



# City of Albuquerque

## Office of the City Clerk

Timothy M. Keller, Mayor

Katy Duhigg, City Clerk

### Interoffice Memorandum

September 3, 2019

To: CITY COUNCIL

From: Camille Cordova, City Clerk Executive Assistant

Subject: BILL NO. O-19-65; ENACTMENT NO. O-2019-021

I hereby certify that on August 30, 2019, the Office of the City Clerk received Bill No. O-19-65 as signed by the president of the City Council, Klarissa J. Peña. Enactment No. O-2019-021 was passed at the August 5, 2019 City Council meeting. Mayor Keller did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. O-19-65.

Sincerely,

  
\_\_\_\_\_  
Katy Duhigg  
City Clerk

# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

COUNCIL BILL NO.           O-19-65           ENACTMENT NO.           0-2019-021          

SPONSORED BY: **Trudy E. Jones and Isaac Benton, by request**

1    **ORDINANCE**

2    **ADOPTING ZONING CONVERSION RULES FOR PROPERTIES IN BATCH 1 OF**

3    **THE PHASE 2 ZONING CONVERSION EFFORT AS DIRECTED BY CITY**

4    **COUNCIL RESOLUTION 18-29 AND UPDATING THE OFFICIAL ZONING MAP.**

5        **WHEREAS, the City Council, the governing body of the City of**

6    **Albuquerque, has the authority to adopt and amend plans for the physical**

7    **development of areas within the planning and platting jurisdiction of the City**

8    **authorized by statute, Section 3-19-3, NMSA 1978, and by its home rule**

9    **powers; and**

10        **WHEREAS, the City’s zoning powers are established by the City charter, in**

11    **which Article I, Incorporation and Powers, allows the City to adopt new**

12    **regulatory structures and processes to implement the Albuquerque/Bernalillo**

13    **County Comprehensive Plan (“Comp Plan”) and help guide future legislation;**

14    **Article IX, Environmental Protection, empowers the City to adopt regulations**

15    **and procedures to provide for orderly and coordinated development patterns**

16    **and encourage conservation and efficient use of water and other natural**

17    **resources; and Article XVII, Planning, establishes the City Council as the**

18    **City’s ultimate planning and zoning authority; and**

19        **WHEREAS, the City Council adopted an updated Comp Plan on March 20,**

20    **2017 via R-16-108 (Enactment No. R-2017-026), including goals and policies to**

21    **maintain healthy, vibrant, and distinct communities through zoning and**

22    **design standards that are consistent with long-established residential**

23    **patterns; and**

24        **WHEREAS, the Comp Plan establishes a complementary pair of**

25    **Development Areas – Areas of Change, where growth is encouraged and**

26    **higher-density and higher-intensity uses are the most appropriate, and Areas**

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1 of Consistency, where the existing pattern of uses, density, and intensity is to  
2 be maintained and reinforced over time; and

3 WHEREAS, the Integrated Development Ordinance (IDO) was drafted as  
4 part of a citywide effort to update and replace the City's 40-year-old, 1970s-era  
5 Comprehensive Zoning Code, and as the primary regulatory tool to implement  
6 the Comp Plan for land within the municipal boundaries of the City of  
7 Albuquerque; and

8 WHEREAS, the IDO's stated purpose is to implement the Comp Plan;  
9 ensure that all development in the City is consistent with the intent of other  
10 plans and policies adopted by City Council; ensure provision of adequate  
11 public facilities and services for new development; protect quality and  
12 character of residential neighborhoods; promote economic development and  
13 fiscal sustainability of the City; provide efficient administration of City land  
14 use and development regulations; protect health, safety, and general welfare  
15 of the public; provide for orderly and coordinated development patterns;  
16 encourage conservation and efficient use of water and other natural  
17 resources; implement a connected system of parks, trails, and open spaces to  
18 promote improved outdoor activity and public health; provide reasonable  
19 protection from possible nuisances and hazards and to otherwise protect and  
20 improve public health; and encourage efficient and connected transportation  
21 and circulation systems for motor vehicles, bicycles, and pedestrians; and

22 WHEREAS, the IDO was drafted to be consistent with and implement Comp  
23 Plan goals and policies; and

24 WHEREAS, the IDO helps to implement Comp Plan goals and policies by  
25 providing a set of zone districts (§14-16-2) that range from low intensity to  
26 high intensity and designating the appropriate mix of land uses in each zone  
27 district; and

