

*EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL
AUTHORITY DRAINAGE POLICY*

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§ 1 SHORT TITLE.

Sections 1 et seq. may be cited as " ESCAFCA Drainage Policy" and is referred to elsewhere herein as "§§ 1 et seq."

§ 2 GENERAL STATEMENT.

The Eastern Sandoval County Arroyo Flood Control Authority (ESCAFCA) was created to serve a public use and promote the health, safety, prosperity, security and general welfare of the inhabitants within its jurisdiction.

The protection of life and property from flood damage is the primary objective in the planning, design, construction and maintenance of storm drainage facilities. The second major objective is to promote s environmental, aesthetic, and multiple use facilities.

(Other concerns, not limited to the following, include watershed characteristics, watershed park characteristics, sediment control, maintenance, multiple use, and appearance.) The needs of the community in transportation, utility service, recreation, trails and open space shall be considered in the selection of watercourse and floodplain treatments. ESCAFCA encourages alternatives to storm drainage facilities such as watershed management, natural or semi-natural watercourses, the preservation of the Prudent Line and stabilized flood zones, provided that an equivalent level of protection is provided.

ESCAFCA recognizes the interactions within the hydrologic system. Human activities such as storm drainage, irrigation, groundwater usage and recharge, and urban development may influence one another. ESCAFCA will pursue its objectives from a comprehensive hydrologic perspective.

In general, both public and privately-built storm drainage facilities will be designed to accommodate the one-percent (100-year) storm. However, the Board of Directors may require a more conservative design where the consequence of failure could be severe. Minor storm drainage facilities, such as storm sewers, streets and detention basins , may be designed to accommodate less than the 100-year storm, in accordance with criteria adopted by public entities within their respective jurisdictions, and by the Executive Engineer of ESCAFCA. Such exception may apply, for example, where there is inadequate downstream capacity.

ESCAFCA commits itself to cooperate with other public entities and with private developers to the end that urbanization proceeds in a responsible manner without unnecessary economic burden.

ESCAFCA shall develop and annually update a schedule of ESCAFCA 's funded projects. ESCAFCA encourages other public agencies to do likewise.

The standards set forth in this policy are intended to protect the capacity of existing watercourses, and to insure storm drainage facility capacity under full development.

§ 5 JURISDICTION.

Sections 1 et seq. shall apply to all lands within the ESCAFCA's jurisdiction, with respect to planning and platting matters. This jurisdiction is not exclusive; in particular, Town and County shares jurisdiction in matters of flood control.

§ 6 GENERAL PROVISIONS.

(A) ESCAFCA endorses the National Flood Insurance Program and its program goal of flood damage reduction through the regulation of development within flood hazard areas and the preservation of floodways. Sections 1 et seq. is intended to complement and supplement the TOWN and COUNTY Flood Damage Prevention Ordinance and shall be administered in concert therewith.

(B) An application for new development within ESCAFCA's jurisdiction shall have provisions for adequate drainage control, flood control and erosion control facilities. The protection of life and property shall be considered the primary function in the planning, design, construction and maintenance of drainage control, flood control and erosion control facilities, but other concerns, not limited to the following, shall be addressed: channel capacity, watershed characteristics, channel stability, maintenance, transitions between treatment types, multiple use goals, and appearance. The needs of the community in transportation, utility services, recreation, and open space shall be considered in planning, design, construction, and maintenance (especially in the selection of channel treatment measures). These needs shall be considered subordinate to the primary function of the drainage control, flood control and/or erosion control facility.

(C) The design, construction and maintenance of dams, levees and diversions that fall within the jurisdiction of the Office of the State Engineer shall meet or exceed standards established by the State Engineer.

(D) The design, construction and maintenance of flood control facilities shall be coordinated as necessary or required with appropriate state, federal and local governments.

(E) MAJOR FACILITIES shall be constructed within dedicated rights-of-way or recorded drainage easements granted to and accepted by the proper public authority.

(F) Detention ponds classified as MINOR FACILITIES shall be constructed on private property unless otherwise authorized by ESCAFCA within its jurisdiction. Except as is necessary for the treatment of nuisance water, all ponds shall be designed and constructed to be emptied in 72 hours or less. The use of individual lot ponding shall be governed by the standards established by ESCAFCA.

(G) Wherever flood control, drainage or erosion control improvements are necessary within dedicated public open space, such improvements shall be designed and constructed in a manner reasonably consistent with the natural surroundings. All construction and maintenance activities in dedicated open space/Prudent Line areas shall be performed so as to minimize the disruption and destruction of vegetation and adjacent land forms. Where such disturbance or destruction is unavoidable, revegetation shall be performed at the earliest time by those responsible for such disturbance and/or destruction. Under no circumstances shall the ground be left barren for longer than fourteen (14) days.

(H) The Executive Engineer is responsible for establishing criteria, procedures and standards for design and construction of flood control, drainage control and erosion control improvements within ESCAFCA jurisdiction. ESCAFCA may provide variance(s) from normal criteria and standards if circumstances warrants; when a variance is granted, ESCAFCA shall document the justification for the decision and retain as public records such actions and justifications; appeals of ESCAFCA's variance decisions is as provided in § 17. As an interim measure ESCAFCA intends to abide by the criteria in the City of Albuquerque Development Process Manual and AMAFCA Sediment and Erosion Design Guide.

