

CITY OF ALBUQUERQUE
SIXTEENTH COUNCIL

COUNCIL BILL NO. F/S(2) O-04-70 ENACTMENT NO. _____

SPONSORED BY: MICHAEL CADIGAN

1 ORDINANCE

2 **ADOPTING DEVELOPMENT IMPACT FEES FOR PUBLIC SAFETY FACILITIES**
3 **PURSUANT TO THE NEW MEXICO DEVELOPMENT FEES ACT OF 1993.**

4 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
5 ALBUQUERQUE:

6 **Section 1. IMPACT FEES ORDINANCE.**

7 Chapter 14 of the Revised Ordinances of Albuquerque, New Mexico, 1994,
8 is hereby amended to add a new article titled “IMPACT FEES”, and a new section
9 within that article titled “PUBLIC SAFETY FACILITIES IMPACT FEES
10 ORDINANCE.”

11 Section 2. SHORT TITLE.

12 This ordinance shall be known and cited as the “PUBLIC SAFETY
13 FACILITIES IMPACT FEES ORDINANCE.”

14 **Section 3. INTENT AND PURPOSES.**

15 **(A) This ordinance is intended to implement and comply with the New**
16 **Mexico Development Fees Act (NMSA 1978, § 5-8-1 et seq.) and shall be**
17 **interpreted to so comply.**

18 **(B) This ordinance is intended to assess and collect impact fees in an**
19 **amount based upon appropriate service units for public safety facilities in order**
20 **to finance such facilities, the demand for which is generated by new development**
21 **in the City. The purpose of this ordinance is to ensure the provision of an**
22 **adequate level of service for public safety facilities throughout the City so that**
23 **new development may occur in a manner consistent with the City's Planned**
24 **Growth Strategy and the Albuquerque/Bernalillo County Comprehensive Plan.**
25 **The City Council intends, by enactment of this ordinance, to require new**

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

- 14 (1) The estimated costs and professional fees paid for preparing
15 and updating the Component Capital Improvements Plan (CCIP);
16 (2) For costs and fees charged by qualified professionals who are
17 not employees of the City for services directly related to the construction of
18 capital improvements or facility expansions; and
19 (3) For administrative costs associated with this ordinance for City
20 employees who are qualified professionals. Such administrative costs shall not
21 exceed three percent of the total impact fees collected, as provided by NMSA
22 1978, § 5-8-4.

23 **Section 4. DEFINITIONS.**

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

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

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

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

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

CAPITAL IMPROVEMENTS means buildings for fire, police and rescue and essential equipment costing ten thousand dollars (\$10,000) or more and having a life expectancy of ten years or more and are owned and operated by or on behalf of the City.

CITY means the City of Albuquerque.

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

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

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

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

COUNTY means the County of Bernalillo.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **FUNCTIONAL POPULATION** means the effective population of the City,
31 including residents and nonresidents, during a given period of time, as used in
32 the calculation of the impact fees and as described in the document prepared by
33 James C. Nicholas for the City of Albuquerque titled "Public Safety Costs of

1 Accommodating New Development and Recommended Public Safety
2 Development Impact Fees” and dated August 2004 and as amended November
3 2004.

4 GROSS FLOOR AREA means the sum of all the floor areas of a building,
5 measured from the exterior of outer supporting walls, including all accessory
6 buildings on the same lot.

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

18 IMPACT FEES ADMINISTRATOR means the person designated to
19 administer the impact fee program established by this ordinance.

20 INDEPENDENT FEE DETERMINATION means a finding by the impact fees
21 administrator that an independent fee study does or does not meet the
22 requirements for such a study as established by this chapter and, if the
23 requirements are met, the fee calculated by the impact fees administrator
24 therefrom.

25 INDEPENDENT FEE STUDY means the engineering, financial and/or
26 economic documentation prepared by an applicant in accordance with Section 18
27 to allow an individual determination of an impact fee other than by use of the
28 applicable fee schedule.

