



City of Albuquerque

PLANNING DEPARTMENT

Richard J. Berry, Mayor

Interoffice Memorandum

April 1, 2015

To: Rey Garduño, President, City Council

From: Suzanne Lubar, Planning Department Director

Subject: O-15-36- Project# 1001620/15EPC-40007. The Environmental Planning Commission (EPC) forwards a recommendation of conditional APPROVAL to the City Council regarding text amendments to the Zoning Code regarding Mobile Food Units. City-wide. Staff Planner: Catalina Lehner.

Request

The proposed legislation would establish regulations and a definition for Mobile Food Units, often known as "food trucks." The following text amendments to the Zoning Code are proposed: add a new section, §14-16-3-25 ROA 1994, amend §14-16-1-5(B) ROA 1994, Definitions, and correspondingly amend Sections §14-16-2-15 (O-1 zone), §14-16-2-16 (C-1 zone), §14-16-2-17 (C-2 zone), §14-16-2-19 (IP zone), to allow and establish regulations regarding the operation of Mobile Food Units on private property.

The City's Traffic Code, Section 8-5-1-42, would also be amended to permit and regulate mobile food units in the public right-of-way (ROW). However, the EPC is not forwarding a recommendation regarding the Traffic Code because the Traffic Code is not the purview of the EPC. The Traffic Code is the purview of the Department of Municipal Development (DMD).

Intent & Scope

The intent of the proposed legislation is to recognize the Mobile Food Unit industry as an economic generator while preserving equity with the site-built restaurant industry. Mobile Food Units would be defined and established as a use, and would be permitted on private property in all zones except residential zones- unless the operator has written permission from the property owner. Mobile Food Units could not occupy parking spaces needed to meet minimum parking requirements or obstruct access, and would have to comply with noise regulations.

Background & Zoning

As Mobile Food Units have become increasingly popular, it's become apparent that they are not defined in the Zoning Code or identified as a use therein. Currently, Mobile Food Units fall under the existing use category "outdoor storage or activity" and are limited the same way that other outdoor activities (ex. vehicle storage) are.

A conditional use permit is required to operate a Mobile Food Unit on private property in the C-1 Neighborhood Commercial Zone [§14-16-2-16(B)(13)] and the C-2 Community Commercial Zone [§14-16-2-17(B)(13)] zone because "outdoor storage and activity" is a conditional use in these zones. Mobile Food Units are also a conditional use in the C-3 zone. Mobile Food Units are not allowed in any other zones.

It is important to call-out Mobile Food Units as a use and to list them in the various zones in which they are intended to be allowed. If not listed, the use is prohibited. This is also important because many sector development plans reference underlying zones in the Zoning Code.

Mobile Food Units are proposed to be listed as a use in: O-1 Office and Institutional Zone §14-16-2-15(A)(10); C-1 Neighborhood Commercial Zone §14-16-2-16(A)(3); C-2 Community Commercial Zone §14-16-2-17(A)(5) and IP Industrial Park Zone §14-16-2-19(A)(13).

Other, Applicable Regulations

Mobile Food Units are regulated by the City's Food Sanitation Ordinance, Section 9-6-5-1 et seq., which is enforced by the Environmental Health Department's Consumer Health Protection Division (CHPD). Mobile Food Units are required to have a business registration and a health permit. They must report to a commissary daily for storage of food and supplies and disposal of garbage and grease.

Public Comments

Four parties, who had not made their opposition known prior to publication of the Staff report, appeared at the public hearing. They are opposed to the Staff suggestion, in the Traffic Code portion of the proposed legislation, to increase the distance between a Mobile Food Unit and a site-built restaurant from 100 to 500 feet. There was also opposition to new permitting requirements regarding parking.

Staff suggested that the parties put their objections in writing and submit them for inclusion in the record to be forwarded to the City Council. To date, Staff has not received anything in writing.

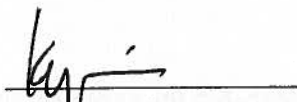
EPC Decision

At its March 9, 2015 hearing, the EPC voted 6-0 to forward a recommendation of conditional approval to the City Council. The EPC heard testimony from Mobile Food Unit operators and representatives. Four conditions of approval are recommended to clarify the legislation. Other, potential clarifications are found in Section VI (Analysis) of the Staff report. Since these pertain to the Traffic Code, however, they did not become conditions of approval.

Conclusion

The proposed text amendments to the Zoning Code would define Mobile Food Units, list them as a use in certain zones and establish regulations pertaining to them. The proposed text amendments would apply City-wide.

Recommended:



Kym Dicome, Manager
Current Planning Section
Planning Department

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Environmental Planning Commission

Agenda Number: 06
Project Number: 1001620
Case Number: 15EPC-40001
March 12, 2015

Staff Report

Agent City of Albuquerque Planning Department
Applicant City of Albuquerque Planning City Council Services
Adding a new Section 14-16-3-25 to the Zoning Code, amending Sections 14-16-1-5(B), Definitions; correspondingly amending Sections 14-16-2-15 (O-1 zone), 14-16-2-16 (C-1 zone), 14-16-2-17 (C-2 zone), 14-16-2-19 (IP zone), [and amending the Traffic Code, Section 8-5-1-42, to permit and regulate mobile food units.*]
Location City-wide

Staff Recommendation

*That a recommendation of **CONDITIONAL APPROVAL** of 15EPC-40007 be forwarded to the City Council based on the Findings beginning on Page 14, and subject to the Conditions for Recommendation of Approval beginning on Page 16.*

Staff Planner

Catalina Lehner, AICP-Senior Planner

Summary of Analysis

This request is for a recommendation to City Council to establish regulations and a definition for Mobile Food Units, often known as "food trucks." Bill No. O-15-36 was introduced at City Council on January 5, 2015 and referred to the Planning Department. The EPC is a recommending body; the City Council will make the final decision.

The request would add a new Zoning Code section, §14-16-3-25 ROA 1994, amend §14-16-1-5(B), Definitions, and correspondingly amend Sections 14-16-2-15 (O-1 zone), 14-16-2-16 (C-1 zone), 14-16-2-17 (C-2 zone), 14-16-2-19 (IP zone) to regulate mobile food units on private property, which is the purview of the EPC. The City's Traffic Code, Section 8-5-1-42, would also be amended to permit and regulate mobile food units in the public right-of-way (ROW). However, the EPC will not make a recommendation to Council regarding the Traffic Code because the Traffic Code is not the purview of the EPC*.

The intent is to recognize and promote the Mobile Food Unit industry as an economic generator while preserving equity with the site-built restaurant industry, and to establish Mobile Food Units as a use. Mobile Food Units would be permitted on private property in all zones, except residential zones, provided the operator has written permission from the property owner. Mobile Food Units could not occupy parking spaces needed to meet minimum parking requirements or obstruct access, and would have to comply with noise regulations.

The proposed text amendments do not generally raise enforcement concerns. Mobile Food Units need to be recognized as a distinct use in the Zoning Code. Revisions would improve consistency with Zoning practice and help avoid potential internal inconsistencies. Staff recommends that a recommendation of conditional approval be forwarded to the City Council.

City Departments and other interested agencies reviewed this application from 2/2/2015 to 2/13/2015. Agency comments used in the preparation of this report begin on Page 18.

I. INTRODUCTION

Request

This request is for a recommendation to City Council regarding the following text amendments to the City's Comprehensive Zoning Code: adding a new section, §14-16-3-25 ROA 1994, amending §14-16-1-5(B) ROA 1994, Definitions, and correspondingly amending Sections §14-16-2-15 (O-1 zone), §14-16-2-16 (C-1 zone), §14-16-2-17 (C-2 zone), §14-16-2-19 (IP zone), to allow and establish regulations regarding the operation of Mobile Food Units.

The Traffic Code (Section §8-5-1-42) is also proposed to be amended by adding a new section, though the Traffic Code is not the purview of the EPC and therefore will not be a part of the EPC recommendation. Council Services Staff has coordinated with Department of Municipal Development (DMD) Staff.

The proposed text amendments are found in draft legislation authored by Council Services, known as Bill No. O-15-36 (see attachment). O-15-36 was introduced at City Council on January 5, 2015 and subsequently referred to the Planning Department for review.

Scope

The proposed text amendments would create a new section of the Zoning Code, amend the Definitions section, correspondingly amend certain zones (O-1, C-1, C-2 and IP), and amend the City's Traffic Code, which are ordinances of general application. The proposed text amendments would apply City-wide.

Environmental Planning Commission (EPC) Role

The task of the Environmental Planning Commission (EPC) is to make a recommendation to the City Council. The EPC is advisory to the City Council regarding proposed text amendments to the Zoning Code.

In this case, the EPC's review is limited to only the proposed text amendments to the Zoning Code. The proposed text amendments to the Traffic Code are the purview of the DMD. The City Council is the City's Zoning Authority and will make the final decision regarding the Zoning Code and the Traffic Code. The EPC is a recommending body with review authority. This is a legislative matter.

II. OVERVIEW

Purpose

The purpose of the proposed text amendments is to ease and clarify zoning requirements for Mobile Food Units (often known as "food trucks") on private property, while placing reasonable limitations on Mobile Food Units used on public streets. The idea is to accommodate Mobile Food Units and promote them as an economic generator, while helping preserve equity with the site-built restaurant industry.

The proposed text amendments would allow Mobile Food Units and establish regulations to govern their operation with respect to location and land use. The term "Mobile Food Unit" would be defined in the Zoning Code. Mobile Food Units would be established as a use distinct from the

category "outdoor activity" in which they are presently grouped in the Zoning Code. Mobile Food Units are intended to be a permissive use in all zones except for residential zones and zones in which the predominant use is residential (see Section II of this report).

Background

The reason for the proposed text amendments is because, as Mobile Food Units (food trucks) have become increasingly popular, it's become apparent that they are not defined in the Zoning Code and that there are no regulations pertaining to them. The Zoning Code currently contains limitations on "outdoor storage or activity", which is the existing use category that Mobile Food Units fall under (see also Section III of this report). Mobile Food Units are limited the same way that other outdoor activities (ex. vehicle storage) are, even though they are a different use.

Also, representatives of the on-site restaurant industry have expressed concern that Mobile Food Units often set-up in the public right-of-way (ROW) in close proximity to their businesses, and there is a desire to promote Mobile Food Units as an economic generator while at the same time finding a way to provide parity with the City's site-built restaurant industry (see the Whereas portion of the proposed text amendments).

Research

Over time, the presence of Mobile Food Units has increased. More recently, Mobile Food Units have become known for providing gourmet foods and a wide variety of food options. They have also been associated with the growth of the brew pub industry. For these reasons, Mobile Food Units are considered a small-scale economic generator.

Quick internet research attests to the popularity of Mobile Food Units. A website called "Food Trucks in Albuquerque" http://www.foodtrucksin.com/city/albuquerque_nm lists approximately 45 Mobile Food Units that call Albuquerque home, the type of food they serve, and their websites (if available). Many also advertise using social media, such as Facebook and/or Twitter. The Albuquerque Convention and Visitors Bureau also has a page about food trucks <http://www.visitalbuquerque.org/listings/ABQ-Food-Trucks/8296/> and refers readers to the Facebook page of a co-op that represents 25 of Albuquerque's food trucks. Brew pubs, such as the Marble Brewery, partner with a variety of food trucks at certain times, as listed on their web page: <http://www.marblebrewery.com/food-trucks/>.

There is also the Street Food Institute (SFI), a nonprofit organization focusing on creating small business growth through hands-on entrepreneurial training. The culinary program allows select culinary students, overseen by faculty, to gain experience working as a street food vendor. The SFI is part of an evolving food culture that seeks to provide a variety of nourishing, affordable food options that also build community and sometimes even use local ingredients. <http://www.streetfoodinstitute.org/>.

Applicable Regulations

Mobile Food Units are regulated by the City's Food Sanitation Ordinance. Section 9-6-5-1 et seq. pertains to Mobile Food Units. It was part of the 1974 Code of Ordinances and was amended in 1969, 1999 and 2001.

Food sanitation regulations are enforced by the Environmental Health Department's Consumer Health Protection Division (CHPD). The brochure Mobile Food: A Guide to Permitting in Albuquerque, available at <http://www.cabq.gov/environmentalhealth/food-safety>, describes what you need to know to permit and operate a mobile food unit in Albuquerque.

Mobile food units are required to have a business registration with the City and a health permit, which certifies that the unit has passed an inspection by CHPD staff. Hand-wash sinks are required. Mobile Food Units, which includes push-carts and trucks that sell food but don't have a full kitchen, are required to report to a commissary daily. The commissary acts as the base of operations for the mobile food unit and provides services such as storage of food and supplies, and a place to dispose of garbage and grease.

III. ZONING

Definitions

The term "Mobile Food Unit" does not exist in the Zoning Code and needs to be defined for the sake of clarity, consistency, and enforcement purposes. The proposed definition was borrowed from the Health, Safety & Sanitation Code (Chapter 9), Article 6, Part 5- Food & Beverages, which discusses Mobile Food Units (see attachment).

The following, existing definitions in §14-16-1-5 are relevant to the proposed text amendments:

PUBLIC RIGHT-OF-WAY. The total area of land deeded, reserved by plat, or otherwise acquired by the city, the county, or the state, primarily for the use of the public for the movement of people, goods, and vehicles.

ZONE, RESIDENTIAL. The RO-1, RO-20, R-1, MH, R-T, R-LT, RG, R-2, R-3, RA-1, RA-2, RC, and RD zones; and the segments of the SU-1, SU-2, and SU-3 zones where the predominant use allowed in a subarea is residential.

Zoning

Currently, Mobile Food Units are not called out in the Zoning Code as a use; rather, they are considered to fall under the existing use category "outdoor storage and activity." The use "outdoor storage or activity" is first listed as a conditional use in the C-1 Neighborhood Commercial Zone [§14-16-2-16(B)(13)], and is also listed as a conditional use in the C-2 Community Commercial Zone [§14-16-2-17(B)(13)]. Therefore, currently, in order to operate a Mobile Food Unit on private property in these zones, a conditional use permit is needed.

The C-3 zone refers to the C-2 zone, so Mobile Food Units are a conditional use in the C-3 zone. However, with respect to conditional uses, the M-1 zone does not refer to the C-3 zone, so "outdoor storage or activity" (including Mobile Food units) are not allowed in the M-1 zone. It would make sense to allow "outdoor storage or activity" in the more intense zones such as M-1; this is probably a consequence of the nested manner in which the Zone Code is written and applied, rather than an intention to keep Mobile Food Units out of industrial zones.

For the sake of clarification, it is important to call-out Mobile Food Units as a use and to list them in the various zones in which they are intended to be allowed. If not listed as permissive or conditional in a given zone, a use is prohibited [see Zoning Code 14-16-1-3(B), Intent]. This is also important because most sector development plans reference underlying zones in the Zoning Code.

Mobile Food Units are proposed to be listed, in alphabetical order, as a use in the following zones with subsequent uses re-numbered:

<u>Zone</u>	<u>Location</u>	<u>Use Type</u>
O-1 Office and Institutional Zone	§14-16-2-15(A)(10)	Permissive
C-1 Neighborhood Commercial Zone	§14-16-2-16(A)(3)	Permissive
C-2 Community Commercial Zone	§14-16-2-17(A)(5)	Permissive
IP Industrial Park Zone	§14-16-2-19(A)(13)	Permissive

IV. ANALYSIS OF APPLICABLE LAWS, ORDINANCES & PLANS

Applicable ordinances, plans, and policies are in regular text followed by Staff analysis 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 IX, Environmental Protection

“The Council (City Commission) in the interest of the public in general shall protect and preserve environmental features such as water, air and other natural endowments, ensure the proper use and development of land, and promote and maintain an aesthetic and humane urban environment. To affect these ends the Council 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.”

Adding provisions to the ROA 1994 to establish a definition for Mobile Food Units and requirements pertaining to them is an exercise in local self government (City Charter, Article 1). Amending the Comprehensive Zoning Code to define and regulate Mobile Food Units generally expresses the Council’s desire to ensure the proper use and development of land, and to generally promote and maintain a humane urban environment (City Charter, Article IX).

Comprehensive City Zoning Code

Authority and Purpose (summarized): The Zoning Code is Article 16 within Chapter 14 of the Revised Code of Ordinances of Albuquerque, New Mexico, 1994 (often cited as ROA 1994). The administration and enforcement of the Zoning Code is within the City's general police power authority for the purposes of promoting the health, safety, and general welfare of the public. As such, the Zoning Code is a regulatory instrument for controlling land use activities for general public benefit.

Role of Land Use Boards (aka Amendment Procedure, summarized): The City Council is the zoning authority for the City of Albuquerque and has sole authority to amend the Zoning Code. Through the City Charter, the City Council has delegated broad planning and zoning authorities to the Environmental Planning Commission (EPC). The EPC is advisory to the City Council regarding proposed text amendments to the Zoning Code.

The application for proposed text amendments to Zoning Code §14-16-1-5 ROA 1994, Definitions and addition of a new section, §14-16-3-25, and correspondingly amending certain associated zones, was filed in accordance with Zoning Code requirements. The proposed text amendments generally further the Zoning Code goal of promoting the health, safety and welfare of the citizens. Defining Mobile Food Units and establishing regulations pertaining to them would positively impact the overall health and welfare of the City and the built environment. However, as the zoning authority for the City of Albuquerque, the City Council will make the final determination.

Albuquerque/Bernalillo County Comprehensive Plan

The Comprehensive Plan, the Rank I planning document for the City, contains goals and policies that provide a framework for development and service provision. The Plan's goals and policies serve as a means to evaluate development proposals and text amendments requests. Applicable goals and policies include:

B. Land Use Policies-Developing & Established Urban Areas

Section II.B.5- Developing and Established Urban Areas Goal: The Goal is "to create a quality urban environment, which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles, while creating a visually pleasing built environment."

The proposed text amendments would establish regulations for Mobile Food Units on private property and on public streets. Doing so would generally help create a quality urban environment in which Mobile Food Units are allowed to operate, within certain parameters, in non-residential zones. Mobile Food Units help offer a greater variety of services and choices to people in areas throughout the City, and help support work areas and life styles that support these micro-enterprises. The request generally furthers the Developing and Established Urban Areas Goal.

Policy II.B.5i: Employment and service uses shall be located to complement residential areas and shall be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments.

The proposed text amendments would clarify that Mobile Food Units, meaning food trucks, are not allowed to operate in residential zones, which is intended to protect neighborhoods from the adverse effects of noise, lighting, pollution and traffic. When operating, the Mobile Food Units would be in non-residential zones and would be subject to new regulations regarding not taking up required parking, blocking ingress or egress, and complying with noise standards. The request furthers Policy II.B.5i-employment/service use location.

D. Community Resource Management-

D.6. Economic Development Goal: The Goal is to achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.

The proposed text amendments would generally achieve diversified and balanced economic development. This is because they would promote and accommodate the Mobile Food Unit industry, while at the same time establish regulations to create balance with the environs the Mobile Food Units operate in. Also, the proposed text amendments would help create parity with the site-built restaurant industry, thus helping to mitigate adverse economic impacts to it due to the expansion of the food truck industry. The request furthers the Economic Development Goal.

Policy II.D.6b: Development of local business enterprises as well as the recruitment of outside firms shall be emphasized.

The proposed text amendments would generally support the development of local business enterprises, from food trucks with varied menus to small push-cart operators with a single offering, while establishing regulations to make them more compatible with the environs in which they operate. The request generally furthers Economic Development Policy II.D.6b-development of business enterprises.

Policy II.D.6c: Opportunities for improvement in occupational skills and advancement shall be encouraged.

The proposed text amendments would generally help support micro-enterprises, and in particular those of the Street Food Institute, which provide training in food service and entrepreneurship. The request generally furthers Economic Development Policy II.D.6c-opportunity/occupational skills.

V. IMPLEMENTATION

Implementation issues warrant further discussion and can be divided into two topics: Code Enforcement and Unintended Consequences. Staff met with the Code Compliance Manager (CCM, also referred to as the Zoning Enforcement Official or ZEO).

Code Enforcement

As written, the CCM considers that the proposed text amendments would not be problematic for Code Enforcement Staff, and that the proposed regulations would generally be enforceable. Recall that they pertain to maintaining parking, ingress and egress, permission from the property owner and compliance with noise restrictions.

Staff points out that it would be relatively easy to determine if parking is not being maintained or if ingress-egress is being obstructed. Also, permission from the property owner must be in writing and should not be difficult to verify. Also, if needed, the Field Inspector could ask the property owner in cases where the documentation appears to be questionable.

However, it may be more difficult to determine if the Mobile Food Unit is complying with applicable noise regulations. Code Enforcement Staff are not charged with evaluating compliance with the City's Noise Ordinance (Chapter 9, Article 9 ROA 1994). Rather, this is the task of the Environmental Health Department (EHD), which has the proper equipment (noise meters) for measuring sound levels.

EHD also issues noise permits for temporary exceedances of the Noise Ordinance. See <http://www.cabq.gov/environmentalhealth/noise-mold/noise-permit/> for more information. However, the proposed text amendments only reference §9-9-12 General Noise, which contains a table of General Sound Level Limits (see attachment). §9-9-13, Temporary Permits (Amplified Sound/Construction Noise) is not included, so it appears that a Mobile Food Unit would not be allowed to obtain a noise permit.