(I) The introduction of groundwater/grey water cleanup flow to either natural or constructed storm drainage and flood control facilities shall be prohibited without a special agreement according to rules established by the Executive Engineer.

(J) A DEVELOPMENT AGREEMENT will be required for new developments in which infrastructures are a part of the development.

§ 9 FINANCIAL RESPONSIBILITY.

(A) ESCAFCA may participate in the construction of permanent flood control facilities to the extent that public benefits are derived and that such construction is consistent with capital improvements program priorities. Reimbursement for private funding of such projects may also be available under these conditions.

(B) ESCAFCA shall not participate in the funding of flood control facilities whose sole intent is the reclamation of undeveloped land located within a flood hazard area for private development purposes.

(C) Construction of drainage and flood control facilities which directly result from a new development are the responsibility of the developer. For new subdivisions, a DEVELOPMENT AGREEMENT between the Developer and PUBLIC BODY is required. A Performance/Warranty Bond and a Labor and Material Payment Bond may be required pursuant to the development agreement, and shall be posted by the developer or subdivider, and shall remain in effect for at least one (1) year following a letter of infrastructure construction completion from ESCAFCA. Developer financed facilities include all those within the boundaries of the development, those required for development adjacent to a major arroyo or within a flood hazard area and all temporary and permanent off-site drainage facilities. In general master planned facilities shall be the responsibility of a PUBLIC BODY. However, if such facilities are not programmed and funded at the time of development, the developer shall construct the master planned facilities or provide for temporary facilities, constructed to ESCAFCA standards within a temporary or permanent drainage easement until such time that the TOWN/COUNTY or ESCAFCA constructed facilities are in place. If the construction of such facilities is a condition of plat approval or building permit issuance, then financial guarantees of such construction satisfactory to the PUBLIC BODY shall also be provided as a prerequisite. Within the Town of Bernalillo and Sandoval County, the Executive Engineer shall coordinate the construction and location of temporary facilities. If the ultimate on-site drainage control, flood control and/or erosion control facilities require permanent rights-of-way or easements, such rights-of-way or easements shall be dedicated at the time of platting or building permit issuance, whichever occurs first.

(D) The dedication of land for public purposes does not relieve a developer of responsibilities for the construction of drainage control, flood control and erosion control facilities that would otherwise be necessary. The dedication of rights-of-way or easements for drainage control, flood control or erosion control facilities does not relieve a developer of responsibilities that would otherwise exist for the construction of other public infrastructure.

(E) Introduction of GROUNDWATER CLEANUP flows shall not normally be permitted however, when such introduction of groundwater cleanup flow is permitted by special agreement, the entity responsible for such groundwater cleanup flow introduction (hereinafter termed "the discharger") shall also be responsible for all costs of installing, operating and removing the means of such introduction and shall provide public liability protection as required. The discharger of such groundwater cleanup flows shall also be responsible for payment of such permit fees.

§ 10 MULTIPLE USE RIGHTS-OF-WAY AND EASEMENTS.

Multiple use is required for drainage rights-of-way and drainage easements including, but not limited to, utility corridors, wild life habitat and recreation trails. Where multiple use is planned by a PUBLIC BODY, or a public utility, ESCAFCA may require that dedication statements include language which permits said specified multiple uses in addition to the drainage function. Land required to be dedicated for drainage rights-of-way shall include those land areas necessary for drainage control, flood control, erosion control, other use amenities and necessary appurtenances. All drainage rights-of-way/drainage easements dedicated/granted to ESCAFCA must be in accordance with the DEVELOPMENT PROCESS MANUAL and approved by the Executive Engineer.

§ 11 PRUDENT LINE.

ESCAFCA recognizes that some arroyos within its jurisdiction should remain in a natural or naturalistic condition to protect the local environment, provide safe arroyo conditions, and meet policy goals of other governmental agencies. By use of setbacks (PRUDENT LINE) and selective stabilization, natural and naturalistic arroyos and water courses can be allowed to behave in a more or less natural manner over a period of years and certain storm events. When the PRUDENT LINE method is adopted, no structures will be permitted within the PRUDENT LINE, except those necessary to protect existing facilities or the PRUDENT LINE itself.

§ 12 VALLEY PONDING.

Valley Ponding is permitted where a site can meet the "Flat Grading Scheme" concept (i.e., a site that is flat or can be graded flat) and where no flows enter or exits the site. Valley ponding is only allowed in the Valley region and in accordance with the criteria established by ESCAFCA Executive Engineer.

§ 13 MAINTENANCE RESPONSIBILITY.

(A) Except as otherwise noted herein, all permanent major facilities shall be maintained by ESCAFCA or other PUBLIC BODY. The maintenance of multiple use facilities to which the

general public is denied access shall be the responsibility of the owners and shall be performed to ESCAFCA standards.

The maintenance of multiple use facilities to which the general public is provided access shall be the responsibility, as follows:

- (1) Recreation facilities are the TOWN/COUNTY responsibility.
- (2) All roadway facilities are the responsibility of the TOWN/COUNTY.
- (3) Drainage or flood control facilities outside the roadway system are the responsibility of the TOWN/COUNTY or ESCAFCA.