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

31 LAND USE ASSUMPTIONS (LUA) means the land use assumptions adopted
32 or as may be amended by the City Council, pursuant to the Development Fees Act
33 (NMSA 1978, § 5-8-1 et seq.).

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

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

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

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

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

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

27 **PUBLIC SAFETY FACILITIES** means buildings for fire, police and rescue
28 and essential equipment costing ten thousand dollars (\$10,000) or more and
29 having a life expectancy of ten years or more as specified in NMSA § 5-8-2 D(3).

30 **QUALIFIED PROFESSIONAL** means a professional engineer, surveyor,
31 financial analyst or planner providing services within the scope of his license,
32 education or experience.

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

3 **SERVICE AREAS** means geographically defined areas within the City that
4 have been designated in the CCIP in which development potential may create the
5 need for capital improvements to be funded by public safety facilities impact fees.

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

10 **SERVICE UNIT** means a standardized measure of consumption, use,
11 generation or discharge attributable to an individual unit of development
12 calculated in accordance with generally accepted engineering or planning
13 standards for a particular category of capital improvements or facility
14 expansions.

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

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

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

1 to finance system improvements, but such costs do not include routine and
2 periodic maintenance expenditures, personnel training and other operating costs.

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

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

6 **Section 5. AUTHORITY OF ORDINANCE.**

7 The City is authorized to impose impact fees under the Development Fees
8 Act (NMSA 1978, § 5-8-1 et seq.). The provisions of this ordinance shall not be
9 construed to limit the power of the City to use any other methods or powers
10 otherwise available for accomplishing the purposes set forth in this ordinance,
11 either in substitution or in conjunction with this ordinance, provided that such
12 methods or powers are not inconsistent with or prohibited by this ordinance or
13 the Development Fees Act.

14 **Section 6. APPLICABILITY OF ORDINANCE.**

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

18 **Section 7. FINDINGS AND DECLARATIONS.**

19 The City Council hereby finds and declares that:

20 (A) The City is committed to the funding and provision of public safety
21 facilities necessary to cure any deficiencies that may exist in already developed
22 areas of the City.

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

27 (C) New development causes and imposes increased demands on public
28 facilities, including public safety facilities.

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

1 (E) The land use assumptions, incorporated in this ordinance by
2 reference, indicate that new development will continue and will place increasing
3 demands on the City to provide public safety facilities.

4 (F) New development should pay an amount not to exceed its
5 proportionate share of the capital costs related to the additional public safety
6 facilities needed to accommodate that new development.

7 (G) The City Council hereby adopts the following standards for a
8 minimum level of service (LOS) for public safety facilities:

9 (1) LOS for Public Safety in the East Side Service Area is \$371 in
10 Public Safety capital improvements per functional person.

11 (2) LOS for Public Safety in the West Side Service Area is \$278 in
12 Public Safety capital improvements per functional person.

13 (H) The City Council, after careful consideration of the matter, hereby
14 finds and declares that it is in the best interest of the general welfare of the City
15 and its residents to impose impact fees upon new development in order to
16 finance public safety facilities in the designated service areas for which demand
17 is created by the new development.

18 (I) The City Council further finds and declares that impact fees provide
19 a reasonable method of assessing new development to ensure that such new
20 development pays a portion of the costs of public safety facilities that are
21 rationally related to the new development in accordance with applicable law.

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

26 (K) The City Council further finds that there exists a rational relationship
27 between the capital costs of providing public safety facilities at the level of
28 service adopted and the impact fees imposed on development under this
29 ordinance.

30 (L) The City Council further finds that there exists a rational relationship
31 between the impact fees to be collected pursuant to this ordinance and the
32 expenditure of those funds on capital costs related to public safety facilities as
33 limited and restricted by this ordinance.