The proposed text amendments do not establish an administrative process for the Code Enforcement Division to deal with Mobile Food Units, but this should not be an issue since Mobile Food Units are tracked through business registrations and through permits issued by the EHD. Although the proposed text amendments would present some additional responsibilities for the Code Enforcement Division, they would also provide clarity and parameters regarding specifically what land use matters (ex. parking, ingress/egress, owner permission) would be enforced upon.

Unintended Consequences

Staff is aware of an unintended consequence of the proposed text amendments as written. All Mobile Food Units would be prohibited from operating in residential zones. Although in the Traffic Code and the EPC does not have jurisdiction, this is worth mentioning for the sake of clarification as the proposed legislation works its way through the process. Also, Staff is concerned that there's no cross-referencing between the three different Chapters of ROA 1994 that address Mobile Food Units.

Types of Mobile Food Units

A Staff member from the EHD's Consumer Protection Division commented regarding the portion of the proposed text amendments that states "No Mobile Food Unit shall operate from any street frontage immediately abutting a single-family residence" (p. 3, lines 30-31). Police Department Staff made a similar comment on this language, and expressed concern that food trucks (the restaurant on wheels types) in residential areas could adversely affect residents' safety and security.

The proposed legislation, however, would not allow food trucks of this type to operate in residential zones or zones that are primarily residential (see definition of Zone, Residential in Section III of this report).

EHD Staff is concerned that the proposed language would prohibit ice-cream trucks, paleta push carts, and frozen food delivery trucks (ex. Schwann's), which are popular in neighborhoods, from doing business. These are all included in the proposed definition of Mobile Food Unit, which mirrors the definition found in the EHD's booklet "Mobile Food: A Guide to Permitting in Albuquerque". Please see <http://www.cabq.gov/environmentalhealth/documents/MOBILEFOODAGuidetoPermittinginAlbuquerque.pdf>.

The legislative intent is not to prohibit ice cream trucks, paleta push carts and frozen food delivery trucks from serving their customers. These types of Mobile Food Units are fundamentally different than food trucks; for the latter, food is prepared, cooked and sold. The idea is to keep these larger "restaurant on wheels" types of Mobile Food Units from operating in residential neighborhoods and encourage them to operate in non-residential zones.

The definition of Mobile Food Unit is used by EHD and is found in Chapter 9 ROA 1994, Health, Safety & Sanitation (see below). Staff does not suggest changing it. Rather, clarifying language can be added to the proposed text amendments to state that ice-cream trucks, paleta push carts and frozen food delivery trucks are allowed to operate in residential zones, provided they comply with applicable regulations. Staff will coordinate with Council Services Staff on this matter.

References to Mobile Food Units

Mobile Food Units are mentioned in three separate locations in the Code of Ordinances ROA 1994: Chapter 8, Traffic Code; Chapter 9, Health, Safety & Sanitation; and Chapter 14, Zoning, Planning & Building. When reading one Chapter, it's not readily obvious that there are two related Chapters elsewhere.

Staff suggests that cross-referencing be added to each Chapter. A good example of how to do this is §9-9-15, Cross References, in the Noise Ordinance. This Part lists the locations of other, relevant regulations: the Traffic Code (Chapter 8) and the Criminal Code (Chapter 12) are mentioned to alert the reader of the additional information. Again, Staff will coordinate this with Council Services Staff.

Cross-referencing could help prevent inconsistencies in administering the regulations. For instance, a reader of the Mobile Food Unit regulations in the Traffic Code (Chapter 8) would be aware that a minimum distance of 100 feet from any publicly accessible building is required, but would still need to know that Mobile Food Units are prohibited from operating within 900 feet of schools (Chapter 9). It's important for a reader of the Zoning Code to be aware that these additional limitations apply.

VI. ANALYSIS- PROPOSED TEXT AMENDMENTS & DISCUSSION

The proposed legislation would add a new section, §14-16-3-25 ROA 1994 and amend §14-16-1-5(B), Definitions, of the Zoning Code. The following zones will need to be correspondingly amended for internal consistency: the O-1 Office and Institution Zone (§14-16-2-15); the C-1 Neighborhood Commercial Zone (§14-16-2-16); the C-2 Community Commercial Zone (§14-16-2-17), and the IP Industrial Park Zone (§14-16-2-19).

New language is [underlined and bracketed]. Deleted language is [underlined, bracketed and struck through]. Planning Staff's suggested changes to the originally drafted legislation are in [grey highlighting] (deletions and re-wording are not greyed). Explanations are in *bold italics*. Page references are to the proposed legislation (see attachment).

A) Recommended Revisions to the Proposed Legislation:

Note: These recommendations pertain to Sections 1 and 2, which are the purview of the EPC and are intended to become conditions for recommendation of approval.

1. Insert on Page 1, at Line 2:

AMENDING THE ZONING CODE TO PERMIT ~~AND REGULATE~~ MOBILE FOOD UNITS ~~ON PRIVATE PROPERTY~~; AND
AMENDING THE PARKING CODE TO REGULATE MOBILE FOOD UNITS IN PUBLIC RIGHTS-OF-WAY ~~RIGHTS-OF-WAY~~

This is to specify the reason the Zoning Code is proposed to be amended, and to make the language read consistently with the language regarding amending the Parking Code.

2. Page 2, Line 6:

SECTION 1. Section ~~14-16-1-1~~ ~~14-16-1-5(B)~~ is amended to add the following definition:

This is to correct and specify the reference to the Definitions section of the Zoning Code.

B) Zoning Code Cross-Referencing:

Albuquerque Code of Ordinances, Chapter 14- Zoning, Planning & Building, Article 16- Zoning Code:

§14-16-2-15(A)(10), the O-1 Office and Institution Zone

§14-16-2-16(A)(3), the C-1 Neighborhood Commercial Zone

§14-16-2-17(A)(5), the C-2 Community Commercial Zone, and

§14-16-2-19(A)(13), the IP Industrial Park Zone.

C-3 Heavy Commercial Zone (§14-16-2-18)- refers to C-2 zone (so no need to specify in C-3).
M-1 Light Manufacturing Zone (§14-16-2-20)- refers to C-3 zone (so no need to specify in M-1).
M-2 Heavy Manufacturing Zone (§14-16-2-21)-refers to M-1 zone (so no need to specify in M-2).

Note: The same proposed language applies to all four zones listed above and is intended to be inserted in the locations in the Zoning Code as specified above. Subsequent re-numbering of the sections will be needed.

3. Insert in the Zoning Code at the locations specified above in B:

Mobile Food Unit

The C-1 and C-2 zones both list "outdoor storage or activity" as a conditional use in (B)(13). Mobile Food Units are presently grouped into this use category. The O-1 and IP zones do not list "outdoor storage or activity", which means that the use is prohibited. For the sake of clarity, and consistency with the practice of listing allowed uses, it's important to list Mobile Food Unit as a use. It's also important because most sector development plans refer to underlying zones in the Zoning Code.

C) New Text Additions to the Proposed Legislation:

4. Insert at Page 4, Line 28 (with renumbering of subsequent sections):

SECTION 4. The following shall be inserted as the last item in Zoning Code 14-16-3-25, Mobile Food Unit; Traffic Code 8-5-1-42, Mobile Food Units on Public Streets; and Health, Safety & Sanitation Code 9-9-15 as a new (F) and (G), respectively:

Zoning Code

(B) Cross References

(1) Mobile food unit: Traffic Code (Chapter 8, Article 5, Part 1, Section 42)

(2) Mobile food unit: Health, Safety & Sanitation Code (Chapter 9, Article 6, Part 5)

*Traffic Code**

(C) Cross References

(1) Mobile food unit: Health, Safety & Sanitation Code (Chapter 9, Article 6, Part 5)

(2) Mobile food unit: Zoning Code (Chapter 14, Article 16, Part 3, Section 25)

*Health, Safety & Sanitation Code**

(F) Mobile food unit: Traffic Code (Chapter 8, Article 5, Part 1, Section 42)

(G) Mobile food unit: Zoning Code (Chapter 14, Article 16, Part 3, Section 25)

An asterisk () indicates not the purview of the EPC (see below).*

D) Recommended Revisions to the Proposed Legislation:

Note: Some recommendations pertain to a portion of the proposed text amendments, or other portion of the COA 1994, which is not the purview of the EPC. These are denoted with an asterisk ().*

Though they will not become part of the EPC conditions for recommendation of approval, Staff is including this analysis in the body of the Staff report so it will be transmitted to City Council, in coordination with Council Services Staff.

5. Insert at Page 2, Line 25 and at Page 4, Line 10* (with subsequent re-lettering of sub-sections), respectively:

~~[(C) The mobile food unit shall be situated so that an ADA accessible pathway can be provided from the public right-of-way, and/or any existing handicapped spaces, to the mobile food unit.]~~

~~*[(E) The mobile food unit shall be situated so that an ADA accessible pathway can be provided from the public right-of-way, and/or any existing handicapped spaces, to the mobile food unit.]~~

The proposed language addressed a comment from Transportation Staff, who want to ensure that ADA access is provided.

6. Page 3, Line 26*:

provisions of the ~~this~~ Traffic Code

This is for correction of a typo.

7. Insert at Page 3, Line 30*:

(B) No mobile food unit ~~], except for ice-cream trucks, paleta push carts, and frozen food delivery trucks,~~ shall operate from any street frontage immediately abutting a single family residence. However, when only one side of a street abuts a single family residence, nothing in this section shall be construed as prohibiting a mobile food unit from operating from the opposite side of the street, provided that all other relevant requirements and 1 restrictions are met.

Staff believes that it's important to clarify the legislative intent to allow these types of Mobile Food Units to operate in residential zones, and to address the comment from EHD Staff (see attachment).

8. Insert at Page 4, Lines 23 and 24*:

(F) Every mobile food unit shall maintain a distance of ~~at least~~ 10' ~~10~~ feet from the ~~any vehicular and pedestrian~~ egress/ingress points to adjacent properties and from intersections.

The revised language suggested in the second line is to address Transportation Staff's comment to clarify which egress/ingress points are meant. Staff thinks that the distance

should be at least 10 feet, and not exactly 10 feet, and that it's clearer to write "10 feet" rather than use the symbol.

9. Insert at Page 4, Lines 11, 14, 16 and 21*:

100' [500'] feet from any publicly accessible building ingress or egress for any site-

100', [500 feet] a copy of which is kept at the mobile food unit and made available for

For purposes of this section, the 100' [500 foot] separation

Way, the 100' [500 foot] separation requirement is measured so to include the width of

Staff suggests that the minimum distance between a Mobile Food Unit and a site-built restaurant be increased, since the legislative intent is to not harm the site-built restaurant industry by allowing Mobile Food Units too close to them. 100 feet may not be sufficient distance to achieve this intent. Also, it's clearer to just say "feet" of "foot" rather than use the symbol.

VII. COMMENTS

Concerns of Reviewing Agencies

Transportation Staff commented that Mobile Food Units will need to be situated so that an ADA-accessible pathway can be provided, that the service for the mobile unit shall face away from the street and toward the public sidewalk. Transportation Staff is also requesting clarification of what is meant by the 10-foot separation and how it is measured. Staff notes that the second transportation comment is addressed in Section (3)(D) of the proposed text amendments. NM DOT Staff commented that no commercial vending will be allowed on state-owned and state-designated roadways.

Environmental Health Department Staff stated that they don't believe ice-cream trucks, paleta push carts, and frozen food delivery trucks should be prohibited from operating in residential areas. These are included in the definition of Mobile Food Unit. Police Department Staff suggest that Mobile Food Units not be allowed to operate on street frontages immediately abutting single family residences, even if the residences are on one side of the street. Doing so could adversely affect the safety and security of residents, particularly during the late operating hours (see Section V of this report).

Since they are part of the Staff report, agency comments pertaining to the Traffic Code portion of the proposed text amendments will become part of the record and be transmitted to City Council for consideration. Agency comments begin on p. 18 of this report.

Neighborhood & Other Concerns

The proposed text amendments were posted on the Planning Department's main web page and announced in the February/March 2015 issue of the Neighborhood News (NN) (see attachments). Staff sent a brief article to Office of Neighborhood Coordination (ONC) Staff for inclusion in the NN (see attachment). As of this writing, Staff has not received any comments.

VIII. CONCLUSION

The request is for a recommendation to City Council regarding text amendments to the City's Zoning Code to regulate Mobile Food Units, commonly referred to as "food trucks", by establishing a definition and regulations, and amending corresponding zones to permissively allow them as a use. Bill No. O-15-36 was introduced at City Council on January 5, 2015 and referred to the Planning Department for review. The EPC is a recommending body; the City Council will make the final decision.

The proposed text amendments would add a new section, §14-16-3-25 ROA 1994, amend §14-16-1-5(B), Definitions and correspondingly amend the following zones: O-1 Office and Institution Zone (§14-16-2-15); C-1 Neighborhood Commercial Zone (§14-16-2-16); C-2 Community Commercial Zone (§14-16-2-17), and IP Industrial Park Zone (§14-16-2-19).

The Traffic Code, Section 8-5-1-42, would also be amended to address Mobile Food Units, but this is not the purview of the EPC. The EPC's recommendation is limited to the portion of the proposed text amendments dealing with the Zoning Code. Though it will not become part of the EPC conditions, Staff is including an analysis of the Traffic Code portion of the text amendments in the Staff report. The Staff report, including suggestions and agency comments, will become part of the record and be transmitted to City Council for consideration.

The proposed text amendments were announced in the Neighborhood News and posted to the Planning Department's main web page. Staff has not received any comments as of this writing.

Staff finds that the proposed text amendments generally further applicable Goals and policies. The legislation is considered to be enforceable, although some clarification is needed and certain zones need to be amended to list Mobile Food Units as a permissive use. Staff recommends that an approval recommendation, with conditions, be forwarded to the City Council.

RECOMMENDED FINDINGS- 15EPC-40007, March 12, 2015- Zoning Code Text Amendments

1. The request is for a recommendation to City Council regarding text amendments to the City's Comprehensive Zoning Code to add a new section, §14-16-3-25 ROA 1994, and to amend §14-16-1-5(B), Definitions. The following zones should be correspondingly amended for internal consistency: the O-1 Office and Institution Zone (§14-16-2-15); the C-1 Neighborhood Commercial Zone (§14-16-2-16); the C-2 Community Commercial Zone (§14-16-2-17), and the IP Industrial Park Zone (§14-16-2-19).
2. The proposed text amendments are found in legislation authored by Council Services Staff and known as Bill No. O-15-36. O-15-36 was introduced at City Council on January 5, 2015 and subsequently referred to the Planning Department for review. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments to the Zoning Code. As the City's Zoning Authority, the City Council will make the final decision.
3. The purpose of the proposed legislation is to recognize and promote the mobile food unit industry as an economic generator while preserving equity with the site-built restaurant industry, and to establish mobile food units as a use distinct from the category "outdoor activity" in the Zoning Code.
4. Mobile Food Units would be permitted on private property in all zones, except residential zones, provided the operator has permission from the property owner. Mobile Food Units would not be allowed to occupy parking spaces needed to meet minimum parking requirements or obstruct ingress and/or egress from a site. They would also have to comply with noise regulations.
5. The City's Traffic Code, Section §8-5-1-42, would also be amended to permit and regulate Mobile Food Units in the public right-of-way (ROW). The Traffic Code is the purview of the Department of Municipal Development, specifically the Parking Management Division. Environmental Planning Commission (EPC) review is limited to the Zoning Code portion of the proposed text amendments only, and does not include the Traffic Code portion.
6. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.
7. Intent of the City Charter:

Adding provisions to the ROA 1994 to establish a definition for Mobile Food Units, and requirements pertaining to them, is an exercise in local self-government (City Charter, Article 1). Amending the Comprehensive Zoning Code to define and regulate Mobile Food Units generally expresses the Council's desire to ensure the proper use and development of land, and to generally promote and maintain a humane urban environment (City Charter, Article IX).

8. Intent of the Zoning Code (§14-16-1-3):

The application for proposed text amendments to Zoning Code §14-16-1-5 ROA 1994, Definitions and addition of a new section, §14-16-3-25, and correspondingly amending certain associated zones, was filed in accordance with Zoning Code requirements. The proposed text amendments generally further the Zoning Code goal of promoting the health, safety and welfare of the citizens. Defining Mobile Food Units and establishing regulations pertaining to them would positively impact the overall health and welfare of the City and the built environment. However, as the zoning authority for the City of Albuquerque, the City Council will make the final determination.

9. The request generally furthers the following, applicable Comprehensive Plan Goals:

- A. Developing & Established Urban Goal: The proposed text amendments would establish regulations for Mobile Food Units on private property and on public streets. Doing so would generally help create a quality urban environment in which Mobile Food Units are allowed to operate, within certain parameters, in non-residential zones. Mobile Food Units help offer a greater variety of services and choices to people in areas throughout the City, and help support work areas and life styles that support these micro-enterprises.
- B. Economic Development Goal: The proposed text amendments would generally achieve diversified and balanced economic development. This is because they would promote and accommodate the Mobile Food Unit industry, while at the same time establish regulations to create balance with the environs the Mobile Food Units operate in. Also, the proposed text amendments would help create parity with the site-built restaurant industry, thus helping to mitigate adverse economic impacts to it due to the expansion of the food truck industry.

10. The request furthers the following, applicable Comprehensive Plan policies:

- A. Policy II.B.5i-employment/service use location. The proposed text amendments would clarify that Mobile Food Units, meaning food trucks, are not allowed to operate in residential zones, which is intended to protect neighborhoods from the adverse effects of noise, lighting, pollution and traffic. When operating, the Mobile Food Units would be in non-residential zones and would be subject to new regulations regarding not taking up required parking, blocking ingress or egress, and complying with noise standards.
- B. Policy II.D.6b-development of business enterprises. The proposed text amendments would generally support the development of local business enterprises, from food trucks with varied menus to small push-cart operators with a single offering, while establishing regulations to make them more compatible with the environs in which they operate.
- C. Policy II.D.6c-opportunity/occupational skills. The proposed text amendments would generally help support micro-enterprises, and in particular those of the Street Food Institute, which provide training in food service and entrepreneurship.

11. The proposed legislation is not likely to be problematic from a Code Enforcement perspective. Code Enforcement Staff has expressed concern about this and recommends the addition of a Fees section and a Review section in order to implement the proposed legislation.
12. As written, the proposed legislation could result in the unintended consequence of prohibiting ice-cream trucks, paleta push carts, and frozen food trucks from serving their customers in residential areas. A condition for recommendation of approval is provided to address this.
13. Conditions for recommendation of approval are needed to provide clarification, list Mobile Food Units as a permissive use, and address agency comments that pertain to the Zoning Code. The suggested conditions pertain to the Zoning Code portion of the proposed text amendments only. Staff suggestions regarding the proposed revisions to the Traffic Code, and cross-referencing in ROA 1994, are not the purview of the EPC but are available in this Staff report should Council Services Staff wish to consider them.
14. The proposed text amendments were posted on the Planning Department's main web page and were announced in the February/March 2015 issue of the Neighborhood News, published by the Office of Neighborhood Coordination (ONC). As of this writing, Staff has not received any comments and is not aware of any opposition.

RECOMMENDATION

That a recommendation of APPROVAL of Text Amendments to add a new section to the Zoning Code, §14-16-3-25 ROA 1994; amend §14-16-1-5(B), Definitions; and correspondingly amend the O-1 Office and Institution Zone (§14-16-2-15); the C-1 Neighborhood Commercial Zone (§14-16-2-16); the C-2 Community Commercial Zone (§14-16-2-17), and the IP Industrial Park Zone (§14-16-2-19), be forwarded to the City Council based on the preceding Findings and subject to the following Conditions for Recommendation of Approval.

CONDITIONS FOR RECOMMENDATION OF APPROVAL- 15EPC-40007, March 12, 2015- Zoning Code Text Amendments

Note: New language is [+underlined and bracketed+]. Deleted language is [underlined, bracketed and struck through]. Planning Staff's suggested additions and deletions are indicated by grey highlighting.

Recommended Revisions to the Proposed Legislation:

1. Insert on Page 1, at Line 2:

AMENDING THE ZONING CODE TO PERMIT ~~AND REGULATE~~ MOBILE FOOD
UNITS ~~ON PRIVATE PROPERTY~~; AND
AMENDING THE PARKING CODE TO REGULATE MOBILE FOOD UNITS IN PUBLIC
RIGHTS OF WAY ~~RIGHTS OF WAY~~

2. Page 2, Line 6:

SECTION 1. Section ~~14-16-1-1~~ ~~14-16-1-5(B)~~ is amended to add the following definition:

Zoning Code Cross-Referencing:

3. Insert in the Zoning Code at the following locations:

Mobile Food Unit

§14-16-2-15(A)(10), the O-1 Office and Institution Zone
§14-16-2-16(A)(3), the C-1 Neighborhood Commercial Zone
§14-16-2-17(A)(5), the C-2 Community Commercial Zone, and
§14-16-2-19(A)(13), the IP Industrial Park Zone.