(B) Long term maintenance responsibilities and inspections of minor facilities shall be maintained in accordance with the following conditions:

(1) Responsibilities

(a) All storm water management measures and facilities shall be maintained by the owner of the property or a homeowners association, unless a dedication of the storm water management system has been required and accepted by ESCAFCA, in which case, ESCAFCA shall be responsible for maintenance.

(b) For new subdivisions, a Performance/Warranty Bond and a Labor and Material Payment Bond shall be posted by the developer or subdivider pursuant to the development agreement, and shall remain in effect for at least one (1) -year following a letter of infrastructure construction completion from ESCAFCA.

1. The bond must be in an amount sufficient to defray all anticipated maintenance and repair costs during the one (1) -year period.

2. In the event that any responsible developer, subdivider, homeowner, homeowners association, or other property owner does not perform necessary maintenance and repair in a timely manner as determined by ESCAFCA. ESCAFCA may perform all necessary work to place the facility in proper working condition. The responsible party shall be assessed the associated costs of the work. In the event of default, ESCAFCA may utilize all or a portion of the performance/warranty bond for the purpose of defraying such assessed costs.

(c) The storm water management system shall be maintained in its original condition and promptly repaired by the developer or other responsible party or parties.

(d) Maintenance shall include the repair and restoration of all grade surfaces, walls, swales, drains, dams, ponds, basins, site restoration measures, associated vegetation, and any other storm water measure constructed on site.

(2) ESCAFCA Inspections - ESCAFCA or its authorized agent may enter upon any property which is subject to this section, at reasonable times to access the storm water management system to ensure that the system is maintained in proper working condition to meet the approved storm water management plans and the objectives and minimum standards of this section.

(3) Maintenance Violations-If, after notice by ESCAFCA to correct a violation requiring maintenance work under this Drainage Policy, satisfactory corrections are not made by the owner(s) or responsible party within 30 days, ESCAFCA may:

(a) Perform or cause to be performed the maintenance and repairs and recover its costs from any bond provided;

(b) Pursue any other legal remedy available in the sole discretion of ESCAFCA.

(C) The maintenance of temporary facilities constructed at private expense (except crossing structures) is the responsibility of the developer until permanent facilities are in place.

(D) Maintenance and operation of any GROUNDWATER CLEANUP flow connection to any public storm drainage or flood control facility shall be the responsibility of the originator of such a connection. GROUNDWATER CLEANUP flow connection shall only be allowed by special agreement according to rules established by the Executive Engineer.

§ 14 GENERAL ADMINISTRATION.

(A) The design, construction and maintenance of all drainage control, flood control and erosion control facilities shall be performed in accordance with procedures, criteria and standards formulated by this Policy, and as promulgated by further regulations (e.g. DPM) by the Executive Engineer and in accordance with the policies established in §§ 1 et seq.

(B) All construction activities within the jurisdiction of ESCAFCA shall conform to the requirements of ESCAFCA with respect to drainage control, flood control and erosion control. Original construction and modifications and/or additions to existing structures constituting less than 500 square feet, in plan view, are excluded from ESCAFCA review.

(1) Construction, grading or paving on any lot or tract shall not increase the damage potential to upstream, downstream or adjacent properties or public facilities. Damages shall be defined as those caused by flooding from the 100-year design storm and all smaller storms and from erosion and sedimentation resulting from the 10-year design storm and all smaller storms.

(2) During the months of June, July, August or September, any grading within or adjacent to a watercourse defined as a MAJOR FACILITY shall provide for erosion control and the safe passage of the 100-year storm during the construction phase.

(3) Grading, cut, fill or importation of material in excess of 500 cubic yards or grading of any area of one acre or more shall conform to drainage control, flood control and erosion control policies and to standards, criteria and procedures established by ESCAFCA with respect to drainage, flood control and erosion control. A grading permit, issued by ESCAFCA, shall be required for projects involving more than 500 cubic yards of material or one acre or more in area. Applications for development of areas known to have been sanitary landfills shall be accompanied by a report which discusses potential health and soil mechanics problems and their solutions. Such reports shall be prepared by a New Mexico Professional Engineer competent in soil mechanics.

(4) Paving an area larger than 1,000 square feet shall require a paving permit from ESCAFCA. Applications for paving permit shall be accompanied by a grading and drainage plan. Repaving of existing paved areas in which no grading is planned is excluded.

(5) ESCAFCA shall not issue a grading or paving permit unless the proposed grading or paving is in compliance with this Drainage Policy and the standards and criteria provided for by § 15 (Administrative Procedures, Criteria and Standards).

(C) ESCAFCA may participate in the funding, design or construction of drainage facilities with the private sector, other public bodies and agencies operating within the jurisdiction of this policy as adopted and to the extent public benefits are derived. This includes, but shall not be limited to, the development and adoption of master plans, participation in the construction of projects and exercising control through the planning, platting, zoning, and permitting processes. Projects involving ESCAFCA funding shall be prioritized, funded and scheduled within the guidelines of the capital improvement programs.

(D) It shall be the responsibility of ESCAFCA to maintain records of all drainage plans, drainage reports, design analyses, design drawings, and as-built drawings.

(E) Applications for all land use changes shall address drainage control, flood control and erosion control in terms of the interactions of these parameters with other requirements and needs produced by the proposed land use changes.

