

CITY of ALBUQUERQUE

NINETEENTH COUNCIL

COUNCIL BILL NO. C/S O-10-9 ENACTMENT NO. _____

SPONSORED BY: Dan Lewis

1 **ORDINANCE**

2 **REPEALING SECTIONS 14-16-2-6(G), 14-16-2-7(I), 14-16-2-8(H), 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), 14-16-3-11(A)(2), 14-16-4-3(A)(6)**
6 **AND 14-16-3-14 ROA 1994; AMENDING SECTIONS, 14-16-4-1(A)(2), 14-16-3-**
7 **22(A)(4)(b)5 ROA 1994 ALL TO REMOVE THE REQUIREMENT TO CONDUCT**
8 **AN AIR QUALITY IMPACT ANALYSIS OR ASSESSMENT AS A PRECONDITION**
9 **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 levels have steadily decreased as a result**
24 **of more stringent federal and local standards for vehicle fuel content and**
25 **emission control equipment on vehicles, as well as the continuing**

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1 effectiveness of the Albuquerque-Bernalillo County Vehicle Inspection and
2 Maintenance I &M Program and the Winter Advisory No Burn Program.

3 4. Albuquerque is well below the maximum levels of CO allowed by the
4 National Ambient Air Quality Standards (NAAQSs), which are federal health-
5 based standards. Local CO levels exceeded the NAAQSs during the late
6 seventies and early eighties when CO was a much greater concern than it is
7 now. Monitored CO levels have continued to decline steadily. The U.S. EPA
8 redesignated Albuquerque-Bernalillo County to attainment status, under a
9 maintenance plan, for the NAAQSs for CO on June 13, 1996. (Fed. Reg. Vol. 61,
10 No. 115).

11 5. The City's Air Quality staff have represented that the AQIAs produce no
12 relevant or useful data and that AQIAs are no longer effective as a CO control
13 strategy and are not needed to help meet the national, health-based air quality
14 standards for CO.

15 6. As demonstrated in the "State Implementation Plan (SIP) Revision:
16 Limited Maintenance Plan (LMP) for Carbon Monoxide (CO):
17 Albuquerque/Bernalillo County, NM", compliance with the NAAQSs for CO has
18 been achieved. The U.S. EPA approved the LMP for CO, including supporting
19 data, in 2005 (Fed. Reg. Vol. 70, No. 71).

20 7. The City's Air Quality staff have represented that AQIAs are costly and
21 time consuming to perform and to review for developers as well as for city
22 staff and represent a waste of limited resources;

23 8. In May of 2005 a Planning Department "White Paper" was prepared
24 recommending the repeal of the AQIA requirement "as soon as is practicable."
25 A copy of that White Paper is attached to this ordinance and is also not to be
26 codified. The reasons for the White Paper recommendation include:

27 A. By 2005 the City CO levels were less than half of federal
28 standards;

29 B. At the levels of CO found within the City by 2005, the EPA has
30 determined that population growth will not lead to a violation of federal
31 standards;

32 C. The last violation of a NAAQS for CO (the 8-hour standard)
33 occurred in December 1991;

1 D. Given improvements in vehicle emission control technology over
2 the past twenty years, every city in the U.S., including Los Angeles, meets
3 federal CO standards;

4 E. The requirement is outdated and no longer serves any purpose.

5 9. The failure to perform an AQIA, as required by current City ordinances,
6 has been used as legal justification to block the adoption of a sector plan even
7 though conducting an AQIA provides no benefit.

8 10. The City Council finds that all evidence supports the repeal of the AQIA
9 requirement as unnecessary and a waste of City and private resources.

10 SECTION 2. Section 14-16-2-6(G) ROA 1994 concerning air quality impact
11 review in an R-1 Zone is hereby repealed.

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

14 SECTION 4. Section 14-16-2-8(H) ROA 1994 concerning air quality impact
15 review in an R-LT Zone is hereby repealed.

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

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

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

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

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

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

29 SECTION 11. Section 14-16-2-16(G) ROA 1994 concerning air quality impact
30 review in a C-1 Zone is hereby repealed and subsequent subsections are
31 renumbered accordingly.

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

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

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

5 SECTION 15. Section 14-16-2-20(G) ROA 1994 concerning air quality impact
6 review in an M-1 Zone is hereby repealed and subsequent subsections are
7 renumbered accordingly.

8 SECTION 16. Section 14-16-2-21(G) ROA 1994 concerning air quality impact
9 review in an M-2 Zone is hereby repealed and subsequent subsections are
10 renumbered accordingly.

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

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

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

19 SECTION 20. Section 14-16-3-11(A)(2) regarding Site Development Plan
20 Approval Requirements is hereby repealed and subsequent subsections are
21 renumbered accordingly.

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

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

26 "5. Traffic Impact Study exemption. The intent of the form based
27 zones is to create development that provides a range of multi-modal
28 opportunities, reducing overall vehicular need. Accordingly, a TIS shall not be
29 required for development within a SU-1 form based zone."

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

32 "(2) Amendments to the map or text of this Zoning Code are
33 initiated by application to the city on prescribed forms. Each application for

1 an amendment to a zone map shall be accompanied by sufficient copies of an
2 accurate site plan, building development plan, sketch, evidence of interest in
3 property, or other related information as may be required by the city.
4 Submission of inaccurate information with an application is grounds for
5 denial. An application relating to unplatted land shall be accompanied by a
6 plat delineating the boundaries of the area requested to be amended.”

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

10 SECTION 25. SEVERABILITY CLAUSE. If any section, paragraph,
11 sentence, clause, word or phrase of this ordinance is for any reason held to be
12 invalid or unenforceable by any court of competent jurisdiction, such decision
13 shall not affect the validity of the remaining provisions of this ordinance. The
14 Council hereby declares that it would have passed this ordinance and each
15 section, paragraph, sentence, clause, word or phrase thereof irrespective of
16 any provision being declared unconstitutional or otherwise invalid.

17 SECTION 26. COMPILATION. Sections 2 through 24 of this ordinance
18 shall be incorporated in and made part of the Revised Ordinances of
19 Albuquerque, New Mexico, 1994.

20 SECTION 27. EFFECTIVE DATE. This ordinance shall take effect five days
21 after publication by title and general summary.

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