

Proposed amendments to the IDO for O-22-54

June 5th
City Council Meeting

Amendment	Topic	Note
B1	Neighborhood Edge (Remove)	---
B2	Parking Reductions (Remove)	These amendments have conflicting policy direction. If it's the will of the Council, at most, one should be approved but not both.
B3 (a and b)	(a) Clean-ups to O-54	
	(b) Clean-ups to O-54	---
B4	Duplex - Remove	---
B5	ADU - Remove	Amendments B5 and B6 propose conflicting policy directions.
B6	ADU – Conditional Use	Amendments B5 and B6 propose conflicting policy directions. If amendment B5 passes, this amendment is not necessary
B7	ADU - Setbacks	---
B8	ADU or Duplex	If amendment B4 or B5 passes, this amendment is not necessary
B9	ADU – Structure Height	---
B10	ADUs – Small Areas	If amendment B5 passes, this amendment is not necessary.
B11	Whereas Clauses	---

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Check the ABC-Zone webpage for the latest version of the amendment packet:
<https://ido.abc-zone.com/ido-annual-update-2022>

B1 – Neighborhood Edge (Remove)

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Isaac Benton and Trudy Jones

Remove the following from Section 3 from LUPZ Amendment A8 as follows:

~~[(C) Revise Neighborhood Edges in Section 14-16-5-9(B)(1) Protected Lots as follows:]~~

a. ~~[The] Neighborhood Edges provisions in this Section 14-16-5-9 are intended to protect lots in any R-A, R-1, R-MC, or R-T zone district that contains low-density residential development [; unless specified otherwise].~~

~~[b. Neighborhood Edge provisions in Subsection 14-16-5-9(C)(3) and (4) are intended to protect lots in any R-ML or MX-T zone district that contain any allowable land use from the Residential category in Table 4-2-1.]~~

~~[Edit Subsection 14-16-5-9(B)(2) Regulated Lots as follows:]~~

~~[a.] Lots regulated by this Section 14-16-5-9 include all those in any R-ML, R-MH, Mixeduse, or Non-residential zone district that are adjacent to a Protected Lot [pursuant to 14-16-5-9(B)(1)(a), unless specified otherwise].~~

~~[b. Lots regulated by Subsection 14-16-5-9(C)(2) include all those in any R-MH, MX-L, MX-M, or MX-H zone district that is adjacent to a Protected Lot pursuant to 14-16-5-9(B)(1)(b).~~

~~Revise Subsection 14-16-5-9(C) Building Height Stepdown as follows:~~

~~[5-9(C)(3) R-ML or MX-T next to MX-L, MX-M, or MX-H Zone Districts~~

~~On Regulated lots pursuant to Subsection 14-16-5-9(B)(2)(b), any portion of a primary or accessory building within 50 feet of the nearest property line of a Protected Lot pursuant to Subsection 14-16-5-9(C)(1)(b) shall step down to a maximum of 48 feet.]~~

Explanation: This amendment proposes to remove a portion of an amendment that passed at LUPZ which added a New Neighborhood Edge requirement intended to offer building height protections to residential development in the R-ML and MX-T zone districts. Staff has looked further into the impacts of this amendment and there may be unintended consequences that warrant this amendment to not be added to the IDO at

B1 – Neighborhood Edge (Remove)

this time. The result of this amendment is that the existing Neighborhood Edge provisions in the IDO will remain but the new proposed Neighborhood Edge provision will not be added.

B2 – Parking Reductions (Remove)

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Louie Sanchez

1. In O-22-54, rescind committee amendments A9 and A10
2. In O-22-54, strike sections 5 and 6 of the bill in their entirety. Renumber subsequent sections as required.

Explanation: This amendment proposes to rescind two committee amendments that passed at LUPZ:

1. A9 – This amendment proposed a 20% parking reduction for multi-family development in UC-AC-MS-MT areas if 20% or more of the units qualified as Workforce Housing
2. A10 – This amendment proposed a general 30% reduction for all multi-family development.

This amendment would also strike sections 5 and 6 in the original bill. These sections were the original proposed changes to parking for multi-family development.

The end result of this amendment is that there would no changes to parking requirements for multi-family development in the bill.

Note: Amendments B2 and B3 have conflicting policy direction. The Council should only approve one or neither, but should not approve both.