(F) Requests for the platting of land for the purpose of subdivision or development shall be accompanied by appropriate drainage control, flood control and erosion control information.

(G) (1) ESCAFCA shall not approve any plan or report pertaining to proposed construction, platting or other development where the proposed activity or change in the land affected would result in downstream capacity being exceeded.

(2) (a) **DOWNSTREAM CAPACITY** is a general term which is situational in nature. It can mean the actual physical capacity of downstream drainage facilities. It can mean the ideal future capacity of drainage structures under fully developed conditions. It can mean the practical application of standards to achieve the maximum capacity, either currently or in the future.

The intent is, during the development approval process, to require drainage facilities that will meet future needs, with consideration to current conditions. It is also intended to fairly apply criteria so that any development does not benefit at the expense of future needs, nor unduly constrain upstream development.

Parameters used in the determination of downstream capacity include, but are not limited to:

1. Channel Stability.
2. Crossing Structure Hydraulic Capacity.
3. Reservoir Capacity.

4. Hydraulic Capacity of Street, Storm Sewer, or Channel.
5. Public Safety.
6. Maintenance Constraints.
7. Water Quality Compliance.

(b) Planned public storm drainage facilities are assumed as in place in determining downstream capacity at the discretion of ESCAFCA, provided that construction funds are available and design has progressed to the point where capacity can be ascertained.

(H) Temporary facilities are discouraged and are only allowed and/or required on a case-by-case basis as determined by ESCAFCA. The level of protection to be provided by temporary facilities shall be determined by considering:

- (1) The likelihood and consequences of a failure.
- (2) Length of time until permanent facilities will be in place.
- (3) The acceptance of maintenance responsibilities and legal liabilities.

(I) Requests for approvals of development and/or platting proposals to ESCAFCA shall be accompanied by drainage control, flood control and erosion control information and/or commitments. The particular nature, location and scope of the proposed development defines the degree of detail. One or more of the following levels of submittal may be required based on the following:

(1) Conceptual Grading and Drainage Plan. A graphic representation of existing and proposed grading, drainage, flood control and erosion control information. The information should be of sufficient detail to determine project feasibility. The purposes of this plan are to check the compatibility of the proposed development within grading, drainage, flood hazard and erosion control constraints as dictated by on-site physical features as well as adjacent properties, streets, alleys and channels. Modifications to the comprehensive plan and the development of area plans, sector plans, site development plans and landscaping plans on tracts of five acres or more are appropriate applications of conceptual grading and drainage plans.

(2) Grading and Drainage Plan. A short detailed presentation required for approval of small, simple development approvals. Grading and Drainage information shall appear on a detailed grading plan and address both on-site and off-site drainage control, flood control and erosion control issues. Grading and Drainage Plans are required for MINOR SUBDIVISIONS, building permits greater than 500 square feet in plan view, building permits in a flood hazard area, site development plans and landscaping plans for developments involving less than five acres. A drainage submittal is not required for those lots that are part of an approved subdivision unless the grading or drainage differs with what was approved.

- (3) Drainage Report.

(a) A drainage report is a comprehensive analysis of the drainage control, flood control and erosion control constraints on and impacts resulting from a proposed platting, development or construction project.

(b) Drainage reports are required for MAJOR Subdivisions and/or developments containing more than five lots or constituting five acres or more, and/or platting or construction within a Prudent Line.

(4) Erosion Control Plan. An erosion control plan is usually incorporated into the drainage plan or drainage report. Erosion control plans address all phases of each project from initial grading through and including final occupancy. Phased projects require special attention. All construction projects, both public and private, within the jurisdiction of §§ 1 et seq. unless specifically excluded require an approved erosion control plan prior to start of construction.

(5) As an Environmental Protection Agency requirement, post construction controls must be included to minimize the discharge of storm water pollutants from areas of new development and significant redevelopment in accordance with the DPM.

(J) Drainage control considerations specifically address safety, convenience and economics for both private property and public facilities.

(K) (1) The 100-year design storm is the 100-year 6-hour storm as defined by the National Oceanic Atmospheric Administration (NOAA). The 100-year storm has a 1% probability of occurring in any year. Watersheds with times of concentration greater than six hours will require the use of the 100-year 24-hour storm volumes and distributions. Detention basins with longer than six-hour evacuation times shall use a 24-hour or longer storm volume and distribution.

(2) Design circumstances may require larger or smaller storm volumes; Examples are emergency spillways for dams and erosion control plans respectively. The sources for rainfall data are current NOAA publications. When the need for other design storms is apparent, ESCAFCA will provide requirements concerning appropriate storms, frequencies and durations. The more stringent (conservative) will override, if disagreement exists.

(L) ESCAFCA shall, after the submission in writing for the approval of a plat, development plan, drainage submittal or exemption, approve or deny the request and mail a copy of the decision to the applicant. If the request is denied, the reasons for such denial shall be stated in writing. Appeal of such decisions is as provided in § 17 (Appeals, Technical Standards Committee).

(M) Discharge of any groundwater cleanup flows to any public storm drainage or flood control facility, whether natural or constructed, shall only be allowed by means of special agreement according to rules established by the Executive Engineer.

§ 15 ADMINISTRATIVE PROCEDURES, CRITERIA AND STANDARDS.

