



**Environmental
Planning
Commission**

**Agenda Number: 4
Project Number: 1001620
Case Number: 10EPC-40039
August 12, 2010**

Staff Report

Agent	City of Albuquerque Planning Department
Applicant	City of Albuquerque City Council
Request	Repealing Zoning Code §14-16-3-14 regarding the requirement for a Carbon Monoxide (CO) study (aka an Air Quality Impact Analysis-AQIA) and amending associated sections of the Zoning Code
Location	City-Wide
Size	N/A
Zoning	N/A

Staff Recommendation

That a recommendation of APPROVAL of 10EPC-40039 be forwarded to the City Council based on the Findings beginning on Page 19 and the Conditions of Recommendation beginning on Page 23.

***Staff Planner
Catalina Lehner, AICP-Senior Planner***

Summary of Analysis

This request is for a recommendation to City Council regarding proposed text amendments to remove the requirement for a Carbon Monoxide (CO) study (aka an Air Quality Impact Analysis-AQIA) found in Zoning Code §14-16-3-14, and to revise associated Zoning Code sections to reflect the change. Council Bill O-10-9, introduced at City Council on June 21, 2010, contains the proposed text amendments.

The land development requirement for a CO study (or AQIA), adopted locally in 1990 when CO levels were much higher, does not provide a public benefit. Since the last local violation of the Federal 8-hour CO standard in 1991, local CO levels have been steadily in decline and now measure less than half the Federal standards as documented in the Federally-approved Limited Maintenance Plan (LMP) for CO. Only one area in the nation (Las Vegas Valley Hydrographic Area 212) is currently in non-attainment status for CO. The downward national trend in CO levels is due primarily to improved vehicle emissions control technology and cleaner fuels. Because other air pollutants (ex. ozone) are not tied to land use the way CO is, land development requirements would not be appropriate air pollution control strategies.

Staff has coordinated with the Air Quality Division, which supports the request. The request was announced in the Neighborhood News and on the Planning Department website. There is no known opposition. Staff has crafted the proposed conditions of recommendation to create internal consistency in the Zoning Code and correct minor errors. Staff recommends that an Approval recommendation, with conditions, be forwarded to the City Council.

City Departments and other agencies reviewed this submittal from 6/28/10 to 7/9/10. Agency comments used in the preparation of this report begin on Page 27.

I. INTRODUCTION

REQUEST

This request is for a recommendation to City Council regarding Bill No. O-10-9 (see attachment), which was introduced at the June 21, 2010 City Council meeting and subsequently referred to the Environmental Planning Commission (EPC). Bill No. O-10-9 proposes text amendments to the Zoning Code to remove the land development requirement for a carbon monoxide (CO) study (commonly referred to as an Air Quality Impact Analysis, or AQIA) found in §14-16-3-14. Also proposed are corresponding text amendments to remove and amend associated Zoning Code sections, so these sections no longer refer to §14-16-3-14 and internal inconsistencies are not created within the Zoning Code.

ENVIRONMENTAL PLANNING COMMISSION (EPC) ROLE

The proposed text amendments are contained in Council Bill No. O-10-9. The EPC's task is to make a recommendation to the City Council regarding the proposed repeal of Zoning Code §14-16-3-14, Air Quality Impact Regulations, and the corresponding references to it. The City Council is the City's Zoning Authority and will make the final decision. The EPC is a recommending body with review authority.

II. OVERVIEW

SCOPE & BASIC INFORMATION

Zoning Code §14-16-3-14, Air Quality Impact Regulations (see attachment), applies City-wide. The title "Air Quality Impact Regulations" is somewhat misleading since this section only deals with one air pollutant: carbon monoxide (CO). Other air pollutants are not tied to land use the way that CO is.

CO is a by-product of the incomplete combustion of carbon-containing compounds such as coal, wood and fuels (ex. gasoline). The National Ambient Air Quality Standards (NAAQSs) for CO, which are established at the Federal level, are 9 ppm for an 8-hour average and 35 ppm for a 1-hour average (ppm = parts per million). Both are not to be exceeded more than once a year.

Zoning Code §14-16-3-14 applies to certain types of proposed land development projects. Either a "Preliminary Air Quality Impact Analysis (AQIA)" or a "Detailed Air Quality Impact Analysis (AQIA)" is required depending upon the thresholds that the proposed project meets. Thresholds for a preliminary AQIA are: a site development plan that generates more than 4,700 vehicle trip ends per day, a site development plan that exceeds specific project size thresholds, a zone change that exceeds the specific project size thresholds, site location within a 1.25 km (4,100ft.) radius of an air monitor, and any sector development plan or amendment (see attachment).

Subsection (D)(1) lists threshold levels for proposed site development plans, by land use category and corresponding project size, that trigger the requirement for a Detailed AQIA. For example, a detailed AQIA is required for a proposed project of 600 single-family residential homes because it would exceed the threshold of 500 dwelling units (see attachment). Other land use categories listed are industrial, office and retail, among others.

⇒ Please refer to the Detailed Technical Information section of this report (see p. 10) for more discussion.

ZONING & LAND USE

The requirement for an AQIA (or CO study) is found in Zoning Code §14-16-3-14. Subsection (D)(1)(b)¹ contains the threshold levels for zone map amendment requests, and refers to certain zones and the associated parcel size that trigger the requirement (see attachment). Specifically called out are the R-1 R-LT, RT, R-2, R-3, R-4 and MH zones for residential uses, and the O-1, C-1, C-2, C-3, IP, M-1, M-2 and H-1 zones for non-residential uses.

All of these zones, within their respective Sections of the Zoning Code, contain a statement regarding the CO study (AQIA) requirement. The removal of §14-16-3-14, therefore, would necessitate the corresponding removal of all cross references to it, so that internal inconsistencies are not created within the Zoning Code.

