



**Environmental
Planning
Commission**

Agenda Number: 2
Project Number: 1001620
Case Number: 07EPC 40060
November 15, 2007

Staff Report

Agent	City of Albuquerque Planning Department
Applicant	City of Albuquerque City Council
Request	Text Amendment to §14-16-4-1 of the Zoning Code, ROA 1994.
Location	City-wide
Zoning	NA

Staff Recommendation

That a recommendation of APPROVAL of 07EPC 40060 be forwarded to the City Council based on the Findings on pages 10-11 and the Conditions of approval on pages 12-16.

Staff Planner

Anna DiMambro, Planner

Summary of Analysis

This request is for a recommendation to City Council regarding O-07-106, relating to tenants of mobile homes and creating provisions related to the notification requirements for termination of tenancy and zone map amendments. Text amendments to the Albuquerque Code of Ordinances (ROA 1994) are proposed, specifically in §14-16-4-1 of the Zoning Code.

The proposed Ordinance adopts the existing State Mobile Home Park Act termination of tenancy provisions, but increases the time period for notification of eviction due to change of use of land from six months to eighteen months. The bill also amends §14-16-4-1 of the Zoning Code to add a provision requiring applicants for zone map amendments for an area that includes a mobile home park to provide written notice, at least 15 days before the date of the hearing on the zone map amendment, to mobile home park tenants in the affected area.

The proposed Ordinance furthers the intent of the City Charter, the Zoning Code and the Comprehensive Plan, and does not conflict with State statutes regarding mobile home parks.

There is no known neighborhood or other opposition. For purposes of this review, Planning Staff consulted with representatives of the Office of Neighborhood Coordination, City Legal, and Council Services. Staff recommends that an Approval recommendation be forwarded to City Council with conditions.

City-wide

City Departments and other interested agencies reviewed this application from 10/8/2007 to 10/19/2007.

Agency comments used in the preparation of this report begin on page 17.

Request and Context

This request is for a recommendation to City Council regarding O-07-106, relating to mobile homes and creating provisions related to the notification requirements for termination of tenancy and zone map amendments. Text amendments to the Albuquerque Code of Ordinances (ROA 1994) are proposed, specifically in §14-16-4-1 of the Zoning Code.

Chapter 14, Article 16, Part 4, Section 1 contains the portion of the Zoning Code pertaining to the procedure for amending the Zoning Code. All references are to the Revised Ordinances of Albuquerque (ROA) 1994.

The proposed Ordinance adopts the existing state Mobile Home Park Act (Chapter 47, Article 10, NMSA1978) termination of tenancy provisions, but increases the time period for notification of eviction due to change of use of land from six months to eighteen months. The bill also amends §14-16-4-1 of the Zoning Code to add a provision requiring applicants for zone map amendments for an area that includes a mobile home park to provide written notice, at least 15 days before the date of the hearing on the zone map amendment, to mobile home park tenants in the affected area.

Background and History

Recent trends in Albuquerque show mobile home developments being converted to other uses, often in conjunction with a zone map amendment. When these land use changes occur, tenants are often forced to relocate despite the fact that they have received little or no notice of the land use change.

Currently, Zoning Code notification requirements require the applicant to notify affected Neighborhood Associations as listed by the Office of Neighborhood Coordination. This notification must be complete at the time of application to the Environmental Planning Commission (EPC) for a hearing. The City Planning Department is responsible for notifying property owners within 100' of the subject property boundaries. This notification must take place at least 15 days prior to the zone map amendment hearing. The City obtains property ownership information from the County Assessor's Office, which is updated every 6 months. Because only property- (i.e. land-) owners are notified, mobile home development tenants and condominium owners receive notification only in rare instances. Apartment building tenants do not receive written notification.

The New Mexico Mobile Home Park Act (47-10-5 NMSA 1978) states, "In those cases where the zoning law allows the landlord to change the use of his land without obtaining the consent of the zoning authority and where such change of use would result in eviction of inhabited mobile homes, the landlord shall first give the owner of each mobile home subject to such eviction a written notice of his intent to evict not less than six months prior to such change of use of the land, notice to be mailed to each tenant." In other words, in cases where a zone change is not necessary for a mobile home development owner to change the use, mobile home tenants are required to receive 6 months notice. In cases where a zone change is necessary, tenants receive only the notification required by the Zoning Code. This offers little protection to mobile home part tenants, as they are generally not notified of potential zone map amendments.