(A) *Promulgation of Rules.*

(1) The Executive Engineer is responsible for the promulgation of rules necessary to fulfill the intent of this article. Authorized rules shall be published in the Development Process

Manual and shall have the same effect as the provisions within this article. The following process shall be observed hereafter in rulemaking pursuant to this article.

(2) Prior to the adoption, amendment, or repeal of any rule, the Executive Engineer shall, at least 30 days prior to the proposed action:

(a) Publish notice of the proposed action in a daily newspaper of general circulation within the jurisdiction; and

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

(c) The notice of proposed action shall:

1. State the manner in which data, views, or arguments may be submitted to the Executive Engineer by any interested person;

2. Describe the substance of the proposed action or state the subjects and issues involved; and

3. Include specific reference to the section of this policy under which the rule is proposed.

(3) All interested persons shall be given reasonable opportunity to submit in writing data, views, and/or arguments concerning any proposed rule change. The Executive Engineer shall consider all submissions in writing related to the proposed rule change. All persons making a presentation in writing, shall promptly be given a copy of the decision, by mail or otherwise.

(B) *Effective Date of Rules.* Each rule or set of rules adopted is effective upon recording as an adopted rule and promulgated as an amendment of the Development Process Manual or as specified in the rule itself.

(C) *Filing of Rules; Copying.*

(1) The Executive Engineer shall promptly publish each final rule, or amendment, or repeal thereof, including all rules existing on the effective date of this article, as amendments to the *Development Process Manual*.

(2) ESCAFCA shall maintain and update as necessary an index of adopted rules on record and shall make copies of this index available to the public. ESCAFCA shall allow the public to make copies of rules. A reasonable fee may be charged for copies.

(D) *Development Process Manual.* The Executive Engineer shall set forth in the *Development Process Manual*:

(1) The nature and requirements of formal and informal administrative procedures and design criteria adopted pursuant to this policy, as well as all required or recommended submittal requirements relating to the subdivision process;

(2) A listing of the established places at which, and the methods whereby, the public may secure information or make submittals or requests concerning such administrative procedures and design criteria; and

(E) *Public Information and Records Related to Rulemaking.*

(1) ESCAFCA files and records prepared for or received in rulemaking and decisions related to specific proposed subdivisions, except those subject to a legal privilege from discovery, shall be available for inspection by any person at all reasonable times.

(2) Copies of all documents subject to inspection under this section shall be made available upon request to any person upon payment of reasonable costs.

(F) *Emergency Rules.* When the Executive Engineer determines that urgent and compelling reasons require emergency modification (revision, addition, or deletion) of a rule, the Executive Engineer, notwithstanding any provision of this article, may adopt such modification and make them effective immediately. The Executive Engineer shall publish a notice in a newspaper of general circulation within the jurisdiction within five days, detailing the modification and the compelling and urgent reasons therefor.

(G) *Designee Appointment.* The Board of Directors of the ESCAFCA may, whenever requested, authorize such persons as may be designated by the Chief Executive Officer of any State or local governmental body, agency or commission to act in the name, place and stead of the Executive Engineer of the ESCAFCA, in granting or denying approvals or waivers under this Regulation, provided that:

(1) Each person so authorized shall be a registered professional engineer, competent in surface hydrology and drainage, in the full time employment of the cooperating entity; and

(2) An agreement has been entered into between the ESCAFCA and such cooperating entity under the provisions of Section 72-16-22, N.M.S.A., 1978 and the Joint Powers Agreement Act; and

(3) Copies of all decisions of such Designee and of drainage plans and reports approved, modified or rejected by him will be furnished to the Executive Engineer at the time of decision thereof; and

(4) Such Designee and the Executive Engineer shall coordinate their respective drainage related activities.

§ 16 ENFORCEMENT.

(A) (1) Whenever necessary to make an inspection to enforce any of the provisions of §§ 1 et seq., the Executive Engineer or his authorized representative may enter such premises at all reasonable times to inspect the same or to perform any duty imposed upon him by §§ 1 et seq.; provided that if such premises be occupied, he shall first present proper credentials and demand

entry; and if such premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and demand entry. If entry is refused or if the owner or other responsible person is not found, the Executive Engineer or his authorized representative shall proceed to obtain a search warrant by filing a complaint made in the District Court upon oath or affirmation.

(2) Each inspector shall be furnished with an identification card signed by the Executive Engineer and by the Chairman of the ESCAFCA Board indicating his authority and must present same to the District Court for the purpose of this section (A) and to other persons, when requested to do so during the performance of his duty. No owner or occupant or any other person having charge, care or control of any premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the authorized inspector for the purpose of inspection and examination pursuant to §§ 1 et seq.

(B) Where, after investigation, an order has been issued by the Executive Engineer to the owner of the property on which a violation has occurred and the order is not complied with, within such reasonable time as may be prescribed by the Executive Engineer, or if the responsible party or violator cannot be found or determined, ESCAFCA may cause such remedies as are necessary to be made. The reasonable cost of such remedies shall constitute a lien against the property on which the violation occurred and was remedied. The lien shall be imposed and foreclosed in the manner as provided by law.

§ 17 APPEALS; TECHNICAL STANDARDS COMMITTEE.