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

4 **(N) The City Council has carefully considered the Report dated August**
5 **2004, and as amended November 2004, prepared for the City of Albuquerque by**
6 **James C. Nicholas and titled “Public Safety Costs of Accommodating New**
7 **Development and Recommended Public Safety Development Impact Fees” and**
8 **further finds that said Report sets forth reasonable and equitable methodology**
9 **and assumptions consistent with the New Mexico Development Fees Act for the**
10 **formulation and imposition of a Public Safety Facilities Development Impact Fee**
11 **Program for the City of Albuquerque.**

12 **Section 8. LAND USE ASSUMPTIONS.**

13 **The land use assumptions provide a projection of changes in land uses,**
14 **densities, intensities and population within planning information areas over at**
15 **least a five-year period. The City Council hereby incorporates by reference the**
16 **land use assumptions set forth in Section 14-13-5-2 ROA 1994, as amended. The**
17 **land use assumptions shall be reviewed and updated, if necessary, in**
18 **conjunction with the update of the CCIP.**

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

20 **(A) The component capital improvements plan (CCIP) identifies types of**
21 **capital improvements or facility expansions for which impact fees may be**
22 **assessed. The CCIP is a component of the local infrastructure capital**
23 **improvements program (CIP) and lists the growth-supporting projects that will be**
24 **funded by impact fees. The CIP sets forth an inventory of existing capital**
25 **improvements deficiencies and growth needs, planned capital projects and**
26 **sources of funding for these projects which sources may include revenues other**
27 **than impact fees. The CCIP consists of capital improvements plans for public**
28 **safety facilities that support the infrastructure demands created by growth.**

29 **(B) The City Council hereby adopts by reference the CCIP, attached**
30 **hereto as Appendix C, approved by the City Council at the same hearing at which**
31 **this ordinance is adopted, particularly as it relates to the allocation of a fair share**
32 **of the costs of new facilities for public safety facilities to be borne by new users**
33 **of such facilities and the levels of service to be provided to the citizens of the City**

1 for these facilities. Henceforth, the City Council shall adopt and revise the CCIP
2 at the same time and via the same process that it adopts and revises the CIP.

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

8 Section 10. ADVISORY COMMITTEE.

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

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

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

14 (C) Monitor and evaluate implementation of the CCIP;

15 (D) File annual written reports with respect to the progress of the CCIP
16 and report to the City any perceived inequities in implementing the plan or
17 imposing the impact fees;

18 (E) Advise the City of the need to update or revise the land use
19 assumptions, CCIP and impact fees; and

20 (F) Any other tasks the City Council may direct the advisory committee
21 to perform.

22 Section 11. ESTABLISHMENT OF SERVICE AREAS.

23 Service areas for the public safety facilities impact fees are established as
24 follows (as depicted on the map attached hereto as Appendix A) and incorporated
25 herein by reference.

26 Section 12. PRESUMPTION OF MAXIMUM IMPACT.

27 New development shall be presumed to have maximum impact on the
28 necessary public safety facilities at the level of service established by this
29 ordinance.

30 Section 13. IMPOSITION.

31 (A) Any developer engaging in new development after the effective date
32 of this ordinance shall pay impact fees in the manner and in the amounts required
33 in this ordinance, unless otherwise specified in this Section. No building permit

1 shall be issued for development within the City unless the impact fees are
2 assessed and collected pursuant to this ordinance.

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

7 (C) Notwithstanding any other provision of this ordinance, applications
8 for building permits which have been filed and deemed complete by the City prior
9 to the effective date of this ordinance shall not be subject to impact fees
10 established pursuant to this ordinance. Notwithstanding this exemption, such
11 projects shall be subject to any and all fees applicable prior to the effective date,
12 whether assessed and paid prior to or subsequent to the effective date of this
13 ordinance.