Sections 2 through 25 of Bill No. O-10-9 specify the locations where cross references to §14-16-3-14 are found (see attachment). Cross references will need to be removed from the following:

Location of Cross-References to Zoning Code §14-16-3-14		
Land Use	Zone Category	Location
Residential	R-1	§14-16-2-6(G)
	MH	§14-16-2-7(I)
	R-LT	§14-16-2-8(H)
	R-T	§14-16-2-9(H)
	R-2	§14-16-2-11(I)
	R-3	§14-16-2-12(I)
	RC	§14-16-2-13(H)
	RD	§14-16-2-6(H)
Commercial	C-1	§14-16-2-16(G)
	C-2	§14-16-2-17(H)
	C-3	§14-16-2-18(H)
Office	O-1	§14-16-2-15(G)
	IP	§14-16-2-19(I)
Manufacturing	M-1	§14-16-2-20(G)
	M-2	§14-16-2-21(G)
Other	SU-1 (Special Use)	§14-16-2-22(G)
	SU-3 (Special Center)	§14-16-2-24(E)
	H-1 (Historic Old Town)	§14-16-2-25(K)
	Form Based zones	§14-16-3-22(A)(4)(b)(5)

In addition, references to §14-16-3-14 are also found in the following locations: §14-16-3-11(A)(2)- Site Development Plan Approval Requirements; Possible Plan Termination, §14-16-4-1(A)(2)-Amendment Procedure, and §14-16-4-3(A)(6)- Sector Development Plan Procedures. The text of these subsections is proposed to be amended to remove the reference to the AQIA (CO study) requirement.

Zoning Code §14-16-1-5, Definitions contains definitions which apply throughout the City. Since no definitions are found in §14-16-3-14, its proposed removal would not affect §14-16-1-5.

¹ Note: there is no (D)(1)(a).

III. HISTORY & BACKGROUND

CO IN THE LATE 80S/EARLY 90S

Zoning Code §14-16-3-14 had its genesis in the late 1980s, a time when carbon monoxide (CO) was a much greater concern for Albuquerque-Bernalillo County². CO levels in Bernalillo County exceeded both the National Ambient Air Quality Standards (NAAQSs) for CO during the late seventies and early eighties.

Bernalillo County, initially designated as a nonattainment³ area for the 8-hour CO standard in 1978 (FR Vol. 43, March 3, 1978), was subsequently classified as a “low-moderate” nonattainment area under the 1990 Clean Air Act Amendments (FR Vol. 56, January 6, 1992). During the eighties, monitored CO levels began to decline steadily. The last violation of the 8-hour NAAQS for CO occurred in December 1991 (Source: State Implementation Plan (SIP) Revision: Limited Maintenance Plan for Carbon Monoxide (CO): Albuquerque/ Bernalillo County, NM (Second Half of the CO Maintenance Plan -2006-2016), Air Quality Division, Control Strategies Section, July 2004).

On August 3, 1989, the Environmental Planning Commission (EPC) heard a proposal to add the “Air Quality Impact Regulations” section to the Zoning Code (Source: Air Quality Division (AQD) archives). At the time, Albuquerque-Bernalillo County was still classified as a CO nonattainment area by the U.S. EPA. The EPC recommended that Bill No. O-13, Enactment 12-1990 (see attachment) be forwarded to the City Council. The City Council adopted O-13, which became effective on July 1, 1990.

Discussion at the national level regarding CO control strategies, in the late 80s, focused on: 1) making vehicle emissions cleaner, and 2) reducing the amount of Vehicle Miles Traveled (VMT) on the roadway system. Two local programs to control CO levels were created in this timeframe: the Inspection & Maintenance (I&M) program, which tests emissions levels from vehicle tailpipes; and the Winter Advisory No Burn Program, which calls for woodburning restrictions during the winter when certain meteorological conditions are present.

ANOTHER CONTROL STRATEGY (BRIEF EXPLANATION)

A local idea for another CO control strategy, initiated by a consultant, was to tie the land development process to CO levels at intersections. This is possible because the majority of CO comes from vehicle emissions, and vehicle trips are associated with land uses.

Reduced VMT (see 2 above) on the roadway system can be achieved by generating fewer vehicle trips overall. Also, if vehicle emissions are cleaner and vehicles idle less at intersections, less CO is emitted (see 1 above). These two primary ideas, from the national level, are the basis for local CO control strategies which are based on local conditions and implemented at the local level. The idea to tie the land

² “Albuquerque-Bernalillo County” is used when referring to air quality because that is the relevant geographic region established by the U.S. EPA.

³ Nonattainment means that a certain geographic area is not attaining (not complying with) the National Ambient Air Quality Standard (NAAQS) for any of the six principal pollutants, called “criteria” pollutants: CO, ozone, particulate matter (PM 10 and PM 2.5), lead, nitrogen dioxide and sulfur dioxide.

development process to CO levels through the Zoning Code, however, did not originate at the national level and was not implemented as a CO control strategy anywhere else in the Country⁴.

⇒ Please refer to the Detailed Technical Information section of this report (see p. 10) for more discussion.

IV. IMPLEMENTATION ISSUES

Despite the availability of technical information since the late 1990s to support a repeal, the request to remove §14-16-3-14 from the Zoning Code is very recent. Intertwining the AQIA (or CO study) requirement with Zoning Code regulations, and isolating it from local and Federal air quality regulations, has created complications in the land development process. Though probably not envisioned when the requirement was created, such complications have proven especially problematic in recent years.

DEVELOPMENT PROCESS

Not only is §14-16-3-14 no longer needed from a technical, air pollution control standpoint- it is not needed from a procedural standpoint. In the recent past, the CO study requirement has created confusion because it has remained on the books despite its lack of utility for protecting public health and welfare.

