

CITY of ALBUQUERQUE

NINETEENTH COUNCIL

COUNCIL BILL NO. O-11-66 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton

1 ORDINANCE

2 AMENDING CHAPTER 14, ARTICLE 16, SECTION 2, PART 16 OF ROA 1994, A
3 PORTION THE ZONING CODE REGARDING THE C-1 NEIGHBORHOOD
4 COMMERCIAL ZONE, TO MAKE THE SALE OF GASOLINE, OIL AND
5 LIQUEFIED PETROLEUM GAS A CONDITIONAL USE.

6 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
7 ALBUQUERQUE:

8 SECTION 1. The amendment herein revises the comprehensive zoning
9 code to make the sale of gasoline, oil and liquefied petroleum gas a
10 conditional use, rather than a permissive use, in the C-1 Neighborhood
11 Commercial Zone. The City Council is concerned about the negative impacts,
12 such as exposure to environmental hazards and the generation of additional
13 traffic, and safety issues, such as the creation of conflict points in areas of
14 increased pedestrian and bicycle activity, that service stations built
15 immediately adjacent to established residential areas have. The purpose of
16 this amendment is to require a public notification process and comment
17 period before the construction of new service stations. Service stations
18 already in existence in C-1 zones, or for which building permits have been
19 received prior to adoption of this ordinance, are not affected.

20 SECTION 2. Section 14-16-2-16 (A) (8) is amended to read:

21 “(8) Retail sales of the following goods, plus incidental retailing of
22 related goods and incidental service or repair:

23 (a) Arts and crafts objects, supplies, plus their incidental
24 creation provided there is little or no reproduction of substantially identical
25 objects.

26 (b) Auto parts and supply.

1 (c) Books, magazines, newspapers, stationery, provided that no
2 such material is advertised to be forbidden to be sold to minors.

3 (d) Christmas trees, including outside sales, provided the use is
4 limited to 45 days in one calendar year.

5 (e) Clothing, shoes, dry goods.

6 (f) Cosmetics, notions, hobby supplies.

7 (g) Drugs, medical supplies.

8 (h) Flowers and plants, including minor and incidental outdoor
9 sales.

10 (i) Food and drink for consumption on premises, provided:

11 1. There shall be no drive-in restaurant, and

12 2. Alcoholic drink may be sold only under a restaurant
13 license for sale of beer and wine, as provided by Section 60-6A-4 NMSA 1978.
14 The sale of beer and wine under a restaurant license, however, is prohibited
15 within 500 feet of a community residential program or hospital for treatment of
16 substance abusers pursuant to § 14-16-3-12(A)(11) ROA 1994.

17 (j) Furniture, household furnishings, and appliances.

18 (k) [~~Gasoline, oil, liquefied petroleum gas, including outside~~
19 ~~sales.~~]

20 (l) Hardware, building materials, provided it is in a completely
21 enclosed building.

22 (m) [~~(l)~~] Jewelry.

23 (n) [~~(m)~~] Musical instruments and supplies.

24 (o) [~~(n)~~] Pets, provided there is no outside pen. One outside
25 exercise run is permitted, provided it is enclosed with a solid wall or fence at
26 least six feet high, and no more than one animal is permitted in the run at any
27 one time.

28 (p) [~~(o)~~] Photograph equipment.

29 (q) [~~(p)~~] Sporting goods.

30 SECTION 3. Section 14-16-2-16 (B) is amended as follows:

31 (B) *Conditional Uses.*

32 (1) Antenna, over 65 feet in height.

1 (2) Community Residential Program except not either Community
2 Residential corrections program or Community residential program for
3 substance abusers: up to 18 client residents, provided that the standards of
4 § 14-16-3-12 of this Zoning Code are met.

5 (3) Auto, trailer, and truck rental, service, storage, provided at least
6 the following is complied with:

7 (a) The lot is graded and surfaced as follows:

8 1. Blacktop or equal. Two inches of asphaltic concrete on a
9 prime coat and a four inch compacted subgrade, or a surface of equal or
10 superior performance characteristics.

11 2. Such paving shall be maintained level and serviceable.

12 (b) 1. A fence or wall which prevents vehicles from extending
13 beyond the property line shall be erected. However, if the wall or fence plus
14 retaining wall would have an effective height of over eight feet on the
15 residential side, the Zoning Hearing Examiner shall decide the required height;
16 such decision shall be made by the same process and criteria required for a
17 conditional use.

18 2. In a parking structure there shall be a six foot high solid
19 wall on every parking level, where the structure is within 19 feet of privately
20 owned land in a residential zone.

21 (c) Trucks and trailers parked outdoors for rental or storage,
22 provided:

23 1. Such vehicles shall not exceed 35 feet in length, 12 feet in
24 height, or a registered gross vehicle weight capacity of 26,000 lbs. The body
25 of trailers shall not be over 14 feet long unless it is a recreational vehicle.

