use director* prior to
19 the public hearing or ENN meeting with an affidavit of mailing signed
20 by the *person* who mailed the notices.

21 (e) Notice Requirements for *City -Initiated Development Review*

22 Actions

23 (i) Agenda Requirement

24 Agendas must be posted and published as provided in Subsection 14-
25 3.1(H)(1)(b) and (c).

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(ii) Posting Requirement

For a *project* that affects one *lot* or other clearly-delineated *premises*, posting must occur as provided in Subsection 14-3.1(H)(1)(c). For a *project* that affects a larger *project* area, the *city* shall securely place in the *public right of way* one poster at each major intersection within or near the plan or *project* area. There shall also be at least one poster for every three hundred (300) acres. Where the *city* is the *applicant* and the plan or *project* area is less than one city block, one poster shall be placed within the *public right of way* at the nearest intersection to the subject *property*. All posters shall be placed at the appropriate sites at least fifteen calendar days prior to the scheduled public hearing or meeting and shall indicate the nature of the change proposed; identification of the plan or *project* area; and the time, date and place of the public hearing or ENN meeting.

(iii) Mailing Requirements

Mailed notice shall be provided as required in Subsection 14-3.1(H)(1)(d).

(iv) Publishing Requirements

At least fifteen days before the public hearing, the *city* must publish a display advertisement in a local daily newspaper of general circulation stating the date, time and place of the public hearing, describing the nature of the change.

(2) Notice of Public Hearing Before Governing Body

Notice shall be provided as required in Subsection 14-3.1(H)(1)(a) or (e), as applicable. In addition, the *applicant* shall publish one notice in a local daily newspaper

1 of general circulation at least fifteen calendar days prior to the public hearing.

2 (3) Postponed or Recessed and Reconvened Public Hearings and Meetings

3 If a public hearing or ENN meeting is postponed prior to the scheduled meeting,
4 re-notification is not necessary if notice of the new date, time and location of the
5 meeting is clearly posted at the time and place where the original public hearing or
6 meeting was to be held. A public hearing or meeting may be recessed and reconvened
7 without re-noticing if the date, time and place for the meeting is specified immediately
8 prior to recessing.

9 (4) Appeal Hearing Notice Requirements

10 The following shall apply to all public hearings on appeals to *land use boards* or
11 to the *governing body*.

12 (a) Agenda Requirements

13 The *land use director* shall place the appeal on the agenda of the body
14 hearing the appeal and shall publish and post the agenda in accordance with the
15 established procedures for that body.

16 (b) Notice Requirements

17 The *appellant* shall give written notice of the appeal as follows:

18 (i) Form of Notice

19 The notice shall be in a form approved by the *land use*
20 *director* as being adequate to ensure that the average citizen reading the
21 notice will be fairly informed of the general purpose of what is to be
22 considered;

23 (ii) Procedure for Giving Notice

24 The *appellant* shall give notice of the time, date and place of
25 the public hearing by first class mail postmarked at least fifteen days

1 prior to the public hearing. The notice shall be approved by the *land use*
2 *director* prior to mailing, and an affidavit of mailing shall be provided
3 by the *appellant*.

4 (iii) Notice Recipients

5 The following shall receive notice: 1) all *appellants* and
6 appellees; and 2) all *persons* or neighborhood associations that were
7 required to be mailed notice for the *application* giving rise to the *final*
8 *action* being appealed.

9 (c) Failure to Provide Notice

10 If the *appellant* fails to provide proof of proper notice in a form
11 approved by the *land use director* prior to the public hearing on an appeal, the
12 appeal shall be deemed withdrawn and may not be refiled. The *land use*
13 *director* may waive this requirement if the *appellant* shows good cause.
14 The *land use director's* decision is not appealable.

15 (5) Notice Requirement for Subdivisions Creating One Additional Lot.

16 An applicant seeking approval by the *land use director* of a summary subdivision pursuant
17 to Subsection 14-3.7(D) shall provide notice by posting a public notice poster obtained from city
18 staff. Such poster shall be prominently displayed, visible from a public *street*, and securely placed
19 on the *property* from the time that an application for a summary subdivision is submitted to the
20 *city*. The poster shall indicate the nature of the request, the identity of the applicant, the *property*
21 affected, and the phone number for the *city* staff contact. The public may review the application for
22 a summary subdivision in the land use department.

23 **Section 6. Subsection 14-3.7(A) of the Land Development Code (being Ord.**
24 **#2011-37 § 3) is hereby amended to read:**

25 (A) General Provisions

1 (1) Jurisdiction and Applicability

2 (a) These land subdivision regulations shall govern all platting or
3 replatting of land within the jurisdiction of the *city*.

4 (b) No *person* shall *subdivide* land, nor shall construction of any
5 kind commence on *subdivided* land, nor shall transfer of ownership be made
6 of *subdivided* land prior to the approval of a subdivision of the land by the
7 planning commission and prior to the recording of the subdivision in the office
8 of the *county* clerk. Until the planning commission has approved a subdivision,
9 the *owner* of the land within the subdivision or his agent shall not transfer or
10 sell or agree to transfer or sell or negotiate to transfer or sell the land or any part
11 of it by reference to, the exhibition of or any other use of, a *plat* or subdivision
12 of the land. The description by metes and bounds in an instrument of transfer
13 or other document used in the process of selling or transfer shall constitute
14 prima facie evidence of a violation of this section.