Land Development Cases- The requirement for an AQIA (CO study) has remained a part of the land development process despite its inability to provide meaningful information and protect public health. For proposed projects before the Environmental Planning Commission (EPC) that meet the thresholds in §14-16-3-14, a CO study is required. In most cases, the CO study was submitted. In others, particularly when the lesser thresholds are involved, CO studies have not been consistently submitted when required. This may have been due to the technical fact that a CO study cannot be conducted without data from the Traffic Impact Study (TIS) (see the Detailed Technical Information section of this report). In other instances, applicants were required to fulfill the requirement because it is still on the books; Staff and neighborhood representatives were often in the position of having to insist that the requirement was met or delays in the development process would result.

Sector Development Plans- In particular, the requirement for an AQIA (CO study) has come to the forefront with respect to the planning process for sector development plans. A CO study is required for “any sector development plan or sector development plan amendment.” Efforts have been underway to revise and update several of the City’s sector development plans; an associated CO study for each effort is required, though it would not be meaningful to study every intersection within a sector plan area (see the Detailed Technical Information section of this report).

As demonstrated by technical evidence (see attachment), a CO study has become unnecessary because measured CO levels are so far below the NAAQSs for CO that an exceedance cannot occur as stated by the U.S. EPA. Even if a CO study was meaningful, §14-16-3-14 provides no guidance regarding how to conduct a CO study for an entire sector plan area. Staff believes that a CO study for a sector plan area is

⁴ Ref: Research Project: Air Quality Study Requirements for Land Use Projects- Other Jurisdictions, by Catalina Lehner, Air Quality Division, Control Strategies Section, July 2004.

infeasible for a couple of main reasons: 1) CO studies are an analysis of emission levels at certain intersections (typically 3) near a proposed project, not across a wide geographic area; and 2) CO studies result in the same conclusion: that the proposed project would not cause or contribute to an exceedance of the NAAQSs for CO. Any mitigation suggestions, such as improving intersections or adding turn lanes, are project (not area) specific and are found in the TIS, not the AQIA.

PUBLIC EDUCATION

The Planning Section of the Air Quality Division (AQD) of the Environmental Health Department (EHD) develops air quality plans required by the U.S. EPA to address carbon monoxide (CO) and other pollutants. In the late 1990s, the Planning Section⁵ focused mostly on CO and land use. Work included evaluating transportation programs, modeling CO levels, GIS mapping, establishing parameters for AQIAs, evaluating AQIAs, creating emissions budgets, and developing revisions to the State Implementation Plan (SIP) for air quality- such as the Limited Maintenance Plan for Carbon Monoxide (CO): Albuquerque/ Bernalillo County, NM.

By the late 1990s, it was apparent on a national and a local level, that monitored CO data was consistently trending downward and reading less than the NAAQSs (8-hr. and 1-hr.) for CO. Air Quality Staff began to realize that CO studies (AQIAs) were not useful as a CO control strategy for a variety of reasons (see the Technical sections of this report). However, the technical information that supported removal of the CO study (AQIA) requirement remained within the AQD Planning Section and was not generally available.

The CO study requirement was still on the books and was still being enforced despite a preponderance of technical evidence that demonstrates its lack of utility. For example, some participants in the land development process continued to believe that a CO problem existed and insisted that AQIAs were performed; non-factual, general statements about air quality were often accepted as correct. It is critical to understand the reasoning that supports the removal of the CO study requirement, and to provide assurance that doing so will, in no way, adversely affect public health and welfare (see attachments). Without the facts about CO improvements over the last two decades at a national and local level, the public, Staff and decision makers cannot act in an informed fashion.

V. ANALYSIS OF APPLICABLE ORDINANCES, PLANS & POLICIES

Policy citations are in regular text; Staff analysis follows in ***bold italics***.

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

The U.S. Environmental Protection Agency (EPA) was established in the Executive branch as an independent Agency, effective December 2, 1970 (Source: <http://ecfr.gpoaccess.gov/cgi/>), with the mission of protecting human health and safeguarding the natural environment-air, water and land. Title 40 of the Code of Federal Regulations (40 CFR: Protection of the Environment) deals with the EPA's mission (Source: <http://www.epa.gov/lawsregs/>). Two significant ways in which the U.S. EPA protects the environment are writing and enforcing regulations.

⁵ The Planning Section was later renamed the Control Strategies Section. The Air Quality Planner position was eliminated approximately in the last year.

A) THE CLEAN AIR ACT OF 1990 (IN BRIEF)

The Clean Air Act (CAA) is one of the laws that the U.S. EPA administers (Source: <http://www.epa.gov/lawsregs/laws/caa.html>). The CAA [42 U.S.C. §7401 et seq. (1970)] regulates air emissions from stationary and mobile sources, and authorizes the EPA to establish National Ambient Air Quality Standards (NAAQSs) to protect public health and welfare. It also defines EPA's responsibilities for protecting the nation's air quality and the stratospheric ozone layer.

⇒ For more information regarding the CAA, please refer to the "Plain English Guide to the Clean Air Act", which can be found at <http://www.epa.gov/air/caa/peg/>.

One of the goals of the CAA was to set and achieve the NAAQSs by 1975 in order to address public health and welfare risks that certain air pollutants pose. Establishing the NAAQSs was coupled with directing the states to develop State Implementation Plans (SIPs)⁶, which are tailored to pollution sources in a given state and explain how attainment of the NAAQSs will be achieved

The CAA was amended in 1977, primarily to set new dates for achieving attainment of the NAAQSs, and in 1990 to revise and expand the CAA. The 1990 Amendments included a requirement for technology-based standards for major stationary (and some area) sources of air pollution⁷. Since then, there have been a few minor changes (Source: <http://www.epa.gov/air/caa/>).

At first glance, it may appear that the proposal to repeal Zoning Code 14-16-3-14 would conflict with the overarching Goal of the U.S. EPA to protect human health and the environment. However, it is misleading to think in such broad-based terms for many reasons. First, recall that the proposed repeal is only about one air pollutant- Carbon Monoxide (CO). The National Ambient Air Quality Standards (NAAQSs) for CO, and other pollutants, were established via the Clean Air Act (CAA). The U.S. EPA administers the CAA.

