



PROCEDURE	SECTION	GB	PC	BOA	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/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 R/D (some)
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/REP
Utility Conformity Review	14-3.18	A	R/D (some) A (some)	-	-	-	-	R/REP (some) R/D (some)
<p>Notes:            GB = Governing Body            PC = Planning commission            BOA = Board of Adjustment            HDRB = Historic Districts Review Board            AC = Archaeological Committee            LUD = Land Use Department Staff</p>								

"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  
18 the *land use director* from approving minor amendments or modifications as authorized  
19 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 the provisions of  
4 Chapter 14 to a request for a *development plan* or subdivision, including a  
5 subdivision that would create one (1) additional *lot* pursuant to subsection 14-  
6 3.7(D).;

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

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

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

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

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

1 3.10(E).

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

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

11 (6) Long-Range Policy Recommendations.

12 The planning commission may:

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

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

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

25 (ii) neighborhood and community planning and other

1 community issues as they relate to long-term planning.

2 (7) Other Recommendations to Governing Body.

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

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

7 (b) annexations;

8 (c) rezonings; and

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

18 (8) Other Powers and Duties.

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

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

1 (c) As authorized by *state* law and Chapter 14, the planning  
2 commission may make decisions affecting the physical *development* of the *city*,  
3 including physical *development* authorized by a public agency or official not  
4 under the jurisdiction of the *governing body*. These decisions shall be consistent  
5 with the *general plan* and other adopted *city* policies.

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

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

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

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

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

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



1           **Section 4.     Subsection 14-2.11(C) of the Land Development Code (being Ord.**  
2 **#2011-37 § 3) is hereby amended to read:**

3           **14-2.11 Land Use Director**

4           **(C)     Approval Authority**

5                 (1)     Alternate Means of Compliance

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

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

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

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

14                 (2)     Minor Modifications to Development Approvals

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

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

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

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

1 (d) the minor modification complies with all standards and  
2 requirements of Chapter 14, except as otherwise allowed by this section.

3 (3) Administrative Deviations

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

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

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

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

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

19 **Section 5. Subsection 14-3.1(H) of the Land Development Code (being Ord.**  
20 **#2011-37 § 3, as amended) is hereby amended to read:**

21 **14-3.1 GENERAL PROVISIONS**

22 **(H) Notice Requirements**

23 The notices required by this section shall indicate the nature of the change proposed;  
24 the *property* affected; the time, date, and place of the hearing or meeting; and the deadline for  
25 receiving written comments regarding the request, if applicable. The notice shall be approved

1 by the *land use director*. Neighborhood associations that wish to receive notifications of  
2 hearings and meetings and copies of agendas, including email notifications, must register with  
3 the *land use director*.

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

5 (a) General Notice Requirements

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

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

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

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

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

21 (b) Agenda Requirements

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

1 Hall and send a copy to neighborhood associations that are registered with  
2 the *land use director*, at least fifteen days prior to the scheduled meeting.

3 (c) Posting Requirements

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

12 (ii) The posters shall be removed within thirty days  
13 after *final action*, and failure to do so may result in the *city* removing  
14 the poster and charging the *applicant* a civil fee of fifty dollars  
15 (\$50.00).

16 (d) Mailing and Emailing Requirements

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

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

25 (ii) notices shall also be mailed by first class mail to

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

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

10 (iv) in the case of an *application* for a *telecommunications*  
11 *facility*, all *property owners* within the corresponding *setback* distances  
12 listed in Section 14-6.2(E) shall also 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 At least thirty (30) calendar days before the *land use director* acts on an application  
17 for a subdivision that would create one additional *lot* pursuant to subsection 14-3.7(D), the  
18 applicant shall:

19 (a) post the *property* with a public notice poster obtained from *city*  
20 staff. Such poster shall be prominently displayed, visible from a public *street*, and  
21 securely placed on the *property*; and shall indicate the nature of the request,  
22 identity of the applicant, *property* affected, earliest date that a decision will be  
23 made, and phone number for the *city* staff contact; and

24 (b) mail notice to all owners of properties, as shown in the records of  
25 the county treasurer, and to the physical addresses of such properties where the



1 property's address is different than the address of the owner, and to all  
2 neighborhood associations that are within three-hundred (300) feet of the *property*.  
3 The notice shall state that the public may review the application in the land use  
4 department and may submit written comments to the *land use* director or request  
5 that the application be referred to the planning commission for review and  
6 decision. A final decision of the *land use director* may be appealed to the planning  
7 commission within thirty (30) days of the decision pursuant to section 14-3.17.

