CITY of ALBUQUERQUE
FIFTEENTH COUNCIL

COUNCIL BILL NO. F/S O-02-39 (2) ENACTMENT NO. ____________________

SPONSORED BY: MICHAEL CADIGAN

ORDINANCE

ADOPTING ELEMENTS OF A PLANNED GROWTH STRATEGY TO GUIDE THE MANAGEMENT OF CITY OF ALBUQUERQUE URBAN GROWTH; IDENTIFYING AND DEFINING CERTAIN IMPLEMENTATION ELEMENTS.

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

Section 1. FINDINGS.

(A) The City has authority to adopt a comprehensive "master" plan as granted under Chapter 3, Article 19, NMSA 1978 and by the City Charter as provided under Home Rule provisions of the Constitution of New Mexico.

(B) In response to a variety of concerns expressed by the public and local elected officials with regard to the environmental, economic, social, and fiscal impact (the costs and benefits) of growth and development in the metropolitan area, and the concern that the Albuquerque/Bernalillo County Comprehensive Plan and other policy and implementation tools in use are not a fully effective growth management system, the City and the County of Bernalillo began a joint effort in 1998 culminating in the two volume Planned Growth Strategy report that was completed in the Fall of 2001.

(C) The Planned Growth Strategy report was developed with the assistance of consultants, including Parsons Brinckerhoff; Camp Dresser & McKee; Ch2M-Hill; Wilson and Company; Freilich, Leitner & Carlisle; Friedmann Resources; Growth Management Analysts; Lora Lucero, Esq.; Michael McKee, Ph.D.; and Sites Southwest.

(D) The Planned Growth Strategy project was assisted by planning and engineering professionals from City and County government, the Middle Rio Grande Council of Governments, other local governments, and by individual citizens.

(E) The Planned Growth Strategy report was guided by the counsel received from participants at Town Halls held in 1998 and 1999 organized by Shared Vision, Inc., and also by the findings of citizen surveys carried out by the City's Office of Management and Operations Improvement.

(F) The Planned Growth Strategy development process was assisted by advice and comments from the PGS Advisory Committee that included representatives of the business community, developers, Albuquerque Public Schools, neighborhood associations, and a planning advocacy group.

(G) The Planned Growth Strategy report was reviewed at important junctures by a Policy Committee consisting of elected officials from the Albuquerque City Council and the Bernalillo County Commission, the Bernalillo County Manager, and the Chief Administrative Officer of the City.

(H) The Planned Growth Strategy report contains a comprehensive and integrated growth management policy analysis and program for the urban area of Bernalillo County, and implementation of the_Planned Growth Strategy as defined herein should include coordination with Bernalillo County.

(I) The Planned Growth Strategy report found that the Albuquerque area faces critical challenges related to deteriorated infrastructure; back-log of infrastructure rehabilitation and deficiency correction projects; natural resource conservation and preservation related to land, water, and air quality; traffic congestion; timely provision of infrastructure, parks, schools and other facilities to support new development; and the decline of some older neighborhoods.

(J) The existing City/County Comprehensive Plan and sector, redevelopment, and area plans contain valuable policies and vision to guide the City's actions.

(K) There are inconsistencies between adopted community plans and the structure of development regulations, design and infrastructure

standards, charges and fees, and approval processes that result in an undesirable gap between conditions and our best aspirations for the community.

(L) Economic growth and development, i.e., new and well-paid jobs, should remain a priority of the City in order to ensure that the City continues to remain a vibrant and thriving community with opportunities for its citizens now and in the future.

(M) Recognized comprehensive community-building principles have not been and should be incorporated into the routine planning, standards, and functioning of City departments and into their joint efforts with other governmental agencies and public and private organizations.

(N) Various work activities identified in the City's FY 03 Performance Plan are in progress which aim to reform zoning, land use and design requirements in keeping with principles of the Planned Growth Strategy.

(O) The Planned Growth Strategy implementation approach shall be based on a concerned, informed and engaged community, an open and dynamic process of improvement, systematic public comment, and confidence that conditions can be made better through local action.

(P) In order to achieve the long term goals of the policies described in the Planned Growth Strategy report and the City/County Comprehensive Plan, a number of near- and long-term actions are needed.

Section 2. DEFINITIONS.

