

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. O-24-69 ENACTMENT NO. _____

SPONSORED BY: Dan Lewis and Joaquín Baca

1 ORDINANCE

2 AMENDING THE INTEGRATED DEVELOPMENT ORDINANCE REGARDING
3 APPLICABILITY, APPEALS, AMENDMENT PROCESSES AND EASING
4 RESTRICTIONS ON HOUSING DEVELOPMENT.

5 WHEREAS, the Integrated Development Ordinance (“IDO”) contains the
6 City’s Planning and Zoning Code; and

7 WHEREAS, the IDO was originally adopted to standardize and improve
8 development opportunities in the City of Albuquerque; and

9 WHEREAS, the City has a housing and homelessness crisis that has
10 been exacerbated by the IDO annual update and the static policy making that
11 occurs with this practice; and

12 WHEREAS, the Albuquerque City Charter prescribes the method in
13 which Ordinances are passed.

14 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
15 ALBUQUERQUE:

16 SECTION 1. Section 14-16-1-4 APPLICABILITY is amended as follows:

17 1-4(C) This IDO is applicable to City activities or development on
18 properties owned or leased by the City, except that Section 14-16-6-4(U) shall
19 not apply and approvals of City activities or development on properties owned
20 or leased by the City are deemed final for appeal purposes.

21 SECTION 2. Section 14-16-6-4 APPEALS is amended as follows:

22 6-4(U)(2) Who May Appeal.

23 6-4(U)(2)(a) Standing. Standing to appeal a final decision may be granted to
24 any of the following parties:

25 1. The owner of the property listed in the application.

26 2. A representative of any City department, City agency, or other

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1 governmental or quasi-governmental agency whose services,
2 properties, facilities, interest, or operations may be affected
3 by the application.

4 3. Any party appealing either of the following decisions:

- 5 a. Declaratory Ruling.
- 6 b. Adoption or Amendment of Albuquerque/Bernalillo County
7 Comprehensive Plan.

8 4. Any other person or organization that can demonstrate that
9 his/her/its property rights or other legal rights have been specially and
10 adversely affected by the decision, but in no circumstances shall a person's
11 use of public lands constitute standing. Nothing in this section shall be
12 construed to change any rights or obligations related to Indian Nations,
13 Tribes, or Pueblos as established in this IDO, or to otherwise limit Tribal
14 standing.

15 a. Such showing must be presented by the appellant as
16 part of the appeal, and the LUHO or City Council shall enter a finding or
17 findings as to whether this requirement has been met.

18 b. If it is found that the appellant cannot satisfy this standard,
19 the appeal shall be denied.

20 5. Property owners (other than the applicant) and Neighborhood
21 Associations on the basis of proximity for decisions as specified in Table 6-4-
22 2.

23 a. Distances noted in feet in Table 6-4-2 are measured from the
24 nearest lot line of the subject property.

25 b. Distances for Neighborhood Associations are based on the
26 boundary on file with the ONC at the time the application for decision related
27 to the subject property was accepted as complete. Additionally, for standing
28 to appeal, a Neighborhood Association must submit a petition in support of
29 the appeal, signed by a majority of all property owners or tenants located
30 within 660 feet of the application site, inclusive of all rights-of-way.

31 c. For application types with no distance specified, the final
32 decision may be appealed pursuant to the Subsection specified in Table 6-4-2.
33 6-4(U)(3)(d) Land Use Hearing Officer (LUHO):

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1 1. Once an appeal has been accepted by the Planning Director, as
2 soon as possible but within 30 calendar days, the Planning Director shall
3 prepare and transmit a record of the appeal together with all appeal material
4 received from the appellant to impacted parties and to the LUHO through the
5 Clerk of the City Council. The official record shall be a recording of the
6 underlying hearing(s), but the Planning Director shall also include an
7 unofficial transcript with the appeal record transmission. The LUHO shall
8 schedule a hearing on the matter within 30 calendar days of receipt and notify
9 the parties. Appellants and parties to the appeal may submit written
10 arguments to the LUHO through the Clerk of the City Council so long as the
11 written argument is received by the Clerk of the City Council at least 10
12 calendar days prior to the hearing.

13 **6-4(U)(4) Criteria for Decision.** The criteria for review of an appeal shall be
14 whether the decision-making body or the prior appeal body made one (1) of
15 the following mistakes:

16 **6-4(U)(4)(a)** The decision-making body or the prior appeal body acted
17 fraudulently, arbitrarily, or capriciously.

18 **6-4(U)(4)(b)** The decision being appealed is not supported by substantial
19 evidence.

20 **6-4(U)(4)(c)** The decision-making body or the prior appeal body erred in
21 applying the requirements of this IDO (or a plan, policy, or regulation
22 referenced in the review and decision-making criteria for the type of decision
23 being appealed).

24 **6-4-(U)(4)(d)** The applicant failed to comply with notice requirements for
25 neighboring property owners, except that failure to notify a neighborhood
26 association is not sufficient grounds to uphold an appeal or remand a
27 decision for further consideration.

