

# **Section 4**

Legal and  
Regulatory Outline

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# 11.0 Planned Growth Regulatory Structure Outline

## 11.1 Introduction

**I**n Chapters 5, 6, 7, and 8 a number of regulatory and financial approaches to address the growth issues facing the City and County were discussed. Many of these approaches related to infrastructure concerns. Specifically, these concerns stem from the impact of the location and pace of growth in the region on the operation, cost, and capacity of public facilities. Accordingly, this outline addresses the following issues:

1. Infrastructure service areas for 10-25 years;
2. Densities for different subareas;
3. Types and mixes of land uses;
4. Linkages between land use and transportation;
5. Variable levels of service;
6. Capital Improvements Program revisions;
7. Exactions /Impact fees/ Development agreement policies;
8. Line Extension Policy;
9. Approaches to regionalism; and
10. Other approaches and policies as appropriate.

In addition, the Planned Growth Strategy supports the adoption of New Urbanist (Traditional Neighborhood Development) codes and subsequent expedited approval processes, establishment of urban design standards, and fostering of affordable housing.

This chapter has been drafted to specify changes needed to implement critical portions of the Planned Growth Strategy Preferred Alternative in the City's codes and regulations. The restatement of these suggested changes in terms of the County's laws and rules was con-

sidered to be repetitive. More importantly, the Planned Growth Strategy supports adopting a unified planning and development code for both the City and County. The City's code and regulations were believed to be a reasonable starting point for creating this new unified code. The final section of this chapter contains specific comments regarding the County.

The City has a number of tools to address these concerns at present. However, many in the community believe that these tools have proven inadequate to direct growth to locations where infrastructure capacity presently exists and to discourage growth in locations where inefficient infrastructure provision would result or where service extensions would need to occur. Despite the efforts to plan comprehensively for growth, as well as the numerous plans that address growth-related issues, growth continues to occur in a manner that is inconsistent with many plan policies.

Three major issues pertaining to these issues are addressed in this outline report. First is the lack of complete implementation and follow-through during prior planning efforts. Despite the many cutting edge policies of the City/County Comprehensive Plan and area plans such as the West Side Strategic Plan, the City and County maintain conventional zoning ordinances that do not prevent or discourage low-density and scattered development patterns and in some ways encourage these patterns. The regulatory structure is inadequate to address the problems addressed by the Planned Growth Strategy.

Second, the City's regulatory structure is divided among a number of different policies, regulations, and external documents. The City maintains a separate Code of Ordinances and Code of Resolutions, each of which must be consulted to determine the rules for providing infrastructure and approving development. Capital Improvements Program extensions are

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governed by a variety of resolutions. The land-use regulations are established in Section 14 of the City Code, which addresses subdivision approval and zoning controls as well as other construction issues. A very extensive and detailed Development Process Manual includes most of the rules that are meaningful to applicants seeking development approval. The City, County, and other general purpose local governments that provide infrastructure and control land use need a unified, consolidated framework for controlling and regulating growth in the community.

Third, and perhaps most importantly, is the issue of intergovernmental coordination. This issue has both institutional and spatial dimensions. At the institutional level, decisions are made at the regional level that impact growth and development both within and beyond the urban area. These decisions primarily relate to the provision of infrastructure, rather than the approval of private development. However, infrastructure has a direct effect on land development patterns. Accordingly, it is important that infrastructure decisions are consistent among the various agencies responsible for their provision in order to fully implement the Planned Growth Strategy.

At the spatial level, several jurisdictions are authorized to approve development outside of the city's incorporated area. Land-use decisions in these areas have an impact on regional travel patterns, water consumption, groundwater resources, and other needs. While it is not the intent of Planned Growth Strategy to curtail development in the county's unincorporated areas or in other areas of the region, it is important to coordinate with other jurisdictions with general police powers. This not only permits implementation of the Planned Growth Strategy, but also provides the development community with a more uniform and predictable set of rules by which to make their decisions.

The ideal scenario is where the jurisdictions and agencies with control over infrastructure decisions and land-use activity agree to imple-

ment the Planned Growth Strategy and to undertake the necessary implementation measures. Otherwise, the need for regional coordination calls for state mandates. The City and County can only influence a number of land-use decisions at the institutional and spatial level. But without state mandates, other agencies (e.g., AMAFCA, N.M. Highway Department) lack incentives to heed the Planned Growth Strategy. The City and County have little control over this situation, although they can lobby for such authority. This report also explores statutory solutions for implementing regional coordination from the state level.

## **11.2 Infrastructure Planning Requirement Changes**

This section compiles regulatory changes related to infrastructure planning requirements. These changes are designed to assure that the requirements are effectively coordinated with the Planned Growth Strategy and the City's (and the County's) adopted land-use policies. Although this discussion is in the context of the City's codes and regulations, as mentioned above, the Planned Growth Strategy supports adopting a unified planning and development code for both the governments. The City's code and regulations were believed to be a reasonable starting point for creating the new unified code.

### **11.2.1 Article I: Planning**

Section 14 of the City Code (Zoning, Planning and Building) should be revised to move Article 13 (Planning; Goals and Objectives) to Article 1 in order to give this section greater priority.<sup>1</sup> This section is modified to provide for the development of population and employment projections that are meaningful for land use and infrastructure planning (i.e., the Planned Growth Strategy Preferred Alternative) rather than projections that simply reinforce the trend.

**Section 1.01 Growth Tiers.**

This section recognizes that the region is divided into the following growth tiers for purposes of comprehensive planning and infrastructure delivery:

- Tier 1
- Tier 2
- Tier 3
- Tier 4

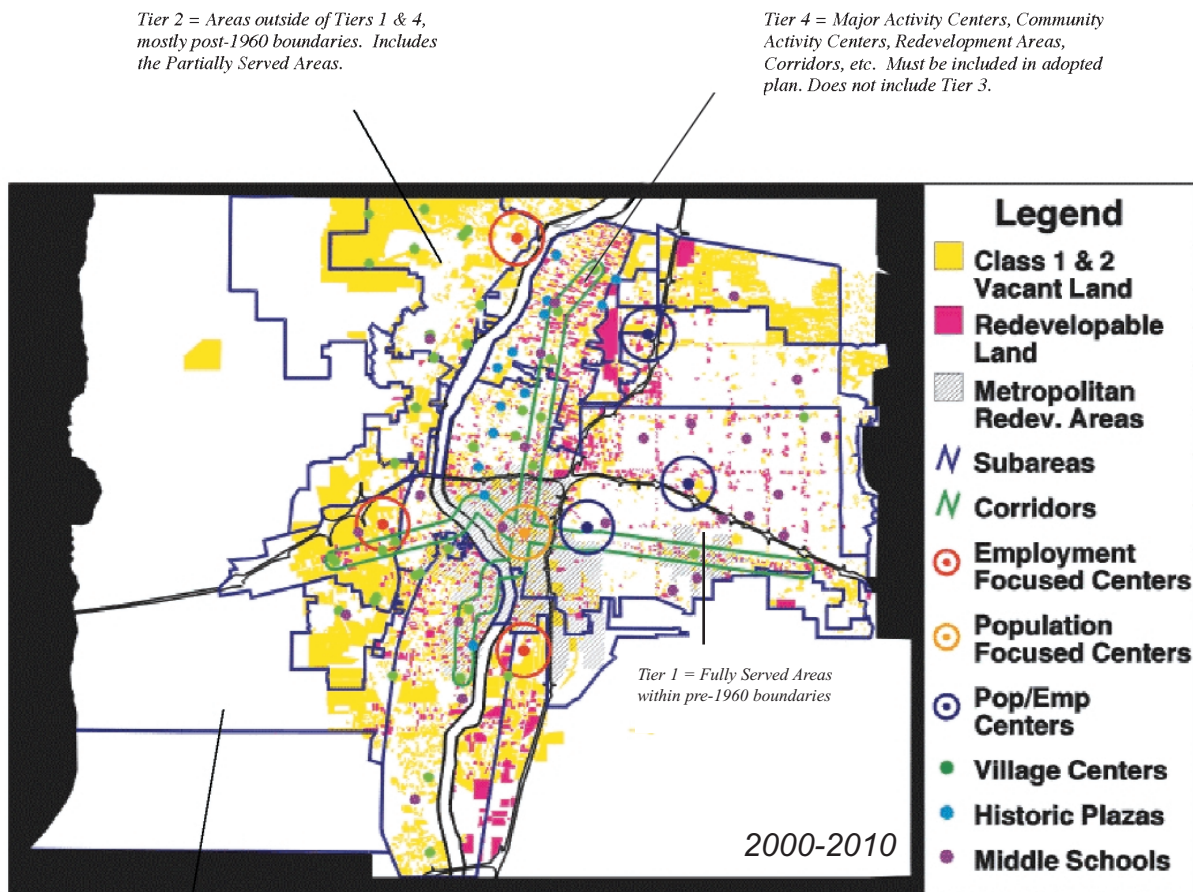
The recommended approach is that new planning codes and development inducements and incentives be based on approved Area, Corridor, and Sector Plans. These Plans assure that community residents and other stake-

holders participate and establish appropriate goals for each area of the community. However, the plans must be consistent with the policies and principals of the Preferred Alternative.

**Section 1.02 Demographic Projections and Analyses.**

- a. Purpose.** To develop projections and analyses of the location, character, and intensity of future growth for purposes of developing land use, service, and infrastructure plans. Based on official population, housing, and employment forecasts for the MRGCOG region conducted by the University of New Mexico's Bureau

**Figure 36  
Growth Tiers**



of Business and Economic Research. Regional projections allocated to Bernalillo County by the MRGCOG. Regional cross-acceptance needed.

