



**Environmental  
Planning  
Commission**

**Agenda Number: 11  
Project Number: 1001620  
Case Number: 15EPC-40058  
November 12, 2015**

**Staff Report**

**Agent** City of Albuquerque Planning Department

**Applicant** City of Albuquerque Planning City Council Services

**Text Amendments to the following Sections of the Zoning Code: §14-16-1-5(B) ROA 1994, Definitions; §14-16-2-2, RO-1 Rural and Open Zone; §14-16-2-4, RA-1 Residential Zone; §14-16-2-8, R-LT Residential Zone; §14-16-2-9, R-T Residential Zone; §14-16-2-10, R-G Residential Garden Apartment Zone, and §14-16-2-11, R-2 Residential Zone.**

**Location** City-wide

**Staff Recommendation**

***That a recommendation of CONDITIONAL APPROVAL of 15EPC-40058 be forwarded to the City Council based on the Findings beginning on Page 17, and subject to the Conditions for Recommendation of Approval beginning on Page 20.***

***Staff Planner  
Catalina Lehner, AICP-Senior Planner***

**Summary of Analysis**

The request is for a recommendation to City Council regarding proposed text amendments to the above-mentioned Sections of the Zoning Code to allow secondary dwelling units (SDUs) as a permissive use in the R-G and R-2 zones, as a conditional use in the RO-1, RA-1, R-LT and R-T zones, to add a definition of SDU, and specify regulations for SDUs. SDUs would be allowed in these zones provided they meet certain requirements.

Currently the Zoning Code defines accessory living quarters (living quarters without a kitchen), but is silent regarding such living quarters when they have a kitchen; there is no regulatory oversight. Many secondary living quarters with kitchens (aka SDUs or "mother-in-law quarters") were built without regulation. The proposed legislation would acknowledge SDUs and fix a regulatory loophole by establishing a definition and requirements.

On August 18, 2014, Bill No. O-14-20 was introduced at City Council and referred to the Planning Department. The EPC forwarded a recommendation of denial in October 2014. The Bill went to the Land Use Planning and Zoning (LUPZ) subcommittee. The LUPZ forwarded the bill with no recommendation on March 11, 2015. During the summer, the bill was postponed and re-worked, resulting in a committee substitute (F/S) version that removes the R-1 zone and adds the RA-1, R-LT and R-T zones. On August 3, 2015, the City Council voted to remand O-14-20 F/S to the EPC. The EPC's task is to reconsider the bill. The EPC is a recommending body; the City Council will make the final decision.

The proposed text amendments as originally drafted presented some enforcement problems and potential, unintended consequences (see Section VI of this report). Some issues have been addressed. Staff finds that a few, additional revisions are warranted to improve clarity and enforceability and recommends that a recommendation of conditional approval be forwarded to the Council.

City Departments and other interested agencies reviewed this application from 10/5/2015 to 10/16/2015. Agency comments used in the preparation of this report begin on Page 21.

**I. INTRODUCTION**

***Request***

This request is for text amendments to Zoning Code §14-16-2-2, the RO-1 Rural and Open Zone; §14-16-2-4, RA-1 Residential Zone; §14-16-2-8, R-LT Residential Zone; §14-16-2-9, R-T Residential Zone; §14-16-2-10, the R-G Residential Garden Apartment Zone, and §14-16-2-11, the R-2 Residential Zone, and to §14-16-1-5(B), the Definitions Section of the City’s Comprehensive Zoning Code.

The proposed text amendments are found in legislation drafted by Council Services, Bill No. O-14-20 F/S (committee substitute, see attachment). The F/S version of the bill, which is being considered with this request, differs from the original version primarily because different zoning categories are associated with permissive and conditional uses, as follows:

		Original Version	F/S Version
<i>Zone</i>	<i>Referenced by</i>	<i>Use Type</i>	
R-1		Conditional	-
RO-1	RO-2	Conditional	Conditional
R-G		Permissive	Permissive
R-2	R-3	Permissive	Permissive
RA-1	RA-2	-	Conditional
R-LT		-	Conditional
R-T		-	Conditional

Basically, the zones where SDUs would be permissive remain the same. Regarding conditional uses, the R-1 zone was replaced by the RA-1, R-LT and R-T zones (which reference the RO-2, R-3 and RA-2 zones). The RO-1 zone remains the same. Other substantive differences from the original bill are discussed later in this report.

***History***

The original version O-14-20 was introduced at City Council on August 18, 2014 and subsequently referred to the Planning Department for review. The Environmental Planning Commission (EPC) heard the case at its October 9, 2014 hearing and voted to forward a recommendation of denial to the City Council. The EPC was concerned about enforcement difficulties, unintended consequences, and how to deal with density issues City-wide, since areas have different characteristics (see attachment).

The case was heard at the Land Use Planning & Zoning (LUPZ) subcommittee on March 11, 2015. The bill was substituted and was forwarded to the City Council without recommendation. City Council accepted the case on March 16, 2014. It was postponed four times in the Spring and Summer. On August 3, 2015, the Council voted to remand the case to the EPC for reconsideration.

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***Environmental Planning Commission (EPC) Role***

The task of EPC is to make a recommendation to the City Council regarding the proposed text amendments. For a remand, the EPC is to re-consider the legislation with the changes that have occurred since the EPC last reviewed it. The City Council is the City's Zoning Authority and will make the final decision. The EPC is a recommending body with review authority.

**II. BACKGROUND**

***Intent***

The intent of the proposed text amendments is to allow another housing option, the need for which has come to the forefront due to shifting demographic patterns. The aging population is increasing and many people cannot afford to live in costly, all-inclusive retirement homes (or even in relatively inexpensive ones). People need options to assist their parents and/or other aging relatives, and older people often want to maintain some degree of autonomy. Additional housing options are also needed for millennials, the other large demographic cohort.

The proposed text amendments would permit a small variation in residential form, provided it is contextually appropriate, limited in size and meets setback requirements. The proposed text amendments do not intend that the secondary dwelling unit (SDU) be subdivided onto its own lot; the SDU must remain subservient to the primary dwelling unit. SDUs are not apartments or duplexes.

The proposed text amendments aim to balance an entitlement (allowing a kitchen in accessory living quarters) with the checks and balances provided by new, additional requirements regarding height, size, design, and parking, so the SDU will fit in contextually with an existing neighborhood.

***Scope***

On remand, the proposed text amendments are to the RO-1 zone, the RA-1 zone, the R-LT zone and the R-T zone regarding conditional uses, and (like in the original bill) to the R-G zone and the R-2 zone regarding permissive uses. The Definitions section of the Zoning Code would also be amended, which was also in the original bill. The proposed text amendments would apply City-wide. This request is considered legislative in nature.

**III. OVERVIEW**

***Context***

Many recently-adopted sector development plans (SDPs) allow secondary dwellings as a permissive use in residential zones: the Downtown Neighborhood Area Sector Development Plan and the Volcano Cliffs, Volcano Heights and Volcano Trails Sector Development Plans. In all, the secondary dwelling unit is allowed in residential zones permissively and is limited to 650 sf in size. SDUs are also allowed in the Sawmill/Wells Park SDP and the Huning Highland SDP, subject to restrictions in those plans.

There is an inconsistency in the Zoning Code regarding secondary dwelling units (SDUs). The Zoning Code allows accessory living quarters as long as they have no kitchen, and allows a second

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kitchen in a house provided it is used by members of one family. Both are allowed conditionally. However, the Zoning Code does not allow stand-alone, accessory living quarters with a kitchen, which are often referred to as SDUs or “mother-in-law” quarters.

Many SDUs already exist and have become integrated into neighborhoods. As mentioned, with the aforementioned demographic trends, SDUs are likely to become more desirable as a viable and affordable housing solution that allows people to maintain some autonomy.

***Issues***

Currently there is no category in the Zoning Code to accommodate a stand-alone, accessory dwelling unit that has a kitchen. Currently, if someone wants another dwelling on their property (ex. mother-in-law quarters) they have to: attach the second unit to the main house, build the second unit without a kitchen, or change the site’s zoning to zoning that allows townhouses (such as the R-T zone).

The former can really change the character of the house, which is undesirable in terms of fitting in with the neighborhood and could have more serious implications if the house is in a historic district or historic overlay zone. The latter, a zone change, is likely to create a spot zone (which may or may not be justified pursuant to R270-1980) in the middle of a neighborhood and could adversely affect land use stability depending upon the circumstances. It would also entitle townhomes, which could eventually replace the single-family home.

***Why is this Important?***

The proposed text amendments would update the Zoning Code and remove the inconsistency of allowing accessory living quarters as long as they have no kitchen, but prohibiting such dwellings if they have a kitchen, even though many already exist. People would be able to legally provide another housing option for family members, especially the aging, who need some care but typically want to retain some autonomy. This option is more affordable than most retirement homes.

The proposed text amendments would also create clarity by adding a defined term for a type of existing dwelling unit, by meeting the needs of people whose SDU is prohibited by the Zoning Code and they’re in non-compliance, and by no longer forcing people to pursue a greater remedy than necessary (a zone change, with potential unintended consequences) in order to comply.

Because the Zoning Code is silent on the issue, currently it is possible to construct an accessory building that is totally out of character and scale with the existing home and neighborhood in terms of height, size and design. There are no regulations. The proposed text amendments would establish regulations for SDUs and ensure that the dwelling units integrate with their surroundings.

**IV. ZONING**

***Definitions***

The following definitions in §14-16-1-5 are relevant to the proposed text amendments. The term “secondary dwelling unit” does not exist in the Zoning Code and needs to be defined for the sake of clarity and consistency. The existing terms would be unaffected. Accessory buildings and

accessory living quarters, for example, would continue to be used to describe what exists in the built environment.

**APARTMENT.** Structures containing two or more dwelling units each, including dwelling units which do not have a separate entrance leading directly to the outdoors at ground level.

**BUILDING, ACCESSORY.** A building detached from and smaller than the main building on the same lot; the use of an accessory building shall be appropriate, subordinate, and customarily incidental to the main use of the lot.

**DWELLING UNIT.** One or more connected rooms and a single kitchen designed for and occupied by no more than one family for living and sleeping purposes, permanently installed on a permanent foundation which has received a permit from the city pursuant to Chapter 14, Article 1, and the structure is either:

- (1) Constructed to the standards of the city Building Code and other technical codes adopted in § 14-1-3, as of the date of the unit's construction; or
- (2) A single family detached dwelling with a heated area at least 36 by 24 feet and 864 square feet, constructed in a factory to the standards of the U.S. Department of Housing and Urban Development, National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., HUD Zone Code II, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (Chapter 60, Article 14 NMSA 1978), regulation Sec. 1007, ground level installation, and regulation Sec. 1009, ground anchors; such dwelling shall be consistent with applicable historic or aesthetic standards which may be adopted by city ordinance.

**KITCHEN.** An area of a dwelling where there is a sink and a significant cooking appliance, including but not limited to a range, oven, microwave oven, or hot plate, in close proximity.

**LIVING QUARTERS, ACCESSORY.** Living quarters within an accessory building having no kitchen.

**PREMISES.** Any lot or combination of contiguous lots held in single ownership, together with the development thereon; there may be multiple occupancy.

**YARD, FRONT.** That part of a lot between the front lot line and the front facades of the principal building on the lot, and extended to both side lot lines.

**YARD, REAR.** That part of a lot between the rear lot line and the rear facades of the principal building on the lot, and extended to both side lot lines.

**YARD, SIDE.** That part of a lot not surrounded by buildings and not in the front or rear yard.

### **Zones**

The zones directly affected by the proposed text amendments are the RO-1 Rural and Open Zone (§14-16-2-2); the RA-1 Residential & Agricultural Zone, Semi-Urban Area (§14-16-2-4); the R-LT

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Zone (§14-16-2-8); the R-T Zone (§14-16-2-9); R-G Residential Garden Apartment Zone (§14-16-2-10), and the R-2 Residential Zone (§14-16-2-11).

The RO-2 zone refers to the RO-1 zone for conditional uses, so SDUs would be allowed conditionally in the RO-2 zone. The RO-1 zone allows “house, one per lot” and accessory buildings or structures permissively. Similarly, the RA-2 zone refers to the RA-1 zone for conditional uses, so SDUs would be allowed conditionally in the RA-2 zone. Finally, the R-3 zone refers to the R-2 zone for conditional uses, so SDUs would be allowed in the R-3 zone.

The original bill proposed that SDUs be a conditional use in the R-1 zone. In the F/S bill, the R-1 zone was replaced with the RA-1, R-LT and R-T zones as conditional uses. Accessory living quarters and second kitchen are conditional uses. The RA-1, R-LT and R-T zones refer to the R-1 zone, in which SDUs would not be allowed, so these sections need to be amended to allow SDUs, which is what the bill proposes to do (see Section VI of this report for analysis).

The R-G and R-2 zones refer to the R-T zone, in which SDUs would be allowed, for permissive uses. SDUs would not be allowed in the RC Residential Commercial or the RD Residential Developing Urban zones. For permissive uses, both refer to the “uses permissive in the R-T zone” but the R-T zone is proposed to only allow SDUs as a conditional use.

#### ***V. ANALYSIS OF COMPLIANCE WITH APPLICABLE LAWS, ORDINANCES & PLANS***

Applicable ordinances, plans, and policies are in regular text followed by Staff analysis in ***bold italics***.