B3(a) – Clean-up to O-54

**CITY COUNCIL
of the
CITY OF ALBUQUERQUE**

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Isaac Benton and Trudy Jones

1. In Amendment A10, amend the text in Section 1 as follows:

1. ~~[Beginning on page 9, line 16,]~~ delete section[s] ~~[5 and]~~ 6 in ~~[their] [its]~~ entirety. Create a new subsection ~~[5] [6]~~ as follows:

Explanation: This amendment provides technical fixes to amendments passed by the LUPZ committee. These changes will fix unintended errors made in various amendments passed by LUPZ or errors caused by multiple amendments which sought to amend the same sections of the code. Overall, this change will honor the intention of the amendments as they were proposed and approved by the committee and rectify discrepancies where the original intention was lost.

More specifically, amendments A9 and A10 both sought to make changes to sections 5 and 6 of the bill. Due to the order in which the amendments were passed, one of the LUPZ amendments that was affirmed by the committee was erroneously stricken from the bill. This was not the intention of the sponsors of the amendment nor the will of the committee.

Note: Amendments B2 and B3(a) have conflicting policy direction related to proposed parking reductions in the bill. The Council should only approve one or neither, but should not approve both.

B3(b) – Clean-up to O-54

**CITY COUNCIL
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CITY OF ALBUQUERQUE**

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Isaac Benton and Trudy Jones

1. In amendment A7, as passed by the LUPZ committee, unstrike the word “microwave”.
2. Amend the EFFECTIVE DATE AND PUBLICATION OF SECTIONS portion of O-54 to accurately reflect codification of sections of the bill, after any amendments have been approved or denied, that take action to amend this bill.

Explanation: This amendment provides technical fixes to amendments passed by the LUPZ committee. These changes will fix unintended errors made in various amendments passed by LUPZ or errors caused by multiple amendments which sought to amend the same sections of the code. Overall, these changes aim to honor the intention of the amendments as they were proposed and rectify discrepancies where the original intention was lost.

Section 1 – The EPC did not recommend the word ‘microwave’ be stricken. The LUPZ amendment that was drafted and passed erroneously struck the word ‘microwave’.

Section 2: At the LUPZ committee, several amendments proposed to amend the “EFFECTIVE DATE” section of the bill. These amendments conflicted with one another and the ultimate result was that the “EFFECTIVE DATE” section of the bill is no longer accurate. Additionally, there are proposed amendments for the June 5th Council Meeting that may result in a different number of sections that will need to be codified. This action item will ensure that correct sections of the bill are codified after all amendments have been acted upon by the Council.

B4 – Duplexes - Remove

**CITY COUNCIL
of the
CITY OF ALBUQUERQUE**

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Louie Sanchez

1. On page 5, line 16, delete Section 1 of the bill in its entirety and renumber subsequent sections as necessary.

Explanation: This amendment proposes to delete the section of the bill that would make duplexes a permissive use in the R-1 zone district. If passed, duplexes would not be allowed in the R-1 zone district generally, but would continue to be allowed in R-1A as allowed by the IDO today.

B5 – ADU - Remove

CITY COUNCIL
of the
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June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Louie Sanchez

1. On page 5, line 30, amend Section 2 of the bill as follows by deleting or adding text as depicted in red.:

SECTION 2. AMEND THE INTEGRATED DEVELOPMENT ORDINANCE TO ~~[ALLOW DETACHED ACCESSORY DWELLING UNITS WITH KITCHENS PERMISSIVELY IN THE R-1 ZONE DISTRICT CITYWIDE, EXCEPT IN SMALL AREAS WHERE SPECIAL REGULATIONS APPLY.] [CLARIFY PROVISIONS RELATED TO ACCESSORY DWELLING UNITS IN AREAS WHERE THEY ARE ALLOWED.]~~

~~[(A) Revise Table 4-2-1 to remove “A” from Dwelling Unit, Accessory without Kitchen in the following zone districts: R-MH, MX-L, MX-M, NR-C, NR-BP, NR-LM, NR-GM, and NR-PO-B.~~

~~(B) Revise Table 4-2-1 to remove “A” from Dwelling Unit, Accessory with Kitchen for the R-MH zone district.~~

