



# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 12Ordinance/Resolution# 2785

For Meeting of June 20, 2016  
(Ordinance First Reading Date)

For Meeting of July 5, 2016  
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL

 LEGISLATIVE

 ADMINISTRATIVE

**TITLE:** AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE (LCMC), SECTIONS 34-1 THROUGH 34-105, AND ENACTING NEW SECTIONS LCMC 34-1 THROUGH 34-107, ARTICLE II-FLOOD DAMAGE PREVENTION, AND ADOPTING THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) REVISED FLOOD INSURANCE STUDY (FIS) AND FLOOD INSURANCE RATE MAPS (FIRM).

**PURPOSE(S) OF ACTION:**

Revise and update the LCMC.

<b>COUNCIL DISTRICT:</b> ALL		
<b><u>Drafter/Staff Contact:</u></b> Tony Trevino, P.E., CFM	<b><u>Department/Section:</u></b> Public Works/Project Development	<b><u>Phone:</u></b> 528-3135
<b><u>City Manager Signature:</u></b>	<i>1 Daniel Oula</i>	

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The City of Las Cruces (City) participates in the National Flood Insurance Program (NFIP), which allows property owners to purchase affordable flood insurance. The City has worked with FEMA since 2004 for the development of the revised FIS and FIRM in digital format.

The purpose of the FIRM is to provide flood hazard mapping information to communities. The FIRM is created by profile elevation data, provided by the FIS. The digitized revisions to the maps will provide improved accuracy and detail with updated base maps and the latest Letter of Map Revisions incorporated into flood prone areas within Las Cruces.

There have been many opportunities for the City and public to review and comment on the proposed FIRM. Public outreach meetings were held in April of 2007, September of 2008, November of 2010, and July of 2014. In addition, FEMA initiated a ninety (90) day appeal period in December of 2014 to address specific concerns about the flood zone boundaries and accuracy of the FIRM.

(Continue on additional sheets as required)

Adoption of the revised FEMA FIS, FIRM allows the City to continue to participate in the NFIP. Additionally, LCMC sections 34-1 through 34-105 must: 1) be revised to refer to the new FIRM with an effective date of July 6, 2016; 2) address the New Mexico Department of Homeland Security and Emergency Management comments; and 3) will correct clerical/grammatical errors within the LCMC. Revisions to the ordinance will not impose any additional or new requirements affecting residential and/or commercial development. Sections 34-106 Severability and 34-107 Penalties for non-compliance have been added in accordance with requirements from the New Mexico Department of Homeland Security and Emergency Management.

As a FEMA requirement to participate in the NFIP, the new FEMA FIS, FIRM needs to be officially adopted by the City Council. At this time, staff recommends City Council repeal LCMC sections 34-1 through 34-105, and enact the revised LCMC sections 34-1 through 34-107, and adopt the revised FEMA FIS, FIRM.

**SUPPORT INFORMATION:**

1. Ordinance.
2. Exhibit "A", Revised FEMA FIRM.
3. Exhibit "B", Revised LCMC sections 34-1 through 34-107.
4. Attachment "A", LCMC sections 34-1 through 34-107 in legislative format.
5. Attachment "B", Letter from FEMA pertaining to revised FIS and FIRM.
6. Attachment "C", Letter from the New Mexico Department of Homeland Security and Emergency Management.

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>  N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)	
	<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.	
<b>Does this action create any revenue?</b>  N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

N/A

**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will repeal the LCMC, sections 34-1 through 34-105, in its entirety and enact new the LCMC sections 34-1 through 34-107; and adopt the revised FEMA FIS, FIRM.
2. Vote "No"; this will keep the existing ordinance and FIRM in place, with the possibility of losing eligibility with the NFIP.
3. Vote to "Amend"; this could prevent the revised ordinance and FIRM from being adopted by its deadline, with the possibility of losing eligibility with the NFIP.
4. Vote to "Table"; this could prevent the revised ordinance and FIRM from being adopted by its deadline, with the possibility of losing eligibility with the NFIP.

**REFERENCE INFORMATION:**

1. Ordinance No. 1933



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**COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP**

For Meeting of June 20, 2016  
(Ordinance First Reading Date)

For Meeting of July 5, 2016  
(Adoption Date)

**TITLE:** AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE (LCMC), SECTIONS 34-1 THROUGH 34-105, AND ENACTING NEW SECTIONS LCMC 34-1 THROUGH 34-107, ARTICLE II-FLOOD DAMAGE PREVENTION, AND ADOPTING THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) REVISED FLOOD INSURANCE STUDY (FIS) AND FLOOD INSURANCE RATE MAPS (FIRM).

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes  No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact		Ext. 3135	5/31/16
Department Director		Ext. 3135	5/31/16
Other			
Assistant City Manager /CAO Management & Budget Manager		541-2048 541017	6/1/2016 5-31-2016
Assistant City Manager/COO		541-2271	6-1-16
City Attorney		EXT 2128	2 JUN 2016
Deputy City Clerk	Christine Rivera	2118	6-2-16

Council Bill No. 16-026  
**ORDINANCE NO. 2785**

**AN ORDINANCE REPEALING LAS CRUCES MUNICIPAL CODE (LCMC), SECTIONS 34-1 THROUGH 34-105, AND ENACTING NEW SECTIONS LCMC 34-1 THROUGH 34-107, ARTICLE II-FLOOD DAMAGE PREVENTION, AND ADOPTING THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) REVISED FLOOD INSURANCE STUDY (FIS) AND FLOOD INSURANCE RATE MAPS (FIRM).**

The City Council is informed that:

**WHEREAS**, the City of Las Cruces (City) participates in the National Flood Insurance Program (NFIP), which allows property owners to purchase affordable flood insurance; and

**WHEREAS**, the City has worked with FEMA since 2004 for the development of the revised FIS and FIRM in digital format; and

**WHEREAS**, the purpose of the FIRM is to provide flood hazard information to communities. The FIRM is created by evaluation data, provided by the FIS. The digitized revisions to the existing maps will provide improved accuracy and detail with updated base maps and the latest Letter of Map Revisions incorporated into flood prone areas within Las Cruces; and

**WHEREAS**, to be in compliance with FEMA requirements, the new FIRM maps need to be officially adopted by the City Council; and

**WHEREAS**, current LCMC sections 34-1 through 34-105 will be revised to refer to the new FIRM with an effective date of July 6, 2016 and incorporate comments from the New Mexico Department of Homeland Security and Emergency Management; and

**WHEREAS**, sections 34-106 Severability and 34-107 Penalties for non-compliance have been added in accordance with requirements from the New Mexico Department of Homeland Security and Emergency Management.

**NOW, THEREFORE**, Be it ordained by the governing body of the City of Las

Cruces:

(I)

THAT adoption of the revised FEMA FIRM, as outlined in Exhibit "A", attached hereto and made part of this ordinance, is hereby approved.

(II)

THAT LCMC sections 34-1 through 34-105 is repealed in its entirety, and sections 34-1 through 34-107 is enacted, as outlined in Exhibit "B", attached hereto and made part of this ordinance.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

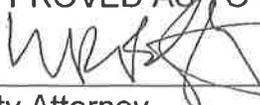
\_\_\_\_\_  
City Clerk

(SEAL)

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

VOTE:

- Mayor Miyagishima: \_\_\_\_\_
- Councillor Gandara: \_\_\_\_\_
- Councillor Smith: \_\_\_\_\_
- Councillor Pedroza: \_\_\_\_\_
- Councillor Eakman: \_\_\_\_\_
- Councillor Sorg: \_\_\_\_\_
- Councillor Levatino: \_\_\_\_\_









**NOTES TO USERS**

This map is for use in determining the National Flood Insurance Program's (NFIP) flood insurance policy limits. It is not intended to be used for any other purpose. The NFIP is a federal program that provides flood insurance to property owners in participating communities. The NFIP is a federal program that provides flood insurance to property owners in participating communities. The NFIP is a federal program that provides flood insurance to property owners in participating communities.