(A) Planned Growth Strategy. For the purposes of this Ordinance, the Planned Growth Strategy consists of the provisions of this Ordinance as specifically identified herein and as amended or complemented by subsequent legislation that shall be specifically identified as a part of the Planned Growth Strategy when such legislation is adopted.

(B) Infrastructure and Growth Plan. For the purposes of this Ordinance, the Infrastructure and Growth Plan consists of the forecasts of population, housing, and employment, for ten and twenty-five year periods, in total and by subareas, contained in the Planned Growth Strategy report and as adopted by the Council after these forecasts have incorporated the MRCOG

2025 county-wide forecasts for total population, housing and employment. The Infrastructure and Growth Plan should be reviewed, and updated if necessary, every three to five years.

(C) Planned Growth Strategy Implementation Advisory Task Force. The Planned Growth Strategy Implementation Advisory Task Force is the principal citizen advisory group that shall review, comment upon, and make recommendations regarding all of the City's efforts to implement the Planned Growth Strategy. A number of members equal to at least 60% of the total membership of this Task Force shall also sit on the Impact Fee Committee.

(D) Impact Fee Committee. The Impact Fee Committee shall be the advisory committee pursuant to Section 5-8-37 of the New Mexico Development Fees Act and shall be created according to the provisions of the New Mexico Development Fees Act. The Impact Fee Committee shall also consist of at least 60% of the members of the Planned Growth Strategy Implementation Advisory Task Force.

Section 3. Planned Growth Strategy Implementation Advisory Task Force. The Planned Growth Strategy Implementation Advisory Task Force is created and shall be composed of nineteen members appointed by the Mayor from a list of nominees selected by the Council, with the advice and consent of the Council. Each member of the Council shall nominate five members of the Task Force. Two of the members suggested by each Councilor shall be recognized neighborhood association officers or board members or a representative member appointed by the recognized neighborhood association. The Mayor shall select two out of the five suggested members by each Councilor for nomination to the Planned Growth Strategy Implementation Advisory Task Force to be sent to Council for review and final approval. The membership shall represent the following groups:

(A) The real estate and development industry, including architects, consulting engineers, real estate attorneys, and planning and development consultants. One of these members shall be a residential infill developer with substantial development experience and another of theses members shall be an

Albuquerque area industrial and/or office developer with substantial development experience developing at or near the fringe of the City. The real estate and development industry shall be represented by 4 members of the Task Force.

(B) Officers, board members or representatives appointed pursuant to Section 3 herein of recognized neighborhood associations with more than half of their geographic area within the City. There should be at least one member from each of the nine Council districts. Neighborhood associations shall be represented by 9 members of the Task Force.

(C) Civic, environmental, planning, religious, or educational organizations. These organizations shall be represented by 3 members of the Task Force.

(D) Business and economic development organizations. One of these members shall be a specialist in neighborhood economic development. These organizations shall be represented by 3 members of the Task Force.

(E) The members of the Planned Growth Strategy Implementation Advisory Task Force shall be appointed within 90 days from the effective date of this Ordinance. The recommendation for replacement of members who resign shall be made at the Council meeting immediately following the formal resignation of the member.

Section 4. Impact Fees/Utility Expansion Charges/Other Development Related Charges.

(A) Impact fees, Utility Expansion Charges, and other development related charges are key strategic tools for implementing the Planned Growth Strategy and the City/County Comprehensive Plan. It is the intent of the Council that current development fees, including Utility Expansion Charges and park dedication and development charges, be incorporated into the impact fee system.

(B) Impact fees shall be established in a manner fully consistent with the New Mexico Development Fees Act. The qualified professionals preparing the proposed impact fee program shall be guided by the policies

contained in this Ordinance and Council Bill No. R-02-111 as adopted. The Impact Fee Committee shall review and provide written comments on the impact fee program and the Council shall review, conduct at least one public hearing, and adopt the impact fees according to the provisions of the New Mexico Development Fees Act. Impact fees shall be utilized and spent within the service areas where they are collected. The review and written comments by the Impact Fee Committee shall be consistent with the policies contained in this Ordinance and Council Bills R-02-111 and R-02-112 as adopted.

(C) Impact fees, including the incorporated Utility Expansion Charges shall be initially calculated based upon the full marginal cost of growth, consistent with the City's Capital Improvement Program, that provides the facilities and infrastructure to support growth as indicated by the adopted Infrastructure and Growth Plan. The impact fee amount charged by the City is subject to Council approval and may include reductions and waivers set forth in subparagraphs 4D through 4F herein. Service areas and tiers shall be the geographical areas for planning infrastructure and facility development.