~~(C) Revise §14-16-4-3(F)(5)(a) as follows:~~

~~"Where this use is allowed, only 1 accessory dwelling unit is allowed per lot and shall be limited to 750 square feet of gross floor area. A garage attached to the accessory dwelling unit shall not count toward this size limit. See Table 4-2-1 for the zone districts where this use is allowed and Subsection 14-16-4-3(F)(5)(e) for the small areas where accessory dwelling units with kitchens are only allowed conditionally in the R-1 zone district or have special regulations.~~

~~1. Where added as accessory to a single-family or two-family detached dwelling, this use must be provided as an accessory building and may be provided without a kitchen.~~

~~a. A renovation to create a second unit with a kitchen, a separate entrance, and no shared spaces in a single-family dwelling is regulated separately as a two-family detached dwelling in Table 4-2-1.~~

~~b. A second kitchen within a single-family or two-family detached dwelling is regulated separately as an allowable accessory use in Table 4-2-1.]~~

~~1. If accessory to residential development in any zone district, the accessory dwelling unit can be attached or detached.~~

~~2. In a Mixed-use or Non-residential zone district, an accessory dwelling unit may be added for the caretaker of a primary non-residential use, either attached or~~

B5 – ADU - Remove

~~detached to the building with a primary use, and must include a kitchen."~~

~~2. If accessory to a non-residential use in any Mixed-use zone district, the accessory dwelling unit shall be attached to the building with the non-residential use.~~

~~3. In a Non-residential zone district, the accessory dwelling unit is allowed for the caretaker of the primary non-residential use and may be attached or detached.]~~

[A] [(D)] Delete §14-16-4-3(F)(5)(b) and renumber subsequent subsections accordingly.

~~["When an accessory dwelling unit is attached to a primary dwelling, only 1 dwelling unit entrance may face the front lot line."]~~

[(E)] Revise §14-16-4-3(F)(5)(e) as follows:

~~"Accessory dwelling units with or without a kitchen are allowed as a permissive accessory use prohibited in the R-1 zone district, with exceptions where they are allowed as permissive or conditional accessory uses in certain Center and Corridor areas and in certain small areas as specified below and as allowed pursuant to Subsection (f) below. Where allowed as a conditional accessory use, a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) is required."~~

(F) Delete §14-16-4-3(F)(5)(e)1 and renumber subsequent subsections accordingly.

~~"Near Premium Transit and Main Street Areas~~

~~Accessory dwelling units with a kitchen are a permissive accessory use within 1,320 feet (¼ mile) of PT and MS areas.~~

~~An accessory dwelling unit shall not exceed 750 square feet of gross floor area."~~

(G) Revise §14-16-4-3(F)(5)(g) as follows:

~~"In the small areas in Subsection (e) above that require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) for accessory dwelling units with kitchens R-1 zone district, accessory dwelling units without kitchens require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A), except in areas where accessory dwelling units with kitchens are allowed permissively pursuant to Subsection (e) above."~~

[(B)] [(H)] Revise the definition of Dwelling Unit, Accessory in §14-16-7-1 as follows:

"A dwelling unit that is accessory to a primary single-family or two-family detached dwelling or [a] non-residential [primary] use. [Accessory dwelling units may be attached to the primary dwelling, contained within the primary dwelling, or built as a detached building.] This IDO distinguishes between accessory dwelling units with and without a kitchen. [A detached accessory dwelling unit is also considered an accessory building.] See also [Dwelling Definitions for Dwelling, Live/Work; Dwelling, Single-family Detached; and Dwelling, Two-family Detached (Duplex); Kitchen; and] Measurement Definitions for Accessory Dwelling Unit."

B5 – ADU - Remove

Explanation: This amendment proposes to delete the sections of the bill that would make Accessory Dwelling Units (ADUs) a permissive use in the R-1 zone district in areas where they are currently prohibited. If passed, ADUs would not be allowed in the R-1 zone district more generally, but would continue to be allowed in R-1 zoned areas that are currently mapped in which they are allowed either permissively or conditionally, per the regulations in those areas.

This amendment does not delete portions of the ordinance that propose to amend language in the IDO that seek to clarify standards and definitions associated with ADUs. Retaining these portions of the bill will help the Planning Department with the enforcement of existing ADU regulations as they will continue to be legal in certain areas of town that are mapped today.

Note: This amendment proposes a conflicting policy direction with Amendment B6.