- b. Duties and responsibilities.** Planning Department to allocate population and employment projections to DASZs.
- c. Development of projections.**
  - i. Projections to have 0-10 year and 10-25 year horizons.
  - ii. Include housing, population, and employment growth by DASZ and Community Planning Area for the Preferred Alternative.
  - iii. Distribute projections to DASZs based on the Preferred Alternative.
- d. Approval of projections.**
- e. Use of projections.**

**Section 1.03 (now Part 3) Goals and Objectives Linked to Comprehensive Plan, Planned Growth Strategy Preferred Alternative, and adopted goals.<sup>2</sup>**

- a. (now 14-13-3-1) Intent.**
- b. (now 14-13-3-2) Definitions.**
- c. (now 14-13-3-3) Process and sequence for establishing goals and objectives.**

**Section 1.04 (now Part 1) Planning.**

- a. (now 14-13-1-1) Short title.**
- b. (now 14-13-1-2) Rank importance of plans.**
- c. (now 14-13-1-3) Redevelopment and renewal plans. Add requirement for Future Land-use Element designating proposed future general distribution, location, and extent of the uses of land for residential, commercial, industrial, and institutional uses.**
- d. (now 14-13-1-4) Procedure for plan adoption or amendment; fee.**
- e. (now 14-13-1-5) Annually revised planning program.**

**Section 1.05 Part 2: Planning Commission.**

- a.-h. Insert current §§ 14-13-2-1 (Environmental Planning Commission created) through 14-13-2-8 (Greater Albuquerque Recreational Trails Committee).**

**11.2.2 Article II: Level of Service.**

The cornerstone of any land-use policy grounded on infrastructure decisions is the development of binding level of service standards. The level of service standards affect both public infrastructure development and private land-use decisions. Level of service standards are established for subareas of the urban area, e.g., hydrology basins, transportation sheds, water trunks. This Article should be moved to Section 2 of Article 14 because of its importance.

**Section 2.01 Purpose, Intent, and Findings.**

- a. Provide an objective, quantifiable system for making infrastructure investment and capacity expansion decisions.**
- b. Provide an equitable and effective means for linking land use and infrastructure decisions.**
- c. Provide a good faith program for expanding capacity needed to accommodate the anticipated future population, housing and employment growth.**
- d. Provide infrastructure in a strategic and targeted manner that supports the land use and growth objectives contained in the Planned Growth Strategy Preferred Alternative.**

**Section 2.02 Applicability.**

- a. Policy not to approve project request forms for proposed capital improvements until their impact on level of service and growth inducing impacts is reviewed.**

**b. No application for development approval approved if it would cause a reduction in adopted level of service.**

**c. Identify exempted areas, e.g., the 1960 City Limits consistent with the Planned Growth Strategy Preferred Alternative.**

**Section 2.03 Level of Service Standards.**  
Level of service standards vary in subareas depending upon development goals.

**Section 2.04 Service Areas.** Establishes the following service areas for purposes of infrastructure planning and development review:

**a. Transportation.**

- i. Areawide traffic sheds. The traffic sheds may encompass an entire Tier (see above), or large subareas where traffic is bounded by regional arterial facilities or other planning criteria.
- ii. Local area review – this relates to permitting. In addition to meeting level of service for regional facilities, local area review will apply to any project exceeding more than 50 trips during the P.M. peak hour. It addresses impacts on local/collector or higher order intersections, collector or higher order streets, and signalization within ¼ mile of the proposed development.

**b. Water.**

**c. Wastewater.**

**d. Hydrology.**

**e. Parks.**

**f. Public Schools.**

**Section 2.05 Procedures for Processing Applications for Development Approval (cross-reference Unified Growth Code [see Section 2, below]).**

**Section 2.06 Procedures for Processing Applications for Capital Improvements.**

**a. No capital improvement will be included in Capital Improvements Program until a project request form is submitted as part of the Capital Improvements Program process.**

**b. No capital improvement will be included in Capital Improvements Program unless the project request form includes the following information and analysis (asterisk "\*" indicates items not presently required):**

- i. Growth Tier (traffic shed, water pressure zone, wastewater, and hydrology basin, etc.). If outside of Tiers 1 and 4, include a statement about the growth inducing impacts outside of Tiers 1 and 4 of the facility including: capacity (reference [viii, below]), population/employment estimate, adopted population/employment forecast, and explanation of any restrictions on access that would mitigate growth inducing impacts.
- ii. Community Planning Area.
- iii. Plan area.
- iv. Project type: growth, rehabilitation, deficiency, mandate.
- v. Scope.
- vi. Justification.
- vii. Alternatives.
- viii. \*Infrastructure capacity.
- ix. \*Level of service resulting from construction of improvement.
- x. \*Amount and percent of capacity needed for deficiencies.
- xi. \*Amount and percent of capacity needed to accommodate new growth.
- xii. Coordination.<sup>3</sup>
- xiii. Current phase or development status of project.
- xiv. Source of funds, use of funds: source, amount, use, estimated cost. \*Add a statement as to availability of funds by year and whether funds are subject to a referendum.
- xv. Future phases.

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- xvi. FY estimated completion.
  - xvii. Net cost impact.
  - xviii. Rating score and rank based on adopted evaluated criteria. Evaluation based on consistency with the Comprehensive Plan, adopted Goals and the Planned Growth Strategy Preferred Alternative.

### **11.2.3 Article III: Capital Improvements Program**

Add the following to Section 2, Article 12. The Capital Improvements Program ordinance is not moved to Article 14 because it addresses all capital improvements, not only those related to new development. At present, the Capital Improvements Program is developed through interagency meetings to prioritize projects. However, there are few institutional procedures to build the Comprehensive Plan and Planned Growth Strategy land-use policies into the project selection and funding process. Further, Area and Sector plans do not evaluate the systemwide transportation and other infrastructure implications of land-use alternatives. This requires the Public Works Department and other Departments to analyze facility impacts after the fact.

Interagency coordination is also an issue. Separate City and County Departments are responsible for critical decisions concerning the future of the area, especially Planning,

Public Works, Environmental Health, Transit and Parking, Parks and Recreation, and Family and Community Services. The Transportation Planning Division is part of the Public Works Department and prepares projects for inclusion in the Long Range Transportation Plan and identifies local street improvements funded in the Capital Improvements Program, the General Fund, and Special Assessment Districts. These projects do not require input by Planning, Transit, or Environmental Health. The Capital Improvements Program approval process focuses on prioritizing projects for funding without programmatic coordination.

The following outline describes an approach for improving interagency coordination and consistency between the Planned Growth Strategy, Comprehensive Plan, and the Capital Improvements Program. The Capital Improvements Program should be a strategic plan to support the policies in the Comprehensive Plan and the Planned Growth Strategy Preferred Alternative and to achieve long-term Goals. It should address all public capital expenditures (combining funding sources) in the metropolitan area. It should include a narrative of how the capital program carries out the community's policies and goals, especially related to urban growth and the revitalization of older neighborhoods.

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**Section 3.01 Scope (2-12-1) (add the following consistent with 2.02(b), above).**

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**Project Reference Forms already include:**

- Community Planning Area
- Plan area
- Project type: growth, rehabilitation, deficiency, mandate
- Scope
- Justification
- Alternatives
- Coordination (often left blank; sometimes references other programs or facilities; sometimes references efforts with other agencies)
- Current phase of project
- Source of funds, use of funds: source, amount, use, estimated cost
- Future phases
- FY estimated completion
- Net cost impact
- Rating score and rank

**The following should be added:**

- A map of the project's location in relation to its service area, Planned Growth Strategy center or corridor, and the redevelopment or other plan area.
- The capacity added by the facility (if new growth related).
- Level of service resulting from construction of the facility.
- Amount and percent of capacity needed for deficiencies.
- A description of any growth inducing impacts produced by the facility.

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**Section 3.02 Requirements for Monitoring and Evaluation.****Section 3.03 Non-Funded Capital Improvements.**

Non-funded capital improvements are those that are schedule in a designated year of the Capital Improvements Program but that lack a funding source. Non-funded improvements may be used for long-range planning and informational purposes but cannot be considered in evaluating compliance with concurrency unless a development agreement is executed that provides for full funding of the improvements at the time the impacts of the development will be felt.

**11.2.4 Article IV: Impact Fees and Utility Expansion Charges/ Development Agreements/ Exactions.**

These sections should be codified together in Section 14 of the City Code because they all address the obligations of new development for capital improvements. In general, the recommendations are made for development that is served with urban infrastructure.



**Section 4.01 Impact Fees and Utility Expansion Charges.**

- a. Findings.**
- b. Purpose and intent.**
- c. Definitions.**
- d. General provisions; applicability.**
  - i. Term.
  - ii. Annual review.
  - iii. Define Local Serving infrastructure and Area Serving infrastructure.
  - iv. Affected areas. This is the most critical provision for purposes of Planned Growth Strategy consistency. Establish subareas: Fully Served (Tier 1), Partially Served (Tier 2), Unserved (Tier 3), and plan-prioritized Centers, Corridors, Redevelopment, etc. Areas, not in Unserved Areas (Tier 4). Provide waivers for Tiers 1 and 4 and other areas consistent with the Planned Growth Strategy Preferred Alternative.
  - v. Development fee district.
  - vi. Type of development and subareas affected (Tiers 1, 2, and 4 only).
  - vii. Type of development and subareas not affected – Tier 3.

**e. Procedures for imposition, calculation, and collection of development fees.**

- i. In general.
- ii. Calculation. Establish benefit districts by pressure zone (for water fees), basins (for wastewater fees), regional detention (for hydrology), transportation sheds (traffic and transit), and related areas for other infrastructure types with marginal costs allocated to anticipated growth within each subarea.
- iii. Offsets. Reductions in Impact Fees allowed for development characteristics that reduce use of infrastructure, e.g., for transportation, include exemption or trip reduction for compact development forms, develop-

ment with transit-oriented design, enhanced jobs-housing balance.

- iv. Collection.

- f. Establishment of development fee accounts; appropriation of development fee funds; and refunds.**
- g. Appeals.**

**Section 4.02 Development Agreements.**

- a. Purpose and intent.**
- b. Authorization.**
- c. Definitions.**
- d. Applicability.**
  - i. By location.