Second, Albuquerque-Bernalillo County has demonstrated, through its State Implementation Plan (SIP) Revision: Limited Maintenance Plan for Carbon Monoxide (CO): Albuquerque/Bernalillo County, NM, that it has attained compliance with the NAAQS for CO (8-hr. and 1-hr.) and has fulfilled its obligation under the CAA. Albuquerque-Bernalillo County is officially in "maintenance" status of the CO standard; technical evidence contained in the LMP demonstrates that a violation of the CO standard will not occur. The U.S. EPA approved the LMP for CO, including the supporting data, via publication of a Federal Register notice in 2005 (FR Vol. 70, No. 71, see attachment).

Third, the local Albuquerque-Bernalillo County Air Quality Control Board (AQCB) regulations are in sync with the Federal regulations; they are a part of the Albuquerque-Bernalillo County State

⁶ There is a State Implementation Plan (SIP) for New Mexico and a SIP for Albuquerque-Bernalillo County. Both reside at the State Records Center in Santa Fe. A SIP is a collection of regulations, programs and policies that, collectively, explain how a given jurisdiction will control air pollution under the CAA.

⁷ CO is considered mainly a "mobile source" pollutant since the great majority of it is emitted from motor vehicles.

Implementation Plan (SIP)- a logical and proper location for air quality regulations. The AQCB regulations are found in 20.11 NMAC, and are housed at the state level.

The local requirement for a CO study (or AQIA), in addition to becoming unnecessary, exists in isolation (in the Zoning Code) from the established Federal and State processes for dealing with air quality. Perhaps this is part of the reason that the CO study requirement (14-16-3-14) was not repealed sooner. Removing this requirement would create congruence between local and Federal regulations and would, in no way, jeopardize the public health and welfare at the local level.

B) 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.”

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.”

Removing provisions from the ROA 1994, which have become obsolete and no longer useful, is an exercise in local self government (City Charter, Article 1). The removal of a now unnecessary City requirement, which will have no adverse effect, expresses the Council’s desire to protect and preserve natural endowments such as air quality. The proper use and development of land would continue to be ensured through existing land development requirements, which would not be affected by removal of the requirement though the overall process would be streamlined in certain cases (City Charter, Article IX).

C) 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.

The request generally furthers the intent of the Zoning Code to promote the health, safety and general welfare of the public. The removal of the requirement, which is no longer needed to help control carbon monoxide (CO), would make the Zoning Code consistent with the local area's status of having complied with the Federal National Ambient Air Quality Standards (NAAQSs) for CO. Albuquerque-Bernalillo County has demonstrated, to the U.S. EPA, that it has attained compliance with the NAAQS for CO, so the public health, safety and welfare can be ensured.

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 was filed in accordance with Zoning Code requirements. Subsequent hearing and recommendation by the EPC will precede a final decision by the City Council, which is the zoning authority for the City of Albuquerque.

D) ALBUQUERQUE/BERNALILLO COUNTY COMPREHENSIVE PLAN

The Comprehensive Plan, the City's Rank I planning document, 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 amendment requests. Applicable goals and policies include:

B. Land Use

7. Activity Centers (Section II.B.7)

The Goal is to expand and strengthen concentrations of moderate and high-density mixed land use and social/economic activities which reduce urban sprawl, auto travel needs, and service costs, and which enhance the identity of Albuquerque and its communities.

The request generally furthers the Activity Centers Goal. The requirement for a CO study is often triggered by larger, denser projects, which are the types of projects desired in Activity Centers. Removal of the requirement could help encourage development of larger, denser projects by simplifying the development process and thereby promoting development in Activity Centers, which would help expand and strengthen concentrations of higher-density mixed land use.

Policy II.B.7j: The City will structure capital expenditures and land use regulations in support of creating multi-use Activity Centers, and will promote ongoing public/private cooperation necessary for private market conditions that support the development and functioning of Activity Centers.

The request proposes that the City remove a land use regulation (14-16-3-14) which has been proven to no longer be useful. Doing so would generally support development of larger, denser projects which are often located in Activity Centers, and would promote public/private cooperation in support of Activity Centers. The request generally furthers Policy II.B.7j- City support for Activity Center development.

C. Environmental Protection & Heritage Conservation

1. Air Quality (Section II.C.1)

The Goal is to improve air quality to safeguard public health and enhance the quality of life.

The request to remove the requirement for a CO study would not affect “air quality” in these overly general terms: CO is only one of six criteria air pollutants. Air Quality will continue to be safeguarded through a variety of control strategies for all criteria pollutants. Also, though the requirement would be removed, other CO control programs would remain in place. Technical evidence approved by the U.S. EPA has demonstrated that public health and quality of life will continue to be safeguarded because the NAAQSs for CO will continue to be maintained. The request does not affect the overall air quality Goal.

Policy II.C.1a: Air quality shall be improved through the enforcement of air quality standards to safeguard public health and welfare.

The proposed removal of a Zoning Code requirement for a CO study does not intersect with enforcement of the National Ambient Air Quality Standards (NAAQSs) for any of the criteria pollutants, including CO. The local air agency enforces based on the Albuquerque-Bernalillo County Air Quality Control Board (AQCB) regulations; the AQCB regulation pertaining to CO is for vehicle inspection and maintenance, which the request does not affect. Also, the local air agency must report to the U.S. EPA, which is responsible for ensuring that the NAAQSs are met. Public health and welfare will continue to be safeguarded. The request does not affect Policy II.C.1a- enforcement of air quality standards.

Policy II.C.1b: Automobile travel’s adverse effects on air quality shall be reduced through a balanced land use/transportation system that promotes the efficient placement of housing, employment and services.