(A) Any applicant aggrieved by a decision as to actions provided for in §§ 6, 14 and 15 of the Executive Engineer or absence of such decision, may appeal such decision to the Technical Standards Committee of ESCAFCA. Such appeal shall be made by notice of appeal in writing addressed to the Chairperson of the Technical Standards Committee and delivered to the office of the Executive Engineer within 30 days after the date the decision was mailed to the applicant. The Chairperson of the Technical Standards Committee shall notify the applicant and the Executive Engineer of the date, time, and place of the appeal hearing at least five days prior to the hearing date. Such hearing shall be conducted not earlier than ten days nor later than 30 days after the filing of the notice of appeal. At the hearing, the Technical Standards Committee may consider such facts, exhibits, and engineering principles as may be presented by the appellant or the Executive Engineer or his designee, or of which the members may have knowledge or experience, and may affirm, reverse or modify the decision appealed from, and attach as conditions to their decision such requirements as in their opinion may be necessary or appropriate in compliance with the policies of §§ 1 et seq. to safeguard persons and property from storm water runoff. Each decision of the Technical Standards Committee shall be in writing and shall state reasons therefor. A copy of the decision shall be promptly mailed to the applicant and to the Executive Engineer.

(B) The Executive Engineer or applicant aggrieved by any decision of the Technical Standards Committee may appeal such decision to the ESCAFCA Board of Directors. Such appeal shall be requested by notice of appeal in writing addressed to the Chairman of the ESCAFCA BOARD within 30 days after the date a copy of the decision was mailed to the applicant. Such appeal shall be heard after notice at the first available meeting of the ESCAFCA BOARD. ESCAFCA BOARD may affirm, reverse, or modify the decision of the Technical Standards Committee.

(C) There is hereby created a Technical Standards Committee, consisting of five members who shall be appointed by the Executive Engineer with the advice and consent of the BOARD, and who shall serve without pay. Two members shall serve for a term ending August 1, 2011, one member shall serve for a term ending August 1, 2012, and two members shall serve for terms ending August 1, 2013. Subsequent terms shall be for three years. Four of such members shall be registered in this state as professional engineers, be competent in the science of surface water hydrology, and have experience in solving surface drainage problems. The members shall select one member to serve as Chairperson, and their decisions shall be by majority vote of the members attending a hearing. A quorum shall consist of three members. The Technical Standards Committee shall hear and determine all appeals as provided by this section. The Committee may from time to time recommend modifications of §§ 1 et seq. to the Executive Engineer. The Executive Engineer shall provide such facilities, supplies, and services, including postage, stationery and secretarial assistance, as may be required by the Committee.

§ 18 INTERPRETATION.

The provisions of this policy shall be held to be minimum requirements to meet the intent expressed in § 1. Where the provisions of this policy impose greater restrictions than those of any other ordinance or resolution adopted by any other governmental body or political subdivision the provisions of this policy shall prevail. Where the provisions of any other ordinance, resolution, or covenant impose greater restrictions than those of this policy, the provisions of such other ordinance, resolution, or covenant shall prevail.

§ 19 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by §§ 1 et seq. is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. Sections 1 et seq. do not imply that land outside flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. Sections 1 et seq. shall not create liability on the part of ESCAFCA or on any officer or employee thereof for any drainage, erosion and flood damages that result from reliance on §§ 1 et seq. or any administrative decision lawfully made thereunder.

ESCAFCA DRAINAGE POLICY

APPENDIX 1

BOUNDARIES OF AUTHORITY

As described in Section 6 of authorizing legislation, quoted hereafter: a portion of southern Sandoval County bounded on the east of the New Mexico principal meridian, on the south by the Pueblo of Sandia and the Cibola national forest, on the west by the Rio Grande and on the north by a line following the northern boundary of township 13 north of the New Mexico principal meridian. The boundary of the district is more particularly described as follows: beginning at the southeast corner of projected section 1, township 12 north, range 5 east of the New Mexico principal meridian, that point also being the southeast corner of herein described boundary; thence proceeding in a westerly direction along a line coincident with the northern boundary of the Cibola national forest and the Pueblo of Sandia to a point along the west bank of the Rio Grande within projected section 1, township 12 north, range 3 east of the New Mexico principal meridian; thence in a northeasterly direction along the west bank of the Rio Grande to a point in the northwest corner of section 1, township 13 north, range 4 east of the New Mexico principal meridian; thence east along a line following the northern boundary of township 13 north of the New Mexico principal meridian for approximately seven miles to a point in the northeast corner of section 1, township 13 north, range 5 east of the New Mexico principal meridian; thence in a southerly direction approximately seven miles to the southeast corner of projected section 1, township 12 north, range 5 east of the New Mexico principal meridian, which point is the southeast corner and point of beginning the district. All lands held in trust or ownership by the federal government or an Indian pueblo located within the boundaries identified in this section shall be exclude from the authority of the authority.

ESCAFCA DRAINAGE POLICY

APPENDIX 2

DEFINITIONS.

For the purpose of §§ 1 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning;

“10-YEAR STORM” means that storm whose precipitation within a six-hour period and resulting runoff has a 10% chance of being equaled or exceeded in any given year;

“100-YEAR DESIGN STORM” means that storm whose precipitation within a six-hour period and resulting runoff has a 1% chance of being equaled or exceeded in any given year.