ANALYSIS OF APPLICABLE ORDINANCES, PLANS AND POLICIES

Policy citations are in regular text; *Staff analysis is in bold italics.*

Charter of the City of Albuquerque

The Citizens of Albuquerque adopted the City Charter in 1971. Applicable articles include:

Article I, Incorporation and Powers

“The municipal corporation now existing and known as the City of Albuquerque shall remain and continue to be a body corporate and may exercise all legislative powers and perform all functions not expressly denied by general law or charter. Unless otherwise provided in this Charter, the power of the city to legislate is permissive and not mandatory. If the city does not legislate, it may nevertheless act in the manner provided by law. **The purpose of this Charter is to provide for maximum local self-government.** A liberal construction shall be given to the powers granted by this Charter.” [emphasis added]

Article VII, Human Rights

“**The Council shall preserve, protect and promote human rights and human dignity,** shall promote and encourage the recognition and exercise of human responsibility and shall prohibit discrimination on the basis of race, color, religion, sex, national origin or ancestry, age or physical handicap. **To effect these ends the Council (City Commission) shall take whatever action is necessary and shall enact ordinances** and shall establish appropriate Commissions, Boards or Committees with jurisdiction, authority and staff sufficient to effectively administer city policy in this area.” [emphasis added]

Adding provisions to the ROA 1994 to protect mobile home park residents is an exercise in local self-government (City Charter, Article I). Adequate housing is a basic human right. Requiring mobile home development owners to provide tenants with eighteen months notice of eviction due to land use change and requiring notification to mobile home park tenants regarding proposed zone map amendments expresses the Council’s desire to preserve, protect, and promote human rights and human dignity (City Charter, Article VII).

Albuquerque/Bernalillo County Comprehensive Plan

Applicable Comprehensive Plan goals and policies include:

D. Community Resource Management

5. *Housing*

The Goal is to increase the supply of affordable housing; conserve and improve the quality of housing; ameliorate the problems of homelessness, overcrowding, and displacement and low-income residents; and assure against discrimination in the provision of housing.

Policy II.D.5a: The supply of affordable housing shall be preserved and increased and the opportunity to obtain standard housing for a reasonable proportion of income assured.

Policy II.D.5c: The displacement of low income households shall be ameliorated and the objectives of historic preservation and conservation of affordable housing balanced.

Policy II.D.5d: Availability of a wide distribution of decent housing for all persons regardless of race, color, religion, sex, national origin, ancestry, or handicapped status shall be assured.

The proposed Ordinance and Zoning Code text amendment will further applicable Comprehensive Plan goals and policies for Housing. Mobile home developments provide a source of affordable housing for a significant number of Albuquerque residents. Current City regulations do not offer the same level of protection to mobile home park residents as is offered to residents of most other development types. Current lack of notification requirements has the potential to displace a large number of low-income residents.

8. Human Services

The Goal is to site human service facilities in locations that provide the greatest possible access to services, and to consider human rights and human service needs in development and redevelopment throughout the Plan area.

Policy II.D.8c: Development's negative effects upon individuals and neighborhoods shall be minimized.

The proposed Ordinance and Zoning Code text amendment will further applicable Comprehensive Plan goals and policies for Human Services. The proposed legislation considers human rights in the development process by requiring notification of eviction due to change in land use to mobile home development tenants. The proposed text amendment will minimize development's negative effects upon individuals and neighborhoods by ensuring adequate notice of zone map amendments that will affect these individuals and neighborhoods.

Albuquerque Comprehensive Zoning Code

The intent of the Zoning Code (§14-16-1-3) is to help achieve Article IX of the Charter of the City of Albuquerque and the City's Master Plan; in particular the master plan documents that comprise the Albuquerque/Bernalillo County Comprehensive Plan. The Zoning Code

“is intended to create orderly, harmonious, and economically sound development in order to promote the health, safety, convenience, and general welfare of the citizens of the city. These regulations are necessary to provide adequate open spaces for light and air including solar access; to avoid undue concentration of population, to secure safety from fire, panic, and other dangers; to help control congestion in the streets and public ways; to control and abate unsightly use of buildings or land; to facilitate adequate provisions for community utilities and facilities such as transportation, water, sewer, schools, and parks; to encourage the most appropriate use of land; to properly channel flood water runoff; to conserve and stabilize the value of property; and to enhance the appearance of the landscape.

Section 14-16-1-4(A) states, “Where the provisions of this article impose greater restrictions than those of any other ordinance or resolution the provisions of this article shall prevail. Where the provisions of

any other ordinance, resolution, or covenant impose greater restrictions than those of this article, the provisions of such other ordinance, resolution, or covenant shall prevail.”