The CO study requirement was established in an attempt to mitigate automobile travel’s adverse effect on CO, which is the only criteria pollutant tied to vehicle trips through land use. Removing the requirement would not affect the overall land use/transportation system in the City, or the extent to which the land use/transportation system is balanced or unbalanced. CO studies only address certain intersections near a proposed project, and do not affect placement of housing, employment and services. The request does not affect Policy II.C.1b- automobile travel/air quality.

Policy II.C.1e: Motor vehicle emissions and their adverse effects shall be minimized.

Motor vehicle emissions are the primary source of CO. The requirement for a CO study was established in an attempt to mitigate the adverse effects of motor vehicle emissions. Technical evidence, approved by the U.S. EPA, has demonstrated that public health would continue to be safeguarded if the CO study requirement no longer exists. Other, local CO control programs will remain in place. The request does not affect Policy II.C.1e- motor vehicle emissions/adverse effects.

6. *Economic Development (Section II.C.6)*

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

The request furthers the Economic Development Goal. Removal of the CO study requirement would result in one less step in the land development process for the large-scale projects to which the requirement applied. Shortening the land development process may help promote economic development which, since the CO study has been proven no longer necessary, would be balanced with the environmental goal of maintaining CO levels within the National Ambient Air Quality Standards (NAAQSs) for CO, which have been attained.

Policy II.C.6f: The City and the County should remove obstacles to sound growth management and economic development throughout the community.

The request would result in the removal of what can now be considered an obstacle to sound growth management and economic development. The requirement for a CO study has been shown, through an abundance of technical evidence, to not affect Albuquerque-Bernalillo County's ability to continue to meet the NAAQSs for CO. The request furthers Policy II.C.6f-obstacles to sound growth management and economic development.

VI. DETAILED TECHNICAL INFORMATION

The following is a more in-depth discussion of the technical aspects of dealing with carbon monoxide (CO), transportation, and land use.

CO AND LAND USE: THE RELATIONSHIP

CO is tied to land use through vehicle trips. Vehicle emissions are the overwhelmingly largest source of CO, and CO concentrates when vehicles idle at intersections and in heavy traffic⁸. The number of vehicle trips generated by a proposed land development project can be calculated using the trip rate tables in the Trip Generation Handbook, produced by the Institute of Transportation Engineers (ITE). Multiplying the square footages of a given land use by the trip generation rate results in an estimated number of vehicle trips.

Forecasting the number of vehicle trips a proposed project will generate is done as part of a Traffic Impact Study (TIS). The TIS includes greater detail on trips than the preliminary thresholds which trigger the TIS itself. If a TIS is not performed, there cannot be an AQIA. It is not technically possible to do an AQIA without a TIS: a TIS contains outputs from the Highway Capacity Model (HCM) model runs for intersections in the project vicinity. These outputs (i.e.-signal time, red time, clearance time and lane volumes, etc.) become inputs into the CAL3QHC air dispersion model. Other CAL3QHC inputs, which must be approved by the Air Quality Division (AQD), include MOBILE6 model input files, temperatures and future background CO levels. The U.S. EPA's MOBILE6.2 model produces emission factors (in g/mi.) for each vehicle type, based on local inputs such as year, temperature and I&M program specifics.

⁸ CO is a "winter time pollutant". Concentrations can build in winter when meteorological conditions result in an inversion which traps pollutants near the ground.

The emission factor outputs are then multiplied by vehicle miles traveled (VMT)⁹ to calculate total emissions for the “on-road mobile” CO category.

WHAT’S IN AN AQIA?

The AQIA document typically contains a written explanation of the proposed development project, including location, intersections selected for modeling, level of service of intersections, and year of the build and no-build scenarios. The methodology section follows; methodology must be in conformance with the “AQIA Modeling Criteria Update” by the Air Quality Division (October 2002).

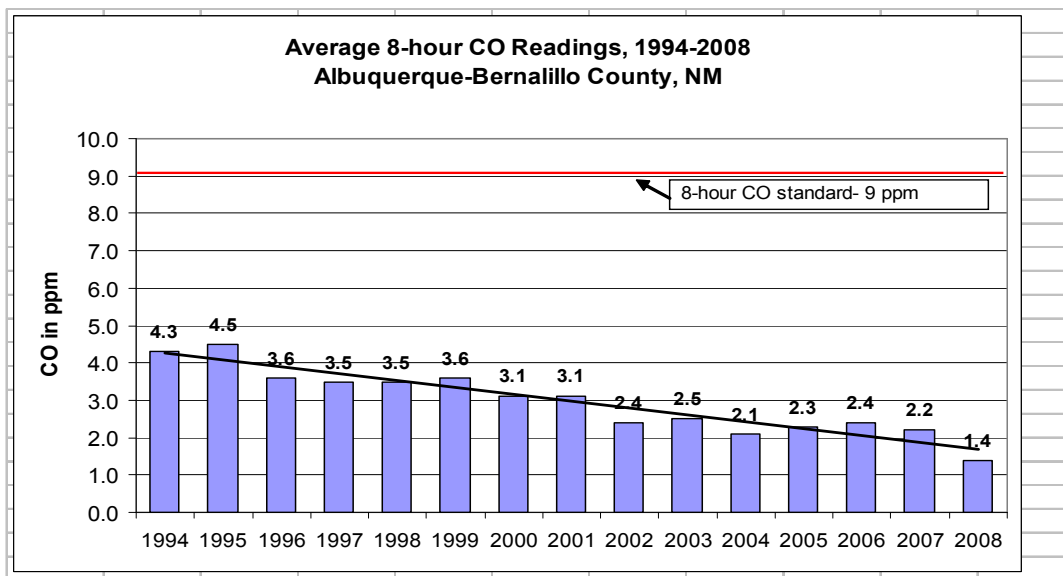
The conclusions section discusses the results of the CAL3QHC modeling runs, which have become predictable due to consistently low levels of monitored CO: the modeled results show no exceedences of the NAAQSs for CO and the proposed project will not cause or contribute to any exceedences.

