



***RULES OF PRACTICE ANDPROCEDURE
ENVIRONMENTAL PLANNING COMMISSION (EPC)***

AMENDMENTS PROPOSED FOR JULY 17, 2025

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ARTICLE I – RULES AND GUIDELINES

1. Authorization for Rules

These Rules of Practice and Procedure (hereafter Rules) of the Environmental Planning Commission (hereafter EPC) are authorized pursuant to §2-6-1, ROA 1994, Article 6: Public Boards, Commissions and Committees, §14-13-3-1, ROA 1994, Article 13: Planning; Goals and Objectives, and the Integrated Development Ordinance (hereafter IDO) §14-16-6-4(L)(2). In the event of a conflict between the Rules, City ordinances or resolutions of the City Council, and/or state or federal laws shall control.

2. Interpretation of Rules

The Rules shall be construed and administered by the EPC and its staff to secure the just and efficient determination of every matter or proceeding before the EPC while adhering to the laws, and the stated goals of those laws, that govern the particular matter or proceeding at issue. The references herein to sections of the IDO are in reference to the version of the IDO that became effective on April 21, 2025. If the IDO is updated after the adoption of these rules, those references are to be interpreted as referencing the same sections or their successor sections.

3. Control by Rules

The Rules shall control the conduct of all business before ~~the~~ EPC. All EPC Commissioners, EPC staff, and those appearing before the EPC or having business in front of the EPC shall adhere to the Rules. An EPC Commissioner can be removed for the remainder of that meeting for violation of these rules by an affirmative vote of a majority of the EPC Commissioners present.

4. Suspension of Rules

Except for Rules matching or mandated by charter, statutory or ordinance provisions, the Rules, or any part thereof, may be temporarily suspended by a majority vote of the EPC Commissioners present.

5. Not Covered by Rules

Any matter not covered by the Rules shall be governed by **Robert's Rules of Order** (latest edition), or, if not covered by **Robert's Rules of Order**, by a decision of the chair, subject to the right of appeal. A violation of **Robert's Rules of Order** not brought to the attention of the EPC during the proceedings and prior to the vote at issue shall not be the basis for an appeal.

6. Amendment of Rules

The Rules may be amended by a majority vote of EPC Commissioners at a public meeting or hearing, provided written notice of the proposed changes and their time of consideration is given to all EPC Commissioners at least ~~one-week~~ 14-days in advance and the public and others are properly notified, pursuant to the Public Boards, Commissions and Committees Ordinance, §14-13-3-3 Organizations, Meetings ROA 1994. ~~2-6-1-4(C) of the Albuquerque Code of Ordinances.~~

7. Dissemination of Rules

Copies of the Rules shall be published on the EPC website and made available to the public upon request ~~shall be published on the EPC website~~. During EPC hearings, the hearing monitor can send a copy of the rules to participants upon request. ~~and copies shall be available in the hearing room at each EPC meeting or hearing. Cross-examination request forms shall separately be made available in the hearing room at which an EPC public hearing has been scheduled.~~

8. Citation to Rules

A particular rule of the Rules may be cited by giving the Roman numeral of Article first, then the Section number, followed by the subsections if any. For example, the rule concerning appealing decisions of the Chair by a Commissioner would be cited or called 'Rule II.6.B(i)(a)'.

9. Guidelines

Guidelines do not have the force of rules and are not requirements of the EPC. Guidelines are suggestions offered to help produce a constructive working environment and efficient and productive meetings. All of the guidelines are set forth in Article IV and should be cited as 'Guideline IV' followed by the Section number.

ARTICLE II – ORGANIZATION AND MEETINGS

1. Annual Election of Officers

A. Officers

Annually, at the first public hearing on the third Thursday in January, or as soon thereafter as is practical, the EPC members present shall elect ~~by majority vote~~ a chair and a vice-chair **by majority vote**. These officers shall be elected for a term of one year, and no officer shall serve more than two consecutive terms in the same position.

B. Vacancies

Should a vacancy in either of these positions occur between regular elections, a special election shall be held to fill the office for the remainder of the year. The special election shall be held at the next EPC meeting for which ~~there has been~~ at least one week's notice **has been** given to all commissioners regarding the vacancy. **Temporarily elected officers shall be elected to serve** ~~For any meeting occurring prior to the special election, temporary officers shall be elected to serve for that meeting~~ only.