This proposal will affect only §14-16-4-1 of the Zoning Code, pertaining to the Amendment Procedure. This section of the Zoning Code requires the following public notice to be given prior to the granting of a zone map amendment for an area of one block or less:

- Public notice in a daily newspaper of general circulation in the city at least 15 days before the date of the hearing; and
- posting of one or more “yellow signs” by the applicant at least 15 days before the hearing date; and
- mailed written notice from the Planning Director at least 15 days prior to the hearing date to all owners of property (currently interpreted as “landowners”) within the area proposed to be changed and to all property owners within 100 feet of the exterior boundaries of the area proposed to be changed.

Mailed notice is not required for zone map amendment applications for an area greater than one block but less than 40 acres. Zone map amendments for an area of 40 acres or larger do not require mailed notice or signs.

Mobile homes are currently allowed in the following zones:

- MH Residential Zone (permissive)
- R-D Residential and Related Uses Zone, Developing Area (pursuant to a Sector Development Plan approved by the Planning Commission and to a Site Development Plan and a Landscaping Plan approved by the Planning Director)
- C-2 Community Commercial Zone (conditional)
- C-3 Heavy Commercial Zone (conditional)
- SU-1 Special Use Zone (planned development area)

The proposed Ordinance and text amendment will not affect the zones in which mobile homes are allowed. It will, however, offer additional eviction protection over and above that offered through the state Mobile Home Park Act, which requires a six-month notification period prior to eviction due to change of land use. This notification is required only in cases where a change of use is allowed without obtaining the consent of the zoning authority (i.e. no zone change is required). Because the current notification requirements of the Zoning Code do not require notification to non-landowners, it is possible for a mobile home park owner to change the zoning of the mobile home park without notifying tenants and subsequently evict those tenants without notice.

§ 14-8-2-1, Neighborhood Association Recognition Ordinance (O-92)

O-92’s stated legislative findings and purpose are as follows:

- (A) Early identification and resolution of potential conflicts involving neighborhoods and the private sector can be of utmost value to all concerned.

(B) A standardized recognition policy for Albuquerque neighborhood associations would promote improved communications between neighborhood associations and city government.

(C) Due to the potential impact of new development and redevelopment upon neighborhoods, it can be useful if developers coordinate major proposals and plans with neighborhood associations.

(D) The purpose of §§14-18-2-1 et seq. is to meet the needs specified by the above legislative findings, while not limiting the rights of any other person, including non-recognized neighborhood groups, to input directly into the city's decision-making processes.

This Ordinance sets forth criteria for recognition of neighborhood associations and responsibilities of recognized neighborhood associations. The Ordinance also requires the following notice of a requested zone map amendment to be sent to recognized neighborhood associations:

- The Mayor shall mail notices of the hearing via first class mail to two contact addresses of each recognized neighborhood association not less than 15 days prior to the hearing; and
- The Office of Neighborhood Coordination shall provide to recognized neighborhood associations a city newsletter to inform them about happenings in city governments; and
- Applicants for approval of a zone map amendment or other development request shall, prior to filing the application, make a reasonable attempt to give written notification of their proposal to any recognized neighborhood association which covers, abuts, or is across public right of way from the site of their plans. Certified letters, return receipt requested, mailed to the two designated neighborhood association representatives on file at the City Office of Neighborhood Coordination constitutes a reasonable attempt to notify an association.

No changes are proposed to this Ordinance. Staff has included this information as context pertaining to current City notification policies and procedures.

PROPOSED ORDINANCE

The proposed legislation (O-07-106) proposes to adopt the existing state Mobile Home Park Act termination of tenancy provisions, but increases the time period for the notification of eviction due to change of land use from six months to eighteen months. The ordinance also eliminates the state language that limits the six-month notification period to cases in which zoning authority consent is not required. Per the proposed legislation, all evictions due to changed land use (whether or not a zone change is involved) would require eighteen months written notice to all tenants. The proposed Ordinance is more restrictive than existing State of New Mexico statutes regarding termination of mobile home park tenancy.

PROPOSED TEXT AMENDMENT

The proposal also amends Zoning Code §14-16-4-1 to require zone map amendment applicants to provide written notice to all mobile home park tenants at least 15 days prior to a hearing. This text

amendment proposes the addition of new language in three locations throughout §14-16-4-1. The additional language reads as follows and would be applicable to zone map amendments for areas of any size:

[+ Applicants requesting a zone map amendment for an area that includes a mobile home park shall provide written notice, at least 15 days before the date of the hearing, to mobile home park tenants of the proposed amendment. Notice shall include the date, time, and place of the zone map amendment hearing. Failure to properly provide such notice is grounds for deferral or denial of the application. +]

As proposed, the text amendment would apply to any application for a zone map amendment for an area that includes a mobile home park. The proposal places the burden upon the applicant to provide notice to individual mobile home park tenants at least 15 days prior to the hearing date. Current regulations require mailed notice to “owners of property” (currently interpreted as landowners) only for zone map amendments for an area of one block or less.