15 (2) Conflicts With Other Code Provisions

16 (a) No subdivision *plat* shall be approved that does not comply
17 with applicable provisions of the Santa Fe City Code that regulate
18 the *development* and use of land, or that increases the degree or extent of
19 noncompliance with those provisions, unless the appropriate variance or other
20 relief procedure is approved.

21 (b) Whenever there is a discrepancy or conflict between minimum
22 standards or dimensions for subdivisions and those contained elsewhere in
23 Chapter 14, Chapter 7 (Building and Housing), Chapter 12 (Fire Prevention and
24 Protection) or other official regulations of the *city*, the more restrictive standard
25 shall apply as provided in Section 14-1.7.

1 (3) Acceptance of Improvements

2 The dedication of any or all of the lands for public use of any nature within the *city* shall
3 be specifically accepted by the planning commission or *governing body*, and such
4 acceptance may be conditioned on a finding by the *land use director* of compliance with
5 all conditions of approval of the subdivision *plat*. Approval of a subdivision by the
6 planning commission does not constitute acceptance by the *city* of the *streets*, alleys or
7 other public ways or easements and parks or other public lands dedicated on the
8 subdivision *plat* by the *owners*.

9 (4) Serial Subdivisions

10 (a) Except for *resubdivisions*, a proposed subdivision that occurs
11 within five years after the approval of an earlier subdivision of any part of the
12 affected land shall be subject to the same standards and shall follow the same
13 procedures as though the cumulative number of *lots* created by the
14 successive *plats* were created by the currently proposed subdivision.

15 (b) The *land use director* may waive the provisions of subsection
16 14-3.7(A)(4)(a) for summary subdivisions within a master planned area that
17 create *legal lots of record* that will be further *subdivided* or *developed* pursuant
18 to a development plan.

19 (5) Common Promotional Plans

20 A plan or scheme of operation undertaken by a single *applicant* or a group
21 of *applicants* acting in concert to offer for sale or lease *lots* where the land is either
22 contiguous or part of the same area of land or is known, designated or advertised as a
23 common unit or by a common name shall constitute a single subdivision *plat*.

24 (6) Subdivisions by Court Order

25 (a) Court proceedings must not be used to circumvent the

1 provisions of Chapter 14 relating to the subdivision or resubdivision
2 of *property* or to create or increase a nonconformity.

3 (b) A *legal lot of record* that is properly partitioned, partially
4 condemned or otherwise divided or altered by court order as provided in
5 Chapter 42 NMSA 1978 continues to be a *legal lot of record*.

6 (c) *Development of property* that is divided or altered by court
7 order remains subject to the standards and requirements of Chapter 14.

8 (7) Certificate of Compliance

9 (a) Approval by the Land Use Director.

10 When the *land use director* determines that a single *lot* not shown on an
11 approved subdivision *plat* is a *legal lot of record*, the *land use director* may
12 approve and cause to be recorded a certificate of compliance. The certificate of
13 compliance describes the *lot*, the circumstances of its creation and the
14 documentation and applicable regulations upon which the determination of
15 compliance is based.

16 (b) Approval by the Planning commission.

17 The planning commission may approve a certificate of compliance for
18 a *lot* or contiguous *lots* that have been created in violation of the procedural
19 requirements of this section if it determines that the *lots* comply with all other
20 applicable standards of Chapter 14 or it imposes conditions of approval necessary
21 to ensure such compliance. Upon meeting any conditions of approval and
22 recordation of the certificate of compliance, the *lot* or *lots* shall be *legal lots of*
23 *record*.

24 (c) Procedures for Approval

25 Approval of a certificate of compliance by the planning commission shall

1 follow the procedures required for a final subdivision *plat*, including those for
2 any variances requested.

3 (d) No Creation of Nonconformity

4 A certificate of compliance shall not be granted to divide land in a way
5 that precludes compliance with the provisions of Chapter 14 by any other portion
6 of the previous *legal lot of record* out of which the approved *lots* are created.

7 (e) Inclusion on Recorded Plats

8 A certificate of compliance may be recorded as a separate document or
9 in the form of a statement included on a subdivision *plat* approved and signed by
10 the appropriate *city* officials.

11 (8) Notice of Violation

12 (a) Whenever the *land use director* determines that
13 real *property* has been divided in violation of this section, the *land use*
14 *director* shall record a notice of violation describing the affected *property* and
15 the nature of the violation and listing any recorded documents upon which the
16 determination of the violation is based. If the *owner* of record of the
17 affected *property* can be determined, the name of the *owner* shall be included
18 on the notice of violation, and a copy shall be mailed to the *owner* at the address
19 on file with the *county* treasurer by certified mail with return receipt requested.

20 (b) When the violation has been corrected by means of a certificate
21 of compliance or approved subdivision *plat*, the notice of violation and
22 correction shall be referenced on the certificate or *plat*. When the violation is
23 corrected by other legal means, the *land use director* shall record a notice of
24 correction referencing the notice of violation and describing the means by
25 which the violation has been corrected.