2. Regular Meetings and Hearings and Special Meetings and Hearings

Regular public ~~meetings and~~ hearings on current land use applications shall be on the third Thursday of each month. In the event such a day is a public holiday, the ~~meeting or~~ hearing shall be exactly one week later. Special ~~meetings and~~ hearings **and study sessions** may be scheduled by the EPC Chair at other times when necessary. ~~Generally, a public meeting is less formal than a public hearing.~~

A. Location

Unless otherwise posted, hearings and meetings shall be **held remotely or hybrid in-**

person with a remote option, pursuant to the Public Boards, Commissions and Committees Ordinance ([O-22-66](#)). Remote or hybrid meetings will be held via Zoom. The Zoom address will be located on the EPC webpage and agenda for City staff, the Commission and members of the public to access. Any meeting held in person or hybrid with a remote option shall be held in the Plaza del Sol Hearing Room, Lower Level, 600 2nd Street NW, Albuquerque, New Mexico.

B. Public Comment and Public Testimony

~~At a public meeting~~ In general, the EPC may or may not allow public comment at its discretion; at a public hearing, public testimony is allowed, and a record of the proceeding is created. See ~~Section~~ §[14-16-6-4\(L\)](#) of the IDO. ~~<https://ido.abc-zone.com/integrated-development-ordinance-ido#page=419>~~

3. Public Notice

Notice for all meetings of the EPC (including special meetings, public hearings, and study sessions) shall comply with applicable notification requirements specified in Section [14-16-6-4\(J\)](#) and IDO [Table 6-1-1: Summary of Development Review Procedures Table 6-1-1](#) of the IDO, including publication of notice 15 calendar days (including holidays) or more prior to the meeting. Continuances and deferrals that are approved by the EPC for a specific hearing date do not require re-advertisement or additional notice, nor does an appeal of the decision. ~~<https://ido.abc-zone.com/integrated-development-ordinance-ido#page=438>~~

4. Quorum

A. Quorum and Simple Majority

Pursuant to [§14-13-3-3 Organization, Meetings ROA 1994](#), a quorum of the EPC is five members. All actions, including zone changes, may be decided by a simple majority of those present. ~~A majority of EPC commissioners in office shall constitute a quorum for the transaction of business.~~

B. No Quorum

Whenever a quorum is not present to commence, no action shall be taken except to adjourn the meeting to the next scheduled public ~~meeting~~ hearing.

5. Study Sessions

Upon motion of any Commissioner, passed by a majority of Commissioners present, the EPC may hold a study session for the purpose of receiving information, hearing presentations, and for discussion of such information, during the week prior to the regular public hearing. ~~Also, the Chair, in its discretion may from time to time~~ call special study sessions at their discretion. No official action shall be taken at study sessions. Presentation of information by staff or others, or discussion relating to any application that is quasi-judicial in nature shall be recorded, and such record shall be made available to interested parties; comment and discussion by the public during such study sessions is not allowed.

6. Duties of the Chair

A. Responsibilities

The Chair shall preside at all meetings of the EPC. The Chair is responsible for the management and administration of EPC hearings and meetings, ~~to include~~ including requiring appropriate decorum as befits the deliberations of a public body. In the event of the absence or disability of the Chair, the Vice- chair shall preside and have all the powers of the Chair; in the event of the absence or disability of the Chair and Vice-chair, a Chair Pro Tempore shall be elected by the EPC Commissioners present. A duly elected Chair Pro Tempore shall preside and have all the powers of the Chair.

B. Duties

The Chair shall ~~possess the following powers to~~ perform the duties herein described.

- i. The Chair shall decide all questions of order and procedure, subject to the Rules and another Commissioner's right to appeal to the EPC as a whole. This authority includes, but is not limited to, the right to halt or limit repetitive, irrelevant or inappropriate testimony, evidence and cross examination presented at a public hearing, as well as to halt or limit an EPC Commissioner's comments, questions, or arguments that are repetitive, irrelevant, or otherwise inappropriate. Commissioners and speakers shall confine their remarks to the question under discussion or debate.
- ii. Any Commissioner may appeal any decision of the Chair, in which event the Commissioner appealing shall state his or her reason, to which the Chair may respond. Such appeals shall be acted upon immediately, and no motions shall be entertained until the question has been decided. A vote of a majority of the Commissioners present shall be required to sustain an appeal.
- iii. The Chair may place any party or witness under oath or affirmation to not commit perjury by stating, for instance, "Do you swear (or affirm) to tell the truth under penalty of perjury?"
- iv. The Chair may grant additional time to any speaker as the Chair deems appropriate.
- v. The Chair may vote on any motion, may second any motion, and may make any motions **except** motions to approve, defer, continue, or deny a final action.

