



Legislation Text

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CITY of ALBUQUERQUE
TWENTY FOURTH COUNCIL

COUNCIL BILL NO. O-21-72 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton, by request

ORDINANCE

Amending The Metropolitan Redevelopment Agency Ordinance To Create A Metropolitan Redevelopment Commission And Add Clarifying Definitions (Benton, by request)

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

SECTION 1. Amending Chapter 14, Article 8, Part 4 of the Metropolitan Development Ordinance, as follows:

“§ 14-8-4-1 SHORT TITLE.

Sections 14-8-4-1 et seq. may be cited as the "Metropolitan Redevelopment Agency Ordinance."

§ 14-8-4-2 LEGISLATIVE FINDINGS AND PURPOSE.

(A) The Council finds and declares that the New Mexico State Legislature has enacted the Metropolitan Redevelopment Code, Sections 3-60A-1 et seq. NMSA 1978, (hereinafter referred to as the “Metropolitan Redevelopment Code”) conferring certain powers upon the City Council.

(B) The Council further finds and declares that the Metropolitan Redevelopment Code authorizes the creation by the Council of a Metropolitan Redevelopment Agency and the delegation to the Agency of the exercise of the metropolitan redevelopment project powers set forth in the Code.

(C) The Council further finds and declares that it is in the public interest to delegate said powers to a Metropolitan Redevelopment Agency.

(D) The Council further finds and declares that it is in the public interest to provide the staff for the Metropolitan Redevelopment Agency.

[(E) The Council further finds and declares that the Metropolitan Redevelopment Code authorizes creation by the Council of a Metropolitan Redevelopment Commission consisting of five commissioners.]

[§ 14-8-4-3 DEFINITIONS.

(A) *Bonds.* Any bond, debenture, note, refunding or renewal bond or note, warrant or other security evidencing an obligation the proceeds of which, or a major portion thereof, are to be used in the trade or business carried on by someone other than the city and which are authorized to be issued by the city pursuant to the Metropolitan Redevelopment Code (Sections 3-60A-1 to 3-60A-48 NMSA 1978, as amended from time to time); or pursuant to the home rule powers of the city given by Article X, Section 6 of the New Mexico Constitution and the city's Charter.

(B) *Commission.* The Metropolitan Redevelopment Commission as created herein.]

§ 14-8-4-[3][4] REDEVELOPMENT[PROJECT] POWERS.

As used in §§ [14-8-4-1](https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-0-20301) [et seq.](https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-0-20301), the term REDEVELOPMENT[PROJECT] POWERS includes any rights, powers, functions and duties of a municipality authorized by Sections 3-60A-5 through 3-60A-18 NMSA 1978, except the following powers which are reserved to the City Council:

(A) Declaration of an area to be a slum or a blighted area or combination thereof and designation of the area as appropriate for a redevelopment project;

(B) Approval or amendment of redevelopment plans;

(C) Approval of city plans for urban development and conservation, unless approval is specifically delegated by Council ordinance or resolution;

(D) Making findings of necessity prior to preparation of a plan as provided in Sections 3-60A-5 through 3-60A-18 NMSA 1978 and the findings and determinations required prior to approval of a redevelopment plan or project as provided in Sections 3-60A-5 through 3-60A-18 NMSA 1978;

(E) Issuance of general obligation bonds and revenue bonds authorized in the Code;

(F) Approval of loans or grants;

(G) Approval of leases of more than one year's duration;

(H) Issuance of municipal redevelopment bonds;

(I) Appropriation of funds, levying of taxes and assessments; and

(J) Deciding appeals of the Metropolitan Redevelopment Agency's action as to acceptance of a proposal for the sale and/or redevelopment of land.

§ 14-8-4-[4][5] POWERS OF METROPOLITAN REDEVELOPMENT AGENCY.

The Metropolitan Redevelopment Agency is hereby vested with all of the aforementioned metropolitan redevelopment project powers in the same manner as though all of said powers were conferred on the Agency by the Metropolitan Redevelopment Code.

§ 14-8-4-[5][6] STAFF OF AGENCIES PROVIDED BY CITY.

The city shall provide the Metropolitan Redevelopment Agency with the appropriate staff support to carry out the powers granted to it under the Metropolitan Redevelopment Code.

§ 14-8-4-[6][7] ANNUAL REPORT.

The Metropolitan Redevelopment Agency shall file annually with the City Council a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expenses as of the end of such fiscal year. [The annual report shall be available for public review.]

§ 14-8-4-[7][8] ACTIVITIES TO BE UNDERTAKEN PURSUANT TO STATUTORY AUTHORITY.

(A) With respect to public purchases other than [purchases involving or affecting] real property ~~[processed by the Metropolitan Redevelopment Agency]~~, the provisions of Chapter 5, Article 5 of this code of ordinances, Public Purchases, shall apply.

(B) With respect to the disposition or lease of real property carried out by the Metropolitan Redevelopment Agency, the provisions of Section 3-60A-12 NMSA 1978 shall apply.

(C) With respect to acceptance of a proposal for the sale and/or redevelopment of land by the Metropolitan Redevelopment Agency, the decision shall be made consistent with Section 3-60A-12 NMSA 1978 and other provisions of the Metropolitan Redevelopment Code as applicable, and Section 13-1-116 NMSA 1978 and other provisions of the New Mexico Procurement Code as applicable.

§ 14-8-4-[8][9] APPEAL.

(A) *Application.* Decisions of the Metropolitan Redevelopment Agency as [limited] to acceptance of a proposal for sale and/or redevelopment of land may be appealed to the City Council on forms prescribed by the Metropolitan Redevelopment Agency. A filing fee of [\$500][\$2,000] shall accompany each appeal application. When an application is withdrawn the application fee shall not be refunded.