##### ***Charter of the City of Albuquerque***

The Citizens of Albuquerque adopted the City Charter in 1971. Applicable articles include:

##### **Article I, Incorporation and Powers**

“The municipal corporation now existing and known as the City of Albuquerque shall remain and continue to be a body corporate and may exercise all legislative powers and perform all functions not expressly denied by general law or charter. Unless otherwise provided in this Charter, the power of the city to legislate is permissive and not mandatory. If the city does not legislate, it may nevertheless act in the manner provided by law. *The purpose of this Charter is to provide for maximum local self government.* A liberal construction shall be given to the powers granted by this Charter.” (emphasis added)

##### **Article IX, Environmental Protection**

“The Council (City Commission) in the interest of the public in general shall protect and preserve environmental features such as water, air and other natural endowments, ensure the proper use and development of land, and promote and maintain an aesthetic and humane urban environment. To affect these ends the Council shall take whatever action is necessary and shall enact ordinances and shall establish appropriate Commissions, Boards or Committees with jurisdiction, authority and staff sufficient to effectively administer city policy in this area.”

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*Adding provisions to the ROA 1994 to allow and define secondary dwelling units (SDUs) is an exercise in local self government (City Charter, Article 1). Amending the Comprehensive Zoning Code to allow SDUs and associated regulations generally expresses the Council's desire to ensure the proper use and development of land, and to generally promote and maintain an aesthetic and humane urban environment (City Charter, Article IX).*

### ***Comprehensive City Zoning Code***

**Authority and Purpose (summarized):** The Zoning Code is Article 16 within Chapter 14 of the Revised Code of Ordinances of Albuquerque, New Mexico, 1994 (often cited as ROA 1994). The administration and enforcement of the Zoning Code is within the City's general police power authority for the purposes of promoting the health, safety, and general welfare of the public. As such, the Zoning Code is a regulatory instrument for controlling land use activities for general public benefit.

**Role of Land Use Boards (aka Amendment Procedure, summarized):** The City Council is the zoning authority for the City of Albuquerque and has sole authority to amend the Zoning Code. Through the City Charter, the City Council has delegated broad planning and zoning authorities to the Environmental Planning Commission (EPC). The EPC is advisory to the City Council regarding proposed text amendments to the Zoning Code.

***The application for proposed text amendments to Zoning Code §14-16-2-2, RO-1 Rural and Open Zone; §14-16-2-4, RA-1 Residential and Agricultural Zone; §14-16-2-10, R-G Residential Garden Apartment Zone; the R-LT Residential Zone (§14-16-2-8); the R-T Residential Zone (§14-16-2-9) and §14-16-2-11, R-2 Residential Zone, and to §14-16-1-5(B), Definitions, was filed in accordance with Zoning Code requirements.***

***The proposed text amendments generally further the Zoning Code goal of promoting the health, safety and welfare of the citizens. Defining, allowing and regulating SDUs would positively impact the built and natural environment and the overall health and welfare of the City. However, as the zoning authority for the City of Albuquerque, the City Council will make the final determination.***

### ***Albuquerque/Bernalillo County Comprehensive Plan***

The Comprehensive Plan, the Rank I planning document for the City, contains goals and policies that provide a framework for development and service provision. The Plan's goals and policies serve as a means to evaluate development proposals and text amendments requests. Applicable goals and policies include:

#### ***B. Land Use Policies-Developing & Established Urban Areas***

**Section II.B.5- Developing and Established Urban Areas, Goal:** The Goal is "to create a quality urban environment, which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles, while creating a visually pleasing built environment."

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*The proposed text amendments would allow increased variety and choice in housing options, though not as much as before when the R-1 zone was included. Another housing option would be available, and be more affordable, for seniors and young people needing and/or wanting to live near their families. Multi-generational living as a lifestyle would be promoted. The restrictions regarding ownership, height, size and architectural character would ensure compatibility and a visually pleasing built environment. The request generally furthers the Developing and Established Urban Area Goal.*

Policy II.B.5d: The location, intensity, and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural, recreational concern.

*The request would allow SDUs and establish regulations for their height, size and design. The regulations would help new SDUs respect existing neighborhood values by visually integrating them with the neighborhood. The location and intensity would respect carrying capacities because only one SDU would be allowed per premises. The height restriction would respect scenic resources. Social and perhaps cultural resources would be generally respected by providing an option for multi-generational housing for families. Staff is not aware of any opposition as of this writing. Environmental and recreational resources aren't really a factor here. The request furthers Policy II.B.5d-neighborhood/ environmental conditions/resources.*

*D. Community Resource Management-*

Transportation & Transit Policy II.D.4c: In order to add to transit ridership, and where it will not destabilize adjacent neighborhoods, additional dwelling units are encouraged close to Major Transit and Enhanced Transit streets.

*In some cases, the SDUs would be located near major and enhanced transit streets such as Central Ave., Montgomery Blvd., Menaul Blvd., San Mateo Blvd., Coors Blvd., etc. This has the potential to add transit ridership, but in a limited fashion since the dwelling units are one per lot and small in size. The request partially furthers Transportation & Transit Policy II.D.4c- transit ridership.*

Housing Goal: The Goal is to increase the supply of affordable housing; conserve and improve the quality of housing; ameliorate the problems of homelessness, overcrowding, and displacement of low income residents; and assure against discrimination in the provision of housing.

*In general, the proposed text amendments would help increase the supply of affordable housing. The secondary dwelling units, limited in size, would be more affordable for seniors and young people (and others) than retirement homes and probably most apartments. The request generally furthers the Housing Goal.*

Housing Policy II.D.5a: The supply of affordable housing shall be preserved and increased, and the opportunity to obtain standard housing for a reasonable proportion of income assured.

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*As stated, the proposed text amendments would help increase the supply of affordable housing. Because they would be limited in size, SDUs would by nature be more affordable than larger dwellings. Also, they are intended for either the owner or relatives who need standard housing for a reasonable proportion of income. The request generally furthers Housing Policy II.D.5a- affordable housing.*

#### **VI. IMPLEMENTATION & ISSUES: O-14-20 as Originally Drafted & Current Updates**

*Note: Italicized text indicates updates regarding how the issue has been addressed with the re-drafted legislation.*

The first time the proposed legislation was in the EPC process, Staff met with the Code Compliance Official and several practical concerns became apparent. Though the idea was supportable in concept, there were some disconnects between it and implementation. Staff classified issues as Enforcement Concerns and Unintended Consequences.

For the proposed legislation to be effective, and not create lack of enforceability and/or misaligned expectations by the public, it is important to determine how these issues can be addressed. The legislation needs to be practical and manageable, in addition to putting forth a supportable idea.

##### ***Enforcement Concerns***

As written, the proposed text amendments would create difficulty for Code Enforcement Staff in the field who are charged with responding to complaints regarding possible violations of the ordinance.

##### ***Owner Occupancy***

For instance, the text amendments would require that the primary or secondary dwelling be owner-occupied. It would be difficult for the field inspector to knock on doors and demand proof of identity and ownership. Furthermore, what if the dwelling is owned by a business or a trust? Who would occupy it? Trying to prove or disprove that someone lives there would require surveillance of that person, which places Code Enforcement Staff in an awkward position.

*F/S O-14-20 has added language that allows the beneficiary of an ownership trust to occupy the SDU, not just the property owner. If the City requests it, the property owner or beneficiary shall provide proof of occupancy in the form of a government-issued photo ID with the address of the SDU. If a conditional use permit was granted, the property owner would be required to record the terms of the permit with the County Clerk prior to occupying the SDU.*

*This language addresses concerns raised at the October 2014 EPC hearing, and possibly subsequently, that renters would occupy SDUs. Renters are considered undesirable by some, and are perceived to result in lowered property values in a neighborhood.*

The Zoning Code is a criminal code. A zoning violation is much like a speeding ticket; both are relatively minor compared to other charges the Metropolitan Court hears such as DWIs, drug charges, and various more serious crimes. Code Enforcement Staff point out that trying to prove identity and ownership is likely to go to the bottom of the judge's priorities. When heard, a judge is

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likely to make Staff provide compelling evidence that would have been extremely difficult, or impossible, to collect, which is a difficult position for Staff to be in.

*Existing SDUs*

Code Enforcement Staff is also concerned that the proposed legislation does not sufficiently address SDUs that already exist. Would all existing SDUs become nonconforming as of the effective date of the legislation, or just those that exceed the new size limitations? Determining status of existing SDUs and tracking them is likely to be difficult. Also, how would it be possible to demonstrate that a SDU has lost its non-conforming status if, for example, the property owner moves? Illegally built SDUs are unlikely to have been reported in the first place, and there is no mechanism to trigger reporting of an SDU whether it was built illegally or legally.

*Issues & Unintended Consequences*

*Location*

The requirement for the SDU at the rear of the property is likely to be problematic in application. Many subdivisions (ex. east of Tramway) are characterized by irregularly shaped lots, meaning that the lots are rectangular and may not have a rear yard. The position of the home on the lot is such that the SDU would only be practical on the side of the main dwelling. The unintended consequence is that certain large lots, where a SDU could work, would not be allowed to have one. Staff has crafted a condition of approval to address this.

*Language has been added to address irregularly shaped lots. Where a side yard is larger than a rear yard, a SDU may be located in the side yard provided required setbacks are met. The effect is to allow SDUs on lots that are large enough, but for which setbacks or the size requirement could not be met in the rear yard.*

*Parking*

One off-street parking space is required for a SDU. What happens in cases where the driveway is already full? (ex. households with parents and teens, each with their own car). It's unclear why the parking space has to be off-street. The unintended consequence is the potential increase in parking in the front yard setback area.

In May 2007, legislation was adopted that prohibits parking in the front yard setback area in the R-1, R-LT, and R-T zones (Bill No. O-07-61) as follows: "Parking on any portion of a front yard setback area, other than the improved parking and maneuvering areas, is prohibited."

If the parking space must be off-street, where is the SDU resident going to park, if they drive? It seems practical that they would park on the street, though this is not allowed by the proposed text amendments. If in the R-LT and R-T zones, they cannot park in the front yard setback area and could be cited for non-compliance with the proposed text amendments and Bill No. O-07-61.

*Language has been added to allow a garage or shed associated with a SDU, provided that the garage or shed does not exceed 50% of the size of the SDU. The garage would not count toward the square footage requirement for the SDU, but would still have to comply with setbacks and may be possible only on larger lots.*

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**VII. F/S O-14-20 – ANALYSIS OF REVISIONS & REMAINING ISSUES**

***Existing SDUs***

The question of how to handle existing SDUs is not expressly addressed. The proposed legislation would apply to any new SDUs beginning on its effective date, which is standard procedure. The legislation does not include a sunset clause for existing SDUs, so they would not be required to come into conformance with the new regulations. Accessory living quarters without a kitchen would continue to be allowed and not subject to requirements regarding size, height and design.

Therefore, existing SDUs (ex. accessory living quarters to which a kitchen was added illegally) would become legal, non-conforming uses and therefore subject to the Non-Conformance Regulations in Zoning Code §14-16-3-4. Tracking SDUs is likely to be problematic for Code Enforcement Staff, as noted in Section V of this report, because it's unclear how to demonstrate that a SDU has lost its non-conforming status. Would all existing SDUs become nonconforming, or just those that exceed the new size limitations? Also, many SDUs exist that were not reported in the first place and would further complicate tracking.

***Accessory Living Quarters***

A definition of accessory living quarters already exists. A definition for SDUs is proposed to be added. These are essentially the same thing and function similarly: they are a building subservient to the main building on a site and provide another housing option that is particularly attractive for the elderly or for young people seeking an affordable solution.

The difference is a sink: SDUs have sinks and accessory living quarters don't. SDUs would also be subject to regulations regarding height, size, materials and architectural compatibility, which accessory living quarters would not. The revised legislation contains language stating that, in no case, shall both an accessory dwelling unit and a SDU be allowed on the same premise.

A potential, unintended consequence of the proposed legislation is that accessory living quarters could become more attractive to build in lieu of SDUs, even if they don't have a sink, because they would remain unregulated and not subject to the requirements that SDUs are regarding height, size and design.

Existing accessory living quarters (without a sink, by definition) would be unaffected; existing accessory living quarters with an illegal sink would become legal, non-conforming SDUs; new accessory living quarters could be built as they always have, without regulatory oversight, unless they are included in this (or other) legislation. Therefore, it may be worth considering if accessory living quarters should be addressed in the proposed legislation or perhaps as a subsequent regulatory effort.

***Parking***

Required parking is still one off-street space per SDU, and did not change with the re-drafted bill. Therefore, the concern about insufficient off-street parking remains. Because most people have more than one vehicle, and some tend to use garages for storage, it is possible that the driveway is

already full and no off-street parking space is available. Lack of off-street parking could contribute to parking in the front yard, which would be in violation of the proposed regulation.

Additionally, a prohibition on front yard parking applies in the R-1, R-LT, and R-T zones, so people with SDUs in these zones who cannot provide off-street parking would be cited for two violations. Note: the prohibition on off-street parking does not apply in the other zones where SDUs would be allowed.

***The R-1 Zone & Scope of Legislation***

Removal of the R-1 zone, in which SDUs were proposed to be a conditional use, has a significant effect because it greatly reduces the locations where SDUs would be allowed in the City. R-1 is a common and wide-spread zone. A cursory look at zoning in the City's GIS system shows that the great majority of residential zoning is R-1 and, probably, a sector development plan equivalent of R-1. Other subdivisions of R-1 uses, particularly newer ones, are often zoned SU-1. SDUs are not contemplated in the SU-1 (or SU-2) zones in the original or revised legislation.

RA-1, R-LT and R-T zoning is relatively uncommon. Some RA-1 zoning exists, mostly in the North Valley, and continues to be subdivided. However, RA-1 lots are large enough to accommodate SDUs, it's just not a common zone so the effect is relatively small compared to allowing SDUs in the R-1 zone.