(D) Impact fees, including the incorporated Utility Expansion Charges shall be reduced based upon a schedule, to be created, of facility and infrastructure efficiencies that result from the nature and location of the types of development. Non-exclusive examples include projects that result in jobs closer to predominately residential areas, mixed use projects, neighborhood commercial centers, activity centers consistent with the City/County Comprehensive Plan, higher density housing, affordable housing with smaller lot sizes and fewer utility fixtures.

(E) Impact fees, including the incorporated Utility Expansion Charges shall be partially or completely waived based upon developments that are consistent with the policies contained in the Planned Growth Strategy as adopted, the City/County Comprehensive Plan, and other policies and recommendations in area plans, metropolitan redevelopment plans, neighborhood and sector development plans, center and corridor plans, and for affordable housing and for new zoning objectives as described in Resolution R-

02-111 as adopted. These waivers shall be provided using a policy-based ranking system.

(F) Other development-related charges shall be modified or fully or partially waived in a consistent manner to support the Planned Growth Strategy, the City/County Comprehensive Plan, and other adopted plans.

(G) Impact fees, including the incorporated Utility Expansion Charges shall not apply to the "Unserved area" tier. The provision of and charges for facilities and services in this tier shall be based upon a development agreement among all affected parties.

(H) The City shall seek statutory authority for impact fees to be enacted for schools (with the agreement of the Albuquerque Public Schools), transit, water rights, and other facilities as determined in the future by the City.

(I) The Impact Fee Committee shall be composed of not less than five members who shall be appointed by the Council. The membership shall be as follows:

(1) 40% of the members shall be engaged in the real estate and development industry, including architects, consulting engineers, real estate attorneys, and planning and development consultants, or have a substantial financial interest in such activity. One of these members shall be a residential infill developer with substantial development experience and another of theses members shall be an Albuquerque area industrial and/or office developer with substantial development experience developing at or near the fringe of the City.

(2) 40% of the members shall be recognized neighborhood association officers or board members, or representatives appointed by a recognized neighborhood association, with more than half of the association's geographic area within the City. A minimum of one member should be from a neighborhood association from each of the following areas:

a. The area west of the Rio Grande;

b. The area east of the Rio Grande;

c. The area south of Interstate 40.

(3) 10% of the members shall represent the following types of organizations: civic, environmental, planning, religious, and educational.

(4) 10% of the members shall represent business and economic development organizations. One of these members shall be a specialist in neighborhood economic development.

(J) The members of the Impact Fee Committee shall be appointed within 90 days from the effective date of this Ordinance. The recommendation for replacement of members who resign shall be made at the Council meeting immediately following the formal resignation of the member.

(K) The report of the Impact Fee Committee shall be made within 90 days of the Council's adoption of the Infrastructure and Growth Plan.

Section 5. Article 13, Planning; Goals and Objectives, of Chapter 14, ROA 1994, shall be renumbered as Article 1 of Chapter 14 and subsequent Articles renumbered accordingly. This action is taken to indicate the importance of long range planning to the community.

Section 6. The current Section 14-13-1 ROA 1994 is amended by inserting the following new section after current Section 14-13-1-2 and renumbering the subsequent sections accordingly (this new section will be codified with a different Article number pursuant to Section 3 above):

[NEW MATERIAL] PLANNED GROWTH STRATEGY.

(A) The City shall prepare amendments and complementary legislation and regulations that, when adopted, in combination with the identified provisions of this Ordinance, shall implement the Planned Growth Strategy. The Planned Growth Strategy, in conjunction with the Albuquerque/Bernalillo County Comprehensive Plan, shall guide the future development of the Albuquerque urban area. The Planned Growth Strategy shall serve as the comprehensive guide for this urban growth management program, but only policies specifically adopted and identified as being a part of the Planned Growth Strategy shall have binding force. One or more Town Hall meetings and other forms of public input shall be used in the process of

developing future legislation and regulations pursuant to the direction contained in this legislation as adopted.

(B) Infrastructure and Growth Plan. An Infrastructure and Growth Plan, as defined herein, shall be adopted. The Infrastructure and Growth Plan is a key strategic tool for implementing the Planned Growth Strategy and the City/County Comprehensive Plan.