(B) *Limitations Period.* Decisions of the Metropolitan Redevelopment Agency are final unless appeal is initiated by application to the city on prescribed forms within 15 days of the Metropolitan Redevelopment Agency's notice of decision. The date of the notice of 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 as listed in [Ch. 3, Article 1 <https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-0-1987>](https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-0-1987), Merit System; Personnel Policy, the next working day is considered as the deadline for filing the appeal. Selection of a proposal for the sale and/or redevelopment of land shall not become a legally binding acceptance by the city until an appeal of the selection is decided or the time for filing the appeal has expired without an appeal being filed.

(C) *Standing for Appeals.* Any person who submitted a redevelopment proposal but who was not selected for award of the redevelopment project at issue may appeal.

(D) *Notice of Hearing.* The [Mayor][Manager of the Metropolitan Redevelopment Agency] shall give written notice of an appeal, together with a notice of the date, time, and place of hearing to all those who made submittals for the project, and to all those who testified at the [Albuquerque Development] [Metropolitan Redevelopment] Commission's hearing concerning the project.

(E) *Hearing and Decision.*

(1) An appeal shall be heard within 60 days of its filing. The City Council's decision on the appeal shall be made following a public hearing. At the hearing the City Council shall review carefully the previous decision on the matter, and based only on the record before it, determine only whether:

(a) The Metropolitan Redevelopment Agency's decision was arbitrary or capricious;

(b) Whether the Agency's decision is supported by substantial evidence in the record;

or

(c) Whether the Agency erred as a matter of law.

(2) The concurring vote of two-thirds of the members of the City Council is required to reverse a determination by the Metropolitan Redevelopment Agency.

(3) If the City Council reverses the decision of the Metropolitan Redevelopment Agency, the City Council shall conduct a separate hearing, and after reviewing all qualifying proposals considered by the Metropolitan Redevelopment Agency and hearing any presentations and considering any new evidence it finds appropriate:

(a) Select whichever of the original proposals it finds to be best based on the criteria and

standards of the Metropolitan Redevelopment Plan and the request for proposals;

(b) Remand all or part of the proposals to the Metropolitan Redevelopment Agency; or

(c) If the City Council determines that none of the proposals received are in accordance with the call for proposals or do not meet the objectives of the Metropolitan Redevelopment Code, the City Council may reject all proposals and direct the Metropolitan Redevelopment Agency to award the project through reasonable negotiating procedures as provided under Section 3-60A-12(C).

(4) In addition to appearing before the City Council at any hearing called for under §§ [14-8-4-1 <https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-20301>](https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-20301) et seq., any party to an appeal may provide written argument to the City Council by submitting it through the City Council staff. The written argument shall not include new evidence and shall be submitted at least five days before the next hearing on the appeal with copies provided to all parties.

(F) *Notice of Decision.* The City Council shall state its key findings of fact in a notice of decision issued after its hearing(s).

§ 14-8-4-[9][10] LEASE FEE.

(A) *Annual Metropolitan Redevelopment Lease Fee.* All lease agreements for real property leased for the purpose of facilitating a metropolitan redevelopment project financed by metropolitan redevelopment revenue bonds[, or that are receiving a tax abatement pursuant to the Metropolitan Redevelopment Code,] shall include a provision requiring the lessee to pay the city, in addition to any other monetary obligations under the lease, an annual fee equivalent to 10% of the annual incremental abated taxes. The incremental abated value shall be equivalent to the difference in the property valuation for property taxation purposes that existed in the year immediately preceding the year of acquisition by the city and the property valuation for property taxation purposes each year the city owns the property. The annual fee will be equivalent to 10% of the current total property tax mill rate for the incremental abated value had the property not been exempt and had it been valued for property taxation purposes. The fee shall be paid to the city by the lessee each year that the city owns the property.

(B) *Deposit of fees.* All fees received by the city pursuant to § 14-8-4-9 ROA 1994 shall be deposited into the Metropolitan Redevelopment Fund (275) to support the ongoing operations of the Metropolitan Redevelopment Agency.

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§ 14-8-4-11 METROPOLITAN REDEVELOPMENT COMMISSION.

(A) Creation. There is created the Metropolitan Redevelopment Commission consisting of five commissioners appointed by the Mayor, with the advice and consent of the Council for staggered terms of five years or less so that the term of one expires on October 31, of each year. Vacancies shall be filled for the unexpired term by the original appointing authority.

(B) Commissioner Qualifications. The Mayor shall seek to ensure at least three commissioners have expertise in an area related to urban redevelopment such as: architecture, urban land use and planning, commercial real estate, public finance, historic preservation, construction and environmental remediation.

(C) Duties. The Commission will serve in an advisory capacity to the Council on those Redevelopment Powers reserved for City Council as stated in § 14-8-4-4. Commission review of projects and project legislation pursuant to this Metropolitan Redevelopment Agency Ordinance and the Metropolitan Redevelopment Code shall occur prior to the Council's adoption of the subject legislation. The Council will not enact an ordinance authorizing the issuance of bonds until notified by the Commission that the user has complied with all applicable municipal ordinances and resolutions relating to the issuance of bonds. The Council will have final approval authority on the issuance of bonds and the approval or disapproval of project plans. In other matters and affairs, the Commission will serve in an advisory capacity to the Manager of the Metropolitan Redevelopment Agency.

(D) Chair and Vice-Chair. The Mayor shall designate a Chairperson and Vice-Chairperson of the Commission.

(E) Conflict of Interest. Any member of the Commission having a private financial interest in matters before their body shall disqualify themselves from discussions and voting on those matters.]”

SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 3. COMPILATION. Section 1 of this ordinance shall amend, be incorporated in and compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect ninety (90) days after

publication by title and general summary.