8 **Section 6. Subsection 14-3.7(A) of the Land Development Code (being Ord.**  
9 **#2011-37 § 3) is hereby amended to read:**

10 (A) **General Provisions**

11 (1) **Jurisdiction and Applicability**

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

14 (b) No *person* shall *subdivide* land, nor shall construction of any  
15 kind commence on *subdivided* land, nor shall transfer of ownership be made  
16 of *subdivided* land prior to the approval of a subdivision of the land by the  
17 planning commission and prior to the recording of the subdivision in the office  
18 of the *county* clerk. Until the planning commission has approved a subdivision,  
19 the *owner* of the land within the subdivision or his agent shall not transfer or  
20 sell or agree to transfer or sell or negotiate to transfer or sell the land or any part  
21 of it by reference to, the exhibition of or any other use of, a *plat* or subdivision  
22 of the land. The description by metes and bounds in an instrument of transfer  
23 or other document used in the process of selling or transfer shall constitute  
24 prima facie evidence of a violation of this section.

25 (2) **Conflicts With Other Code Provisions**

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

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

11 (3) Acceptance of Improvements

12 The dedication of any or all of the lands for public use of any nature within the *city* shall  
13 be specifically accepted by the planning commission or *governing body*, and such  
14 acceptance may be conditioned on a finding by the *land use director* of compliance with  
15 all conditions of approval of the subdivision *plat*. Approval of a subdivision by the  
16 planning commission does not constitute acceptance by the *city* of the *streets*, alleys or  
17 other public ways or easements and parks or other public lands dedicated on the  
18 subdivision *plat* by the *owners*.

19 (4) Serial Subdivisions

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

25 (b) The *land use director* may waive the provisions of subsection

1 14-3.7(A)(4)(a) for summary subdivisions within a master planned area that  
2 create *legal lots of record* that will be further *subdivided* or *developed* pursuant  
3 to a development plan.

4 (5) Common Promotional Plans

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

9 (6) Subdivisions by Court Order

10 (a) Court proceedings must not be used to circumvent the  
11 provisions of Chapter 14 relating to the subdivision or resubdivision  
12 of *property* or to create or increase a nonconformity.

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

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

18 (7) Certificate of Compliance

19 (a) Approval by the Land Use Director.

20 When the *land use director* determines that a single *lot* not shown on an  
21 approved subdivision *plat* is a *legal lot of record*, the *land use director* may  
22 approve and cause to be recorded a certificate of compliance. The certificate of  
23 compliance describes the *lot*, the circumstances of its creation and the  
24 documentation and applicable regulations upon which the determination of  
25 compliance is based.

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(b) Approval by the Planning commission.

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

(c) Procedures for Approval

Approval of a certificate of compliance by the planning commission shall follow the procedures required for a final subdivision *plat*, including those for any variances requested.

(d) No Creation of Nonconformity

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

(e) Inclusion on Recorded Plats

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

(8) Notice of Violation

(a) Whenever the *land use director* determines that real *property* has been divided in violation of this section, the *land use director* shall record a notice of violation describing the affected *property* and the nature of the violation and listing any recorded documents upon which the

1 determination of the violation is based. If the *owner* of record of the  
2 affected *property* can be determined, the name of the *owner* shall be included  
3 on the notice of violation, and a copy shall be mailed to the *owner* at the address  
4 on file with the *county* treasurer by certified mail with return receipt requested.

5 (b) When the violation has been corrected by means of a certificate  
6 of compliance or approved subdivision *plat*, the notice of violation and  
7 correction shall be referenced on the certificate or *plat*. When the violation is  
8 corrected by other legal means, the *land use director* shall record a notice of  
9 correction referencing the notice of violation and describing the means by  
10 which the violation has been corrected.

