

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, wholesale replacement of the City’s zoning code has had**
10 **some unintended consequences, which have imposed substantial burdens on**
11 **City staff and developers; and**

12 **WHEREAS, the City has a housing and homelessness crisis that has**
13 **been exacerbated by some provisions in the IDO; and**

14 **WHEREAS, the Albuquerque City Charter prescribes the method in**
15 **which Ordinances are passed; and**

16 **WHEREAS, a City Council cannot constrain the ability of a future City**
17 **Council to make laws outside of the methods established by the Charter; and**
18 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
19 **ALBUQUERQUE:**

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

21 **1-4(C) This IDO is [not] applicable to City activities or development**
22 **on properties owned or leased by the City.**

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

24 **6-4(U)(2) Who May Appeal**

25 **6-4(U)(2)(a) Standing**

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1 Standing to appeal a final decision may be granted to any of
2 the following parties:

- 3 1. The owner of the property listed in the application.
- 4 2. A representative of any City department, City agency, or other
5 governmental or quasi-governmental agency whose services,
6 properties, facilities, interest, or operations may be affected
7 by the application.
- 8 3. Any party appealing either of the following decisions:
 - 9 a. Declaratory Ruling.
 - 10 b. Adoption or Amendment of Albuquerque/Bernalillo
11 County Comprehensive Plan.
- 12 4. Any other person or organization that can demonstrate that
13 his/her/its property rights or other legal rights have been
14 specially and adversely affected by the decision [but in no
15 circumstances shall a person's use of public lands constitute
16 standing].
 - 17 a. Such showing must be presented by the appellant as
18 part of the appeal, and the LUHO or City Council shall
19 enter a finding or findings as to whether this
20 requirement has been met.
 - 21 b. If it is found that the appellant cannot satisfy this
22 standard, the appeal shall be denied.
- 23 5. Property owners (other than the applicant) and Neighborhood
24 Associations on the basis of proximity for decisions as
25 specified in Table 6-4-2.
 - 26 a. Distances noted in feet in Table 6-4-2 are measured from
27 the nearest lot line of the subject property.
 - 28 b. Distances for Neighborhood Associations are based on
29 the boundary on file with the ONC at the time the
30 application for decision related to the subject property
31 was accepted as complete. [Additionally, for standing
32 to appeal, a Neighborhood Association must submit a
33 petition in support of the appeal, signed by a majority of

all property owners located within 660 feet of the application site, inclusive of all rights-of-way.]

- c. For application types with no distance specified, the final decision may be appealed pursuant to the Subsection specified in Table 6-4-2.

6-4(U)(3)(d) Land Use Hearing Officer (LUHO)

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

6-4(U)(4) Criteria for Decision

The criteria for review of an appeal shall be whether the decision-making body or the prior appeal body made [one (1)] [1] of the following mistakes.

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

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

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

[6-4-(U)(4)(d) The applicant failed to comply with notice requirements for neighboring property owners, except that alleged failure to notify a neighborhood association is not sufficient grounds to

uphold an appeal or remand a decision for further consideration.]

[6-4(U)(5) Appeal Costs

(a) For a LUHO appeal of a denial, all parties shall be responsible for their own costs.

(b) For a LUHO appeal of an approval, if appellant loses they shall be responsible for paying the reasonable costs, including attorneys' fees of the appellee. A finding on the reasonableness of proposed costs shall be made by the LUHO.]

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

6-7(D) AMENDMENT TO IDO TEXT – CITYWIDE

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-7(D).

6-7(D)(1) Applicability

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

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

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

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

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

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

6-7(E) AMENDMENT TO IDO TEXT – SMALL AREA

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provision of this Subsection 14-16-6-7(E).

6-7(E)(1) Applicability

This Subsection 14-16-6-7(E) applies to all applications to amend the text of this IDO to adopt or amend the boundaries of a small area, including any Overlay zone established in Part 14-16-3 or any small area established in Section 14-16-4-3 (Use-specific Standards), Part 14-16-5 (Development Standards), or 14-16-6 (Administration and Enforcement), and/or to adopt or amend specific regulations that will apply in a small area, except for any of the following:

6-7(E)(1)(a) Applications to create or amend a Historic Protection Overlay zone boundary, the text of an HPO zone, or any standard in this IDO that specifically applies to an HPO zone, which are processed pursuant to Subsection 14-16-6-7(C).

6-7(E)(1)(b) Applications to create or amend Historic Design Standards and Guidelines, which are processed pursuant to Subsection-16-6-6(E).

6-7(E)(1)(c) Applications to change the zone district of any properties in a small area, which are processed pursuant to Subsection 14-16-6-7(G)(Zoning Map Amendment-EPC) or Subsection 14-16-6-7(H)(Zoning Map Amendment- Council), as applicable.

[6-7(E)(1)(d) Applications presented by request or by request of a City Councilor. Such applications do not need to be presented to the EPC but may at the request of the sponsoring City Councilor. Otherwise, such applications will be heard directly

by the City Council. A sponsoring City Councilor is not required to automatically recuse themselves from applications they sponsor or sponsor by request.]

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	NR-BPO
Land Uses																			
PRIMARY USES THAT MAY BE ACCESSORY IN SOME ZONE DISTRICTS																			
RESIDENTIAL USES																			
Household Living																			
Dwelling, multi-family		[P]	[P]	[P]	[P]	P	P	P	P	P		CV							4-3(B)(8)

SECTION 6. Amend Section 4-3(B)(8) Dwelling, Multi-Family of the IDO as follows and reassign subsequent sections as needed:

[4-3(B)(8)(a) This use is prohibited in the R-A, R-1, R-MC and R-T zone districts except within 1,320 feet of MS-PT areas.]

SECTION 7. Amend Table 5-1-4: Allowed Exceptions and Encroachments 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>

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

1 SECTION 9. COMPILATION. SECTIONS 1 through 7 of this Ordinance
2 amends, is incorporated in, and is to be complied as part of the Revised
3 Ordinances of Albuquerque, New Mexico, 1994.

4 SECTION 10. EFFECTIVE DATE. This Ordinance takes effect five days
5 after publication by title and general summary.

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