“500-YEAR DESIGN STORM” means that storm whose precipitation within a six-hour period and resulting runoff has a 0.2% chance of being equaled or exceeded in any given year.

‘ARROYO’ a natural drainageway which is normally dry, but can occasionally convey stormwater flows.

“AUTHORITY” means the Eastern Sandoval County Arroyo Flood Control Authority;

“BOARD OF DIRECTORS” or *“BOARD”* means the Board of Directors of the Authority;

“CHANNEL” means arroyo, stream, swale, ditch, diversion, or watercourse that conveys stormwater runoff, including manmade facilities;

“CHANNEL STABILITY” means a condition in which a channel neither degrades to the degree that structures, utilities or private property are endangered, nor aggrades to the degree that flow capacity is significantly diminished as a result of one or more storm runoff events or moves laterally to the degree that adjacent property is endangered;

“CHANNEL TREATMENT MEASURE” means a physical alteration of a channel for any purpose;

“CIP” means the TOWN/COUNTY or ESCAFCA’s Capital Improvement Program;

“*COMPREHENSIVE PLAN*” means plans prepared by the TOWN/COUNTY or ESCAFCA;

“*CONCEPTUAL GRADING AND DRAINAGE PLAN*” means a plan prepared in graphical format showing existing and proposed grading, drainage control, flood control and erosion control information in sufficient detail to determine project feasibility;

“*COUNTY*” means Sandoval County;

“*COUNTY ENGINEER*” means the chief engineer for Sandoval County or such person so designated by the County Commission or Manager;

“*DESIGN STORM*” means a storm which deposits a stated amount of precipitation within a stated period over a defined area and which is used in calculating storm runoff and in designing drainage control, flood control and erosion control measures;

“*DESIGNEE*” means an individual designated under provisions of this regulation hereof to act on behalf of the Executive Engineer;

“*DEVELOPED LAND*” means any lot or parcel of land occupied by any structure for human use, including structures intended for commercial enterprise and which affects stormwater runoff;

; “*DEVELOPER*” means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity engaging in the platting, subdivision, filling, grading, excavating, or construction of structures;

“*DEVELOPMENT AGREEMENT*” means an agreement between ESCAFCA and the developer relating to the process by which the construction of the infrastructure will be financed and completed.

“*DEVELOPMENT PROSSESS MANUAL (DPM)*” means a manual(s) that contains both legislative requirements and administrative rules and procedures affecting development activities in ESCAFCA area.

“*DOWNSTREAM CAPACITY*” means the quantified ability of downstream major facilities to convey stormwater;

“*DRAINAGE*” means stormwater drainage;

“*DRAINAGE CONTROL*” means the treatment and/or management of surface runoff from all storms up to and including a 100-year storm;

“*DRAINAGE REPORT*” means a comprehensive engineering analysis of the drainage, flood control and erosion control constraints on and impacts resulting from a proposed platting, development or construction project;

“*DRAINAGE RIGHT-OF-WAY*” means a public right-of-way owned in fee simple or by easement, by the TOWN, COUNTY, ESCAFCA, or the state for the primary purpose of handling storm drainage;

“*ENGINEER*” means a professional engineer registered in New Mexico competent in surface hydrology and drainage;

“*ESCAFCA*” means *Eastern Sandoval County Arroyo Flood Control Authority*;

“*EXECUTIVE ENGINEER*” means the Executive Engineer of the Authority;

“*EROSION CONTROL*” means treatment measures for the prevention of damages due to soil movement and to deposition from the 100-year storm;

“*EROSION CONTROL PLAN*” means a plan for the mitigation of damages due to soil erosion and to deposition from the 100-year storm;

“*FLAT GRADING SCHEME*” means a site that is either flat or can be graded flat such as the Rio Grande Valley floor, in accordance with criteria established by the Executive Engineer;

“*FLOOD CONTROL*” means the treatment measures necessary to protect life and property from the 100-year storm;

“*FLOOD HAZARD AREA*” mean an area subject to inundation from the 100-year storm;

“*FLOODPLAIN*” means the watercourse and adjacent land areas required to safely transport or store the design runoff;

“*FLOODWAY*” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year storm without cumulatively increasing the water surface elevation more than a designated height;

“*FREEBOARD*” means that part of a drainage channel or dam that is designed to contain the wave action of the 100-year design storm;

“*FULLY DEVELOPED WATERSHED*” means hydrologic condition in which all areas of the watershed are assumed to be completely developed except for areas which will not be developed, such as open space.. Calculations for undeveloped areas are done in accordance with current comprehensive or zoning plans for the area and/or a s PUBLIC BODY’S population and development projections and guidelines;

“*GRADING AND DRAINAGE PLAN*” means a drainage plan superimposed on a detailed grading plan addressing such issues on-site and off-site drainage, flood control and erosion control i measures, flow lines, etc.;

“*GRADING PLAN*” means a plan describing the existing topography and proposed grading, including retaining wall locations and details, interfaces with adjacent properties, streets, alleys and channels, referenced to mean sea level based on a TOWN/COUNTY bench mark,

and showing sufficient contours, spot elevations, adjacent structures/facilities and cross-sections to allow a clear understanding by reviewers, contractors and inspectors;