New Text Additions to the Proposed Legislation:

4. Insert at Page 4, Line 28 (with renumbering of subsequent sections):

SECTION 4. The following shall be inserted as the last item in Zoning Code 14-16-3-25, Mobile Food Unit; Traffic Code 8-5-1-42, Mobile Food Units on Public Streets; and Health, Safety & Sanitation Code 9-9-15 as a new (F) and (G), respectively:

Zoning Code

(B) Cross-References

(1) Mobile food unit: Traffic Code (Chapter 8, Article 3, Part 1, Section 42)

(2) Mobile food unit: Health, Safety & Sanitation Code (Chapter 9, Article 6, Part 5)

Recommended Revisions to the Proposed Legislation:

5. Insert at Page 2, Line 25 (with re-lettering of subsequent sub-sections):

~~(G) The mobile food unit shall be situated so that an ADA accessible pathway can be provided from the public right-of-way, and/or any existing handicapped spaces, to the mobile food unit.~~

Catalina Lehner

**Catalina Lehner, AICP
Senior Planner**

cc: City of Albuquerque, City Council, Attn: Andrew Webb, P.O. Box 1293, Abq. NM 87102
City of Albuquerque, Planning Department, P.O. Box 1293, Abq. NM 87102

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Code Enforcement

Office of Neighborhood Coordination (ONC)

Citywide. 2/2/15 – Article for NA/HOA/Coalition notification on Text Amendment – siw

Long Range Planning

CITY ENGINEER

City Engineer/Transportation Development

- For both mobile units on the street and within private property, the mobile food unit shall be situated in such a way that an ADA-accessible pathway can physically be provided from the public right-of-way or existing handicapped space to the mobile unit. Such an ADA-accessible pathway shall include a minimum 4-foot wide paved surface with a cross-slope that is not greater than 2%.
- For the safety of those users accessing a mobile unit in the public right-of-way, the service for the mobile unit shall be facing away from the street and toward the public sidewalk.
- Clarify what is meant by the 10-foot separation in Section 3(F). Is this 10-foot separation the horizontal distance measured from the ingress/egress points for vehicular access ways or pedestrian ways? Also, does this statement cover the requirement to keep mobile units outside of a main access way within a parking lot?

Hydrology

- No adverse comments.

DEPARTMENT of MUNICIPAL DEVELOPMENT

Transportation Planning

- No objection to the request.

Traffic Engineering Operations (Department of Municipal Development):

- No comments received.

Street Maintenance (Department of Municipal Development):

- No comments received.

New Mexico Department of Transportation (NMDOT):

- No commercial vending will be allowed on state-owned and state-designated roadways.

**RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT
and NMDOT:**

Conditions of approval for the proposed Text Amendments shall include:

- For both mobile units on the street and within private property, the mobile food unit shall be situated in such a way that an ADA-accessible pathway can physically be provided from the public right-of-way or existing handicapped space to the mobile unit. Such an ADA-accessible pathway shall include a minimum 4-foot wide paved surface with a cross-slope that is not greater than 2%.
- For the safety of those users accessing a mobile unit in the public right-of-way, the service for the mobile unit shall be facing away from the street and toward the public sidewalk.
- Clarify what is meant by the 10-foot separation in Section 3(F). Is this 10-foot separation the horizontal distance measured from the ingress/egress points for vehicular access ways or pedestrian ways? Also, does this statement cover the requirement to keep mobile units outside of a main access way within a parking lot?

WATER UTILITY AUTHORITY

Utility Services- No comments received.

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division- No comments received.

Environmental Services Division- No comments received.

PARKS AND RECREATION

Planning and Design- No Comments.

Open Space Division- OSD has reviewed and has no comments.

City Forester- No comments received.

POLICE DEPARTMENT/Planning-

This is a city-wide project. Reference Section 3, B: Suggest not allowing mobile food units to operate on a street frontage immediately abutting a single family residence even if there are single family residence on only one side of the street. The activity that would be drawn to this type of area, particularly during the late operating hours mentioned in the proposed amended ordinance, could adversely affect the safety and security of residents in the area.

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division- No comments.

FIRE DEPARTMENT/Planning- Reviewed with No Comments.

TRANSIT DEPARTMENT

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY- No comments received.

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY-
Reviewed, no comment.

ALBUQUERQUE PUBLIC SCHOOLS-

Project #1001620 15EPC-40007 TEXT AMENDMENT TO THE ZONING CODE/ PARKING CODE	The City of Albuquerque proposes an Amendment to the Zoning Code to permit mobile food unit, and amending the parking code to regulate mobile food units in public rights of way. This will have no adverse impacts to the APS district.
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MID-REGION COUNCIL OF GOVERNMENTS- No comments received.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT- No comments received.

PUBLIC SERVICE COMPANY OF NEW MEXICO-

PNM has no comments based on information provided to date.

CITY OF ALBUQUERQUE
CITY COUNCIL

INTERESTED PERSONS

Subject: Local Director, Planning Department

PROPOSED LEGISLATION

January 1, 2015

Page 1

The attached resolution was introduced by the City Council on January 1, 2015. The resolution is a resolution of the City Council to approve the appointment of the Local Director, Planning Department.

The resolution was passed by the City Council on January 1, 2015. The resolution is a resolution of the City Council to approve the appointment of the Local Director, Planning Department.

A resolution was introduced by the City Council on January 1, 2015. The resolution is a resolution of the City Council to approve the appointment of the Local Director, Planning Department.

The resolution was passed by the City Council on January 1, 2015. The resolution is a resolution of the City Council to approve the appointment of the Local Director, Planning Department.

cc: Mr. [Name], [Address]
Mr. [Name], [Address]
Mr. [Name], [Address]

City of Albuquerque, New Mexico

**CITY OF ALBUQUERQUE
CITY COUNCIL**

INTEROFFICE MEMORANDUM

TO: Suzanne Lubar, Director, Planning Department

FROM: Jon K. Zaman, Director, Council Services

SUBJECT: Bill No. O-15-36

DATE: January 7, 2015

The attached ordinance was introduced by the City Council on January 5, 2015. The intent of this ordinance is to amend the Zoning Code to address the use of mobile food units (food trucks) on private property.

This ordinance also proposes changes to the City's parking regulations on public rights-of-way as they relate to mobile food units that are outside of the purview of the EPC. The EPC should limit its review to those components of the ordinance dealing with Zoning Code.

We request that you submit this ordinance to the Environmental Planning Commission for a hearing as soon as possible.

Please submit the Environmental Planning Commission's comments and recommendations, including the transcript from the meeting, back to the City Council as soon as possible. Thank you.

cc: Russell Brito, Planning Department
Kym Dicome, Planning Department
File O-15-36

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. O-15-36 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton

ORDINANCE

AMENDING THE ZONING CODE TO PERMIT MOBILE FOOD UNITS; AND
AMENDING THE PARKING CODE TO REGULATE MOBILE FOOD UNITS IN
PUBLIC RIGHTS OF WAY

WHEREAS, the food truck industry is a growing and vital economic
generator, and there is increased popularity of food trucks in the City of
Albuquerque; and

WHEREAS, the City desires to promote and accommodate the growth of
the food truck industry while helping to preserve equity with the City's
valuable and important site-built restaurant industry; and

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion
WHEREAS, encouraging and accommodating food trucks to set up and
operate from privately-owned parcels as opposed to public rights-of-way may
help provide parity with the City's site-built restaurant industry which bears
overhead and carrying costs associated with real property not born by food
trucks; and

WHEREAS, presently there are no on-street use limitations for food trucks,
and nothing prevents a food truck from setting up and operating in close
proximity to site-built restaurants – which both eliminates parking availability
for area site-built land uses and deprives the City of revenue from parking
fees; and

WHEREAS, a food truck's ability to operate from private property is
presently limited by the zoning code's limits on outdoor activity, and by a
longstanding interpretation that applies to food trucks which limits outdoor
activities to a maximum of two-hours per day on private property without a
conditional use permit; and

1 WHEREAS, the purpose of this ordinance is to ease the zoning
2 requirements for food trucks on private property while placing reasonable
3 limits to on-street use in order to address these issues.

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

6 SECTION 1. Section 14-16-1-1 is amended to add the following definition:

7 ["Mobile Food Unit – Any wagon, truck, push cart, or vehicle self-propelled
8 or otherwise movable from place to place from which any person sells, offers
9 for sale, or gives away, beverages, food or any food product for human
10 consumption."]

11 SECTION 2. Section 14-16-3-25 is added to the zoning code as follows:

12 "[§14-16-3-25 Mobile Food Unit.

13 (A) Mobile Food Unit

14 (1) Mobile food units are permitted on private property in any
15 zone, except residential zones, provided:

16 (a) The mobile food unit and any associated tables, chairs,
17 displays, umbrellas, or the like, must not physically occupy or obstruct access
18 to any parking stalls necessary to meet the minimum parking requirements for
19 the on premise land uses (if any), except that this requirement does not apply
20 if the mobile food unit is operating outside of the hours of operation of the on
21 premise uses;

22 (b) The mobile food unit and any associated tables, chairs,
23 displays, umbrellas, or the like, must not obstruct any designated ingress or
24 egress from the property, or any designated drive-aisle;

25 (c) The mobile food unit must have written permission from
26 the property owner for use of the site, a copy of which shall be kept and
27 maintained in the mobile food unit and made available for review by any City
28 inspector at all times during operation of the mobile food unit at the site;

29 (d) Every mobile food unit is subject to, and must comply
30 with, the general noise restrictions prescribed by Section 9-9-12 ROA 1994,
31 and all other relevant requirements and restrictions of local, state, and federal
32 law.]"

33 SECTION 3. Section 8-5-1-42 is hereby added to the Traffic Code as follows:

1 "[§ 8-5-1-42 Mobile Food Units on Public Streets. Any vehicle classified as
2 a mobile food unit pursuant to Section 9-6-5-2 ROA 1994 is permitted to
3 operate from any public right-of-way where on-street parking is permitted
4 subject to the following:

5 (A) No mobile food unit shall operate from a public right-of-way
6 without first obtaining a "Mobile Food Unit Parking Permit" from the City
7 Parking Management Division.

8 (1) Mobile Food Unit Parking Permits will be issued on an
9 annual basis;

10 (2) Subject to the limitations and restrictions of this
11 Section, a Mobile Food Unit Parking Permit authorizes the specific mobile food
12 unit to which it has been issued to utilize any available on-street parking
13 space in the City without additional meter fees;

14 (3) Regardless of any posted parking duration limitations, a
15 mobile food unit with a Mobile Food Unit Parking Permit may operate from a
16 single location in a City right-of-way where parking is permitted and may
17 occupy up to two (2) on-street parking stalls for no more than four (4) hours
18 per day, and only between the hours of 6:00 a.m. to 11:00 p.m. Sunday –
19 Thursday, and from 6:00 a.m. to 2:00 a.m. Friday and Saturday;

20 (4) The Parking Management Division shall establish, and
21 may amend from time to time, a reasonable annual permit fee that, at a
22 minimum, covers the administrative costs of issuance and enforcement of this
23 section, and that gives due consideration to the value of the privilege of
24 operating from public rights-of-way in the City;

25 (5) In addition to the application of any other enforcement
26 provisions of the this Traffic Code or other City Ordinance, a Mobile Food Unit
27 Parking Permit may be revoked or suspended by the Parking Management
28 Division for good cause, such as multiple violations of this section or other
29 applicable City Ordinances.

30 (B) No mobile food unit shall operate from any street frontage
31 immediately abutting a single family residence. However, when only one side
32 of a street abuts a single family residence, nothing in this section shall be
33 construed as prohibiting a mobile food unit from operating from the opposite

1 side of the street, provided that all other relevant requirements and
2 restrictions are met.

3 (C) Every mobile food unit is subject to, and must comply with,
4 the general noise restrictions prescribed by Section 9-9-12 ROA 1994, and all
5 other relevant requirements and restrictions of local, state, and federal law.]

6 (D) The sole customer-approach must be from a sidewalk or
7 designated pedestrian-way; however no mobile food unit shall obstruct any
8 sidewalk or pedestrian way within a public right-of-way with the mobile food
9 unit or any associated tables, chairs, displays, umbrellas, or the like.

10 (E) Every mobile food unit shall maintain a minimum distance of
11 100' feet from any publicly accessible building ingress or egress for any site-
12 built food service establishment unless written permission is granted by the
13 owner(s) or operator(s) of each site-built food service establishment within
14 100', a copy of which is kept at the mobile food unit and made available for
15 review by any City inspector.

16 (i) For purposes of this section, the 100' separation
17 requirement is measured along the sidewalk or street edge beginning at the
18 center point of the nearest building ingress/egress of any site-built food
19 service establishment, and measured to the nearest edge of the mobile food
20 unit. Where mobile food units are located across one or more public rights-of-
21 way, the 100' separation requirement is measured so to include the width of
22 the right(s)-of-way.

23 (F) Every mobile food unit shall maintain a distance of 10' feet
24 from the egress/ingress points to adjacent properties and from intersections.

25 (G) Use of on-street spaces by mobile food units is on a first come
26 first served basis, mobile food unit operators shall not reserve spaces in
27 advance of arrival.]"

28 SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
29 clause, word or phrase of this ordinance is for any reason held to be invalid or
30 unenforceable by any court of competent jurisdiction, such decision shall not
31 affect the validity of the remaining provisions of this resolution. The Council
32 hereby declares that it would have passed this resolution and each section,

1 paragraph, sentence, clause, word or phrase thereof irrespective of any
2 provisions being declared unconstitutional or otherwise invalid.

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

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

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APPLICATION & ADDITIONAL INFORMATION

City of Albuquerque



DEVELOPMENT/ PLAN REVIEW APPLICATION

Supplemental Form (SF)

SUBDIVISION

- ☐ Major subdivision action
☐ Minor subdivision action
☐ Vacation
☐ Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- ☐ for Subdivision
☐ for Building Permit
☐ Administrative Amendment (AA)
☐ Administrative Approval (DRT, URT, etc.)
☐ IP Master Development Plan
☐ Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- ☐ Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- ☐ Annexation

☐ Zone Map Amendment (Establish or Change Zoning, includes Zoning within Sector Development Plans)
☒ Adoption of Rank 2 or 3 Plan or similar Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd. Regulations

☐ Street Name Change (Local & Collector)

☐ **APPEAL / PROTEST of...**
☐ Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102.
Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): COA PLANNING DEPT. PHONE: (505) 924-3866
ADDRESS: 600 2ND STREET FAX: (505) 924-3333
CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: _____
APPLICANT: COA COUNCIL SERVICES PHONE: (505) 768-3126
ADDRESS: CITY/COUNTY BLDG. FAX: _____
CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: _____
Proprietary interest in site: _____ List all owners: PERMIT

DESCRIPTION OF REQUEST: AMEND THE ZONING CODE TO ALLOW MOBILE FOOD UNITS;
AMEND PARKING CODE TO REGULATE MOBILE FOOD UNITS IN PUBLIC

Is the applicant seeking incentives pursuant to the Family Housing Development Program? ☐ Yes. ☐ No. P/W 3.

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. CITY WIDE Block: _____ Unit: _____
Subdiv/Addn/TBKA: _____
Existing Zoning: _____ Proposed zoning: _____ MRGCD Map No _____
Zone Atlas page(s): _____ UPC Code: _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX_Z, V, S, etc.): _____

CASE INFORMATION:

Within city limits? ☐ Yes Within 1000FT of a landfill? _____
No. of existing lots: _____ No. of proposed lots: _____ Total site area (acres): _____

LOCATION OF PROPERTY BY STREETS: On or Near: _____

Between: _____ and _____

Check if project was previously reviewed by: Sketch Plat/Plan ☐ or Pre-application Review Team(PRT) ☐ Review Date: _____

SIGNATURE

(Print Name) KYM E. DICOME DATE 11/29/2015
Applicant: ☐ Agent: ☒

FOR OFFICIAL USE ONLY

- ☐ INTERNAL ROUTING
☐ All checklists are complete
☐ All fees have been collected
☐ All case #s are assigned
☐ AGIS copy has been sent
☐ Case history #s are listed
☐ Site is within 1000ft of a landfill
☐ F.H.D.P. density bonus
☐ F.H.D.P. fee rebate

Application case numbers

15EPC - 40007

Action

AZC

S.F.

Fees

\$ 0

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

Total \$ 0

Hearing date March 12, 2015

1-26-15
Staff signature & Date

Project # 1001620

Revised: 11/2014

FORM Z: ZONE CODE TEXT & MAP AMENDMENTS, PLAN APPROVALS & AMENDMENT

☐ ANNEXATION (EPC08)

- ☐ Application for zone map amendment including those submittal requirements (see below).
Annexation and establishment of zoning must be applied for simultaneously.
 - ☐ Petition for Annexation Form and necessary attachments
 - ☐ Zone Atlas map with the entire property(ies) clearly outlined and indicated
NOTE: The Zone Atlas must show that the site is in County jurisdiction, but is contiguous to City limits
 - ☐ Letter describing, explaining, and justifying the request
NOTE: Justifications must adhere to the policies contained in "Resolution 54-1990"
 - ☐ Letter of authorization from the property owner if application is submitted by an agent
 - ☐ Board of County Commissioners (BCC) Notice of Decision
 - ☐ Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts
 - ☐ Sign Posting Agreement form
 - ☐ Traffic Impact Study (TIS) form
 - ☐ List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.

Your attendance is required.

☐ SDP PHASE I - DRB CONCEPTUAL PLAN REVIEW (DRBPH1)

(Unadvertised)

☐ SDP PHASE II - EPC FINAL REVIEW & APPROVAL (EPC14)

(Public Hearing)

☐ SDP PHASE II - DRB FINAL SIGN-OFF

(DRBPH2) (Unadvertised)

- ☐ Copy of findings from required pre-application meeting (needed for the DRB conceptual plan review only)
- ☐ Proposed Sector Plan (30 copies for EPC, 6 copies for DRB)
- ☐ Zone Atlas map with the entire plan area clearly outlined and indicated
- ☐ Letter describing, explaining, and justifying the request
- ☐ Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts (for EPC public hearing only)
- ☐ Traffic Impact Study (TIS) form (for EPC public hearing only)
- ☐ Fee for EPC final approval only (see schedule)
- ☐ List any original and/or related file numbers on the cover application

Refer to the schedules for the dates, times and places of DRB and EPC hearings.

Your attendance is required.

☐ AMENDMENT TO ZONE MAP - ESTABLISHMENT OF ZONING OR ZONE CHANGE (EPC05)

- ☐ Zone Atlas map with the entire property clearly outlined and indicated
 - ☐ Letter describing, explaining, and justifying the request pursuant to Resolution 270-1980.
 - ☐ Letter of authorization from the property owner if application is submitted by an agent
 - ☐ Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts
 - ☐ Sign Posting Agreement form
 - ☐ Traffic Impact Study (TIS) form
 - ☐ Fee (see schedule)
 - ☐ List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.

Your attendance is required.

☐ AMENDED TO SECTOR DEVELOPMENT MAP (EPC03)

☐ AMENDMENT SECTOR DEVELOPMENT, AREA, FACILITY, OR COMPREHENSIVE PLAN (EPC04)

- ☐ Proposed Amendment referenced to the materials in the Plan being amended (text and/or map)
 - ☐ Plan to be amended with materials to be changed noted and marked
 - ☐ Zone Atlas map with the entire plan/amendment area clearly outlined
 - ☐ Letter of authorization from the property owner if application is submitted by an agent (map change only)
 - ☐ Letter describing, explaining, and justifying the request pursuant to Resolution 270-1980 (Sector Plan map change)
 - ☐ Letter briefly describing, explaining, and justifying the request
 - ☐ Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts (for sector plans only)
 - ☐ Traffic Impact Study (TIS) form
 - ☐ Sign Posting Agreement
 - ☐ Fee (see schedule)
 - ☐ List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.

Your attendance is required.

☒ AMENDMENT TO ZONING CODE OR SUBDIVISION REGULATORY TEXT (EPC07)

- ☒ Amendment referenced to the sections of the Zone Code/Subdivision Regulations being amended
 - ☒ Sections of the Zone Code/Subdivision Regulations to be amended with text to be changed noted and marked
 - ☒ Letter describing, explaining, and justifying the request
 - ☐ Fee (see schedule)
 - ☐ List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.

Your attendance is required.

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

Applicant name (print)

Applicant signature & Date

Revised: June 2011

Staff signature & Date

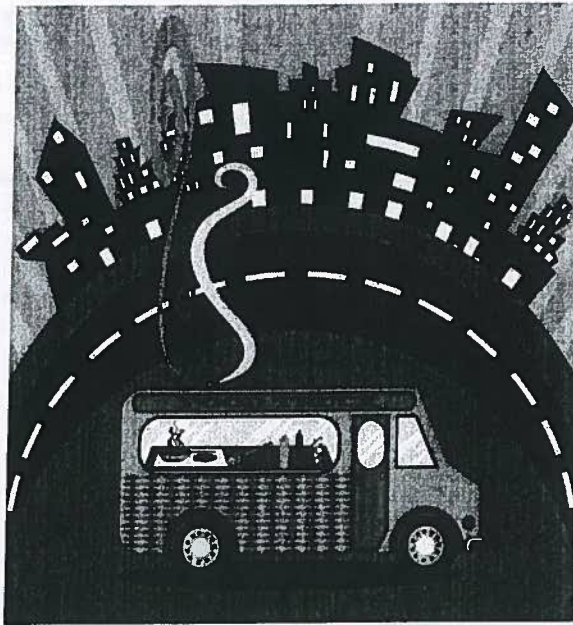
- ☐ Checklists complete
- ☐ Fees collected
- ☐ Case #s assigned
- ☐ Related #s listed

Application case numbers

15EPC - 40007

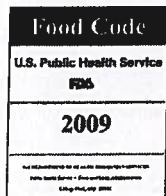
Project # 1001620





MOBILE FOOD

A GUIDE TO PERMITTING IN ALBUQUERQUE



KNOW YOUR FOOD CODES

Mobile food businesses are regulated by the City Of Albuquerque Food Sanitation Ordinance. The Food Sanitation Ordinance refers to the 2009 FDA Food Code as a scientific guidance document. Both documents contain requirements that effect your business operation. Links to these documents can be found on the City web site www.cabq.gov and are available in the City Clerks Office.