7. Duties of the EPC

The EPC has the responsibility to:

A. Make Recommendations & Decisions

Make recommendations or decisions on development application types shown as EPC responsibilities in IDO Table 6-1-1: Summary of Development Review Procedures of the IDO. ~~<https://ido.abc-zone.com/integrated-development-ordinance-ido#page=419>~~

B. Study & Promote Urban and Regional Planning

Study urban and regional planning and the means of protecting and improving the environment and promote the understanding of planning and environmental matters among public officials and residents of the city.

C. Advise the Mayor, Council, and City Staff

Advise the Mayor, Council, and City staff concerning the development and revision of community goals, Community Planning Area assessments, plans for urban development and protection of the environment, planning and development policies, ordinances that affect such plans and policies, and annexations to the city.

D. Make Recommendations for Programming of Capital Improvements

Make recommendations for programming of capital improvements for the City pursuant to Article 2-12 of ROA 1994 (Capital Improvements) and the resolution establishing priorities for each biannual capital improvement plan, designation of land desirable and needed for public purposes, adoption of air and water quality standards, and other appropriate matters. The EPC has not been delegated the power to deny development plans or refuse to issue building permits on the basis of alleged air quality effects, inadequacy of present air quality regulations, or the like. ~~See In re Environmental Planning Commission of City of Albuquerque, 1974 NMSC 093, ¶ 8.~~

E. Review Recommendations, Concerns, or Comments

Review any recommendations, concerns, or comments provided by commenting agencies, departments, stakeholders, and the public prior to final decisions.

F. Perform Delegated Duties and Responsibilities

Perform those duties and responsibilities and exercise those powers that are delegated to it by the City Council through the IDO or independently of the IDO.

G. Form Standing Committees or Task Forces

Form standing committees or task forces composed of EPC members in order to carry out the assigned duties, responsibilities, and powers of the EPC.

8. EPC Administrative Staff

The Planning Director shall appoint a staff person to handle the EPC's routine administrative duties ~~for the EPC and to~~ record minutes for ~~the EPC~~ public hearings.

9. Minutes

A. Prepare and Approve, Amend, Disapprove

Draft minutes shall be prepared after an EPC meeting and shall be approved, amended, or disapproved at the next EPC meeting where a quorum is present. Minutes shall not become official until approved by the EPC.

B. Timeline

Drafts of such minutes shall be submitted to EPC Commissioners at least one week in

advance of the meeting when they are to be considered.

C. Required Content

The minutes shall include the date, time and place of the hearing, the names of Commissioners in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken, including findings and conditions, that show how each member voted.

10. Agenda

Any changes to the meeting agenda, barring emergencies or unusual circumstances, shall be made at the beginning of each meeting or hearing. The agenda, as amended, shall be approved at the beginning of each meeting or hearing and shall be a part of the record of the meeting or hearing. There shall be no consent agenda. An approved agenda may be changed at any time by the EPC, for good cause shown, upon motion passed by majority vote. Notice of the right of cross-examination shall be prominently placed in the agenda for which a public hearing is scheduled.

ARTICLE III – PUBLIC HEARINGS

1. Public Hearing Types

Each public hearing ~~(other than appeal hearings)~~ shall include an opportunity for all parties to the hearing to be heard regarding the application. A record shall be kept of each person asking questions or offering testimony about the application. Depending on what is required by law, the EPC may conduct two types of public hearings: quasi-judicial and legislative/advisory. The fact that the EPC may treat a matter with the additional procedural safeguards of a quasi-judicial hearing is not to be deemed an admission that the matter has a right to those additional safeguards.

2. ~~Quasi-judicial Hearings~~ Hearing Procedures

~~For decisions that would result in changes to property rights or entitlements on a particular property or affecting a small area, or are otherwise not considered legislative decisions involving policy or regulatory changes that would apply citywide or to a large area, the decision making body shall conduct a quasi-judicial hearing to make a discretionary decision. Quasi-judicial hearings shall be subject to the additional provisions set forth below. The EPC may at its discretion treat any matter in a quasi-judicial fashion.~~

A. Appearance of Record

An appearance of record in a hearing is made through a written ~~or verbal~~ statement of the person's name and ~~email or physical~~ address, ~~signed by the person or by his/her agent, and filed with or otherwise~~ received by the EPC prior to the termination of public comment on the case. Any party may appear on their behalf or may be represented by an agent. In the absence of any personal appearance on behalf of an applicant, the EPC may proceed to consider such a matter.