VII. UPDATED TECHNICAL INFORMATION

The State Implementation Plan (SIP) Revision: Limited Maintenance Plan (LMP) for Carbon Monoxide (CO): Albuquerque/Bernalillo County, NM (April, 2005), which demonstrates that Albuquerque-Bernalillo County has attained compliance with the 8-hr. and 1-hr. NAAQSs for CO, is based on data through 2003¹⁰. For this discussion, Staff has updated some of the technical information in the LMP for CO using data through 2008. This data is available at <http://iaspub.epa.gov/airsdata/>.

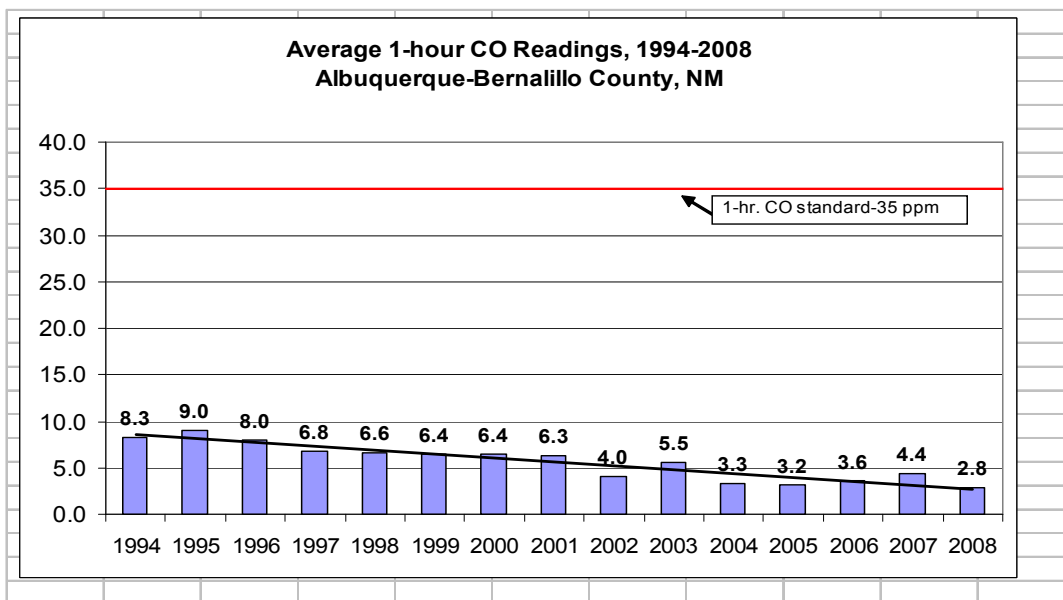
AVERAGE READINGS VS. NATIONAL CO STANDARDS

The charts below, like those on p. 15 of the LMP for CO, show how the average 8-hour CO readings and the average 1-hour CO readings, respectively, compare to the 8-hour CO standard of 9 ppm and the 1-hour CO standard of 35 ppm (ppm=parts per million).



⁹ VMT data is supplied by the Mid-Region Council of Governments (MRCOG), which runs the regional travel demand model.
¹⁰ Typically, there is a two year lag time in data since it has to be quality assured and goes to the U.S. EPA.

The most recent data, from 2008, indicate an average 8-hour CO reading of 1.4 ppm across all monitors that measure CO. 1.4 ppm is 15.6% of the 8-hour CO standard. The gap between local monitored CO levels and the national 8-hour standard has continued to widen.



The most recent data, from 2008, indicate an average 1-hour CO reading of 2.8 ppm across all monitors that measure CO. 2.8 ppm is 8.0% of the 1-hour CO standard. The gap between local monitored CO levels and the national 1-hour standard has continued to widen.

CO DESIGN VALUES

Design values are part of the maintenance demonstration and are discussed on p. 4, 6 and 7 of the LMP for CO. EPA guidance states that, if design values are below 85% of the NAAQSs for CO, an area can qualify to do a “limited” maintenance plan instead of a full maintenance plan with air pollution budgets. Albuquerque-Bernalillo County qualified to do a limited maintenance plan based on monitored data that read approximately 43.3% of the 8-hour standard and 27.4% of the 1-hour standard in the 2004 timeframe.

Staff has recalculated the design values for CO based on updated data. Design values are calculated by taking the “highest of the second-high” reading, for each monitor that measures CO, for the two most recent years of data. Staff examined 2007 and 2008 data across six monitors; all of the 2007 readings were higher. The highest reading for the 8-hour standard is 3.4 ppm (from the Uptown monitor). The highest reading for the 1-hour standard is 6.9 ppm (from the Cottonwood Mall area monitor). These are the updated design values for CO. The design values are now 37.8% of the 8-hour standard and 19.7% of the 1-hour standard, down from 44.3% and 27.4%, respectively.

VIII. ANALYSIS OF O-10-9—SUGGESTED REVISIONS & DISCUSSION

This request is to remove the requirement for a Carbon Monoxide (CO) study (or AQIA) found in §14-16-3-14 of the Zoning Code, and to revise associated sections of the Zoning Code to reflect the change. The following proposed revisions are intended to ensure internal consistency in the Zoning Code and correct minor errors.

New suggested language is [+underlined and bracketed+]. Deleted language is [underlined, bracketed and struck through]. Planning Staff analysis follows in ***Bold Italics***. Page references are to the proposed Bill O-10-9 (see attachment). The proposed revisions are numbered to correspond to the proposed conditions of recommendation.

ZONING CODE- INTERNAL CONSISTENCY

1. Page 1, Line 2:

REPEALING SECTIONS 14-16-2-6(G), 14-16-2-7(I), [~~14-16-2-8(G)~~] [+14-16-2-8(H)+]
14-16-2-9(H)

The reference to Subsection G of 14-16-2-8, the R-LT zone, is incorrect. The reference should be to Subsection H.