ANALYSIS OF TEXT AMENDMENT LANGUAGE

The proposed text amendment to the Zoning Code would require applicants for any zone map amendment request to mail notice to mobile home park tenants. Staff finds the following issues with the text amendment language as proposed:

1. Source of Information: The proposed text amendment does not indicate where zone map amendment applicants will obtain the required information. Currently, O-92 requires applicants to send notice via certified mail to affected neighborhood associations. Applicants receive a list of affected neighborhood associations and their contact persons from the Office of Neighborhood Coordination. Using this list, staff is able to verify that the correct individuals have received notice. In the case of mobile home development tenants, current resident information is more difficult to obtain.

County Assessor records for mobile home parks show individual resident information for approximately 77% of the mobile home developments within the City limits. Another source of information is the mobile home development owner/manager. In most cases, these two sources of information should prove reliable. [Staff is proposing alternate language requiring zone map amendment applicants to provide a current list of mobile home park residents and their addresses at the time of application. In cases where the County Assessor database contains individual resident information, the list provided by the applicant could be cross-checked with County Assessor information.]

In the rare case in which the City is the applicant for the zone map amendment and does not have the cooperation of the mobile home development owner, *and* in which County Assessor records do not contain individual owner information, staff and Council Services have determined that sign posting will be considered adequate notice.

2. Enforceability: As written, the proposed text amendment places the burden upon zone map amendment applicants to send mailed notice to mobile home park tenants at least 15 days prior to

the hearing. In implementing this language, it would be difficult, if not impossible, for staff to determine whether or not the applicant has sent the required notice and within a timely fashion. Staff has explored alternate means of mailing notice that would be verifiable and enforceable. Ultimately, staff in conjunction with Council Services decided that the most verifiable means of sending notification would be to place the burden upon the City.

3. Sign Posting: The language as proposed contains no additional sign posting requirements for zone map amendments for areas including mobile home developments. Because tenant populations generally turn over faster than landowning individuals, County Assessor records may not be as effective in this case as they are in others. For this reason, staff finds that one sign per mobile home entrance (including vehicular and pedestrian entrances) is necessary to ensure that all residents receive some form of notice. Alternate language proposed by staff incorporates this requirement.
4. Terminology: Staff has recommended that the term “mobile home park” be replaced with the term “mobile home development,” as “mobile home development” is the defined term in the Zoning Code.

Staff also recommends that the term “tenant” be replaced with “resident.” Because “tenant” is a more restrictive term than “resident” and is not defined in the Zoning Code, staff is concerned that some residents of mobile home parks may be left out of the notification process due to a terminology loophole. “Resident” is an all-encompassing term defined in Webster’s Ninth New Collegiate Dictionary as “One who resides in a place.” This term will ensure that the entire target population of this text amendment receives the intended notification.

PROPOSED ALTERNATE TEXT AMENDMENT LANGUAGE

Staff has proposed alternate language for the text amendment to §14-16-4-1 of the Zoning Code. Staff’s proposal would be a new subsection (C)(7) with subsequent subsections renumbered accordingly. Proposed alternate language is as follows:

[+ (7) In addition to the above notification requirements, all applicants requesting a zone map amendment for an area of any size that includes a mobile home development shall post and maintain a minimum of one sign at each entrance to the mobile home development, to include both vehicular and pedestrian entrances. These signs shall be in addition to signs required in division (4)(a) above and shall be maintained throughout the time period specified in that division. Such an applicant shall also provide, at the time of application, a list of all current mobile home development residents and their addresses within the subject area proposed to be changed. Failure by an applicant to provide this list shall be grounds for rejection, deferral, or denial of the application. The Planning Director shall mail written notice not less than 15 days prior to the date of the hearing to all mobile home development residents within the subject area to be changed, using for this purpose the list of current residents provided by the applicant. For cases in which the mobile home development owner is not party to the zone map amendment request (e.g. the

City is the applicant) and the applicant is unable to obtain a current list of residents and their addresses either from the mobile home development owner or from County Assessor records, the sign posting requirements of this division and of division (4)(a) above shall be considered adequate notice. +]

RESULTANT REQUIRED ZONING CODE AMENDMENTS

Staff's proposed alternate language for the text amendment will require some "clean-up" in other areas of the Zoning Code in which §14-16-4-1 is referenced. These changes will ensure internal consistency. The required changes are as follows:

1. §14-16-2-22(A)(1) pertaining to the procedure for the SU-1 Special Use Zone refers to §14-16-4-1(C)(10). This reference will need to be changed to §14-16-4-1(C)(11).
2. §14-16-2-23(B)(2) pertaining to the procedure for the SU-2 Special Neighborhood Zone refers to §14-16-4-1(C)(9)(b). This reference will need to be changed to §14-16-4-1(C)(10)(b).