The R-G and R-2 zones, in which SDUs are permissive under the original and revised legislation, are also relatively uncommon when compared to the R-1 zone. Code Enforcement Staff estimates that there about 30 instances of R-G zoning. R-G and R-2 zones are mostly found near major streets and/or as transitions between commercial and R-1 zoning.

***Lot Size***

At some point, lots in the R-LT and R-T zones will be too small for a SDU to be placed upon them, even if a SDU is allowed as a conditional use. Code Enforcement Staff point out that, in most cases, the site layout would not be able to meet the requirements of the SDU regulations and the underlying zone because the lots are small to begin with. For instance, in the R-LT zone, the largest minimum lot size is 4,000 sf and in the R-T zone it's 3,600 sf.

Requirements for minimum SDU size (650 sf for lots 5,000 sf or less) and setbacks must be met on a given lot. In addition, in the R-LT and R-T zones, usable open space is also required. Usually, these small lots are built with a large FAR (floor area ratio- ratio of building area to lot area) whether they are developed as small single-family homes or as townhouses. Because of this, and the relative uncommon nature of these zones, the replacement of the R-1 zone with the R-LT, R-T and RA-1 zone greatly reduces the locations where SDUs could be built and therefore greatly limits the practical scope of the legislation.

***VIII. ANALYSIS- PROPOSED TEXT AMENDMENTS & DISCUSSION***

The proposed text amendments are to §14-16-2-2, RO-1 Rural and Open Zone; §14-16-2-6, RA-1 Residential and Agricultural Zone; §14-16-2-8, R-LT Residential Zone; §14-16-2-9, R-T

Residential Zone; §14-16-2-10, R-G Residential Garden Apartment Zone, and §14-16-2-11, R-2 Residential Zone, and to §14-16-1-5(B), Definitions, of the Zoning Code.

New language is [underlined and bracketed]. Deleted language is [underlined, bracketed and struck through]. Planning Staff's suggested additions are indicated by grey highlighting (deletions and re-wording is not greyed).

Explanations are in *italics for the original bill* and ***bold italics for the F/S bill***. Page references are to the currently proposed legislation (see attachment).

***A) Albuquerque Code of Ordinances, Chapter 14- Zoning, Planning & Building, Article 16- Zoning Code, Section 1-5(B), DEFINITIONS***

1. Page 1, Lines 9 &10: Not incorporated into revised bill.

Section 1. Subsection 14-16-1-5(B), the Definitions section of the Zoning Code, is amended to add the following definition [~~s in alphabetical order~~]:

*Suggested change since only one definition is proposed to be added.*

2. Page 1, Lines 11 & 12- definition: Incorporated into revised bill.

SECONDARY DWELLING UNIT. Living quarters within an accessory building containing [~~kitchen facilities~~] [+a kitchen+].

*Kitchen facilities is not a defined term in the Zoning Code. For consistency, usage of the defined term "kitchen" is preferable.*

***B) Albuquerque Code of Ordinances, Chapter 14- Zoning, Planning & Building, Article 16- Zoning Code, Subsection 2-2(B)(1), the RO-1 RURAL AND OPEN ZONE; Subsection 2-4(B), the RA-1 RESIDENTIAL and AGRICULTURAL ZONE; Subsection 2-8(B), the R-LT RESIDENTIAL zone; Subsection 2-9(B), the R-T RESIDENTIAL zone; Subsection 2-10(A)(2), the R-G RESIDENTIAL GARDEN APARTMENT ZONE; and Subsection 2-1(A)(2), the R-2 RESIDENTIAL ZONE,***

*Note: The same proposed language is repeated for all four zones. Staff's comments, though stated here once, apply to the language in all four zones.*

3. Page 1, Lines 17-19; Page 2, Lines 29-31; Page 4, Lines 1-3; Page 5, Lines 7-9: Incorporated into revised Bill and re-worked.

- a. The Secondary Dwelling Unit [~~is clearly~~] [+shall clearly be+] secondary and incidental to the primary dwelling unit. In no case can the Secondary Dwelling Unit be larger than the primary dwelling unit.

*The proposed language reads better, though Staff is struggling with what "clearly" means and how it can be better explained. The revised language states that the SDU "is clearly located in a separate structure".*

4. Page 1, Lines 20-21; Page 2, Lines 29-31; Page 4, Lines 1-3; Page 5, Lines 7-9: Incorporated into Revised Bill.

- b. ~~[There shall be no more than either one Secondary Dwelling Unit or one Accessory Living Quarters per premise but not both.]~~

~~[+No more than one secondary dwelling unit or one accessory living quarters is allowed per premise. In no case shall both be allowed on the same premise. +]~~

*Staff believes that it's critical to make this as clear as possible, hence the suggested language. Premise is a defined term in the Zoning Code. In the case of very large lots, one premise could accommodate more than one secondary dwelling unit which could, in effect, function somewhat like apartments. This explicit restriction could help address the neighborhood concern that the proposed text amendments would result in de facto apartments in primarily single-family neighborhoods.*

5. Page 1, Lines 17-19; Page 2, Lines 29-31; Page 4, Lines 1-3; Page 5, Lines 7-9: Incorporated into the revised Bill and re-worked.

- c. Occupancy: The property owner must occupy either the primary or ~~[the+]~~ secondary dwelling unit ~~[+, and shall produce proof of ownership as requested by the City.+]~~

*As mentioned, this provision is probably the most difficult to enforce. Staff added language to give property owners a "heads-up" that they will need to prove ownership if Code Enforcement (or other City) Staff request it as part of an enforcement investigation.*

6. Page 1, Lines 25 & 26 and Page 2, Lines 1-6; Page 3, Lines 3-11; Page 4, Lines 8-14; Page 5, Lines 14-20: Incorporated into the revised Bill and re-worked.

- d. Size: ~~[+The secondary dwelling unit shall not exceed; +]~~
- i. ~~[Maximum 650 net square feet footprint]~~ ~~[+650 square feet in size+]~~ for lots 5,000 square feet or less.
  - ii. ~~[Maximum 800 net square feet footprint]~~ ~~[+800 square feet in size+]~~ for lots greater than 5,000 square feet but not greater than 10,000 square feet.
  - iii. ~~[Maximum 1,000 net square feet footprint]~~ ~~[+1,000 square feet in size+]~~ for lots greater than 10,000 square feet.

*Staff suggests re-organizing the language for readability and clarity and adding a topic sentence to d., since size of the secondary dwelling unit is important and part of what makes it secondary in nature. It's unclear how "net" is determined here, and using plain square footage is easier to measure and administer. The word "footprint" was added before SDU.*

7. Page 1, Lines 17-19; Page 2, Lines 29-31; Page 4, Lines 1-3; Page 5, Lines 7-9: Incorporated.

- iv. A garage or shed attached to the Secondary Dwelling Unit

shall not count towards the square ~~[feet limit]~~ ~~[+footage limitation]~~ or the secondary dwelling unit. The garage or shed shall not exceed 50% of the size of the secondary dwelling unit~~+~~.

*There is no proposed regulation regarding the size of the garage or shed, which could become larger than the secondary dwelling unit and defeat the purpose of the size limitations. Staff suggests that the garage or shed be no more than 50% the allowed size of the secondary dwelling unit. Otherwise, the garage could be so large it could encompass most of the back yard. However, this doesn't address the enforcement problem that people could start living in the garage.*

8. Page 2, Lines 7 & 8; Page 3, Lines 12 & 13; Page 4, Lines 17 & 18; Page 5, Lines 23 & 24: Incorporated in revised Bill but re-worded.

e. ~~[Setbacks]~~~~[+Location+]~~: Secondary dwelling units shall be located to the rear of the primary dwelling unit. ~~[+In subdivisions characterized by lots that are irregular shaped (not rectangular), a secondary dwelling unit may be allowed in the side yard provided required setbacks are met.+]~~

*The label "setbacks" has been moved to the start of the discussion about numerical separation distances (setbacks)- see 9. below, and the location on the lot broken-out because it's a conceptually distinct (though related) issue.*

*Staff suggests new language to deal with the fact that many larger lots are irregularly shaped (i.e.-not a rectangle). Location in the side yard warrants an increased side setback for large, irregularly shaped lots (see 10, below). Clarification is needed so Staff know how to handle such requests.*

9. Page 2, Line 8; Page 3, Line 13; Page 4, Line 18; Page 5, Line 24: Not incorporated

primary dwelling unit. There shall be a minimum ~~[of 10 feet]~~ ~~[+10 foot+]~~ separation

*The suggested revision adds new labeling and makes setbacks a new letter f, since it's a different concept from location, which Staff suggests be the new label for e, above. It also corrects a minor grammatical issue. Staff suggests rewording so that this reads "a minimum separation of 10 feet" (see Condition #2).*

10. Page 2, Line 12; Page 3, Line 17; Page 4, Line 22; Page 5, Line 28: Not incorporated.

i. Side: 5 feet. ~~[+10 feet if the secondary dwelling unit is located in the side yard.+]~~

*Location in the side yard warrants an increased side setback for large, irregularly shaped lots. Staff has reconsidered and believes that increasing the setback may make it more difficult to develop a SDU on a large lot, which is not the intention.*

11. Page 2, Lines 1-19; Page 3, Lines 21-24; Page 4, Lines 26-29; Pages 5 & 6, Lines 32 & 33 and 1 & 2: Not incorporated and re-worked.

~~[f.]~~~~[+g.+]~~ Height: Secondary dwelling units shall not exceed 18 feet in height ~~[±]~~ ~~[+,+]~~

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~~Height shall be defined~~ as ~~the height~~ measured at the highest point of The coping for a flat roof or from the ridge of a mansard, gambrel, shed, hip or gable roof.

*Staff suggests this wording primarily because it reads better, but also because it's not necessary to define Height- just say how to measure it. Language that reads "one story and 18 feet" was added to the revised Bill. Instead of how to measure, a provision was added to allow a SDU to be built over a garage and not exceed 22 feet high, provided the property is accessed by an alley.*

12. Page 2, Line 20; Page 3, Line 25; Page 4, Line 30; Page 6, Line 3; Not incorporated.

~~per unit~~ Parking: One off-street space ~~per unit~~ ~~is allowed for the secondary dwelling unit~~.

*This revision clarifies that a secondary dwelling unit is allowed one off-street parking space. The "per unit" makes it sound like more than one secondary dwelling unit is allowed on a premises.*

*On reconsideration, Staff believes that the requirement for an off-street parking space is more likely to be practical in zones that have larger lots than in zones that have smaller lots. Therefore, Staff suggests that the requirement for one off-street parking space be removed from the R-LT, R-T, R-G and R-2 zones.*

13. Page 2, Lines 21-24; Page 3, Lines 26-29; Page 4 & 5, Lines 31 & 32 and 1 & 2; Page 6, Lines 4-7; Not incorporated

~~h,~~ ~~+~~ Design. The design of the secondary dwelling unit shall relate to the design of the primary dwelling unit by use of similar exterior wall materials or finishes, ~~colors,~~ ~~+~~ architectural style and elements, including but not limited to roofing materials and roof pitch.

*Staff suggests adding colors. Without this stipulation, the SDU could be painted a color that differs radically from the primary dwelling unit and departs from the neighborhood aesthetic. Also, adding some parameters regarding what "similar" means could help for enforcement purposes.*

## IX. COMMENTS

### *Concerns of Reviewing Agencies*

Few updated comments were submitted. Regarding the original bill, Long Range Planning indicated support for the text amendments because they would allow multi-generational housing and accommodate aging in place. The restrictions would ensure that SDUs are subordinate to the primary residence in terms of height, size and style.

Code Enforcement Staff did not comment as part of agency comments either with the original bill or the revised bill. Regarding the original bill, Staff interviewed the Zoning Enforcement Manager. His concerns, mainly about enforceability and practicality of the proposed text amendments, are

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discussed in Section VI of this report. Staff met with Code Enforcement Staff regarding the remanded Bill. The Office of Neighborhood Coordination (ONC) stated that an article regarding the proposed text amendments was published in the October/November 2015 issue of the Neighborhood News.

Mid-Region Council of Governments (MRCOG) Staff support the original bill and the F/S version. They note that the over 65 population is increasing, and that SDUs can provide another housing option and increase density through infill development. Albuquerque Public Schools (APS) notes that any new dwelling units may cause student populations to rise and therefore could impact the public school system. Agency comments begin on p. 21.

***Neighborhood & Other Concerns***

The proposed text amendments were posted on the Planning Department's main web page and announced in the October/November 2015 issue of the Neighborhood News (NN) (see attachments). Staff sent a brief article to Office of Neighborhood Coordination (ONC) Staff to include in the NN. As of this writing, Staff has not received any inquiries or written comments and is unaware of any opposition to the F/S version of the bill.

**X. CONCLUSION**

This request is for a recommendation to City Council regarding proposed text amendments to the following subsections of the Zoning Code: Definitions (§14-16-1-5(B)); the RO-1 Rural and Open Zone (§14-16-2-2); the RA-1 Residential and Agricultural Zone (§14-16-2-4); the R-LT Residential Zone (§14-16-2-8); R-T Residential Zone (§14-16-2-9); the R-G Residential Garden Apartment Zone (§14-16-2-10), and the R-2 Residential Zone (§14-16-2-11), to define, allow and regulate secondary dwelling units (SDUs). The EPC is a recommending body; the City Council will make the final decision.

SDUs would be a permissive use in the R-G and R-2 zones and a conditional use in the RO-1, RA-1, R-LT and R-T zones. Requirements regarding height, size, parking and design would be added. Due to lack of regulations, currently it's possible to construct an accessory building that is clearly out of character and scale with the existing home and neighborhood.

Staff finds that the proposed text amendments generally further applicable Goals and policies. The intent is to allow people to legally provide an affordable housing option for family members, especially the aging.