2. Page 1, Line 5:

14-16-2-22(G), 14-16-2-24(E), 14-16-2-25(K), [~~14-16-2-26(A)(2)~~], [~~14-16-3-11(A)~~] [+14-16-3-11(A)(2)+]

The reference to Subsection (A)(2) of 14-16-2-26, the P (parking) zone, is not needed because it does not refer to an air quality (or CO) study in any way. The reference to Subsection (A) of 14-16-3-11, Site Development Plan Approval Requirements; Possible Plan Termination, needs to refer specifically to (A)(2) because that's where the air quality study requirement is found.

3. Page 1, Line 6:

16-4-3(A)(6) AND 14-16-3-14 ROA 1994; AMENDING SECTIONS [~~14-16-3-11(A)~~]

The reference to Subsection (A) of 14-16-3-11, Site Development Plan Approval Requirements; Possible Plan Termination, is specified in B above and does not need to be mentioned again. Since (A)(2) stands alone and can be removed, the reference to it fits under the "REPEALING" list of the Bill rather than the "AMENDING" list.

4. Page 1, Line 6:

3. Since that time, measured CO [~~has~~] [+levels have+] steadily decreased as a result of more

Typically, air pollutant measurements refer to levels of a pollutant.

5. Page 1, Line 26:

Albuquerque-Bernalillo County Vehicle Inspection and Maintenance [+I & M+] Program [+and the Winter Advisory No Burn Program+].

Since the Inspection and Maintenance program is frequently called the “I&M” program, the acronym is included. The “Winter Advisory No Burn Program” is another control strategy for CO. This program, which runs from October through February, specifies that non-EPA certified wood burning fireplaces and stoves cannot be used when meteorological conditions are conducive to allowing CO to concentrate.

6. Page 2, Lines 1 & 2:

4. Albuquerque is well below the maximum levels of CO allowed by the [+National Ambient Air Quality Standards (NAAQSs) for CO, which are Federal+] health-based standards.

A little more explanation would be beneficial. It is important to clarify that the NAAQSs are national standards and that local jurisdictions have to comply with them to protect public health.

7. Page 2, insert at Line 3:

[+Local CO levels exceeded the NAAQSs for CO during the late seventies and early eighties, when CO was a much greater concern than it is now. Monitored CO levels continued to decline steadily. The U.S. EPA redesignated Albuquerque-Bernalillo County to attainment status, under a maintenance plan, for the NAAQSs for CO on June 13, 1996 (FR Vol. 61, No. 115).+]

It has been about 15 years since Albuquerque-Bernalillo County was redesignated to attainment status for CO, which shows that CO levels declined greatly from the 1970s to the 1990s.

8. Page 2, Lines 5 & 6:

5. The City’s Air Quality staff have represented that the AQIAs produce no relevant or useful data and that AQIAs are no longer [necessary or] effective [+as a CO control strategy+] [in meeting the health-based national, state and local carbon monoxide standards] [+and are not needed to help meet the national, health-based air quality standards for carbon monoxide (CO)+.]

More specific explanation is needed. The CO studies were intended to act as a control strategy for CO. Since CO has been under control for several years, they are no longer needed. Also, the NAAQSs are established at the national level.

9. Page 2, insert at Line 7:

[+5. As demonstrated in the “State Implementation Plan (SIP) Revision: Limited Maintenance Plan (LMP) for Carbon Monoxide (CO): Albuquerque/Bernalillo County, NM”, compliance with the National Ambient Air Quality Standards (NAAQSs) for CO has been achieved. The U.S. EPA approved the LMP for CO, including the supporting data, in 2005 (FR Vol. 70, No. 71).+]

Staff suggests adding a new item #5 to explain that the Federally-approved LMP for CO demonstrates that CO exceedences will not occur according to EPA guidance documents and based on monitored CO levels. Subsequent subsections will need to be renumbered.

10. Page 2, Lines 19 & 20:

C. ~~[The City has not had a CO level in violation of federal standards since 1991.]~~ [+The last violation of a National Ambient Air Quality Standard (NAAQS) for CO (the 8-hour standard) occurred in December 1991.+]

Staff suggests rephrasing C to provide a more accurate, detailed statement.

11. Page 2, Lines 21 & 22:

D. Given ~~[improved]~~ [+improvements+] in vehicle emission~~[s]~~ [+control technology+] over the past twenty years, every city in the U.S., including Los Angeles, meets federal CO standards;

There is only one remaining CO non-attainment area in the U.S.: the Las Vegas Valley Hydrographic Area 212, which includes part of Clark County. The fact that there are 42 maintenance areas, which were formerly nonattainment areas, shows that great progress has been made in controlling CO. (Source: <http://www.epa.gov/oar/oaqps/greenbk/index.html>)

12. Page 2, Lines 24-26:

8. The failure to perform an AQIA, as required by current City ordinance~~[s]~~ [+O-13 and the Zoning Code+], has been used as legal justification to block the adoption of a sector [+development+] plan even though conducting an AQIA provides no benefit.

The requirement is found in O-13, which was enacted in 1990, and in the Zoning Code.

13. Page 2, Lines 27-28:

8. The City Council finds that all evidence supports the repeal of the AQIA requirement as unnecessary [+, as technical evidence demonstrates,+] and a waste of City and private resources.

The evidence is technical in nature, which is important to state.

MINOR "CLEAN UP" & REFERENCING

14. Page 1, Line 7:

14-16-4-1(A)(2), 14-16-3-22(A)(4)(b)~~[5]~~ [+(5)+] ROA 1994 ALL TO REMOVE THE

Parenthesis need to be added to the 5 of 14-16-3-22(A)(4)(b)5 for formatting consistency.