CONCERNS OF REVIEWING AGENCIES / PRE-HEARING DISCUSSION

Advance Planning comments that the proposed Zoning Code text amendment is reasonable, but that the proposed 18-month eviction notice seems excessive. This commenter states that one year may be more appropriate.

NEIGHBORHOOD & OTHER CONCERNS

There is no known neighborhood or other opposition to the proposed ordinance. The Office of Neighborhood Coordination (ONC) provided notification in the October/November issue of the Neighborhood Newsletter, which was mailed out and is available online. ONC also emailed notice to all neighborhood associations who have an email address on file. Staff has received one email from an individual who comments that 12 months notice of eviction may be adequate and more reasonable than the proposed 18 months.

CONCLUSION

This request is for a recommendation to City Council regarding O-07-106, relating to mobile homes and creating provisions related to the notification requirements for termination of tenancy and zone map amendments. Text amendments to the Albuquerque Code of Ordinances (ROA 1994) are proposed, specifically in §14-16-4-1 of the Zoning Code. Chapter 14, Article 16, Part 4, Section 1 contains the portion of the Zoning Code pertaining to the procedure for amending the Zoning Code.

The proposed Ordinance adopts the existing state Mobile Home Park Act (Chapter 47, Article 10, NMSA1978) termination of tenancy provisions, but increases the time period for notification of eviction due to change of use of land from six months to eighteen months. The bill also amends §14-16-4-1 of

the Zoning Code to add a provision requiring applicants for zone map amendments for an area that includes a mobile home park to provide written notice, at least 15 days before the date of the hearing on the zone map amendment, to mobile home park tenants in the affected area.

The proposed Ordinance furthers the intent of the City Charter, the Zoning Code and the Comprehensive Plan. There is no known neighborhood or other opposition, although staff has received two comments stating that 12 months eviction notification rather than the proposed 18 months would be more appropriate. Staff is recommending some minor revisions to the Ordinance to make the notification process more reliable and enforceable. Council staff has accepted these revisions. Staff recommends that an Approval recommendation be forwarded to City Council.

FINDINGS- 07EPC 40060, November 15, 2007-Text Amendment to the Zoning Code

1. The proposed Ordinance adopts the existing state Mobile Home Park Act (Chapter 47, Article 10, NMSA1978) termination of tenancy provisions, but increases the time period for notification of eviction due to change of use of land from six months to eighteen months. The bill also amends §14-16-4-1 of the Zoning Code to add a provision requiring applicants for zone map amendments for an area that includes a mobile home park to provide written notice, at least 15 days before the date of the hearing on the zone map amendment, to mobile home park tenants in the affected area.
2. Current Zoning Code notification requirements for zone map amendments require that written notice be mailed only to landowners. Mobile home development residents are given little or no notice regarding zone map amendments that may require them to relocate.
3. Requiring 18 months notice to mobile home park tenants prior to eviction due to change in land use is an exercise in local self-government (City Charter, Article I). Requiring mobile home development owners to provide tenants with 18 months notice of eviction due to land use change and requiring notification to mobile home park tenants regarding proposed zone map amendments expresses the Council's desire to preserve, protect, and promote human rights and human dignity (City Charter, Article VII).
4. The proposed language furthers the Comprehensive Plan goal and the following policies for Housing:
 - a. Mobile home developments provide a source of affordable housing for a significant number of Albuquerque residents. This proposal will help to preserve and increase the supply of affordable housing and will help to assure the opportunity to obtain standard housing for a reasonable proportion of income (Policy II.D.5a).
 - b. Current lack of notification requirements for mobile home park tenants has the potential to displace a large number of low-income residents. The proposed text amendment will ameliorate this problem (Policy II.D.5c).
 - c. Mobile home parks currently provide a wide distribution of decent housing for all persons. This proposal will help ensure that this housing source is maintained (Policy II.B.5d).
5. The proposed language furthers the Comprehensive Plan goal and Policy II.D.8c for Human Services. The proposed legislation considers human rights in the development process by requiring adequate notification to mobile home development tenants of eviction due to change in land use. The proposed text amendment will minimize development's negative effects upon

individuals and neighborhoods by ensuring adequate notice of zone map amendments that will affect these individuals and neighborhoods, enabling them to become involved in the public process.