1 (c) The procedures described in Subsections (A)(6) and (7) are in
2 addition to those provided for enforcement of Chapter 14 in Section 14-11 or
3 elsewhere in Chapter 14.

4 **Section 7. Subsection 14-3.7(D) of the Land Development Code (being Ord.
5 #2011-37 § 3) is hereby amended to read:**

6 (D) **Summary Procedure**

7 The [~~summary committee of the planning commission~~] land use director has the
8 authority to review and approve resubdivisions that result in the same or a few number of lots
9 and subdivisions that result in the creation of one additional *lot*. Summary subdivisions are
10 subject to the procedural requirements, approval criteria and *development* standards that apply to
11 other subdivisions, except that:

- 12 (1) no preliminary *plat* or hearing is required;
- 13 (2) the [~~summary committee~~] land use director may defer the construction
14 of public and semi-public improvements required by Chapter 14 until such time as
15 the *lots* are developed and may waive the requirements of this chapter for the posting
16 of financial guarantees for the improvements prior to recording an approved *plat*.
17 Deferral or waiver shall be made only upon finding that the improvements or guarantee
18 is not needed to protect the interests of prospective purchasers of the *lots* created; to
19 provide for the orderly *development* of other *properties* in the vicinity; or to protect the
20 public health, safety and welfare.

21 **Section 8. Section 14-3.17 of the Land Development Code (being Ord. #2011-37
22 § 3, as amended) is hereby amended to read:**

23 **14-3.17 - APPEALS**

24 (A) **Appealable Actions**

- 25 (1) Final Action

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(a) Only *final actions* may be appealed.

(b) *Final actions* of a *land use board* include a decision made after a public hearing, including the final approval or denial of a preliminary *plat* or preliminary *development* plan.

(c) *Final actions* of the *land use director* include the written issuance or denial of a permit, approval of a final *plat* for *resubdivision* or *summary subdivision*, or other approval within the *land use director's* jurisdiction.

(d) *Final action* does not include:

- (i) a recommendation;
- (ii) a delay in rendering a decision;
- (iii) a decision to postpone or remand;
- (iv) a decision not to take enforcement action;
- (v) an informational response to an inquiry;
- (vi) any action for which an appeal is specifically prohibited;
- (vii) any action regarding procedural matters or requirements, provision of notice, the admissibility, relevance or weight of evidence or the conduct of a public hearing; however, these actions may be raised by parties as part of an otherwise valid appeal.

(2) Basis for Appeal

An appeal may only be filed for the following reasons:

- (a) to contest noncompliance of a *final action* with Chapter 14 or Sections 3-21-1 through 3-21-14 NMSA 1978;
- (b) to contest the application of Chapter 14; or

1 (c) to appeal a decision lacking substantial evidence to support it.

2 (B) **Standing Required to Appeal**

3 Appeals of *final actions* may be filed by the following *persons* :

4 (1) the applicant when the *application* is denied or, if approved, the
5 approval included conditions not accepted by the applicant;

6 (2) all *persons* or neighborhood associations that were required to be
7 mailed notice for the *application* giving rise to the *final action* being appealed;

8 (3) *persons* or organizations duly organized at the time the decision
9 appealed from was rendered alleging injury to their economic, environmental or
10 aesthetic interests;

11 (4) *City* staff members acting in their official capacity; and

12 (5) any *person* who has a recognized legal interest under New Mexico law.

13 (C) **Time for Appeal**

14 (1) Time for Appeal

15 Appellants shall file an appeal as follows:

16 (a) within thirty days for appeals of *final actions* by *land use*
17 *boards* on subdivision *plats* , master plans and *development* plans; or

18 (b) within fifteen days of the date of *final action* for all other
19 appeals.

20 (2) Amended Appeals

21 An appellant may amend an appeal until the time for appeal has expired.

22 (3) Response

23 Any party may file a response to the appeal as set forth in Subsection 14-
24 3.17(H)(2).

25 (4) Date of Final Action

1 The date of the *final action* shall be deemed to be the date of the final written
2 decision and determined as follows:

3 (a) For *final actions* of the land use director, the date of issuance
4 of any written order (including a decision, letter, *permit* or other document, and
5 including recordation of a final *plat* for *resubdivision* or summary subdivision)
6 granting or denying relief or in the case of *building permits*, the date of the
7 posting of the *permit*; or

8 (b) For *final actions* of a *land use board* or the *governing body*, the
9 date that body adopts a written decision containing findings of fact and
10 conclusions of law; provided that if such body has not adopted findings of fact
11 and conclusions of law within [~~thirty-one~~] thirty-five (35) days of the date the
12 vote deciding the matter was taken, then the date of *final action* shall be deemed
13 to be such [~~31st~~] thirty-fifth (35th) day.

14 (D) **Process to File an Appeal**

15 (1) Filing Appeal; Form; Verification

16 The appellant shall file two copies of the written appeal with the *land use*
17 *director* . The appeal shall be filed on a form provided for that purpose and shall be
18 verified, signed by the appellant under oath and notarized.