“*GREY WATER*” means water from the bathroom (hand basin, shower, and bath) and laundry. - It excludes water from the kitchen and from toilets;

“*GROUNDWATER CLEANUP*” means the process necessary to remove contaminants, as defined by state and/or federal groundwater standards, from groundwater for the purpose of restoring the water quality of the aquifer;

“*IMPROVED ACCESS*” means to cover with a hard, smooth surface that will bear travel;

“*MAINTENANCE*” means the cleaning, shaping, grading, repair and minor replacement of drainage, flood control and erosion control facilities needed to preserve the original function of the facility;

“*MAJOR ARROYO*” means any watercourse whose watershed exceeds 320 acres, whether such watershed is in its natural or unaltered state or has been altered by development, runoff diversions, or detention facilities;

“*MAJOR FACILITY*” means any facility, including a street or alley, which would collect, divert or convey a peak discharge of more than fifty cubic feet per second (50 cfs) or store more than 2.0 acre-feet of runoff in the event of a 100-year design storm;

“*MAJOR SUBDIVISION*” means a subdivision of more than 5 acres, or 5 lots;

“*MINOR SUBDIVISION*” means any subdivision that is not a major subdivision;

“*MASS GRADING*” means grading, cut, fill or importation of material in excess of 500 cubic yards or grading of any one acre or more;

“*MASTER PLANNED FACILITY*” means any drainage control, flood control or erosion control facility recommended in the comprehensive plan or adopted watershed management plans, watershed parks, amendments thereto, or any (voter approved) general obligation bond financed drainage control, flood control or erosion control facility;

“*MINOR FACILITY*” means any facility which would collect, divert or convey a peak discharge of fifty cubic feet per second (50 cfs) or less in the event of the 100-year storm;

“*MULTIPLE USE FACILITY*” means a drainage control, flood control or erosion control facility in which other uses are planned or allowed, including but not limited to recreation, open space, trails, transportation, wild life habitat and utility location;

“*NATURAL ARROYO*” means an arroyo that exists in its natural state, without regrading or channelization, and which does not receive flows from developed land;

“*NUISANCE WATERS*” means those waters leaving a site and entering a public street which do not result from precipitation, such as landscape over-watering or car washing;

“*PLAYA*” means a nearly level area at the bottom of an undrained desert basin, sometimes temporarily covered with water;

“*PRUDENT LINE*” means a line drawn on a map, adjacent to an arroyo or watercourse, in which development between said line and the arroyo or watercourse may be at increased risk from flooding or damage due to lateral migration of the arroyo or watercourse;

“*PUBLIC BODY*” means ESCAFCA or any municipality, county or any instrumentality, agency or administrative body within the territory of the Authority;

“*SEDIMENT CONTROL*” means a form of watershed management or watercourse treatment to reduce damages to the watercourse, storm drainage facilities or property due to sediment erosion, and/or deposition;

“*SEMI-NATURAL ARROYO*” means an arroyo that has been stabilized with naturalistic channel treatment and blends in visually with adjacent land. Naturalistic channel treatments which allow the growth of vegetation are preferred, including but not limited to ungrouted riprap, gabions and gabions weirs. Tinted concrete or soil cement may be used in limited applications such as low flow channels or as needed to control erosion at points where developed runoff enters the arroyo;

“*STABILIZED FLOOD ZONE*” means a portion of a natural watercourse flooded by the design runoff and protected by sediment control measures. The watercourse is in natural or naturalistic condition. Stabilization will provide sediment control over a period of 30 years and will not be disturbed by design runoff occurring at any time during the 30 year period. Stabilization includes freeboard required to contain the design runoff;

“*STORM DRAINAGE FACILITY*” means any watercourse, street, storm sewer, dam, diversion, dike or any other natural or man-made feature used in the collection, transport, impoundment, or disposition of storm surface waters, its associated sediment, or a combination thereof;

“*STORM DRAINAGE FACILITY CAPACITY*” means the ability of a storm drainage facility to intercept and convey the design runoff with appropriate freeboard required. Capacity of streets (and associated borrow ditches) and storm sewers may be established by public entities in their jurisdictions;

“*TEMPORARY DRAINAGE FACILITY*” means a nonpermanent drainage control, flood control or erosion control facility constructed as part of a phased project or to serve until such time that a permanent facility is in place, including but not limited to desilting ponds, berms, diversions, channels, detention/retention ponds, bank protection and channel stabilization measures;

“*TOWN ENGINEER*” means the chief engineer for the Town of Bernalillo or his designee;

“*TOWN*” means the Town of Bernalillo or other incorporated municipality;

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“*TRAFFIC MANAGER*” means the chief administrator of the TOWN/COUNTY Traffic Engineering Division or his authorized representative;

“*WATERCOURSE*” means any river, creek, arroyo, canyon, draw, or wash, or any other channel having definite banks and bed with visible evidence of the occasional flow of water;

“*WATERCOURSE TREATMENT*” means the physical alteration of a watercourse for any purpose;

“*WATER QUALITY FACILITY*” means engineered and constructed improvements necessary to comply with U.S. Environmental Protection Agency National Pollutant Discharge Elimination System requirements;

“*WATERSHED MANAGEMENT PLAN*” means a comprehensive plan for managing drainage within the watershed;

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