6. The intent of the Zoning Code (§14-16-1-3) will not be adversely affected by the proposed text amendment. Requiring notification of proposed zone map amendments to mobile home development residents within the area proposed to be changed will not interfere with the orderly, harmonious, and economically sound development that promotes the health, safety, convenience, and general welfare of the citizens of the City of Albuquerque.
7. Concerns regarding the proposed text amendment language include: 1) the source of information required to mail the notice; 2) enforceability; 3) sign posting requirements; and 4) terminology. Staff has proposed alternate language that will remedy these concerns as a condition of forwarding a recommendation of approval to the City Council.
8. The proposed alternate language will necessitate revisions to §§14-16-2-22(A)(1) and 14-16-2-23(B)(2) of the Zoning Code to ensure internal consistency. These sections contain references to the section proposed to be amended.
9. There is no known neighborhood or other opposition to this proposed text amendment. Two individuals have commented that 12 months notice prior to eviction due to change in land use may be more appropriate than the proposed 18 months.

RECOMMENDATION- 07EPC 40060, November 15, 2007

That a recommendation of APPROVAL of 07EPC 40060, a Text Amendment to the Zoning Code §14-16-4-1, to require mailed notice to mobile home development tenants, be forwarded to the City Council based on the preceding Findings and subject to the following Conditions of approval.

CONDITIONS OF APPROVAL- 07EPC 40060, November 15, 2007-Text Amendment to the Zoning Code

1. Replace the proposed language for §14-16-4-1 of the Zoning Code with the following alternate language (proposed changes to the current §14-16-4-1 are in **bold**):

§ 14-16-4-1 AMENDMENT PROCEDURE.

(A) Application.

(1) Prospective applicants should discuss their situation with the Planning Director before making application for an amendment to the map or text of this Zoning Code so as to familiarize themselves with city plans and policies.

(2) Amendments to the map or text of this Zoning Code are initiated by application to the city on prescribed forms. Each application for an amendment to a zone map shall be accompanied by sufficient copies of an accurate site plan, building development plan, sketch, evidence of interest in property, or other related information as may be required by the city. Applications for zone map amendments will be reviewed for impact to ambient air quality and may be required to include an air quality impact assessment. See § 14-16-3-14 of this Zoning Code. Submission of inaccurate information with an application is grounds for denial. An application relating to unplatted land shall be accompanied by a plat delineating the boundaries of the area requested to be amended.

(3) Applications for amendment of the official zone map may be made only by the Mayor or his designated representative, or by a person with direct financial, contractual, or proprietary interest in the affected property. The Planning Commission may not be applicant for an amendment of the official zone map. The Zoning Hearing Examiner may not be an applicant for any matter which he would hear.

(4) Applications for amendment of the text of this Zoning Code may be made by the city or by any person. The City Council shall make such application by introduction of an ordinance amending this Zoning Code to the City Council.

(5) An application to amend zoning for the same property or to make the same text change may not be filed within 12 months from the date of final action by the city on a prior application. However, this limitation shall not apply to applications by a representative of the city.

(6) Application for zoning of an area to be annexed to the city is an application for a map amendment and must be filed and processed concurrently with the annexation action.

(B) Fee. An application fee shall be charged as follows except to representatives of the city:

(1) Map amendment, as follows:

- (a) No fee for the establishment of city zoning for parcels being annexed.
- (b) Less than one acre, \$240.
- (c) One to ten acres, \$240 plus \$55 per acre or portion thereof.
- (d) More than ten acres, \$685 plus \$10 per acre or portion thereof.
- (e) For an overlay zone, one-fourth of the above rates.
- (f) Deferral requested by the applicant, \$110.

(2) Text Amendment, \$565.

(3) Site Development Plan:

-
- (a) Original Plan approval at either the related zone map amendment public hearing or at a separate public hearing, \$385.
- (b) Amendment approved by Planning Director without interdepartmental review, \$45.
- (c) Amendment requiring a public hearing and interdepartmental review, \$255.
- (d) Deferral at the request of the applicant, \$110.
- (4) When an application is withdrawn after it has been advertised for public hearing by the city, the application fee shall not be refunded. When the application is withdrawn before such advertisement, all but \$40 of the fee shall be refunded.
- (C) Hearing and Decision on Proposed Zone Map Amendments.
- (1) Prior to hearing, the Planning Director shall request interested city departments and other agencies to comment on the application. Comments received shall be submitted to the Planning Commission or the Zoning Hearing Examiner, whichever is hearing the request.
- (2) The Planning Commission and Zoning Hearing Examiner shall fix a regular time and place for meetings to consider applications for amending the zone maps of this Zoning Code. Such consideration shall be at a public hearing at a time and place contained in a public notice in a daily newspaper of general circulation in the city at least 15 days before the date of the hearing. The notice shall give the location of the property, the present zoning, the requested zoning, and the place where copies of the application may be examined.
- (3) The Planning Director shall notify the applicant by mail of the date, time, and place of hearing.
- (4) Applications for change to the zone map for an area of one block or less:
- (a) The applicant must post and maintain one or more signs, as provided and where instructed by the Planning Director, at least 15 days before the date of the hearing. The applicant is responsible for removing such signs within five days after the hearing is completed. Failure to properly post signs is grounds for deferral or denial of the application. No one, except the applicant or an agent of the applicant or the city, shall remove or tamper with any such required sign during the period it is required to be maintained under this division (a).
- (b) The Planning Director shall mail written notice not less than 15 days prior to the date of the hearing to all owners of property within the area proposed to be changed and to all owners of property within 100 feet of the exterior boundaries of the area proposed to be changed, using for this purpose the last known name and address of the owners shown in the records of the County Assessor. Notice shall include the date, time, and place of the hearing.
- (5) Applications for change to the zone map for an area of over one block but less than 40 acres where the area is not covered by a concurrently proposed Sector Development Plan. Signs shall be posted as provided in division (4)(a) above. Mailed notice is not required.
- (6) Applications for change to the zone map for an area of 40 acres or more, or for adoption of a Sector Development Plan. The public notice required in division (2) above shall include an additional display advertisement of no less than nine square inches, including a map of the area of the application. Mailed notice or signs are not required.
- [+ (7) In addition to the above notification requirements, all applicants requesting a zone map amendment for an area of any size that includes a mobile home development shall post and maintain a minimum of one sign at each entrance to the mobile home development, to include**

both vehicular and pedestrian entrances. These signs shall be in addition to signs required in division (4)(a) above and shall be maintained throughout the time period specified in that division. Such an applicant shall also provide, at the time of application, a list of all current mobile home development residents and their addresses within the subject area proposed to be changed. Failure by an applicant to provide this list shall be grounds for rejection, deferral, or denial of the application. The Planning Director shall mail written notice not less than 15 days prior to the date of the hearing to all mobile home development residents within the subject area to be changed, using for this purpose the list of current residents provided by the applicant. For cases in which the mobile home development owner is not party to the zone map amendment request (e.g. the City is the applicant) and the applicant is unable to obtain a current list of residents and their addresses either from the mobile home development owner or from County Assessor records, the sign posting requirements of this division and of division (4)(a) above shall be considered adequate notice. +]

~~[- (7) -]~~ [+ (8) +] An advertised hearing may be continued to a time and place announced at the hearing without advertising or reposting of signs.

~~[- (8) -]~~ [+ (9) +] The Planning Commission or Zoning Hearing Examiner, whichever is hearing the request, may prescribe regulations pertaining to the submission of documentary evidence into the record of any application prior to the advertised hearing date for said application.

~~[- (9) -]~~ [+ (10) +] The zoning map and any related Sector Development Plan may be amended at the conclusion of a public hearing on the basis of plans, ordinances and policies adopted by the City Council. In making a decision, the key findings of fact shall be stated. Additional, satisfactory submissions may be made a condition of approval. Approval of a zone more intensive than the advertised or a change of zoning outside the area advertised for hearing is possible only after appropriately readvertising and reposting signs.

(a) The Planning Commission and, if authority is so delegated by the Planning Commission, the Zoning Hearing Examiner, have sole authority to amend the zoning map. The Planning Commission has the sole authority to adopt or amend Sector Development Plans, except as provided in division (b) below. When a zone map amendment which is inconsistent with an adopted Rank 2 or Rank 3 city plan is requested, the Planning Director shall not process it unless an appropriate plan amendment is also requested; the Planning Commission shall then consider the applications and decide them if it has authority to make the plan amendment, or make recommendations if the City Council has the plan-change authority.

(b) The City Council, after receiving the recommendations of the Planning Commission, has the sole authority to:

1. Amend the zoning map imposing or eliminating SU-2 or SU-3 zoning;
2. Amend the zoning map imposing or eliminating HO, UCO, or DO overlay zoning;
3. Amend an SU-2 or SU-3 Sector Development Plan for an area over one block;
4. Amend the general preservation guidelines or design regulations for an area where HO, UCO, or DO overlay zoning has been imposed;
5. Amend the zoning map as to land being concurrently annexed;

6. Amend the zoning map pursuant to deciding an appeal of a zone change decision; and

7. Amend zoning regulations when all the equitable owners of land which comprises at least 20% of the area proposed for change or 20% of the area within 100 feet, excluding public right-of-way, of the area proposed to be changed in zoning regulation, protest in writing the proposed change in the zoning regulation. For definition, see § 14-16-4-4(E)(5)(d). When there is a protest duly based on this division 7., the proposed change in zoning regulation shall require approval by a majority of all Councilors. When such protest is filed after action of the Planning Commission or Zoning Hearing Examiner, it shall be processed as an appeal. It is the burden of the persons asserting the applicability of this division 7. to show that it applies through clear and convincing evidence.