28 **6-4(U)(5) Appeal Costs:**

29 (a) For an appeal to the LUHO related to an application that
30 was denied, all parties shall be responsible for their own costs.

31 (b) For an appeal to the LUHO related to an application that
32 was approved, if the appellant loses their appeal, they shall be responsible for

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1 paying the reasonable costs, including attorneys' fees of the appellee. A
2 finding on the reasonableness of proposed costs shall be made by the LUHO.

3 SECTION 3. Section 14-16-6-7(D) AMENDMENT TO IDO TEXT – CITYWIDE is
4 amended as follows:

5 6-7(D) AMENDMENT TO IDO TEXT – CITYWIDE. All applicable provisions of
6 Section 14-16-6-4 (General Procedures) apply unless specifically modified by
7 the provisions of this Subsection 14-16-6-7(D).

8 6-7(D)(1) Applicability. This Subsection 14-16-6-7(D) applies to all applications
9 to amend the text of this IDO, except for the following:

10 6-7(D)(1)(a) Applications to create or amend an HPO zone boundary, the text of
11 an HPO zone, or any standard in this IDO that specifically applies to an HPO
12 zone, which are processed pursuant to Subsection 14-16-6-7(C) (Adoption or
13 Amendment of Historic Designation).

14 6-7(D)(1)(b) Applications to create or amend any other Overlay zone
15 established in Part 14-16-3, which are processed pursuant to Subsection 14-
16 16-6-7(E) (Amendment to IDO Text – Small Area).

17 6-7(D)(1)(c) Applications to create or amend any small area established in
18 Section 14-16-4-3 (Use-specific Standards), Part 14-16-5 (Development
19 Standards), or Part 14-16-6 (Administration and Enforcement), which are
20 processed pursuant to Subsection 14-16-6-7(E) (Amendment to IDO Text –
21 Small Area).

22 6-7(D)(1)(d) Amendments adopted at any time by the City Council. Such
23 applications do not need to be presented to the EPC but may at the request of
24 the sponsoring City Councilor. These amendments do not require
25 consideration beyond what is required for the City Council to adopt any
26 ordinance.

27 SECTION 4. Section 14-16-6-7(E) AMENDMENT TO IDO TEXT – SMALL
28 AREA is amended as follows:

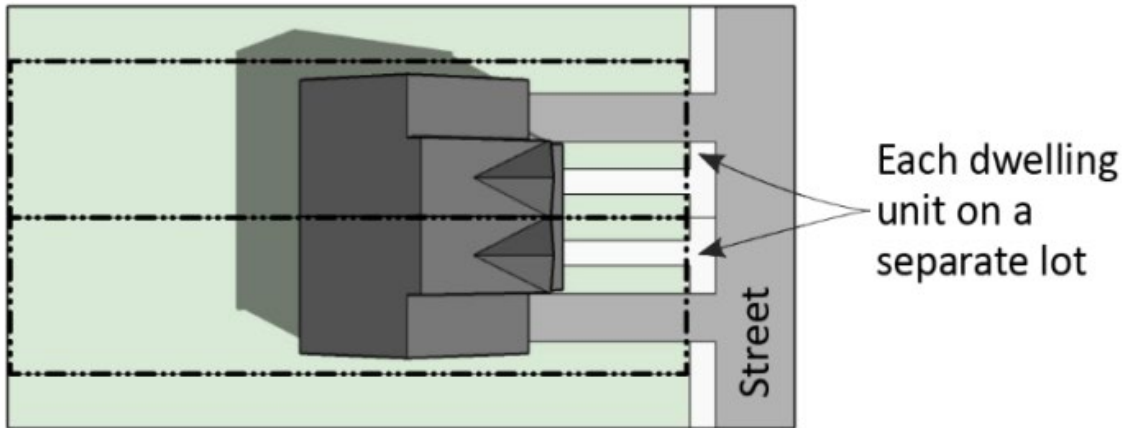
29 6-7(E) AMENDMENT TO IDO TEXT – SMALL AREA. All applicable provisions of
30 Section 14-16-6-4 (General Procedures) apply unless specifically modified by
31 the provision of this Subsection 14-16-6-7(E). 6-7(E)(1) Applicability. This
32 Subsection 14-16-6-7(E) applies to all applications to amend the text of this
33 IDO to adopt or amend the boundaries of a small area, including any Overlay