B. ~~Conduct:~~ Public Hearing Procedures

At public hearings on ~~applications in IDO Table 6-1-1 (Integrated Development Ordinance)~~

~~applications~~, the order of consideration and time limits on presentations and testimony are ~~generally~~ as follows:

- i. Planning staff presentation – 5-10 minutes, ~~as requested by staff~~.
- ii. Questions from EPC Commissioners to Planning staff – as needed.
- iii. Applicant's presentation – 10 minutes.
- iv. Questions from EPC Commissioners to Applicant – as needed.
- v. Other City Department and Agency Comments – 5 minutes.
- vi. Testimony by public speakers
 - a. ~~except a~~ City-recognized Neighborhood Association or Neighborhood Coalitions – ~~will have~~ 5 minutes. (Neighborhood groups and other parties are encouraged to select one ~~or more~~ spokespersons to express common viewpoints.)
 - b. ~~2 minutes for each public~~ Public speakers – 2 minutes.
- vii. Indian Nations, Tribes, and Pueblos and their representatives – 5 minutes.
- viii. The EPC may call witnesses and introduce documents ~~of its own volition during the public hearing~~. EPC Commissioners may not themselves testify at the hearing. EPC Commissioners are not subject to cross-examination. Commissioners may ask clarifying questions of any speaker or witness at a public hearing at any time prior to the announcement by the Chair that ~~the presentation~~ ~~al~~ portion of the hearing has ended.
- ix. ~~For quasi-judicial decisions only, cross-examination~~ ~~Cross-examination~~ by others with standing. (See instructions in Section 2.C. below.)
- x. Questions to Planning staff based on the public testimony, only if necessary, at the discretion of the chair – 2 minutes.
- xi. Questions to Applicant based on the public testimony, only if necessary, at the discretion of the chair – 2 minutes.
- xii. Staff closing statement and cross-examination, if any – 5 minutes.
- xiii. Applicant's closing statement and cross examination, if any – 5 minutes.
- xiv. Presentation ~~al~~ portion is announced as ended by the Chair.
- xv. Chair's summary of the issues (~~when appropriate~~); ~~and call for discussion by EPC Commissioners~~.
- xvi. Comments ~~and discussion~~ by EPC Commissioners ~~about the request and any findings and conditions~~.
- xvii. Motions, including findings and any conditions that may be required by the EPC.

C. Testimony Under Oath or Affirmation

All testimony at the hearing shall be under oath or affirmation.

D. Cross-Examination for Quasi-Judicial Hearings

For decisions that would result in changes to property rights or entitlements on a particular property or affecting a small area, or are otherwise not considered legislative decisions involving policy or regulatory changes that would apply citywide or to a large area, the decision-making body shall conduct a quasi-judicial hearing to make a discretionary decision. Quasi-judicial hearings shall be subject to the additional provisions set forth below. The EPC may at its discretion treat any matter in a quasi-judicial fashion.

- i. Cross-examination shall be afforded to anyone with standing in accordance with the Rules. Persons with standing desiring to question any other person who has testified during the hearing shall sign up to speak with the EPC hearing monitor and state who they are and how they have standing. The EPC hearing monitor will maintain a list of speakers. ~~shall sign a list maintained by EPC staff and complete the cross-examination request form, a sample of which appears in the Appendix of the Rules.~~
- ii. The Chair shall ~~review~~ monitor the questions asked ~~submitted on the request forms~~ by persons with standing ~~who have signed up on the list maintained by EPC staff.~~ The Chair shall rule as out of order any improper, irrelevant or unnecessarily long questions or answers. The Chair may restate the person's questions and may require that questions be addressed to the Chair.
- iii. Persons with standing for purposes of cross-examination are pursuant to those with standing to appeal pursuant to the IDO [§14-16-6-4(U)(2), as amended. Generally, these persons are:
 - a. the applicant.
 - b. any person who owns a property interest within ~~300~~ 330 feet of the subject-site (excluding the public right-of-way) and recognized ~~organized~~ Neighborhood Associations if the boundaries of the association include any part of the subject-site or any land within ~~600~~ 660 feet thereof (excluding the public right-of-way).
 - c. any person or organization who demonstrates that their property rights or other legal rights have been specially and adversely affected by the decision ~~a personal or pecuniary interest or property right that may be adversely affected by the EPC's decision, which right or interest must be more than merely nominal or remote.~~
- iv. All cross-examination proceedings, including questions and answers, are included in the official record of the hearing.
- v. The Chair may impose reasonable limits on the time allowed for cross-examination and may limit the number of questions to ensure fair and orderly proceedings.
- vi. All participants in cross-examination shall conduct themselves respectfully and courteously. Personal attacks, inflammatory remarks, or disruptive behavior will

not be tolerated and may result in forfeiture of the opportunity to conduct cross-examination.