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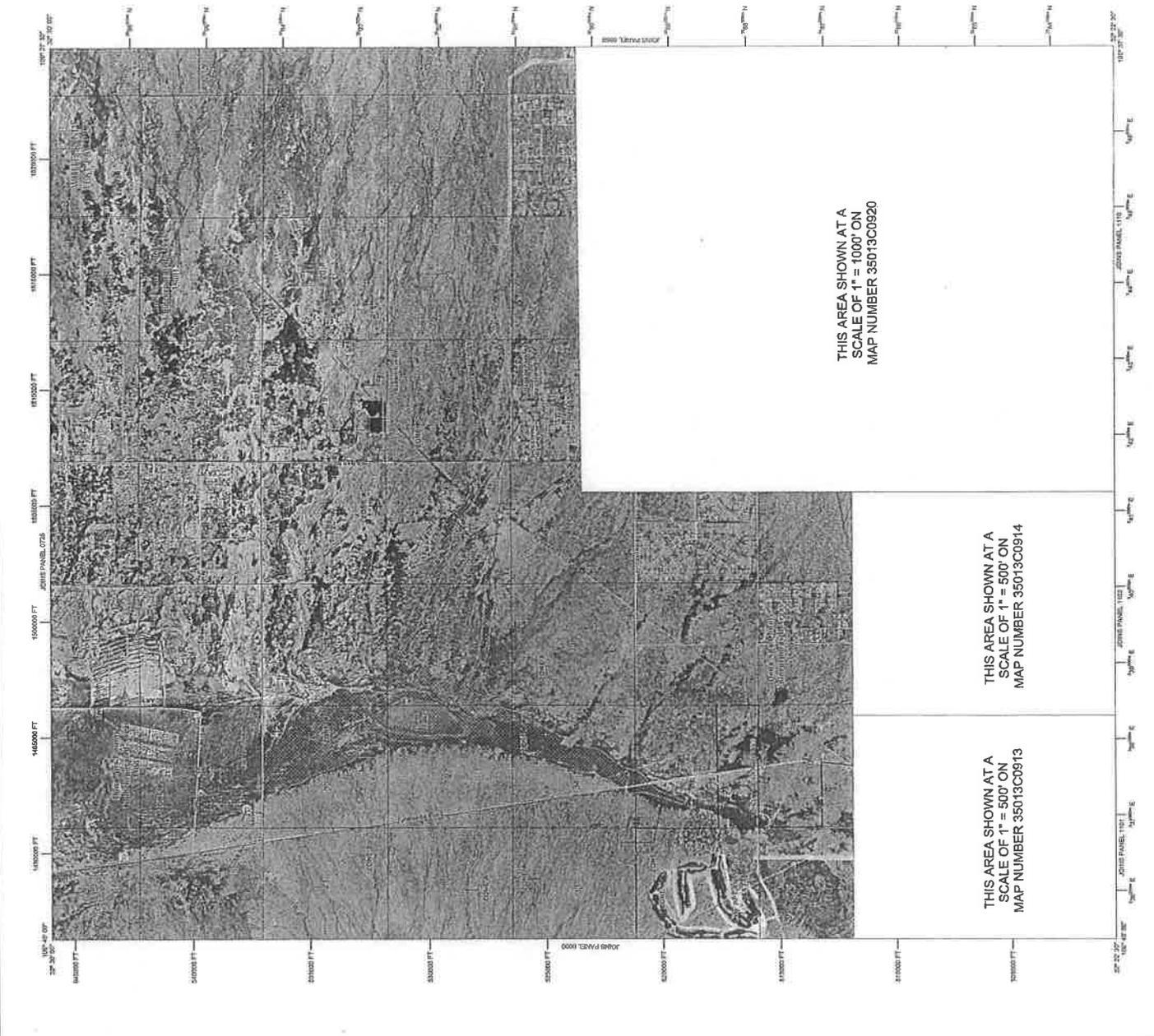
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**LEGEND**

**BOUNDARY**  
 1000 FT  
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 3500 FT  
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 11500 FT  
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 12500 FT  
 13000 FT  
 13500 FT  
 14000 FT  
 14500 FT  
 15000 FT

**ADDITIONAL INFORMATION**  
 1. This map is for use in determining the National Flood Insurance Program's (NFIP) flood insurance policy limits. It is not intended to be used for any other purpose. The NFIP is a federal program that provides flood insurance to property owners in participating communities. The NFIP is a federal program that provides flood insurance to property owners in participating communities. The NFIP is a federal program that provides flood insurance to property owners in participating communities.

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**NATIONAL FLOOD INSURANCE PROGRAM**

**FIRM**

**FLOOD INSURANCE RATE MAP**

**DONA ANA COUNTY, NEW MEXICO**

**AND INCORPORATED AREAS**

**PANEL 02 OF 1925**

DATE: 07/06/2016  
 DRAWN BY: DANIEL BUZZO  
 CHECKED BY: DANIEL BUZZO  
 DATE: 07/06/2016  
 DATE: 07/06/2016

**MAP NUMBER**  
 35013C09250

**MAP REVISED**  
 JULY 6, 2016

Federal Emergency Management Agency

THIS AREA SHOWN AT A  
 SCALE OF 1" = 1000' ON  
 MAP NUMBER 35013C0920

THIS AREA SHOWN AT A  
 SCALE OF 1" = 500' ON  
 MAP NUMBER 35013C0914

THIS AREA SHOWN AT A  
 SCALE OF 1" = 500' ON  
 MAP NUMBER 35013C0913















































NOTES TO USERS

This map is for use in determining the National Flood Insurance Program. It does not constitute a warranty of accuracy or liability. For more information on the program, contact the Federal Emergency Management Agency at 12050 Rockville Pike, Washington, DC 20826. For a complete listing of participating communities, visit the National Flood Insurance Program website at <http://www.fema.gov/national-flood-insurance-program>.

The data shown on this map were derived from the Flood Insurance Rate Study (FIRS) conducted by the Federal Emergency Management Agency. The FIRS is a study of the flood damage potential in the United States. The FIRS data is used to determine the flood insurance rates for communities. The FIRS data is used to determine the flood insurance rates for communities. The FIRS data is used to determine the flood insurance rates for communities.

Coastal Base Flood Elevations shown on this map were derived from the National Oceanic and Atmospheric Administration (NOAA) Coastal Flood Hazard Study. The NOAA Coastal Flood Hazard Study is a study of the coastal flood hazard potential in the United States. The NOAA Coastal Flood Hazard Study data is used to determine the coastal flood insurance rates for communities. The NOAA Coastal Flood Hazard Study data is used to determine the coastal flood insurance rates for communities.

For information on available products associated with the FIRS, visit the Map Service Center (MSC) website at [www.fema.gov/mfip](http://www.fema.gov/mfip). The MSC website provides information on the available products and how to purchase them. The MSC website also provides information on the available products and how to purchase them.

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Dona Ana County  
Unincorporated Areas  
350112

**LEGEND**  
SYMBOLS AND CONVENTIONS:  
1. FLOOD INSURANCE RATE MAP (FIRM) SUBJECT TO THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP).  
2. FIRM ZONE BOUNDARIES.  
3. FIRM ZONE BOUNDARIES.  
4. FIRM ZONE BOUNDARIES.  
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19. FIRM ZONE BOUNDARIES.  
20. FIRM ZONE BOUNDARIES.

**205**  
The National Flood Insurance Program (NFIP) provides flood insurance to property owners in participating communities. The NFIP is a federal program that provides flood insurance to property owners in participating communities. The NFIP is a federal program that provides flood insurance to property owners in participating communities.

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**MAP SCALE 1" = 800'**  
0 100 200 300 400 500 600 700 800 900 1000 1100 1200 1300 1400 1500 1600 1700 1800 1900 2000 2100 2200 2300 2400 2500 2600 2700 2800 2900 3000 3100 3200 3300 3400 3500 3600 3700 3800 3900 4000 4100 4200 4300 4400 4500 4600 4700 4800 4900 5000 5100 5200 5300 5400 5500 5600 5700 5800 5900 6000 6100 6200 6300 6400 6500 6600 6700 6800 6900 7000 7100 7200 7300 7400 7500 7600 7700 7800 7900 8000 8100 8200 8300 8400 8500 8600 8700 8800 8900 9000 9100 9200 9300 9400 9500 9600 9700 9800 9900 10000

**FIRM**  
**FLOOD INSURANCE RATE MAP**  
**DONA ANA COUNTY,**  
**NEW MEXICO**  
**AND INCORPORATED AREAS**  
**PANEL 1113G OF 1925**  
DATE MAP PRODUCED FOR FEDERAL LAYOUT: 12/15/11  
CONSULTED: DANIEL RUIZ  
DATE: 11/15/11  
LAYOUT: 11/15/11  
DATE: 11/15/11

**NATIONAL FLOOD INSURANCE PROGRAM**  
**FIRM**  
**FLOOD INSURANCE RATE MAP**  
**DONA ANA COUNTY,**  
**NEW MEXICO**  
**AND INCORPORATED AREAS**  
**PANEL 1113G OF 1925**  
DATE MAP PRODUCED FOR FEDERAL LAYOUT: 12/15/11  
CONSULTED: DANIEL RUIZ  
DATE: 11/15/11  
LAYOUT: 11/15/11  
DATE: 11/15/11

**MAP NUMBER**  
350113G  
**MAP REVISED**  
JULY 6, 2016

Federal Emergency Management Agency





## ARTICLE I. IN GENERAL

### Sec. 34-1. Community ditches.

The maintenance, cleaning, weed and grass removal, upkeep, and repair of community ditches and parkways within the City of Las Cruces shall be the responsibility of the owners of the abutting property, whether or not such persons are users of water in the community ditch.

(Code 1988, § 11-1)

Secs. 34-2--34-30. Reserved.

## ARTICLE II. FLOOD DAMAGE PREVENTION

### DIVISION 1. GENERALLY

#### Sec. 34-31. Definitions.

Words or phrases used in this article, unless specifically defined below, shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alluvial fan flooding* means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by the high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

*Apex* means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

*Appeal* means a request for a review of the floodplain administrator's interpretation of any section of this article or a request for a variance.

*Appurtenant structure* means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

*Area of shallow flooding* means a designated AO, AH, or VO zone on the City of Las Cruces's flood insurance rate map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of special flood hazard* is the land in the floodplain within the City of Las Cruces subject to a one-percent or greater chance of flooding in any given year. The area may be designated as zone A on the Flood Boundary – Floodway Map (FBFM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE, or V.

*Base flood* means the flood having a one-percent chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE)* means the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one-percent chance of equaling or exceeding that level in any given year - also called the Base Flood.