Type of Approval	Mandatory (M) or Optional (O) or Not Applicable (NA)			
	Tier 1	Tier 2	Tier 3	Tier 4
Planned Communities	NA	O	M	NA
Plan Amendments	NA	O	M	NA
Rezoning	NA	O	M	NA
Preliminary Subdivision Plats	NA	O	M	NA
Site Development Plans	NA	O	M	NA
Special Exceptions	NA	O	M	NA

- ii. By situation.
  - 1. Projects in which developer proposes to advance capacity of improvements in Capital Improvements Program.
  - 2. Projects using infrastructure capacity not scheduled in Capital Improvements Program.

**e. Criteria for entering development agreements.**

- i. Impact fees not computed in Tier 3 so infrastructure demands must be determined on case-by-case basis, or
- ii. Developer proposes infrastructure improvements or other benefits

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different from the requirements of the Impact Fees/Utility Expansion Charge ordinances.

**f. Procedure for entering development agreements.**

- i. Initiation by application.
  1. Contents of the application.
  2. Contents of development agreement.
  3. Review by Planning Director.
  4. Notice of the Planning Commission public hearing.
- ii. Planning Commission recommendation.
- iii. Failure of Planning Commission to approve.
- iv. Governing body public hearing.
- v. Action by the governing body/ required findings.
- vi. Ordinance.
- vii. Execution of development agreement.
- viii. Notice of decision of governing body.
- ix. Recordation of agreement.
- x. Fees.
- xi. Coordination of development agreement application with other discretionary approvals.

**g. Contents of development agreements.**

- i. Consistency with Comprehensive Plan and Planned Growth Strategy Preferred Alternative.
- ii. Legal description.
- iii. Duration of agreement.
- iv. Uses permitted, building intensities and height, design restrictions.
- v. Description of on- and off-site public facilities serving the development, including who will provide the facilities; the date any new facilities will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the develop-

ment. Restrict agreements that allocate capacity from projected development from a higher priority tier.<sup>4</sup> Include any facilities not included in Capital Improvements Program. Address all of the following:<sup>5</sup>

1. Categories of improvements.
  2. Project related improvements.
  3. Improvements not on Capital Improvements Program.
  4. Improvements in Capital Improvements Program and whether development is staged pending availability of improvement, or whether developer is advancing the facility and securing reimbursement.
  5. Improvements subject to Impact Fees/Utility Expansion Charges.
  6. Existing improvements with excess capacity.
  7. Maintenance, rehabilitation, repair and operations. For Planned Communities in the Rural and Reserve Areas, the developer may establish a special assessment district (NMSA §§ 3-33-1), special tax district, and special rate district for public and off-site improvements, or a homeowners association for off-site or private improvements.
- vi. Pay back provisions for infrastructure in Tier 2.
  - vii. Pay back provisions in Tier 3— from special tax and rate districts only.
  - viii. Reservation or dedication of land for public purposes.
  - ix. Description of development permits approved or needed to be approved.
  - x. A finding that the development permitted or proposed is consistent with the Comprehensive Plan and the Planned Growth Strategy Preferred Alternative.
  - xi. Conditions, terms, restrictions, or other requirements for public health, safety, or welfare.

- xii. Statement indicating that failure to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.

**h. Existing and subsequently adopted rules, regulations, ordinances, laws and policies.**

**i. Subsequently adopted state and federal law.**

**j. Periodic review, termination or modification.**

**k. Amendment or cancellation of agreement.**

**l. Annexation.**

**m. Enforcement.**

**Section 4.03 Exactions.**

**a. General policy – necessity for dedication as a condition of development approval:**

- i. Rights-of-way.
- ii. Streets (i.e., parts of arterials, collectors, curb and gutter, etc.).
- iii. Parks, open space, and trails.
- iv. Hydrology.
- v. Water, wastewater – cross-reference Line Extension Policy (Article V, below).

**b. Definitions.**

**c. Applicability.**

- i. Applies in all Tiers with respect to developer responsibility to bear a portion of infrastructure development costs and rights-of-way dedications, e.g., for local streets, water and sewer service lines, a portion of collector and arterial streets.
- ii. Applies in Tier 2 when level of service review indicates that infrastructure capacity is not available to support proposed development. (Development agreement used as the legal instrument.)

- iii. Policy-based exemptions, e.g., affordable housing, Tiers 1 and 4 in cases consistent with the Planned Growth Strategy Preferred Alternative.

**d. Developer's obligation.**

**e. Rough proportionality determination.**

- i. Establish methodology for computing exactions that incorporates rough proportionality standard of United States Supreme Court decision in *Dolan v. City of Tigard*.
- ii. Incorporate impact reduction factors for developments that, because of design features, use infrastructure more efficiently (e.g., generate fewer trips, use less water, generate less wastewater, etc.).

**f. Acceptance of dedication.**

**g. Appeal of determination.**

**h. Exemptions.**

**11.2.5 Article V: Line Extension Policy**

The Line Extension Policy (City Code of Resolutions §§ 3-5-10 et seq.) should be adopted by ordinance. The policy should be expressly tied to Letters of Service Availability and pro-rata payback of privately paid infrastructure that provides reimbursement only for actual costs to the developer. Payback is available in Tier 2 only based upon the portion of Impact Fees/Utility Expansion Charges for the infrastructure being constructed or financed. The provision should be tied to the Capital Improvements Program.

**Section 5.01 Purpose.**

**Section 5.02 Definitions.**

**Section 5.03 Applicability.**

**Section 5.04 Location and Construction Standards (incorporated § 3-5-12 as currently written).**

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**Section 5.05 Water and Sewer Connection Requirements.**

- a. **Add to current § 3-5-13 that no connection will be permitted unless there is sufficient treatment, transmission, and distribution capacity pursuant to the Adequate Public Facilities Ordinance, and**
- b. **That new capacity does not divert capacity planned for a higher priority Tier.**

**Section 5.06 Private Systems.**  
Retain § 3-5-14.

**Section 5.07 Financing and Allocation of Costs of Construction.**

- a. **Allow developer to advance facilities and secure reimbursement as specified above.**
- b. **Replace §§ 3-5-15 and 3-5-16 for developer reimbursement with a formula that reimburses developer only for costs attributable to capacity exceeding that needed by proposed development, regardless of the source of funds.**

**Section 5.08 Extension of or Connection to Lines Outside City Limits.**  
Retain § 3-5-17.

**11.2.6 Article VI: Fiscal Impact Analysis and No Net Expense in Tier 3 (Unserved Area)**

**Section 6.01 Applicability.**

- a. **Planned Communities.**
- b. **Any mandatory development agreement.**

**Section 6.02 Computation of Net Expenses.**

**a. Compute costs for infrastructure.**

- i. Capital Improvements (roads, transit, water, sewer, drainage, schools, parks, open space, trails, police, fire, libraries, etc.) necessitated by development.
- ii. Operations and maintenance costs for facilities identified in subsection (i).
- iii. Rehabilitation and reconstruction for facilities identified in subsection (i).

**b. Identify infrastructure financing mechanisms.**

**c. Identify revenue pledged to pay costs of infrastructure, e.g., special taxing districts, special assessment districts, water and sewer rate districts, other pledges.**

**d. Certification of preconditions in Tier 3 (Unserved Area):**

- i. Adequate rehabilitation and deficiencies revenues appropriated for urban area.
- ii. Operating costs are comparable to City/County standards or special agreements to pay costs greater than 10% above average.
- iii. Older neighborhoods are stable or are improving as defined by the Indicators Progress Commission for the Albuquerque Progress Report.
- iv. Development conditions for Planned Communities in Rural and Reserve Areas. Approvals phased to assure that interim objectives are met, e.g., for jobs-housing balance, mixed-use development, etc.
- v. Financial self-sufficiency within special tax and rate district.

**Section 6.03 Mitigation.**

- a. **Development agreements.**
- b. **Methods to utilize infrastructure more efficiently (e.g., mix uses, water conservation). Quantify cost savings.**
- c. **Project phasing.**

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## 11.3 Regulatory Code Changes

This provision would be codified in the Code of Ordinances, Section 14, Article 13. The Unified Growth Code is a comprehensive regulatory framework for the provision of infrastructure and regulation of development. The Code combines the planning, infrastructure, and land development regulation powers into one document. This outline also assumes the status quo—that no changes in state regulations or the regulations of surrounding jurisdictions have been made to incorporate the goals of Planned Growth Strategy. It is understood that the cooperation and participation of other state agencies and local governments is essential to full implementation of the Planned Growth Strategy and that this course of action should be pursued. It is appropriate that the City and County be in the position to take meaningful action to control land-use decision pursuant to the Planned Growth Strategy without the participation of other state and local agencies.

### 11.3.1 Article I: Purpose and Scope

**Section 1.01 Title** – establishes brief title for future reference (e.g., “Unified Growth Code”).

**Section 1.02 Purpose** – establishes purposes of ordinance consistent with subdivision enabling legislation and zoning enabling legislation, including any subsidiary purposes identified by the City/County Comprehensive Plan and consistent with the Planned Growth Strategy Preferred Alternative.

**Section 10.3 Authority** – recites legislative intent and statutory authority.

**Section 10.4 Applicability** – lists territorial jurisdiction and uses and activities subject to the Unified Growth Code.

**Section 10.5 Consistency with City/County Comprehensive Plan and the Planned Growth Strategy** – describes the Unified Growth Code relationship with the City/County Comprehensive Plan, the Planned Growth Strategy Preferred Alternative, and other related policy documents.

**Section 10.6 Coordination with Other Regulations** – describes the relationship between the Unified Growth Code and other regulations.

**Section 10.7 Interpretation** – provides rules for interpretation of Unified Growth Code. References Definitions (Appendix A).