E. The Record

A full record of the public hearing will be made by sound recording or transcription. Any person shall have the opportunity to request a copy of the hearing or transcript through the City Clerk as an IPRA request. ~~listen to, copy, or transcribe the recording during regular business hours.~~

i. Evidence

For the purposes of maintaining a proper record, all evidence presented to the EPC or Planning staff regarding an application shall be deposited with the Planning Department until such time as all administrative and judicial remedies are exhausted. Copies of the original may be substituted in lieu thereof. An ~~hard/printed~~ electronic copy of information presented ~~electronically~~ to the EPC shall be placed into the record/file at the time of presentation. ~~If possible, an electronic copy of the information shall also be placed into the record/file at the time of presentation.~~

ii. 15 Day Written Materials & Evidence

All written materials including petitions, legal analyses, and other documents containing substantive arguments, evidence or analysis shall be submitted to the Planning Department at least 15 days prior to the EPC hearing, in time for full consideration by staff, interested parties or members of the public, and for proper presentation to the EPC prior to its regular scheduled meeting.

iii. 10 Day Rebuttal Materials & Evidence

All written materials or evidence strictly limited to directly addressing or rebutting the 15 Day Written Materials & Evidence timely submitted by another party under ~~Rule III. E. (ii)~~ Rule III. 2. E. (ii) shall be submitted 10 days prior to the public hearing.

iv. 48-Hour ~~Limited Clarifying Material~~ Statements of Support and Opposition

~~Simple statements of support or opposition may be submitted until 48 hours prior to the EPC hearing. Such statements shall not introduce new evidence or materials. A statement of support or opposition submitted fewer than 15 days before to the EPC hearing that introduces new evidence or materials shall be considered by the EPC only for its general proposition of support or opposition. The EPC will only consider very limited, clarifying written material if it has been submitted to the EPC with proof of service on all known opposing parties or their representatives at least 48 hours prior to the public hearing. Limited means limited. Abuse of this rule to attempt to sneak in or sur-rebuttal arguments or will not be tolerated may.~~

v. Communication before the Public hearing

In quasi-judicial proceedings, ex parte communications with EPC Commissioners are forbidden; therefore, all communications, written or ~~oral~~ verbal, prior to or outside the public hearing must be made to ~~or in care of~~ the staff of the Planning Department.

vi. Written Materials

- a. Written materials ~~should~~ shall be ~~addressed to and include the following references~~ submitted via an Online Portal here: <https://cabq.gov/epc-public-comment>.
- b. All written comments received prior to the 48-hour deadline will be included with the record. All other comments should be given verbally during the hearing.
- c. If issues with the Online Portal should arise, comments may be submitted to PlanningEPC@cabq.gov including the Plan # for the request.
- d. Written comments may be delivered to Planning staff by the deadlines above.

The EPC

c/o Planning Department Staff

600 2nd St. NW, Third Floor

Albuquerque, NM 87102

Project # / ~~Case Plan #~~ .

F. Ex Parte Communications

Ex parte communications with EPC Commissioners are not ~~allowed~~ permitted in relation to any ~~quasi-judicial~~ matter ~~of a quasi-judicial nature~~. An ex parte communication is a substantive communication, outside the public hearing process, between an EPC Commissioner and any member of the public. Communications with the staff of the Planning Department or the City Attorney's Office shall not be considered ex parte communications.

- i. Prior to making a decision at a quasi-judicial public hearing and until the expiration of any applicable appeal period, an EPC Commissioner shall not do any of the following:
 - a. Communicate, directly or indirectly, with any party or party representative in connection with the merits of any issue involved, except upon advanced prior notice and opportunity for all parties to participate.
 - b. Use nor rely upon any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless made a part of the record. Communication with staff outside of an open meeting regarding the substance of a case shall be by email. This communication shall be made part of the record.
 - c. Inspect the site in issue with any party or his/her representative unless all

parties are given opportunity to be present. EPC Commissioners shall not conduct independent fact-finding investigations of any property that is the subject of a quasi-judicial proceeding before the EPC; however, a cursory site visit by an individual Commissioner acting alone to generally familiarize that Commissioner with the location and environs of such a property does not constitute an independent fact-finding investigation and is ~~allowed~~ ~~permitted~~.