*Basement* means any area of the building having its floor sub-grade (below ground level) on all sides.

*Breakaway wall* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

*Critical feature* means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

*Development* means any manmade change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*Elevated building* means a building without a basement that has its lowest floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*Existing construction* means, for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the City of Las Cruces.

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured

homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

*Flood elevation study* means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (e.g., mudflow) or other flood-related erosion hazards.

*Flood insurance rate map (FIRM)* means the official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study (FIS)* is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, the water surface elevation of the base flood, and the Flood Boundary-Floodway Map.

*Floodplain or flood prone area* means any land area susceptible to being inundated by flooding. *Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinance (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power. The term describes such federal, state, or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Flood proofing* means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

*Flood protection system* means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within the City of Las Cruces subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

*Floodway (regulatory floodway)* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot cumulatively.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade* means the highest natural elevation of the ground surface next to a finished structure's walls or, if the structure has not been constructed, next to the proposed walls of the structure..

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of Interior; or,
- (4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior or;
  - (b) Directly by the Secretary of the Interior in states without approved programs.

*Levee* means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

*Levee system* means a flood protection system which consists of at least one levee and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest floor* means the lowest floor of the lowest enclosed area of a structure, including the basement. An unfinished enclosure, usable solely for parking or vehicles, building access, or storage in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

*Manufactured home* means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. The term "manufactured home" does not include a "recreational vehicle."

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Mean sea level* means, for purposes of the National Flood Insurance Program, North American Vertical Datum of 1988 (NAVD 1988) or other datum, to which base flood elevations shown on the City of Las Cruces's Flood Insurance Rate Map are referenced.

*New construction* means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Las Cruces and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulation adopted by the City of Las Cruces.

*Public Works Director* means the director of the City of Las Cruces Public Works Department.

*Recreational Vehicle* means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling by as temporary living quarters for recreational, camping, travel, or seasonal use.

*Start of construction*, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a portion of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before “start of construction” of the improvement. (see the definition of start of construction.) This includes structures which have incurred “substantial damage”, regardless of the actual repair work performed (see the definition of substantial damage.) The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of federal, state, or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- (2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

*Variance* is a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. For full requirements, see section 60.6 of the National Flood Insurance Program regulations.

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the North American Vertical Datum (NAVD) of 1988 or (other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Code 1988, § 11-25; Ord No. 1929, §§ I, II, 8-5-02; Ord. No. 1933, § I, 8-19-02)

**Cross reference**— Definitions generally, § 1-2.

### **Sec. 34-32. Statutory authorization.**

The Legislature of the State of New Mexico has in New Mexico Statutes Annotated 1978, § 3-18-7 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses, and it is determined to be in the public interest and in the best interest of the health, welfare and morals of the City of Las Cruces to establish the flood control damage prevention regulations in this ordinance.

(Code 1988, § 11-21)

**Sec. 34-33. Findings of fact.**

- (1) The flood hazard areas of the City of Las Cruces are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.

(Code 1988, § 11-22; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-34. Statement of purpose.**

It is the purpose of this article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

(Code 1988, § 11-23)

**Sec. 34-35. Methods of reducing flood losses.**

In order to accomplish its purposes, this article is intended to reduce flood losses by methods designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or that cause excessive increases in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

- (4) Control filling, grading, dredging, and other development which may increase flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Code 1988, § 11-24)

Sec. 34-36. Applicability of article.

This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Code 1988, § 11-26)

**Sec. 34-37. Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, “The Flood Insurance Study (FIS) for the City of Las Cruces, Doña Ana County, NM, dated July 6, 2016, with accompanying Flood Insurance Rate Maps (FIRM) dated July 6, 2016 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

(Code 1988, § 11-27; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-38. Establishment of development permit.**

A development permit shall be required to ensure conformance with the provisions of this ordinance prior to the commencement of any development activities.

(Code 1988, § 11-28; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-39. Compliance.**

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

(Code 1988, § 11-29; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-40. Abrogation and greater restrictions.**

This ordinance is not intended to repeal, abrogate, or impair any existing regulations, ordinances, easements, covenants, or deed restrictions. However, where this ordinance and the provisions of other regulations or ordinances conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1988, § 11-30)

**Sec. 34-41. Interpretation.**

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the City Council; and
- (3) Deemed neither to limit nor repeal any other powers granted under State Statutes.

(Code 1988, § 11-31; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-42. Warning and disclaimer of liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

(Code 1988, § 11-32)

**Sec. 34-43. Lands to which this ordinance applies.**

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Las Cruces, New Mexico.

(Ord. No. 1933, § 1, 8-19-02)

**Secs. 34-44 - 34-70. Reserved.****DIVISION 2. ADMINISTRATION****Sec. 34-71. Designation of the floodplain administrator.**

The Public Works Director hereby appoints a Floodplain Administrator who is certified to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Regulations) pertaining to floodplain management.

(Code 1988, § 11-41; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 1933, § I, 8-19-02)

**Cross reference**— Officers and employees, § 2-56 et seq.

**Sec. 34-72. Duties and responsibilities of the certified floodplain administrator.**

Duties and responsibilities of the certified Floodplain Administrator under this article shall include but not be limited to:

- (1) Maintaining and holding open for public inspection all records pertaining to this ordinance;
- (2) Reviewing permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding;
- (3) Reviewing and then approving or denying all applications for development permits required by this ordinance;
- (4) Reviewing permits for proposed development to ensure that all necessary permits have been obtained from those federal, state or local governmental agencies, (including section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1334) from which prior approval is required);
- (5) Making the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions);
- (6) Notifying, in riverine situations, adjacent communities and the State Coordinating Agency, which is the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- (7) Assuring that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;
- (8) Obtaining, reviewing, and reasonably utilizing any base flood elevation data and floodway data available from a federal, state, local, or other source in order to administer the provisions of sections 34-101 through 34-105 when base flood elevation data has not been provided, in accordance with section 34-37;
- (9) Requiring that, when a regulatory floodway has not been designated, no new construction, substantial improvements or other development, including fill, shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
- (10) Assuring that, under the provisions of 44 CFR Chapter 1, Section 65-12, of the National Flood Insurance Program regulations, the City of Las Cruces may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevations of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

(Code 1988, § 11-42; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-73. Permit procedures.**

- (1) Application for a development permit required under this ordinance shall be presented to the Floodplain Administrator on forms furnished by the property owner

or the property owner's representative and may include, but is not limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the development in relation to areas of special flood hazard. Additionally, the following information is required:

- (a) Where base flood elevations have not been provided by the Federal Emergency Management Agency, a drainage study prepared and certified by a professional engineer registered in the state. The drainage study shall include:
    - (i) An aerial photo of the area to be developed and contributing watershed;
    - (ii) An up-to-date contour map of the site to be developed at a scale of one inch equals 100 feet and contour lines at intervals of no more than one foot and spot elevations at all breaks in grade along all drainage channels or swales and at selected points not more than 100 feet apart in all directions;
    - (iii) A contour map identifying the site to be developed and the entire watershed that contributes storm runoff to the development site;
    - (iv) Calculations showing the peak discharge and volume of runoff that will pond or pass through the development site from a one percent (100 year) storm; and
    - (v) Calculations showing the one percent (100 year) storm elevation in relation to mean sea level on the site to be developed.
  - (b) Elevation in relation to mean sea level of the lowest floor, including basement, of all new and substantially improved structures;
  - (c) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
  - (d) A certificate from a professional engineer or architect registered in the state that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 34-102(2);
  - (e) A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
  - (f) Maintenance of a record of all such information in accordance with subsection 34-72(1).
- (2) Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the sections of this ordinance and the following relevant factors:
- (a) The danger to life and property due to flooding or erosion damage;
  - (b) The susceptibility of the proposed structure and its contents to flood damage and the effect of such damage on the individual owner;
  - (c) The danger that materials may be swept onto other lands to the injury of others;
  - (d) The compatibility of the proposed use with existing and anticipated development;
  - (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (f) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;

- (g) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (h) The necessity to the facility of a waterfront location, where applicable; and
- (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(Code 1988, § 11-43; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-74. Variance procedures.**

- (1) The City Council shall hear and render judgment on request for variances from the requirements of this ordinance.
- (2) The City Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this article.
- (3) Any person aggrieved by the decision of the City Council may appeal such decision to the District Court within 30 days of the rendering of the decision.
- (4) Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic places without regard to the procedures set forth in the remainder of this ordinance.
- (6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 34-73(2) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted in this ordinance and the intent of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article stated in sections 34-34 and 34-35.
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (10) Prerequisites for granting variances shall be as follows:
  - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (b) Variances shall only be issued upon:
    - (i) Showing a good and sufficient cause;

- (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, and extraordinary public expense, and create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (c) Any applicant, to whom a variance is granted, shall be given written notice of the permitted elevation of the lowest floor of the structure to be built, which shall not be more than two feet below the base flood elevation. The cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (11) Variances may be issued by the City of Las Cruces for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (a) The criteria outlined in subsections (1) through (10) are met; and
  - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Code 1988, § 11-44; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 1933 § I, 8-19-02)