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

14 **Section 7. Subsection 14-3.7(D) of the Land Development Code (being Ord.**  
15 **#2011-37 § 3) is hereby amended to read:**

16 (D) **Summary Procedure**

17 The *land use director* has the authority to review and approve *resubdivisions* that result  
18 in the same or a few number of lots and subdivisions that result in the creation of one  
19 additional *lot*. The *land use director* shall not act on an application for a summary subdivision  
20 before the expiration of the thirty (30)-day notice period set forth in subsection 14-3.1(H)(5). The  
21 *land use director* may refer an application for a summary subdivision to the planning commission  
22 for review and decision, either in response to public input received or on the *land use director's*  
23 own initiative. Summary subdivisions are subject to the procedural requirements, approval  
24 criteria and *development* standards that apply to other subdivisions, except that:

25 (1) no preliminary *plat* or hearing is required;

1 (2) the *land use director* may defer the construction of public and semi-  
2 public improvements required by Chapter 14 until such time as the *lots* are developed  
3 and may waive the requirements of this chapter for the posting of financial guarantees  
4 for the improvements prior to recording an approved *plat*. Deferral or waiver shall be  
5 made only upon finding that the improvements or guarantee is not needed to protect the  
6 interests of prospective purchasers of the *lots* created; to provide for the  
7 orderly *development* of other *properties* in the vicinity; or to protect the public health,  
8 safety and welfare.

9 **Section 8. Section 14-3.17 of the Land Development Code (being Ord. #2011-37**  
10 **§ 3, as amended) is hereby amended to read:**

11 **14-3.17 - APPEALS**

12 **(A) Appealable Actions**

13 (1) Final Action

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

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

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

22 (d) *Final action* does not include:

23 (i) a recommendation;

24 (ii) a delay in rendering a decision;

25 (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
- (c) to appeal a decision lacking substantial evidence to support it.

(B) **Standing Required to Appeal**

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

- (1) the applicant when the *application* is denied or, if approved, the approval included conditions not accepted by the applicant;
- (2) all *persons* or neighborhood associations that were required to be mailed notice for the *application* giving rise to the *final action* being appealed;
- (3) *persons* or organizations duly organized at the time the decision appealed from was rendered alleging injury to their economic, environmental or aesthetic interests;
- (4) *City* staff members acting in their official capacity; and
- (5) any *person* who has a recognized legal interest under New Mexico law.

1 (C) **Time for Appeal**

2 (1) Time for Appeal

3 Appellants shall file an appeal as follows:

4 (a) within thirty (30) days for appeals of *final actions* by *land use*  
5 *boards* on subdivision *plats*, master plans and *development* plans; or

6 (b) within thirty (30) days for appeals of approval or denial by the  
7 *land use director* of an *application* for a final *plat* for *resubdivision* or summary  
8 subdivision; or

9 (c) within fifteen (15) days of the date of *final action* for all other  
10 appeals.

11 (2) Amended Appeals

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

13 (3) Response

14 Any party may file a response to the appeal as set forth in Subsection 14-  
15 3.17(H)(2).

16 (4) Date of Final Action

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

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

24 (b) For *final actions* of a *land use board* or the *governing body*, the  
25 date that body adopts a written decision containing findings of fact and



1 conclusions of law; provided that if such body has not adopted findings of fact  
2 and conclusions of law within thirty-five (35) days of the date the vote deciding  
3 the matter was taken, then the date of *final action* shall be deemed to be such  
4 thirty-fifth (35th) day.

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

6 (1) Filing Appeal; Form; Verification

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

10 (2) Receipt; Service of Appeal

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

15 (3) Appeal Fee

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

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

22 (4) Multiple Appeals and Multiple Jurisdictions

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

25 (b) Every appeal requires an independent basis. *Final actions* may

1 not be appealed solely on the basis of alleged mistakes in prior stages of the  
2 same project, whether or not the prior *final actions* were appealed.

