

CITY of ALBUQUERQUE

NINETEENTH COUNCIL

COUNCIL BILL NO. _____ ENACTMENT NO. _____

SPONSORED BY:

1

ORDINANCE

2 REPEALING SECTIONS 14-16-2-6(G), 14-16-2-7(I), 14-16-2-8(G),14-16-2-9(H), 14-
3 16-2-11(I), 14-16-2-12(I), 14-16-2-13(H), 14-16-2-14(H), 14-16-2-15(G), 14-16-2-
4 16(G), 14-16-2-17(H), 14-16-2-18(H), 14-16-2-19(I), 14-16-2-20(G), 14-16-2-21(G),
5 14-16-2-22(G), 14-16-2-24(E), 14-16-2-25(K), 14-16-2-26(A)(2), 14-16-3-11(A), 14-
6 16-4-3(A)(6) AND 14-16-3-14 ROA 1994; AMENDING SECTIONS 14-16-3-11(A),
7 14-16-4-1(A)(2), 14-16-3-22(A)(4)(b)5 ROA 1994 ALL TO REMOVE THE
8 REQUIREMENT TO CONDUCT AN AIR QUALITY IMPACT ANALYSIS OR
9 ASSESSMENT AS A PRECONDITION FOR CERTAIN LAND USE APPROVALS.
10 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
11 ALBUQUERQUE:

12 SECTION 1. In order to avoid any perception that this bill reduces the City's
13 commitment to clean air this uncodified introduction is included to show that
14 the requirement for an air quality impact analysis (AQIA) provides no
15 environmental protection and represents a waste of City and private resources
16 that could be used to provide actual environmental benefits:

17 1. This bill repeals the Zoning Code requirement that applicants for certain
18 land use projects submit an air quality impact analysis (AQIA) for Carbon
19 Monoxide (CO) as part of the development review process.

20 2. AQIAs were important when the requirement was added in 1990, at a time
21 when the City was out of compliance with the National Ambient Air Quality
22 Standard (NAAQS) for CO.

23 3. Since that time, measured CO has steadily decreased as a result of more
24 stringent federal and local standards for vehicle fuel content and emission
25 control equipment on vehicles, as well as the continuing effectiveness of the
26 Albuquerque-Bernalillo County Vehicle Inspection and Maintenance Program.

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- 1 4. Albuquerque is well below the maximum levels of CO allowed by the
2 health-based standards.
- 3 5. The City’s Air Quality staff have represented that the AQIAs produce no
4 relevant or useful data and that AQIAs are no longer necessary or effective in
5 meeting the health-based national, state and local carbon monoxide
6 standards.
- 7 6. The City’s Air Quality staff have represented that AQIAs are costly and
8 time consuming to perform and to review for developers as well as for city
9 staff and represent a waste of limited resources;
- 10 7. In May of 2005 a Planning Department “White Paper” was prepared
11 recommending the repeal of the AQIA requirement “as soon as is practicable.”
12 A copy of that White Paper is attached to this ordinance and is also not to be
13 codified. The reasons for the White Paper recommendation include:
- 14 A. By 2005 the City CO levels were less than half of federal
15 standards;
- 16 B. At the levels of CO found within the City by 2005, the EPA has
17 determined that population growth will not lead to a violation of federal
18 standards;
- 19 C. The City has not had a CO level in violation of federal standards
20 since 1991;
- 21 D. Given improved vehicle emissions over the past twenty years,
22 every city in the U.S., including Los Angeles, meets federal CO standards;
- 23 E. The requirement is outdated and no longer serves any purpose.
- 24 8. The failure to perform an AQIA, as required by current City ordinances,
25 has been used as legal justification to block the adoption of a sector plan even
26 though conducting an AQIA provides no benefit.
- 27 9. The City Council finds that all evidence supports the repeal of the AQIA
28 requirement as unnecessary and a waste of City and private resources.
- 29 SECTION 2. Section 14-16-2-6(G) ROA 1994 concerning air quality impact
30 review in an R-1 Zone is hereby repealed.
- 31 SECTION 3. Section 14-16-2-7(I) ROA 1994 concerning air quality impact
32 review in an MH Zone is hereby repealed.

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1 SECTION 4. Section 14-16-2-8(G) ROA 1994 concerning air quality impact
2 review in an R-LT Zone is hereby repealed and subsequent subsections
3 renumbered accordingly.

4 SECTION 5. Section 14-16-2-9(H) ROA 1994 concerning air quality impact
5 review in an R-T Zone is hereby repealed and subsequent subsections
6 renumbered accordingly.