28 WHEREAS, with the adoption of the IDO, the City Council adopted zoning  
29 conversion rules for approximately 750 categories of Special Use zones that  
30 were site-specific (i.e. SU-1 zones), approximately 450 Special Use zones  
31 established by the adoption of Sector Development Plans (i.e. SU-2 and SU-3  
32 zones), and approximately 20 base zones from the Comprehensive Zoning  
33 Code to convert pre-existing zone districts to base zone districts established

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1 by the IDO in the Official Zoning Map (§14-16-1-6) that matched as closely as  
2 possible the permissive uses in each zone; and

3 WHEREAS, the intent of the IDO was to update the City’s land use and  
4 zoning framework to protect the character of existing development and to  
5 regulate future development without eliminating or limiting the ability of  
6 lawful, existing land uses to continue after the IDO’s adoption; and

7 WHEREAS, the City understands that predictability of zoning and  
8 compatibility of land use and zoning are essential in order to maintain and  
9 strengthen economic value and viability for property owners and businesses,  
10 and to ensure appropriate and adequate protections for neighboring  
11 properties; and

12 WHEREAS, the Official Zoning Map is used to apply land use regulations in  
13 the IDO to development throughout the city and in decision-making for zoning  
14 map amendments and long-range planning; and

15 WHEREAS, an accurate and transparent Official Zoning Map is critical to  
16 the City’s role in providing for the health, welfare, and safety of the public; and

17 WHEREAS, updating the Official Zoning Map to better match zoning with  
18 existing land uses is consistent with the objectives of the IDO and the Comp  
19 Plan and benefits the City and property owners by eliminating  
20 nonconformities where appropriate and improving the accuracy of information  
21 and regulatory requirements for individual parcels; and

22 WHEREAS, many uses developed legally on properties either before City  
23 zoning was established in 1959, before City zoning actions in subsequent  
24 years that disallowed particular uses in particular zones, or before the IDO  
25 established different allowable uses in the new zone districts, making such  
26 existing uses legally nonconforming; and

27 WHEREAS, many properties in the City have developed with a low-density  
28 residential use (e.g. townhouse, duplex, or single-family detached house) in  
29 zones that otherwise would have allowed more dense and more intense uses,  
30 and converting these properties to a zone district that allows less dense and  
31 less intense uses with the permission of the property owner will help preserve  
32 neighborhood stability and land use predictability – thus advancing two  
33 leading objectives of the City’s in the area of land use regulation; and

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1       **WHEREAS, there are many properties with two or more zone districts**  
2 **covering a single lot (whether based on plat or deed) for a variety of historical**  
3 **reasons, which has resulted in a floating zone line that cannot accurately be**  
4 **associated with any actual physical boundary for purposes of implementing**  
5 **the respective zoning requirements of the multiple zones; and**

6       **WHEREAS, there are many undeveloped properties with former Special**  
7 **Use or R-D zoning, which often required further review and decision**  
8 **processes to define allowable uses, that converted in Phase 1 to zones that**  
9 **may not accurately allow uses matching those that were previously**  
10 **anticipated and that are otherwise consistent with surrounding land use and**  
11 **zoning patterns; and**

12       **WHEREAS, pursuant to the Phase 1 conversion rules, many properties**  
13 **were converted to PD (which properties may or may not have an approved Site**  
14 **Plan) or NR-BP (which properties may or may not have an approved Master**  
15 **Development Plan) even though they do not all meet the size thresholds for**  
16 **those zone districts established by the IDO, and although this may not impact**  
17 **the ultimately usability of those properties, it does present a nonconformity**  
18 **that can otherwise be cured; and**

19       **WHEREAS, City Council Resolution 18-29 directed the Planning**  
20 **Department to create a Phase 2 zoning conversion process to evaluate,**  
21 **analyze, process, and recommend citywide zoning conversions consistent**  
22 **with the Comprehensive Plan and the IDO implementation goals, wherein**  
23 **property owners would voluntarily convert the zoning on their properties to**  
24 **address one or more of 5 following issues that were known at the time of the**  
25 **IDO adoption but not resolved by the initial zoning conversion that became**  
26 **effective as of May 17, 2018: 1) Nonconforming use(s), 2) Voluntary downzone,**  
27 **3) Floating zone line(s), 4) Prior Special Use or R-D zoning, and 5) Size**  
28 **thresholds for PD and NR-BP; and**

29       **WHEREAS, City Council Resolution 18-29 directed the Planning**  
30 **Department to evaluate each property whose owner submitted a request and**  
31 **agreement form to determine whether it reasonably falls within at least one of**  
32 **the 5 identified criteria and decline to process those that do not; and**