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

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

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

14 (5) Withdrawal

15 An appellant may withdraw the appeal at any time. A withdrawal does not affect  
16 any related appeal. At any time after an appeal has been filed, an appellant and appellee  
17 may agree to settle any matters raised in the appeal and the appellant may withdraw the  
18 appeal; provided that such settlement complies with applicable code requirements,  
19 including any conditions of approval of the *final action* being appealed.

20 (6) Conformity of Appeal

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

25 (a) If the *city attorney* concurs with the *land use director's*

1 determination, the *city* attorney's written recommendation shall be forwarded to  
2 the *governing body* for discussion. The *governing body* may accept  
3 the *city* attorney's written recommendation and the decision is final and may be  
4 appealed to district court. If the *governing body* does not accept the *city*  
5 attorney's recommendation, the appeal shall be heard as set forth in Chapter 14.

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

8 (7) District Court Appeals

9 An appeal of a *final action* of the *governing body* or a *land use board*, or of an  
10 action of the *city manager*, the *city* attorney or the *land use director* that is only subject  
11 to appeal to district court, shall be to the first judicial district court pursuant to Section  
12 39-3.1.1 NMSA 1978, Rule 1-074, NMRA or Rule 1-075, NMRA, as amended, or other  
13 relevant statute or court rule.

14 (E) Stay of Action and Suspension of Permits

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

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

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

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

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

25 (3) Reserved.

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

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

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

14 (7) The filing of an appeal of an action of the *land use director* revoking or  
15 suspending a *permit* in any matter involving a *sexually oriented business* shall stop or  
16 suspend the action before the appeal is heard, except upon determination by the Santa  
17 Fe police department that there is a reasonable expectation that stopping or suspending  
18 the *land use director*'s action would constitute a grave imminent danger to the public  
19 welfare, including life or property, in which case the *city* may exercise its authority to  
20 restrain, prohibit or otherwise abate the source of such danger.

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

22 The public hearing on the appeal shall be scheduled as soon as reasonably  
23 practicable.

24 (1) An appeal to a *land use board* or the *governing body* shall be heard at  
25 the next available regularly scheduled meeting after the appeal is filed that provides

1 adequate time for notice to be provided pursuant to Section 14- 3.1(H)(4) (Appeal  
2 Hearing Notice Requirements) and for the parties to make submittals in support of their  
3 positions for inclusion in the public hearing record. A hearing before the *governing*  
4 *body* shall not be conducted until five days after the *land use board* has approved the  
5 minutes adopting the findings of fact and conclusions of law for the matter being  
6 appealed.

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

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

10 Communication regarding an appeal is limited as follows:

11 (1) Parties

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

17 (2) Other Persons

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

21 (3) Site Inspection

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

25 (4) Effect of Improper Communication

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

5       **(H) Appeal Hearing Procedure**

6           (1) Administrative Procedures

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

10          (2) Submittals by Parties

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

14          (3) Land Use Board Review

15           (a) The *land use board* shall conduct a public hearing in  
16 accordance with adopted procedures and may reverse or affirm, in whole or in  
17 part, or may modify the *final action* appealed in accordance with the provisions  
18 of this section and shall have the powers of the *land use director* at the time  
19 the *final action* was taken. The hearing shall be *de novo*.

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

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

25          (4) Burden of Proof

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

3 (I) **Due Process**

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

7 **Section 9. Subsection 14-3.19(A) of the Land Development Code (being Ord.**  
8 **#2011-37 § 3, as amended) is hereby amended to read:**

9 **14-3.19 EXPIRATION, EXTENSION, AND AMENDMENT OF**  
10 **DEVELOPMENT APPROVALS.**

11 (A) **Applicability**

12 (1) **General Provisions**

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

15 (a) special use *permits*;

16 (b) *development plans*, including preliminary and  
17 final *development plans*;

18 (c) master plans;

19 (d) variances;

20 (e) subdivisions, including preliminary and final *plats*, inheritance  
21 and *family transfer subdivisions*, summary *plats* and *resubdivisions*; and

22 (f) *development* within historic districts or affecting *landmark*  
23 *properties*.

24 (2) **Specific Provisions Pursuant to Conditions of Approval**

25 A *final action* may incorporate conditions of approval that establish shorter time

1 limits than those specified in Chapter 14. *Final action* to approve a  
2 phased *development* project may incorporate a phasing plan with longer time limits than  
3 those specified in Chapter 14.