14 (D) Notwithstanding any other provision of this ordinance, development
15 approvals resulting in vested rights acquired prior to the enactment date of this
16 ordinance are deemed to have satisfied the requirements of this ordinance and
17 no additional impact fees shall be assessed or collected against such properties
18 under this ordinance. Vested rights arising from approvals shall expire if a
19 building permit has not been issued within two years from the date of the
20 approval and impact fees may be assessed and collected thereafter.

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

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

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

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

4 **(I)** The impact fees established pursuant to this ordinance shall be
5 phased in the following manner:

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

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

8 **(3)** Eighteen months after the effective date, fees are assessed at
9 100%.

10 **Section 14. ASSESSMENT AND COLLECTION.**

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

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

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

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

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

28 **(C)** Notwithstanding the provisions of this Section, the assessment of
29 impact fees may be revised if the number of service units in the specific
30 development increases, provided that such revision shall be limited to the impact
31 fees for the additional service units.

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

1 (1) Determine the applicable service area;
2 (2) Determine the applicable land use category;
3 (3) Verify the number of dwelling units or the amount of gross
4 floor area (whichever is applicable) in the development; and
5 (4) Multiply the number of dwelling units or the amount of gross
6 floor area, whichever is applicable, by the applicable impact fees from the table in
7 Section 15.

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

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

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

20 (H) When a change of use, plat or replat, redevelopment or modification
21 of an existing use or building requires the issuance of a building permit, the
22 impact fee shall be based on the difference between the impact fee calculated for
23 the previous use and the impact fee calculated for the proposed use. Should a
24 redevelopment or modification of an existing use or building that requires the
25 issuance of a building permit but does not involve a change in use result in a net
26 increase in gross floor area, the impact fee shall be based on the net increase, if
27 the service units are calculated on gross floor area. Should a change of use,
28 redevelopment or modification of an existing use or building result in a net
29 decrease in gross floor area or calculated impact fee, no refund or credit for past
30 impact fees paid shall be made or created.

31 (I) In addition to the cost of new or expanded system improvements
32 needed to serve new development, the impact fee shall also include the
33 proportionate cost of existing system improvements, but only to the extent that

1 such public safety facilities have excess capacity and new development as well
2 as existing development will be served by such facilities.

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

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

10 Section 15. SCHEDULE.

11 The following public safety facilities impact fees (as set forth on the
12 Schedule attached hereto as Appendix B), incorporated by reference, are hereby
13 imposed upon all new development in the City.

14 Section 16. USE OF FEES COLLECTED.

15 (A) The funds collected pursuant to this ordinance shall be used solely
16 for the purpose of planning, design, land acquisition, construction, expansion
17 and development of system improvements for the service area from which the
18 impact fees were collected except that funds from both police facilities service
19 areas may be expended for city-wide police facilities.

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

23 (C) The City may issue bonds, revenue certificates and other obligations
24 of indebtedness in such manner and subject to such limitations as may be
25 provided by law in furtherance of the provision of capital improvement projects.
26 Funds pledged toward retirement of bonds, revenue certificates or other
27 obligations of indebtedness for such projects may include impact fees and other
28 City revenues as may be allocated by the City Council. The impact fees paid
29 pursuant to this Ordinance, however, shall be restricted to use solely and
30 exclusively for financing directly, or as a pledge against bonds, revenue
31 certificates and other obligations of indebtedness for the cost of capital
32 improvements or facility expansions as specified in this section.