~~[- (10) -]~~ ~~[+ (11) +]~~ (a) An approval of a change to the zone map does not become official until the Planning Director signs Certification of Zoning and sends it to the applicant and any other person who requests such notification on the specific case. Such certification shall be signed immediately after appeal possibilities have been concluded and after all requirements prerequisite to this certification are met.

(b) If such requirements are not met within six months after the date final city approval is voted, the approval is void; however, the Planning Director may extend this time limit up to an additional six months.

~~[- (11) -]~~ ~~[+ (12) +]~~ When only a site development plan is requested to be amended, the basic definition of the zone's land uses is not open to amendment, whether in the original decision or on appeal.

~~[- (12) -]~~ ~~[+ (13) +]~~ When a zoning regulation is considered by the City Council, after an advisory hearing by the Planning Commission or Zoning Hearing Examiner, all public notice required by this section shall be provided for both the initial advisory hearing and the initial City Council or Council committee hearing.

(D) Hearing and Decision on Proposed Ordinance Text Changes.

(1) Prior to City Council hearing on a text change, including those initiated by the City Council or an official of the city, an application for a text change shall be evaluated by the Planning Director and the Planning Commission. Their recommendations shall be submitted to the City Council accompanying the text amendment ordinance. Provided, however, that amendments initiated by the City Council shall be evaluated after the text amendment ordinance has been introduced and prior to City Council hearing.

(2) The Planning Director shall notify the applicant of the date, time, and place of hearing.

(3) The City Council may consider any application for text amendment and shall consider any such application which receives a positive recommendation from the Planning Commission. Such consideration shall be at a public hearing.

(E) Hearing and Decision on Approval of Development Plans. Hearings by the Planning Commission in initial approval or amendment to a Sector Development Plan or Site Development Plan specified under a zone in this Zoning Code shall abide by the provisions of division (C) of this section.

(F) Comprehensive Review of Zone Map. Within the one-year period immediately preceding December 1, 1980, and within each one-year period immediately preceding July 1 of every fourth year thereafter, the Planning Director, after completely reviewing the zone map then in effect,

shall recommend to the Planning Commission a version to the official zone map, revised to the extent appropriate to advance the accomplishment of the master plan.

2. Revise references to §14-16-4-1 within the Zoning Code as follows:
 - a. §14-16-2-22(A)(1) pertaining to the procedure for the SU-1 Special Use Zone refers to §14-16-4-1(C)(10). This reference will need to be changed to §14-16-4-1(C)(11).
 - b. §14-16-2-23(B)(2) pertaining to the procedure for the SU-2 Special Neighborhood Zone refers to §14-16-4-1(C)(9)(b). This reference will need to be changed to §14-16-4-1(C)(10)(b).
-

***Anna DiMambro
Planner***

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Code Services

Office of Neighborhood Coordination

City-Wide- an email will be done to all neighborhood representatives and also an article will be in the "Neighborhood News" newsletter - siw

Advanced Planning

This is a City Council request for a text amendment to the Zoning Code. The amendment would require mobile home park owner to give 15 day notice to mobile home tenants that they are requesting a zone change to initiate different development. That seems reasonable.

Bill O-07-106 that requires 18 month eviction notice seems excessive. I would think that a year would be sufficient to find alternative housing arrangements.

PUBLIC WORKS DEPARTMENT

Transportation Development Services

Utility Development

Traffic Engineering Operations

Hydrology

Transportation Planning

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

City Forester

PARKS AND RECREATION

Planning and Design

Open Space Division

POLICE DEPARTMENT/Planning

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division

No adverse comments.

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY

Reviewed, no comment.

ALBUQUERQUE PUBLIC SCHOOLS

The City of Albuquerque is proposing ordinance O-07-106 requiring extension of the mobile home eviction notice and amend zoning code 14-16-4-1 to add a provision for zoning map changes to require written notice. This will have no adverse impacts to the APS district.

MID-REGION COUNCIL OF GOVERNMENTS

MPO staff have no comment on this proposal.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

PNM has no comment on this item.