4 (3) Final Actions

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

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

14 **Section 10. Subsection 14-3.19(B) of the Land Development Code (being Ord.**  
15 **#2011-37 § 3, as amended) is hereby amended to read:**

16 (1) Master Plans

17 Approval of a master plan shall expire five (5) years after all applicable appeal  
18 periods, and any appeals of the *final action* approving it unless:

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

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

23 (2) Preliminary Subdivision Plats or Preliminary Development Plans

24 Approval of a preliminary subdivision *plat* or preliminary *development* plan  
25 shall expire three (3) years after *final action* approving it unless the



1 final *plat* or *development* plan is approved.

2 (3) Final Subdivision Plats

3 Approval of a final *plat* for a subdivision, including a summary *plat* approved by  
4 the *land use director* and *resubdivisions*, shall expire three (3) years after *final*  
5 *action* approving it unless the *plat* is filed for record with the *county* clerk. If the final  
6 plat approval expires, then the approval of the corresponding preliminary plat expires  
7 simultaneously.

8 (4) Final Development Plans

9 Approval of a final *development* plan, or any *development* plan for which no  
10 preliminary *development* plan was required, shall expire three (3) years after *final*  
11 *action* approving it unless actual *development* of the site or off-site improvements has  
12 begun and is continued pursuant to Subsection 14-3.19(B)(6). If the final development  
13 plan approval expires, approval of any corresponding preliminary development plan  
14 expires simultaneously.

15 (5) Other Development Approvals

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

25 (6) Continuing Development Activity Required

1 Approvals for the uncompleted portions of *development* other than recorded  
2 subdivisions expire if, at any time prior to completion of all phases of the  
3 approved *development*, no substantive *development* progress occurs:

4 (a) for an approved master plan, during any interval of five (5)  
5 years; or

6 (b) for a *development* plan or other *development* approval as  
7 specified in Subsection 14-3.19(B)(5), during any interval of three (3) years.

8 (c) Substantive *development* progress means actual *development*  
9 of the site or related off-site infrastructure, filing for record of  
10 a *development* plan or subdivision plat for a phase of the  
11 approved *development*, or obtaining subsequent *development* approvals from  
12 a *land use board*, such as a final *development* plan approval subsequent to a  
13 preliminary *development* plan approval.

14 (7) Effect of Expiration on Partial Development

15 *Development* and use of land that occurs prior to expiration of  
16 a *development* approval shall continue to be subject to applicable provisions of that  
17 approval until and unless it is amended.

18 **Section 11. Subsection 14-8.1(D) of the Land Development Code (being Ord.**  
19 **#2011-37 § 10, as amended) is hereby amended to read:**

20 **14-8.2 TERRAIN AND STORMWATER MANAGEMENT.**

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

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

24 (1) Cut and Fill Slopes

25 (a) exposed cut *slopes* on a site shall not exceed ten (10) feet in

1 height, except as otherwise permitted by this Section 14-8.2. In no case shall  
2 the height of a cut exceed the height of any *building* constructed in  
3 the *excavated* area;

4 (b) *fill slopes* on a site shall not exceed fifteen (15) feet in height.  
5 Retaining *walls* for *fill slopes* shall be no greater than six (6) feet in height as  
6 provided in Section 14-8.5(B)(1), except as otherwise provided in Section 14-  
7 5.6(G) (Escarpment Overlay District Landscaping). *Fill slopes* shall be no  
8 steeper than 3:1, unless a structural alternative such as a retaining *wall* or some  
9 other measure acceptable to the *city engineer* is provided;

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

12 (d) all *cut slopes* that are not stabilized by a retaining *wall* or some  
13 other measure acceptable to the *city engineer*, shall be no steeper than 2:1,  
14 unless a structural alternative is provided or unless it can be demonstrated by a  
15 geotechnical study that existing soils will naturally accommodate a  
16 steeper *slope* and acceptable revegetation or other *erosion* control can be  
17 achieved.