**Section 10.8 Permits and Certificates** – establishes the need for permits and certificates prior to actions relating to the Unified Growth Code.

**Section 10.9 Effective Date** – sets the date when the Unified Growth Code is to take effect consistent with New Mexico law.

**Section 10.10 Severability** – protects the balance of the Unified Growth Code if part is found to be invalid.

### 11.3.2 Article II: Use Patterns

This section establishes a code adopted in parallel to the existing code for the approval of developments (centers, corridors, redevelopment area, employment centers, Traditional Neighborhood Development subdivisions, etc.) that are consistent with the Planned Growth Strategy. It includes purpose, procedure for establishment (using site plan), use allocation, density, lot standards, open space, and street

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patterns for development patterns involving more than one use, master planning, or specific situations. Developments that satisfy these criteria are not subject to zoning (including discretionary SU-1, SU-2 or SU-3 processes).

**Section 2.01 Planned Village Development** – establishes design guidelines for complete neighborhoods on “Greenfield” (i.e., undeveloped) sites or infill sites consistent with New Urbanism (Traditional Neighborhood Development) principles. These design guidelines have been modified to incorporate the unique typology of Albuquerque. Traditional Neighborhood Developments include both complete neighborhoods in the Partially Developed Areas and beyond, and infill Traditional Neighborhood Developments that are part of existing neighborhoods. Infill Traditional Neighborhood Developments should be located in proximity to complementary areas (e.g., residential-only Traditional Neighborhood Developments within ¼ mile of commercial areas). Infill Traditional Neighborhood Developments must have pedestrian connections to complementary uses. Planned Village Developments include the following:

- a. **Central plaza.**
- b. **Central commercial area within walking distance of residential neighborhoods. Commercial areas feature storefronts with rear parking.**
- c. **Buildings oriented to the public realm.**
- d. **Interconnected pedestrian and traffic streets.**

- e. **Narrow traffic lanes.**
- f. **Short blocks (< 400 feet).**
- g. **Landscaping and xeriscape.**
- h. **Mixed-density residential with higher densities closer to the central plaza.**
- i. **Other mixed uses.**
- j. **Architectural design standards.**
- k. **Schools.**
- l. **Parks and open space.**
- m. **Other.**

**Section 2.02 Transit-Oriented Development**– establishes guidelines for development served by high-capacity public transportation. Includes the following design features:

- a. **Minimum densities (> 8-12 dwelling units/acre) and intensities (minimum floor area ratio 2.0–2.5 depending on size of tract).**
- b. **Interconnected street systems.**
- c. **Compact area restricted to primary transit-shed (¼ mile) and secondary transit shed (between ¼ -½ mile) in transit corridors.**
- d. **Commercial buildings oriented to public realm.**
- e. **Landscaping and xeriscape.**
- f. **Architectural design standards.**
- g. **Other.**

**Section 2.03 Conservation Subdivision** – establishes guidelines for developing areas with unique topographical or environmental constraints. Conservation subdivisions serve a different need than Traditional Neighborhood Developments. They are only permitted where there are unique environmental, natu-

ral, or visual resources that merit protection. They are appropriate where public policy favors minimizing impervious surfaces over promoting pedestrian-friendly streetscapes and mixed uses.

- a. **Narrow streets, no sidewalks required in vicinity of floodplains or other sensitive resources in order to minimize impervious surface.**
- b. **High minimum passive open space requirements (40-50%).**
- c. **Curvilinear streets.**
- d. **Landscaping and xeriscape.**
- e. **Architectural design standards.**
- f. **Other.**

**Section 2.04 Commercial Center** – establishes guidelines for development of retail and/or employment centers.

- a. **Pedestrian scale.**
- b. **Lineal frontage restricted (e.g., 440 feet – ¼ mile) to avoid unrelieved strip development and one-mile distance between centers.**
- c. **Rear parking.**
- d. **Buildings oriented to public realm.**
- e. **Interconnected street system.**
- f. **Landscaping and xeriscape.**
- g. **Transit and multi-modal oriented development.**
- h. **Potential for higher density residential development.**
- i. **Architectural design standards.**
- j. **Other.**

**Section 2.05 Campus** – establishes guidelines for unified development of office, industrial, and/or institutional uses.

- a. **Minimum open space required.**
- b. **Landscaping and xeriscape.**
- c. **Meandering trails or pedestrian linkages.**
- d. **Retail/restaurants serving complex permitted.**
- e. **Transit and multi-modal oriented development.**
- f. **Potential for higher density residential development.**
- g. **Architectural design standards.**
- h. **Other.**

### 11.3.3 Article III: Zoning Districts

#### Section 3.01 General.

- a. **Purpose.**
- b. **Establishment of districts.**
- c. **Zoning map** – adopted.
- d. **District boundaries** – establishes rules for interpretation.

#### Section 3.02 Base Zoning Districts.

- a. **Zoning district purpose statements** – establishes central purpose of each district and its relationship to City/County Comprehensive Plan and the Planned Growth Strategy Preferred Alternative.
- b. **Use Regulations.**
  - i. Permitted uses, special exceptions and accessory uses.
  - ii. Permitted use matrix – permitted and special exception uses are designated in the use matrix. Uses in the matrices will be listed as “P” (permitted), “C” (conditional), “A” (permitted as an accessory use), “T” (permitted as a temporary use), or “-” (not permitted). Because the Use Matrix is lengthy, it may be placed in an Appendix.<sup>6</sup>
  - iii. Uses not provided for in zoning district regulations.

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**c. Dimensional Regulations.**

- i. Matrix summarizing minimum and maximum density, floor area ratio, height and setbacks within each base zoning district.

**Section 3.03 Special Exceptions.**

**Section 3.04 Overlay Districts.**

**a. [new] Infill development zone.**

- i. Authorized where development surrounded by existing development or in census tracts where:
  - 1. At least --% of the dwelling units were constructed prior to 19--, and
  - 2. At least --% of the platted lots are vacant; and
  - 3. Median household income is not more than 80% of area median income.
- ii. Waives front and side setback, minimum parking, and Adequate Public Facilities Ordinance in order to encourage redevelopment. Buildings must have their primary entrance facing a street. Blank walls may extend no longer than -- lineal feet.
- iii. Commercial Infill – authorizes “liner” buildings in existing parking areas of shopping centers and big box retail and redevelopment with lot and block pattern.
- iv. In lieu of setbacks, development must be compatible in massing and scale with surrounding development, e.g.,
  - 1. Spacing between building facades.
  - 2. Proportion of windows and doorways.
  - 3. Proportion of primary façade.
  - 4. Location and treatment of entryways.
  - 5. Building scale.
  - 6. Other.

**b. Transfer of Development Rights overlay.**

- i. Authorizes mapping of Transfer of Development Rights (TDR) for “sending” areas: Tier 3, environmentally sensitive lands, prime agricultural lands, areas with obsolete plats or premature subdivisions. Areas located in unincorporated Bernalillo County should qualify as sending areas when the County adopts a parallel ordinance.
- ii. Authorizes mapping of TDR-R for “receiving” areas: Tier 1, 2, and 4. These areas receive density or floor area ratio bonuses for designation of TDR-R zones. Must be mapped in conjunction with mapping of a TDR-S zone.
- iii. Conservation easements and/or other protections (e.g., Development Agreement as part of a Planned Community) required for TDR-S sending zones.

**c. H-1 Historic districts**

**Section 3.05 Supplemental Use Regulations** – establishes supplemental regulations for special uses of concern such as telecommunications towers, big box retail, campgrounds, etc.

**11.3.4 Article IV: Processing Procedures**

**Section 4.01 General.**

- a. General procedural requirements** – establishes uniform procedures for processing of site plans, plan amendments, rezonings, variances, and zoning permits. Flowcharts should be included. A comprehensive listing of submittal requirements for each type of application (e.g., rezoning, site plan, comprehensive plan amendment) may be included in an Appendix to the Unified Growth Code.
- b. Application process and official filing date.**
- c. Notice provisions.**



- d. Classification of permitting actions** – classifies permitting actions as legislative (e.g., rezonings), administrative (e.g., variances, appeals, subdivision plats), and ministerial (e.g., building permits, certificates of occupancy).
- e. Public hearings procedures.**
- f. Post-decision proceedings.**
- g. Expiration of development approval.**
- h. Revocation of permit.**
- i. Neighborhood meetings** – recites policy to encourage neighborhood meetings prior to filing formal applications for development approval, that a list of issues should be prepared and the hearings restricted to those issues, and provides that parties who refuse to participate cannot request a continuance of hearings.

#### **Section 4.02 Zoning Procedures.**

- a. Zoning amendments** – establishes procedure for processing applications for a zoning text amendment, and rezonings (including Planned Communities).
- b. Conditional zoning** – authorizes optional rezoning to district permitting only uses by special exception, with only the requested use permitted.
- c. Special exceptions** – establishes procedure for processing special exceptions, submittal requirements (site plan), and designates agency responsible for approval.
- d. Site plan review** – establishes applicability of site plan approval requirement (e.g., rezoning/Planned Unit Development, special exception, variance), procedures for processing, and contents of site plan (note: the contents may be placed in an Appendix because they tend to be highly technical). May also apply to procedures for commercial, multifamily, and industrial development even where a rezoning is required. This section would establish a Major Site Plan, including a description of site location, overall density and intensity, general location of uses, environmental constraints, open space, infra-

structure, and so on in order to provide a preliminary assessment of development impacts, for Rank 3 plans (e.g., Sector Development Plans, Neighborhood Development Plans, Redevelopment and Renewal Plans), and a Minor Site Plan procedure for uses permitted as of right that require site plan approval. A Minor Site Plan would be approved administratively, with appeals only to the courts in order to expedite the permitting process.