26 2. No such vehicles shall be truck tractors or road tractors.

27 3. Parked or stored vehicles shall not cover more than 25% of
28 the premises.

29 4. Special restrictions on types and number of such vehicles
30 as well as screening and location of parking shall be imposed if appropriate
31 and necessary to protect the neighborhood.

32 (d) Vehicle repairing, done within a completely enclosed
33 building and at least 20 feet from any residential zone.

1 (4) Bicycle and motorized bicycle (moped) sales and rental,
2 provided that outdoor display is permitted only 50 feet or more from any
3 residential zone.

4 (5) Drive-up service window, except where listed as permissive in
5 this zone, provided that the vehicle movement plan is approved by the Traffic
6 Engineer, and further provided that the service window and any associated
7 order board are located at least 75 feet from any residential zone. Drive-up
8 service windows in existence upon the effective date of this Zoning Code shall
9 be considered as approved conditional uses.

10 (6) Fireworks sales, provided the use is limited to 45 days in one
11 calendar year.

12 (7) Games within a completely enclosed building, operated for
13 profit, and not permissive in this zone.

14 (8) Kennel, provided:

15 (a) It is in a completely enclosed building.

16 (b) It is no closer than 30 feet from any residential zone.

17 (c) The noise from the kennel does not exceed the ambient
18 noise level as defined in § 9-9-2, Noise Control, when measured 30 feet from
19 any exterior wall of the kennel.

20 (9) Mortuary.

21 (10) One mobile home for a watchman or caretaker on the same
22 premises developed with a commercial building or use provided that the
23 mobile home shall not be within 100 feet of a lot in a residential zone or a
24 dwelling unit in any zone.

25 (11) Outdoor storage or activity except as specifically listed as a
26 permissive or conditional use in this section and as further provided below:

27 (a) The outdoor storage or activity is part of a use on the same
28 premises, which use is a permissive only within a building in this zone.

29 (b) Outdoor uses which would impact their environs with
30 appearance, light, noise, odor, or similar environmental problems likely to be
31 unpleasant to neighboring premises and uses shall not be approved.

32 (c) Outdoor conditional uses may justify special buffering to
33 prevent the activity from negatively impacting adjacent land.

1 (d) Outdoor restaurant seating located within 75 feet of a
2 residential zone.

3 (12) Park-and-ride joint-use facilities, if it is determined that under
4 the conditions imposed there will not be a shortage of on-site parking for the
5 activities on the site; in such situations, no parking variance is required.

6 (13) Photo direct off-set printing, perforating, scoring, cutting, and
7 other light duty printing services provided:

8 (a) The number of persons engaged in the business is limited to
9 five excluding secretarial, clerical, and delivery personnel; and

10 (b) Activities or products are not objectionable due to noise,
11 vibration or other cause.

12 (14) Public utility structure which is not permissive.

13 (15) Recycling bin as an accessory use on the site, as provided in
14 § 14-16-3-15 of this Zoning Code.

15 (16) Schools, other than public.

16 (17) Storage of household goods, office records, equipment or
17 material reasonable to neighborhood function provided:

18 (a) All activities are conducted within a completely enclosed
19 building, the scale and style of which fits its location;

20 (b) Individual storage cubicles, units, or facilities are not each
21 directly accessible from outside the enclosed building; and

22 (c) Direct access to the premises from an arterial or collector
23 street is available.

24 (18) Uses or activities in a tent. If the uses or activities are listed
25 elsewhere in this section, provided there is sufficient paved off-street parking
26 available on the premises to meet parking requirements for all uses on the
27 premises, including the activity in the tent, and provided that the City Fire
28 Marshal [i.e., the Chief of the Fire Prevention Bureau] or his authorized
29 representative gives prior approval of the tent as meeting the requirements
30 of Chapter 14, Article 2, Fire Code.

31 (19) Restaurant serving liquor, provided that the restaurant is
32 located within a shopping center site for which a site development plan has
33 been approved.

1 (20) Wireless Telecommunications Facility, Roof-Mounted, up to 20
2 feet above the parapet of the building on which it is located, provided that the
3 requirements of § 14-16-3-17 of this Zoning Code are met.

4 [(21) Retail sales of gasoline, oil, liquefied petroleum gas, including
5 outside sales.]

6 SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
7 clause, word or phrase of this ordinance is for any reason held to be invalid or
8 unenforceable by any court of competent jurisdiction, such decision shall not
9 affect the validity of the remaining provisions of this ordinance. The Council
10 hereby declares that it would have passed this ordinance and each section,
11 paragraph, sentence, clause, word or phrase thereof irrespective of any
12 provision being declared unconstitutional or otherwise invalid.

13 SECTION 5. COMPILATION. This ordinance shall be incorporated in and
14 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

15 SECTION 6. EFFECTIVE DATE. This ordinance shall take effect five days
16 after publication by title and general summary.