19 (2) Receipt; Service of Appeal

20 The *land use director* shall initial and enter the date and time of filing on both
21 copies of the appeal and return one copy to the appellant. Within three days of the filing
22 date, the appellant shall hand deliver a copy of the appeal to any appellee or deliver it by
23 first-class certified mail.

24 (3) Appeal Fee

25 (a) An appeal fee shall be paid at the time of filing an appeal.

1 (b) The *governing body* shall establish by resolution a schedule of
2 fees for appeals. The *land use director* may waive or reduce the appeal fee if
3 the *land use director* determines that the appellant would qualify for
4 the *city's* utility fee poverty exemption set forth in Section 15-1.3 SFCC 1987
5 (Utility Billing - Poverty Exemption).

6 (4) Multiple Appeals and Multiple Jurisdictions

7 (a) An appellant may not appeal any single *final action* more than
8 once.

9 (b) Every appeal requires an independent basis. *Final actions* may
10 not be appealed solely on the basis of alleged mistakes in prior stages of the
11 same project, whether or not the prior *final actions* were appealed.

12 (c) More than one appellant may file an appeal of a *final action*,
13 and appellants may combine their appeals and share the appeal fee
14 proportionally. All appeals of any single *final action* shall be consolidated for
15 hearing purposes.

16 (d) Any review by the *governing body* of a planning commission
17 decision under Section 14-2.2(A)(3) shall be combined with the hearing on an
18 appeal of that decision.

19 (e) In the case of an appeal that includes *final actions* that fall
20 under the jurisdiction of more than one *land use board*, the *land use*
21 *director* shall determine the appropriate *land use board* to hear any particular
22 issue on appeal, except as otherwise provided in this section.

23 (5) Withdrawal

24 An appellant may withdraw the appeal at any time. A withdrawal does not affect
25 any related appeal. At any time after an appeal has been filed, an appellant and appellee

1 may agree to settle any matters raised in the appeal and the appellant may withdraw the
2 appeal; provided that such settlement complies with applicable code requirements,
3 including any conditions of approval of the *final action* being appealed.

4 (6) Conformity of Appeal

5 The *land use director* shall promptly review all appeals for conformity with the
6 requirements of Section 14-3.17. Upon determining that an appeal does not conform to
7 the requirements, the *land use director* shall refer the matter to the *city attorney* for
8 review.

9 (a) If the *city attorney* concurs with the *land use director's*
10 determination, the *city attorney's* written recommendation shall be forwarded to
11 the *governing body* for discussion. The *governing body* may accept
12 the *city attorney's* written recommendation and the decision is final and may be
13 appealed to district court. If the *governing body* does not accept the *city*
14 *attorney's* recommendation, the appeal shall be heard as set forth in Chapter 14.

15 (b) If the *city attorney* does not concur with the *land use director's*
16 determination, the appeal shall be heard as set forth Chapter 14.

17 (7) District Court Appeals

18 An appeal of a *final action* of the *governing body* or a *land use board* , or of an
19 action of the *city manager*, the *city attorney* or the *land use director* that is only subject
20 to appeal to district court, shall be to the first judicial district court pursuant to Section
21 39-3.1.1 NMSA 1978, Rule 1-074, NMRA or Rule 1-075, NMRA, as amended, or other
22 relevant statute or court rule.

23 (E) **Stay of Action and Suspension of Permits**

24 (1) Except as otherwise provided in this section, the timely filing of an
25 appeal shall:

1 (a) suspend the issuance of a *permit* or the validity of
2 a *permit* already issued that is the subject of the appeal;

3 (b) prohibit the recordation of a *plat* or the filing of
4 a *development* plan pursuant to that *final action*; and

5 (c) prohibit the issuance of a *permit* pursuant to that *final action* .

6 (2) The timely filing of an appeal of an enforcement action, including the
7 revocation or suspension of a *permit*, shall not stop the enforcement action, except as
8 provided in this section or when due process otherwise requires a hearing.

9 (3) Reserved.

10 (4) The filing of an appeal shall not limit the ability of an applicant to file
11 other *applications*.

12 (5) The filing of an appeal shall not limit the ability of any party to file an
13 appeal of any other *final action* related to the same project or *application* provided that
14 there is an independent basis for such appeal.

15 (6) Upon determination by the *land use director* that the suspension of
16 a *permit* or enforcement action would cause imminent peril to life or property,
17 a *permit* approving only so much of the *application* as is required to address the
18 immediate danger shall be issued. When reasonably practicable, the *land use*
19 *director* shall give all parties such notice prior to the issuance of the *permit* as is
20 possible. The *land use director*'s action related to the issuance of the *permit* is not
21 subject to appeal to any *land use board* or the *governing body*, and may be appealed
22 only to the district court.

23 (7) The filing of an appeal of an action of the *land use director* revoking or
24 suspending a *permit* in any matter involving a *sexually oriented business* shall stop or
25 suspend the action before the appeal is heard, except upon determination by the Santa

1 Fe police department that there is a reasonable expectation that stopping or suspending
2 the *land use director* 's action would constitute a grave imminent danger to the public
3 welfare, including life or property, in which case the *city* may exercise its authority to
4 restrain, prohibit or otherwise abate the source of such danger.