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1       **WHEREAS, for properties to be eligible through the nonconforming use**  
2       **criterion, Planning Department staff determined that the existing use had to**  
3       **have been legally allowed when the use began or that the use began before**  
4       **the City established regulations on that use; and**

5       **WHEREAS, for properties to be eligible through the voluntary downzone**  
6       **criterion, Planning Department staff determined that the property had to have**  
7       **been zoned R-T, R-ML, R-MH, or MX-T and included an existing low-density**  
8       **residential use (e.g. single-family detached house, duplex, or townhouse) and**  
9       **that the property owner requested a less intense or less dense zone district**  
10       **that still allowed the existing use; and**

11       **WHEREAS, for properties to be eligible through the floating zone line**  
12       **category, Planning Department staff determined that the property had to have**  
13       **2 zone districts on one parcel – either a platted parcel (as mapped by AGIS) or**  
14       **deeded parcel (as mapped by the Bernalillo County Assessor) – and that the**  
15       **zoning conversion would be completed along lot lines documented in the**  
16       **AGIS layer called “City Parcel”; and**

17       **WHEREAS, for properties to be eligible through the prior Special Use or R-**  
18       **D zoning criterion, Planning Department staff determined that the property had**  
19       **to be undeveloped (i.e. contained no structure up to the time the Phase 2,**  
20       **Batch 1 properties were submitted to the Environmental Planning Commission**  
21       **for review and recommendation) and had previously been zoned SU-1, SU-2,**  
22       **SU-3, or R-D; and**

23       **WHEREAS, for properties to be eligible through the size threshold criterion**  
24       **for PD or NR-BP, Planning Department staff determined that a property zoned**  
25       **PD had to be less than 2 acres in size or greater than 20 acres in size or that a**  
26       **property zoned NR-BP had to be less than 20 acres in size and not part of an**  
27       **approved Master Development Plan; and**

28       **WHEREAS, properties zoned NR-BP that are less than 20 acres in size and**  
29       **part of an approved Master Development Plan are governed by the Master**  
30       **Development Plan, and changing the zoning on those properties would make**  
31       **it less transparent to the fact that they would still be governed by the Master**  
32       **Development Plan unless the Master Development Plan were amended to**  
33       **remove those properties from the Master Development Plan boundary; and**

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1       WHEREAS, for those properties whose owners requested conversion to a  
2 zone district that did not match the land use and zoning pattern of the  
3 surrounding area or that was not compatible, Planning staff recommended a  
4 zoning conversion that was more compatible with the surrounding land use  
5 and zoning pattern and that still resolved the relevant issues in the R-18-29  
6 criteria; and

7       WHEREAS, there are many properties with lot lines that differ spatially  
8 between platted lots (approved by the City, recorded by the Bernalillo County  
9 Clerk, and mapped by AGIS) and deeded lots (recorded and mapped by the  
10 Bernalillo County Assessor); and

11       WHEREAS, Phase 2 zoning conversions will be completed only on lots  
12 mapped in the AGIS layer “City Parcel”; and

13       WHEREAS, in some cases a platting action may be needed to create a  
14 platted parcel to be mapped in the AGIS layer “City Parcel” that corresponds  
15 spatially with the piece of land on which the property owner desires the zoning  
16 conversion; and

17       WHEREAS, the Planning Department conducted public outreach efforts  
18 that included advertisements in print media, online media, and radio; inserts  
19 mailed with the Property Tax Bill to all property owners in Albuquerque;  
20 tabling at community events; attendance at Neighborhood Association  
21 meetings; and office hour appointments; and

22       WHEREAS, owners of 122 eligible properties signed a Property Owner  
23 Request and Agreement Form to opt in to the Phase 2 zoning conversion  
24 process by the submittal date of the first batch of properties for review and  
25 recommendation by the Environmental Planning Commission; and

26       WHEREAS, owners of 4 eligible properties (all of which were in Areas of  
27 Consistency, with Form ID number 14 under Criterion 1 Nonconforming Use  
28 and Form ID numbers 128-130 under Criterion 5 PD < 2 acres) opted out of the  
29 Phase 2 zoning conversion process since the Environmental Planning  
30 Commission review and recommendation and have been removed from the  
31 Batch 1 properties for which City Council will consider adopting zoning  
32 conversion rules; and