SAFE FOOD

ALL HOMEMADE FOODS ARE PROHIBITED.

Food prepared or stored at home may not be sold from your mobile unit. All ingredients must come from permitted food vendors, such as food distributors and grocery stores. Ask to see your suppliers health permit if you are unsure.

TEMPERATURES

USE YOUR THERMOMETER.

Cold food must be 41 degrees F or colder. Hot food must be 135 degrees F or hotter during hot holding. Reheat prepared foods to at least 165 degrees F. Use your calibrated thermometer to check food temperatures. Always check temperatures with your thermometer and maintain safe food temperatures.



CONSUMER ADVISORY

Undercooked food items may be served. Eating undercooked food items may increase your risk of foodborne illness. Please use caution when eating undercooked food items.

You should note that food items that are undercooked in any manner, like ceviche, rare or medium rare hamburgers and eggs with runny yolks require a consumer advisory like the one above. The advisory must be posted on your menu or in a conspicuous location on your unit.

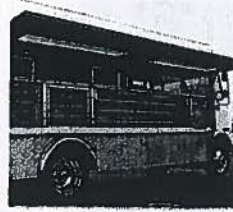
HAND WASHING

WHEN TO WASH:

- after touching your body
- before changing your gloves
- after using the rest room
- after coughing, sneezing, blowing your nose
- after eating, drinking or smoking, and after handling soiled equipment
- when switching between handling raw food and ready to eat food
- after any activity that might contaminate your hands and as often as necessary to prevent cross contamination when preparing foods

PAVE THE WAY FOR SUCCESS

WHAT YOU NEED TO KNOW TO PERMIT AND OPERATE A MOBILE FOOD UNIT IN ALBUQUERQUE.



PERMITS AND FEES

Mobile food units are required to have a business registration. Business owners must register their business at the commissary address that supports the mobile food unit. City of Albuquerque business registration costs \$35.00 per year. Health permits for mobile food units cost \$120.00 per year per unit.

Your inspector will ask you to provide a copy of your New Mexico Tax ID Registration form. This can be obtained at the New Mexico Taxation and Revenue office at 5301 Central Ave. NE in Albuquerque. (505) 841-6200

DEFINITIONS

Mobile Food Unit Any wagon, truck, push cart, or vehicle self-propelled or otherwise movable from place to place from which any person sells, offers for sale, or gives away, beverages, food or any food product for human consumption. A mobile food unit may be as complex as a full commercial kitchen on wheels or may be as simple as a push cart.

Commissary A permitted food business that acts as the base of operations for a mobile food unit. A commissary provides necessary facilities that can't be provided by the mobile food unit. These services include storage of food, paper goods and supplies, a place to dispose of garbage and grease. A commissary provides a place to fill fresh water tanks and dispose of waste water. It may provide a place for overnight parking and provide electrical outlets to support equipment when the mobile unit is not in operation. It may provide a place to do some or all food preparation. The services provided will depend on the needs of the mobile food unit.

PERMITS

MOBILE FOOD UNIT - full service. A commercial kitchen on wheels.

PUSH CARTS This category also includes bicycle carts and ice cream carts.

MOBILE FOOD UNIT - other This type falls in between the other two categories. Cooking is not done on board the vehicle. A truck selling pre-made burritos or sandwiches falls into this category.

Fees are the same for all categories of Mobile Food permits.



GENERAL REQUIREMENTS

SIGNAGE

The name and address of the business must be permanently displayed on both sides of the mobile unit in letters at least 3 inches tall and 1/2 inch wide. Your permit sticker must be clearly displayed and the permit to operate must be kept on board at all times.



PLAN REVIEW

Before you build a mobile food unit, please bring a copy of your menu and a equipment layout drawing to the Environmental Health Plan Review Office for review. If you are buying an existing mobile food unit, please contact the office prior to finalizing your purchase to make sure that the unit you are buying will pass inspection. Call the Environmental Health Plan Review Office at (505) 924-3623 to schedule an appointment.

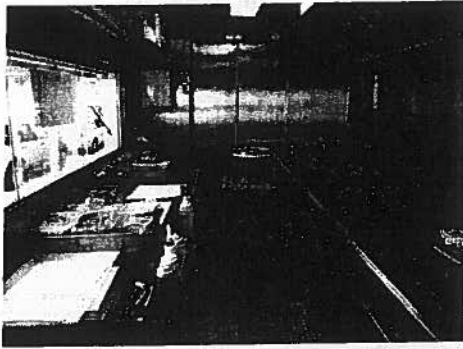
EQUIPMENT REQUIREMENTS

Your menu determines the equipment that is required. If you are handling unwrapped food, a hand wash sink is required with hot and cold water, soap and disposable towels available. Residential equipment is not allowed in your commercial business. Equipment must be certified by an ANSI (American National Standards Institute) accredited certification program such as NSF or equivalent. If you will need to wash any equipment on board the vehicle, a three compartment sink with two 18 inch drain boards is required. Fresh water tanks must be sloped to drain. Inlets must be covered to protect from road dust and other contamination. Waste water tanks must be at least 15% larger than fresh water tanks. If your menu requires a stove, griddle or other cooking equipment that creates open flames or grease laden vapors, a commercial type 1 exhaust hood with a fire suppression system is required.



DAILY REQUIREMENTS

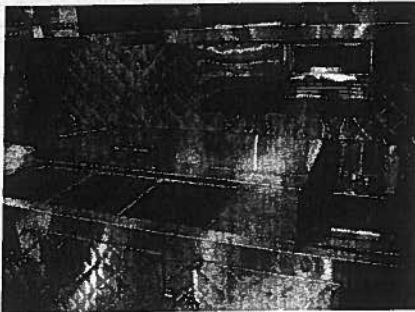
AND OTHER THINGS YOU NEED TO KNOW



Your mobile food unit must report to the commissary daily.

Health permits are not transferable.

If you sell the business to a new owner, they must obtain a new permit. If you change commissary locations, you must obtain a new health permit. If you change your mailing address or your phone number, please let us know. If we can't locate your business for inspection, your health permit may be placed out of business.



PERMITS

PUSH CARTS—All permits must be renewed each year. Arrangements for inspections, renewals, or change of ownership shall be made by calling Consumer Health Protection at 311 in Albuquerque. Permits are NOT transferable and each cart must be licensed separately.

MOBILE FOOD UNITS—

- Mobile Food Units will display a green "APPROVED" sticker in a visible window on the truck.
- Pushcarts display a yellow date sticker.
- All permits must be renewed each year.

The Consumer Health Protection Office is open Monday to Friday 8am to 5pm.

PLEASE NOTE THAT PRE-OPENING INSPECTIONS ARE ONLY CONDUCTED BY APPOINTMENT.

Pre-opening inspections will be done at your commissary. Call (505) 768-2638 for information and to set up an inspection time.

The mobile unit must be fully operational, with all water tanks filled and equipment functional. All mobile food units except push carts must be inspected by the Fire Department prior to your health inspection.



FIRE DEPARTMENT REQUIREMENTS

(505) 764-8300

- All mobile food vendors must have a 2A10BC portable fire extinguisher mounted in a conspicuous place in the kitchen area. IFC906.1
- Mobile food vendors with portable generators must have a 3A40BC portable fire extinguisher in addition to the other fire extinguishers IFC906.1
- All mobile food vendors that produce grease laden vapors must have a class K portable fire extinguisher within the kitchen area IFC904.11 G
- All portable fire extinguishers must be serviced and inspected annually. They must have tags proving that they were serviced. NFPA10
- If the vendor produces any grease laden vapors (pan frying, deep-fat frying, using the griddle, etc.) a type 1 hood must be installed. NFPA96
- All type 1 hood systems must have a pre-engineered hood suppression system that meets NFPA17 standards. When a pre-engineered dry chemical system can't be installed or serviced annually, the suppression system must be upgraded to a UL300 suppression system. NFPA178.9
- The hood suppression system must be serviced and inspected every 6 months. NFPA96.8
- All of the cooking appliances producing grease laden vapors must be under a type 1 hood. No part of the appliances can extend beyond the outer lip of the hood. IFC610.1
- All deep-fat fryers must have a steel baffle between the fryer and surface flames of an adjacent appliance. The baffle must be 8 inches in height. NFPA96.13
- L.P. Gas containers shall be located outside. Safety release valves shall be pointed away from the unit. NFPA58 AND 64
- Any hose used to pipe L.P. Gas to a device shall be UL or FM listed specifically for LP Gas service. All couplings, fittings, and any other devices shall meet the requirements for LP Gas Service as outlined in the International Fuel Gas Code, NFPA 58 and 64, or be deemed unapproved and removed from service
- All Mobile Units with propane shall post a NO SMOKING sign next to the propane bottle. KFC3807.2

CLEAN AND SANITIZE

Mobile Food Units preparing food on board must have a three compartment sink. A separate compartment is needed for each step in the ware washing process: WASHING, RINSING AND SANITIZING.

Approved sanitizers include chlorine, quaternary ammonia and iodine. Follow the instructions on the label for proper dilution of quaternary ammonia. Chlorine bleach is the most commonly used sanitizer. Chlorine bleach should be diluted to between 50—100 ppm chlorine. This is done by mixing about 1 tsp. bleach per gallon of water. Verify the concentration with test strips. An approved sanitizer and test strips must be kept on board your mobile unit at all times.



ILLNESSES

We all get sick sometimes, plan ahead to keep your business healthy.

You need to know when you or your employees are too sick to work.

An employee must report the following symptoms to the person in charge:

- Vomiting
- Diarrhea
- Jaundice
- Sore throat with fever
- An infected wound or lesion on the hands or wrist.



Consumer Health Protection Division

Albuquerque Environmental Health Department
One Civic Plaza NW
3rd Floor, Room 3023
Albuquerque, New Mexico 87103

Telephone: 311
Fax: 505.768.2698
Email: lstoller@cabq.gov
Lorie Stoller, Environmental Health Manager

PART 5: MOBILE FOOD UNITS

§ 9-6-5-1 PURPOSE.

(A) The purpose of §§ 9-6-5-1 et seq. is to adequately protect and preserve the public peace, safety, health and general welfare. Sections 9-6-5-1 et seq. are being enacted because of the numerous reports received from public and parochial school authorities, persons residing in the vicinity of such schools and other residents of the city to the effect that:

(1) Mobile food units serving food and food products at or near such schools create a safety and traffic hazard for students of the schools and other persons in the area;

(2) The operation of the mobile food units also causes littering of the public and parochial school grounds, residential property and the public streets in the vicinity of the schools;

(3) They also create a gathering place for the students and other persons all of which is dangerous to the public peace, safety, health and general welfare.

(4) Ice Cream Vendors create a danger to young patrons who congregate around the vendors on the streets where they could be injured by traffic. This danger is greatly increased after sunset. Ice Cream Vendors can also create a public nuisance in that they play amplified music which is disturbing to some individuals who reside in the city.

(B) Sections 9-6-5-1 et seq. are adopted under the authority granted by Section 3-49-1 NMSA 1978.

('74 Code, § 6-11-1) (Ord. 59-1969; Am. Ord. 20-1999)

§ 9-6-5-2 DEFINITIONS.

For the purpose of §§ 9-6-5-1 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ICE CREAM VENDORS. Persons or entities who sell frozen desserts in or upon any public street, alley, sidewalk or thoroughfare.

MOBILE FOOD UNIT. Any wagon, truck, push cart, or vehicle self-propelled or otherwise movable from place to place from which any person sells, offers for sale, or gives away, beverages, food or any food product for human consumption.

PERSON. Includes singular and plural and shall also mean and include any person, firm, partnership, joint venture, association, corporation, club, society or similar organization.

PUBLIC, PAROCHIAL or PRIVATE SCHOOL. A school where children are given a general education equivalent to any of the first eight grades of the public schools.

('74 Code, § 6-11-2) (Ord. 59-1969; Am. Ord. 20-1999)

§ 9-6-5-3 PROHIBITED ACTS.

(A) (1) The vending or serving of food or food products to students of public, private or parochial schools from a mobile food unit on a public street, thoroughfare, boulevard or alley or other public way in the city is prohibited within 900 feet from the outermost boundary of the grounds of any public, private, or parochial school between the hours of 8:00 a.m. and 9:00 a.m., 11:00 a.m. to 1:00 p.m., and 2:00 p.m. to 3:00 p.m., Mountain Standard Time or Mountain Daylight Saving Time, whichever may be in effect, on days when any such school is in session during its regular fall, winter and spring terms.

(2) The 900 feet is to be measured by the most direct traveled route from the nearest boundary of the school grounds to the mobile food unit.

(B) (1) Ice Cream Vendors may not conduct business before 10:00 a.m. or after sunset.

(2) Ice Cream Vendor vehicles must be equipped with flashing yellow lights which shall be turned on and left in continuous operation any time such vehicle is stopped while any customer or potential customer is within one hundred feet of the vehicle. Operation of the yellow lights as stated herein is an exception to § 8-6-21(B) and not a violation of the Traffic Code.

(3) If Ice Cream Vendors stop or park along a roadway, highway, street or other thoroughfare where there are adjacent curbs, the Ice Cream Vendor must park the vending

vehicle with the right-hand wheels of such vehicle parallel to and within eighteen inches of the right hand curb.

(4) Ice Cream Vendors shall not solicit their products on the same residential street more than once before noon and once after noon in any twenty-four hour day.

(C) This section shall not prohibit the sales and delivery of food or any food product to a house, a business, a manufacturing plant, a construction site or an institution or any place of like nature.

('74 Code, § 6-11-3) (Ord. 59-1969; Am. Ord. 20-1999; Am. Ord. 47-2001)

§ 9-6-5-99 PENALTY.

Any person who violates § 9-6-5-3 is subject to the general penalty provisions of this code set forth in § 1-1-99. ('74 Code, § 6-16-15) (Ord. 59-1969; Am. Ord. 20-1999)

Lehner, Catalina L.

From: Spring, Susan C.
Sent: Friday, February 20, 2015 10:31 AM
To: Lehner, Catalina L.
Cc: Stoller, Lorie L.
Subject: RE: O-15-36 Mobile Food Units

Catalina,

Thanks for sending this my way for comment. I have only one concern that I'd like to mention. In the proposed ordinance. § 8-5-1-42 (5) (B) where it says:

No mobile food unit shall operate from any street frontage immediately abutting a single family residence. However, when only one side of a street abuts a single family residence, nothing in this section shall be construed as prohibiting a mobile food unit from operating from the opposite side of the street, provided that all other relevant requirements and restrictions are met.

I am concerned that this will make ice cream trucks and paleta push carts, that are popular with parents and children in many neighborhoods as well as door to door frozen meat trucks and other food sales would be prohibited from doing business as they have traditionally operated, by this section of the proposed ordinance. It could also make pizza delivery vehicles and businesses like Schwann's food delivery and other types of home delivery of groceries prohibited. All of these type of businesses appear to be included in the definition of a "mobile food unit"

Thanks for your consideration,

Susan Spring
Field Operations Officer
(505) 768-2688 office
(505) 228-8648 cell

City Of Albuquerque
Environmental Health Department
Consumer Health Protection Division

From: Lehner, Catalina L.
Sent: Wednesday, February 18, 2015 4:41 PM
To: Spring, Susan C.
Subject: O-15-36 Mobile Food Units

Hi Susan,

One of my EPC cases for March is legislation regarding Mobile Food Units. It would allow mobile food units on private property and establish regulations (land use and zoning regulations) for them. There's also amendments to the Traffic Code proposed in the same bill, but those aren't the purview of the EPC. I was just looking at the Mobile Food guide to permitting and it reminded me that it would be good to reach out to EHD and see if you have any comments.

Please take a look at the attached bill. If you have any comments (or don't), please get them to me or let me know by next Wednesday. Also, feel free to contact me with any questions. Thanks.

-Catalina

Lehner, Catalina L.

From: Dicome, Kym
Sent: Wednesday, February 11, 2015 6:44 AM
To: Lehner, Catalina L.
Subject: Fwd: EPC 1001620 - Zoning Code for Mobile Food Units

Kym E. Dicome
Sent from my iPhone

Begin forwarded message:

From: "Sanchez, Gilbert, NMDOT" <Gilbert.Sanchez@state.nm.us>
Date: February 10, 2015 at 4:59:29 PM MST
To: "Dicome, Kym (kdicome@cabq.gov)" <kdicome@cabq.gov>
Cc: "Perea, Nancy, NMDOT" <Nancy.Perea@state.nm.us>
Subject: EPC 1001620 - Zoning Code for Mobile Food Units

Good afternoon Ms. Dycome. Nancy and I were reviewing the EPC submissions for next month. EPC 1001620 is a zoning amendment to permit mobile food units to operate in public places. The ordinance clearly talks about public right-of-way in several paragraphs. The curious question...How would a food vendor interpret the ordinance when it comes to parking in state owned right-of-way, e.g. Tramway Blvd (NM 556)? I guess we see a bit of ambiguity in the language of the ordinance regarding this matter. As we see it the DOT still retains the authority to ask any roadside vendors to leave the right-of-way if they are not permitted through the DOT. We can add these comments to our EPC submission if you see that as the best avenue to address D3's concerns. Thanks...gilbert.

NOTIFICATION

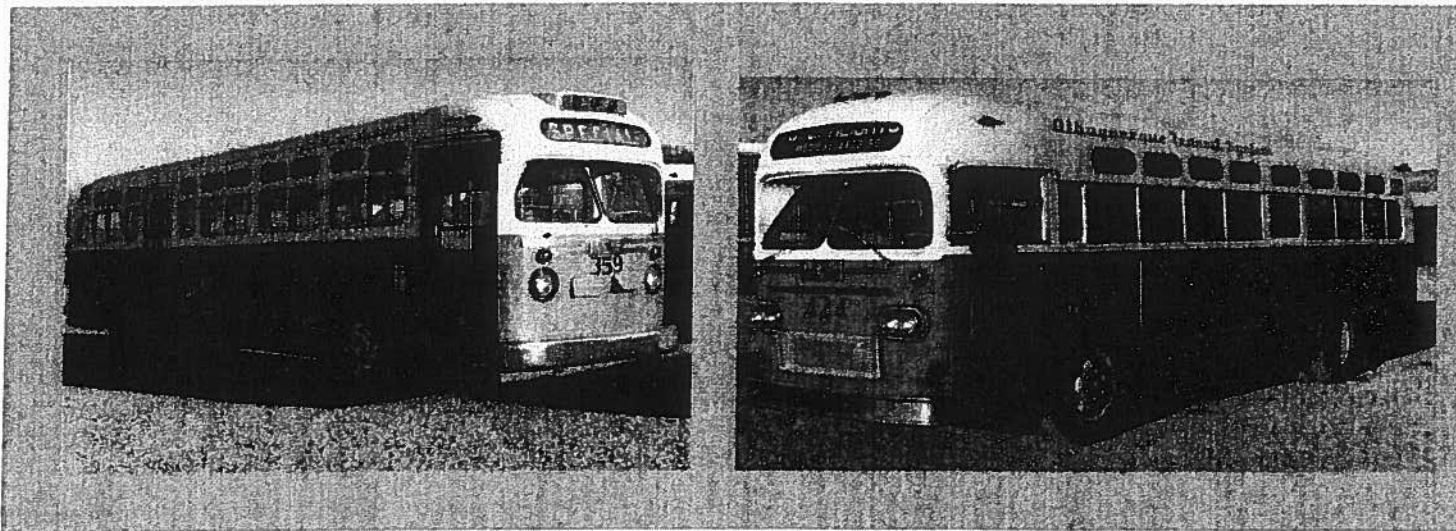
Bus service in Albuquerque actually dates back to New Year's Day 1928. That's when a group of owners introduced 10 buses to serve the growing city. They only had a few days to drive them from Casper, Wyoming along poor roads to be able to make the company promised opening day.

In 1945 Joseph P. Land and another group bought the Albuquerque Bus Co. They added new buses, increased service from 12 to 3 square miles and moved operations from a tiny garage at 3rd and Silver SW to a bigger facility at 601 Yale SE. In 1955 upon the death of Land his son-in-law A.P. FitzGerald became president.

"It was very much a real 'mom and pop' operation even up to 1965," said Dick FitzGerald, son of A.P. FitzGerald. "My father would frequently be out in the garage, his arms deep in the bus engines. There were fewer than a hundred employees and Dad was on a first name basis with everybody."

But by the early 1960s, rising operating costs threatened to bankrupt the company. When the federal government offered money to local governments willing to operate public transit, Albuquerque became one of the first cities to take up the offer. 50 years later, it's ready to move into its next big phase of public transportation, Albuquerque Rapid Transit (ART).

"It promises to enhance service along our busiest corridor, Central Avenue, as well as revitalize the area with more and exciting development," said Bruce Rizzieri, Director of ABQ RIDE. "It promises to be a 21st Century System for Albuquerque's 21st Century needs."



Planning Department
Submitted by Catalina Lehner

Proposed Text Amendments to the Zoning Code

Project #1001620, 14EPC-40007: Proposed Text Amendments to the Zoning Code At its regularly scheduled public hearing on Thursday, March 12, 2015, the Environmental Planning Commission (EPC) will consider a text amendment to Zoning Code Section 14-16-1-5, Definitions and the addition of a new Zoning Code Section 14-16-3-25. The proposed text amendments would apply Citywide.