33 Section 17. EXEMPTIONS.

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

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

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

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

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

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

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

22 **(3) The City may adopt administrative procedures and guidelines**
23 **to implement exemptions granted pursuant to this Section.**

24 **Section 18. INDEPENDENT FEE DETERMINATION.**

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

26 **(A) An applicant for development approval may elect to have an**
27 **independent determination of the impact fees due for their development project in**
28 **accordance with this Section. Any applicant who makes this election shall**
29 **prepare and submit to the impact fees administrator an independent fee study for**
30 **the development project for which development approval is sought.**

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

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

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

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

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

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

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

26 Section 19. ADMINISTRATION OF THE FEES.

27 (A) Collection of impact fees by the impact fees administrator or his/her
28 designee. The impact fees administrator or his/her designee shall be responsible
29 for collection of the impact fees. Upon receipt of impact fees, the impact fees
30 administrator or his/her designee shall place such funds into separate accounts
31 as specified in this ordinance. All such funds shall be deposited in interest-
32 bearing accounts in a bank authorized to receive deposits of City funds. Interest

1 earned by each account shall be credited to that account and shall be used solely
2 for the purposes specified for funds of such account.

3 (B) Establishment and maintenance of records. The impact fees
4 administrator or his/her designee shall establish and maintain accurate financial
5 records for the impact fees collected pursuant to this ordinance which shall
6 clearly identify for each impact fee payment the payor of the impact fee, the
7 specific development project for which the fee was paid, the date of receipt of the
8 impact fee, the amount received, the category of capital improvement for which
9 the fee was collected, and the applicable service area. The financial records shall
10 show the disbursement of all impact fees, including the date and purpose of each
11 disbursement.

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

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

18 (E) Expenses of administration. An amount not to exceed three percent
19 of the total of all impact fees collected may be allocated and applied for
20 administration of this ordinance for City employees who are qualified
21 professionals.

22 Section 20. REFUNDS.

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

25 (1) The current owner of record of the property submits an
26 application for refund within one year of the event giving rise to the right to claim
27 a refund.

28 (2) All or a portion of the impact fees paid by the development are
29 not spent within seven years after the date of payment. The determination of
30 whether the impact fees paid by a development have been spent shall be
31 determined using a first in, first out accounting standard if a portion of the impact
32 fees paid by the development are not spent within seven years after the date of
33 payment.

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

4 (4) Existing City facilities of the type for which the impact fees
5 have been paid are not available to the development, and the construction of
6 improvements that would serve the development are not completed and available
7 to provide service to the development within seven years from the date of
8 payment of the impact fees.

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

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

18 (D) Within 30 days from the date of receipt of an application for refund,
19 the impact fees administrator or his/her designee must provide the applicant, in
20 writing, with a decision on the refund request including the reasons for the
21 decision. If a refund is due the applicant, the City shall issue a refund payment to
22 the applicant within 30 days of the impact fees administrator's written decision on
23 the refund request.

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

26 (F) A refund shall bear interest calculated from the date of collection of
27 the impact fee to the date of refund at the statutory rate as set forth in NMSA
28 1978, § 56-8-3.

29 (G) The impact fees administrator shall review the impact fee revenues
30 collected and expenditures made by service area seven years following the
31 effective date and annually thereafter. If revenues exceed expenditures by more
32 than ten percent, the City shall refund a pro rata share of the difference to the

owner of record of each property for which impact fees have been paid within the previous seven years in the service area due a refund.

Section 21. CREDITS.

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

(A) Credits shall be granted only for the value of any construction of improvements or contribution or dedication of land, easements or money for system improvements or system studies listed on the CCIP, made by a developer or his predecessor in title or interest as a condition of development approval or pursuant to a development agreement with the City, or for payments made or to be made pursuant to the terms of any special assessment district (SAD), Public Improvement District (PID), Subdivision Improvement Agreement (SIA), Business Improvement District (BID), Metropolitan Redevelopment District (MRD) or other program by which off-site system improvements are paid or constructed, as long as the projects are listed on the CCIP.

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

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

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

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

(3) All design, construction, testing, bonding and acceptance procedures are verified by the City to be in strict compliance with the current City

standards as shown by a certificate of completion and acceptance issued by the City Engineer.