(1) The Infrastructure and Growth Plan shall be used as the basis of the growth-related element of the Capital Improvement Program (CIP) planning for streets, water, sewer, hydrology, parks, libraries, police, fire and other City facilities. The City shall request the Albuquerque Public Schools to use the Infrastructure and Growth Plan for preparing and implementing the Albuquerque Public Schools' Facility Master Plan. The City should enter into, or modify existing, joint powers agreements with the Albuquerque Public Schools to reflect its request to use the Infrastructure and Growth Plan. The Infrastructure and Growth Plan forecasts shall be used in conjunction with level of service standards for CIP and school planning.

(2) The modification of the Infrastructure and Growth Plan by incorporating the MRGCOG 2025 county-wide forecasts as described in Section 2 (Definitions) shall be guided by the following principles and Council Bill No. R-02-111 as adopted:

(a) Grow efficiently by developing where infrastructure and facilities already exist.

(b) Take into consideration topological and geological constraints (such as high slopes, poor soils, flood zones), environmental constraints (such as landfills, landfill buffer areas, contaminated sites, leaking underground storage tanks), and aquifer recharge zones.

(c) Take into consideration market absorption rates in different areas including those in areas with antiquated and/or premature platting and in redevelopment areas.

(d) Locate more jobs where people reside and locate more residences where jobs exist, so that the demand for streets is reduced by fewer auto trips and shorter trips.

(e) Grow neighborhoods contiguous to the urban fringe, with each neighborhood ideally containing a school, local serving businesses, park, and pedestrian and bicycle friendly streets.

(f) Foster community in older and newer neighborhoods.

(g) Prioritize the needs of the older parts of Albuquerque in terms of vitality and development. Encourage infill and redevelopment.

(h) Support "centers and corridors", especially transit-oriented corridors. This will help create a more effective and efficient transit system.

(i) Protect the character of the North and South Valley including in the more rural parts of the valley and preserve farm land there.

The bases of the Infrastructure and Growth Plan are derived from the consensus recommendations of the two Planned Growth Strategy Town Halls, policies contained in the City/County Comprehensive Plan, Resolution 1998-091 ("Interim Growth Policy"), Resolution 2000-066 ("Centers and Corridors"), Resolution 2000-099 ("Infill Development Task Force"), and City Citizen Satisfaction Surveys, summarized in Sections 1.3.1 through 1.3.4 and described in Chapters 1 through 3 of the Planned Growth Strategy Report, Part 2.

(3) The Infrastructure and Growth Plan shall serve as the basis of the Land Use Assumptions under the New Mexico Development Fees Act. Prior to the final adoption of the Land Use Assumptions by the City Council, the adopted Infrastructure and Growth Plan shall be reviewed and the Council shall obtain advice and assistance from the Impact Fee Committee. Council directs that the review, advice, and assistance of the Impact Fee Committee be based upon the policies of the City/County Comprehensive Plan and those in the "Infrastructure and Growth Plan" as defined herein. The report of the Impact Fee Committee shall be made within 90 days of the Council adoption of the

Infrastructure and Growth Plan after the formation of the Impact Fee Committee. The adoption of the Land Use Assumptions by the City Council shall comply wholly with the New Mexico Development Fees Act.

(C) Capital Improvement Program.

(1) The Capital Improvement Program is a key strategic tool for implementing the Planned Growth Strategy and the City/County Comprehensive Plan. The Planned Growth Strategy (as adopted herein and as subsequently amended and expanded) shall provide the comprehensive framework that shall guide all City departments' capital programs by providing the phasing and timing of urban growth in the Infrastructure and Growth Plan, by identifying standards for infrastructure, facilities and design elements (especially, but not exclusively) to achieve the community building goal, and by placing a high priority, in terms of vitality and development, on the developed community as it exists at the time the Capital Improvement Program is adopted.

(2) Funding from various sources shall be prioritized within the capital programs of the City to catch up with the backlog of rehabilitation needs, to address infrastructure deficiencies over time, and to provide basic infrastructure to support urban growth (streets, water, sewer, hydrology, and parks) to reach adopted level of service standards within service areas in reasonable time frames. Funding shall be prioritized for rehabilitation and deficiency correction in all areas of the City regardless of the date on which the area was annexed.

(3) Development Agreements and No Net Expense Policy (Unserved Area). Development in the water pressure zones that are unserved by urban water master plan facilities or existing private water service companies upon the date of the development agreement (Unserved area) will be based on the No Net Expense policy. The existing No Net Expense policy should be further defined to include the following.