5 **(F) Scheduling a Public Hearing; Public Hearing Date**

6 The public hearing on the appeal shall be scheduled as soon as reasonably
7 practicable.

8 (1) An appeal to a *land use board* or the *governing body* shall be heard at
9 the next available regularly scheduled meeting after the appeal is filed that provides
10 adequate time for notice to be provided pursuant to Section 14- 3.1(H)(4) (Appeal
11 Hearing Notice Requirements) and for the parties to make submittals in support of their
12 positions for inclusion in the public hearing record. A hearing before the *governing*
13 *body* shall not be conducted until five days after the *land use board* has approved the
14 minutes adopting the findings of fact and conclusions of law for the matter being
15 appealed.

16 (2) For good cause, a *land use board* or the *governing body* hearing an
17 appeal may postpone the hearing until the next available regularly scheduled meeting.

18 **(G) Communication with Members Prohibited**

19 Communication regarding an appeal is limited as follows:

20 (1) Parties

21 During the appeal period after a *final action* is taken or after an appeal is filed, a
22 party shall not communicate with individual members of a *land use board* that may hear
23 the appeal or the *governing body* outside an appeal hearing, concerning the merits or
24 substance of the appeal, except in writing filed with the *land use director* within the
25 prescribed time period for inclusion in the public hearing record.

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(2) Other Persons

Persons other than the *city* attorney shall not communicate outside a public hearing with a member of a *land use board* or the *governing body* concerning the merits or substance of an appeal to be heard by that body.

(3) Site Inspection

Individual members of a *land use board* or the *governing body* may not inspect the site of any subject *property* , except pursuant to a publicly noticed site visit that affords all parties the opportunity to attend.

(4) Effect of Improper Communication

A member of a *land use board* or the *governing body* receiving a communication in violation of this section shall disclose the substance of the communication on the record, and the member shall recuse himself or herself if he or she cannot be fair and impartial in hearing the appeal.

(H) Appeal Hearing Procedure

(1) Administrative Procedures

Appeals shall be conducted in accordance with administrative procedures to be adopted by resolution of the *governing body* . Copies shall be available to the public in the land use department and the *city* clerk's office.

(2) Submittals by Parties

Up to ten days prior to the public hearing, a party to an appeal may submit any documents or written evidence on which the party intends to rely for review by the body hearing the appeal.

(3) Land Use Board Review

(a) The *land use board* shall conduct a public hearing in accordance with adopted procedures and may reverse or affirm, in whole or in

1 part, or may modify the *final action* appealed in accordance with the provisions
2 of this section and shall have the powers of the *land use director* at the time
3 the *final action* was taken. The hearing shall be de novo.

4 (b) Pursuant to Subsection 10-15-1(H)(3) NMSA 1978 (Open
5 Meetings Act), the *land use board* or *governing body* may deliberate in
6 executive session, provided the hearing and *final action* occur in open meeting.

7 (c) The *land use board* shall issue a written decision, including an
8 explanatory statement of the factual and legal basis for the decision.

9 (4) Burden of Proof

10 Unless otherwise provided by law, the appellant has the burden of proof under
11 Subsection 14-3.17(A)(2).

12 (I) **Due Process**

13 Interpretation of this section shall be made in favor of a party's opportunity to be
14 heard at a meaningful time and in a meaningful manner. Procedures shall adhere to
15 procedural due process.

16 **Section 9. Subsection 14-3.19(A) of the Land Development Code (being Ord.**
17 **#2011-37 § 3, as amended) is hereby amended to read:**

18 **14-3.19 EXPIRATION, EXTENSION, AND AMENDMENT OF**
19 **DEVELOPMENT APPROVALS.**

20 (A) **Applicability**

21 (1) General Provisions

22 The general provisions of this section shall apply to *final actions* to
23 approve *development* pursuant to Chapter 14, including:

24 (a) special use *permits*;

25 (b) *development plans*, including preliminary and

1 final *development* plans;

2 (c) master plans;

3 (d) variances;

4 (e) subdivisions, including preliminary and final *plats*, inheritance
5 and *family* transfer subdivisions, summary [~~committee~~] *plats* and
6 *resubdivisions*; and

7 (f) *development* within historic districts or affecting *landmark*
8 *properties*.

9 (2) Specific Provisions Pursuant to Conditions of Approval

10 A *final action* may incorporate conditions of approval that establish shorter time
11 limits than those specified in Chapter 14. *Final action* to approve a
12 phased *development* project may incorporate a phasing plan with longer time limits than
13 those specified in Chapter 14.

14 (3) Final Actions

15 (a) Determination of *final actions* shall be as provided in
16 Sections 14-3.17(A)(1) and 14-3.17(C)(4).

17 (b) For the purpose of computing expirations and time extensions,
18 the date of *final action* for a *development* approval that is appealed one or more
19 times pursuant to the provisions of Chapter 14 is the date of *final action* by
20 the *land use board* or *governing body* on the last appeal. The date of *final*
21 *action* for a *development* approval that is appealed pursuant to the provisions of
22 Section 3-21-9 NMSA 1978 Zoning - Appeal is the date a written decision is
23 filed pursuant to Section 39-3-1.1 NMSA 1978.