7 SECTION 6. Section 14-16-2-11(I) ROA 1994 concerning air quality impact
8 review in an R-2 Zone is hereby repealed.

9 SECTION 7. Section 14-16-2-12(I) ROA 1994 concerning air quality impact
10 review in an R-3 Zone is hereby repealed.

11 SECTION 8. Section 14-16-2-13(H) ROA 1994 concerning air quality impact
12 review in an RC Zone is hereby repealed.

13 SECTION 9. Section 14-16-2-14(H) ROA 1994 concerning air quality impact
14 review in an RD Zone is hereby repealed.

15 SECTION 10. Section 14-16-2-15(G) ROA 1994 concerning air quality impact
16 review in an O-1 Zone is hereby repealed.

17 SECTION 11. Section 14-16-2-16(G) ROA 1994 concerning air quality impact
18 review in a C-1 Zone is hereby repealed.

19 SECTION 12 Section 14-16-2-17(H) ROA 1994 concerning air quality impact
20 review in a C-2 Zone is hereby repealed.

21 SECTION 13 Section 14-16-2-18(H) ROA 1994 concerning air quality impact
22 review in a C-3 Zone is hereby repealed.

23 SECTION 14 Section 14-16-2-19(I) ROA 1994 concerning air quality impact
24 review in an IP Zone is hereby repealed.

25 SECTION 15 Section 14-16-2-20(G) ROA 1994 concerning air quality impact
26 review in an M-1 Zone is hereby repealed.

27 SECTION 16 Section 14-16-2-21(G) ROA 1994 concerning air quality impact
28 review in an M-2 Zone is hereby repealed.

29 SECTION 17. Section 14-16-2-22(G) ROA 1994 concerning air quality impact
30 review in an SU-1 Zone is hereby repealed and subsequent subsections are
31 renumbered accordingly.

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1 SECTION 18. Section 14-16-2-24(E) ROA 1994 concerning air quality impact
2 review in an SU-3 Zone is hereby repealed and subsequent subsections are
3 renumbered accordingly.

4 SECTION 19. Section 14-16-2-25(K) ROA 1994 concerning air quality impact
5 review in the H-1 Zone is hereby repealed.

6 SECTION 20. Section 14-16-2-26(A)(2) ROA 1994 concerning air quality
7 impact review in a P Zone is hereby repealed and subsequent subsections are
8 renumbered accordingly.

9 SECTION 21. Section 14-16-3-11(A) regarding Site Development Plan
10 Approval Requirements is amended to read as follows:.

11 “(A) Site Development Plan approval for either subdivision or building
12 purposes may include:

13 (1) Imposition of relevant requirements contained within or authorized
14 by the city's Subdivision Ordinance, including but not limited to dedication of
15 rights of way and assurances for required infrastructure improvements both
16 on site and off site.

17 ~~[(2) Submission of an air quality impact assessment pursuant to § 14-~~
18 ~~16-3-14 of this Zoning Code.]~~

19 ~~[(3)]~~[(2)] Imposition of other requirements of other city ordinances.”

20 SECTION 22. Section 14-16-3-14, Air Quality Impact Regulations, is hereby
21 repealed in its entirety.

22 SECTION 23. Section 14-16-4-1(A)(2) ROA 1994, The Amendment Procedure
23 section of the Zoning Code, is amended to read as follows:

24 “(2) Amendments to the map or text of this Zoning Code are
25 initiated by application to the city on prescribed forms. Each application for
26 an amendment to a zone map shall be accompanied by sufficient copies of an
27 accurate site plan, building development plan, sketch, evidence of interest in
28 property, or other related information as may be required by the city.

29 ~~[Applications for zone map amendments will be reviewed for impact to~~
30 ~~ambient air quality and may be required to include an air quality impact~~
31 ~~assessment. See § 14-16-3-14 of this Zoning Code.]~~ Submission of inaccurate
32 information with an application is grounds for denial. An application relating

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1 to unplatted land shall be accompanied by a plat delineating the boundaries of
2 the area requested to be amended.”

3 SECTION 24. Section 14-16-4-3(A)(6) ROA 1994, regarding the requirement
4 to include an air quality assessment when adopting a sector development
5 plan, is hereby repealed in its entirety.

6 SECTION 25. Section 14-16-3-22(A)(4)(b)5 ROA 1994 concerning Form
7 Based Zones is amended to read as follows:

8 “5. Traffic Impact Study [~~and Air Quality Assessment~~] exemptions.
9 The intent of the form based zones is to create development that provides a
10 range of multi-modal opportunities, reducing overall vehicular need.
11 Accordingly, a TIS [~~and/or an AQIA~~] shall not be required for development
12 within a SU-1 form based zone.”

13 SECTION 26. SEVERABILITY CLAUSE. If any section, paragraph,
14 sentence, clause, word or phrase of this ordinance is for any reason held to be
15 invalid or unenforceable by any court of competent jurisdiction, such decision
16 shall not affect the validity of the remaining provisions of this ordinance. The
17 Council hereby declares that it would have passed this ordinance and each
18 section, paragraph, sentence, clause, word or phrase thereof irrespective of
19 any provision being declared unconstitutional or otherwise invalid.

20 SECTION 27. COMPILATION. Sections 2 through 25 of this ordinance
21 shall be incorporated in and made part of the Revised Ordinances of
22 Albuquerque, New Mexico, 1994.

23 SECTION 28. EFFECTIVE DATE. This ordinance shall take effect five days
24 after publication by title and general summary.