- ii. Prior to making a decision at a quasi-judicial public hearing and until the expiration of any applicable appeal period, an EPC Commissioner shall do the following:
 - a. Conscientiously and in good faith avoid any regular media and social media articles or discussions concerning the facts or the merits of any issue involved in a matter pending before the EPC unless that media article or discussion has become part of the official record.
 - b. Forward any application related material inadvertently received from any person or organization to the staff of the Planning Department for distribution to the EPC. Copies of all such materials shall be processed by the staff in a manner consistent with these Rules.
 - c. Disclose at the public hearing any attendance at a meeting, seminar, open house or other similar function in which a pending prospective application is discussed incidentally or in general terms for information purposes only, without any communications being directed to or by the EPC Commissioner. Such an incidental discussion shall not constitute an ex parte communication.
- iii. EPC Commissioners shall disclose any instance of an attempted ex parte communication; however, any such attempt should not, in and of itself, be grounds for recusal. See also ~~Rule III.6~~ ~~Rule III.7~~ below.

G. Decisions

The EPC shall take any one of the following actions:

- i. Approve or recommend approval of the application as presented.
- ii. Approve or recommend approval of the application with conditions.
- iii. Deny or recommend denial of the application.
- iv. Defer ~~or continue~~ the matter to a date no more than ~~two regularly scheduled EPC hearings 60 consecutive days~~ following its first appearance on the agenda, unless a longer deferral is accepted by the applicant.
 - a. A deferral of an application is a decision made prior to an application being heard by the EPC, and deferring an application means any discussion regarding the application will be postponed until the public hearing for which it is scheduled.
 - b. A continuance of an application is a decision made after an application has begun to be heard by the EPC, and continuing an application means that the discussion about the application will be resumed where it was left off at the

public hearing for which it is scheduled.

- c. For decisions to defer or continue ~~or defer~~ a hearing, the time and place for the next hearing shall be announced at the hearing without the need for the applicant or the City to provide additional notice.

~~v. Continue the matter to a date no more than 60 consecutive days following the opening of the public hearing, unless a longer continuance is requested by the applicant.~~

H. Motions and Voting

- i. The EPC will vote on motions to approve, defer, continue or deny any matter brought before it. If any such motion fails for lack of a second, such motion dies.
- ~~ii. All motions, other than those listed in Rule III.I.A(8)(a) above, do not require a second.~~
- iii. A majority vote by the EPC is required to approve any motion, unless otherwise specified in these Rules.
- iv. The EPC may continue or defer a matter to another hearing at the request of staff, an applicant or other interested party for good cause shown, or upon EPC's own motion when the EPC determines that additional information is necessary or would be beneficial to render a decision. When the applicant or his agent or a member of the public is present and objects to continuation or deferral to another day, the affirmative vote of a simple majority of the EPC Commissioners present is required to continue or defer the case to another hearing.
- v. In the event of a tie vote on any motion, only that motion fails; however, if there are motions to approve, deny, continue or defer an application, and all four types of motions end in a tie vote and/or fail, then the application is denied, and no findings shall be adopted.

I. Written Decisions

- i. For decisions to continue or defer a hearing, written findings in support of the decision are not required but may be adopted at the discretion of the EPC.
- ii. For final decisions or recommendations, the EPC shall provide a written decision with findings based on the review criteria for that type of application that shall be made part of the record.
- iii. Each finding shall be supported by substantial evidence.
- iv. The EPC shall make a decision at the public hearing and shall issue a written decision with findings necessary to the decision within 15 consecutive days after the close of the public hearing.

J. Criteria For Review and Decision

For all applications, the EPC shall review the applicant's justification for the request and only approve the request if it finds that the justification is sound based on substantial

evidence. The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence. See IDO Subsection ~~14-16-6-4(E)(3)~~ ~~14-16-6-4(F)(2)~~. The EPC should pay proper deference to Planning Department staff expertise contained in staff reports and other City departmental comments. In addition, the EPC should:

- i. where the IDO or other pertinent law lists specific criteria for the approval of an application, approve the application if it finds that those criteria have been met;
- ii. where the IDO or other pertinent law does not list additional or more specific criteria for the review and decision on applications, recommended for approval (or approval with conditions) or approve (or approve with conditions) if ~~your review causes you to conclude~~ the application complies with all applicable standards in the IDO, other adopted City regulations or policies that may be applicable, and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.
- iii. deny any application of a type identified in IDO Table 6-1-1: Summary of Development Review Procedures Table 6-1-1 of the IDO <https://ido.abc-zone.com/integrated-development-ordinance-ido#page=419> if an applicant meets any of the following criteria:
 - a. Has not complied with all applicable statutes of the State of New Mexico, provisions of the Charter of the City of Albuquerque, or City ordinance.
 - b. Is in default or has defaulted on a written agreement with the City.
 - c. Has failed to pay fees, charges, taxes, special assessments, and other debts or obligations that are due from the applicant and payable to the City regarding any matter.
 - d. ~~Provided inaccurate, false or misleading information within an application or in documentation by applicant in support of the application.~~

3. Appeals

A. Special Rules

Appeals heard by the EPC are quasi-judicial proceedings and are subject to the following special rules.

B. Record

Once an appeal has been accepted by the Planning Director, the City Planning Department staff shall prepare and transmit a record of the appeal together with all appeal material received from the appellant to the property owner and appellant(s) and to the EPC.

C. Scheduled Hearing and Notice

The EPC shall schedule a hearing on the matter within 45 consecutive days of receipt. City Planning Department staff shall notify the parties.

D. Written Arguments

Appellants and parties to the appeal may submit written arguments to the EPC so long as the written argument is received by EPC staff at least 10 consecutive days prior to the hearing.

E. Hearing Procedures

- i. The hearings are open to the public, but public comment is not ~~permitted~~ allowed. Only the following parties are allowed to speak to an appeal, in the following order and only for the allotted time:

Appellant:	15 minutes
Party Opponent (appellee):	20 minutes
Cross Examination:	5 minutes
Planning Staff:	5 minutes
Cross Examination	5 Minutes
Appellant:	5 minutes

~~(ii) Once an appeal has been accepted by the Planning Director, the City Planning Department staff shall prepare and transmit a record of the appeal together with all appeal material received from the appellant to the property owner and appellant(s) and to the EPC. The EPC shall schedule a hearing on the matter within 45 consecutive days of receipt. City Planning Department staff shall notify the parties. Appellants and parties to the appeal may submit written arguments to the EPC so long as the written argument is received by EPC staff at least 10 consecutive days prior to the hearing.~~

- ii. The EPC may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony and cross-examination.

F. New Evidence

The EPC may accept new evidence into the record if it appears that such additional evidence is necessary for the proper disposition of the matter and could not have been placed into the record during the previous decision-making process. New evidence that clarifies evidence already in the record, that is offered to contradict evidence in the record, or that is offered on a key factual issue, may be allowed or may justify remand.

G. Findings

The EPC shall make findings exclusively on the record of the decision appealed, supplemented by any evidence allowed at the hearing.

H. Decisions

- i. The EPC may affirm, reverse, or otherwise modify the lower decision to bring it into compliance with the standards and criteria of ~~this~~ the IDO, applicable City

regulations, and any prior approvals related to the property.

- ii. If the EPC determines that the matter should be remanded, the EPC shall set forth the reason(s) for the remand and the matters to be reconsidered and may order such remand. The matter must be heard and decided by the original decision-making body prior to any further appeal of the matter.

I. Remand Hearings

Occasionally, the EPC will re-hear a matter remanded to it from the Land Use Hearing Officer (LUHO), the City Council, or the state court. Staff will make a diligent effort to assure that all counsel of record in the legal case, as well as the parties, receive timely notice of the EPC hearing occurring because of the remand.

4. Non-Quasi-judicial Hearings (Legislative or Advisory)

Non-quasi-judicial proceedings do not require the same procedural protections as are provided during a quasi-judicial proceeding. The EPC performs a wide variety of duties. Whether the particular matter or application requires a quasi-judicial proceeding shall be determined on a case by-case basis if necessary, but the EPC may in its discretion treat any matter with more procedural safeguards than required by law.

5. ~~Section 4.~~ Hearings for Complete Applications

All applications subject to the IDO that are to be considered by the EPC require a public hearing. See IDO Table 6-1-1: Summary of Development Review Procedures. The EPC shall not consider any application subject to the IDO that has not been determined by the Director of the Planning Department to be complete. Only **actual complete** applications shall be presented to the EPC.