24 **Section 10. Subsection 14-3.19(B) of the Land Development Code (being Ord.**
25 **#2011-37 § 3, as amended) is hereby amended to read:**

1 (1) Master Plans

2 Approval of a master plan shall expire five years after all applicable appeal
3 periods, and any appeals of the *final action* approving it unless:

4 (a) approval is granted for a *development* plan or
5 subdivision *plat* within the master plan boundaries; or

6 (b) actual *development* of the site or off-site improvements is
7 begun and is continued pursuant to Subsection 14-3.19(B)(6)

8 (2) Preliminary Subdivision Plats or Preliminary Development Plans

9 Approval of a preliminary subdivision *plat* or preliminary *development* plan
10 shall expire three years after *final action* approving it unless the
11 final *plat* or *development* plan is approved.

12 (3) Final Subdivision Plats

13 Approval of a final *plat* for a subdivision, including a summary *plat* approved by
14 the [~~summary committee~~] land use director and *resubdivisions*, shall expire three years
15 after *final action* approving it unless the *plat* is filed for record with the *county* clerk. If
16 the final plat approval expires, then the approval of the corresponding preliminary plat
17 expires simultaneously.

18 (4) Final Development Plans

19 Approval of a final *development* plan, or any *development* plan for which no
20 preliminary *development* plan was required, shall expire three years after *final*
21 *action* approving it unless actual *development* of the site or off-site improvements has
22 begun and is continued pursuant to Subsection 14-3.19(B)(6). If the final development
23 plan approval expires, approval of any corresponding preliminary development plan
24 expires simultaneously.

25 (5) Other Development Approvals

1 Approval of special use *permits*, approval of *development* by the historic districts
2 review board, approval of variances that are not associated with other types
3 of *development* approval or types of *development* approvals not listed in this section,
4 shall expire three years after *final action* approving them unless actual *development* of
5 the site or off-site improvements has begun and is continued pursuant to Subsection 14-
6 3.19(B)(6) or unless a different expiration date is specified elsewhere in Chapter 14.
7 Variances associated with subdivisions, *development* plans or similar types
8 of *development* approval shall be subject to the expiration provisions of the
9 associated *development*.

10 (6) Continuing Development Activity Required
11 Approvals for the uncompleted portions of *development* other than recorded
12 subdivisions expire if, at any time prior to completion of all phases of the
13 approved *development*, no substantive *development* progress occurs:

14 (a) for an approved master plan, during any interval of five years;

15 or

16 (b) for a *development* plan or other *development* approval as
17 specified in Subsection 14-3.19(B)(5), during any interval of three years.

18 (c) Substantive *development* progress means
19 actual *development* of the site or related off-site infrastructure, filing for record
20 of a *development* plan or subdivision plat for a phase of the
21 approved *development*, or obtaining subsequent *development* approvals from
22 a *land use board*, such as a final *development* plan approval subsequent to a
23 preliminary *development* plan approval.

24 (7) Effect of Expiration on Partial Development

25 *Development* and use of land that occurs prior to expiration of

1 a *development* approval shall continue to be subject to applicable provisions of that
2 approval until and unless it is amended.

3 **Section 11. Subsection 14-8.1(D) of the Land Development Code (being Ord.
4 #2011-37 § 10, as amended) is hereby amended to read:**

5 **14-8.2 TERRAIN AND STORMWATER MANAGEMENT.**

6 (D) **Standards for All Grading**

7 When a construction *permit* for *grading* is required by this Section 14-
8 8.2, *applications* for the *permit* shall show compliance with the following minimum standards:

9 (1) **Cut and Fill Slopes**

10 (a) exposed cut *slopes* on a site shall not exceed ten (10) feet in
11 height, except as otherwise permitted by this Section 14-8.2. In no case shall
12 the height of a cut exceed the height of any *building* constructed in
13 the *excavated* area;

14 (b) *fill slopes* on a site shall not exceed fifteen (15) feet in height.
15 Retaining *walls* for *fill slopes* shall be no greater than six (6) feet in height as
16 provided in Section 14-8.5(B)(1), except as otherwise provided in Section 14-
17 5.6(G) (Escarpment Overlay District Landscaping). *Fill slopes* shall be no
18 steeper than 3:1, unless a structural alternative such as a retaining *wall* or some
19 other measure acceptable to the *city engineer* is provided;

20 (c) *cut or fill slopes* for roads shall not exceed fifteen (15) feet in
21 height; and

22 (d) all *cut slopes* that are not stabilized by a retaining *wall* or some
23 other measure acceptable to the *city engineer*, shall be no steeper than 2:1,
24 unless a structural alternative is provided or unless it can be demonstrated by a
25 geotechnical study that existing soils will naturally accommodate a

1 steeper *slope* and acceptable revegetation or other *erosion* control can be
2 achieved.

3 (2) Grading

4 (a) *Grading* for *buildings* is limited to fifteen (15) feet beyond the
5 outer edge of the *building* foundation, patio, *wall*, driveway, road, parking area
6 or other constructed facility except as necessary:

7 (i) for the construction of stormwater runoff management
8 measures in compliance with this Section 14-8.2; or

9 (ii) to accommodate required horizontal to vertical
10 measurements for *cut* and *fill slopes*.