The proposed text amendments would define mobile food units and establish regulations regarding the operation of mobile food units on private property. Mobile food units would be permitted on private property in all zones, except residential zones, provided the operator has permission from the property owner. The mobile food units would not be allowed to: occupy parking spaces needed to meet minimum parking requirements, obstruct access to and/or from the property and would have to comply with noise regulations. Text amendments to the Traffic Code (Section 8-5-1-42) are also proposed, though they are not the purview of the EPC. The proposed bill (O-15-36) can be found by searching for it at: <<https://cabq.legistar.com/Legislation.aspx>>.

Please contact Catalina Lehner-AICP, Senior Planner, at 505-924-3935 or <clehner@cabq.gov> for more information. Please submit any comments to her no later than Monday, March 2, 2015.



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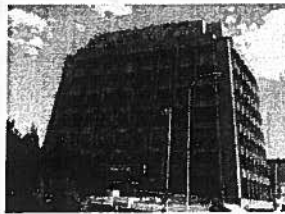
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Information about the Planning Department.



The Albuquerque Planning Department provides a full range of services from processing building permits to developing long range, regional plans and policies. The department also houses several quasi-judicial boards and commissions.

Planning Department Location

Plaza del Sol, 600 Second NW, Albuquerque, NM 87102

Mailing address: P.O. Box 1293, Albuquerque, N.M. 87103

Telephone: (505) 924-3860

Business hours: Monday - Friday, 8:00 a.m. to 5:00 p.m.

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- **Comprehensive Plan Update & Unified Development Ordinance.** The Planning Department recently kicked off a major public process to update the Comprehensive Plan and create a Unified Development Ordinance. The City has hired a consultant team, led by Clarion Associates, to improve the regulatory system guiding land use development and transportation planning citywide, including major updates to the Zoning Code and Development Process Manual. Please visit the [project website](#) or visit us on [Facebook](#) for more information. If you have questions, please contact Mikaela Renz-Whitmore (505) 924-3932 or mrenz@cabq.gov.

Notices

- **ZHE - Notice of date change** for the Zoning Hearing Examiner Hearing from Tuesday, February 16, 2015 to Friday, February 20, 2015, 9:00 am. [More...](#)
- **Project #1001620, 14EPC-40007: Proposed Text Amendments to the Zoning Code** - At its public hearing on March 12, 2015, the Environmental Planning Commission (EPC) will consider a text amendment to Zoning Code Section 14-

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16-1-5, Definitions, and a new Zoning Code Section 14-16-3-25. The proposed text amendments, which would apply City-wide, would define mobile food units and establish regulations regarding mobile food units on private property. Mobile food units would be permitted on private property in all zones, except residential zones, with permission from the property owner. The mobile food units would not be allowed to occupy parking spaces needed to meet minimum parking requirements or obstruct access to and/or from the property. Text amendments to the Traffic Code (Section 8-5-1-42) are also proposed, though they are not the purview of the EPC. The proposed bill (O-15-36) can be found at: <https://cabq.legistar.com/Legislation.aspx> Please contact [Catalina Lehner-AICP](#), Senior Planner, at (505) 924-3935 for more information. Please submit any comments to her no later than March 2, 2015.

- **Update to the Coors Corridor Plan** – The first hearing by the Council's Land Use Planning & Zoning Committee is intended to be scheduled for Wednesday, April 15, 2015. For more information go to [Coors Corridor Plan page](#) or contact: Carol Toffaleti (505) 924-3345 or cctoffaleti@cabq.gov. (Posted February 24, 2015)
- **Bikeways & Trails Facility Plan** - On October 9, 2014, the Environmental Planning Commission unanimously voted to recommend approval of the Bikeways & Trails Facility Plan to City Council. The Land Use, Planning, and Zoning Subcommittee (LUPZ) voted "do pass" to full City Council. The City Council hearing is scheduled for March 16, 2015. For more information see the [City Council project information page](#) or contact Carrie Barkhurst at (505) 924-3879 or kcbarkhurst@cabq.gov. (Updated March 2, 2015)
- **Albuquerque Rail Yards Redevelopment** - Information about the Albuquerque Rail Yards Redevelopment project
 - [Albuquerque Rail Yards Master Development Plan](#)  - Adopted July 3, 2014
- **Neighborhood News** - The current edition has been posted. As per the June/July 2014 edition of the *Neighborhood News*, page 10, the newsletter will no longer be mailed. The current newsletter and archived editions can be found [here](#).

Requests for Proposals

- **De Anza Motor Lodge RFP** - posted August 14, 2014, due 1-9-15 (the deadline for submitting proposals has passed and we are no longer accepting proposals)
- **1st Street and Central RFP** - posted June 9, 2014, due 12-5-14 (the deadline for submitting proposals has passed and we are no longer accepting proposals)

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CITY OF ALBUQUERQUE

**PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION**
600 2nd Street NW, 3rd Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3860 Fax (505) 924-3339



OFFICIAL NOTIFICATION OF DECISION

March 13, 2015

COA Council Services
City/County Building
Albuquerque, NM 87102

Project# 1001620
15EPC-40007 Text Amendment to the Zoning Code and
Traffic Code

LEGAL DESCRIPTION:

The above actions to add a new Section 14-16-3-25 to the Zoning Code, amend Sections 14-16-1-5(B), Definitions; correspondingly amend Sections 14-16-2-15 (O-1 zone), 14-16-2-16 (C-1 zone), 14-16-2-17 (C-2 zone), 14-16-2-19 (IP zone); and amend the Traffic Code, Section 8-5-1-42, to permit and regulate mobile food units. City-Wide.

Staff Planner: Catalina Lehner

PO Box 1293

On March 12, 2015, the Environmental Planning Commission (EPC) voted that a recommendation of approval for Project# 1001620/15EPC-40007, Text Amendment to the Zoning Code and Traffic Code regarding Mobile Food Units, be forwarded to the City Council based on the following findings and subject to the following conditions of approval:

New Mexico 87103

FINDINGS:

1. The request is for a recommendation to City Council regarding text amendments to the City's Comprehensive Zoning Code to add a new section, §14-16-3-25 ROA 1994, and to amend §14-16-1-5(B), Definitions. The following zones should be correspondingly amended for internal consistency: the O-1 Office and Institution Zone (§14-16-2-15); the C-1 Neighborhood Commercial Zone (§14-16-2-16); the C-2 Community Commercial Zone (§14-16-2-17), and the IP Industrial Park Zone (§14-16-2-19).
2. The proposed text amendments are found in legislation authored by Council Services Staff and known as Bill No. O-15-36. O-15-36 was introduced at City Council on January 5, 2015 and subsequently referred to the Planning Department for review. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments to the Zoning Code. As the City's Zoning Authority, the City Council will make the final decision.
3. The purpose of the proposed legislation is to recognize and promote the mobile food unit industry as an economic generator while preserving equity with the site-built restaurant industry, and to

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Project #1001620/15EPC-40007

March 12, 2015

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establish mobile food units as a use distinct from the category "outdoor activity" in the Zoning Code.

4. Mobile Food Units would be permitted on private property in all zones, except residential zone provided the operator has permission from the property owner. Mobile Food Units would not be allowed to occupy parking spaces needed to meet minimum parking requirements or obstruct ingress and/or egress from a site. They would also have to comply with noise regulations.
5. The City's Traffic Code, Section §8-5-1-42, would also be amended to permit and regulate Mobile Food Units in the public right-of-way (ROW). The Traffic Code is the purview of the Department of Municipal Development, specifically the Parking Management Division. Environmental Planning Commission (EPC) review is limited to the Zoning Code portion of the proposed text amendments only, and does not include the Traffic Code portion.
6. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.
7. Intent of the City Charter:

Adding provisions to the ROA 1994 to establish a definition for Mobile Food Units, and requirements pertaining to them, is an exercise in local self-government (City Charter, Article I). Amending the Comprehensive Zoning Code to define and regulate Mobile Food Units generally expresses the Council's desire to ensure the proper use and development of land, and to generally promote and maintain a humane urban environment (City Charter, Article IX).
8. Intent of the Zoning Code (§14-16-1-3):

The application for proposed text amendments to Zoning Code §14-16-1-5 ROA 1994, Definition and addition of a new section, §14-16-3-25, and correspondingly amending certain associated zones, was filed in accordance with Zoning Code requirements. The proposed text amendments generally further the Zoning Code goal of promoting the health, safety and welfare of the citizens. Defining Mobile Food Units and establishing regulations pertaining to them would positively impact the overall health and welfare of the City and the built environment. However, as the zoning authority for the City of Albuquerque, the City Council will make the final determination.
9. The request generally furthers the following, applicable Comprehensive Plan Goals:
 - A. Developing & Established Urban Goal: The proposed text amendments would establish regulations for Mobile Food Units on private property and on public streets. Doing so would generally help create a quality urban environment in which Mobile Food Units are allowed to operate, within certain parameters, in non-residential zones. Mobile Food Units help offer a greater variety of services and choices to people in areas throughout the City, and help support work areas and life styles that support these micro-enterprises.

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Project #1001620/15EPC-40007

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- B. Economic Development Goal: The proposed text amendments would generally achieve diversified and balanced economic development. This is because they would promote an accommodate the Mobile Food Unit industry, while at the same time establish regulations to create balance with the environs the Mobile Food Units operate in. Also, the proposed text amendments would help create parity with the site-built restaurant industry, thus helping to mitigate adverse economic impacts to it due to the expansion of the food truck industry.
10. The request furthers the following, applicable Comprehensive Plan policies:
- A. Policy II.B.5i-employment/service use location. The proposed text amendments would clarify that Mobile Food Units, meaning food trucks, are not allowed to operate in residential zones which is intended to protect neighborhoods from the adverse effects of noise, lighting, pollution and traffic. When operating, the Mobile Food Units would be in non-residential zones and would be subject to new regulations regarding not taking up required parking, blocking ingress or egress, and complying with noise standards.
 - B. Policy II.D.6b-development of business enterprises. The proposed text amendments would generally support the development of local business enterprises, from food trucks with varied menus to small push-cart operators with a single offering, while establishing regulations to make them more compatible with the environs in which they operate.
 - C. Policy II.D.6c-opportunity/occupational skills. The proposed text amendments would generally help support micro-enterprises, and in particular those of the Street Food Institute, which provide training in food service and entrepreneurship.
11. The proposed legislation is not likely to be problematic from a Code Enforcement perspective. Code Enforcement Staff has expressed concern about this and recommends the addition of a Fees section and a Review section in order to implement the proposed legislation.
12. As written, the proposed legislation could result in the unintended consequence of prohibiting ice-cream trucks, paleta push carts, and frozen food trucks from serving their customers in residential areas. A condition for recommendation of approval is provided to address this.
13. Conditions for recommendation of approval are needed to provide clarification, list Mobile Food Units as a permissive use, and address agency comments that pertain to the Zoning Code. The suggested conditions pertain to the Zoning Code portion of the proposed text amendments only. Staff suggestions regarding the proposed revisions to the Traffic Code, and cross-referencing in ROA 1994, are not the purview of the EPC but are available in this Staff report should Council Services Staff wish to consider them.
14. The proposed text amendments were posted on the Planning Department's main web page and were announced in the February/March 2015 issue of the Neighborhood News, published by the Office of Neighborhood Coordination (ONC). As of this writing, Staff has not received any comments and is not aware of any opposition.

15. The EPC recommends no change to the wording of (E) on page 4 of the proposed ordinance (separation distance).
16. The EPC requests clarification within the legislation that the changes do not prohibit catering to mobile food units on private property.

CONDITIONS FOR RECOMMENDATION OF APPROVAL:

Note: New language is [underlined and bracketed]. Deleted language is [underlined, bracketed and struck through]. Planning Staff's suggested additions and deletions are indicated by green highlighting.

Recommended Revisions to the Proposed Legislation:

1. Insert on Page 1, at Line 2:

AMENDING THE ZONING CODE TO PERMIT [AND REGULATE] MOBILE FOOD UNITS [ON PRIVATE PROPERTY]; AND
AMENDING THE PARKING CODE TO REGULATE MOBILE FOOD UNITS IN PUBLIC RIGHT-
OF-WAY [RIGHTS-OF-WAY.]

2. Page 2, Line 6:

SECTION 1. Section ~~14-16-1-1~~ [14-16-1-5(B)] is amended to add the following definition:

Zoning Code Cross-Referencing:

3. Insert in the Zoning Code at the following locations:

[Mobile Food Unit.]

§14-16-2-15(A)(10), the O-1 Office and Institution Zone
§14-16-2-16(A)(3), the C-1 Neighborhood Commercial Zone
§14-16-2-17(A)(5), the C-2 Community Commercial Zone, and
§14-16-2-19(A)(13), the IP Industrial Park Zone.

New Text Additions to the Proposed Legislation:

4. Insert at Page 4, Line 28 (with renumbering of subsequent sections):

SECTION 4. The following shall be inserted as the last item in Zoning Code 14-16-3-25, Mobile Food Unit; Traffic Code 8-5-1-42, Mobile Food Units on Public Streets; and Health, Safety & Sanitation Code 9-9-15 as a new (F) and (G), respectively:

Zoning Code

[(B) Cross References:

(1) Mobile food unit: Traffic Code (Chapter 8, Article 5, Part 1, Section 42)]

(2) Mobile food unit: Health, Safety & Sanitation Code (Chapter 9, Article 6, Part 5)]

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Project #1001620/15EPC-40007

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APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **MARCH 27, 2015**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-4-4 of the Zoning Code. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's decision.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Successful applicants are reminded that other regulations of the City Zoning Code must be complied with, even after approval of the referenced application(s).

ZONE MAP AMENDMENTS: Pursuant to Zoning Code Section 14-16-4-1(C)(16), a change to the zone map does not become official until the Certification of Zoning (CZ) is sent to the applicant and any other person who requests it. Such certification shall be signed by the Planning Director after appeal possibilities have been concluded and after all requirements prerequisite to this certification are met. If such requirements are not met within six months after the date of final City approval, the approval is void. The Planning Director may extend this time limit up to an additional six months.

SITE DEVELOPMENT PLANS: Pursuant to Zoning Code Section 14-16-3-11(C)(1), if less than one-half of the approved square footage of a site development plan has been built or less than one-half of the site has been developed, the plan for the undeveloped areas shall terminate automatically seven years after adoption or major amendment of the plan: within six months prior to the seven-year deadline, the property owners shall request in writing through the Planning Director that the Planning Commission extend the plan's life an additional five years. Additional design details will be required as a project proceeds through the Development Review Board and through the plan check of Building Permit submittals for construction. Planning staff may consider minor, reasonable changes that are consistent with an approved Site Development Plan so long as they can be shown to be in conformance with the original, approved intent.

DEFERRAL FEES: Pursuant to Zoning Code Section 14-16-4-1(B), deferral at the request of the applicant is subject to a \$110.00 fee per case.

Sincerely,


for Suzanne Lubar
Planning Director

SL/CL

cc: City of Albuquerque, City Council, Attn: Andrew Webb, P.O. Box 1293, Abq. NM 87102
City of Albuquerque, Planning Department, P.O. Box 1293, Abq. NM 87102

OFFICIAL NOTICE OF DECISION

Project #1001620/15EPC-40007

March 12, 2015

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Cheryl Rein, 1 Civic Plaza, Albuquerque, NM 87102

John Moore, 10320 Rio Los Pinos DR. NW, Albuquerque, NM 87114

Josh Rood-Ojalvo, 1818 Morningrise Pl. SE, Albuquerque, NM 87108

Julian Griego, 1221 Mechenbier SW, Albuquerque, NM 87105

C. Ground-mounted equipment screening will be designed to allow for access to utility facilities. All screening and vegetation surrounding ground-mounted transformers and utility pads are to allow 10 feet of clearance in front of the equipment door and 5-6 feet of clearance on the remaining three sides for safe operation, maintenance and repair purposes. Refer to the PNM Electric Service Guide at www.pnm.com for specifications.

D. Coordination with PNM will be necessary for this project regarding proposed tree species, the height at maturity and tree placement, sign location and height, and lighting height in order to ensure sufficient safety clearances to avoid interference with the existing electric distribution facilities along the eastern and northern boundaries of the subject site.

MOVED BY COMMISSIONER PECK

SECONDED BY COMMISSIONER BOHANNAN

MOTION PASSED 4 - 2

COMMISSIONER MCCOY and

COMMISSIONER GONZALEZ

VOTED NO

6. Project# 1001620

15EPC-40007 Text Amendment to the Zoning Code and Traffic Code

COA Planning Department, agent for COA Council Services, requests the above actions to add a new Section 14-16-3-25 to the Zoning Code, amend Section: 14-16-1-5(B), Definitions; correspondingly amend Sections 14-16-2-15 (O-1 zone), 14-16-2-16 (C-1 zone) 14-16-2-17 (C-2 zone), 14-16-2-19 (IP zone); and amend the Traffic Code, Section 8-5-1-42, to permit and regulate mobile food units. City-Wide.

Staff Planner: Catalina Lehner

STAFF PRESENTING CASE:

Catalina Lehner

PERSONS PRESENT TO SPEAK IN REFERENCE TO THIS REQUEST:

Cheryl Rein, 1 Civic Plaza, Albuquerque, NM 87102

John Moore, 10320 Rio Los Pinos DR. NW, Albuquerque, NM 87114

Josh Rood-Ojalvo, 1818 Morningrise Pl. SE, Albuquerque, NM 87108

Julian Griego, 1221 Mechenbier SW, Albuquerque, NM 87105

CHAIR NICHOLLS: Let's move ahead with agenda item #6. Ms. Lehner, you're back up again. Welcome back.

MS. LEHNER: Thank you, Mr. Chair, commissioners. This is agenda item number 6, it's project 1001620/15EPC-40001, nope 40007. Sorry about that I knew that looked odd. Ok, this request is for a recommendation to City Council regarding Text Amendments to the Zoning Code to allow and regulate Mobile Food Units, commonly known as "food trucks." Bill No. O-15-36 was introduced at City Council on January 5th, the proposed Text Amendments would apply city wide; so this is a legislative

EPC MINUTES

March 12, 2015

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matter. The intent of the proposed Text Amendments is to promote the Mobile Food Unit Industry as an economic generator and to establish clear requirements.

Mobile Food Units would be allowed on private property in all zones, except for residential zones, provided the operator has written permission from the property owner. Mobile Food Units could not occupy parking spaces needed to meet minimum parking requirements or obstruct access, and would have to comply with noise regulations. Currently Mobile Food Units are not called out as a use in the Zoning Code and they are only allowed conditionally in the C-1, C-2 and C-3 zones.

The proposed amendments would add a new section to the Zoning Code, §14-16-3-25 and amend §14-16-1-5(B), Definitions. Since Mobile Food Units are a Use, the following sections would also need to be amended, the O-1 zone, C-1 zone, C-2 zone and the IP zone. This pertains to Mobile Food Units on private property, which is the purview of the EPC.

The property amendments would also amend the City's Traffic Code, which is Section §8-5-1-42, to address Mobile Food Units in the public right-of-way. Since the traffic Code is not the purview of the EPC, however, the EPC will not make a recommendation to Council regarding the traffic code portion.

Staff finds that the proposed text amendments generally further applicable goals and policies. The legislation is considered to be enforceable, all though some clarification would be beneficial and certain zones need to be amended to list Mobile Food Units as a permissive use.

The proposed text amendments were posted on the Planning Department's main webpage and announced in the February, March 2015 issue of the Neighborhood News.

Staff has not received any comments, although, became aware very close to hearing time that several people are interested in participating.

Providing Project #1001620/15EPC-40007, staff recommends that a recommendation of approval, subject to conditions, be forwarded to the City Council. There are five suggested conditions. In the analysis section of the staff report there are additional suggested conditions, however, since they pertain to the Traffic Code and cross referencing to the Code of Ordinances, they're not the purview of the EPC and therefore, are not included in the suggested conditions. The information will be transmitted to City Council for its consideration. With that; I stand for questions.

CHAIR NICHOLLS: I just have one, if I may? And that is actually regarding the Traffic Code. How is that going to be addressed in reality? I mean, I know we have it in here and we're not going to consider it as part of our discussion, but how will that part move ahead? Who has - - what body will review it for the Traffic Code? Will they review it?

MS. LEHNER: Mr. Chair, commissioners. The Traffic Code is the purview of the Department of Municipal Development, specifically the Parking Management Division. They have been involved in the drafting of the legislation to this point and have worked with Council Services Staff to provide the legislation. So, in terms of a body that's going to review it; here at the EPC regarding the Zoning and Land Use portion, and then the request will move on through LUPZ, which is a City Council Sub Committee and then the City Council will make the final determination.

CHAIR NICHOLLS: Ok. I guess my thought process there was I just didn't want to get it left out. Because, clearly that's probably one of the more important pieces of this as well, so I just want to clarify that. Commissioner's any questions for Ms. Lehner? Commissioner Gonzalez?

COMMISSIONER GONZALEZ: Ms. Lehner, perhaps you could clarify for me the...the parts that have to do with ADA? I'm just concerned about what that's going to do to - - you know these are street trucks, I'm not sure that bringing that into the...into the mix is something that should be done.

MS. LEHNER: Mr. Chair, Commissioner Gonzalez. Through the agency comment process a comment was made by Transportation Development Staff regarding insuring ADA access to the Mobile Food Units. I believe that that will be further evaluated by - - at LUPZ and by City Council, because it's at that juncture that all this information will be transmitted over to them and they would probably need to work with City Council Staff to clarify if this comments going to be integrated into the bill or if not. It is something that I had suggested. There are two points in the bill where this language could go, and it is some language that I thought should be integrated into the bill. There is a proposed condition of recommendation; I believe that is number...number 5, page 15, which is the Zoning and Land Use portion, about providing the ADA accessible pathway to the Mobile Food Unit and that was just my suggestion in terms of incorporating their comment, so that's something that you may want to discuss as part of the Land Use portion.