- e. Unified Growth Code ministerial permits** – establishes applicability of ministerial permits for uses permitted as of right, as well as special situations such as temporary uses, home occupations, and telecommunications facilities.
  - i. Building permit – establishes relationship between Unified Growth Code and building permit provisions. The Unified Growth Code regulates land use and subdivision, while the building permit regulates building construction pursuant to a preemptive state code.
  - ii. Permits for special situations – fence permit, home occupation permit, sign permit, temporary use permit, telecommunications permit, adult business permit.
  - iii. Certificate of occupancy.

#### **Section 4.03 Subdivision Procedures.**

- a. Purpose** – recites purposes of subdivision regulation including promotion of orderly growth and development; coordination of roads with existing and planned roads and other infrastructure and public facilities including schools; provision of adequate recreation facilities; avoiding congestion and overcrowding; and protection of public health, safety, and general welfare. Achieve development consistent with Article 2 Use Patterns above; namely, Planned Village Development, Transit Oriented Development, Conservation Subdivision, Commercial Center, and Campus.
- b. Platting requirement** – describes activities subject to subdivision plat filing requirement.

- c. **Plat exceptions** – describes activities exempt from platting requirements.
  - d. **Classification of subdivisions** – describes major subdivisions, minor subdivisions, and development plats.
  - e. **Plat application** – describes where applications should be submitted, cross-references checklist in Development Process Manual, requires administrative fees and earmarking of administrative fees. Provides for distribution to other agencies.
  - f. **Completeness review** – requires local government departments to review applications with time limit for response. If departments fail to respond, applicants may appeal to the Planning Commission. If the Planning Commission fails to respond, the application is deemed complete, and the applicant may proceed to formal filing.
  - g. **Plat approval** – assigns authority for approval of major plats, minor plats, and development plats. Provides for withdrawal.
  - h. **Signature and endorsement.**
  - i. **Plat recordation.**
  - j. **Standards of approval** – conformance to Section 6 and Adequate Public Facilities Ordinance regulations.
  - k. **Performance agreements.**
  - l. **Acceptance of dedication.**
  - m. **Inspection of improvements.**
  - n. **Enforcement** – issuance of building permits are used to enforce the construction and dedication of adequate public improvements. A temporary certificate of occupancy procedure may be provided in order to provide for unique situations where minor deficiencies exist, while retaining the ability to enforce the ordinance if a threat to public health, safety, or general welfare would result. Utilities are not provided to unplatted lots.
  - o. **Vacation of plats** – establishes procedures for vacating lots and streets, thereby returning a tract to unplatted status.
  - p. **Amending plats** – describes situations where plats may be amended administratively and situations where reapplication is required.
  - q. **Resubdivision** – This section requires that substantial changes in the physical layout of a plat go through the subdivision process as would a new subdivision of land.
  - r. **Procedure for subdivisions when future resubdivision is indicated** – This section requires applicants to show future street locations in undivided parcels of land that are attached to property currently being subdivided.
- Section 4.04 Variances & Appeals.**
- a. **Appeals procedures** – see existing City Code § 14-16-4-4.
  - b. **Interpretation procedures** – establishes procedures for processing of interpretations by the Zoning Hearing Examiner and/or Board of Appeals.
  - c. **Zoning variance procedures** – establishes procedures for processing of variances by the Board of Appeals.
  - d. **Subdivision variance procedures** – establishes procedures for processing variances by Planning Commission.
- Section 4.05 Violations & Penalties.**
- a. **Types of violations** – describes the types of violations that may occur, including building without required permits, construction in violation of permit conditions, and establishing uses or densities inconsistent with zoning district regulations.
  - b. **Procedures** – establishes procedures for filing notice of violation, appeals, and time period for corrective action.
  - c. **Zoning violations** – establishes penalties for violations of zoning regulations.
  - d. **Subdivision violations** – establishes penalties for violations of subdivision regulations.

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## 11.3.5 Article V: Development Standards

**Section 5.01 Purpose** – this section establishes standards for subdivision and site plan applications.

**Section 5.02 Adequate Public Facilities Regulations** – See Section 1 of this chapter.

**a. No application for development approval is approved if it would cause a reduction in adopted level of service. These include:**

- i. Planned Communities in Comprehensive Plan Rural and Reserve Areas.
- ii. Plan amendments.
- iii. Preliminary subdivision plats.
- iv. Rezoning.
- v. Site development plans.
- vi. Special exceptions.

**b. Exemptions:**

- i. Requests for capital improvements in Tiers 1 and 4 consistent with the Planned Growth Strategy Preferred Alternative.
- ii. Applications for development approval in Tiers 1 and 4 consistent with the Planned Growth Strategy Preferred Alternative.

**c. Procedures for processing applications for capital improvements** – cross-reference sections from Section 1 of this chapter.

**d. Procedures for processing applications for development approval.**

- i. Submission requirements.
  1. Include requirements for initiating and filing a complete application.
  2. Technical requirements of Development Process Manual should suffice for technical aspects of applications.

- ii. Completeness review.
  1. Applications must include all required information to be processed.
  2. Applications with all required information must be processed.
- iii. Determination.
  1. Planning Department distributes information to appropriate technical agency.
  2. Technical agency submits a recommendation as to whether the application would cause a reduction in adopted level of service based on standards in this Ordinance.
  3. Approving agency makes final determination as part of ruling on application.
  4. Options.
    - a. Approval where public facilities and services are available at adopted level of service.
    - b. Denial because public facilities and services are not available at adopted level of service.
    - c. Approval subject to deferral of development until public facilities are available and adequate at adopted level of service.
    - d. Approval where a binding Development Agreement provides for funding of public facilities (whether from applicant or external sources) needed to achieve adopted level of service at time that the impact of the development will occur.

**e. Effect of determination.**

- i. Approval means that facilities are adequate at that stage of approval process.
- ii. Approval subject to deferral of development – does not guarantee that facilities will be subsequently available (i.e., that capacity is reserved) unless availability is guaranteed by a Development Agreement.

**f. Advancement of capacity.**

- i. Where facilities are scheduled in Capital Improvements Program but later than needed by applicant, applicant may provide facilities through a Development Agreement.
- ii. Development Agreements in Tier 2 may provide reimbursement for excess capacity through subsequently-collected Impact Fees and Utility Expansion Charges. Applicant is not entitled to reimbursement of more than the net present value of providing the excess capacity for the specific type of infrastructure.
- iii. Development Agreement in Tier 3 may provide reimbursements from revenue collected from special tax and rate districts. Financial self-sufficiency is an objective in Tier 3.

**g. Appeal and variances.**

**h. Methodology and criteria for determining availability and adequacy of public facilities.**

- i. Generally.
  - 1. General formula for determining whether capacity is available:  
Formula  $AC = (C_e + C_n) - (D_e + D_p + D_r + D_o)$   
where AC = capacity available to serve new development  
 $C_e$  = capacity provided by existing facilities at the adopted level of service  
 $C_n$  = capacity of new or planned facilities, as determined by the minimum requirements  
 $D_e$  = demand created by existing and vested development  
 $D_p$  = demand created by the proposed development  
 $D_r$  = demand created by developments with capacity reservations  
 $D_o$  = demand created by other developments with approvals
  - 2. For administrative convenience, local government may substitute  $D_g$  (demand created by developments with capacity reservations and with development approvals based upon generalized background growth

rate) for  $D_r$  and  $D_o$ . This figure may be updated periodically to maintain an accurate assessment of background growth.

- ii. Level of Service Standards.
  - 1. Transportation.
  - 2. Water.
  - 3. Wastewater.
  - 4. Parks.
  - 5. Drainage.
  - 6. Schools.

**Section 5.03 Lot Arrangement and Dimensions** – contains provisions for short blocks.

**Section 5.04 Transportation** – addresses right-of-way and cross-section widths, geometric design, connectivity, access management, and pedestrian facilities – establishes minimum connectivity requirements.

**Section 5.05 Stormwater Management** – addresses capacity of stormwater facilities, best management practices and permeable pavement—stresses natural solutions and minimizes channelization, although exemptions are appropriate where public policy favors higher densities (e.g., downtown, Transit Oriented Developments).

**Section 5.06 Utilities** – addresses requirements for connection and location of utilities.

**Section 5.07 Parks and Open Space** – includes standards for reservation of parks (active open space) and passive open space, maintenance of open space, and distance from lots.

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**Section 5.08 Preservation of Natural Features and Amenities –**

This section requires the preservation of valuable natural amenities such as trees, watercourses, indigenous plants, and animal habitats.

**Section 5.09 Air Quality Impact Regulations. Revise City Code § 14-16-3-14 to require air quality impact analysis for development in Tiers 2 and 3 –** extends air quality analysis requirements to Tiers 2 and 3 regardless of project size thresholds that currently apply.

**Section 5.10 Landscaping, Screening, and Buffering –** landscaping and buffering standards for landscaping that will capitalize on the community’s character and identity while preserving natural resources and protecting water quality. These requirements will be applied to all new development, redevelopment, or building expansion projects including streetscape of rights-of-ways.

**Section 5.11 Parking, Loading, and Bicycles (includes updated landscaping, flexible (joint use) and pedestrian-oriented standards) –** establishes minimum and maximum parking standards and addresses layout and design.

**Section 5.12 Outdoor Storage.**

**Section 5.13 Impact Fees.**

Impact Fees would be charged for three categories of facilities: (1) Local Serving (e.g., Police Area Command), (2) Area Serving (e.g., Albuquerque Police Department Central Office, Communications), and (3) Infrastructure Specific (e.g., collector street, water distribution line). Calculation of Impact Fees would be based upon the Capital Improvements Program within the service tiers that is consistent with the population, housing and employment allocations in the Preferred Alternative. These allocations will be used as the “Land-use Assumptions” for purposes of the Impact Fee statute. Impact Fees are lower in fully developed areas based on the availability of existing capacity, which reduces the actual cost of provide service.