**Secs. 34-75--34-100. Reserved.**

### **DIVISION 3. FLOOD HAZARD REDUCTION**

#### **Sec. 34-101. General standards.**

In all areas of special flood hazards, the following are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (8) Floodplain development shall follow the Federal Emergency Management Agency's letter of map change (LOMC) process (e.g., LOMA, LOMR, LOMR-F, CLOMR, CLOMR-F) as specified in 44 CFR. Floodplain information shall be required along with a Conditional Letter of Map Revision (CLOMR and CLOMR-F) and a Letter of Map Revision (LOMR and LOMR-F) for one-percent chance for storm flows of greater than 250 cubic feet per second (2.83 meters cubed per second), developments of five acres and larger, developments with fifty or more lots, and/or developments with any changes to the existing flow path in flood hazard zones AE, A, AH, AO, and D upon the submittal of any on preliminary and/or final drainage drawings for review. Information shall include peak discharges for the ten percent (10%), two percent (2%), one-percent (1%), and two-tenth percent (0.2%) chance storms for the floodplain inundation area and anticipated depth of floodwaters one foot and deeper. Standard step backwater models shall be used for flood depth determination. The Hydrologic Engineering Centers HEC-2 analysis method may be required. Improvements and subdivisions will not be accepted by the City until the flood study has been approved by the Federal Emergency Management Agency.
  - (a) A CLOMR will be submitted for review by the City and submitted to the Federal Emergency Management Agency prior to plan and/or final plat approval.
  - (b) A LOMR will be submitted for review by the City and submitted to the Federal Emergency Management Agency before acceptance by the City and before the issuance of any Certificate of Occupancy. Costs incurred for the preparation of materials and fees paid to the Federal Emergency Management Agency will be borne by the developer.

(Code 1988, § 11-51; Ord. No. 1933, § I, 8-19-02)

#### **Sec. 34-102. Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 34-37, subsection 34-72(8), or subsection 34-103(3), the following are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in subsection 34-73(1)(a) is satisfied.
- (2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans

for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be issued by the certifying professional to the Floodplain Administrator and be maintained by the Floodplain Administrator.

- (3) *Enclosures.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are useable solely for the parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - (b) The bottom of all openings shall be no higher than one foot above grade; and
  - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.* Manufactured homes are subject to the following regulations.
- (a) All manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices which minimize flood damage. For the purpose of this subsection, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - (b) Manufactured homes in the following categories that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movements in accordance with subsection 4(d) of this section:
    - (i) outside of a manufactured home park or subdivision,
    - (ii) in a new manufactured home park or subdivision,
    - (iii) in an expansion to an existing manufactured home park or subdivision, or
    - (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.
  - (c) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zone A1-30, AH, and AE on the community's FIRM that are not subject to the provision of paragraph (4) of this section must be elevated so that either:

- (i) the lowest floor of the manufactured home is at or above the base flood elevation, or
- (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (d) Ground anchoring systems shall meet the requirements outlined in the City manufactured housing installation code. Anchors and anchoring systems that do not meet these requirements shall be designed by a professional engineer registered in the state and approved by the Floodplain Administrator.
- (5) *Recreational Vehicles*. Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
  - (a) Be on the site for fewer than 180 consecutive days,
  - (b) Be fully licensed and ready for highway use, or
  - (c) Meet the permit requirements of subsection 34-73, (1)(b), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(Code 1988, § 11-52; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-103. Standards for subdivision proposals.**

- (1) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with sections 34-33 through 34-35.
- (2) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet development permit requirements of sections 34-38 and 34-73, of this section.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is less, if not otherwise provided pursuant to section 34-37 or subsection 34-72(8).
- (4) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards
- (5) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (6) All proposals for the development of subdivisions shall meet development permit requirements of sections 34-38 and 34-73, and this division, as well as the requirements of section 37-112.

(Code 1988, § 11-53; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-104. Standards for areas of shallow flooding (AO/AH zones).**

Located within the area of special flood hazard as established in section 34-37 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following apply to AO and AH zones:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of nonresidential structures shall:
  - (a) Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
  - (b) Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in subsection 34-73 (1)(a), are satisfied.
- (4) Adequate drainage paths around structures on slopes shall be required to guide floodwaters around and away from proposed structures.

(Code 1988, § 11-54; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-105. Floodways**

Floodways located within areas of special flood hazard established in section 34-37 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply to the floodway:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section 34-101, section 34-102, section 34-103, section 34-104.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, the City of Las Cruces may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations,

provided that the community first applies for a conditional FIRM and floodway revision through the Federal Emergency Management Agency.

(Ord. No. 1933, § I, 8-19-02)

**Sec. 34-106. Severability.**

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**Sec. 34-107 Penalties for non-compliance.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$10,000 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Las Cruces City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

**Secs. 34-108—34-124. Reserved.**

## ARTICLE I. IN GENERAL

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### Sec. 34-1. Community ditches.

The maintenance, cleaning, weed and grass removal, upkeep, and repair of community ditches and parkways within the ~~city~~ City of Las Cruces shall be the responsibility of the owners of the abutting property, whether or not such persons are users of water in the community ditch.

(Code 1988, § 11-1)

Secs. 34-2--34-30. Reserved.

## ARTICLE II. FLOOD DAMAGE PREVENTION

### DIVISION 1. GENERALLY

#### Sec. 34-31. Definitions.

Words or phrases used in this article, unless specifically defined below, shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alluvial fan flooding* means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by the high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

*Apex* means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

*Appeal* means a request for a review of the floodplain administrator's interpretation of any section of this article or a request for a variance.

*Appurtenant structure* means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

*Area of shallow flooding* means a designated AO, AH, or VO zone on ~~a community~~ the City of Las Cruces's flood insurance rate map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of special flood hazard* is the land in the floodplain within a community ~~the City of Las Cruces~~ subject to a one-percent or greater chance of flooding in any given year. The area may be designated as zone A on the Flood Boundary – Floodway Map (FBFM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE, or V.

*Base flood* means the flood having a one-percent chance of being equalled ~~equaled~~ or exceeded in any given year.

*Base flood elevation (BFE)* means the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one-percent chance of equaling or exceeding that level in any given year - also called the Base Flood.

*Basement* means any area of the building having its floor sub-grade (below ground level) on all sides.

*Breakaway wall* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

*Critical feature* means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

*Development* means any manmade change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*Director of public works* means the director of the public works department.

*Elevated building* means a building without a basement that has its lowest floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. ~~means a nonbasement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor or, in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In Zones V1-30, VE, or V, the term "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.~~

*Existing construction* means, for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community the City of Las Cruces.

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

*Flood elevation study* means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (e.g., mudflow) or other flood-related erosion hazards.

~~*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Emergency Management Agency, where the areas within the boundaries of special flood hazards have been designated as zone A.~~

*Flood insurance rate map (FIRM)* means ~~an~~ the official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study (FIS)* is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, the water surface elevation of the base flood, and the Flood Boundary-Floodway Map.

*Floodplain or flood prone area* means any land area susceptible to being inundated by ~~water from any source.~~ flooding. (See the definition of Flood or flooding.)

*Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinance (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power. The term

describes such federal, state, or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Flood proofing* means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

*Flood protection system* means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a communitythe City of Las Cruces subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

*Floodway (regulatory floodway)* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot cumulatively.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

~~*Habitable floor* means any floor usable for the following purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a habitable floor.~~

*Highest adjacent grade* means the highest natural elevation of the ground surface next to a finished structure's walls or, if the structure has not been constructed, next to the proposed walls of the structure. ~~prior to construction next to the proposed walls of a structure.~~

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of Interior; or,
- (4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior or;
  - (b) Directly by the Secretary of the Interior in states without approved programs.

*Levee* means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

*Levee system* means a flood protection system which consists of a at least one levee and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest floor* means the lowest floor of the lowest enclosed area of a structure, including the basement. An unfinished ~~or flood-resistant~~ enclosure, usable solely for parking or vehicles, building access, or storage in an area other than a basement ~~area~~, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

*Manufactured home* means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. The term "manufactured home" does not include a "recreational vehicle."

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Mean sea level* means, for purposes of the National Flood Insurance Program, ~~the National Geodetic Vertical Datum (NGVD) of 1929~~ North American Vertical Datum of 1988 (NAVD 1988) or other datum, to which base flood elevations shown on a ~~community~~ the City of Las Cruces's Flood Insurance Rate Map are referenced.

*New construction* means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a ~~community~~ the City of Las Cruces and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulation adopted by a ~~community~~ the City of Las Cruces.

*Public Works Director* means the director of the City of Las Cruces Public Works Department.

*Recreational Vehicle* means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Start of construction*, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a portion of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. (see the definition of start of construction.) This includes structures which have incurred "substantial damage", regardless of the actual repair work performed (see the definition of substantial damage.) The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of federal, state, or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

*Variance* is a grant of relief to a person from the requirements of this ~~article~~ ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ~~article~~ ordinance. For full requirements, see section 60.6 of the National Flood Insurance Program regulations.

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the ~~National Geodetic Vertical Datum (NGVD) of 1929~~ North American Vertical Datum (NAVD) of 1988 or (other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Code 1988, § 11-25; Ord No. 1929, §§ I, II, 8-5-02; Ord. No. 1933, § I, 8-19-02)

**Cross reference**— Definitions generally, § 1-2.

**Sec. 34-32. Statutory authorization.**

The ~~Legislature of the State of New Mexico has in New Mexico Statutes Annotated state legislature has in NMSA-1978, § 3-18-7~~ delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses, and it is determined to be in the public interest and in the best interest of the health, welfare and morals of the ~~community~~ the City of Las Cruces to establish the flood control damage prevention regulations in this ~~article~~ ordinance.