COMMISSIONER GONZALEZ: My concern with that, as well as some of the number of feet and so forth, I mean, you know, I'm just afraid that we're gonna put on our restrictions on these trucks where these people are working at a margin as it is a very small margin as it is and you know, I kind of find myself for a second time today on the side of, you know, sort of free market enterprise. I don't know why you know if there's specific problems that need to be addressed, and I understand wanting to get into the code, but I'm---I'm very concerned about putting a lot of the same restrictions that we have on brick and mortar establishments.

CHAIR NICHOLLS: Any other questions? Commissioner McCoy?

COMMISSIONER MCCOY: Thank you. I think you may have answered this, but I need to be absolutely clear before I begin formulating a final opinion on this. There are many suggestions within the staff report and then there are very few conditions. The conditions from our perspective do not include the perhaps number of feet that Commissioner Gonzalez said, mentioned and some other things. Does that mean that we are giving a cursory blessing to the thought, but not providing a recommendation on the 500 feet for example?

MS. LEHNER: Mr. Chair, Commissioner McCoy that would be correct. In my analysis of the bill I did speak to everything in the bill that in terms of what I believe needed to be changed, regarding with my communication with Zoning and with other agency comments. I've done my best to integrate those into both portions of the bill and however, only certain parts of those, those that pertain to section 2 of the proposed legislation, which is also available in your packet as an attachment, are the only ones that I've rolled into potential conditions of approval from the EPC. The other ones which are again regarding the Traffic Code are not the purview of the EPC; however, because they are part of the staff report and the attachments they will be forwarded to City Council Staff for their consideration.

COMMISSIONER MCCOY: Thank you.

CHAIR NICHOLLS: Anything else, commissioners? Thank you Ms. Lehner. Do we have anyone from Council Services at all to present? Ok. And we have folks signed up? How many?

MS. HENRY: Four.

CHAIR NICHOLLS: Four. Let's call the first two, please?

MS. HENRY: Cheryl Rein followed by John Moore.

MS. REIN: Good morning. My name is Cheryl Rein.

CHAIR NICHOLLS: And your address is?

MS. REIN: 304 Louie Sanchez Place Southwest.

CHAIR NICHOLLS: And you swear to tell the truth under penalty of perjury?

MS. REIN: I do.

CHAIR NICHOLLS: Ok and who you representing, ma'am?

MS. REIN: I'm here this morning representing the Small Business Regulatory Advisory Commission. They have...

CHAIR NICHOLLS: Let's start you with 5 minutes.

MS. REIN: Pardon me?

CHAIR NICHOLLS: Start you with 5 minutes.

MS. REIN: Thank you. The commission has asked me to read the following letter, since most of them were not able to be here this morning, so I'm just going to read the letter and then stand for questions.

The Mayor and City Council created the Small Business Regulatory Advisory Commission to assess regulatory burdens on small business that are a result of any new, proposed or revised city ordinance, resolution, rule, regulation or administrative policy. The Commission has reviewed proposed Ordinance O-15-36, drafted by the Planning Department, introduced by the City Council on January 5, 2015.

The intent of this ordinance is to amend the zoning code to address Use of multiple food truck; food on private property. The ordinance also proposes changes to the City's Parking Regulations on public right-of-way as they relate to Mobile Food Trucks.

The commission has worked on this issue with the small business men who run food trucks and had attempted to work with city departments to make the incubator environment for food trucks, a true incubator. Help the small business grow and remove unnecessary restrictions, while still promoting public health and safety.

The commission believes that the Parking Regulation contained in the proposed ordinance would be an unnecessary regulatory burden for Food Trucks, small businesses in Albuquerque.

Additionally, the commission stated that brick and mortar restaurants often have a number of ingress egress points, and therefore, the restriction from parking a food truck should be clarified to be one hundred feet from a restaurant's main entrance. Therefore, at the January meeting of the Small Business Regulatory Advisory Commission there was a unanimous vote to request the Environmental Planning Commission to strike certain sections and modify other sections as indicated in the attached proposed ordinance presented in (Inaudible).

The proposed regulation requires Mobile Food Units, operating on public right-of-way, to obtain a Mobile Food Truck parking permit from the City's Parking Management Division. This proposed regulation layers another upfront cost and regulatory requirement that many food truck operators simply cannot absorb.

Prosperity for Albuquerque is dependent upon a vibrant business climate, which cannot succeed with the unnecessary and expensive regulatory burdens placed on those doing business or contemplating doing business in the city.

On behalf of the Small Business Regulatory Advisory Commission we respectfully request that you strike the burdensome language from the Ordinance. Thank you, Small Business Regulatory Advisory Commission.

At the time they did the vote we were only made aware of the 100 feet and we just had the proposed ordinance. I stand for questions.

CHAIR NICHOLLS: Commissioner's any questions? So let me ask you, ma'am, if I may? Could you just for our clarification and you've read the staff report? Is that correct?

MS. REIN: I have sir.

CHAIR NICHOLLS: Ok. Just tell me which bits and reference the pages where you think this needs changing from your groups perspective? Just so we're really sure as to what you're asking of us.

MS. REIN: I don't have the Staff Report up here with me. I think it was on the suggestion on section 9; I believe the 500 feet would be probably be something that the - - page 12, I'm sorry.

CHAIR NICHOLLS: Ok.

MS. REIN: That - - and I can't - - I'm speaking for the Small Business Commission without having had access to them for this. The commission was ok with a 100 feet, I'm not sure that they would be ok with the 500 feet, because you know they do support the food trucks on Civic Plaza and other places, and that particular ruling would interfere with that.

They were - - the parking on page, and I do apologize, I got this yesterday and I'm not - - I'm kind of behind the gun on this, is what we were. It would be page 16 I think there is - - the parking at the bottom of that page, it's primarily the parking issues on this. The commission got involved in this when the food truck industry came to us and asked us to review; there was some zoning requirements that did

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not allow food trucks or any business to go onto private property even if they were invited to set up on private parking lots for more than 2 hours. And so, that is when the Small Business Advisory Commission became involved with this particular issue.

CHAIR NICHOLLS: Commissioner's any questions? Commissioner Hudson.

COMMISSIONER HUDSON: Thank you Mr. Chair. To the best of your knowledge would there be a happy median if someone - - if we were to consider that? Would there be a happy median perhaps, between the 100 and 500 feet that would serve the small business community?

MS. REIN: I would defer that question to the food truck operators. I couldn't comment on that.

COMMISSIONER HUDSON: Ok thanks.

CHAIR NICHOLLS: Anything else commissioners?

MS. REIN: I think the other thing that the com...that the - - and I couldn't find it in there, was the egress I mean the commission was strongly stating that they wanted that to be from the main entrance.

CHAIR NICHOLLS: So, are you saying that you wouldn't have the same problem with any other entrance just the primary entrance into property?

MS. REIN: They had voted that they would accept the hundred feet from the main entrance; this is what the commission had wanted the ordinance to read.

CHAIR NICHOLLS: Commissioner Peck.

COMMISSIONER PECK: Thank you. So, when you say main entrance you're talking the main entrance into the establishment? As you pointed out there's several egress you clearly can always define, which is the main entrance into a parking lot. So, you're talking main entrance into the building?

MS. REIN: Correct.

COMMISSIONER PECK: Ok. Thank you.

CHAIR NICHOLLS: Anything else, commissioners? Thank you for coming in ma'am. Who's next?

MS. HENRY: John Moore followed by Josh Rood-Ojalvo.

MR. MOORE: Good morning, commissioners.

CHAIR NICHOLLS: Good morning sir, just state your name and address for the record, please?

MR. MOORE: My name is John Moore. 10320 Rio Los Pinos, Drive, Albuquerque.

CHAIR NICHOLLS: And you swear to tell the truth under penalty of perjury?

MR. MOORE: Yes.

CHAIR NICHOLLS: And who you representing today, sir?

MR. MOORE: I'm the Executive Director for STEPS. We're a non-profit...

CHAIR NICHOLLS: And STEPS stands for?

MR. MOORE: It was an acronym, but it's no longer. It is a - - we are a non-profit and that is our registered name STEPS and we are - - we work with entrepreneurs. We help people get started. We've had a number of food trucks that we work with probably about since our start nine years ago, probably about 15 to 18 food trucks. And I think there's kind of a misconception about the difference between restaurants and food trucks. A food truck can probably, just to get on the road, cost about fifty to sixty thousand dollars. Once they are established and rolling, over the first probably six months, you're looking at maybe a hundred thousand dollars or more. This money is all spent locally. There's a lot of spin that happens, and a lot of commerce. They are supported purely by demand and so, they're not something that - - they are something that is necessary and if they don't - - if there's no demand they don't flourish and they expire. They have usually two to three employees per each one of these that pay taxes that are a part of our growing economy.

I would echo the last speaker regarding we would like to see it at a hundred feet from any establishment like that. Also, there - - as far as residences there are catering situations where there are weddings and things like that where they are asked to go into a residential neighborhood. So, I'm not sure how that would the wording would change on that, but I would ask you to consider that.

And as far as the ADA; the - - I can't imagine anything that a food truck could do, say that they pull up to a curb that could assure access for somebody with disabilities from the street. Sometimes they do put out tables and chairs like that, but other than that I just don't see how the ADA restrictions might affect them. That's about all I have to say.

CHAIR NICHOLLS: Commissioners any questions? Ok thank you sir.

MR. MOORE: Thank you.

CHAIR NICHOLLS: Who's next?

MS. HENRY: Josh Rood-Ojalvo followed by Julian Griego.

MR. ROOD-OJALVO: Good morning Mr. Chair, commissioners.

CHAIR NICHOLLS: Your name and address for the record, if you would sir?

MR. ROOD-OJALVO: My name is Josh Rood-Ojavo, 1818 Morningrise Place, Southeast.

CHAIR NICHOLLS: And you swear to tell the truth under penalty of perjury?

MR. ROOD-OJALVO: I do.

CHAIR NICHOLLS: And who are you representing today?

MR. ROOD-OJALVO: I'm a local food truck owner, so I guess myself and other local food trucks.

CHAIR NICHOLLS: Ok, let's start with five.

MR. ROOD-OJALVO: So, I've read over the proposed legislation and I have a few concerns. One being that this to me seems to be putting more importance on brick and mortar restaurants than it is on food trucks and the local economy. It seems to be in the - - I didn't get the new copy - - the amendment copy before, and I read the online one that was proposed, and one of the first paragraphs was talking about how food trucks are put - - have an advantage over brick and mortar restaurants. And I think that's just - - there two different business models and you can't compare them in the same way you would two different brick and mortar restaurants. To me for a food truck, for this legislation, I understand you know parking in front of a brick and mortar, I think that's common courtesy and as a food truck owner I would be fine with a one hundred foot limitation on the main entrance, like Cheryl mentioned. I think five hundred is unreasonable. You would not put a one hundred or five hundred foot limitation on a brick and mortar restaurant opening up to another brick and mortar restaurant. So, in my opinion, I don't think that should be the case for another food establishment.

To go along with that the ADA that has been mentioned. We've had numerous handicap wheelchair customers they've never had any issue. If need be we can step off the truck, take their order, take their payment. We bring the food to the actual customers they don't have to wait there. So, again like Councilman Gonzalez said, I don't think that is you know a necessary part of the bill.

There we're - - as Mr. Moore had brought up about the residential use; we do have catering request from either residences, where they want either for high school graduation, or we've had request for birthday parties. For any number of events; weddings, dinners, just you know parties, everything. And I know that there are limitations already in residential zones about noise and we comply with all those; with parking, everything like that. So, again I would like that - - to see that not be part of the bill, because we are part of this growing economy. We are trying to help, like Mr. Moore said, you know be part of this community; we pay our taxes, we have local employees, we buy locally, as often as we can and I just - - I don't recall ever being approached on the subject of this. To me it seems like it was a combination of brick and mortar restaurant owner's as well as other interests that seem, in my opinion, seem to want to curb the use of food trucks, because in their eyes it's taking away from their business.

CHAIR NICHOLLS: Commissioners any questions? Thank you for coming in sir.

MR. ROOD-OJALVO: Thank you.

CHAIR NICHOLLS: And who is the last speaker?

MS. HENRY: Julian Griego.

CHAIR NICHOLLS: Good morning sir, if you'd state your name and address for the record, please?

MR. GRIEGO: My name is Julian Griego, my address is 1221 Mechenbier SW, Albuquerque, NM 87105.

CHAIR NICHOLLS: And you swear to tell the truth under penalty of perjury? Ok and who you representing today?

MR. GRIEGO: I represent the street food institute. We are a non-profit educational organization. I just want to share...

CHAIR NICHOLLS: We'll give you five minutes.

MR. GRIEGO: I just want to share a couple of comments. So what we do with the street food institute; we are a food truck or mobile restaurant and we have a really great opportunity to be able to help teach young entrepreneurs what it is to actually open up a restaurant business. And our moto is, we use food trucks, because we've sho - - we see that it's less expensive and less of a risk for the young entrepreneur to be able to try to open a food service business rather than a brick and mortar business restaurant.

The only comments I'd like to say today is any new proposed restrictions on what we currently do can be quite inhibiting to our program and to what mobile restaurants can do. The proposed five hundred feet I also believe is kind of un-reasonable. I think a hundred feet is fair.

A couple of other things we want to talk about are, excuse me, any new permitting; I think that its already kind of difficult to get permitted and get started and any new permitting would also be very restricting for new entrepreneurs.

I'd also like to point out that food trucks are essentially I think the term 'food truck' is outdated and kind of barbaric. I think the food truck should be considered a mobile restaurant, because that's what we do and in a sense we should be treated as restaurants and not separately. I think there was some wording in the Ordinance that mentioned that brick and mortar restaurants take on more overhead then food trucks do, and I don't believe that is true. We still pay, outside from property taxes; we pay for everything that a restaurant does, as well. We pay our employees, we pay for food, all those types of things, it doesn't - - there's no real difference whether you're a brick and mortar building or on a food truck it's the same thing. If we were to take the wheels off of our food truck it would be - - there would be no difference between the brick and mortar restaurant and a food truck.

The only thing I really want to state is that - - is that I think that any new restrictions would inhibit the potential for new food trucks and it's such a growing (inaudible) and so, I think it's so good for our city that we should not inhibit the continued growth of that type of business. It's particularly good for the young culinary students that we're able to work with. We get to give them the opportunity to take their dreams and take their desires to have their own business and we present them a way to do it that is less risky than opening a restaurant. I think that's all I have for today. It's just that I don't think that we should be undertaking any more restrictions than we already have.

On the ADA notion, just like Josh mentioned, we're more than accommodating to anybody with disabilities, in fact I think we may have a better position to be accommodating then brick and mortar restaurants because we can leave the truck - - we can - - we do whatever we need to assist in those types of situations.

On the notion of, excuse me, lost my train of thought. So, this is the first time I spoke in front of the Council. So the other thing I wanted to mention is that the verbiage is, in the ordinance, is hard to

understand for many people. And I think that it would be good to reach out to the community, to the food truck mobile restaurant community and allow an opportunity for those types of business owners to better understand what these changes mean before any decisions are made, so they - - so that they're allowed to also give their input. I know of many other food truck owners, who are not here today, who would be here if they understood that these proposed ordinances would affect their business negatively. So, I don't think - - I think it's written in a way that's hard for them to understand. And I don't know what type of situation could be presented where we can let those folks know what this means to their business and allow them another opportunity - - or better opportunity to voice their concerns before any decisions are made.

CHAIR NICHOLLS: Go ahead Commissioner Hudson.

COMMISSIONER HUDSON: Thank you, Mr. Chair. You touched a little bit about the permitting process and that it would be more difficult. Can you elaborate a little bit on that? And the reason I ask is because the permitting process is so important not just for the city, but to protect those of you that already are in business and that we don't make the permitting process so easy that it's, you know, it's not controlled. So...

MR. GRIEGO: I think - - I don't think it's terribly difficult; the permitting process is not terribly difficult. I think it's actually easier than many other cities. We recently expanded our program to Santa Fe and comparing those two permitting processes the City of Albuquerque's permitting process is pretty simple. What I was mentioning, I believe, there is a mention of a new permit that we may need, it would involve another cost. I'm not sure where it is in the ordinance, but that's what I was referencing too.

COMMISSIONER HUDSON: So it's primarily the cost more than the process?

MR. GRIEGO: Yes.

COMMISSIONER HUDSON: Ok, thanks.

CHAIR NICHOLLS: Let me ask a question here, because you're essentially an education establishment. Is that correct?

MR. GRIEGO: Yes.

CHAIR NICHOLLS: Have you looked at what happens in other cities like say, like San Francisco. I know there's significantly bigger than us, but they have a very vibrant food truck scene. Have you reached out to any of those folks to see what they do if they have regulations; what they are, whether they were burdensome or not? Because you know we're stepping into this you know fresh and new. You've been in the food bus - - food truck business anyway, I assume for some time and it seems that the best thing that we can do here is get educated. That's not only from our side, but also from your side to be sure that how we're going about it is the most effective way possible.

The other thing I would encourage you to do is make sure, and Ms. Lehner can correct me if I'm wrong. This will go through LUPZ correct and then up to City Council? You may want to make yourself and your groups aware that when it goes through those other bodies, but you know if you need too or feel you need to make representations, so that you do so. Because you know we're just the first step. Ok

and I don't want you to feel that today is the end of the process it clearly isn't and I don't mean that in a negative way, but I want you guys to be involved in every step and if you feel there's things you need to say I want to encourage you to you know make your voice heard, that's what citizen involvement is all about, so please encourage yourself and other food truck vendors to speak. Again, Ms. Lehner, correct me if I'm wrong. Is the public comment taken at LUPZ? There is. So that gives you an opportunity; it also gives you an opportunity when it comes before council, as a specific agenda item too sign up for that agenda item and not under the general comment section, because that narrows restrictive like thirty people. But I don't know whether there are any restrictions on signing up for specific agenda items beyond the public comment process. It's better to speak to that specific agenda item when it comes up. So that everybody's focused on that and not into a whole host of other topics that come up in general comment section. So I just wanted to encourage you to do that, because you know you have a very vested interest and I can't go any further, because you know the floors still open at this point, so...any other questions or comments, commissioners? Ok, thank you for coming in sir.

MR. GRIEGO: Thank you.

CHAIR NICHOLLS: Ms. Henry that was the last. Correct?

MS. HENRY: Yes, sir.

CHAIR NICHOLLS: Ok, then at this point let's hear from the - - from staff in closing, if I may?

MS. LEHNER: Yes, Mr. Chair, thank you. Ok, I have a few things that I wanted to clarify. I think you started to clarify that public process, just so that folks in the audience would understand where we're at, and again as our Chair said that the Environmental Planning Commission is the first step in the process for commenting on proposed legislation. After that all of the discussion here and the staff report, some of which you have, will be transmitted to the City Council and the next step is LUPZ. That's called Land Use Planning & Zoning Subcommittee of City Council. They meet over at City Hall. They have an agenda posted on line. I can give you more specifics after the hearing, if you would like. And then after that the discussion at the LUPZ Committee is forwarded to the City Council. And those are both additional opportunities for public comment. And unfortunately in the writing of the staff report I hadn't heard from anyone, otherwise - - if I had of course any letters and concerns would have been included with the publication of the staff report in the attachments.

So also, it's important to clarify that nothing has changed in the proposed legislation, as of this time. In other words if you're on line or if you look at the bill that's included as an attachment to the staff report there have not been any changes made at this time. Those will occur later and those are the discretion of City Council.

So, a few items on why the legislation is important in general; I think, probably the biggest thing is that right now, Mobile Food Units, which are not just food trucks, but rather it's a more encompassing definition. That includes; ice cream trucks, food, delivery trucks, etcetera, that's a definition in our statute, that's also the definition that the Environmental Health Department uses. It's important that we have that definition in the Zoning Code; so that everybody can know what these things are and that we have consistency throughout our Code of Ordinances. Defining is very important.

And the second important thing is that right now, in our Zoning Code, Mobile Food Unit or food truck is not even called that as a Use. Because a lot of these Uses were listed as permissive, although a very

long time ago, before this even was on the horizon. So it's important that we say, Mobile Food Unit is a Use in these zones and that we amend those zones, and that we amend those zones to include that Use, because right now Mobile Food Unit is - - or food truck is a conditional use only and it's a conditional use in C-1, C-2 and C-3, and that's it. So, I think it's really important to clarify those from a regulatory stand point.

Also, that - - with respect to the one hundred foot separation distances; that's part of the traffic code, first of all. Let's say that the EPC doesn't have any purview over that, but it's good to get this discussion on the record.

The reason in the staff report I had recommended a perhaps five hundred foot distance was because in looking at the legislative intent, that's what I understood the intent to be. But now certainly, after City Council, if they want to keep it or drop it; if it's something they developed already up front in consultation with people then my assumption is that they'll drop it. It's completely at the discretion of the City Council; what portions of number 1, the EPC's conditions they want to incorporate or - - and furthermore with this one, with staff's analysis they can take those or leave those or do a combination of both. So, I also wanted to make that clear that's why it's also important to continue participation in the LUPZ process.

CHAIR NICHOLLS: Can I ask a question?

MS. LEHNER: Certainly.