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- 1 zone established in Part 14-16-3 or any small area established in Section 14-
- 2 16-4-3 (Use-specific Standards), Part 14-16-5 (Development Standards), or 14-
- 3 16-6 (Administration and Enforcement), and/or to adopt or amend specific
- 4 regulations that will apply in a small area, except for any of the following:
- 5 6-7(E)(1)(a) Applications to create or amend a Historic Protection Overlay zone
- 6 boundary, the text of an HPO zone, or any standard in this IDO that specifically
- 7 applies to an HPO zone, which are processed pursuant to Subsection 14-16-6-
- 8 7(C).
- 9 6-7(E)(1)(b) Applications to create or amend Historic Design Standards and
- 10 Guidelines, which are processed pursuant to Subsection-16-6-6(E).
- 11 6-7(E)(1)(c) Applications to change the zone district of any properties in a
- 12 small area, which are processed pursuant to Subsection 14-16-6-7(G)(Zoning
- 13 Map Amendment-EPC) or Subsection 14-16-6-7(H)(Zoning Map Amendment-
- 14 Council), as applicable.
- 15 6-7(E)(1)(d) Applications presented by request or by request of a City
- 16 Councilor. Such applications do not need to be presented to the EPC but may
- 17 at the request of the sponsoring City Councilor. Otherwise, such applications
- 18 will be heard directly by the City Council. A sponsoring City Councilor is not
- 19 required to automatically recuse themselves from applications they sponsor
- 20 or sponsor by request.
- 21 **SECTION 5. The IDO Table 4-2 Allowable Uses is amended as follows:**

Table 4-2-1: Allowable Uses																			
P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory CV = Conditional if Structure Vacant for 5+ years T = Temporary CT = Conditional Temporary Blank Cell = Not Allowed																			
Zone District >>	Residential						Mixed-use				Non-residential					Use-specific Standards			
	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU		A	B	C
PRIMARY USES THAT MAY BE ACCESSORY IN SOME ZONE DISTRICTS																			
RESIDENTIAL USES																			
Household Living																			
Dwelling, two-family detached (duplex)	<u>P</u>	P	<u>P</u>	P	P		P												4-3(B)(5)
Dwelling, townhouse	<u>P</u>	<u>P</u>	<u>P</u>	P	P	P	P	P	P	P									4-3(B)(6)
Dwelling, multi-family	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	P	P	P	P	P		CV								4-3(B)(8)

1 SECTION 6. Amend Sections 4-3(B)(5) Dwelling, two family detached
 2 (duplex), 4-3(B)(6) Dwelling, townhouse, and 4-3(B)(8) Dwelling, Multi-Family of
 3 the IDO as follows and reassign subsequent sections as needed:
 4 4-3(B)(5)(b) This use is prohibited in the R-A, R-1, and R-MC zone districts,
 5 except within 1,320 feet of MS-PT areas or where 1 two-family detached
 6 dwelling is on 2 lots and the building straddles the lot line, with each dwelling
 7 unit on a separate lot. (See figure below.)



8 4-3(B)(6)(f) This use is prohibited in the R-A, R-1, and R-MC zone districts
 9 except within 1,320 feet of the MS-PT areas.
 10 4-3(B)(8)(a) This use is prohibited in the R-A, R-1, R-MC and R-T zone districts
 11 except within 1,320 feet of MS-PT areas.
 12 4-3(B)(8)(b) South of Central Avenue and West of the Rio Grande River this
 13 use is prohibited in the R-A, R-1, R-MC and R-T zone districts.

14 SECTION 7. Amend Table 5-1-4: Allowed Exceptions and Encroachments
 15 within the IDO by adding the following row:

Table 5-1-2: Allowed Exceptions and Encroachments	
Structure or Feature	Conditions or Limits
Exceptions to Building Height Limits	
<u>Within 1,320 feet of MS-PT Areas</u>	<u>There shall be no building height limit for any dwelling, multi-family structure or premises.</u>

16 SECTION 8. Revise §14-16-5-9(B)(2) Regulated Lots as follows:
 17 5-9(B)(2) “Lots regulated by this Section 14-16-5-9 (Neighborhood Edges)
 18 include all those in any Residential, Mixed-use, or Non-residential zone district
 19 that are adjacent to a Protected Lot.”

20 SECTION 9. Amend Sections 5-5(C)(5)(a) and 5-5(C)(5)(d)3 as follows:

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1 5-5(C)(5)(a) General Reductions for centers and Corridor Areas. In UC-AC-EC-
2 MS areas or in MT areas in Areas of Change, where Table 5-5-1 and Table 5-5-2
3 do not specify a different parking requirement for the relevant Center or
4 Corridor area, a 50 percent reduction in required off-street parking spaces
5 shall apply to properties in those areas.

6 5-5(C)(5)(d) Reduction for Proximity to Transit:
7 3. Where Table 5-5-1 and Table 5-5-2 do not specify a different parking
8 requirement for PT areas, the minimum number of off-street parking spaces
9 required may be reduced by 60 percent if the proposed development is located
10 within a PT area.

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

18 SECTION 11. COMPILATION. SECTIONS 1 through 9 of this Ordinance
19 amends, is incorporated in, and is to be complied as part of the Revised
20 Ordinances of Albuquerque, New Mexico, 1994.

21 SECTION 12. EFFECTIVE DATE. This Ordinance takes effect five days after
22 publication by title and general summary.

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