(Code 1988, § 11-21)

**Sec. 34-33. Findings of fact.**

- (1) The flood hazard areas of the ~~city~~ City of Las Cruces are subject to periodic inundation which ~~results~~ could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.

(Code 1988, § 11-22; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-34. Statement of purpose.**

It is the purpose of this article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;

- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

(Code 1988, § 11-23)

**Sec. 34-35. Methods of reducing flood losses.**

In order to accomplish its purposes, this article is intended to reduce flood losses by methods designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or that cause excessive increases in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.
- (4) Control filling, grading, dredging, and other development which may increase flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Code 1988, § 11-24)

**Sec. 34-36. Applicability of article.**

This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Code 1988, § 11-26)

**Sec. 34-37. Basis for establishing the areas of special flood hazard.**

~~The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study, Las Cruces, New Mexico," dated September 6, 1995, with Flood Insurance Rate Maps (FIRM) and Flood Boundary Floodway Maps and (FBFM) dated September 27, 1991 and September 6, 1995, and any revision thereto are adopted by reference and declared to be part of this article.~~

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for the City of Las Cruces, Doña Ana County, NM, dated July 6, 2016, with accompanying Flood Insurance

Rate Maps (FIRM) dated July 6, 2016 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

(Code 1988, § 11-27; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-38. Establishment of development permit.**

A development permit shall be required to ensure conformance with the provisions of this ~~article~~ ordinance prior to the commencement of any development activities.

(Code 1988, § 11-28; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-39. Compliance.**

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ~~article~~ ordinance and other applicable regulations.

(Code 1988, § 11-29; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-40. Abrogation and greater restrictions.**

This ~~article~~ ordinance is not intended to repeal, abrogate, or impair any existing regulations, ordinances, easements, covenants, or deed restrictions. However, where this ~~article~~ ordinance and the provisions of other regulations or ordinances conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1988, § 11-30)

**Sec. 34-41. Interpretation.**

In the interpretation and application of this ~~article~~ ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the City Council; and
- (3) Deemed neither to limit nor repeal any other powers granted under State Statutes.

(Code 1988, § 11-31; Ord. No. 1933, § I, 8-19-02)

**Sec. 34-42. Warning and disclaimer of liability.**

The degree of flood protection required by this ~~article~~ ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by manmade or natural causes. This ~~article~~ ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ~~article~~ ordinance shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this ~~article~~ ordinance or any administrative decision lawfully made thereunder.

(Code 1988, § 11-32)

**Sec. 34-43. Lands to which this ordinance applies.**

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Las Cruces, New Mexico.

(Ord. No. 1933, § 1, 8-19-02)

**Secs. 34-44 - 34-70. Reserved.**

**DIVISION 2. ADMINISTRATION\***

**Sec. 34-71. Designation of the floodplain administrator.**

The Public Works Director hereby appoints a Floodplain Administrator who is certified to administer and implement the provisions of this ordinance article and other appropriate sections of 44 CFR (National Flood Insurance Regulations) pertaining to floodplain management.

(Code 1988, § 11-41; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 1933, § I, 8-19-02)

**Cross reference**— Officers and employees, § 2-56 et seq.

**Sec. 34-72. Duties and responsibilities of the certified floodplain administrator.**

Duties and responsibilities of the certified Floodplain Administrator under this article shall include but not be limited to:

- (1) Maintaining and holding open for public inspection all records pertaining to this ordinance article;
- (2) Reviewing permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding;
- (3) Reviewing and then, approving, or denying all applications for development permits required by this ordinance article;
- (4) Reviewing permits for proposed development to ensure that all necessary permits have been obtained from those federal, state or local governmental agencies, (including section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1334) from which prior approval is required);
- (5) Making the necessary interpretation where ~~Where~~ interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), ~~the Floodplain Administrator shall make the necessary interpretation~~;
- (6) Notifying, in riverine situations, adjacent communities and the State Coordinating Agency, which is the New Mexico Department of Homeland Security and Emergency

- Management (NMDHSEM), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- (6) ~~Notifying, in riverine situations, adjacent communities and the State Coordinating Agency, which is the New Mexico State Engineer's Office, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;~~
- (7) ~~Assure~~ Assuring that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;
- (8) Obtaining, reviewing, and reasonably utilizing any base flood elevation data and floodway data available from a federal, state, local, or other source in order to administer the provisions of sections 34-101 through 34-105 when ~~When~~ base flood elevation data has not been provided, in accordance with section 34-37, ~~the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, local, or other source in order to administer the provisions of sections 34-101 through 34-105;~~
- (9) ~~Requiring that, When~~ when a regulatory floodway has not been designated, ~~the Floodplain Administrator must require that no new construction, substantial improvements or other development, including fill, shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community; and~~
- (10) ~~Under~~ Assuring that, under the provisions of 44 CFR Chapter 1, Section 65-12, of the National Flood Insurance Program regulations, ~~a community~~ the City of Las Cruces may approve certain development in Zones A1-30, AE, AH, on the ~~communities~~ community's FIRM which increases the water surface elevations of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

(Code 1988, § 11-42; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 1933, § I, 8-19-02)

### **Sec. 34-73. Permit procedures.**

- (1) Application for a development permit required under this ~~article~~ ordinance shall be presented to the Floodplain Administrator on forms furnished by ~~the Community Development Department~~ the property owner or the property owner's representative and may include, but is not limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the ~~forgoing~~ development in relation to areas of special flood hazard. Additionally, the following information is required:
- (a) Where base flood elevations have not been provided by the Federal Emergency Management Agency, a drainage study prepared and certified by a professional engineer registered in the state. The drainage study shall include:
- (i) An aerial photo of the area to be developed and contributing watershed;

- (ii) An up-to-date contour map of the site to be developed at a scale of one inch equals 100 feet and contour lines at intervals of no more than one foot and spot elevations at all breaks in grade along all drainage channels or swales and at selected points not more than 100 feet apart in all directions;
  - (iii) A contour map identifying the site to be developed and the entire watershed that contributes storm runoff to the development site;
  - (iv) Calculations showing the peak discharge and volume of runoff that will pond or pass through the development site from a ~~100-year frequency~~ one percent (100 year) storm; and
  - (v) Calculations showing the one percent (100 year) storm~~100-year flood (base flood)~~ elevation in relation to mean sea level on the site to be developed.
- (b) Elevation in relation to mean sea level of the lowest floor, including basement, of all new and substantially improved structures;
  - (c) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
  - (d) A certificate from a professional engineer or architect registered in the state that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 34-102(2);
  - (e) A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
  - (f) Maintenance of a record of all such information in accordance with subsection 34-72(1).
- (2) Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the sections of this ~~article~~ ordinance and the following relevant factors:
- (a) The danger to life and property due to flooding or erosion damage;
  - (b) The susceptibility of the proposed ~~facility~~ structure and its contents to flood damage and the effect of such damage on the individual owner;
  - (c) The danger that materials may be swept onto other lands to the injury of others;
  - (d) The compatibility of the proposed use with existing and anticipated development;
  - (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (f) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
  - (g) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  - (h) The necessity to the facility of a waterfront location, where applicable; and
  - (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
  - (j) ~~The relationship of the proposed use to the comprehensive plan for that area.~~

**Sec. 34-74. Variance procedures.**

- (1) The City Council shall hear and render judgment on request for variances from the requirements of this ~~article~~ordinance.
- (2) The City Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this article.
- (3) Any person aggrieved by the decision of the City Council may appeal such decision to the District Court within 30 days of the rendering of the decision.
- (4) Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic places without regard to the procedures set forth in the remainder of this ~~section~~ordinance.
- (6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 34-73(2) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted in this ~~ordinance~~section and the intent of this ~~ordinance~~article, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article stated in sections 34-34 and 34-35.
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (10) Prerequisites for granting variances shall be as follows:
  - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (b) Variances shall only be issued upon:
    - (i) Showing a good and sufficient cause;
    - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, and extraordinary public expense, and create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (c) Any applicant, to whom a variance is granted, shall be given written notice of the permitted elevation of the lowest floor of the structure to be built, which shall not be more than two feet below the base flood elevation. The cost of flood

insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- (11) Variances may be issued by a community the City of Las Cruces for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (a) The criteria outlined in subsections (1) through (10) are met; and
  - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Code 1988, § 11-44; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 1933 § I, 8-19-02)

**Secs. 34-75--34-100. Reserved.**

### **DIVISION 3. FLOOD HAZARD REDUCTION**

#### **Sec. 34-101. General standards.**

In all areas of special flood hazards, the following are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (8) Floodplain development shall follow the Federal Emergency Management Agency's letter of map change (LOMC) process (e.g., LOMA, LOMR, LOMR-F, CLOMR, CLOMR-F) as specified in 44 CFR. Floodplain information shall be required along with a Conditional Letter of Map Revision (CLOMR and CLOMR-F) and a Letter of Map Revision (LOMR and LOMR-F) for one-percent chance for storm flows of greater than 250 cubic feet per second (2.83 meters cubed per second), developments of five acres and larger, developments with fifty or more lots, and/or developments

with any changes to the existing flow path in flood hazard zones AE, A, AH, AO, and D upon the submittal of any on preliminary and/or final drainage drawings for review. Information shall include peak discharges for the ten percent (10%), two percent (2%), one-percent (1%), and two-tenth percent (0.2%) chance storms for the floodplain inundation area and anticipated depth of floodwaters one foot and deeper. Standard step backwater models shall be used for flood depth determination. The Hydrologic Engineering Centers HEC-2 analysis method may be required. Improvements and subdivisions will not be accepted by the City until the flood study has been approved by the Federal Emergency Management Agency.