CHAIR NICHOLLS: Don't mean to interrupt you, but while it's just fresh in my mind, because if I don't ask it, it won't be fresh in my mind it'll be gone. I understand the issue of the one hundred and the five hundred foot; that's part of Traffic Code. Is it reasonable for the Planning Commission to put in, say a finding that to increase the separation distance from a hundred foot, as proposed in the legislation, to five hundred foot would potentially be burdensome on these types of operators? We can't do anything about the Traffic Code, but certainly we could have a finding if we felt that were the case. I just wanted to clarify that while I've got it in my mind.

MS. LEHNER: Mr. Chair, commissioners. I don't think that - - I would not suggest making that a finding, because again that is part of the Traffic Code portion and that's something that the EPC doesn't have purview over, so I would not put it in your official findings, number 1. And number 2; it's simply a suggestion from staff it's not even related in any way to your proposed rec - - conditions for recommendation of approval.

CHAIR NICHOLLS: Ok. I - - Commissioner Gonzalez.

COMMISSIONER GONZALEZ: However we're...we're at liberty to just strike number 9 aren't we, on page 12? Just strike that recommendation?

MS. LEHNER: Mr. Chair, Commissioner Gonzalez. That's not included as a condition it's just a part of the staff report.

COMMISSIONER GONZALEZ: Ok.

MS. LEHNER: The conditions for recommendation of approval those begin on page 16 and there are simply five of those. The other information embedded in the body of the report is just for consideration by Council and Council Staff.

MR. WHITCOM: Mr. Chair, if I could clarify or at least agree with Ms. Lehner.

CHAIR NICHOLLS: Yes Counsel, go ahead.

COMMISSIONER BOHANNAN: The limitations on or distance on page 12 are not part of what this committee would be asked to rule upon. And frankly it's outside the scope of this commission and accordingly, I don't think it's something you should be doing. And frankly, it's not part of the findings that you would be adopting either, so I believe it was provided as a background by staff.

CHAIR NICHOLLS: Ok. I just wanted to get that out now, rather than - - I know there was something else I wanted to talk about and I can't remember what it was. So, and again, I apologize for interrupting you Ms. Lehner, but as I get older sometimes I need to deal with it right now rather than later when I forgot (inaudible). So, please go ahead, Ms. Lehner.

MS. LEHNER: Thank you Mr. Chair, commissioners. I only have a few other points that perhaps a discussion regarding catering; that's something that will have to be - - that wasn't anything that was on my radar screen. I had communicated with a representative of the Environmental Health Department, Susan Spring, who does plan check here at the Planning Department on behalf of Environmental Health and she had suggested a condition, or rather she had communicated with me the idea that it was important too again I believe this is - - it's also part of the Traffic Code portion, I apologize, but she wanted to make sure that the restrictions on residential zones did not include; ice cream trucks, food deliver trucks, etcetera, again that Traffic Code, so maybe the catering discussion would also have to occur as part of that. And if there's anything further on that hopefully it can be rolled into the bill as part of the LUPZ discussion.

And in terms of looking at other cities and their requirements that's not something I really did if that's considered important. And I think they can delve into that at the Council level. Though, it certainly may have already been done. They tend to do research before they forward the bills over here. But with that I really don't have anything further unless you have specific questions about the few conditions that are recommended as purview of the EPC.

CHAIR NICHOLLS: Commissioner Gonzalez.

COMMISSIONER GONZALEZ: Ok, so we - - on condition 5 the one dealing with ADA Accessible Pathway. I'm just - - you know I was sitting here thinking like what exactly logistically; how would that even - - how would that function? I mean...

MS. LEHNER: Mr. Chair, Commissioner Gonzalez. As for how that would specifically function; I am not certain. I'm just looking at the comment made by Transportation Development Staff and attempting to incorporate that into the conditions, which is our standard procedure. However, if the commission feels that it's something that's either onerous and or not appropriate, and or as I heard you say something that's taken a particular requirement or placing that on something that's not exactly the same then it's certainly within the commission's discretion to remove that suggested condition of approval number 5.

CHAIR NICHOLLS: Where do you think your thought process is going on that, Commissioner Gonzalez? I just wanted - - while we're on that topic just share...

COMMISSIONER GONZALEZ: Sure I'm all for access. But...but I'm thinking about trucks very often parking in parking lots. And are we going to require that every food truck have a platform that they can erect in front of their food trucks wherever they go. And then you get into questions; if it's a sidewalk? I just think that it's an onerous thing to put upon food trucks to try meet with that.

CHAIR NICHOLLS: Commissioner Hudson...

COMMISSIONER GONZALEZ: And I don't know if a...I'm sorry, I don't even know if a platform I mean, I'm just really trying to think of some of the places where I've seen food trucks where maybe you're talking about fifty, seventy five feet from a roadway. How exactly are they supposed to - - are they supposed to come in there and lay a path? Like I said I'm all for access and as I think that the food truck owners here have said you know they go out of their way, as well they should, but it seems highly impractical to me.

CHAIR NICHOLLS: Commissioner Hudson then Commissioner Peck.

COMMISSIONER HUDSON: Thank you, Mr. Chair. I agree with Commissioner Gonzalez. I think it might be a difficult thing to have to provide ADA access and more importantly is; who's going to police that and who's going to enforce that? So, as much as we all like to be able to accommodate any disabled people; I think in the situation of food truck, and since it is mobile I think that that would be a really difficult task to undertake.

CHAIR NICHOLLS: I think my comment on that also is that certainly from what I've heard this morning and also from my own experience of food trucks, which I'm greatly in favor of, these folks go out of their way to make sure their customers can have their needs serviced and I don't think that's going to be an issue with these folks at all. Commissioner Peck.

COMMISSIONER PECK: Thank you Mr. Chair. As somebody who deals with ADA on a daily basis; I don't believe that we have that regulatory right. It's a federally administered program it primarily applies to brick and mortar buildings. I don't believe that we even have the ability to do that. I think that probably a - - I mean it's administered to the DOJ. I might defer to legal counsel, but I think that this may be a bit of an over step in number 5 and maybe we should just strike it.

MR. WHITCOMB: Mr. Chair, I agree with Commissioner Peck. And in addition I think it may be a little inarticulate in the way it was written here. I don't think there would be any problem with the commission removing this and if city staff feels that they need to insert some ADA language they can bring that back as a substitute at further council (inaudible).

CHAIR NICHOLLS: All right, ok. Ms. Lehner, anything else for us in closing?

MS. LEHNER: Mr. Chair, commissioners I have nothing further, thank you.

CHAIR NICHOLLS: Thank you. Let's go ahead and close the floor. Commissioners, discussion please? Commissioner Gonzalez, and then Commissioner McCoy.

COMMISSIONER GONZALEZ: I would move to strike 5 when it's appropriate, and since I can't take out the other things that I don't like, I just want to make sure that it's on the record that as Commissioner Bohannon pointed out to me, that 300 feet is a city block and you're now saying that a truck can't park within a block and a half of a restaurant that seems - - that doesn't seem anywhere near fair. I'm just - - I really am worried here. The main question here should be health and safety, you know, make sure that the food they're serving is safe and make sure that they're parked in a place that is not creating any nuisance. And I'm not sure about the depicted permitting, but I wanted to say something about that as well, I mean you have to have a permitting system. But I want to be careful we don't wrap what seems to be a thriving business and a bunch of red tape that's going to sort of squash it. So that and removing what may be an over reach seems impractical to me. With that said, I would support moving this along.

CHAIR NICHOLLS: Commissioner McCoy.

COMMISSIONER MCCOY: Thank you Mr. Chair. I'm concerned and would like staff to work on a new finding potentially, the five hundred feet concerns me greatly; the restrictions on catering potentially concern me greatly by leaving this completely out of the R-1 Zone. And while I understand it's not our purview I think to pass this on without a mention of that being a concern would be negligent on our part.

I'm also somewhat concerned, and I guess part of that could be alleviated, with giving an implicit blessing to some of the staff comments in the staff report. If there is a legal purpose for that to be in front of the council or LCS that I'm unaware of I'm ok. Otherwise, I feel like some of those things absent to findings might be better done in public comment at LUPZ or something. I have no problem moving forward with an addition of a finding with my two concerns, the limited amount of text revision in our findings and recommendations. I also concur that item 5 should be deleted.

CHAIR NICHOLLS: Anyone else? Commissioner Peck.

COMMISSIONER PECK: Thank you Mr. Chair. In general, I'm in agreement with this in moving it forward. I do have the concern about the five hundred feet. I really think that's far too far. That said, I think there has to be a bit of regulation in that.

I appreciate the comment that it cost a hundred thousand to set up a food truck. It costs close to a million dollar to set up a restaurant, so they are not the same, I could assure you. So, I'd like to see those people that are heavily invested in our economy by putting in a brick and mortar; have a bit of protection. But I do see, unlike some cities, Albuquerque has not experienced the issues that some major cities have experienced with food trucks and restaurants kind of going head to head. I think it does self-regulate and I appreciate the food service industry doing that and being cognizant of their neighbors. And I totally think Item 5 does not belong in here and needs to go away, but I would support moving this to City Council. And I think I would encourage the food truck industry to be there at LUPZ and be there at City Council and definitely make sure they hear what's going on, because I think it's a very viable industry. I love going to Talin on Tuesday's. And the City Plaza on - - or Tuesday's and Wednesday's at Talin. And I think it's a great thing for our city to have some entrepreneurs like this, so I'm in support.

COMMISSIONER BOHANNAN: Chairman Nicholls, if I may?

CHAIR NICHOLLS: I'm sorry, go ahead Commissioner Bohannan.

COMMISSIONER BOHANNAN: I'm in concurrence with everything the previous commissioners have said before me, and I too take great exception with the five hundred foot rule. If there is a way to address that, not here, but through Council or some other means I think that it's very pertinent. Currently that rule would prohibit any food trucks from even operating on Civic Plaza due to the Plaza Eatery and the Subway that's along Tijeras. Also if this building were to like to have a food truck for its staff, with the five hundred foot rule, it would have to be located across Lomas, across Third, across Marquette or across the BNSF Rail line right-of-way. And that's only taking into account the restaurant that occupies this building none of the others that would affect that limit. So if you take those others into account you're shifting those food trucks to just service this one building to possibly fifteen hundred feet away, which is not convenient and just I think decreases demand for this activity. I think its orneriness and should be addressed. But in light of that I'm inclined to recommend approval and striking number 5.

CHAIR NICHOLLS: And I think the - - I agree with what you're saying there, Commissioner Bohannan, put in the logical, mathematical frame work this doesn't work at five hundred feet. You can't it make it impossible and I think while it's absolutely essential to address these type of operations within the code to make sure there are definitions there. The last thing we need to do is make this so burdensome that we drive them out of business. I can't see us doing that. I think that would be totally against what our purview is as an Environmental Planning Commission. I think the five hundred foot should not be there. How we address that, going forward, that's something we need some advice on, because if it's part of the Traffic Code. We can't do it. I don't believe that we can make a finding. However, when I look at the legislation itself there is no mention of five hundred feet. So, that being the case if we move this forward without comment on it. Move it forward, at least the way I interpret it, that that portion of the legislation as written as a hundred foot stays, because it doesn't encourage a digression from that. And so, I think unless Counsel feels that we should address it I think we're better off letting that one lie and letting the legislation go ahead as written, because it doesn't imply any mention of the five hundred foot. Counsel

MR. WHITCOMB: Mr. Chair, I concur with what you just said. I don't think it's something the commission needs to address. It's not part of your findings; it's not part of any of the amendments you're recommending. It's something that was put in to your packet as something you may want to discuss, but it's not part of what you're doing.

CHAIR NICHOLLS: And Commissioner McCoy, then Commissioner Peck.

COMMISSIONER MCCOY: Thank you, Mr. Chair. I understand the five hundred feet as a staff comment. If this entire document is going to be forwarded, including that I feel like leaving out a finding that we disagree with the five hundred feet, allows for somebody else within the process to believe that we we're complicit or implicitly agreed and it works not even in theory. As Commissioner Bohannan pointed out, we're five hundred feet away from putting a food truck out of business on this block not even counting the other establishments. And so - - and since it's in our document, I understand it's not part of the findings, I understand it's not a part of the conditions, but I'm completely uncomfortable with it.

CHAIR NICHOLLS: Not to interrupt, Commissioner Peck, but I'm going to anyway.

COMMISSIONER PECK: He's like my wife.

CHAIR NICHOLLS: Because it's listed in the staff report that this is what staff is recommending; I'm inclined to lean towards Commissioner McCoy's thought on that and I don't think it needs to be something so difficult to craft a finding on that. Just...ok, go ahead Ms. Lehner. Can we hold on yours, Commissioner Peck?

COMMISSIONER PECK: Yes, I actually have a question for Ms. Lehner, as well.

CHAIR NICHOLLS: Oh ok, good.

MS. LEHNER: Thank you Mr. Chair, commissioners. This would be a new finding on page 16 of the staff report. It would be a new finding number 15. That would read as follows: That the EPC recommends not increasing the distance between the mobile food unit and the site built restaurant to over one hundred feet.

CHAIR NICHOLLS: And if I could? If you would flip back to page 12 of the staff report that covers the whole of portion 9 there, as written in the staff report. Is that correct? Because the first one is what we're talking about now and then the others automatically follow from that. Is that correct?

MS. LEHNER: Mr. Chair, commissioners that's correct.

CHAIR NICHOLLS: Great. Thank you, Commissioner Peck and then Commissioner McCoy.

COMMISSIONER PECK: Thank you Mr. Chair. Actually one thing on that last finding; if you look at the legislation as proposed by Councilor Benton on Page 4 of the Ordinance, 'i' if we just say leave that as written. I think - - because my concern and I heard the concern of a couple of our speakers it says, "From the nearest building egress ingress of any site built food service establishment," to me that is what we like. Just as a suggestion.

The other comment I had for Ms. Lehner going back to the conditions of approval number 1. We're talking about amending Zoning Code to permit and regulate Mobile Food Units on private property and I did hear a couple of our speakers talk about private catering parties and I totally agree with that. But I also have the concern of having the fish taco truck show up in front of my house for several hours and probably not smelling real good after a while. So, I'd like - - if there's a way we can make sure that catering is still covered, so if I have a party at my house, that's one thing or I just don't know, but again, I just don't want to see private property you know people parking in front of private dwellings and selling stuff for a while.

MS. LEHNER: Mr. Chair, Commissioner Peck. As written in the proposed legislation it does include a prohibition on Mobile Food Units in residential zones. The prohibition is out right; it prohibits all Mobile Food Units per definition. The definition is very expansive, so the suggestion from the Environmental Health Department was and I - - she wanted too still allow ice cream trucks and those palate pushcarts and the food delivery trucks like Schwan's for example, that in the opinion of the Environmental Health Department, those should still be allowed. So, rather than alter the definition I just wrote in an exception.

COMMISSIONER PECK: Ok.

MS. LEHNER: But food trucks are still prohibited in residential zones with the legislation, as written.

COMMISSIONER PECK: Ok.

CHAIR NICHOLLS: So, does that imply that if Commissioner Peck wants to have a party, to include a food truck at his house...

COMMISSIONER PECK: It would be -- as written. It's prohibited. Correct?

COMMISSIONER GONZALEZ: But is this only on the public right-of-way residential zones or my...

COMMISSIONER PECK: Or in my driveway.

COMMISSIONER GONZALEZ: If I have a property of 2 acres and I want to bring a food truck into my backyard and have a party. Are you telling me I can't do it?

MS. LEHNER: Mr. Chair, Commissioner Gonzalez. If your property is zoned residential I believe that the legislation would read that you couldn't do it.

CHAIR NICHOLLS: Are you still thinking on that one?

COMMISSIONER GONZALEZ: Well -- I...

MR. WHITCOMB: Mr. Chair, I want to disagree. The legislation, if you look at page 3, it relates to 'operating from a public right-of-way'. And as well...

COMMISSIONER PECK: Oh, yeah it does say that.

MR. WHITCOMB: And someone's driveway or backyard or property is not public right-of-way, so...

COMMISSIONER GONZALEZ: Now do we then go to the 2 hour limit? Does that apply to bringing the truck onto private property that it could only be there for 2 hours? Is that correct?

MR. WHITCOMB: Mr. Chair, Commissioner Gonzalez. I believe that also only applies to public right-of-way.

COMMISSIONER GONZALEZ: Ok.

CHAIR NICHOLLS: And Commissioner McCoy. I believe you wanted to follow-up?

COMMISSIONER MCCOY: I believe my concerns have been addressed, but clarity, please counsel. In the universe of unintended consequences we've looked at the ice cream trucks and push carts, the mobile barbeque pits that are so prolific for party's etcetera. I want to be sure for my perspective at this step that we're not prohibiting Commissioner Gonzalez, with his large back yard, from bringing one of those in...

COMMISSIONER GONZALEZ: It's not really that big; I lied.

COMMISSIONER MCCOY: For his privately catered event because I had two concerns; one of which has been addressed with a very short finding that could be edited and I'd be thrilled with. But the other is this catering issue. I believe, Commissioner Peck's thought, that if I really enjoyed a fish truck he might not be all that happy would certainly cause me to consider, but I don't want to prohibit catering of any kind on private property with this Ordinance or at least with our blessing.

CHAIR NICHOLLS: And to clarify, Commissioner McCoy, you're referring to residential private property. Is that correct?

COMMISSIONER MCCOY: That is correct.

CHAIR NICHOLLS: Ok. We're all...

MR. WHITCOMB: Mr. Chair, Commissioner McCoy. Frankly, I don't know, I have a fairly active imagination and to go through this entire ordinance at this setting and try to figure out if somehow we have prohibited a catering event may be a little difficult. We could add another finding maybe requesting clarification? The commission is not recommending banning catering trucks or barbeque trucks or the like through this legislation.

CHAIR NICHOLLS: So, that would be a new finding 16. Is that correct? Maybe...

MR. WHITCOMB: And as well, addressing I believe it was Mr. Peck, Commissioner Peck's concerns we have re-written what would be finding 15.

CHAIR NICHOLLS: Ok, would you read that into the record, please?

MR. WHITCOMB: Finding 15 would read, 'The EPC recommends no change to the wording of sub paragraph E on page 4 of the proposed ordinance.'

CHAIR NICHOLLS: And Commissioner McCoy, are you comfortable with that language?

COMMISSIONER MCCOY: Yes I'm comfortable with that finding and counsel, thank you. I'm also comfortable with simply a finding that we do not want to discourage private catering events in residential zones.

MR. WHITCOMB: Mr. Chair and Commissioner McCoy, again I'll have to comb through this a little more closely without having looked at it, with that in mind. I think we can craft something that can convey your concerns.

COMMISSIONER MCCOY: Thank you.

CHAIR NICHOLLS: But I think before we get to a motion on this; I think we want to be sure that we've got that read into the record, so that there's no...

MR. WHITCOMB: The EPC...

CHAIR NICHOLLS: Counsel, go ahead.

MR. WHITCOMB: Mr. Chair, I apologize. "The EPC requests clarification within the Legislation that the changes do not prohibit catering on private property."

CHAIR NICHOLLS: Commissioner McCoy.

COMMISSIONER MCCOY: Do we need to include counsel, the words 'Mobile Food Unit' in there, for clarity?

MR. WHITCOMB: The EPC requests clarification within the Legislation that the changes do not prohibit catering by a Mobile Food Unit on private property.

COMMISSIONER MCCOY: I'm very happy with that.

CHAIR NICHOLLS: Ok, any further discussion? Hearing none is anyone prepared to make a motion? Go ahead, Commissioner Hudson.

COMMISSIONER HUDSON: Thank you, Mr. Chair. In the matter of project #1001620, case #15EPC-40001. I move for recommendation of conditional approval, be forwarded to the City Council, based on the findings 1 through 14, and number 15 and 16 as read into the record. And the conditions for approval, based on 1 through 4 and striking number 5.

CHAIR NICHOLLS: Just for clarification. Is this case number 15-EPC-4007...

COMMISSIONER HUDSON: Excuse me, I'm sorry, 4007. I read it off the first page. Excuse me 4000...

CHAIR NICHOLLS: I just wanted to be sure...

COMMISSIONER HUDSON: 40007.

COMMISSIONER PECK: I'll second.

CHAIR NICHOLLS: We have a motion and a second. Any discussion on the motion? Hearing none those in favor say "Aye".

ALL COMMISSIONERS: "Aye".

CHAIR NICHOLLS: Those against say "No". Motion carries unanimously.