The proposed text amendments were announced in the Neighborhood News. Staff has not received any inquiries or comments as of this writing and is unaware of any opposition. Minor revisions are suggested for clarification. Staff recommends that an approval recommendation, with conditions, be forwarded to the City Council.

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**RECOMMENDED FINDINGS- 15EPC-40058, November 12, 2015- Zoning Code Text Amendments**

1. The request is for a recommendation to City Council regarding text amendments to Zoning Code §14-16-1-5(B) ROA 1994, Definitions; §14-16-2-2, RO-1 Rural and Open Zone; the RA-1 Residential and Agricultural Zone (§14-16-2-4); the R-LT Residential Zone (§14-16-2-8); R-T Residential Zone (§14-16-2-9); §14-16-2-10, R-G Residential Garden Apartment Zone, and §14-16-2-11, R-2 Residential Zone, to define, allow and regulate secondary dwelling units (SDUs).
2. The proposed text amendments are found in Bill No. F/S O-14-20. The F/S version of the bill differs from the original version primarily because different zoning categories are associated with conditional uses. The zones where SDUs would be permissive remain the same (R-G and R-2). Regarding conditional uses, SDUs would still be conditional in the RO-1 zone, but the R-1 zone was replaced by the RA-1, R-LT and R-T zones. Also, language has been added to address issues, such as proof of occupancy and enforcement, which arose during the first EPC process.
3. The overarching intent of the proposed text amendments is to allow another housing option, the need for which has come to the forefront due to shifting demographics. In particular, the aging population is increasing and many people cannot afford to live in a costly, all-inclusive retirement home (or even a relatively inexpensive one). People need options to be able to assist their parents or other relatives. Additional housing options are also needed for millennials.
4. The proposed text amendments would make SDUs a permissive use in the R-G and R-2 zones, make them a conditional use in the RO-1 and RA-1, R-LT and R-T zones, and add requirements regarding allowed height, parking and design so that SDUs are regulated and will contextually fit in to a neighborhood.
5. Bill No. O-14-20 was introduced at City Council on August 18, 2014 and subsequently referred to the Planning Department for review. The Environmental Planning Commission (EPC) heard the case on October 9, 2014 and voted to forward a recommendation of denial to the City Council. The EPC was concerned about enforcement difficulties, unintended consequences, and how to deal with density issues City-wide, since areas have different characteristics.
6. On August 3, 2015, the Council voted to remand the case to the EPC for reconsideration. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments as found in Bill No. F/S O-14-20. The City Council is the City's Zoning Authority and will make the final decision.

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7. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.
  
  8. Intent of the City Charter:

Adding provisions to the ROA 1994 to allow and define secondary dwelling units is an exercise in local self-government (City Charter, Article 1). Amending the Comprehensive Zoning Code to allow SDUs and associated regulations generally expresses the Council's desire to ensure the proper use and development of land, and to generally promote and maintain an aesthetic and humane urban environment (City Charter, Article IX).
  
  9. Intent of the Zoning Code (§14-16-1-3):

The application for text amendments to the Zoning Code (the RO-1 Rural and Open Zone, R-1 Residential Zone, R-G Residential Garden Apartment Zone, R-2 Residential Zone, and Definitions), was filed in accordance with Zoning Code requirements. The text amendments generally further the Zoning Code goal of promoting the health, safety and welfare of the citizens. Allowing and defining secondary dwelling units would positively impact the built and natural environment and the overall health and welfare of the City. However, as the zoning authority for the City of Albuquerque, the City Council will make the final determination.
  
  10. The request furthers the following Comprehensive Plan Goal and policy:
    - A. Developing & Established Urban Goal: The request would allow additional variety and choice in housing options. Another, more affordable housing option would be available for seniors and young people needing and/or wanting to live near their families. Multi-generational living as a lifestyle would be promoted. Restrictions regarding ownership, height, size and architectural character would ensure compatibility and a visually pleasing built environment.
    - B. Policy II.B.5d- neighborhood/ environmental conditions/resources: The request would allow SDUs. Regulations for their height, size and design would help the new dwelling units respect existing neighborhood values by visually integrating them with the neighborhood. The location and intensity would respect carrying capacities because only one secondary dwelling unit would be allowed per premises. The height restriction would respect scenic resources. Social and perhaps cultural resources would generally be respected because multi-generational housing would be facilitated.
  
  11. The request furthers the Housing Goal and Housing Policy II.D.5a in the Comprehensive Plan, Section D. Community Resource Management.
    - A. Housing Goal: In general, the proposed text amendments would help increase the supply of affordable housing. SDUs, limited in size, would be more affordable for seniors and young people (and others) than many retirement homes and apartments.

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- B. Housing Policy II.D.5a- affordable housing: The proposed text amendments would help increase the supply of affordable housing. Limited in size, SDUs would by nature be more affordable than larger dwellings. Also, they are intended for either the owner or relatives who need standard housing for a reasonable proportion of income.
12. The request partially furthers Transportation & Transit Policy II.D.4c- transit ridership. In some cases, SDUs would be located near major and enhanced transit streets such as Central Ave., Menaul Blvd., Coors Blvd., etc. This has the potential to add transit ridership, but in a limited fashion since the dwelling units are one per lot and small in size.
13. Removal of the R-1 zone, in which SDUs were proposed to be a conditional use with the original legislation, greatly reduces the locations where SDUs would be allowed in the City and significantly affects the scope of the legislation. R-1 is a common and wide-spread zone. RA-1, R-LT and R-T zoning is relatively uncommon. The R-G and R-2 zones, in which SDUs are permissive under the original and revised legislation, are also relatively uncommon when compared to the R-1 zone.
14. The revised, proposed legislation addresses some concerns raised with consideration of the original O-14-20, such as occupancy and ownership, impact to R-1 neighborhoods, and irregularly shaped lots. However, enforcement of the occupancy requirement and tracking of SDUs could still be difficult for Code Enforcement Staff and the requirement for off-street parking could still be difficult to meet in many situations. An unintended consequence is that accessory dwelling units could become more attractive to build. They are currently unregulated and would not be subject to the Bill's requirements regarding height, size and design.
15. Minor Conditions for Recommendation of Approval are suggested for clarification.
16. The proposed text amendments were posted on the Planning Department's main web page and were announced in the October/November 2015 issue of the Neighborhood News, published by the Office of Neighborhood Coordination (ONC). As of this writing, Staff has not received any inquiries or comments and is unaware of any opposition.

### **RECOMMENDATION**

**That a recommendation of APPROVAL of Text Amendments to Zoning Code §14-16-1-5(B) ROA 1994, Definitions; §14-16-2-2, RO-1 Rural and Open Zone; §14-16-2-4, RA-1 Residential and Agricultural Zone; §14-16-2-8, R-LT Residential Zone; §14-16-2-9, R-T Residential Zone; §14-16-2-10, R-G Residential Garden Apartment Zone; and §14-16-2-11, R-2 Residential Zone, be forwarded to the City Council based on the preceding Findings and subject to the following Conditions for Recommendation of Approval.**

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**CONDITIONS FOR RECOMMENDATION OF APPROVAL- 15EPC-40058, November 12, 2015-  
Zoning Code Text Amendments**

Notes: New language is [+underlined and bracketed+]. Deleted language is [underlined, bracketed and struck through]. Planning Staff's suggested language is indicated by grey highlighting. Page references are to the F/S version of the legislation.

**Albuquerque Code of Ordinances, Chapter 14- Zoning, Planning & Building, Article 16- Zoning Code, Section 1-5(B), DEFINITIONS**

1. Page 1, Lines 9 &10:

Section 1. Subsection 14-16-1-5(B), the Definitions section of the Zoning Code, is amended to add the following definition [s in alphabetical order]:

**Albuquerque Code of Ordinances, Chapter 14- Zoning, Planning & Building, Article 16- Zoning Code, Subsection 2-2(B)(1), the RO-1 RURAL AND OPEN ZONE; Subsection 2-4(B), the RA-1 RESIDENTIAL and AGRICULTURAL ZONE; Subsection 2-8(B), the R-LT RESIDENTIAL zone; Subsection 2-9(B), the R-T RESIDENTIAL zone; Subsection 2-10(A)(2), the R-G RESIDENTIAL GARDEN APARTMENT ZONE; and Subsection 2-1(A)(2), the R-2 RESIDENTIAL ZONE.**

2. Page 2, Line 25; Page 4, Line 18; Page 6, Line 11; Page 8, Line 3; Page 9, Line 26; Page 11, Line 17:

There shall be a minimum [+separation+] of 10 feet [separation]

3. Page 2, Line 20; Page 3, Line 25; Page 4, Line 30; Page 6, Line 3:

[Parking: One off street space per unit.] Remove from the R-LT, R-T, R-G and R-2 zones.

4. Page 2, Lines 21-24; Page 3, Lines 26-29; Page 4 & 5, Lines 31 & 32 and 1 & 2; Page 6, Lines 4-7:

[h. i. +] Design. The design of the secondary dwelling unit shall relate to the design of the primary dwelling unit by use of similar exterior wall materials or finishes, [+colors. +] architectural style and elements, including but not limited to roofing materials and roof pitch.

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*Catalina Lehner*

**Catalina Lehner, AICP  
Senior Planner**

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## ***CITY OF ALBUQUERQUE AGENCY COMMENTS***

### ***PLANNING DEPARTMENT***

#### **Code Enforcement**

Code Enforcement Staff did not comment as part of agency comments. Rather, Staff interviewed the Zoning Enforcement Manager. His concerns are mainly about the enforceability and practicality of the proposed text amendments. Staff spoke with Code Enforcement Staff about the F/S version of the bill. Some concerns remain (see Section V of this report).

#### **Office of Neighborhood Coordination (ONC)**

10/5/15 – Email to Catalina Lehner for Newsletter Article – siw

10/6/15 – Newsletter Article received – siw/dlc. Citywide. Staff Planner to provide ONC with a  
The following was published in the Neighborhood News:

**Project #1001620, 15EPC-40058: Proposed Text Amendments to the Zoning Code** – At its regularly scheduled public hearing on November 12, 2015, the Environmental Planning Commission (EPC) will consider text amendments to the Zoning Code to make secondary dwelling units (SDUs) a permissive use in the R-2 and R-G zones and a conditional use in the RO-1, RA-1, R-LT and R-T zones. The proposed text amendments would also add a definition for SDU.

In October 2014, the EPC forwarded a recommendation of denial to the City Council. The City Council is now remanding the legislation (O-14-20) to the EPC for reconsideration, after removing the provision that would make SDUs a conditional use in the R-1 zone. The proposed text amendments would apply City-wide.

Please contact Catalina Lehner-AICP, Senior Planner, at (505) 924-3935 for more information.

#### **Long Range Planning** (comment from the first staff report)

The request is to amend the zoning code to add a definition for secondary dwelling units and to make secondary dwelling units a permissive or conditional use in certain residential zones. The request is consistent with the intent of the Comprehensive Plan to move the city towards a net density of 5 dwelling units per acre, and efficient use of public investments in infrastructure.

The amendment is carefully crafted to ensure the secondary dwelling unit is subordinate to the main dwelling in height, location, size (square footage), and of compatible architectural style.

The proposed text change acknowledges and reflects recent demographic and lifestyle changes, such as Baby Boomers wanting to downsize and/or age in-place, Millennials living with parents beyond their teenage years, and an increased number of multi-generational families.

Long Range Planning supports these amendments.

### ***CITY ENGINEER***

#### **Transportation Development Services**

- No objection to the request.

**Hydrology**

- Hydrology has no comments.

**DEPARTMENT of MUNICIPAL DEVELOPMENT**

**Transportation Planning**

- No objection to the request.

**Traffic Engineering Operations (Department of Municipal Development):**

- No comments received.

**Street Maintenance (Department of Municipal Development):**

- No comments received.

**New Mexico Department of Transportation (NMDOT):**

- The NMDOT has no comments.

**RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT  
and NMDOT:** Conditions of approval for the proposed Text Amendments shall include: None.

**WATER UTILITY AUTHORITY**

**Utility Services**

**ENVIRONMENTAL HEALTH DEPARTMENT**

**Air Quality Division**

**Environmental Services Division**

**PARKS AND RECREATION**

**Planning and Design**

Parks and Recreation Department has reviewed and has no adverse comments for this request.

**Open Space Division**

OSD has reviewed and has no adverse comments.

**City Forester**

**POLICE DEPARTMENT/Planning**

No Crime Prevention or CPTED comments concerning the proposed *Amendment to Zoning Code* request at this time.

**SOLID WASTE MANAGEMENT DEPARTMENT**

**Refuse Division**

**FIRE DEPARTMENT/Planning**

**TRANSIT DEPARTMENT**

<b>Project # 1001620 15EPC-40058 AMNDT TO ZONING CODE OR SUBDN REGS TEXT.</b>  <b>PLANNING DEPARTMENT FOR COUNCIL SERVICES. CITYWIDE.</b>	Adjacent and nearby routes	None.
	Adjacent bus stops	None.
	Site plan requirements	None.
	Large site TDM suggestions	None.
	Other information	None

**COMMENTS FROM OTHER AGENCIES**

**BERNALILLO COUNTY**

**ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY**

Reviewed, no comment.