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1       **WHEREAS, Form ID #4 was removed from the Batch 1 properties for which**  
2       **City Council will consider adopting zoning conversion rules. This property**  
3       **was deemed ineligible for the Zone Conversion Process as it is not a non-**  
4       **conforming use and does not meet any of the other criteria; and**  
5       **WHEREAS, Planning staff confirmed the eligibility of these Batch 1**  
6       **properties and recommended appropriate zoning conversions to address the 5**  
7       **issues in R-18-29, meet the goals of IDO implementation, and further the goals**  
8       **and policies in the Comp Plan; and**  
9       **WHEREAS, Planning staff either confirmed the zoning conversion**  
10       **requested by the property owner as appropriate or recommended a more**  
11       **appropriate zoning conversion given the existing lawful use of the property**  
12       **and the surrounding land use and zoning patterns; and**  
13       **WHEREAS, the voluntary process established by R-18-29 necessarily**  
14       **results in a phased conversion of various parcels on a citywide basis; and**  
15       **WHEREAS, the City amended the Comp Plan in 2001 via R-01-343**  
16       **(Enactment No. 171-2001) to identify Community Planning Areas and provide**  
17       **goals and policies to protect and enhance distinct community identity in each**  
18       **area; and**  
19       **WHEREAS, the Comp Plan describes a Community Planning Area**  
20       **assessment process to provide opportunities for community engagement and**  
21       **analysis of each of the City’s 12 Community Planning Areas every 5 years,**  
22       **culminating in an update to the goals and policies in the Comp Plan, as**  
23       **recommended by the assessments; and**  
24       **WHEREAS, the IDO establishes a Community Planning Area assessment**  
25       **process as the City’s new process for long-range planning with communities,**  
26       **intended to provide opportunities on a 5-year cycle to analyze and recommend**  
27       **zoning and regulatory changes in specific geographic areas to better**  
28       **implement the Comp Plan; and**  
29       **WHEREAS, concerns about the resulting changes to zoning patterns from**  
30       **Phase 2 zoning conversions can be addressed through Community Planning**  
31       **Area assessments, which may result in recommendations to City Council for**  
32       **future zoning actions for certain neighborhoods, districts, or corridors, as**  
33       **appropriate; and**



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1       WHEREAS, on January 10, 2019, the Environmental Planning Commission  
2 (EPC), in its advisory role on land use and planning matters, recommended  
3 approval of this request (Project 2018-001843, Case RZ-2018-00057).

4       **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**  
5 **ALBUQUERQUE:**

6       Section 1. **ZONING CONVERSION RULES.** The City Council hereby adopts  
7 zoning conversion rules for the properties in Batch 1 of the Phase 2 zoning  
8 conversion process as listed in Exhibit X.

9       Section 2. **OFFICIAL ZONING MAP.** The City Planning Department shall  
10 update the Official Zoning Map to reflect the adopted zoning conversion rules  
11 for the Batch 1 properties in Exhibit X.

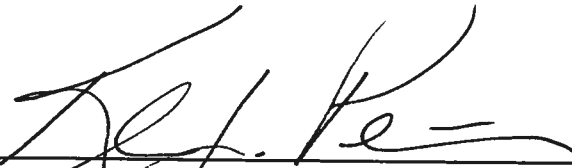
12       Section 3. **SEVERABILITY.** If any section, paragraph, sentence, clause,  
13 word or phrase of this Ordinance is for any reason held to be invalid or  
14 unenforceable by any court of competent jurisdiction, such decision shall not  
15 affect the validity of the remaining provisions of this Ordinance. The Council  
16 hereby declares that it would have passed this Ordinance and each section,  
17 paragraph, sentence, clause, word or phrase thereof irrespective of any  
18 provision being declared unconstitutional or otherwise invalid.

19       Section 4. **EFFECTIVE DATE.** This Ordinance shall take effect five days  
20 after publication by title and general summary.

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1 PASSED AND ADOPTED THIS 5<sup>th</sup> DAY OF August, 2019  
2 BY A VOTE OF: 8 FOR 1 AGAINST.

3  
4 Against: Peña

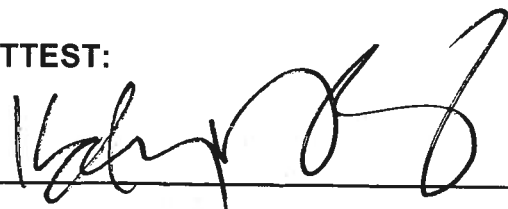
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8 Klarissa J. Peña, President  
9 City Council

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13 APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019

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17 Bill No. O-19-65

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22 Timothy M. Keller, Mayor  
23 City of Albuquerque

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26 ATTEST:

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28 \_\_\_\_\_  
29 Katy Duhigg, City Clerk

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