(a) Developers of properties in the Unserved Area shall be required to assure fiscal self-sufficiency; that is, the public revenues generated by the new development must be sufficient to support the costs of

facilities and infrastructure needed to serve the new development. Facilities provided must meet the level of service standards adopted in a development agreement signed by the developer and the City. Consistent with this policy, subsequent legislation shall be drafted setting forth a procedure and requiring the developer to transfer to the City sufficient water rights, or cash sufficient for the City to purchase adequate water rights, to support his or her proposed project. This requirement may be phased in keeping with the project's phasing.

(b) Growth related operational and maintenance expenditures for the new development should be roughly equivalent to the public revenues generated by and collected from the development. Otherwise, the developer, property owner, and/or the residents of the development shall assume the additional costs. Nothing herein, however, shall act as or be construed as a moratorium on Planned Communities until such time as specific legislation is enacted to implement the policy guidelines expressed herein.

(4) Planned Communities in the Comprehensive Plan Rural and Reserve Areas. The development of housing, commercial and industrial structures, and supporting public infrastructure shall be sequenced within an approved Planned Community. Development agreements shall require that mixed use development take place in a reasonably concurrent way. Nothing herein, however, shall be deemed to abrogate any existing contractual agreements between the City and any developer of a master planned community.

(5) Related Legislative and Regulatory Changes. The current annexation policy and related provisions in the Development Process Manual, in part, indicate conditions under which an annexation request may be denied by the City. The emphasis in the Planned Growth Strategy report is on the urban growth management conditions under which annexation occurs. Annexation provisions shall be linked to the following laws as adopted subsequent to this Ordinance: urban growth phasing and timing contained in the Infrastructure and Growth Plan, the related facility and infrastructure level of service standards, the Adequate Public Facilities Ordinance, and the Capital Improvement Program contained in the policies set forth and as defined in the Planned Growth

Strategy Resolution (Council Bill No. R-02-111.) Linking these provisions and policy instruments will provide critical information to the applicant for annexation, to the State Municipal Boundary Commission, the courts, and City officials in order to make decisions regarding the review and approval of annexation applications, and their implications with regard to the timing of access to urban facilities and infrastructure, and the standards under which access will be provided. Nothing herein, however, shall act as or be construed as a moratorium on any annexation request until such time as specific legislation is enacted to implement the policy guidelines expressed herein.

(6) Water Conservation Goal. Conservation is the least expensive water source for the Albuquerque metropolitan area. In addition, benefits are obtained from identifying innovative ways to conserve water, protecting the riparian habitat of the Rio Grande through water flow and maintaining traditional New Mexico water uses in the Albuquerque Basin. The Water Resources Division of the Public Works Department shall evaluate increasing the water conservation goal of the City to approximately 150 gallons per person per day by the year 2005, and develop a preliminary plan with significant public input. This plan and recommendation shall be submitted to the Council.

(7) Intergovernmental Aspects of Planned Growth Strategy Implementation – Mid-Region Council of Governments (MRCOG).

(a) The adopted Infrastructure and Growth Plan, consisting of the phased and timed forecasts of population, housing, and employment by subareas, and associated Land Use Measures (LUMs), shall serve as the City's official land use assumptions for the MRCOG Metropolitan Transportation Plan and Transportation Improvement Program.

(b) In order to strengthen the Capital Improvement Program and ensure consistency of infrastructure planning, the City's streets, right of way, transit, and multi-modal transportation improvement projects included in the City's Capital Improvement Program shall be those projects proposed for

inclusion in the MRCOG Metropolitan Transportation Plan and the Transportation Improvement Program.

(c) The City shall request that MRCOG conduct cost-benefit (including revenue) analyses to support decision-making for all major roadway expansion projects within the MRCOG Regional Planning Area. This approach should be used to evaluate alternative projects. The analysis of alternative projects would consider the impact on traffic congestion and air quality in relation to cost, among other factors.

Section 7. Within sixty days of the adoption of this Ordinance, the Council and the Administration shall develop a work plan, which includes a process, schedule, cost, proposed source of revenue and priorities, for implementing the goals and policies in this Ordinance.

Section 8. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 9. COMPILATION. This ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

Section 10. EFFECTIVE DATE. This ordinance shall take effect five days after publication in full.