11 (b) Natural *slopes* thirty percent or greater shall remain
12 undisturbed, except for arroyo crossings and for no more than three isolated
13 occurrences of *sloped* areas where each individual disturbance shall not exceed
14 one thousand (1,000) square feet, as approved by the *city engineer*. The *city*
15 *engineer* may waive this provision, in writing, stating the reasons and basis for
16 such approval, if evidence is provided by the *applicant* showing that strict
17 enforcement of this provision would prohibit access to the *lot* or placement of
18 utilities. This provision applies solely to the construction of roads, driveways
19 and utility placement and is not intended to allow *development* on
20 natural *slopes* exceeding thirty percent. The other provisions of the escarpment
21 overlay district ordinance and the terrain and stormwater management
22 regulations shall remain in effect.

23 (c) Phasing for *grading* and clearing may be required by the *city*
24 *engineer* on all sites where construction will not begin immediately after
25 clearing and *grading*;

1 (d) A construction *permit* for *grading* for driveway construction
2 shall not be issued unless the *city engineer* has first determined that the
3 driveway provides access to a buildable area as defined in Subsection 14-
4 8.2(D)(3) and that the *permit* complies with the requirements of Section 14-
5 5.6 (Escarpment Overlay District); and

6 (e) All *grading* completed on the site shall conform to the
7 approved *grading* plan.

8 (3) Topography

9 (a) Each *residential lot* shall have a *buildable site* designated as
10 suitable for a *building* with a *footprint* of not less than forty percent of the
11 minimum required net *lot* area or two thousand (2,000) square feet, whichever
12 is less, which can be developed in accordance with the terrain and stormwater
13 management standards and with other applicable *development* standards,
14 including required *setbacks* and access requirements. The planning commission
15 [~~or summary committee~~], or the *land use director* for summary plats or
16 *resubdivisions*, may approve residential lots with a smaller *buildable site* to
17 accommodate lot size averaging or within multi-family developments.

18 (b) At least one-half of the area designated as suitable for building
19 and at least one-half of any *building* footprint shall have a natural *slope* of less
20 than twenty percent; the remainder of the area or *building* footprint may have a
21 natural *slope* of twenty percent or greater, but less than thirty percent.

22 (c) The first floor finished floor elevation at any point of any
23 portion of a *building* built on a natural *slope* of twenty percent or greater shall
24 not exceed five (5) vertical feet above the natural *slope* at that point.

25 (d) A *structure* shall not be built on a natural *slope* of thirty

1 percent or greater.

2 **Section 12. Subsection 14-9.2(B)(3) of the Land Development Code (being Ord.**
3 **#2011-37 § 12, as amended) is hereby amended to read:**

4 **14-9.2 STREET IMPROVEMENT AND DESIGN STANDARDS.**

5 **(B) Street Types-Design Criteria**

6 (1) New public and private *streets* shall be constructed according to
7 projected *average daily traffic* as shown in the *street* types-design criteria chart and
8 Illustration 14-9.2-1, Street Types Design Criteria. The design criteria are intended to
9 recognize that *streets*:

10 (a) function as a critical urban design component of the
11 neighborhoods they serve;

12 (b) together with sidewalks and trails, must safely meet the
13 transportation needs of all users, including pedestrians of all ability levels,
14 bicyclists, motorists and transit users;

15 (c) provide needed parking in many neighborhoods;

16 (d) serve as corridors for utilities and storm drainage.

17 (2) The collector mixed use *street* type is to be constructed in conjunction
18 with the *development* of neighborhood centers and is designed to function like many of
19 the *streets* near the plaza.

20 (3) To better achieve the intent of this Section 14-9.2, [~~a land use board,~~
21 ~~or,~~ the planning commission, or in the case of summary plats and resubdivisions the
22 land use director, or in the case of city street projects, the governing body, may consider
23 and approve innovative *street* designs that are not included among the *street* types
24 and *street* sections shown or described in this Section 14-9.2 that provide adequate
25 pedestrian and bicycle facilities, as well as necessary transit facilities.

1 (4) New *development* on an existing public *street* that does not meet the
2 width or other applicable standards in Table 14-9.2-1 and that cannot be improved to
3 meet those standards may exceed the *average daily traffic* or *dwelling unit* access
4 standards in Table 14-9.2-1 without a variance.

5 **Section 13. Section 14-9.2(C) of the Land Development Code (being Ord.
6 #2011-37 § 12) is hereby amended to read:**

7 **14-9.2 STREET IMPROVEMENT AND DESIGN STANDARDS.**

8 **(C) Street Design Engineering Standards**

9 (1) Public and private *streets* and *lot* access driveways shall be designed
10 and constructed in accordance with the provisions of this chapter; Chapter 12 SFCC
11 (Fire Prevention and Protection) and any engineering standards adopted pursuant to this
12 chapter.

13 (2) Where no specific standard has been adopted, *streets* shall be designed
14 in accordance with applicable standards adopted by national engineering organizations
15 such as the American Association of State Highway and Transportation Officials and
16 the Institute of Transportation Engineers.

17 (3) Where no specific standard has been adopted, construction must
18 comply with the current edition of the "New Mexico Department of Transportation
19 Standard Specifications for Road and Bridge Construction."