Impact Fees are adjusted based on land-use policies such as:

- Reduced transportation charges for suburban communities with mixed-use centers that include retail, services, higher density housing, and public spaces and services.
- Reduced transportation charges for transit-supportive development (higher floor area ratio with retail, office, or residential uses) in plan approved locations.
- Reduced transportation charges with Transportation Management Organization and employee transit allowance linked to paid parking.
- Reduced water and wastewater Impact Fees for affordable housing on small lots and with few fixtures.

Fees are waived outright in planned approved Centers, Corridors, Employment Areas, Redevelopment Areas, etc. consistent with the Planned Growth Strategy Preferred Alternative.

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### **11.3.6 Article VI: Vested Rights & Non-Conforming Uses and Structures**

Addresses continuance of nonconforming uses and procedures for determining the existence of nonconforming uses and vested rights.

#### **Section 6.01 Nonconforming Uses.**

- a. Purpose.**
- b. Continuing lawful use of property and structures.**
- c. Discontinuance or abandonment** (includes discontinuance of advertising, junk yards, etc.).
- d. Change of use regulations.**
- e. Expansions, alterations, and repairs.**
- f. Certificate of nonconforming use** – requires filing of certificate of nonconforming use within designated time period following adoption of Unified Growth Code in order to track nonconforming uses for planning purposes.

#### **Section 6.02 Vested Rights.**

- a. Establishes procedure for filing applications for vested rights determination.**
- b. Establishes deadline for filing vested rights determination applications.**
- c. Establishes criteria for determining existence and scope of vested rights.**

#### **Section 6.03 Permit Expiration.**

- a. Defines expiration period for permits including site plans, building permits, certificates of occupancy, subdivision plats, certificates of appropriateness, and specific zoning permits (e.g., home occupation permits, telecommunications permits).**
- b. Establishes procedures for extension of time limits for permits.**

### **11.3.7 Article VII: Appendix A. Definitions**

This section defines terms used in the Unified Growth Code that do not have a normal meaning as defined in the dictionary.

### **11.3.8 Article VIII: Appendix B. Application Submittal**

This appendix includes submittal requirements for all forms of development orders, including rezonings, Rank 3 Plans (e.g., Sector Development Plans, Neighborhood Development Plans, Redevelopment and Renewal Plans), subdivision plats, building permits, and certificates of appropriateness.

## **11.4 Intergovernmental Approaches**

The diffuse control over infrastructure provision and land-use planning in the region has contributed to “disconnects” between land-use policies and the location and timing of infrastructure and development.<sup>7</sup> A summary of the issues by agency is as follows:

1. Middle Rio Grande Council of Governments

Middle Rio Grande Council of Governments (MRGCOG) develops population, housing, and employment data for counties and Data Analysis Subzones (DASZ). DASZs are small geographic areas designed primarily for transportation planning.<sup>8</sup> These forecasts are used by the Urban Transportation Policy Planning Board of MRGCOG to develop the Long Range Major Street Plan.<sup>9</sup> It is the perception of many in the community that there is little coordination between the selection of transportation projects and right-of-way location and the region’s land-use policies, thereby discouraging multi-modal solutions.

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## 2. New Mexico State Highway and Transportation Department

The ability to establish high-capacity roadways outside of the City's and County's growth tiers opens up new areas for development. This can create development pressures in these areas in advance of the availability of other infrastructure. Further, establishing a transportation system centered on highways induces low-density, sprawling development patterns and a traveling public reliant exclusively on automobiles for mobility. This section recommends tying the extension of highways to the Planned Growth Strategy Preferred Alternative.

## 3. New Mexico Utilities, Inc. (water and wastewater) and Albuquerque Metropolitan Arroyo Flood Control Authority

The orderly extension of City and County infrastructure does not guarantee that development patterns will conform to the Planned Growth Strategy. Developers may obtain the necessary infrastructure from different sources besides the City and County, including the Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA) (hydrology), New Mexico Utilities (water and sewer), and the State of New Mexico (streets). New Mexico Utilities is a privately owned and operated company that provides services to over 5,000 residential and commercial customers. AMAFCA is a public agency with authority to create a flood control system and the power of eminent domain both inside and outside authority boundaries. These entities are significant infrastructure suppliers for urban growth.

## 4. Albuquerque Metropolitan Water and Wastewater Board

Bernalillo County, the City of Albuquerque, and the Village of Los Ranchos de Albuquerque have created an Albuquerque Metropolitan Area Water and Waste Water Board. This is a quasi-governmental body that makes "recommendations" that, unless overturned by a two-thirds vote of the City Council, affect provision of water and waste water services to all areas of the county.<sup>10</sup> The City Water and

Wastewater Utility Department will provide services for Los Ranchos and all areas of Bernalillo County under the supervision of the Albuquerque Metropolitan Area Water and Waste Water Board. Existing City policies regarding water and sewer line extensions, water and sewer service areas, and funding remain in effect unless changes are adopted by  $\frac{3}{4}$  of the Board and  $\frac{2}{3}$  of the City Council. The Board may not encumber funds without express written approval of the jurisdiction providing the money. The agreement between Albuquerque, Bernalillo County, and Los Ranchos will last until July 1, 2020, or in the event that parties become a unified form of government. The County and Village will not participate in other water or sewer utilities within county boundaries unless all parties agree.

This agreement is an important step in the unification of the utilities policies between the various levels of government in the County. However, it is important that the extension of utilities follow a coherent set of principles and does not encourage inappropriate or premature development patterns.

## 5. Extraterritorial Land Use Authority

The Extraterritorial Land Use Authority modifies the City's extraterritorial zoning and subdivision authority by establishing a joint Extraterritorial Land Use Authority consisting of City and County representatives. The Extraterritorial Land Use Authority is authorized to adopt and implement zoning and subdivision regulations in the extraterritorial jurisdiction. The present Extraterritorial Land Use Authority zoning ordinance is similar to the County's ordinance, with conventional zoning lot patterns and little emphasis on the design of development or its relationship to infrastructure level of service capacity. The legislation does, however, create an opportunity for the City and County to cooperatively establish regulations for development in the extraterritorial jurisdiction.

## 6. Albuquerque Public Schools

The Albuquerque Public Schools is a state agency with an independently elected school board. Boundaries include the City of Albuquerque, Village of Los Ranchos de Albuquerque, Town of Corrales, and the unincorporated portion of Bernalillo County. The Albuquerque Public Schools have an independent capital plan that, in many ways, is more advanced than that of both the City and the County. Absent a urban growth management plan that guides the location and timing of growth, the public school system is in a reactive mode, similar to other public facilities. The Albuquerque Public Schools have a seat on the City's Development Review Board; however, their representations in the Board's reviews that insufficient classroom space is available to support new residential development has no impact on development approvals. The New Mexico Development Fees Act specifically prohibits Impact Fees being assessed for schools.

### 11.4.1 Article I: Revisions to Planning Legislation

Summary: This section establishes a statutory directive for regional comprehensive planning, as well as the adherence of state and local agencies to local plans. It does not establish a new state agency. However, it does require state agencies to comply with local plans in the siting of new facilities.

#### Section 1.01 Regional Planning with Cross-Acceptance.

##### a. Findings and declarations.

- i. Purpose.
  1. Conserve natural resources.
  2. Revitalize urban centers.
  3. Protect the quality of the environment.
  4. Provide needed housing and affordable housing.
  5. Provide adequate public services at reasonable cost.

6. Promoting beneficial economic growth, development, and renewal.

7. Other.

- ii. Significant economies, efficiencies, and savings in the development process are realized by private sector enterprise and by public sector development agencies with regional government cooperation in the preparation of and adherence to plans.
- iii. It is in the public interest to encourage development, redevelopment, and economic growth in locations that are well situated with respect to present or anticipated public services and facilities; to give appropriate priority to the redevelopment, repair, rehabilitation, or replacement of existing facilities; and to discourage development where it may impair or destroy natural resources or environmental qualities that are vital to the health and well being of the present and future citizens of this state.
- iv. Regional government cooperation will enhance prudent and rational development, redevelopment, and conservation policies and the formulation of sound and consistent regional plans and planning criteria.

##### b. Local comprehensive plan contents (plan elements):

- i. MRGCOG regional population, housing, and employment projections are provided by the University of New Mexico, Bureau of Business and Economic Research. Bernalillo County allocations are supplied by MRGCOG through the process identified below. (see section 1.01.c cross-acceptance)
- ii. Future Land Use Element.
  1. Identify areas for growth, limited growth, agriculture, open space conservation, and natural resources protection.



2. Establish a Preferred Alternative in terms of DASZ allocations of population, employment, and housing.
  3. Designate areas for future planned development.
- iii. Public facilities element.
1. Principles for construction, extension, or increase in capacity of public facilities.
  2. Principles for correcting existing public facility deficiencies and rehabilitation needs.
  3. Estimated public facility costs.
  4. Delineation of when facilities will be needed—phasing and timing.
  5. Location of facilities.
  6. Projected revenue sources.
  7. Standards to assure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.
  8. Standards for the management of debt.
  9. At option of local government, promote development and redevelopment where infrastructure can be provided at private expense or with cost-efficient expenditures of public funds. This should not be construed to give preferential treatment to new construction.
- iv. Traffic circulation element.
1. Types, locations, and extent of existing and proposed major thoroughfares, transportation routes and High Occupancy Vehicle facilities.
  2. Transit, bicycle, and pedestrian corridors.
- v. Utilities (sanitary sewer, drainage, potable water), Parks, and Schools Elements.
1. Ways to provide for future water, drainage, and sanitary sewer.
  2. Indicate water pressure zones, sewer, and hydrology basins.

3. Indicate Fully Served, Partially Served, Unserved Areas, and plan-endorsed Centers, Corridors, Redevelopment Areas, Employment Centers, and so on.
4. Suitability of soils for septic tanks.
5. Parks service areas.
6. School boundaries and services areas.
7. Other.