- (a) A CLOMR will be submitted for review by the City and submitted to the Federal Emergency Management Agency prior to plan and/or final plat approval.
- (a)(b) A LOMR will be submitted for review by the City and submitted to the Federal Emergency Management Agency before acceptance by the City and before the issuance of any Certificate of Occupancy. Costs incurred for the preparation of materials and fees paid to the Federal Emergency Management Agency will be borne by the developer.

(Code 1988, § 11-51; Ord. No. 1933, § I, 8-19-02)

#### **Sec. 34-102. Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 34-37, subsection 34-72(8), or subsection 34-103(3), the following are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in subsection 34-73(1)(a) is satisfied.
- (2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be issued by the certifying professional to the Floodplain Administrator and be maintained by the Floodplain Administrator.
- (3) *Enclosures.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are useable solely for the parking of vehicles, building access, or storage in an area other than a basement and which are subject to

flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - (b) The bottom of all openings shall be no higher than one foot above grade; and;
  - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.* Manufactured homes are subject to the following regulations.
- (a) All manufactured homes to be placed within Zone A on a community's FBFM ~~or~~ FIRM shall be installed using methods and practices which minimize flood damage. For the purpose of this subsection, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - ~~(b) All manufactured homes shall be in compliance with subsection (1) of this section.~~
  - (eb) Require that mManufactured homes in the following categories that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movements in accordance with subsection 4(d) of this section: ~~on sites~~
    - (i) outside of a manufactured home park or subdivision,
    - (ii) in a new manufactured home park or subdivision,
    - (iii) in an expansion to an existing manufactured home park or subdivision, or
    - (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood; ~~be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movements in accordance with subsection 4(e) of this section.~~
  - (ec) ~~Require that m~~Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zone A1-30, AH, and AE on the ~~Community's~~ community's FIRM that are not subject to the provision of paragraph (4) of this section must be elevated so that either:
    - (i) the lowest floor of the manufactured home is at or above the base flood elevation, or
    - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no

less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (ed) Ground anchoring systems shall meet the requirements outlined in the City manufactured housing installation code. Anchors and anchoring systems that do not meet these requirements shall be designed by a professional engineer registered in the state and approved by the Floodplain Administrator.
- (5) *Recreational Vehicles*. Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
  - (a) Be on the site for fewer than 180 consecutive days,
  - (b) Be fully licensed and ready for highway use, or
  - (c) Meet the permit requirements of subsection 34-73, (1)(b), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(Code 1988, § 11-52; Ord. No. 1933, § I, 8-19-02)

#### **Sec. 34-103. Standards for subdivision proposals.**

- (1) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with sections 34-33 through 34-35.
- (2) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet development permit requirements of sections 34-38 and 34-73, of this section.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is less, if not otherwise provided pursuant to section 34-37 or subsection 34-72(8).
- (4) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards
- (5) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (6) All proposals for the development of subdivisions shall meet development permit requirements of sections 34-38 and 34-73, and this division, as well as the requirements of section 37-112.

(Code 1988, § 11-53; Ord. No. 1933, § I, 8-19-02)

#### **Sec. 34-104. Standards for areas of shallow flooding (AO/AH zones).**

Located within the area of special flood hazard as established in section 34-37 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is

unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following apply to AO and AH zones:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of nonresidential structures shall:
  - (a) Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
  - (b) Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in subsection 34-73 (1)(a), are satisfied.
- (4) ~~Within zones AH or AO adequate~~ Adequate drainage paths around structures on slopes shall be required to guide floodwaters around and away from proposed structures.

(Code 1988, § 11-54; Ord. No. 1933, § I, 8-19-02)

### Sec. 34-105. Floodways

Floodways located within areas of special flood hazard established in section 34-37 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply to the floodway:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section 34-101, section 34-102, section 34-103, section 34-104.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, ~~a community~~ the City of Las Cruces may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through ~~FEMA~~ the Federal Emergency Management Agency.

(Ord. No. 1933, § I, 8-19-02)

Sec. 34-106. Severability

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

Sec. 34-107 Penalties for non-compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$10,000 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Las Cruces City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

**Secs. 34-106~~108~~—34-124. Reserved.**



# Federal Emergency Management Agency

Washington, D.C. 20472

January 6, 2016

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:  
115-A

The Honorable Ken Miyagishima  
Mayor, City of Las Cruces  
P.O. Box 20000  
Las Cruces, New Mexico 88004

Community Name: City of Las Cruces,  
Doña Ana County,  
New Mexico  
Community No.: 355332  
Map Panels Affected: See enclosed Listing of  
Communities Table

Dear Mayor Miyagishima:

On April 9, 2007, and again on September 5, 2008, November 22, 2010, and July 25, 2014, you were notified of proposed modified flood elevation determinations affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for Doña Ana County, New Mexico and Incorporated Areas. You were also notified of the proposed addition of and/or modifications to Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Areas (SFHAs), zone designations, and regulatory floodways. SFHAs are the areas subject to inundation by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). The Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notification of the proposed flood hazard determinations for your community in the *Las Cruces Sun News* and the *Las Cruces Bulletin* on December 5, 2014, and December 12, 2014. The statutory 90-day appeal period that was initiated on December 12, 2014 has elapsed.

FEMA did receive an appeal during that 90-day period. The technical data submitted in support of the appeal have been evaluated, and the appeal has been resolved. Therefore, the determination (copy enclosed) of the Agency as to the flood hazard information for your community is considered final. FEMA will publish a notice of final flood hazard determinations in the *Federal Register* as soon as possible. The FIRM for your community will become effective as of July 6, 2016, and will revise the FIRM and FIS report that were in effect prior to that date. For insurance rating purposes, the community number and new suffix code for the panels being revised are indicated above and on the maps and must be used for all new policies and renewals. Final printed copies of the report and maps will be mailed to you before the effective date.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMCs) (i.e., Letters of Map Amendment [LOMAs], Letters of Map Revision [LOMRs]) that will be superseded when the revised FIRM panels become effective. Information on LOMCs is presented in four categories: (1) LOMCs that have been included on the revised FIRM panels; (2) LOMCs that have not been shown on the revised FIRM panels because of scale limitations or because the LOMC that was issued had determined that the lots or structures involved were outside the Special Flood Hazard Area shown on the FIRM; (3) LOMCs that have not been included on the revised FIRM panels because they are being superseded by new detailed flood hazard data; and (4) LOMCs that will be re-determined. The LOMCs in Category 2 of this form are revalidated through a single letter that reaffirms the validity of a previously issued LOMC. LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures have changed (Category 4) cannot be revalidated through this administrative process. However, we will review the data which were previously submitted as part of the original LOMA or LOMR request and issue a new determination for the subject properties after the FIRM effective date.

*Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling our FEMA Map Information eXchange toll free at (877) 336-2627 (877-FEMA MAP).

Sincerely,



Luis Rodriguez, P.E., Chief  
Engineering Management Branch  
Federal Insurance and Mitigation Administration

Enclosures:

Listing of Communities Table  
Notice of Final Flood Hazard Determinations  
Final SOMA

cc: Community Map Repository

Mr. J.D. Padilla, Floodplain Administrator, City of Las Cruces  
Mr. Bill Borthwick, NFIP State Coordinator, New Mexico Department of Homeland Security  
and Emergency Management  
Ms. Jessica Baker, RTC 6

## FINAL SUMMARY OF MAP ACTIONS

Community: LAS CRUCES, CITY OF

Community No: 355332

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on July 6, 2016.