**ALBUQUERQUE PUBLIC SCHOOLS**

<b>Project #1001620 15EPC-40058 TEXT AMENDMENT TO ZONING CODE</b>	The City of Albuquerque proposes a City-Wide Amendment to the Zoning Code to make Secondary Dwelling Units a Conditional Use in the RO-1, RA-1, R-LT, and R-1 zones, and a permissive use in the R-2 and R-G zone. Although, APS does not oppose this amendment, it should be known that, any new dwelling units developed within the APS district may cause student populations to rise. In turn, newly developed dwelling units will impact Albuquerque Public Schools.
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**MID-REGION COUNCIL OF GOVERNMENTS**

MRMPO believes allowing for secondary dwelling units (SDUs) would positively contribute to regional transportation goals outlined in MRMPO planning documents, especially if it occurs near activity centers and transportation corridors. Perhaps most importantly, SDUs support an appropriate implementation of the Preferred Scenario for growth in the region that was adopted by the Metropolitan Transportation Board in April 2015. The 2040 Metropolitan Transportation Plan identifies allowing ADUs as a potential action item to help actualize the Preferred Scenario (“Allow and facilitate the permitting of accessory dwelling units” (Chapter 5, p.9).

Secondary dwelling units can provide homeowners in residential areas a more flexible use of their property in ways that are modest and contextually appropriate. This flexibility gives the potential to

develop quality alternative living situations that are increasing in demand, especially among older and younger adults, while creating only minor changes to the existing character of the neighborhood.

MRMPO supported the August 2014 legislation (O-14-20) that included secondary dwelling units as a Conditional Use in the R-1 Zone, and MRMPO continues its support of ADUs in this 2015 ordinance.

**MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

## HISTORY

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**File #:** O-14-20  
**Type:** Ordinance  
**File created:** 8/18/2014

**Status:** Remanded  
**In control:** Environmental Planning Commission  
**Final action:** 8/3/2015  
**Enactment #:**

**Enactment date:**

**Title:** F/S Amending The Zoning Code To Add A Definition For Secondary Dwelling Units, Make Secondary Dwelling Units A Conditional Use In The RO-1, RA-1 And R-LT And R-T Zones, Make Secondary Dwelling Units A Permissive Use In The R-G And R-2 Zones, And Establish Design, Size, Parking And Occupancy Regulations (Benton)

**Attachments:** 1. [O-20](#), 2. [O-20 Approved Committee Substitute](#), 3. [O-20 Approved Floor Substitute](#)

**History (13)**   [Text](#)

13 records			Group	Export	Action	
Date	Action By	Action	Result	Action Details	Result	Action Details
8/3/2015	City Council	Motion	Pass	<a href="#">Action details</a>	Pass	<a href="#">Action details</a>
8/3/2015	City Council	Remanded	Pass	<a href="#">Action details</a>	Pass	<a href="#">Action details</a>
6/15/2015	City Council	Postponed as Substituted	Pass	<a href="#">Action details</a>	Pass	<a href="#">Action details</a>
6/15/2015	City Council	Substituted	Pass	<a href="#">Action details</a>	Pass	<a href="#">Action details</a>
5/18/2015	City Council	Postponed	Pass	<a href="#">Action details</a>	Pass	<a href="#">Action details</a>
4/20/2015	City Council	Postponed	Pass	<a href="#">Action details</a>	Pass	<a href="#">Action details</a>
4/6/2015	City Council	Postponed	Pass	<a href="#">Action details</a>	Pass	<a href="#">Action details</a>

Date	Action By	Action	Result	Action Details
3/16/2015	City Council	Accepted Without Recommendation, As Substituted	Pass	<a href="#">Action details</a>
3/11/2015	Land Use, Planning, and Zoning Committee	Sent to Council Without Recommendation, as substituted	Pass	<a href="#">Action details</a>
3/11/2015	Land Use, Planning, and Zoning Committee	Substituted	Pass	<a href="#">Action details</a>
2/11/2015	Land Use, Planning, and Zoning Committee	Postponed	Pass	<a href="#">Action details</a>
8/18/2014	City Council	Introduced and Referred		<a href="#">Action details</a>
8/18/2014	President	Referred		<a href="#">Action details</a>

# CITY OF ALBUQUERQUE



**PLANNING DEPARTMENT**  
**URBAN DESIGN & DEVELOPMENT DIVISION**  
600 2nd Street NW, 3rd Floor, 87102  
P.O. Box 1293, Albuquerque, NM 87103  
Office (505) 924-3860 Fax (505) 924-3339

## OFFICIAL NOTIFICATION OF DECISION

October 9, 2014

City of Albuquerque  
Council Services  
P.O. Box 1293  
Albuquerque, NM 87103

**Project# 1001620**  
14EPC-40064 Zoning Code Text Amendment

### LEGAL DESCRIPTION:

City of Albuquerque Planning Department, agent for City of Albuquerque Council Services, requests the above action to make secondary dwelling units a conditional use in the R-1 and RO-1 zones; a permissive use in the R-G and R-2 zones; to establish design, size, parking, and occupancy regulations; and to create a definition. City-wide.

Staff Planner: Catalina Lehner

PO Box 1293

Albuquerque NM 87103  
On October 9, 2014, the Environmental Planning Commission (EPC) voted to forward a recommendation of **DENIAL** to the City Council regarding Project #1001620/14EPC-40064, a request for text amendments to Zoning Code §14-16-1-5(B) ROA 1994, Definitions; §14-16-2-2, RO-1 Rural and Open Zone; §14-16-2-6, R-1 Residential Zone; §14-16-2-10, R-G Residential Garden Apartment Zone, and §14-16-2-11, R-2 Residential Zone, based on the following Findings:

### FINDINGS:

[www.cabq.gov](http://www.cabq.gov)

1. The request is for a recommendation to City Council regarding text amendments to Zoning Code §14-16-1-5(B) ROA 1994, Definitions; §14-16-2-2, RO-1 Rural and Open Zone; §14-16-2-6, R-1 Residential Zone; §14-16-2-10, R-G Residential Garden Apartment Zone, and §14-16-2-11, R-2 Residential Zone.
2. The overarching intent of the proposed text amendments is to allow another housing option, the need for which has come to the forefront due to shifting demographics. In particular, the aging population is increasing and many people cannot afford to live in a high-cost, all-inclusive retirement home (or even a relatively inexpensive one). People need options to be able to assist their parents or other relatives. Additional housing options are also needed for millennials.
3. The purpose of the proposed text amendments is to make secondary dwelling units a permissive use in the R-G and R-2 zones, make them a conditional use in the RO-1 and R-1 zones, and to add requirements regarding the allowed height, parking and design of secondary dwelling units so that

OFFICIAL NOTICE OF DECISION

Project #1001620, 14EPC-40064

October 9, 2014

Page 2 of 4

secondary dwelling units are regulated and will contextually fit in to the neighborhood.

4. Bill No. O-14-20 was introduced at City Council on August 18, 2014 and subsequently referred to the Planning Department for review. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments. The City Council is the City's Zoning Authority and will make the final decision.

5. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.

6. Intent of the City Charter:

Adding provisions to the ROA 1994 to allow and define secondary dwelling units is an exercise in local self-government (City Charter, Article 1). Amending the Comprehensive Zoning Code to allow secondary dwelling units and associated regulations generally expresses the Council's desire to ensure the proper use and development of land, and to generally promote and maintain an aesthetic and humane urban environment (City Charter, Article IX).

7. Intent of the Zoning Code (§14-16-1-3):

The application for text amendments to the Zoning Code (the RO-1 Rural and Open Zone, R-1 Residential Zone, R-G Residential Garden Apartment Zone, R-2 Residential Zone, and Definitions) was filed in accordance with Zoning Code requirements. The text amendments generally further the Zoning Code goal of promoting the health, safety and welfare of the citizens. Allowing and defining secondary dwelling units would positively impact the built and natural environment and the overall health and welfare of the City. However, as the zoning authority for the City of Albuquerque, the City Council will make the final determination.

8. The request furthers the following Comprehensive Plan Goal and policy:

A. Developing & Established Urban Goal: The request would allow additional variety and increase choice in housing options. Another, more affordable housing option would be available for seniors and young people needing and/or wanting to live near their families. Multi-generational living as a lifestyle would be promoted. Restrictions regarding ownership, height, size and architectural character would ensure compatibility and a visually pleasing built environment.

B. Policy II.B.5d- neighborhood/ environmental conditions/resources: The request would allow secondary dwelling units. Regulations for their height, size and design would help the new dwelling units respect existing neighborhood values by visually integrating them with the neighborhood. The location and intensity would respect carrying capacities because only one secondary dwelling unit would be allowed per premises. The height restriction would respect scenic resources. Social and perhaps cultural resources would generally be respected because multi-generational housing would be facilitated.

9. The request furthers the Housing Goal and Housing Policy II.D.5a in the Comprehensive Plan Section D. Community Resource Management.

OFFICIAL NOTICE OF DECISION

Project #1001620, 14EPC-40064

October 9, 2014

Page 3 of 4

- A. Housing Goal: In general, the text amendments would help increase the supply of affordable housing. The secondary dwelling units, limited in size, would be more affordable for seniors and young people (and others) than many retirement homes and apartments.
- B. Housing Policy II.D.5a- affordable housing: Allowing the use of permeable paving is a method of conserving runoff water and is part of an overall water resource management strategy.
10. The request partially furthers Transportation & Transit Policy II.D.4c- transit ridership. In some cases, the secondary dwelling units would be located near major and enhanced transit streets such as Central Ave., Menaul Blvd., Coors Blvd., etc. This has the potential to add transit ridership, but in a limited fashion since the dwelling units are one per lot and small in size.
11. As written, the legislation could be problematic to enforce regarding occupancy and ownership. Code Enforcement Staff has expressed concern about this. Unintended consequences could result, such as disallowing secondary dwelling units on large, irregularly shaped lots because they don't have a definitive rear yard and encouraging parking in the front yard setback area because an off-street parking space is required.
12. Conditions for Recommendation of Approval are needed to improve wording and organization and to add clarifying language for certain items, thereby making them less ambiguous and more possible to implement.
13. The proposed text amendments were posted on the Planning Department's main web page and were announced in the September/October 2014 issue of the Neighborhood News, published by the Office of Neighborhood Coordination (ONC). As of this writing, Staff has two comments. The Inez Neighborhood Association is concerned that secondary dwelling units would become rentals, and that allowing such dwellings would serve no economic need in areas that would have the space to take advantage of it. The other comment is from an individual stating that he is fine with secondary dwelling units as long as the lot is large enough.
14. The EPC suggests that the City Council consider the following:
- A. The situation when a property owner moves out and opts to rent the main dwelling. What happens to the secondary dwelling?
- B. Specifying a single-story limitation along with the 18 foot height limitation. No subterranean floors should be allowed.
15. The EPC has serious concerns about the proposed legislation including, but not limited to, the aforementioned unintended consequences and enforcement concerns. Additional issues include how to deal with density City-wide, because areas have different characteristics. Should the Council disagree with the EPC's recommendation, the EPC recommends incorporation of Staff's changes as outlined in the Staff report (p. 17 & 18).
16. The EPC finds that the Bill should be substantially rewritten and, if so, sent back to the EPC.

OFFICIAL NOTICE OF DECISION

Project #1001620, 14EPC-40064

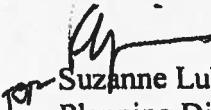
October 9, 2014

Page 4 of 4

17. EPC concerns include the treatment of R-1 zoned properties the same across the City, which does not address the diversity of neighborhoods.
18. The notification process should include notifying, in writing, the Coalitions.
19. The EPC suggests that the City Council further consider, in addition to the R-1 zone, the RO-1 zone, the R-G zone and the R-2 zone, and to consider and specify the areas of the City where the bill would apply.
20. The EPC further suggests revisiting the Zoning Code definitions associated with this request (Staff report p. 3 & 4. Apartment; Building, Accessory; Dwelling Unit; Kitchen; Living Quarters, Accessory; Premises; Yard, Front; Yard, Rear; and Yard, Side.

**PROTEST:** It is not possible to appeal EPC Recommendations to City Council; Rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's decision, which is by **OCTOBER 24, 2014.**

Sincerely,

  
Suzanne Lubar  
Planning Director

SL/CLL

cc: COA City Council, Attn: Chris Melendrez, PO Box 1293, Albuquerque, NM 87103  
COA Legal Department, Attn: Jenica Jacobi, PO Box 1293, Albuquerque, NM 87103  
COA Planning, Attn: Brennon Williams, 600 2<sup>nd</sup> St. NW, Albuquerque, NM 87103  
Evelyn Feltner, 2014 Utah NE, Albuquerque, NM 87110  
Charles Bennett, 600 San Pablo St. NE, Albuquerque, NM 87108  
Joe Sabatini, 3514 6<sup>th</sup> St. NW, Albuquerque, NM 87107  
Doyle Kimbrough, 2327 Campbell Rd. NW, Albuquerque, NM 87104

**PROPOSED LEGISLATION**

**Bill No. O-14-20**

**Floor Substitute, for current consideration**

**CITY OF ALBUQUERQUE  
CITY COUNCIL**

**INTEROFFICE MEMORANDUM**

**TO:** Suzanne Lubar, Director, Planning Department  
**FROM:** Jon K. Zaman, Director, Council Services   
**SUBJECT:** Remand of Bill No. F/S O-14-20  
**DATE:** August 5, 2015

The attached ordinance is a substituted version of legislation that was introduced by the City Council on August 18, 2014. The intent of this ordinance is to amend the Comprehensive Zoning Code to make Secondary Dwelling Units a Conditional Use in the RO-1, RA-1, R-LT and R-T zones, and a permissive use in the R-2 and R-G zones. A version of this ordinance was previously heard by the EPC in October 2014 and sent to the City Council with a recommendation of denial. The Council has since voted to remove a key proposal from the ordinance, which would have made Secondary Dwelling Units a Conditional Use in the R-1 zone. The Council requests the EPC's consideration of a substituted version of the ordinance that would establish allowances for such units in large-lot residential, townhouse and multifamily zones only.

We request that you submit this ordinance to the Environmental Planning Commission for a hearing as soon as possible.

Please submit the Environmental Planning Commission's comments and recommendations, including the transcript from the meeting, back to the City Council as soon as possible. Thank you.

**cc:** Russell Brito, Planning Department  
Kym Dicome, Planning Department  
File O-14-20



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1 current government-issued photo identification with an address  
2 matching the property shall constitute proof of residency for purposes  
3 of this ordinance.

4 d. If such use is approved, the property owner shall record the terms of the  
5 approved Conditional Use Permit, together with a signed acceptance of  
6 such terms, with the County Clerk prior to occupancy of the SDU.

7 e. Size. The footprint of a Secondary Dwelling Unit shall not exceed:

8 i. Maximum 650 net square feet for lots 5,000 square feet or less.

9 ii. Maximum 800 net square feet for lots greater than 5,000  
10 square feet but not greater than 10,000 square feet.

11 iii. Maximum 1,000 net square feet for lots greater than 10,000  
12 square feet.

13 iv. A garage or shed attached to the Secondary Dwelling Unit  
14 shall not count towards the square footage limitation. The  
15 garage or shed shall not exceed 50% of the size of the  
16 secondary dwelling unit.

17 v. All accessory buildings, including Secondary Dwelling Units,  
18 must comply with the height and area requirements of § 14-16-  
19 3-3, with the exception of the additional height allowance as  
20 described in Section g.i. below.

21 f. Setbacks: Secondary dwelling units shall be located to the rear of the  
22 primary dwelling unit except on irregularly-shaped lots where side yards  
23 are larger than rear yards, in which case a secondary dwelling unit may  
24 be located in the side yard provided required setbacks are met. There  
25 shall be a minimum of 10 feet separation between the primary dwelling  
26 unit and the secondary dwelling unit. In addition to the building  
27 separation requirement, the following minimum setbacks from the  
28 property line shall apply:

29 i. Side: 5 feet

30 ii. Rear: 5 feet

31 iii. On corner lots, the street side setback shall be a minimum of  
32 10 feet.

1 g. Height: Secondary dwelling units shall not exceed one story and 18 feet  
2 in height, with the following exception:

3 i. Where a property is accessed by an alley, a Secondary  
4 Dwelling Unit may be built over a garage, provided the garage  
5 is accessed only from the alley and the total height of the  
6 structure does not exceed 22 feet or the height of the primary  
7 dwelling unit, whichever is shorter.

8 h. Parking: One off-street space per unit.

9 i. Design: The design of the secondary dwelling unit shall relate to the  
10 design of the primary dwelling unit by use of similar exterior wall  
11 materials or finishes, architectural style and elements, including but not  
12 limited to roofing materials and roof pitch.+1”

13 SECTION 3. Subsection 14-16-2-4 (B), the Conditional Uses of the RA-1  
14 Residential Zone, is amended to add a new Section (2) and all other sections  
15 shall be renumbered accordingly. The new Section (2) shall read as follows:

16 “(2) [+Secondary Dwelling Unit, provided:

17 a. The Secondary Dwelling Unit is clearly located in a separate structure  
18 and incidental to the primary dwelling unit. In no case can the

19 Secondary Dwelling Unit be larger than the primary dwelling unit.

20 b. There shall be no more than either one Secondary Dwelling Unit or one  
21 Accessory Living Quarters per premise. In no case shall both be  
22 allowed on one premise.

23 c. Occupancy: The property owner or beneficiary of an ownership trust  
24 described in a deed to the property must occupy either the primary or  
25 secondary dwelling unit. Upon request by the City, the property owner  
26 or beneficiary of an ownership trust shall provide proof of occupancy. A  
27 current government-issued photo identification with an address  
28 matching the property shall constitute proof of residency for purposes  
29 of this ordinance.

30 d. If such use is approved, the property owner shall record the terms of the  
31 approved Conditional Use Permit, together with a signed acceptance of  
32 such terms, with the County Clerk prior to occupancy of the SDU.

33 e. Size. The footprint of a Secondary Dwelling Unit shall not exceed:

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- 1 i. Maximum 650 net square feet for lots 5,000 square feet or less.
- 2 ii. Maximum 800 net square feet for lots greater than 5,000
- 3 square feet but not greater than 10,000 square feet.
- 4 iii. Maximum 1,000 net square feet for lots greater than 10,000
- 5 square feet.
- 6 iv. A garage or shed attached to the Secondary Dwelling Unit
- 7 shall not count towards the square footage limitation. The
- 8 garage or shed shall not exceed 50% of the size of the
- 9 secondary dwelling unit.
- 10 v. All accessory buildings, including Secondary Dwelling Units,
- 11 must comply with the height and area requirements of § 14-16-
- 12 3-3, with the exception of the additional height allowance as
- 13 described in Section g.i. below.
- 14 f. Setbacks: Secondary dwelling units shall be located to the rear of the
- 15 primary dwelling unit except on irregularly-shaped lots where side yards
- 16 are larger than rear yards, in which case a secondary dwelling unit may
- 17 be located in the side yard provided required setbacks are met. There
- 18 shall be a minimum of 10 feet separation between the primary dwelling
- 19 unit and the secondary dwelling unit. In addition to the building
- 20 separation requirement, the following minimum setbacks from the
- 21 property line shall apply:
- 22 i. Side: 5 feet
- 23 ii. Rear: 5 feet
- 24 iii. On corner lots, the street side setback shall be a minimum of
- 25 10 feet.
- 26 g. Height: Secondary dwelling units shall not exceed one story and 18 feet
- 27 in height, with the following exception:
- 28 i. Where a property is accessed by an alley, a Secondary
- 29 Dwelling Unit may be built over a garage, provided the garage
- 30 is accessed only from the alley and the total height of the
- 31 structure does not exceed 22 feet or the height of the primary
- 32 dwelling unit, whichever is shorter.
- 33 h. Parking: One off-street space per unit.

- 1 i. Design: The design of the secondary dwelling unit shall relate to the  
2 design of the primary dwelling unit by use of similar exterior wall  
3 materials or finishes, architectural style and elements, including but not  
4 limited to roofing materials and roof pitch.+]

5 SECTION 3. Subsection 14-16-2-8 (B), the Conditional Uses of the R-LT  
6 Residential Zone, is amended to add a new Section (2) and all other sections  
7 shall be renumbered accordingly. The new Section (2) shall read as follows:

8 “(2) [Secondary Dwelling Unit, provided:

- 9 j. The Secondary Dwelling Unit is clearly located in a separate structure  
10 and incidental to the primary dwelling unit. In no case can the  
11 Secondary Dwelling Unit be larger than the primary dwelling unit.
- 12 k. There shall be no more than either one Secondary Dwelling Unit or one  
13 Accessory Living Quarters per premise. In no case shall both be  
14 allowed on one premise.
- 15 l. Occupancy: The property owner or beneficiary of an ownership trust  
16 described in a deed to the property must occupy either the primary or  
17 secondary dwelling unit. Upon request by the City, the property owner  
18 or beneficiary of an ownership trust shall provide proof of occupancy. A  
19 current government-issued photo identification with an address  
20 matching the property shall constitute proof of residency for purposes  
21 of this ordinance.
- 22 m. If such use is approved, the property owner shall record the terms of the  
23 approved Conditional Use Permit, together with a signed acceptance of  
24 such terms, with the County Clerk prior to occupancy of the SDU.
- 25 n. Size. The footprint of a Secondary Dwelling Unit shall not exceed:
- 26 vi. Maximum 650 net square feet for lots 5,000 square feet or less.
- 27 vii. Maximum 800 net square feet for lots greater than 5,000  
28 square feet but not greater than 10,000 square feet.
- 29 viii. Maximum 1,000 net square feet for lots greater than 10,000  
30 square feet.
- 31 ix. A garage or shed attached to the Secondary Dwelling Unit  
32 shall not count towards the square footage limitation. The

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- garage or shed shall not exceed 50% of the size of the secondary dwelling unit.
- x. All accessory buildings, including Secondary Dwelling Units, must comply with the height and area requirements of § 14-16-3-3, with the exception of the additional height allowance as described in Section g.i. below.
- o. Setbacks: Secondary dwelling units shall be located to the rear of the primary dwelling unit except on irregularly-shaped lots where side yards are larger than rear yards, in which case a secondary dwelling unit may be located in the side yard provided required setbacks are met. There shall be a minimum of 10 feet separation between the primary dwelling unit and the secondary dwelling unit. In addition to the building separation requirement, the following minimum setbacks from the property line shall apply:
  - iv. Side: 5 feet
  - v. Rear: 5 feet
  - vi. On corner lots, the street side setback shall be a minimum of 10 feet.
- p. Height: Secondary dwelling units shall not exceed one story and 18 feet in height, with the following exception:
  - ii. Where a property is accessed by an alley, a Secondary Dwelling Unit may be built over a garage, provided the garage is accessed only from the alley and the total height of the structure does not exceed 22 feet or the height of the primary dwelling unit, whichever is shorter.
- q. Parking: One off-street space per unit.
- r. Design: The design of the secondary dwelling unit shall relate to the design of the primary dwelling unit by use of similar exterior wall materials or finishes, architectural style and elements, including but not limited to roofing materials and roof pitch.+]

SECTION 3. Subsection 14-16-2-9 (B), the Conditional Uses of the R-T Residential Zone, is amended to read as follows:  
“[+(1) Uses conditional in the R-1 Zone.

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- 1 (2) Secondary Dwelling Unit, provided:
- 2 s. The Secondary Dwelling Unit is clearly located in a separate structure
- 3 and incidental to the primary dwelling unit. In no case can the
- 4 Secondary Dwelling Unit be larger than the primary dwelling unit.
- 5 t. There shall be no more than either one Secondary Dwelling Unit or one
- 6 Accessory Living Quarters per premise. In no case shall both be
- 7 allowed on one premise.
- 8 u. Occupancy: The property owner or beneficiary of an ownership trust
- 9 described in a deed to the property must occupy either the primary or
- 10 secondary dwelling unit. Upon request by the City, the property owner
- 11 or beneficiary of an ownership trust shall provide proof of occupancy. A
- 12 current government-issued photo identification with an address
- 13 matching the property shall constitute proof of residency for purposes
- 14 of this ordinance.
- 15 v. If such use is approved, the property owner shall record the terms of the
- 16 approved Conditional Use Permit, together with a signed acceptance of
- 17 such terms, with the County Clerk prior to occupancy of the SDU.
- 18 w. Size. The footprint of a Secondary Dwelling Unit shall not exceed:
- 19 xi. Maximum 650 net square feet for lots 5,000 square feet or less.
- 20 xii. Maximum 800 net square feet for lots greater than 5,000
- 21 square feet but not greater than 10,000 square feet.
- 22 xiii. Maximum 1,000 net square feet for lots greater than 10,000
- 23 square feet.
- 24 xiv. A garage or shed attached to the Secondary Dwelling Unit
- 25 shall not count towards the square footage limitation. The
- 26 garage or shed shall not exceed 50% of the size of the
- 27 secondary dwelling unit.
- 28 xv. All accessory buildings, including Secondary Dwelling Units,
- 29 must comply with the height and area requirements of § 14-16-
- 30 3-3, with the exception of the additional height allowance as
- 31 described in Section g.i. below.
- 32 x. Setbacks: Secondary dwelling units shall be located to the rear of the
- 33 primary dwelling unit except on irregularly-shaped lots where side yards

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1 are larger than rear yards, in which case a secondary dwelling unit may  
2 be located in the side yard provided required setbacks are met. There  
3 shall be a minimum of 10 feet separation between the primary dwelling  
4 unit and the secondary dwelling unit. In addition to the building  
5 separation requirement, the following minimum setbacks from the  
6 property line shall apply:

- 7 vii. Side: 5 feet
- 8 viii. Rear: 5 feet
- 9 ix. On corner lots, the street side setback shall be a minimum of  
10 10 feet.

11 y. Height: Secondary dwelling units shall not exceed one story and 18 feet  
12 in height, with the following exception:

- 13 iii. Where a property is accessed by an alley, a Secondary  
14 Dwelling Unit may be built over a garage, provided the garage  
15 is accessed only from the alley and the total height of the  
16 structure does not exceed 22 feet or the height of the primary  
17 dwelling unit, whichever is shorter.

18 z. Parking: One off-street space per unit.

19 aa. Design: The design of the secondary dwelling unit shall relate to the  
20 design of the primary dwelling unit by use of similar exterior wall  
21 materials or finishes, architectural style and elements, including but not  
22 limited to roofing materials and roof pitch.+]

23 SECTION 4. Subsection 14-16-2-10 (A), the permissive uses of the R-G  
24 Residential Garden Apartment Zone, is amended to add a new Section (2) and  
25 all other sections shall be renumbered accordingly starting with Accessory  
26 Living Quarters as Section (3). The new Section (2) shall read as follows:

27 “(2) [+Secondary Dwelling Unit, provided:

28 a. The Secondary Dwelling Unit is clearly located in a separate structure  
29 and incidental to the primary dwelling unit. In no case can the  
30 Secondary Dwelling Unit be larger than the primary dwelling unit.

31 b. There shall be no more than either one Secondary Dwelling Unit or one  
32 Accessory Living Quarters per premise. In no case shall both be  
33 allowed on one premise.

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- 1 c. Occupancy: The property owner or beneficiary of an ownership trust
- 2 described in a deed to the property must occupy either the primary or
- 3 secondary dwelling unit. Upon request by the City, the property owner
- 4 or beneficiary of an ownership trust shall provide proof of occupancy. A
- 5 current government-issued photo identification with an address
- 6 matching the property shall constitute proof of residency for purposes
- 7 of this ordinance.
- 8 d. Size. The footprint of a Secondary Dwelling Unit shall not exceed:
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  - i. Maximum 650 net square feet for lots 5,000 square feet or less.
  - 10 ii. Maximum 800 net square feet for lots greater than 5,000
  - 11 square feet but not greater than 10,000 square feet.
  - 12 iii. Maximum 1,000 net square feet for lots gr.
  - 13 square feet.
  - 14 iv. A garage or shed attached to the Secondary Dwelling Unit
  - 15 shall not count towards the square footage limitation. The
  - 16 garage or shed shall not exceed 50% of the size of the
  - 17 secondary dwelling unit.
  - 18 v. All accessory buildings, including Seco
  - 19 must comply with the height and area requirements of § 14-16-
  - 20 3-3, with the exception of the additional height allowance as
  - 21 described in Section f.i. below.
- 22 e. Setbacks: Secondary dwelling units shall be located to the rear of the
- 23 primary dwelling unit except on irregularly-shaped lots where side yards
- 24 are larger than rear yards, in which case a secondary dwelling unit may
- 25 be located in the side yard provided required setbacks are met. There
- 26 shall be a minimum of 10 feet separation between the primary dwelling
- 27 unit and the secondary dwelling unit. In addition to the building
- 28 separation requirement, the following minimum setbacks from the
- 29 property line shall apply:
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  - i. Side: 5 feet
  - 31 ii. Rear: 5 feet
  - 32 iii. On corner lots, the street side setback shall be a minimum of
  - 33 10 feet.

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- 1 f. Height: Secondary dwelling units shall not exceed one story and 18 feet
- 2 in height, with the following exception:
- 3 i. Where a property is accessed by an alley, a Secondary
- 4 Dwelling Unit may be built over a garage, provided the garage
- 5 is accessed only from the alley and the total height of the
- 6 structure does not exceed 22 feet or the height of the primary
- 7 dwelling unit, whichever is shorter.
- 8 g. Parking: One off-street space per unit.
- 9 h. Design: The design of the secondary dwelling unit shall relate to the
- 10 design of the primary dwelling unit by use of similar exterior wall
- 11 materials or finishes, architectural style and elements, including but not
- 12 limited to roofing materials and roof pitch.+]

13 SECTION 5. Subsection 14-16-2-11 (A), the permissive uses of the R-2  
14 Residential Zone, is amended to add a new Section (2) and all other sections  
15 shall be renumbered accordingly starting with Accessory Living Quarters as  
16 Section (3). The new Section (2) shall read as follows:

17 "(2) [+Secondary Dwelling Unit, provided:

- 18 a. The Secondary Dwelling Unit is clearly located in a separate structure
- 19 and incidental to the primary dwelling unit. In no case can the
- 20 Secondary Dwelling Unit be larger than the primary dwelling unit.
- 21 b. There shall be no more than either one Secondary Dwelling Unit or one
- 22 Accessory Living Quarters per premise. In no case shall both be
- 23 allowed on one premise.
- 24 c. Occupancy: The property owner or beneficiary of an ownership trust
- 25 described in a deed to the property must occupy either the primary or
- 26 secondary dwelling unit. Upon request by the City, the property owner
- 27 or beneficiary of an ownership trust shall provide proof of occupancy. A
- 28 current government-issued photo identification with an address
- 29 matching the property shall constitute proof of residency for purposes
- 30 of this ordinance.
- 31 d. Size. The footprint of a Secondary Dwelling Unit shall not exceed:
- 32 i. Maximum 650 net square feet for lots 5,000 square feet or less.

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- ii. Maximum 800 net square feet for lots greater than 5,000 square feet but not greater than 10,000 square feet.
- iii. Maximum 1,000 net square feet for lots greater than 10,000 square feet.
- iv. A garage or shed attached to the Secondary Dwelling Unit shall not count towards the square footage limitation. The garage or shed shall not exceed 50% of the size of the secondary dwelling unit.
- v. All accessory buildings, including Secondary Dwelling Units, must comply with the height and area requirements of § 14-16-3-3, with the exception of the additional height allowance as described in Section f.i. below.
- e. Setbacks: Secondary dwelling units shall be located to the rear of the primary dwelling unit except on irregularly-shaped lots where side yards are larger than rear yards, in which case a secondary dwelling unit may be located in the side yard provided required setbacks are met. There shall be a minimum of 10 feet separation between the primary dwelling unit and the secondary dwelling unit. In addition to the building separation requirement, the following minimum setbacks from the property line shall apply:
  - i. Side: 5 feet
  - ii. Rear: 5 feet
  - iii. On corner lots, the street side setback shall be a minimum of 10 feet.
- f. Height: Secondary dwelling units shall not exceed one story and 18 feet in height, with the following exception:
  - i. Where a property is accessed by an alley, a Secondary Dwelling Unit may be built over a garage, provided the garage is accessed only from the alley and the total height of the structure does not exceed 22 feet or the height of the primary dwelling unit, whichever is shorter.
- g. Parking: One off-street space per unit.

1 h. Design: The design of the secondary dwelling unit shall relate to the  
2 design of the primary dwelling unit by use of similar exterior wall  
3 materials or finishes, architectural style and elements, including but not  
4 limited to roofing materials and roof pitch.+]

5 SECTION 6. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
6 clause, word or phrase of this ordinance is for any reason held to be invalid or  
7 unenforceable by any court of competent jurisdiction, such decision shall not  
8 affect the validity of the remaining provisions of this ordinance. The Council  
9 hereby declares that it would have passed this ordinance and each section,  
10 paragraph, sentence, clause, word or phrase thereof irrespective of any  
11 provision being declared unconstitutional or otherwise invalid.

12 SECTION 7. COMPILATION. This ordinance shall be incorporated in and  
13 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

14 SECTION 8. EFFECTIVE DATE. This ordinance shall take effect five days  
15 after publication by title and general summary.

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**ORIGINAL LEGISLATION**

**Bill No. O-14-20**

**as originally drafted and first reviewed by the EPC**



[+ Bracketed/Underscored Material+ ] - New  
[- Bracketed/Strikethrough Material- ] - Deletion

- 1           ii. Maximum 800 net square feet footprint for lots greater than
- 2                 5,000 square feet but not greater than 10,000 square feet.
- 3           iii. Maximum 1,000 net square feet footprint for lots greater than
- 4                 10,000 square feet.
- 5           iv. A garage or shed attached to the Secondary Dwelling Unit
- 6                 shall not count towards the square feet limit.
- 7    e. Setbacks: Secondary dwelling units shall be located to the rear of the
- 8                 primary dwelling unit. There shall be a minimum of 10 feet separation
- 9                 between the primary dwelling unit and the secondary dwelling unit. In
- 10                addition to the building separation requirement, the following minimum
- 11                setbacks from the property line shall apply:
- 12                i. Side: 5 feet
- 13                ii. Rear: 5 feet
- 14                iii. On corner lots, the street side setback shall be a minimum of
- 15                    10 feet.
- 16    f. Height: Secondary dwelling units shall not exceed 18 feet in height.
- 17                 Height shall be defined as the height measured at the highest point of
- 18                 the coping for a flat roof or from the ridge of a mansard, gambrel, shed,
- 19                 hip or gable roof.
- 20    g. Parking: One off-street space per unit.
- 21    h. Design: The design of the secondary dwelling unit shall relate to the
- 22                 design of the primary dwelling unit by use of similar exterior wall
- 23                 materials or finishes, architectural style and elements, including but not
- 24                 limited to roofing materials and roof pitch.+]"

25           Section 3. Subsection 14-16-2-6 (B) (1), R-1 Residential Zone, is amended  
26           as follows:

27    B. Conditional Uses.

28    (1) ~~[-Accessory living quarters-]~~ [+Secondary Dwelling Unit.

- 29           a. The Secondary Dwelling Unit is clearly secondary and incidental to the
- 30                 primary dwelling unit. In no case can the Secondary Dwelling Unit be
- 31                 larger than the primary dwelling unit.
- 32           b. There shall be no more than either one Secondary Dwelling Unit or one
- 33                 Accessory Living Quarters per premise but not both.

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[-Bracketed/Strikethrough-Material-] - Deletion

- 1 c. Occupancy: The property owner must occupy either the primary or  
2 secondary dwelling unit.
- 3 d. Size:
- 4 i. Maximum 650 net square feet footprint for lots 5,000 square  
5 feet or less.
- 6 ii. Maximum 800 net square feet footprint for lots greater than  
7 5,000 square feet but not greater than 10,000 square feet.
- 8 iii. Maximum 1,000 net square feet footprint for lots greater than  
9 10,000 square feet.
- 10 iv. A garage or shed attached to the Secondary Dwelling Unit  
11 shall not count towards the square feet limit.
- 12 e. Setbacks: Secondary dwelling units shall be located to the rear of the  
13 primary dwelling unit. There shall be a minimum of 10 feet separation  
14 between the primary dwelling unit and the secondary dwelling unit. In  
15 addition to the building separation requirement, the following minimum  
16 setbacks from the property line shall apply:
- 17 i. Side: 5 feet
- 18 ii. Rear: 5 feet
- 19 iii. On corner lots, the street side setback shall be a minimum of  
20 10 feet.
- 21 f. Height: Secondary dwelling units shall not exceed 18 feet in height.  
22 Height shall be defined as the height measured at the highest point of  
23 the coping for a flat roof or from the ridge of a mansard, gambrel, shed,  
24 hip or gable roof.
- 25 g. Parking: One off-street space per unit.
- 26 h. Design: The design of the secondary dwelling unit shall relate to the  
27 design of the primary dwelling unit by use of similar exterior wall  
28 materials or finishes, architectural style and elements, including but not  
29 limited to roofing materials and roof pitch.+]"

30 Section 4. Subsection 14-16-2-10 (A) (2), R-G Residential Garden Apartment  
31 Zone, is amended as follows:

32 "A. Permissive Uses.

33 (2) [~~Accessory living quarters~~] [+Secondary Dwelling Unit.

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[-Bracketed/Strikethrough Material-] - Deletion

- 1 a. The Secondary Dwelling Unit is clearly secondary and incidental to the  
2 primary dwelling unit. In no case can the Secondary Dwelling Unit be  
3 larger than the primary dwelling unit.
- 4 b. There shall be no more than either one Secondary Dwelling Unit or one  
5 Accessory Living Quarters per premise but not both.
- 6 c. Occupancy: The property owner must occupy either the primary or  
7 secondary dwelling unit.
- 8 d. Size:
- 9 i. Maximum 650 net square feet footprint for lots 5,000 square  
10 feet or less.
- 11 ii. Maximum 800 net square feet footprint for lots greater than  
12 5,000 square feet but not greater than 10,000 square feet.
- 13 iii. Maximum 1,000 net square feet footprint for lots greater than  
14 10,000 square feet.
- 15 iv. A garage or shed attached to the Secondary Dwelling Unit  
16 shall not count towards the square feet limit.
- 17 e. Setbacks: Secondary dwelling units shall be located to the rear of the  
18 primary dwelling unit. There shall be a minimum of 10 feet separation  
19 between the primary dwelling unit and the secondary dwelling unit. In  
20 addition to the building separation requirement, the following minimum  
21 setbacks from the property line shall apply:
- 22 i. Side: 5 feet
- 23 ii. Rear: 5 feet
- 24 iii. On corner lots, the street side setback shall be a minimum of  
25 10 feet.
- 26 f. Height: Secondary dwelling units shall not exceed 18 feet in height.  
27 Height shall be defined as the height measured at the highest point of  
28 the coping for a flat roof or from the ridge of a mansard, gambrel, shed,  
29 hip or gable roof.
- 30 g. Parking: One off-street space per unit.
- 31 h. Design: The design of the secondary dwelling unit shall relate to the  
32 design of the primary dwelling unit by use of similar exterior wall

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1 materials or finishes, architectural style and elements, including but not  
2 limited to roofing materials and roof pitch.+]"

3 Section 5. Subsection 14-16-2-11 (A) (2), R-2 Residential Zone, is amended  
4 as follows:

5 "A. Permissive Uses.

6 (2) ~~[-Accessory living quarters-]~~ [+Secondary Dwelling Unit.

7 a. The Secondary Dwelling Unit is clearly secondary and incidental to the  
8 primary dwelling unit. In no case can the Secondary Dwelling Unit be  
9 larger than the primary dwelling unit.

10 b. There shall be no more than either one Secondary Dwelling Unit or one  
11 Accessory Living Quarters per premise but not both.

12 c. Occupancy: The property owner must occupy either the primary or  
13 secondary dwelling unit.

14 d. Size:

15 i. Maximum 650 net square feet footprint for lots 5,000 square  
16 feet or less.

17 ii. Maximum 800 net square feet footprint for lots greater than  
18 5,000 square feet but not greater than 10,000 square feet.

19 iii. Maximum 1,000 net square feet footprint for lots greater than  
20 10,000 square feet.

21 iv. A garage or shed attached to the Secondary Dwelling Unit  
22 shall not count towards the square feet limit.

23 e. Setbacks: Secondary dwelling units shall be located to the rear of the  
24 primary dwelling unit. There shall be a minimum of 10 feet separation  
25 between the primary dwelling unit and the secondary dwelling unit. In  
26 addition to the building separation requirement, the following minimum  
27 setbacks from the property line shall apply:

28 i. Side: 5 feet

29 ii. Rear: 5 feet

30 iii. On corner lots, the street side setback shall be a minimum of  
31 10 feet.

32 f. Height: Secondary dwelling units shall not exceed 18 feet in height.  
33 Height shall be defined as the height measured at the highest point of

- 1 the coping for a flat roof or from the ridge of a mansard, gambrel, shed,  
2 hip or gable roof.
- 3 g. Parking: One off-street space per unit.
- 4 h. Design: The design of the secondary dwelling unit shall relate to the  
5 design of the primary dwelling unit by use of similar exterior wall  
6 materials or finishes, architectural style and elements, including but not  
7 limited to roofing materials and roof pitch.+]"

8 Section 6. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
9 clause, word or phrase of this ordinance is for any reason held to be invalid or  
10 unenforceable by any court of competent jurisdiction, such decision shall not  
11 affect the validity of the remaining provisions of this ordinance. The Council  
12 hereby declares that it would have passed this ordinance and each section,  
13 paragraph, sentence, clause, word or phrase thereof irrespective of any  
14 provision being declared unconstitutional or otherwise invalid.

15 Section 7. COMPILATION. This ordinance shall be incorporated in and  
16 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

17 Section 8. EFFECTIVE DATE. This ordinance shall take effect five days  
18 after publication by title and general summary.

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**APPLICATION INFORMATION**



**Supplemental Form (SF)**

<input type="checkbox"/> Major subdivision action	<b>S</b>	<input type="checkbox"/> Annexation
<input type="checkbox"/> Minor subdivision action	<b>Z</b>	
<input type="checkbox"/> Vacation	<b>V</b>	<input type="checkbox"/> Zone Map Amendment (Establish or Change Zoning, includes Zoning within Sector Development Plans)
<input type="checkbox"/> Variance (Non-Zoning)	<b>P</b>	<input checked="" type="checkbox"/> Adoption of Rank 2 or 3 Plan or similar Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd. Regulations
<b>SITE DEVELOPMENT PLAN</b>	<b>D</b>	<input type="checkbox"/> Street Name Change (Local & Collector)
<input type="checkbox"/> for Subdivision	<b>L</b>	<b>A</b>
<input type="checkbox"/> for Building Permit	<b>A</b>	<b>APPEAL / PROTEST of...</b>
<input type="checkbox"/> Administrative Amendment (AA)		<input type="checkbox"/> Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other
<input type="checkbox"/> Administrative Approval (DRT, URT, etc.)		
<input type="checkbox"/> IP Master Development Plan		
<input type="checkbox"/> Cert. of Appropriateness (LUCC)		
<b>STORM DRAINAGE (Form D)</b>		
<input type="checkbox"/> Storm Drainage Cost Allocation Plan		

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2<sup>nd</sup> Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

**APPLICATION INFORMATION:**

Professional/Agent (if any): Planning Department PHONE: 924-3860  
 ADDRESS: 600 2<sup>nd</sup> St NW FAX: 924-3339  
 CITY: Albuquerque STATE NM ZIP 87102 E-MAIL: clehner@cabq.gov  
 APPLICANT: Council Services PHONE: 768-3100  
 ADDRESS: City/County Building FAX: \_\_\_\_\_  
 CITY: Albuquerque STATE NM ZIP 87102 E-MAIL: \_\_\_\_\_  
 Proprietary interest in site: \_\_\_\_\_ List all owners: \_\_\_\_\_

DESCRIPTION OF REQUEST: Remand of Bill No. 0-14-20 regarding secondary dwelling units and associated requirements.

Is the applicant seeking incentives pursuant to the Family Housing Development Program?  Yes.  No.

**SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.**

Lot or Tract No. \_\_\_\_\_ Block: \_\_\_\_\_ Unit: \_\_\_\_\_  
 Subdiv/Addn/TBKA: \_\_\_\_\_  
 Existing Zoning: \_\_\_\_\_ Proposed zoning: \_\_\_\_\_ MRGCD Map No \_\_\_\_\_  
 Zone Atlas page(s): City-wide UPC Code: \_\_\_\_\_

**CASE HISTORY:**

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX\_Z, V, S, etc.):  
1001620/14EPC-40064

**CASE INFORMATION:**

Within city limits?  Yes Within 1000FT of a landfill? \_\_\_\_\_  
 No. of existing lots: \_\_\_\_\_ No. of proposed lots: \_\_\_\_\_ Total site area (acres): \_\_\_\_\_  
 LOCATION OF PROPERTY BY STREETS: On or Near: \_\_\_\_\_  
 Between: \_\_\_\_\_ and \_\_\_\_\_  
 Check if project was previously reviewed by: Sketch Plat/Plan  or Pre-application Review Team(PRT)  Review Date: \_\_\_\_\_

SIGNATURE Catalina Lehner DATE 10-14-15  
 (Print Name) Catalina Lehner Applicant  Agent:

**FOR OFFICIAL USE ONLY**

Revised: 11/2014

<input type="checkbox"/> INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees
<input type="checkbox"/> All checklists are complete	<u>15EPC-40058</u>	<u>AZC</u>	_____	\$ <u>0</u>
<input type="checkbox"/> All fees have been collected	_____	_____	_____	\$ _____
<input type="checkbox"/> All case #s are assigned	_____	_____	_____	\$ _____
<input type="checkbox"/> AGIS copy has been sent	_____	_____	_____	\$ _____
<input type="checkbox"/> Case history #s are listed	_____	_____	_____	\$ _____
<input type="checkbox"/> Site is within 1000ft of a landfill	_____	_____	_____	\$ _____
<input type="checkbox"/> F.H.D.P. density bonus	_____	_____	_____	\$ _____
<input type="checkbox"/> F.H.D.P. fee rebate	_____	_____	_____	\$ _____
	Hearing date <u>Nov. 12, 2015</u>			Total \$ <u>0</u>
	<u>10-1-15</u>	Project # <u>1001620</u>		

Staff signature & Date \_\_\_\_\_

**FORM Z: ZONE CODE TEXT & MAP AMENDMENTS, PLAN APPROVALS & AMENDMENTS**

**ANNEXATION (EPC08)**

- Application for zone map amendment including those submittal requirements (see below).  
*Annexation and establishment of zoning must be applied for simultaneously.*
  - Petition for Annexation Form and necessary attachments
  - Zone Atlas map with the entire property(ies) clearly outlined and indicated  
NOTE: The Zone Atlas must show that the site is in County jurisdiction, but is contiguous to City limits.
  - Letter describing, explaining, and justifying the request  
NOTE: Justifications must adhere to the policies contained in "Resolution 54-1990"
  - Letter of authorization from the property owner if application is submitted by an agent
  - Board of County Commissioners (BCC) Notice of Decision
  - Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts
  - Sign Posting Agreement form
  - Traffic Impact Study (TIS) form
  - List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.* Your attendance is required.

- SDP PHASE I - DRB CONCEPTUAL PLAN REVIEW (DRBPH1)** (Unadvertised)
- SDP PHASE II - EPC FINAL REVIEW & APPROVAL (EPC14)** (Public Hearing)
- SDP PHASE II - DRB FINAL SIGN-OFF (DRBPH2)** (Unadvertised)

- Copy of findings from required pre-application meeting (needed for the DRB conceptual plan review only)
  - Proposed Sector Plan (30 copies for EPC, 6 copies for DRB)
  - Zone Atlas map with the entire plan area clearly outlined and indicated
  - Letter describing, explaining, and justifying the request
  - Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts (for EPC public hearing only)
  - Traffic Impact Study (TIS) form (for EPC public hearing only)
  - Fee for EPC final approval only (see schedule)
  - List any original and/or related file numbers on the cover application
- Refer to the schedules for the dates, times and places of DRB and EPC hearings.* Your attendance is required.

**AMENDMENT TO ZONE MAP - ESTABLISHMENT OF ZONING OR ZONE CHANGE (EPC05)**

- Zone Atlas map with the entire property clearly outlined and indicated
  - Letter describing, explaining, and justifying the request pursuant to Resolution 270-1980.
  - Letter of authorization from the property owner if application is submitted by an agent
  - Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts
  - Sign Posting Agreement form
  - Traffic Impact Study (TIS) form
  - Fee (see schedule)
  - List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.* Your attendance is required.

- AMENDED TO SECTOR DEVELOPMENT MAP (EPC03)**
- AMENDMENT SECTOR DEVELOPMENT, AREA, FACILITY, OR COMPREHENSIVE PLAN (EPC04)**

- Proposed Amendment referenced to the materials in the Plan being amended (text and/or map)
  - Plan to be amended with materials to be changed noted and marked
  - Zone Atlas map with the entire plan/amendment area clearly outlined
  - Letter of authorization from the property owner if application is submitted by an agent (map change only)
  - Letter describing, explaining, and justifying the request pursuant to Resolution 270-1980 (Sector Plan map change only)
  - Letter briefly describing, explaining, and justifying the request
  - Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts (for sector plans only)
  - Traffic Impact Study (TIS) form
  - Sign Posting Agreement
  - Fee (see schedule)
  - List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.* Your attendance is required.

**AMENDMENT TO ZONING CODE OR SUBDIVISION REGULATORY TEXT (EPC07)**

- Amendment referenced to the sections of the Zone Code/Subdivision Regulations being amended
  - Sections of the Zone Code/Subdivision Regulations to be amended with text to be changed noted and marked
  - Letter describing, explaining, and justifying the request
  - Fee (see schedule)
  - List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.* Your attendance is required.

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

Applicant name (print) \_\_\_\_\_

Applicant signature & Date \_\_\_\_\_



Revised: June 2011

- Checklists complete
  - Fees collected
  - Case #s assigned
  - Related #s listed
- Application case numbers  
15 EPC - 40058

10-1-15  
Staff signature & Date  
Project # 1001620

**NOTIFICATION**

**ABQ Ride**  
*Submitted by Rick De Reyes*



“ASK ART”

## Albuquerque Rapid Transit (ART)



**Q: What will hours of service be for Albuquerque Rapid Transit?**

**A:** For now, the hours of service for ART will match the current hours of service for the Central Avenue Rapid Ride routes; from approximately 5:30 a.m. to 9:45 p.m. The hours for ART could also be expanded later during summer much as Route #66 operates 66 Late Night during the summer.

**Q: Why can't it run until 1 am year round?**

**A:** Currently it is a matter of money. But one of ART's goals for the future is to expand service.

**Q: Will there be access to Central Avenue businesses during construction?**

**A:** Yes. One lane will be open in each direction at all times in front of businesses. We will also be working with businesses to make sure people know they are open and accepting customers.

**Q: Why do we think this will help Central Avenue?**

**A:** ART will not only improve the timely nature of transit service on Central Avenue, it will also upgrade the appearance and condition of Central Avenue. The project will add lighting, improve sidewalk conditions, add sidewalk landscaping and improve pedestrian safety, all of which supports the furtherance of economic opportunity along this corridor.

**Q: Why do I care, if I live in an area such as the Northeast Heights?**

**A:** A project like ART, by motivating development along Central Avenue would help grow the overall economy in the city. When the economy improves all areas of the city benefit. Also the majority of ABQ RIDE's bus routes connect to the Central Avenue routes. ART could help improve the timeliness of those routes as well.

**Q: Why is this project being promoted as a key element of bolstering the underperforming economy of Albuquerque?**

**A:** Rapid transit projects like ART have a proven record of stimulating development and redevelopment of neighborhoods in other cities. For instance an article in Albuquerque Business First said during the first year that Fort Collins, CO operated its rapid transit system it attracted \$150 million in associated development along its transit corridor. A Forbes magazine article said Cleveland's \$250 million investment in putting its Health-Line down a main corridor has generated \$5.8 billion in development since opening in 2008.

**Q: Why Central Avenue? It goes through historic districts, fledgling business districts and some of the only pedestrian friendly areas outside planned malls in all of Albuquerque?**

**A:** It is for exactly those reasons that Albuquerque Rapid Transit will be operating on Central Avenue from Coors Boulevard to Louisiana Boulevard. Transit systems have been described as “moving sidewalks.” They transport people to locations where they can get off and shop, do business or have a meal. People can get right back on and do more of the same or go home. ART will also upgrade the look and feel of Central Avenue by adding to the walkability and livability of neighborhoods. Plans include widening sidewalks and adding trees to encourage pedestrian and bike-friendly development. Signalized crosswalks will also improve the safety of those walking or biking in the neighborhoods, as well as improved street lighting. Central Avenue also connects some of Albuquerque's main institutions; University of New Mexico and Presbyterian Hospital. With the help of Innovate ABQ, ART could stimulate a tremendous economic revitalization and development of the corridor.

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### Planning Department

*Submitted by Jack Cloud*

#### Text Amendments to the Subdivision Ordinance

COA Planning Department, agent for COA City Council Services, request the referenced/ above action for Amending the Subdivision Ordinance sections 14-14-5-12, to amend the alternative methods for construction of sidewalks, allowing for a deposit and agreement for completion of sidewalks in residential subdivisions. Citywide. Staff Planner: Jack Cloud

The intent of the proposed text amendment to the Subdivision Ordinance is to create an agreement/contract for building sidewalks along the fronts of residential subdivisions and allow for nonrefundable deposits to establish a fund for completion of sidewalks in subdivisions that have not been built out in a timely manner.

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### Planning Department

*Submitted by Catalina Lehner*

#### Proposed Text Amendments to the Zoning Code

At its regularly scheduled public hearing on Thursday, November 12, 2015, the Environmental Planning Commission (EPC) will consider text amendments to the Zoning Code to make secondary dwelling units (SDUs) a permissive use in the R-2 and R-G zones and a conditional use in the RO-1, RA-1, R-LT and R-T zones. The proposed text amendments would also add a definition for SDU.

In October 2014, the EPC forwarded a recommendation of denial to the City Council. The City Council is now remanding the legislation (O-14-20) to the EPC for reconsideration after removing the provision that would make SDUs a conditional use in the R-1 zone. The proposed text amendments would apply Citywide. Please contact Catalina Lehner, AICP, Senior Planner at 505-924-3935 for more information.