### c. Cross-acceptance.

Comment: The term “cross-acceptance” means a process of comparison of planning policies among governmental levels with the purpose of attaining compatibility among local, county, and state plans. The technique has been used in New Jersey pursuant to that state’s development and redevelopment plan. This approach does not establish a new state agency or a state plan, as occurred in New Jersey. Instead, it builds on local planning efforts by establishing a process for acceptance of planning policies on a regional basis. Also, it does not mandate acceptance of the regional plan by local government, which should enhance its political acceptability in Santa Fe. The Planned Growth Strategy supports this process being required by State Statute, but it can be conducted on a decentralized basis through MRGCOG. The process is designed to result in a written statement specifying areas of agreement or disagreement and areas requiring modification by parties to the cross-acceptance. The process is designed to elicit the greatest degree of public participation in order to encourage the development of a consensus among the many, sometimes competing, interests in the region.

- i. The regional plan evolves through four phases: 1) the Demographic Projections and Allocations; (2) the Local Plans, which are the fundamental elements of the Regional Plan; (3) the Interim Regional Plan, which will reflect the changes occurring during the cross-acceptance process; and (4) the Final Regional Plan.
- ii. Demographic Projections and Allocations.

1. Projections of population, housing, and employment conducted for the MRGCOG region by the Bureau of Business and Economic Research at the University of New Mexico.
  2. MRGCOG allocates demographic projections to the counties or portions of counties in the MRGCOG region.
  3. Joint or consolidated planning staffs and planning commissions review allocations to Bernalillo County and provide comments and recommendations to MRGCOG. MRGCOG negotiates cross-acceptance within the region.
  4. Joint or consolidated planning commission within Bernalillo County is provided with final MRGCOG allocations for the county.
- iii. Local Plans.
1. Joint or consolidated planning staff within Bernalillo County conduct Local Plan for the county (called the Bernalillo County Plan) based on allocations of population, housing, and employment. The Planned Growth Strategy Preferred Alternative serves as the basis of this plan.
  2. Bernalillo County Plan includes elements set forth in subsection (b), above. Existing studies that meet the requirements of subsection (b) may constitute the plan. Plans must consider input from the state and other private and public entities concerning their land use, environmental, capital, and economic development plans, including to the extent practicable any state plans concerning natural resources or infrastructure elements.
  3. Prior to adoption, a draft Local Plan is distributed to state agencies, MRGCOG, and other organizations.
  4. Between 45–90 days thereafter, the joint or consolidated Bernalillo County Planning Commission conducts a joint public informational meeting to provide information on the plan, respond to inquiries, and receive informal comments and recommendations.
5. Interested parties and agencies file a formal report of findings, recommendations, and objections concerning the plan.
  6. The Bernalillo County Plan is approved by the joint or consolidated Bernalillo County Planning Commission and adopted by the governing bodies within the county.
- iv. Interim Regional Plan – Draft Final Regional Plan.
1. The Local Plans in the MRGCOG region are transmitted to MRGCOG. MRGCOG staff combine these Local Plans to produce an Interim Regional Plan.
  2. MRGCOG staff examine the economic, environmental, infrastructure, community life, and intergovernmental coordination impacts of the Interim Regional Plan. This procedure consists of an assessment of the impacts of the Interim Plan and an on-going monitoring and evaluation program after the Final Plan is adopted.
  3. The results of the MRGCOG Assessment Study shall identify desirable changes to be incorporated into the Final Regional Plan. This study also describes the impacts of the policies and strategies proposed in a recommended draft Final Regional Plan (hereafter referred to as the “Plan impacts”) relative to the impacts that would likely occur without a Plan (hereafter referred to as “Trend impacts”). In examining the Plan impacts and Trend impacts, any significant regional differences that result shall be identified and analyzed. Where appropriate, the study shall also distinguish short-term and long-term impacts. The Assessment Study addresses:

- a. Changes in property values, including farmland, state and local expenditures and tax revenues, and regulations.
  - b. Costs of providing the infrastructure systems.
  - c. Environmental impacts, including air quality and water quality.
  - d. Health and safety issues, including emergency vehicle response times.
  - e. Quality of life issues, e.g., travel times/mobility, open space, recreational opportunities, housing costs, and similar issues.
  - f. Others.
4. The Assessment Study and the draft Final Regional Plan are submitted for distribution to joint or consolidated county planning commissions and state agencies during the cross-acceptance process.
  5. The counties and other agencies must respond within 30 days following the last public hearing.
- v. Final Regional Plan.
1. Upon consideration of the formal reports of the joint or consolidated County Planning Commissions, the MRGCOG prepares and distributes a Final Regional Plan. The MRGCOG conducts public hearings to receive comments on the final plan.
  2. Taking full account of the testimony presented at the public hearings, the MRGCOG board revises and adopts the plan by a majority vote of its authorized membership no later than 60 days after the final public hearing.
- vi. Revision of Local Plans.
1. The Bernalillo County joint or consolidated planning staff review the Bernalillo County Plan in terms of the Final Regional Plan. Suggested revisions, if believed necessary, to

the adopted Bernalillo County Plan are put forward.

2. The joint or consolidated Bernalillo County Planning Commission reviews the suggested revisions and may approve changes to the Bernalillo County Plan.
3. The revised Bernalillo County Plan is adopted by the governing bodies within the county.
4. The Bernalillo County Plan is the governing document for consistency requirements.

**d. Consistency.** Require consistency between the Bernalillo County Plan and:

- i. Local land development regulations (City, County, and Extraterritorial Land Use Authority), including subdivision regulations (NMSA § 3-20-1 et seq.; 3-19-1 et seq.), zoning (NMSA § 3-21-1 et seq.), manufactured housing (NMSA § 3-21A-1 et seq.); and historic districts and landmarks (NMSA § 3-22-1 et seq.).
- ii. Exercise of municipal powers of municipalities under NMSA § 3-18-1 et seq.
- iii. Local economic development (NMSA § 5-10-3 et seq.).
- iv. Development fees (NMSA § 5-8-1 et seq.).
- v. Infrastructure capital improvements programs.
- vi. Public works expenditures.
- vii. Development agreements.
- viii. Plans and programs of state agencies especially the N.M. State Highway and Transportation Department.

**e. On-going monitoring and evaluation program.**

- i. The Final Regional Plan includes the appropriate monitoring variables and plan targets in the economic, environmental, infrastructure, community life, and intergovernmental coordination areas to be

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evaluated on an on-going basis following adoption of the Final Plan.

- ii. In implementing the monitoring and evaluation program, if Plan targets are not being realized, the MRGCOG evaluates reasons for the occurrences and determines if changes in Plan targets or policies or in Local Plans are warranted.
- iii. Each state agency or county, municipality or political subdivision makes available to the MRGCOG any studies, surveys, plans, data and other materials or information concerning the capital, land use, environmental, transportation, economic development and human services plans and programs of the agency, county, municipality or political subdivision.

### **Section 1.02 Standard Planning Enabling Act revisions.**

Note: The Standard Planning Enabling Act was first promulgated by the U.S. Department of Commerce in 1927. The Standard Planning Enabling Act suggested here provides for the development of master plans for public improvements and consistency language requiring review and approval of proposed improvements by the Planning Commission. The Standard Planning Enabling Act is codified in New Mexico at NMSA §§ 3-19-9 to 3-19-12. As in many states, the Standard Planning Enabling Act in New Mexico allows a state agency to overrule the recommendations of the Planning Commission (NMSA § 3-19-11). Lora Lucero has provided a draft statewide consistency statute, which includes changes to the Standard Planning Enabling Act. This section is based on the draft legislation, with some revisions.

- a. **Revise NMSA § 3-19-11 to provide that proposals for public improvements “shall be consistent with the Comprehensive Plan based on a preferred growth alternative to the extent that such consistency does not undermine the state’s goals and objectives of statewide concern.”**

- b. **[new] Provide that the proposal must be submitted to the Planning Commission prior to including it in a Transportation Improvement Program, Capital Improvements Program, or other program or master plan for funding improvements and acquiring right-of-way.**
- c. **[new] Provide that the state agency may overrule the Planning Commission by a vote only where it finds, based on evidence in the record, that:**
  - i. The proposed improvement will have growth-inducing impacts that are inconsistent with the Future Land Use Element of a Comprehensive Plan adopted as provided in § 1.01, above; and
  - ii. That a specific statewide policy has been adopted that outweighs the local interests identified in the plan; and
  - iii. That the Planning Commission has been contacted and has had a reasonable opportunity to review and respond (e.g., at least 60 days) to the decision of the agency.
- d. **[new] Any city, county, regional planning agency, or aggrieved party may institute an appropriate action or proceeding to prevent, abate, or restrain the acquisition of right-of-way or construction of the improvement when in violation of this statute.**

### **Section 1.03 Public Schools Reports.**

- a. **Establish policy to foster coordination between special districts and local general-purpose governments as those local general-purpose governments develop Comprehensive Plans.**
- b. **To foster coordination among school districts and general-purpose governments implementing local Comprehensive Plans, each independent special district shall submit a public facilities report to the local government.**

**c. The public facilities report contains:**

- i. A description of existing public facilities owned or operated by the district.
- ii. A description of each public facility operated by another entity through a lease or other agreement.
- iii. Current capacity of the facility.
- iv. Current demands placed on the facility.
- v. Location of facility, by service area.
- vi. A description of proposed public facilities over 10 years, including how the district currently proposes to finance the facilities.
- vii. A description of replacement facilities.
- viii. Anticipated time of construction, improvement, or expansion of each facility.
- ix. Anticipated capacity of and demands on each public facility when completed. In the case of an improvement or expansion of a public facility, both the existing and anticipated capacity must be listed.
- x. Linkage with the Planned Growth Strategy Preferred Alternative and the Comprehensive Plan.

**d. This information must be submitted annually.**

**Section 1.04 Et seq. Other Urban Infrastructure Provider Reports.** (Albuquerque Metropolitan Flood Control Authority, New Mexico Utilities, Inc., New Mexico Highway Department, etc.) Similar requirements as in Section 1.03.