B6 – ADU – Conditional Use

**CITY COUNCIL
of the
CITY OF ALBUQUERQUE**

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Renee Grout

1. On page 5, line 30, amend SECTION 2 as follows:

SECTION 2. AMEND THE INTEGRATED DEVELOPMENT ORDINANCE TO ALLOW DETACHED ACCESSORY DWELLING UNITS WITH KITCHENS ~~[PERMISSIVELY] [WITH A CONDITIONAL USE APPROVAL]~~ IN THE R-1 ~~[AND R-A]~~ ZONE DISTRICT ~~[S]~~ CITYWIDE, EXCEPT IN SMALL AREAS ~~[AND CENTERS AND CORRIDORS]~~ WHERE SPECIAL REGULATIONS APPLY.

2. On page 6, 10-13 amend the text as follows:

See Table 4-2-1 for the zone districts where this use is allowed and Subsection 14-16-4-3(F)(5)(e) for ~~[the small areas]~~ where accessory dwelling units with kitchens are ~~[only]~~ allowed ~~[conditionally] [permissively]~~ in the R-1 zone district ~~[or have special regulations]~~.

3. On page 7, line 7, replace SECTION 2, subsection (E) with the following:

(E) Revise §14-16-4-3(F)(5)(e) as follows:
"Accessory dwelling units with ~~[or without]~~ a kitchen ~~[are allowed as a conditional accessory use] [prohibited]~~ in the R-1 zone district, with exceptions where they are allowed as permissive ~~[or conditional accessory]~~ use[s] in certain Center and Corridor areas and in certain small areas as specified below and as allowed pursuant to Subsection (f) below. Where allowed as a conditional accessory use, a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) is required."

4. On page 7, line 15, delete subsection (F) in its entirety, resulting in 14-16-4-3(F)(5)(e)1 remaining in the IDO.

Explanation: This amendment responds to public comment requesting that ADUs city-wide be a conditional use instead of a permissive use, with the exception of existing small area regulations where other rules already apply. The Conditional Use process requires a public meeting and notification to surrounding property owners and applicable neighborhood associations. The Zoning Hearing Examiner will consider

B6 – ADU – Conditional Use

justification for the ADU request related to the mitigation of potential harm on the surrounding community, in addition to other review and decision criteria.

This amendment would retain special rules for areas of Albuquerque that regulate ADUs individually. For example, ADUs are a permissive use within ¼ mile of Urban Centers, Main Street Corridors, and Premium Transit Corridors and that would remain in place if a Conditional Use requirement was instituted for the rest of the City.

Note: This amendment proposes a conflicting policy direction with Amendment B5. If Amendment B5 passes, this amendment is not necessary.

B7 – ADU - Setbacks

**CITY COUNCIL
of the
CITY OF ALBUQUERQUE**

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Renee Grout

1. On Page 8, Line 9, add a new subsection as follows:

[Add a new use-specific standard to Dwelling Unit, Accessory as follows and renumber subsequent sections as required:

4-3(F)(5)(c) Setbacks for Accessory Dwelling Units are as follows:

Side, minimum: 5 feet

Rear, minimum: 5 feet]

Explanation: This amendment will require that any Accessory Dwelling Unit be set back a minimum of 5 feet from the rear lot line and a minimum of 5 feet from the side lot line. Currently, accessory structures do not have a minimum required setback from the rear or side lot line.

The Fire Code (via the building code) would require that any ADU be at least 10 feet from another building (not from a lot line) unless a specific quality of fireproof materials are provided in the construction (as approved through the building permit process). Existing regulations in the IDO require that any ADU be at least 10 feet from any other building on the lot. ADUs are not permitted to be in front of an existing building on a lot, so a front setback is not necessary to regulate.

B8 – ADU or Duplex

**CITY COUNCIL
of the
CITY OF ALBUQUERQUE**

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Renee Grout

In Section 1, on Page 5, line 30, create a new subsection (C) as follows:

[(C) Create a new use-specific standard in 4-3(B)(5) as follows:
4-3(B)(5)(b) This use is prohibited on lots with an Accessory Dwelling Unit.]

In Section 2, on page 8, Line 9, create a new subsection as follows:

[Create a new use-specific standard in 4-3(F)(5) as follows and renumber subsequent subsections as necessary:
4-3(F)(5)(b) This use is prohibited on lots with a two-family detached dwelling (duplex).]