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

(E) No credits shall be granted for:

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

(2) Project improvements;

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

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

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

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

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

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

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

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

9 (5) The City must review the system improvements plan, verify
10 costs and time schedules, determine if the system improvements are eligible
11 system improvements, determine if the completed improvement meets applicable
12 City standards, calculate the applicable impact fees otherwise due, determine the
13 amount of the credits for such system improvements to be applied to the
14 otherwise applicable impact fees, and determine if excess credits are created.

15 (G) Credits for system improvements shall be applied for as follows:

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

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

23 (H) The value of credits and the calculation of excess credits shall be
24 determined by the impact fees administrator, in writing, subject to appeal
25 pursuant to Section 22.

26 (I) The value of credits for system improvements shall be computed as
27 follows:

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

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

1 (a) The fair market value of the land or easement prior to
2 any increase in value resulting from development approval demonstrated by an
3 appraisal prepared by an appraiser acceptable to the City;

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

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

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

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

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

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

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

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

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

5 (J) Credits granted for system improvements and system studies shall
6 be applied as follows:

7 (1) Credits shall be given in the year the project appears in the
8 CCIP.

9 (2) Credits shall be applied first to offset the impact fees
10 otherwise due for the development project for which the credit was granted. If
11 the value of the credit exceeds the impact fees otherwise due, the excess credits
12 shall become the property of the applicant, subject to the requirements of this
13 ordinance.

14 (3) Credits shall only be applied to offset impact fees for projects
15 within the same service area for which the credit was granted. Credits shall not
16 be used to offset impact fees for other categories of system improvements or for
17 other service areas.

18 (4) If an applicant is entitled to excess credits, the impact fees
19 administrator shall issue a certificate of excess credit to the applicant which
20 denotes the dollar amount of the excess credit, the category of system
21 improvement and service area to which the excess credit may be applied, the
22 name of the applicant as the original credit-holder, and a description of the
23 development project for which the credit was granted and the year in which the
24 credit will become available. The certificate of excess credit shall be signed by
25 both the impact fees administrator and the credit-holder. The impact fees
26 administrator shall retain a copy of the certificate of excess credit and the credit-
27 holder shall be given the original certificate.

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

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

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

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

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

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

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

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

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

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

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

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

3 Section 22. ADMINISTRATIVE APPEALS.

4 (A) Notice of appeal; filing; fee. An applicant who chooses to appeal the
5 assessment or calculation of impact fees; determination of exemptions, credits,
6 excess credits; or other decision of the impact fees administrator shall submit a
7 notice of appeal and payment of a nonrefundable processing fee to the impact
8 fees administrator or his/her designee within 30 days following the date of the
9 decision or determination of the impact fees administrator giving rise to the
10 appeal.

11 (B) Bond. If the notice of appeal is accompanied by a bond or other
12 sufficient surety satisfactory to the City Attorney, in an amount equal to the
13 impact fee assessed, the City Building Official or his/her duly designated agent
14 shall issue the building permit.

15 (C) Staying of impact fee collection; requirement. The filing of a notice
16 of appeal shall not stay the collection of the impact fee unless a bond or other
17 sufficient surety has been filed.

18 (D) Action by Environmental Planning Commission. Appeals shall be
19 considered by the Environmental Planning Commission in accordance with the
20 rules and regulations of that administrative body. Upon hearing such appeals,
21 the Environmental Planning Commission may affirm, change or modify the
22 decision of the impact fees administrator or, in lieu thereof, make such other or
23 additional determination as it deems proper. The decision of the Environmental
24 Planning Commission upon the appeal shall be in writing, concurred in by a
25 majority of the members present, which shall forthwith transmit a copy of the
26 decision to the applicant and to the impact fees administrator.

27 (E) Appeal of Environmental Planning Commission's decision. Either
28 the applicant or the impact fees administrator may appeal the decision of the
29 Environmental Planning Commission to the City Council within 30 days following
30 the decision of the Environmental Planning Commission.

31 (F) Final decision by City Council. The City Council shall consider the
32 appeal in accordance with the rules and regulations of that governing body. The

1 decision of the City Council shall, in all instances, be the final administrative
2 decision and shall be subject to judicial review in accordance with applicable law.