## 1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
102	98-06-162P	10/23/1998	CORBETT ARROYO	35013C0632F	35013C1092G
102	02-06-1099P	08/08/2002	LAS CRUCES FLOOD CONTROL PROJECT-GALLAGHER & WILLOUGHBY BASINS	35013C0518F	35013C1083G 35013C1084G 35013C1091G 35013C1092G 35013C1094G
102	03-06-694P	04/16/2003	LAS CRUCES FLOOD CONTROL PROJECT - GALLAGHER AND WILLOUGHBY BASINS CORRECTION	35013C0518F	35013C1083G 35013C1084G 35013C1091G 35013C1092G 35013C1094G
102	03-06-1210P	08/15/2003	LAFONDA/ MISSOURI DIVERSION	35013C0632F	35013C1111G
102	04-06-234P	02/18/2004	WALMART SUPER CENTER #5155	35013C0631E	35013C1092G
102	04-06-857P	04/21/2005	GRECO PROPERTIES	35013C0519F	35013C1103G
LOMR	05-06-1698P	08/17/2005	MADRID & SOLANO ZONE A	35013C0518F	35013C1084G
LOMR	07-06-1523P	10/01/2007	SOUTH FORK MORENO ARROYO	35013C0516F	35013C0894G 35013C1081G 35013C1082G
LOMR	08-06-1760P	08/25/2008	TRIBUTARY 3	35013C0517F	35013C1101G
LOMR	09-06-0638P	06/14/2010	TRIBUTARY 2	35013C0517F	35013C1101G
LOMR	08-06-2997P	09/13/2010	Sonoma Ranch Boulevard	35013C0517F	35013C1101G
LOMR	11-06-1405P	06/16/2011	TIDWELL TERRACE	35013C0518F	35013C1083G

## FINAL SUMMARY OF MAP ACTIONS

Community: LAS CRUCES, CITY OF

Community No: 355332

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMA	98-06-450A	01/14/1998	COUNTRY CLUB MESA ADDITION, BLOCK 40, LOTS 13-16-- 725 EAST MULBERRY	35013C0518F	35013C1084G
LOMA	98-06-889A	03/27/1998	2450 EL PASEO ROAD-- A PORTION OF SECTION 29, T23S, R2E	35013C0631E	35013C1092G
LOMR-F	98-06-572A	05/04/1998	HERITAGE FARM SUBDIV, LOTS 1-91	35013C0631E	35013C1092G
LOMR-F	98-06-1025A	05/21/1998	HEATHER ESTATES UNIT NO. 2, BLOCK 3, LOT 7-- 1074 HEATHER CIRCLE	35013C0518F	35013C1081G
LOMR-F	98-06-1224A	06/03/1998	999 WEST AMADOR AVENUE-- PORTION OF SECTION 13, T23S, R1E, N.M.P.M.	35013C0631E	35013C1092G
LOMA	98-06-1740A	09/10/1998	ORION ESTATES SUBDIVISION, LOT 3 -- 259 O'HAIR DR.	35013C0634E	35013C1113G
LOMA	98-06-1811A	09/21/1998	FOOTHILLS SUBDIV. REPLAT NO. 1, LOT A2 -- 700 INDIAN HOLLOW RD.	35013C0519F	35013C1103G
LOMR-F	99-06-265A	12/08/1998	HERITAGE FARM SUBDIV., LOT 50 -- 869 CHILE COURT	35013C0632F	35013C1092G
LOMA	99-06-319A	01/08/1999	ALAMEDA TERRACE, PART OF LOTS 4 & 5 -- 205 HARVARD DR.	35013C0518F	35013C1083G
LOMA	99-06-590A	02/08/1999	EL PASEO CENTER, BLOCK 2, LOT 8 -- 156 WYATT DRIVE	35013C0631E	35013C1092G
LOMR-F	99-06-694A	03/23/1999	1605 SOUTH VALLEY DRIVE; PORTION OF TRACT 19A, PROPERTY MAP NO. 11	35013C0631E	35013C1092G
LOMR-F	99-06-1240A	06/01/1999	1844 WEST AMADOR; U.S.R.S. TRACT 9C-113A & 9C-113B, REPLAT NO. ONE, LOT 1 (EASTERLY STRUCTURE)	35013C0631E	35013C1091G
LOMA	99-06-1530A	07/14/1999	COLLEGE HEIGHTS, BLOCK L, LOT 40; 1865 CORBETT DR.	35013C0632F	35013C1092G
LOMR-F	99-06-2033A	03/21/2000	PRADERA DORADA, LOTS 14-15, & 17-19	35013C0518F	35013C1083G
LOMR-F	00-06-904A	08/25/2000	NORTH ALAMED ACRES, LOT 1, REPLAT NO. 2; 1796 HIGHLAND AVE.	35013C0518F	35013C1083G
LOMR-F	00-06-1281A	10/04/2000	SCHWARTZ FARM SUBDIVISION NO. 8, LOT 12; 1691 HICKORY LOOP	35013C0631E	35013C1091G
LOMR-F	01-06-114A	06/20/2001	HADLEY CNTR TRACT, LOT 3&1, 665 UNIVER. AVE, 2500&2540 EL PASO RD;	35013C0634E	35013C1092G
LOMA	02-06-801A	05/01/2002	NORTH ALAMEDA ACRES, LOT 2; 1778 HIGHLAND AVENUE	35013C0518F	35013C1083G

## FINAL SUMMARY OF MAP ACTIONS

Community: LAS CRUCES, CITY OF

Community No: 355332

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMR-F	07-06-1431A	05/08/2007	RESUBDIV OF BLOCK 29, NEW MEXICO TOWN CO. ADDITION, LOT 14A - 515 MOUNTAIN AVE	35013C0631E	35013C1079G
LOMR-F	07-06-1491A	05/15/2007	Lts 5-6, Rose Village Rplat 5, Lts 8A-8B, Rose Village Rplat 4, Lts 9-10, Rose Village, Blk 1	35013C0631E	35013C1092G
LOMR-F	07-06-2034A	07/12/2007	JACK KEY SUBDIV AMENDMENT; 1801 SOUTH MAIN STREET - PORTION OF SECTION 19, T23S, R2E	35013C0631E	35013C1092G
LOMR-F	08-06-0519A	12/11/2007	STONE MOUNTAIN PLACE, 930 EAST BOUTZ ROAD	35013C0631E	35013C1092G
LOMA	08-06-2588A	09/02/2008	NEW MEXICO TOWN COMPANY ADDITION, BLOCK 18, LOT 8 AND PORTION OF LOTS 6, 7 & 9 - 510 WEST AMADOR AVE	35013C0631E	35013C1091G
LOMA	08-06-2715A	09/16/2008	SETTLER'S RIDGE UNIT NO. 3, BLOCK 5, LOT 16 - 2024 WAGONMOUND TRAIL	35013C0516F	35013C1082G
LOMR-F	08-06-2344A	10/09/2008	AGAVE CASITAS, LOTS 5-8 & TRACT B	35013C0634E	35013C1113G
LOMR-F	08-06-2863A	10/28/2008	EL MOLINO PLACE, LOTS 1 & 2 -- 550 & 560 EL MOLINO BLVD	35013C0631E	35013C1091G
LOMA	08-06-3025A	11/06/2008	PORTION OF SECTION 30, T23S, R2E -- 3008 LINDEN AVENUE	35013C0633E	35013C1094G
LOMR-F	09-06-0409A	01/08/2009	SAMON'S SUBDIVISION, LOT 2 -- 1256 EL PASEO ROAD	35013C0631E	35013C1092G
LOMR-F	08-06-3029A	01/13/2009	PICACHO SELF STORAGE, LOT 1 -- 1760 WEST PICACHO AVENUE	35013C0631E	35013C1083G
LOMA	09-06-0848A	02/10/2009	ARROWHEAD ESTATES, BLOCK A, LOT 5 -- 4130 PAPAGO COURT	35013C0516F	35013C1081G
LOMA	09-06-1232A	04/02/2009	J.A. FOSTER TRACT REPLAT NO. 1, LOT 1-A -- 560 NORTH MELENDRES	35013C0631E	35013C1091G
LOMR-F	09-06-1782X	04/21/2009	SAMON'S SUBDIVISION, LOT 2 -- 1256 EL PASEO ROAD	35013C0631E	35013C1092G
LOMR-F	09-06-2003A	05/07/2009	1608 EL PASEO ROAD, BLDGS A-E	35013C0631E	35013C1092G
LOMA	09-06-1561A	06/25/2009	SOMBRA DE COLORES NO. 10, LOT 6B -- 3989 FOOTHILLS ROAD	35013C0519F	35013C1103G
LOMR-F	10-06-0785A	02/04/2010	Lots 17 & 18, Rose Village - 238 & 228 Desert Rose Court	35013C0631E	35013C1092G
LOMR-F	10-06-1192X	02/12/2010	Lot 3, Block 3, Rose Village -- 2635 South Valley Drive	35013C0631E	35013C1092G

## FINAL SUMMARY OF MAP ACTIONS

Community: LAS CRUCES, CITY OF

Community No: 355332

LOMC	Case No.	Date issued	Project Identifier	Old Panel	New Panel
LOMA	14-06-4179A	09/25/2014	101 NORTH SEVENTEENTH STREET	35013C0631E	35013C1091G
LOMA	14-06-4763A	11/13/2014	LOT Tract B, Sunmark Summary - 1910 S Main St	35013C0631E	35013C1092G
LOMR-F	15-06-1196A	03/03/2015	ROUNDTREE CONDOMINIUM -- 406 ROUNDTREE PLACE	35013C0631E	35013C1091G
LOMA	15-06-1580A	03/19/2015	DOS SUENOS ESTATES, BLOCK E, LOT 23 -- 4186 CALLE DE ESTRELLAS	35013C0525E	35013C0913G
LOMR-F	15-06-2135A	05/14/2015	ROSE VILLAGE SUBDIVISION, BLOCK 2, LOT 2 -- 2130 BEX STREET	35013C0631E	35013C1092G
LOMR-F	16-06-0332A	12/01/2015	2040 WEST PICACHO AVENUE	35013C0631E	35013C1091G
LOMA	16-06-0419A	12/08/2015	LA COLONIA SUBDIVISION, LOT 1 -- 697 SOUTH MELENDRES STREET	35013C0631E	35013C1091G