~~Hypothetical or what-if scenarios are not permissible. The EPC shall not give advice on how it might rule in future cases or might have ruled in past cases.~~

~~All applications subject to the IDO that are to be considered by the EPC require a public hearing. See IDO Table 6-1-1: Summary of Development Review Procedures. Table 6-1-1 of the IDO. <https://ido.abc-zone.com/integrated-development-ordinance-ido#page=419>. After a staff report is distributed to the EPC, withdrawal of an application requires EPC approval. Inaccurate, false or misleading information within an application or in documentation by applicant in support of the application is grounds for denial.~~

~~6. Notice for Section 5. Remanded Matters — Notice. Hearings~~

~~Occasionally, the EPC will re-hear a matter remanded to it from the Land Use Hearing Officer (LUHO), the City Council, or the state court. Staff will make a diligent effort to assure that all counsel of record in the legal case, as well as the parties, receive timely notice of the EPC hearing occurring because of the remand.~~

7. ~~Section 6.~~ Recusals

EPC Commissioners have a duty to hear cases presented to them and recusal should only occur for good reason. Commissioners shall recuse themselves from hearing a matter if a conflict of interest exists as defined by Article XII of the Charter of the City of Albuquerque

or by any ordinance governing boards and commissions. Commissioners may recuse themselves to avoid the appearance of impropriety if circumstances exist which would strongly appear to impair the independence of judgment of the Commissioner.

ARTICLE IV – COMMISSIONER GUIDELINES

1. Training

Commissioners should attend all EPC training conducted by Planning staff and/or others.

2. Speculation

No Commissioner should express the views of an absent Commissioner. Hypothetical or what-if scenarios are not permissible. The EPC shall not give advice on how it might rule in future cases or might have ruled in past cases.

3. Reasons for Votes

Commissioners should express reasons for votes where it may benefit the public, the parties, or the City Council.

4. Reasons for Findings

A Commissioner should not request alternate findings regarding a particular case without stating a reason for the request.

5. Attendance and Absences

EPC Commissioners should make every reasonable effort to attend EPC meetings and study sessions. Commissioners should communicate anticipated absences to the EPC secretary hearing monitor and/or the Chairperson with as much forewarning as possible. More than three (3) absences in a calendar year will be communicated to the relevant City Councilor and may lead to replacement.

6. Neighborhood Association or Organization Positions

When a Neighborhood Association or other organization presents an official position to the EPC, the association or organization should identify how the position was arrived at. The Neighborhood Association Recognition Ordinance (§14-8-2-5-(D)) specifies pertinent requirements for recognized Neighborhood Associations.

7. Attentiveness

During the course of a hearing, Commissioners are expected to remain attentive to the pending matters before them, except in cases of emergency. Commissioners should not engage in private discourse, sidebars or use of personal electronic devices or any other activity tending to distract from the matters before them. ~~The use of electronic devices to conduct EPC business is not prohibited.~~

PASSED AND ADOPTED at the public hearing on April 15, 2021 Month, DD, YYYY



~~Tim MacEachen~~ Daniel Aragon, Chair



Date

Environmental Planning Commission

Revised: 8/2002; 5/2006; 12/2009; 6/2010; 5/2012, 10/2013, 9/2017, 4/2021, 7/2025

~~—APPENDIX—~~

CROSS-EXAMINATION REQUEST FORM

~~Please print clearly. If you believe it is likely you will be asking a question, it would be prudent to fill out as much of the form as possible in advance.~~

~~In addition to filling out this form, you must sign up on a list maintained by EPC staff. Only questions from persons with standing who have signed up on the list and filled out this form will be considered. See EPC Rules of Practice and Procedure, Rule III.2.D.~~

~~YOUR NAME~~ _____

~~YOUR ADDRESS~~ _____

~~NAME of WITNESS YOUR QUESTION IS ADDRESSED TO~~

~~QUESTION(S)~~ _____

~~BRIEF STATEMENT OF STANDING, I.E., WHAT IS YOUR INTEREST IN THIS APPLICATION OR MATTER?~~

~~PLEASE CHECK ALL APPLICABLE BOXES:~~

~~☐ I am owner of the property listed in the application~~

~~☐ I am the applicant~~

~~☐ I am a person who owns a property interest within 300 feet of the subject site~~

~~☐ I represent a neighborhood association with boundaries that includes all or part of the
_____ subject site~~

~~☐ Other — explain above pursuant to EPC Rule III.2.D(2) Standing for Purposes of Cross-Examination—~~

~~I do swear or affirm, under penalty of perjury, that the information provided on this form is true and correct to the best of my knowledge.~~

Signature

Printed Name

Date