18 (2) Grading

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

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

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

1 (b) Natural *slopes* thirty percent (30%) or greater shall remain  
2 undisturbed, except for arroyo crossings and for no more than three isolated  
3 occurrences of *sloped* areas where each individual disturbance shall not exceed  
4 one thousand (1,000) square feet, as approved by the *city engineer*. The *city*  
5 *engineer* may waive this provision, in writing, stating the reasons and basis for  
6 such approval, if evidence is provided by the *applicant* showing that strict  
7 enforcement of this provision would prohibit access to the *lot* or placement of  
8 utilities. This provision applies solely to the construction of roads, driveways  
9 and utility placement and is not intended to allow *development* on  
10 natural *slopes* exceeding thirty percent (30%). The other provisions of the  
11 escarpment overlay district ordinance and the terrain and stormwater  
12 management regulations shall remain in effect.

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

16 (d) A construction *permit* for *grading* for driveway construction  
17 shall not be issued unless the *city engineer* has first determined that the  
18 driveway provides access to a buildable area as defined in Subsection 14-  
19 8.2(D)(3) and that the *permit* complies with the requirements of Section 14-  
20 5.6 (Escarpment Overlay District); and

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

23 (3) Topography

24 (a) Each *residential lot* shall have a *buildable site* designated as  
25 suitable for a *building* with a *footprint* of not less than forty percent (40%) of

1 the minimum required net *lot* area or two thousand (2,000) square feet,  
2 whichever is less, which can be developed in accordance with the terrain and  
3 stormwater management standards and with other  
4 applicable *development* standards, including required *setbacks* and access  
5 requirements. The planning commission, or the *land use director* for summary  
6 plats or resubdivisions, may approve residential lots with a smaller *buildable*  
7 *site* to accommodate lot size averaging or within multi-family developments.

8 (b) At least one-half (1/2) of the area designated as suitable for  
9 building and at least one-half (1/2) of any *building* footprint shall have a  
10 natural *slope* of less than twenty percent (20%); the remainder of the area  
11 or *building* footprint may have a natural *slope* of twenty percent (20%) or  
12 greater, but less than thirty percent (30%).

13 (c) The first floor finished floor elevation at any point of any  
14 portion of a *building* built on a natural *slope* of twenty percent (20%) or greater  
15 shall not exceed five (5) vertical feet above the natural *slope* at that point.

16 (d) A *structure* shall not be built on a natural *slope* of thirty  
17 percent (30%) or greater.

18 **Section 12. Subsection 14-9.2(B)(3) of the Land Development Code (being Ord.**  
19 **#2011-37 § 12, as amended) is hereby amended to read:**

20 **14-9.2 STREET IMPROVEMENT AND DESIGN STANDARDS.**

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

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

1 (a) function as a critical urban design component of the  
2 neighborhoods they serve;

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

6 (c) provide needed parking in many neighborhoods;

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

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

11 (3) To better achieve the intent of this Section 14-9.2, the planning  
12 commission, or in the case of summary plats and resubdivisions, the land use director,  
13 or in the case of *city street* projects, the *governing body*, may consider and approve  
14 innovative *street* designs that are not included among the *street* types and *street*  
15 sections shown or described in this Section 14-9.2 that provide adequate pedestrian and  
16 bicycle facilities, as well as necessary transit facilities.

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

21 **Section 13. Section 14-9.2(C) of the Land Development Code (being Ord.**  
22 **#2011-37 § 12) is hereby amended to read:**

23 **14-9.2 STREET IMPROVEMENT AND DESIGN STANDARDS.**

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

25 (1) Public and private *streets* and *lot* access driveways shall be designed

1 and constructed in accordance with the provisions of this chapter; Chapter 12 SFCC  
2 (Fire Prevention and Protection) and any engineering standards adopted pursuant to this  
3 chapter.