**11.4.2 Article II: Revisions to Agency Legislation**

**Section 2.01 New Mexico State Highway and Transportation Department.**

- a. **Revise NMSA §§ 67-3-15 and 67-3-16 to require extensions of highways and additions to highway capacity to conform to the Comprehensive Plan, as stated in NMSA § 3-19-11 above.**
- b. **Revise NMSA § 67-3-31 (construction or improvements of main county roads; application by County Commissioners; state aid; approval; duties of highway engineer; improvement without County application) to preclude construction of roads that conflict with Comprehensive Plans, as set forth in NMSA § 3-19-11, above. Require approval of both City and County Planning Commissions, or a planning commission of a combined City and County. This prohibition applies even where the County Commission fails to apply for funding. Planning requirements are triggered even when a road is funded entirely by the state or by other sources, or when the application is not initiated by County Commissioners.**
- c. **Revise 67-3-62 (provisions for pedestrian, bicycle, and equestrian traffic required) to strengthen existing criteria for waivers from such facilities.<sup>11</sup> Require the Highway Department to address design enhancements and to prioritize right-of-way for alternative transportation facilities over those that induce vehicular use or higher traffic speeds.**

**11.5 Comments Regarding Bernalillo County**

The comments below address County planning and zoning issues that are specific to the County and actions that the County might take if it chooses not to adopt a unified planning and development code for both the City and County. A unified code is the preferred approach suggested in the Planned Growth Strategy.

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### 11.5.1 Zoning Regulations

The County zoning ordinance is a conventional ordinance, which has been amended piecemeal through the years. The County has 11 zoning districts, with minimum lot sizes ranging from two acres in the A-2 Rural Agricultural Zone to 8,000 square feet in the R-1 and R-2 zones, depending upon location. The A-1 Rural Agricultural Zone has a minimum lot size of one acre. The County has an Office and Institutional Zone, three commercial districts, a light industrial (M-1) zone, and heavy industrial (M-2) zone.

The County has discretionary special use permit regulations for intensive or special uses, which may be permitted by the County Commission in any zoning district (County Zoning Ordinance, § 18). These include not only intensive uses such as airports but also mixed-use planned development areas, shopping centers, and mobile home parks. Accordingly, most changes in use occur through the discretionary special use permit process rather than through rezoning. Further, no specific planning criteria govern the allocation of uses throughout the unincorporated areas of the County.

The County planning department reports that the majority of land within the unincorporated area is zoned A-1 (Rural Agricultural,) with much of this land currently vacant. Most of the current permitting activity is within the jurisdiction of the Extraterritorial Land Use Authority, whose zoning mirrors that of the County. Most of the county's land area, however, lies within the largely vacant East Mountain and Far West Mesa areas. The Far West Mesa is designated a Reserve Area under the City/County Comprehensive Plan.

In order to implement the Planned Growth Strategy and to update its Zoning Regulations, the County should consider the following changes:

- The County's agricultural zones may not match the typical land area for agricultural uses. According to the Census of

Agriculture, the county's average farm size increased from 824 to 993 acres from 1992 to 1997.<sup>12</sup> However, over half of the county's farms are between 1–10 acres in size, with nearly one-quarter ranging from 10–49 acres. The increase in average farm size suggests that smaller farms might be disappearing. Accordingly, increasing the minimum lot size or establishing a sliding scale of lots permitted in new subdivisions located within an agricultural zone, would more effectively preserve agricultural lands in these areas. Because such measures are controversial, it is important to discuss these issues openly with landowners in these areas before deciding upon a regulatory approach.

- A separate Conservation (CS) zone should be considered for floodplains, steep slopes, and other environmentally restricted areas where restrictions on impervious surfaces are justified for health, safety, and environmental reasons.
- Specific infrastructure and design standards are needed for planned developments. These criteria should include, at a minimum, the use of concurrency standards and urban design criteria for master planned communities. These should range from smaller subdivisions with a mixture of housing types, to subdivisions with small commercial centers, to large-scale master planned subdivisions. The criteria for Traditional Neighborhood Developments discussed in Section 7.3 Zoning and Design Standards should control these developments. At present, there are no specific criteria for approval of such developments. Accordingly, both the private sector and surrounding neighborhoods lack certainty as to the outcome of the County regulations.

### 11.5.2 County Subdivision Regulations

The County Subdivision and Land Development Standards Ordinance (County Code § 74-1 et seq.) also provides infrastructure stan-

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dards. Subdivision disclosure statements (§ 74-82) must contain detailed information about the availability of water supplies, fire stations, police protection, liquid waste disposal, terrain management (stormwater protection), recreational facilities, public schools, and public transportation. Maximum water demands must be quantified (§ 74-92), and water availability assessments must be submitted with a 70-year supply required (§ 74-95). The County also has general standards for liquid waste management (§ 74-98), solid waste disposal (§ 74-99), and terrain management (stormwater management) (§ 74-101), fire protection (§ 74-103), and open space (§ 74-111). A transportation impact analysis is required for subdivisions above a specified size (§ 74-102). Most of these standards require reporting but contain no specific or meaningful criteria for judging the impact of a development and measuring it against available capacity.

Accordingly, the following revisions are needed for the subdivision regulations:

- A level of service standard should be adopted for each selected facility, by area. This could be provided as a summary matrix in the subdivision regulations, with cross-reference to the Development Process Manual for details about how service levels are computed and measured.
- Areas that are exempt from concurrency review should be listed and mapped.
- Procedures for coordinating infrastructure availability with the three-stage sketch, preliminary, and final plat approval should be established.
- The roles and responsibilities of the public and private sectors related to the private financing of infrastructure should reinforce Planned Growth Strategy goals.

### 11.5.3 Impact Fees

The County adopted its Impact Fee ordinance in 1995. The County collects Impact Fees for parks, open space, fire/emergency medical

services, regional roadways, county roadways, and drainage. The Impact Fees apply throughout the unincorporated areas (County Code, § 46-4).

The County should consider the following revisions to its Impact Fee ordinances in order to assure that they are up to date, that fees are expended efficiently, and that County growth policies are coordinated effectively with the Planned Growth Strategy:

- Within unincorporated areas in the Planned Growth Strategy Partially Served Areas, the level of service and impact areas for the collection and expenditure of the fees should be reevaluated. The level of service should be coordinated with regional growth policy to maintain consistency and to assure that the fees are applied in an efficient and legally defensible manner.
- The City and County should determine which portion of the County should remain non-urban permanently. In those areas, the County may wish to adopt Impact Fees that differ from those proposed for urban areas in the Planned Growth Strategy.

## 11.6 Conclusion

This report provides an outline of a structure for future infrastructure investments and land-use regulations in Albuquerque/Bernalillo County. This structure is designed to produce land-use patterns that use infrastructure more efficiently, while providing design elements that reduce automobile dependency and relate to the public realm. It provides a regional framework for regulating land use, as well as a regional planning process that will foster communication between different governmental agencies and stakeholders in the development approval and infrastructure planning process.

This report should be used as the first step toward the development of a unified planning and development code for the City and County. The elements listed in this report should be

debated openly through an inclusive stakeholder involvement process. The intent of this report is to provide a framework for discussion as the City and County move from planning to

implementation of the Planned Growth Strategy. It is highly recommended that the City and County now focus their future efforts on implementation.

## Notes Section 4

1. Article 14 is currently organized as follows:
  - Article 1: Uniform Administrative Code and Technical Codes Article 10: Wind Resistant Walls and Fences
  - Article 2: Fire Code Article 11: Solar Energy; Permits
  - Article 3: Uniform Housing Code Article 12: Landmarks and Urban Conservation
  - Article 4: Numbering of City Buildings Article 13: Planning; Goals and Objectives
  - Article 5: Flood Hazard and Drainage Control Article 14: Subdivision Regulations
  - Article 6: Railroad Cars, Stationary Article 15: Airport Zoning
  - Article 7: Professional Services Article 16: Zoning Code
  - Article 8: Commissions, Councils, Agencies and Other Bodies Article 17: Family Housing Developments
  - Article 9: Park Dedication and Development Article 18: Downtown Albuquerque Business Improvement District
2. These procedures are also codified in § 2-11-1 et seq. of the City Code. There could either be a cross-reference here, or a transfer of the procedures to this section.
3. This section is often left blank and when completed sometimes references other programs or facilities or efforts with other agencies. It should be expanded to include a statement of coordination efforts with other City, County, municipal, state, or federal agencies with a financial, jurisdictional, or locational interest in the project.
4. See Chapter 6 Financial Implementation of the Planned Growth Strategy Preferred Alternative.
5. See Chapter 6 Financial Implementation of the Planned Growth Strategy Preferred Alternative.
6. For an example see "District Uses Matrix" in Downtown 2010 Sector Development Plan, City of Albuquerque, Planning Department, p. 32.
7. Anita P. Miller, esq., Institutional Framework: The "Disconnect" Between Planning Documents and Implementation, Albuquerque Transportation Evaluation Study, January 1996.
8. "Population, Employment, and Land Use Data" page at MRGCOG web site, [www.mrgcog.org](http://www.mrgcog.org).
9. Miller, Institutional Framework.
10. See discussion at City/County Unification, City of Albuquerque/Bernalillo County, at <http://abcgov.org/unification.htm>; Joint Powers Agreement for Water and Sewer Board, February 14, 2000.
11. The statute presently authorizes the Commission to waive such facilities where: "(1) such provisions for pedestrian, bicycle and equestrian traffic would be contrary to the public safety; or (2) the cost of such provision would be disproportionate to the need or probable usage." This suggests that the Commission may find that traffic speeds would render such facilities unsafe, or that speeds would discourage bicycle traffic. These findings could be made on any highway so long as the Commission simply fails to include design enhancements to accommodate pedestrians, cyclists, and equestrians.
12. See <http://www.nass.usda.gov/census/census97/highlights/nm/nmc001.txt>.