Explanation: This amendment proposes to allow either a duplex or an accessory dwelling unit to occur on a lot within an R-1 zone district, but not both.

Note: If amendment B4 **or** B5 passes, this amendment is not necessary.

B9 – ADU – Structure Height

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Isaac Benton and Trudy Jones

1. On page 5, line 30, amend Section 2 of the bill to add a new subsection as follows where “XX” should be replaced with the appropriate subsection number upon codification:

[(XX) Revise §14-16-4-3(F)(5) to add a new subsection as follows:
§14-16-4-3(F)(5)(XX) An Accessory Dwelling Unit shall be no taller than the primary structure on the property.

Explanation: This amendment proposes to create a new use-specific standard to require that an Accessory Dwelling Unit not be taller than the primary structure on the property.

Today, the IDO regulates the height of all accessory buildings as depicted below. The below provision only limits the height of accessory buildings when that building is located with any required setback. Accessory Dwelling Units do not have a setback requirement, so by default the building height of an Accessory Dwelling Unit is not limited beyond the height restrictions of the base zone district (26 feet in the R-1 zone district).

5-11(C)(4)(b) An accessory building in any required setback shall not exceed the height of the primary building and any applicable height limitations in Subsection 14-16-5-10 (Solar Access) unless it is in a required street side setback, where it shall not exceed the maximum height of a wall or fence allowed by Subsection 14-16-5- 7(D).

An Accessory Building is defined as follows and could include a variety of types of buildings such as sheds, detached garages, accessory dwelling units, RV storage, or greenhouses, for example:

Accessory Building A building detached from and, except in the case of agricultural support buildings like barns in the R-A zone district, smaller than the primary building on the same lot. The use of an accessory building shall be subordinate and customarily incidental to the primary use of the lot.

B9 – ADU – Structure Height

The result of this amendment is that an Accessory Dwelling Unit on a property would be limited in height based on the primary structure on the property. Other types of accessory buildings would not be subject to the same limitation.

B10 – ADUs – Small Areas

**CITY COUNCIL
of the
CITY OF ALBUQUERQUE**

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Brook Bassan

1. On page 7, line 22, amend subsection (G):

(G) ~~[Revise] [Delete]~~ §14-16-4-3(F)(5)(g) as follows:

~~["In the small areas in Subsection (e) above that require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) for accessory dwelling units with kitchens R-1 zone district, accessory dwelling units without kitchens require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A), except in areas where accessory dwelling units with kitchens are allowed permissively pursuant to Subsection (e) above."]~~

2. In Section 2 of the bill, create a new subsection in alphabetical order as appropriate as follows:

~~[Amend Small Area provisions in 4-3(F)(5)(e) in which Accessory Dwelling Units require a Conditional Use to remove the Conditional Use requirement.]~~

Explanation: This amendment proposes to remove the Conditional Use permit requirement for ADUs in areas that have them today. This will make ADUs permissive in all R-1 zoned parcels in the City. The areas in which ADUs require a Conditional Use permit today are Barelás, Huning Highland, South Broadway, and University Neighborhoods.

B11 – Whereas Clauses

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 5th, 2023

FLOOR AMENDMENT NO. _____ TO O-22-54

AMENDMENT SPONSORED BY COUNCILOR: Brook Bassan

1. On page 2, line 20, delete the following Whereas clause:

~~[WHEREAS, the City has the responsibility to establish land use and zoning regulations that respond to changes in the supply and demand for housing; and]~~

2. On page 2, line 28, delete the following Whereas clause:

~~[WHEREAS, the City's point-in-time count identified over 1300 people experiencing homelessness in 2022; and]~~

3. On page 4, line 9, revise the following Whereas clause:

~~[WHEREAS, the history of R-1 zoning includes efforts to exclude people~~ [of color] ~~[outside the dominant race]~~ and lower-income households; and]

Explanation: This amendment proposes to delete three Whereas clauses in the legislation:

1. The City Council, not the City, has a responsibility to establish land use and zoning regulations as chartered by the State of New Mexico. To say that the City has a responsibility to address the supply and demand of housing stretches the intention of the authority of the City Council in a way that is not necessarily accurate.
2. There is concern that the “point-in-time” counts are not accurate. The legislation should not reference data that can’t be confirmed at this time.
3. Using language such as “the dominant race” is not objective and can be construed as inflammatory. Changing the language to “people of color” is more factually accurate.