FINAL ACTION TAKEN:

THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission (EPC), voted that a recommendation of approval for Project# 1001620/15EPC-40007, Text Amendment to the Zoning Code and Traffic Code regarding mobile food units, be forwarded to the City Council based on the following findings and subject to the following conditions of approval:

FINDINGS:

1. The request is for a recommendation to City Council regarding text amendments to the City's Comprehensive Zoning Code to add a new section, §14-16-3-25 ROA 1994, and to amend §14-16-1-5(B), Definitions. The following zones should be correspondingly amended for internal consistency: the O-1 Office and Institution Zone (§14-16-2-15); the C-1 Neighborhood Commercial Zone (§14-16-2-16); the C-2 Community Commercial Zone (§14-16-2-17), and the IP Industrial Park Zone (§14-16-2-19).
2. The proposed text amendments are found in legislation authored by Council Services Staff and known as Bill No. O-15-36. O-15-36 was introduced at City Council on January 5, 2015 and subsequently referred to the Planning Department for review. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments to the Zoning Code. As the City's Zoning Authority, the City Council will make the final decision.
3. The purpose of the proposed legislation is to recognize and promote the mobile food unit industry as an economic generator while preserving equity with the site-built restaurant industry, and to establish mobile food units as a use distinct from the category "outdoor activity" in the Zoning Code.
4. Mobile Food Units would be permitted on private property in all zones, except residential zones, provided the operator has permission from the property owner. Mobile Food Units would not be allowed to occupy parking spaces needed to meet minimum parking requirements or obstruct ingress and/or egress from a site. They would also have to comply with noise regulations.
5. The City's Traffic Code, Section §8-5-1-42, would also be amended to permit and regulate Mobile Food Units in the public right-of-way (ROW). The Traffic Code is the purview of the Department of Municipal Development, specifically the Parking Management Division. Environmental Planning Commission (EPC) review is limited to the Zoning Code portion of the proposed text amendments only, and does not include the Traffic Code portion.
6. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.
7. Intent of the City Charter:

Adding provisions to the ROA 1994 to establish a definition for Mobile Food Units, and requirements pertaining to them, is an exercise in local self-government (City Charter, Article 1). Amending the Comprehensive Zoning Code to define and regulate Mobile Food Units generally expresses the Council's desire to ensure the proper use and development of land, and to generally promote and maintain a humane urban environment (City Charter, Article IX).
8. Intent of the Zoning Code (§14-16-1-3):

The application for proposed text amendments to Zoning Code §14-16-1-5 ROA 1994, Definitions and addition of a new section, §14-16-3-25, and correspondingly amending certain associated zones, was filed in accordance with Zoning Code requirements. The proposed text amendments generally further the Zoning Code goal of promoting the health, safety and welfare of the citizens. Defining Mobile Food Units and establishing regulations pertaining to them would positively

impact the overall health and welfare of the City and the built environment. However, as the zoning authority for the City of Albuquerque, the City Council will make the final determination.

9. The request generally furthers the following, applicable Comprehensive Plan Goals:

A. Developing & Established Urban Goal: The proposed text amendments would establish regulations for Mobile Food Units on private property and on public streets. Doing so would generally help create a quality urban environment in which Mobile Food Units are allowed to operate, within certain parameters, in non-residential zones. Mobile Food Units help offer a greater variety of services and choices to people in areas throughout the City, and help support work areas and life styles that support these micro-enterprises.

B. Economic Development Goal: The proposed text amendments would generally achieve diversified and balanced economic development. This is because they would promote and accommodate the Mobile Food Unit industry, while at the same time establish regulations to create balance with the environs the Mobile Food Units operate in. Also, the proposed text amendments would help create parity with the site-built restaurant industry, thus helping to mitigate adverse economic impacts to it due to the expansion of the food truck industry.

10. The request furthers the following, applicable Comprehensive Plan policies:

A. Policy II.B.5i-employment/service use location. The proposed text amendments would clarify that Mobile Food Units, meaning food trucks, are not allowed to operate in residential zones, which is intended to protect neighborhoods from the adverse effects of noise, lighting, pollution and traffic. When operating, the Mobile Food Units would be in non-residential zones and would be subject to new regulations regarding not taking up required parking, blocking ingress or egress, and complying with noise standards.

B. Policy II.D.6b-development of business enterprises. The proposed text amendments would generally support the development of local business enterprises, from food trucks with varied menus to small push-cart operators with a single offering, while establishing regulations to make them more compatible with the environs in which they operate.

C. Policy II.D.6c-opportunity/occupational skills. The proposed text amendments would generally help support micro-enterprises, and in particular those of the Street Food Institute, which provide training in food service and entrepreneurship.

11. The proposed legislation is not likely to be problematic from a Code Enforcement perspective. Code Enforcement Staff has expressed concern about this and recommends the addition of a Fees section and a Review section in order to implement the proposed legislation.

12. As written, the proposed legislation could result in the unintended consequence of prohibiting ice-cream trucks, paleta push carts, and frozen food trucks from serving their customers in residential areas. A condition for recommendation of approval is provided to address this.

13. Conditions for recommendation of approval are needed to provide clarification, list Mobile Food Units as a permissive use, and address agency comments that pertain to the Zoning Code. The suggested conditions pertain to the Zoning Code portion of the proposed text amendments only. Staff

suggestions regarding the proposed revisions to the Traffic Code, and cross-referencing in ROA 1994, are not the purview of the EPC but are available in this Staff report should Council Services Staff wish to consider them.

14. The proposed text amendments were posted on the Planning Department's main web page and were announced in the February/March 2015 issue of the Neighborhood News, published by the Office of Neighborhood Coordination (ONC). As of this writing, Staff has not received any comments and is not aware of any opposition.

15. The EPC recommends no change to the wording of (E) on page 4 of the proposed ordinance (re: separation distance).

16. The EPC requests clarification within the legislation that the changes do not prohibit catering by mobile food units on private property.

CONDITIONS FOR RECOMMENDATION OF APPROVAL:

Note: New language is [+underlined and bracketed+]. Deleted language is [underlined, bracketed and struck through]. Planning Staff's suggested additions and deletions are indicated by **grey highlighting**.

Recommended Revisions to the Proposed Legislation:

1. Insert on Page 1, at Line 2:

AMENDING THE ZONING CODE TO PERMIT **[AND REGULATE]** MOBILE FOOD UNITS **[ON PRIVATE PROPERTY]**; AND
AMENDING THE PARKING CODE TO REGULATE MOBILE FOOD UNITS IN PUBLIC RIGHTS OF WAY **[RIGHTS-OF-WAY.]**

2. Page 2, Line 6:

SECTION 1. Section ~~14-16-1-1~~ **[14-16-1-5(B)]** is amended to add the following definition:

Zoning Code Cross-Referencing:

3. Insert in the Zoning Code at the following locations:

[Mobile Food Unit.]

§14-16-2-15(A)(10), the O-1 Office and Institution Zone
§14-16-2-16(A)(3), the C-1 Neighborhood Commercial Zone
§14-16-2-17(A)(5), the C-2 Community Commercial Zone, and
§14-16-2-19(A)(13), the IP Industrial Park Zone.

New Text Additions to the Proposed Legislation:

4. Insert at Page 4, Line 28 (with renumbering of subsequent sections):

SECTION 4. The following shall be inserted as the last item in Zoning Code 14-16-3-25, Mobile Food Unit; Traffic Code 8-5-1-42, Mobile Food Units on Public Streets; and Health, Safety & Sanitation Code 9-9-15 as a new (F) and (G), respectively:

EPC MINUTES

March 12, 2015

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[(B) Cross References]

(1) Mobile food unit: Traffic Code (Chapter 8, Article 5, Part 1, Section 42)

(2) Mobile food unit: Health, Safety & Sanitation Code (Chapter 9, Article 6, Part 5)]

**MOVED BY COMMISSIONER HUDSON
SECONDED BY COMMISSIONER PECK**

MOTION PASSED 6 - 0

7. ~~OTHER MATTERS:~~

~~A. Approval of October 2, 2014 Revised Minutes~~

**~~MOVED BY COMMISSIONER PECK
SECONDED BY COMMISSIONER HUDSON~~**

~~MOTION PASSED 6 - 0~~

~~B. Approval of January 8, 2015 Minutes – Deferred from the February 12, 2015 Hearing~~

**~~MOVED BY COMMISSIONER BOHANNAN
SECONDED BY COMMISSIONER HUDSON~~**

~~MOTION PASSED 6 - 0~~

~~C. Approval of February 12, 2015 Minutes~~

**~~MOVED BY COMMISSIONER BOHANNAN
SECONDED BY COMMISSIONER HUDSON~~**

~~MOTION PASSED 6 - 0~~

8. ~~ADJOURNED: 11:46~~



ENVIRONMENTAL PLANNING COMMISSION ACTION SHEET

Thursday, March 12, 2015
8:30 a.m.

Plaza Del Sol Hearing Room, Lower Level
600 2nd Street NW

MEMBERS

Peter Nicholls, Chair
Karen Hudson, Vice-Chair

Maia Mullen
Bill McCoy
James Peck

Moises Gonzalez
Derek Bohannon
Victor Beserra

NOTE: A LUNCH BREAK AND/OR DINNER BREAK WILL BE ANNOUNCED AS NECESSARY

Agenda items will be heard in the order specified unless changes are approved by the EPC at the beginning of the hearing; deferral and withdrawal requests (by applicants) are also reviewed at the beginning of the hearing. Applications with no known opposition that are supported by the Planning Department are scheduled at the beginning of the agenda; these cases are noted with an asterisk (*). Applications deferred from a previous hearing are normally scheduled at the end of the agenda.

There is no set time for cases to be heard. However, interested parties can monitor the progress of the hearing by calling the Planning Department at 924-3860. All parties wishing to address the Commission must sign-in with the Commission Secretary at the front table prior to the case being heard. Please be prepared to provide brief and concise testimony to the Commission if you intend to speak. **In the interest of time, presentation times are limited as follows, unless otherwise granted by the Commission Chair: Staff – 5 minutes; Applicant – 10 minutes; Public speakers – 2 minutes each. An authorized representative of a recognized neighborhood association or other organization may be granted additional time if requested. Applicants and members of the public with legal standing have a right to cross-examine other persons speaking per Rule B.12 of the EPC Rules of Conduct.**

All written materials – including petitions, legal analysis and other documents – should ordinarily be submitted at least 10 days prior to the public hearing, ensuring presentation at the EPC Study Session. The EPC strongly discourages submission of written material at the public hearing. Except in extraordinary circumstances, the EPC will not consider written materials submitted at the hearing. In the event the EPC believes that newly submitted material may influence its final decision, the application may be deferred to a subsequent hearing.

NOTE: ANY AGENDA ITEMS NOT HEARD BY 8:30 P.M. MAY BE DEFERRED TO ANOTHER HEARING DATE AS DETERMINED BY THE PLANNING COMMISSION.

1. **Call to Order: 8:30 a.m.**
 - A. Pledge of Allegiance
 - B. Announcement of Changes and/or Additions to the Agenda
 - C. Approval of Amended Agenda
 - D. Swearing in of City Staff

2. Project# 1010354

15EPC-40005 Amendment to Sector
Development Plan (Zone Change)

Bohannon Huston, Inc., agent for Boxing Bear Brew Company, requests the above action for all or a portion of Tract F-1A Las Tiendas de Corrales Center, Seven E Ranch, zoned SU-1 for C-2 uses to SU-1 for C-2 uses a wholesaling of beer and wine, located on Corrales Road N between Alameda Blvd and Calle Cuervo Road, containing approximately 1.3 acres. (A-14)

Staff Planner: Vicente M. Quevedo (**APPROVED**)

3. Project# 1010355

15EPC-40006 Amendment to Sector
Development Plan (Zone Change)

Garcia/Kraemer and Associates, agent for Marble Avenue Properties, LLC, requests the above actions for all or portion of Lot 7A, Block 5, Plat of Lot 7A, Block 5, North Addition, zoned SU-2/C to SU-2/SU-1 for M-1 uses, located on Marble Avenue NW, between 1st Street NW and 2nd Street NW, containing approximately .65 acres (J-14)

Staff Planner: Maggie Gould (**APPROVED**)

4. Project# 1010332

15EPC-40001 Site Development Plan for
Subdivision

Myers, McCready & Myers, agents for 98th Street LLC, requests the above action for Tract 34D-1-A Bulk Land Plat, Tract 31A-1-A Lands of Salazar Family Trust, Salazar Quattrone Trust, JSJ Investment Company & Falba Hannett, and Tract 4-A-1 and 32H-1-A, located at the SW corner of the intersection of Gibson Boulevard SW and 98th Street SW, containing approximately 25.5 acres. (N-9)

Staff Planner: Catalina Lehner (**APPROVED**)

5. Project# 1004763

14EPC-40083 Zone Map Amendment (Zone
Change)
15EPC-40003 Site Development Plan for
Building Permit

RBA Architecture, agents for Oasis Family Church, requests the above actions for Tract A-4-1A, Block 15, Unit # Stardust Skies, to change the existing zoning from "SU-1 for Commercial Development for Office and Residential Developments & for Full-Service Liquor for On-Premise Consumption" to "SU-1 for C-2 uses", located on Montgomery Boulevard NE, between Pennsylvania Street NE and Julie Street NE, approximately 1.5 acres. (G-19)

Staff Planner: Catalina Lehner (**DEFERRED TO THE
APRIL 9, 2015 HEARING**)

6. Project# 1001620

1 5EPC-40007 Text Amendment to the Zoning Code and Traffic Code

COA Planning Department, agent for COA Council Service requests the above actions to add a new Section 14-16-3-25 the Zoning Code, amend Sections 14-16-1-5(B), Definition correspondingly amend Sections 14-16-2-15 (O-1 zone), 14-16-2-16 (C-1 zone), 14-16-2-17 (C-2 zone), 14-16-2-19 (zone); and amend the Traffic Code, Section 8-5-1-42, permit and regulate mobile food units. City-Wide.
Staff Planner: Catalina Lehner **(RECOMMENDED APPROVAL TO THE CITY COUNCIL)**

7. OTHER MATTERS:

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8. ADJOURNED: 11:46 P.M.



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8:30 a.m.**

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14EPC-40083 Zone Map Amendment (Zone
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15EPC-40003 Site Development Plan for
Building Permit

RBA Architecture, agents for Oasis Family Church, requests the above actions for Tract A-4-1A, Block 15, Unit #4, Stardust Skies, to change the existing zoning from "SU-1 for Commercial Development for Office and Residential Developments & for Full-Service Liquor for On-Premise Consumption" to "SU-1 for C-2 uses", located on Montgomery Boulevard NE, between Pennsylvania Street NE and Julie Street NE, approximately 1.5 acres. (G-19)

Staff Planner: Catalina Lehner **(DEFERRED FROM THE FEBRUARY 12, 2015 HEARING)**

6. Project# 1001620

15EPC-40007 Text Amendment to the Zoning
Code/Parking Code

COA Planning Department, agent for COA Council Services, requests the above actions to amend the Zoning Code to permit mobile food units and amending the Parking Code to regulate mobile food units in public rights of way.

City-Wide

Staff Planner: Catalina Lehner

7. OTHER MATTERS:

A. Approval of October 2, 2014 Revised Minutes

B. Approval of January 8, 2015 Minutes – Deferred from the February 12, 2015 Hearing

C. Approval of February 12, 2015 Minutes

8. ADJOURNED:



**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT**

INTER-OFFICE MEMORANDUM

TO: ENVIRONMENTAL HEALTH – Paul Olson
LEGAL DEPARTMENT – Tyson Hummell
PARKS & RECREATION:
PARK DESIGN – Carol Dumont
OPEN SPACE DIVISION – Sarah Browne
CITY FORRESTER – Joran Viers
PLANNING:
LONG RANGE PLANNING – Carrie Barkhurst
METROPOLITAN REDEVELOPMENT – Rebecca Velarde
HYDROLOGY – Curtis Cherne
NEIGHBORHOOD COORDINATION – Stephani Winklepleck
TRANSPORTATION DEV. SERVICES – Jean Wolfenburger
ZONING – Ben McIntosh
ABC WATER UTILITY AUTHORITY – Allan Porter
POLICE DEPARTMENT – Steve Sink
FIRE DEPARTMENT – Richard C. Suazo
SOLID WASTE MANAGEMENT DEPARTMENT – Ramona J. Torres-Ford
TRANSPORTATION PLANNING – John MacKenzie
TRANSIT DEPARTMENT – Shabih Rizvi
ALBUQUERQUE PUBLIC SCHOOLS – April Winters
AMAFCA – Lynn Mazur
COUNTY OF BERNALILLO – Nano Chavez
MID-REGION COUNCIL OF GOVERNMENTS – Maida Rubin
MIDDLE RIO GRANDE CONSERVANCY DISTRICT – Subhas Shah
NM DEPARTMENT OF TRANSPORTATION – Nancy Perea
NM GAS COMPANY –
PETROGLYPH NATIONAL MONUMENT – Diane Souder
PUBLIC SERVICE COMPANY OF NEW MEXICO – Laurie Moye

FROM: Russell Brito, Urban Design and Development Division, Planning Department

SUBJECT: ENVIRONMENTAL PLANNING COMMISSION CASE DISTRIBUTION

Attached are the legal descriptions, applications, and related materials for the cases scheduled for public hearing before the Environmental Planning Commission on **March 12, 2015**.

Please remember that all agency comments are due **NO LATER THAN** February 13, 2015.

COMMENTS TO:

Project# 1010354
15EPC-40005 Amendment to Sector
Development Plan (Zone Change)

Bohannon Huston, Inc., agent for Boxing Bear Brew Company, requests the above actions for all or a portion of F1-A, Seven Bar Ranch, zoned SU-1 for C-2 uses to SU-1 C-2 uses and wholesaling of beer and wine, located Corrales Road NW between Alameda Blvd and Calle Cu Road containing approximately 1.2 acres. (A-14)
Staff Planner: Vicente Quevedo

Project# 1010355
15EPC-40006 Amendment to Sector
Development Plan (Zone Change)

Garcia/Kraemer and Associates, agent for Marble Averb Properties, LLC, requests the above actions for all or portion of Lot 7A, Block 5, Plat of Lot 7A, Block 5, North Addition, zoned SU-2/C to SU-2/SU-1 for M-1 uses, located on Marble Avenue NW, between 1st Street NW and 2nd Street NW, containing approximately .65 acres (J-14)
Staff Planner: Maggie Gould

Project# 1001620
15EPC-40007 Text Amendment to the Zoning
Code/Parking Code

COA Planning Department, agent for COA Council Service requests the above actions to amend the Zoning Code to permit mobile food units and amending the Parking Code to regulate mobile food units in public rights of way.
City-Wide
Staff Planner: Catalina Lehner



NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Albuquerque Environmental Planning Commission will hold a **Public Hearing on Thursday, March 12, 2015 at 8:30 a.m.**, in the Plaza del Sol Hearing Room, Lower Level, Plaza del Sol building, 600 2nd St. NW, Albuquerque, NM to consider the following items described below.

Distribution of the Planning Department's staff reports regarding the following items will occur at a **Case Distribution Session on Thursday, March 5, 2015 at 3:00 p.m.**, in the Plaza del Sol Hearing Room, Lower Level, Plaza del Sol Building, 600 2nd St. NW, Albuquerque, NM.

AMENDED

Project# 1001620

15EPC-40007 Text Amendments to the Zoning Code and the Traffic Code

COA Planning Department, agent for COA Council Services requests the above actions to amend Zoning Code Section 14-16-1-5, Definitions; to add a new Zoning Code Section 14-16-3-25; to amend Zoning Code Sections 14-16-2-15 (O-zone), 14-16-2-16 (C-1 zone), 14-16-2-17 (C-2 zone), 14-16-2-19 (IP zone), and to amend the Traffic Code, Section 8-5-1 42, to permit and regulate mobile food units.

City-Wide.

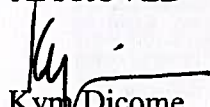
Staff Planner: Catalina Lehner

Details of these applications may be examined at the Planning Department, 3rd Level, Plaza Del Sol Building, 600 Second Street NW, between 8:00 a.m. and 5:00 p.m., Monday through Friday, or you may call 924-3860. **INDIVIDUALS WITH DISABILITIES** who need special assistance to participate at the public hearing should call 924-3860.

Peter Nicholls, Chair
Environmental Planning Commission

TO BE PUBLISHED IN THE ALBUQUERQUE JOURNAL February 18, 2015.

APPROVED


Kym Dicome

Urban Design & Development
Planning Department

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NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Albuquerque Environmental Planning Commission will hold a Public Hearing on Thursday, March 12, 2015 at 6:30 a.m., in the Plaza del Sol Hearing Room, Lower Level, Plaza del Sol building, 600 2nd St. NW, Albuquerque, NM to consider the following items described below.

Distribution of the Planning Department's staff reports regarding the following items will occur at a Case Distribution Session on Thursday, March 5, 2015 at 3:00 p.m., in the Plaza del Sol Hearing Room, Lower Level, Plaza del Sol Building, 600 2nd St. NW, Albuquerque, NM.

AMENDED

Project# 1001620
 15EPC-40007 Text Amendments
 to the
 Zoning Code and the Traffic Code
 COA Planning Department, agent

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**ENVIRONMENTAL PLANNING COMMISSION
SIGN-IN SHEET**

AGENDA ITEM NO: 6 DATE: March 12, 2015

CASE #: 1001620/15EPC40007 – txt Amend to Zoning Code & Traffic Code

PLEASE PRINT CLEARLY

✓ 1. Name: <u>Cheryl Rein</u> Address: <u>One Civic Plaza</u> <u>Albuquerque NM 87102</u> City State Zip	6. Name: _____ Address: _____ _____ City State Zip
✓ 2. Name: <u>John Mike Moore</u> Address: <u>10320 Rio Las Pintas Dr.</u> <u>ABQ NM 87114</u> City State Zip	7. Name: _____ Address: _____ _____ City State Zip
✓ 3. Name: <u>Josh Road-Ojalvo</u> <i>road own</i> Address: <u>1818 Morningrise Pl SE</u> <u>Albuquerque NM 87108</u> City State Zip	8. Name: _____ Address: _____ _____ City State Zip
✓ 4. Name: <u>Julian Griego</u> Address: <u>1221 Mechenbier SW</u> <u>Albuquerque NM 87105</u> City State Zip	9. Name: _____ Address: _____ _____ City State Zip
5. Name: _____ Address: _____ _____ City State Zip	10. Name: _____ Address: _____ _____ City State Zip