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

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

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

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

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

15 (a) each *street* shall terminate in a cul-de-sac or other approved  
16 turnaround, except where the planning commission or land use director requires  
17 a *street* to be stubbed out at a *property* boundary in anticipation of future  
18 extension;

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

24 (c) new *streets* shall be dedicated and improved to the full width  
25 for which they are planned, except where a *land use board* or the *governing*

1 *body* determines that an interim width or level of improvements provides safe  
2 and adequate service as part of an enforceable plan for the phased completion  
3 of the improvements;

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

8 (e) *street* names shall not duplicate or be so similar as to be  
9 confusing with existing *street* names. Where a proposed *street* is to be a  
10 continuation of an existing named *street*, the proposed *street* shall have the  
11 name of the existing *street*. *Street* names must be approved by the planning  
12 commission;

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

16 (g) in areas zoned for *residential development*, *planting strips* are  
17 required between the edge of pavement and the edge of the required  
18 sidewalks. *Planting strips* must have a width of not less than five (5) feet;

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

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

25 (i) major and secondary arterial *streets* or highways, six



1 percent (6%);

2 (ii) collector and subcollector *streets*, ten percent (10%);

3 (iii) lanes, fifteen percent (15%) except when a lesser grade  
4 is required by the fire marshal pursuant to fire apparatus access road  
5 standards; and

6 (iv) no *street* grade shall be less than one half of one  
7 percent (.5%).

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

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

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

16 (c) the gravel lane will not cause *erosion* or sediment problems or  
17 those problems will be eliminated by the use of accepted engineering methods.

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

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

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

24 (c) *lot* access driveways and private *streets* classified as "lanes" or  
25 "subcollectors" may be approved for access to newly created *lots* where the

1 planning commission determines that no public *street* is needed to provide  
2 access to the *property* being *subdivided* or to surrounding *properties*, based on  
3 existing and planned future uses of the *properties* .

4 (d) a roadway classified as a lane must meet the following  
5 standards:

6 (i) paved lanes; and

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

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

10 B. eight (8) feet shoulder and drainage on each  
11 side;

12 C. six (6) inch crushed gravel base course  
13 surfacing material; and

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

16 (e) A *lot* access driveway that is required to provide emergency  
17 vehicle access pursuant to Chapter XII SFCC (Fire Prevention and Protection)  
18 must meet the standards of that chapter. Otherwise, a *lot* access driveway must  
19 have an all-weather driving surface at least ten (10) feet in width, must be no  
20 steeper than fifteen percent (50%) grade, or as required by the fire marshal and  
21 must accommodate drainage and utility facilities and easements.

22 **Section 14. Section 14-12 of the Land Development Code (being Ord. #2011-37 §**  
23 **15, as amended) is hereby amended to read:**

24 LAND USE BOARD

25 A *city* board, commission, committee or authority that has jurisdiction over any matter arising

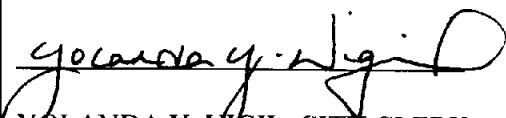
1 under Chapter 14 or otherwise within the jurisdiction of the *land use director*, including the board  
2 of adjustment, the planning commission, the historic districts review board and the archaeological  
3 review committee.

4 PASSED, APPROVED, and ADOPTED this 8<sup>th</sup> day of October, 2019

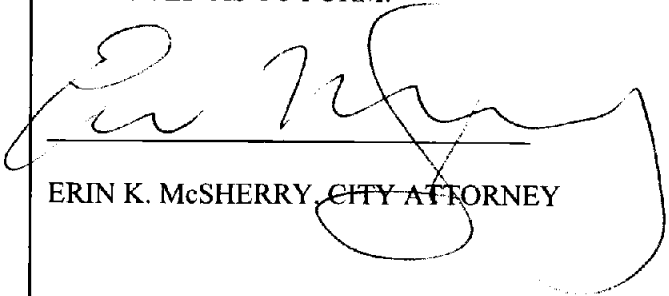
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8 ALAN M. WEBBER, MAYOR

9 ATTEST:

11   
12 YOLANDA Y. VIGIL, CITY CLERK

13 APPROVED AS TO FORM:

14   
15 \_\_\_\_\_  
16 ERIN K. McSHERRY, CITY ATTORNEY

24 *Bill No. 2019-12*

25 *Legislation/2019/Ordinance/2019-27 Summary Committee Repeal*