## 3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMA	199532020MBJ	10/26/1981	UNIVERSITY PLACE, TRACT D.	1
LOMA	199303387D&D	03/12/1984	PARCELS 5B1 AND 5B2, EACH WITH A FOURPLEX	1
LOMA	199532021MBJ	03/12/1984	LOTS 5B1 & 5B2 BEING A PART OF THE U.S.R.S. TRACT 9A-97D.	1
LOMA	199305359D&D	06/13/1985	MOTEL BOULEVARD AND BAILEY ANNEXATIONS	1
LOMA	199105683FIA	02/27/1986	NORTH ALAMEDA ACRES REPLAT 2, LOT 2	1
LOMA	199105682FIA	03/20/1986	NORTH ALAMEDA ACRES REPLAT 2, LOT 1	1
LOMA	199105681FIA	06/26/1986	NORTH ALAMEDA ACRES, REPLAT NO 2, LOT 1	1

I. Non-watershed-based studies:

Doña Ana County, New Mexico, and Incorporated Areas	
Docket No.: FEMA-B-1443	
Community	Community Map Repository Address
City of Anthony.....	City Hall, 820 Highway 478, Anthony, NM 88021.
City of Las Cruces.....	City Hall, 700 North Main Street, Las Cruces, NM 88004.
City of Sunland Park.....	City Hall, 1000 McNutt Road, Suite A, Sunland Park, NM 88063.
Town of Mesilla.....	Town Hall, 2231 Avenida de Mesilla, Mesilla, NM 88046.
Unincorporated Areas of Doña Ana County.....	Dona Ana County Office of the Flood Commission, 845 North Motel Boulevard, Las Cruces, NM 88007
Village of Hatch.....	Village Hall, 133 North Franklin Street, Hatch, NM 87937

Susana Martinez  
Governor

Michael S. Duvall  
Cabinet Secretary



Gregory A. Myers  
Deputy Secretary

DEPARTMENT OF HOMELAND SECURITY  
AND EMERGENCY MANAGEMENT

Report of Community Assistance Visit (CAV)

Community:	City of Las Cruces, New Mexico
Date of Visit:	November 7-8, 2011
Community Number:	355332
Date of Report:	November 16, 2011

**Perspective**

In 1968, NFIP was created by Congress to provide federally-backed flood insurance coverage, since flood insurance was not available from private insurance companies. NFIP was intended to reduce future flood losses by ensuring that all new development in flood-prone areas is adequately protected from flood damage. NFIP is based upon a mutual agreement with communities that have been identified as flood-prone. The Federal Emergency Management Agency (FEMA), which administers NFIP, provides community-wide flood insurance and requires, in return, the local adoption and enforcement of management regulations that meet or exceed minimum NFIP requirements. This is accomplished through a local floodplain management ordinance.

In order to ensure that NFIP-participating communities are adequately administering and enforcing the local floodplain management program, FEMA and/or the State Floodplain Administrator periodically meet with those communities to evaluate the adequacy of the local program in relation to the minimum criteria of the NFIP. These evaluations are accomplished by performing a CAV within each community. The CAV is a comprehensive study of a community's program and consists of a field review of the identified flood hazard areas and a meeting with local officials. Besides evaluating local compliance to the NFIP regulations, the CAV is intended to identify the floodplain management technical assistance needs of the community.

In response to these identified needs, FEMA and the State of New Mexico provide the necessary assistance to the community so that it may administer and enforce an effective local flood loss reduction program.

**NFIP Criteria**

The NFIP minimum criteria, found in 44 CFR 60.3, provide specific standards for the placement of development within the identified flood hazard areas of participating communities. Among these is the requirement that the community obtain building permits for all proposed construction or other development, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within the flood-prone areas. According to NFIP regulations and the City of Las Cruces, New Mexico local Flood Damage Prevention Ordinance, development is defined as *"any man-made changes to improved or unimproved real estate including but not limited to, building or other structures, mining, dredging, filling, grading, paving, excavation, drilling, operations, storage of equipment or materials"*.

The minimum NFIP criteria further require that all new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the identified base flood elevation (BFE). The criteria also state that *"a community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after*

*the date such information becomes available, a community shall notify the Federal Insurance Administration of changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions risk premium rates and floodplain management requirements will be based on current data”.*

The purchase of flood insurance is mandatory as a condition of federal or federally- backed mortgage or financial assistance for the acquisition and/or construction in floodplains designated Special Flood Hazard Areas (SFHA), as indicated on FEMA flood maps. The New Mexico Legislature approved statutory revisions initiated by the New Mexico Floodplain Managers Association (NFMA) Senate Bill (SB) 145 in 2001. The changes named the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM) as the primary state floodplain management agency and required that all communities with floodplain management regulations have a floodplain permit reviewed by a Certified Floodplain Manager (CFM).

### **Specific Recommendations**

Every community depends on the Mobile Home Division (MHD) of the NM Department of Regulation and Licensing for building permit review and inspection. City of Las Cruces, New Mexico must inform MHD that it has adopted a floodplain ordinance and request MHD cooperation by requiring that applicants for building permits in the City obtain a Floodplain Use Permit before a new building permit is approved. Documentation of Flood Development Permits or Elevation Certificates (ECs) will ensure that the community is compliant. Professional record keeping is essential, and occasional site visits as needed will assure compliance with BFE requirements.

City of Las Cruces, New Mexico has nine hundred and sixty two (962) NFIP flood insurance policies in effect, with one hundred ninety five million one hundred eighty seven thousand two hundred dollars (\$195,187,200.00) in coverage. In addition number of losses was twenty nine (29) and total losses paid one ninety two thousand seven thirty seven and sixty two cents (\$192,737.62).

The goal is to work with City of Las Cruces, New Mexico where risk exists, ensure that it is communicated to the City's citizens.

Attached is a photograph taken of the sites in question.

In order to complete and close the CAV for the City of Las Cruces, New Mexico, the City must provide the following required documentation:

1. Flood Damage Prevention Ordinance No. 1933 approved and dated. The Ordinance must be updated to the final map date as new FIRMS become available. See Ordinance Checklist dated November 7, 2011. And respond to Item No. 10.
2. Write letter on the City's letterhead to Construction Industries Division and Manufactured Mobile Home Division requesting all State permitting of development check with the floodplain administrator for review and approval.
3. Use the proper permitting forms to implement ordinance compliance.
4. Within thirty days from the receipt of this report, shall submit to my office a Resolution of Intent/Issuance of an administrative directive by the Chief Executive Officer stating that the City will comply with the request from the State of New Mexico to provide the necessary documentation.
5. Sixty days from the date of this report, the Community shall provide the State of New Mexico with a status report of continuing progress toward NFIP goals.
6. Ninety days from the date of this report, provide the State of New Mexico with a final status report.
7. Documentation that all requirements have been accomplished.
8. Proof of implementation of the local floodplain management program, including the issuance of development permits and uniform enforcement of these regulations throughout the City.

The City of Las Cruces, New Mexico *Over the Counter Building Permit Process* needs to ensure development in a Special Flood Hazard Area (SFHA) is monitored and evaluated by the City Floodplain Administrator prior to acceptance or approval of the new construction.

It is important that the City continues to inspect all new development to determine whether or not it is located within a SFHA. If it is determined that the new development is in the SFHA, then the community must ensure that the proper permit and/or elevation certificate is in place so that it is in compliance with the local Floodplain Damage Prevention Ordinance. If violations do occur, remedial actions must be taken to bring these violations into compliance.

### Conclusion

I would like to congratulate the City of Las Cruces, New Mexico for participating in the Community Rating System (CRS). The City is a Class 6 which means that NFIP policy holders receive a 20% premium discount. Furthermore, the City of Las Cruces, New Mexico honors the State with the highest and only NFIP community with a Class 6 designation.

As a result of my visit with Mr. Padilla, CFM, Floodplain Administrator the attached photos identifies some possible deficiencies in your final report address these problems to the best of the community's ability. On the whole, the City is fulfilling its commitment to enforce the minimum requirements of its Floodplain Management Regulations. This commitment is a necessary part of the eligibility for participation in the NFIP. Subrogation action can be brought against the community if flood damages occur, claims are paid, and all or part of the damages can be attributed to acts or omissions of the City of Las Cruces, New Mexico.

Once again, the information requested and the remedial measures specified must be met in order to avoid any possible NFIP enforcement action against the City of Las Cruces New Mexico. A letter of intent to comply with the above and corrective actions to be initiated against any violators must be received in this office no later than thirty days from the date of this letter. Completion of the above listed items and submittal of the required information must occur no later than ninety days from the date of this letter in order for the community to remain in good standing in the program.

If you are unable to comply with any of the requirements by the specified deadlines, please let me know as soon as possible.

Bill Borthwick, CFM  
State Floodplain Coordinator

Enclosure:

Photo # 1	2005 S. Valley Drive
Photo # 2	1751 W. Hadley Avenue #52
Photo # 3	1110 Old West Way
Photo # 4	1825 Gladys
Photo # 5	2230 Doña Ana Road # 65
Photo # 6	129 W. Chestnut Avenue

National Flood Insurance Program Community Floodplain Regulation Review List dated November 7, 2011

Cc: Ms. J.D. Padilla, CFM, City of Las Cruces Floodplain Administrator  
Mr. Peter Bennett, CFM, Senior Engineering Technician  
Mr. Roy Arnoldt, Interim Administration Engineering Services  
Mr. Dale Hoff, CFM, Natural Hazards Program Specialist FEMA Region VI  
Mr. Gregory A. Myers, Deputy Cabinet Secretary DHSEM  
Ms. Susan Walker, Preparedness Bureau Chief