20 (4) A private *street* built and subsequently proposed to be dedicated to
21 the *city* must meet all applicable public *street* standards set forth in this Section 14-9.2.

22 (5) The *city* shall not maintain private *streets*.

23 (6) Following are specific construction and engineering standards:

24 (a) each *street* shall terminate in a cul-de-sac or other approved
25 turnaround, except where the planning commission or land use director [Ø]

1 ~~summary committee~~] requires a *street* to be stubbed out at a *property* boundary
2 in anticipation of future extension;

3 (b) *property* lines at *street* intersections shall be rounded with a
4 radius of ten feet, or a greater radius when necessary to allow the construction
5 of a curb having a desirable radius. Sidewalks may not be curtailed
6 at *street* corners to less than normal width. The planning commission may allow
7 comparable cutoffs or chords in place of rounded corners;

8 (c) new *streets* shall be dedicated and improved to the full width
9 for which they are planned, except where a *land use board* or the *governing*
10 *body* determines that an interim width or level of improvements provides safe
11 and adequate service as part of an enforceable plan for the phased completion
12 of the improvements;

13 (d) when a *tract* to be developed borders an existing *street* having
14 a *right-of-way* width insufficient to conform to the minimum width standards
15 required by these regulations, the necessary additional *right-of-way* shall
16 be *platted* and dedicated in such a way to make the resulting *street* conform;

17 (e) *street* names shall not duplicate or be so similar as to be
18 confusing with existing *street* names. Where a proposed *street* is to be a
19 continuation of an existing named *street*, the proposed *street* shall have the
20 name of the existing *street*. *Street* names must be approved by the planning
21 commission;

22 (f) curbs at intersections shall be designed with a minimum radius
23 of twenty-five (25) feet. The planning commission may approve a smaller
24 radius;

25 (g) in areas zoned for *residential development* , *planting strips* are

1 required between the edge of pavement and the edge of the required
2 sidewalks. *Planting strips* must have a width of not less than five (5) feet;

3 (h) the planning commission may approve *street* access to
4 adjoining *property*, requiring proposed *streets* to be extended by dedication to
5 the boundary of that *property*. Such *streets* shall be improved in the same
6 manner as prescribed for other *streets* in the *development*; and

7 (i) *street* grades shall not exceed the following, with allowances
8 for vertical curves:

9 (i) major and secondary arterial *streets* or highways, six
10 percent;

11 (ii) collector and subcollector *streets*, ten percent;

12 (iii) lanes, fifteen percent except when a lesser grade is
13 required by the fire marshal pursuant to fire apparatus access road
14 standards; and

15 (iv) no *street* grade shall be less than one half of one
16 percent.

17 (7) All new *streets* must be paved; provided, however, that the planning
18 commission may approve gravel surfaces for roadways classified as private lanes or
19 shared private driveways if it finds, based on substantial evidence, that:

20 (a) vegetation or topographical maps or other evidence shows that
21 dust from the roadways will not be a problem for residents living next to the
22 roadway;

23 (b) the gravel lane is an important consideration in the
24 area's *streetscape* or in the overall project design; and

25 (c) the gravel lane will not cause *erosion* or sediment problems or

1 those problems will be eliminated by the use of accepted engineering methods.

2 (8) Specific construction and engineering standards, *lot* access driveways
3 and *streets* classified as lanes and certain subcollectors:

4 (a) *streets* classified as "lanes" shall be laid out so that use by
5 through traffic is minimized;

6 (b) *lot* access driveways shall be private. *Streets* classified as
7 "lanes" or "subcollectors" may be constructed as private *streets*;

8 (c) *lot* access driveways and private *streets* classified as "lanes" or
9 "subcollectors" may be approved for access to newly created *lots* where the
10 planning commission [~~or summary committee~~] determines that no
11 public *street* is needed to provide access to the *property* being *subdivided* or to
12 surrounding *properties* , based on existing and planned future uses of
13 the *properties* .

14 (d) a roadway classified as a lane must meet the following
15 standards:

16 (i) paved lanes; and

17 (ii) unpaved lanes that are approved for construction with
18 gravel surfacing as provided in Subsection (B)(7) above

19 A. twenty-two (22) feet driving surface width;

20 B. eight (8) feet shoulder and drainage on each
21 side;

22 C. six (6) inch crushed gravel base course
23 surfacing material; and

24 D. thirty-eight (38) feet total *right of way* or
25 access easement.

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(e) A *lot* access driveway that is required to provide emergency vehicle access pursuant to Chapter XII SFCC (Fire Prevention and Protection) must meet the standards of that chapter. Otherwise, a *lot* access driveway must have an all-weather driving surface at least ten (10) feet in width, must be no steeper than fifteen percent grade, or as required by the fire marshal and must accommodate drainage and utility facilities and easements.

Section 14. Section 14-12 of the Land Development Code (being Ord. #2011-37 § 15, as amended) is hereby amended to read:

LAND USE BOARD

A *city* board, commission, committee or authority that has jurisdiction over any matter arising under Chapter 14 or otherwise within the jurisdiction of the *land use director*, including the board of adjustment, the planning commission [~~and summary committee~~], the historic districts review board and the archaeological review committee.

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY