Rules of Conduct of Business
for the
Housing Advisory and Appeals Committee

A. ORGANIZATION & MEETINGS

1. Meetings. All meetings and training sessions of the Housing Advisory and Appeals Committee (hereafter "Housing Advisory and Appeals Committee" or "Committee") shall be open to the public as required by the New Mexico Open Meetings Act, Section 10-15-1 et seq. NMSA 1978. Notice of all Meetings and training sessions shall be given to the public as provide below.

(a) Regular Meetings. The regular meeting of the Housing Advisory and Appeals Committee shall be on the second Tuesday of each month during which the Committee has one or more appeals of Notice and Orders scheduled for hearing and/or other business items. In the event such day is a public holiday as provided in the Merit System Ordinance of the City of Albuquerque, the meeting shall be rescheduled and notice shall be given to the public as provided below. The day of the month for the regular meeting may be changed in order to meet any deadline established in the Revised Ordinances of the City of Albuquerque that the Committee must satisfy to begin a hearing on an appeal, or such deadline may be met by holding a special meeting.

(b) Special Meetings. A special meeting of the Housing Advisory and Appeals Committee shall be any meeting held other than on the second Tuesday of the month. A special meeting may be called by the Chair or by the majority of the Committee Members, provided written notice of such meeting is given to each Committee Member at least three (3) days before the time set for the meeting. The notice for any special meeting shall include the agenda for the meeting. Written notice to Committee Members of a special meeting is not required when the date, time and place of the special meeting is established at a regular or special meeting of the Committee. A special meeting may be in lieu of or in addition to a regular meeting.

(c) Reconvened Meetings. The Committee may recess and reconvene a meeting to a day subsequent to the day stated in the

meeting notice if, prior to recessing, the Committee specifies the date, time and place for continuation of the meeting. Immediately following the recessed meeting, notice of the date, time and place for the reconvened meeting shall be posted on or near the door of the place where the original meeting was held or in the lobby adjacent to the Hearing Room, Plaza Del Sol, Lower Level, 600 2nd Street NW, Albuquerque, New Mexico. The Committee may consider only matters appearing on the agenda of the original meeting at any reconvened meeting.

(d) **Training Sessions.** The Committee may, from time to time, call a training session for educational and training purposes; however, no information related to any pending appeal shall be heard or discussed, and no official action shall be taken at such training session.

(e) **Emergency Meetings.** Emergency meetings will be called only upon unforeseen circumstances that demand immediate action to protect the health, safety and property of the citizens or to protect the public body from substantial financial loss. The notice of an emergency meeting shall include the agenda for the meeting.

(f) **Closed Meetings**. The Housing Advisory and Appeals Committee may close a meeting or a portion of a meeting to the public only if the subject matter of such discussion or action is excepted from the open meeting requirement of the Open Meetings Act and such closure is approved by a majority vote taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the vote of each individual member on the motion to close shall be recorded in the minutes. Only the subjects specified in the motion may be discussed in the closed meeting.

2. Quorum. A majority of the members of the Housing Advisory and Appeals Committee shall constitute a quorum for the transaction of business. Whenever a quorum is not present at a regular or special meeting, no action shall be taken except to adjourn the meeting to another time.

3. Election of Officers. Annually at its regular meeting the first of the year, the members of the Committee shall elect by majority vote a Chair and a Vice-Chair. Should a vacancy occur in either office, a special election shall be held at the next regular or special meeting of the Committee to fill the unexpired term.

4. Presiding Officer. The Chair shall preside at all meetings of the Committee and shall act as the presiding officer in all appeal hearings, except that, in the event of the absence or disability of the Chair, the Vice-Chair shall preside and act as a presiding officer at all hearings. In the event of the absence

or disability of both the Chair and the Vice-Chair, a Chair Pro-Tempore shall be elected by the Committee members present.

5. Secretary. The Planning Director shall appoint a staff secretary to record the minutes of all Committee meetings.

6. Procedural Rules. The Committee shall review and ratify or amend existing rules of procedure for the Committee as needed.

7. Annual Resolution. An Annual Resolution for the Housing Advisory and Appeals Committee is to be adopted every first scheduled meeting of the year in accordance with the Open Meetings Act.

B. APPELLATE RULES

1. These rules shall control the conduct of business of the Housing Advisory and Appeals Committee, but no rule of the Committee may violate provisions of ordinances and resolutions adopted by the City Council of the City of Albuquerque.

2. As provided in the Uniform Housing Code, the appeal of a Notice and Order pertaining to a property shall be heard by the Housing Advisory and Appeals Committee.

3. (a) An application for an appeal of a Notice and Order shall be on prescribed forms.

(b) An application shall clearly articulate the reasons for the appeal. An appellant shall specifically cite and explain one or more alleged errors of the Notice and Order.

4. Written notice of the date, time and place of the appeal hearing (Notice of Appeal) shall be given by the Planning Department at least fourteen (14) days before the hearing to the appellant and the inspector(s) who issued the Notice and Order. A copy of the agenda, appeal packet and a copy of the Committee's Rules of Conduct of Business shall be given to the appellant and a copy of the appeal packet and the agenda shall be given to the inspector(s) who issued the Notice and Order.

5. Submissions to the Committee. A party submitting any letter, response, request, offer of proof, written statement, list of proposed witnesses, brief statements of witness testimony or list of all documentary evidence to the Housing Advisory and Appeals Committee pursuant to these Rules concerning a pending appeal shall:

(a) On the face of the submission, identify the appeal by the name and address of the case contained on the Appeal Application;

(b) Serve the submission on the parties to the appeal by hand delivering mailing, emailing or faxing a copy of their submission to all parties listed on the Notice of Appeal on the same day the submission is given to the Housing Advisory and Appeals Committee.

(c) The parties shall provide, 5 days prior to the hearing, a list of all witnesses and their relation to the case and a list of all documentary evidence to be introduced at the hearing.

The committee may suspend these rules when requested of the committee.

6. Communication with or by Committee members.

(a) Committee Members shall not communicate directly or indirectly with any parties to an appeal and their representatives in connection with the merits of an appeal.

(b) Committee Members may communicate with staff of City departments (other than any employee who has a personal or pecuniary interest in the outcome of any appeal) at any time and by any means. Copies of any written materials from City staff shall be distributed to all parties, with the exception of communications between legal counsel and the Committee or a Committee Member.

7. Speedy Hearing. An appeal to the Committee shall have a hearing opened <u>within sixty (60)</u> days of the expiration of the appeal period; however,

a. The Committee may for good cause determine that the appeal hearing should be deferred beyond the 60-day period, at the request of the appellant. If the hearing is deferred, the Committee shall include the reason for the deferral in the motion to defer; or

b. A request for a deferral of an appeal must be submitted in writing to the Planning Department prior to the scheduled appeal. By the affirmative vote of a majority of the Committee Members present, the Committee may approve a request for a deferral, but only upon a showing of good cause. Efforts to delay an appeal will not be accepted. Deferrals of appeals will be granted administratively prior to its scheduled hearing if concurred by both parties and occurs no later than three working days prior to the scheduled HAAC Hearing.

c. The Chair, acting as the presiding officer, may approve a deferral of a pending hearing appealing a Notice and Order when the appellant has submitted a written request for deferral that includes written concurrence of the City of Albuquerque inspector who

wrote the Notice and Order or the supervisor or manager of the inspector's division.

8. Appeal on the Record. An appeal shall be heard solely on the record, including testimony, exhibits and written material, presented to the Housing Advisory and Appeals Committee.

9. Basis for Decision. The Committee may approve or deny an appeal in whole or in part, thereby, validating or vacating a Notice and Order. In making its determination, the Committee shall review the Notice and Order to determine whether there was error:

(a) In applying the Uniform Housing Code in arriving at the decision; or

(b) In acting arbitrarily, capriciously or manifestly abusive of discretion.

10. Committee Decisions. In deciding on appeal, the Committee:

(a) Shall state and adopt key findings of fact; and
(b) Shall base its decision on the preponderance of the evidence.

11. Parties to Appeal may Appear. An appeal will be held as advertised. Parties to an appeal are expected to be present at the date and time scheduled for the appeal. An appeal on the merits may proceed in the absence of one or both parties.

12. Written Request to Postpone Hearing. A request for a deferral of an appeal must be submitted in writing to the Planning Department prior to the scheduled appeal. By the affirmative vote of a majority of the Committee Members present, the Committee may approve a request for a deferral, but only upon a showing of good cause. Efforts to delay an appeal will not be accepted. Deferrals of appeals will be granted administratively prior to its scheduled hearing if concurred by both parties and occurs no later than three working days prior to the scheduled HAAC Hearing.

13. Withdrawal of Appeal. An appellant may withdraw an appeal at any time prior to a final decision by the Committee by written request or on the record at the hearing. If a withdrawal is requested for a scheduled appeal, the minutes shall note the withdrawal. If the appeal has not been placed on the agenda, a note shall be added under "other items" to reflect the withdrawal of an appeal.

14. Recusal of Committee Member. Committee Members shall withdraw from any proceedings in which the Committee Member has a direct or indirect financial conflict of interest or otherwise cannot accord a fair and impartial hearing. All other Committee Members present, whether or not such a group is a majority of the Committee, shall render the decision on the appeal.

15. Points of Procedure. The Chair, subject to these Rules, shall decide all points of procedure unless otherwise directed by the majority of the Committee Members present.

16. Amendment to the Rules. These rules, or any part thereof, may be amended, repealed, altered or rescinded by the affirmative vote of a majority of the entire membership of the Committee plus one additional Committee Member, provided that, at least fourteen (14) days prior to the meeting at which such action will be considered, written notice is given to each Committee Member and to the Mayor, and notice is also given to the public in the manner provided in Subsection A.2.(a) of these rules.

C. HEARING PROCEDURES

1. The Committee will hear appeals identified on the agenda that have been properly advertised.

2. The Chair will advise the parties of the hearing procedures prior to the start of each hearing.

3. The Chair will call the case and ask the parties to identify their spokespersons who will be sworn. The parties shall determine the speakers to use the time assigned to the applicant(s) and any opponents(s) of the appeal.

4. The sequence and normal maximum times allowed for an appeal hearing shall be:

(a) 10 minutes for the Appellant(s) and witnesses to explain fully why they believe the Notice and Order is erroneous and should approve or deny an appeal;

(b) 15 minutes for the Inspector(s) and witnesses to explain fully why they believe the Notice and Order is correct and should be affirmed;

(c) 5 minutes for Appellant rebuttal.

(d) Questions by the Appellants(s) or the Inspector(s) shall be directed through the Chair.

(e) Committee Members may ask questions of the City staff, the Appellant(s) and/or the Inspector(s) at any time. The time for questions by the Committee Members shall not count against the time allowed for the parties.

5. The Chair will close the floor and ask for discussion among Committee Members. The Chair may reopen the floor for a question at the request of a Committee Member.

6. The Chair will close discussion and call for a motion. A motion must be seconded.

7. The Chair may vote on any motion, second any motion, and may make any motion to approve, defer, continue or deny an action without stepping down from the chair.

8. The Committee will take a vote on the motion after discussion of the motion among Committee Members. A motion shall carry upon the affirmative vote of the majority of Committee Members present at any hearing. If a motion fails, the Committee may take a second vote on the failed motion or may consider another motion.

9. After a decision, the Chair will explain to the parties the process of appeal to District Court.

10. The decision of the Committee over the signature of the Chair will be issued in writing within a reasonable period of time after the date of the hearing and the time for appeal shall run from the date of the issuance of the written decision.

Housing Advisory and Appeals Committee

Donna Griffin, Chairman

Joy Serna, Recording Secretary, Planning

As approved March 8, 2016