3 **Section 23. PROMULGATION OF RULES**

4 (A) The Mayor is responsible for the promulgation of rules necessary to
5 fulfill the intent of this ordinance. Authorized rules shall be published in the
6 Development Process Manual and shall have the same effect as the provisions
7 within this ordinance. The following process shall be observed hereafter in
8 rulemaking pursuant to this ordinance.

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

11 (1) Publish notice of the proposed action in a daily newspaper of
12 general circulation in the City; and

13 (2) Notify any person or group filing written request, such request
14 to be renewed yearly to assure notice of proposed action which may affect that
15 person or group, notification being by mail or other method to the last address
16 specified by the person or group. A fee may be charged those requesting notice
17 to cover reasonable city costs.

18 (3) The notice of proposed action shall:

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

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

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

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

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

4 (E) Regarding filing of rules and copying:

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

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

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

15 Section 24. EFFECT OF IMPACT FEE ON ZONING AND SUBDIVISION
16 REGULATIONS.

17 This ordinance shall not affect, in any manner, the permissible use of
18 property, density of development, design and improvement standards and
19 requirements, or any other aspect of the development of land or provision of
20 capital improvements subject to the zoning and subdivision regulations of the
21 City, which shall be operative and remain in full force and effect without limitation
22 with respect to all such development.

23 Section 25. IMPACT FEE AS ADDITIONAL AND SUPPLEMENTAL
24 REQUIREMENT TO CITY REGULATIONS.

25 The impact fee is additional and supplemental to, and not in substitution of,
26 any non-financial requirements imposed by the City on the development of land
27 or the issuance of building permits. Payment of the impact fee shall not waive or
28 otherwise alter compliance with zoning or other City requirements. It is intended
29 to be consistent with and to further the objectives and policies of the
30 Comprehensive Plan and other City policies, ordinances and resolutions by
31 which the City seeks to ensure the provision of public facilities in conjunction
32 with the development of land.

33 Section 26. REVIEW AND AMENDMENT.

1 The advisory committee shall review, update and propose any amendments
2 to the land use assumptions and the impact fees at least every five years from the
3 effective date. The advisory committee shall be consulted during such review
4 and file its written comments concerning any amendments with the City Council.
5 The City Council shall take action on any proposed amendments consistent with
6 the provisions of the Development Fees Act.

7 **Section 27. EVALUATION.**

8 The Council shall evaluate the Public Safety Facilities Impact Fees
9 Ordinance within one year of its effective date.

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

11 The City shall have the power to sue in law or equity for relief in civil court
12 to enforce this ordinance including, but not limited to, injunctive relief to enjoin
13 and restrain any person from violating the provisions of this ordinance and to
14 recover such damages as may be incurred by the implementation of specific
15 corrective actions. Knowingly furnishing false information to the City on any
16 matter relating to the administration of this ordinance shall constitute an
17 actionable violation. The impact fees administrator may revoke or withhold the
18 issuance of any building permit or other development permits if the provisions of
19 this ordinance have been violated by the owner or his/her assigns. Subject to
20 applicable law, the City shall have the right to inspect the lands affected by this
21 ordinance and shall have the right to issue cease and desist orders, stop work
22 orders and other appropriate citations for violations.

23 **Section 29. ENFORCEMENT OF ORDINANCE.**

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

27 **Section 30. COMPILATION.**

28 This ordinance shall be incorporated in and compiled as part of the
29 Revised Ordinances of Albuquerque, New Mexico 1994.

30 **Section 31. REPEALER.**

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

33 **Section 32. SEVERABILITY.**

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

5 Section 33. LIBERAL CONSTRUCTION.

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

9 Section 34. EFFECTIVE DATE.

10 This ordinance shall become effective six months after publication by title
11 and general summary.

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