15. Page 3, Lines 1-3:

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

The reference to the subsection needs to be corrected. Also, there is no need to renumber since there are no subsequent subsections.

16. Page 3, Lines 4-6:

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

The word “are” will make the phrase consistent with the same phrase used elsewhere in the Bill (ex. p. 3, line 30).

17. Page 3, Lines 17-18:

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

The C-1 zone contains a subsequent subsection that would need to be renumbered.

18. Page 3, Lines 25-26:

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

The M-1 zone contains a subsequent subsection that would need to be renumbered.

19. Page 3, Lines 27-28:

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

The M-2 zone contains a subsequent subsection that would need to be renumbered.

20. Page 4, Lines 6-8:

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

There is no reference to the AQIA (CO study) requirement in the P zone, so this section of the Bill can be removed. Subsequent sections will need to be renumbered.

21. Page 4, Lines 9-19:

SECTION 21. Section ~~[14-16-3-11(A)]~~ [+14-16-3-11(A)(2)+] regarding Site Development Plan Approval Requirements is ~~[amended to read as follows:]~~ [+hereby repealed and subsequent subsections are renumbered accordingly+].

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

-
- (1) ~~Imposition of relevant requirements contained within or authorized by the city's Subdivision Ordinance, including but not limited to dedication of rights of way and assurances for required infrastructure improvements both on site and off site.~~
{(2) ~~Submission of an air quality impact assessment pursuant to § 14-16-3-14 of this Zoning Code.~~}
{(3)}{(2)} ~~Imposition of other requirements of other city ordinances.”}~~

Specifying the reference to subsection (A)(2) allows language to be added to simply repeal the subsection, rather than amend it where it is unaffected.

22. Page 5, Lines 3-5:

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

Staff suggests moving this section onto page 4, line 20 of the Bill, right before another section that is proposed to be repealed. That way, all of the proposed “repeal” actions will be located together in the text.

23. Page 6, Lines 6-8:

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

“5. Traffic Impact Study [~~and Air Quality Assessment~~] [~~exemptions~~] [~~+exemption+~~].

Parenthesis need to be added to the 5 of §14-16-3-22(A)(4)(b)5 for formatting consistency. The word “exceptions” needs to be in the singular form. The [~~and Air Quality Assessment~~] deletion is already proposed and is not a Staff suggestion.

IX. COMMENTS

CONCERNS OF REVIEWING AGENCIES / PRE-HEARING DISCUSSION

Few agency comments were received. The Air Quality Division of the Environmental Health Department provided a letter of support (see attachment). The Long Range Planning Division states that the request will be beneficial because it will bring the Zoning Code in line with City's attainment status for air quality. Code Enforcement points out that numerous sector development plans contain references to §14-16-3-14. However, if §14-16-3-14 is removed then the reference is void. The pre-hearing discussion meeting was held on July 14, 2010. Agency comments begin on p. 27.

NEIGHBORHOOD CONCERNS

Notice regarding the proposed text amendments was published in the Neighborhood News (<http://www.cabq.gov/planning/nbrcoord/pdf/JulAug2010.pdf>) and posted on the Planning Department's web page (<http://www.cabq.gov/planning/epc/index.html>) (see attachments). The Office of Neighborhood Coordination (ONC) also notified all neighborhood representatives who have an e-mail address on file. Staff received an e-mail, which sought additional information, from the La Mesa Community

Improvement Association. As of this writing, Staff has not received any other inquiries or correspondence.

X. CONCLUSION

This request is for a recommendation to City Council regarding Bill No. O-10-9, which proposes text amendments to the Zoning Code to remove the land development requirement for a carbon monoxide (CO) study (commonly referred to as an Air Quality Impact Analysis, or AQIA) found in §14-16-3-14. Also proposed are corresponding text amendments to remove and amend associated Zoning Code sections.

Since the last local violation of the Federal 8-hour CO standard in 1991, local CO levels have been steadily in decline and now measure less than half the Federal standard as documented in the State Implementation Plan (SIP) Revision: Limited Maintenance Plan (LMP) for Carbon Monoxide (CO): Albuquerque/Bernalillo County, NM and approved by the U.S. EPA in 2005. The trend in CO continues downward, as demonstrated by the graphs updated to incorporate the most recent data.

Notice regarding the proposed text amendments was published in the Neighborhood News and posted on the Planning Department's web page. The Office of Neighborhood Coordination (ONC) also notified all neighborhood representatives who have an e-mail address on file. Staff has received one e-mail inquiry as of this writing.

Staff finds that the proposed text amendments generally further applicable City Goals and policies. Removal of the CO study requirement will not violate any Federal, state or local goals to protect the public health, safety and welfare.

The proposed conditions of recommendation will ensure that references are removed from associated Zoning Code sections and that minor errors are corrected. Staff recommends that an approval recommendation, with conditions, be forwarded to the City Council.

RECOMMENDED FINDINGS- 10EPC-40039, August 12, 2010-Text Amendments to the Zoning Code to repeal the requirement for a Carbon Monoxide (CO) study (or Air Quality Impact Analysis-AQIA) and amending associated sections of the Zoning Code.

1. This request is for a recommendation to City Council regarding Bill No. O-10-9, which the City was introduced at the June 21, 2010 Council meeting and subsequently referred to the Environmental Planning Commission (EPC). The EPC's task is to make a recommendation to the City Council regarding the proposed legislation. The City Council is the City's Zoning Authority and therefore will make the final decision.

2. Bill No. O-10-9 contains proposed text amendments to the Zoning Code. The purpose of the text amendments is to remove the land development requirement for a carbon monoxide (CO) study (commonly referred to as an Air Quality Impact Analysis, or AQIA) found in §14-16-3-14. Also proposed are corresponding text amendments to remove and amend associated Zoning Code sections which refer to this requirement.

3. The Albuquerque/Bernalillo County Comprehensive Plan, the City of Albuquerque Zoning Code, the State Implementation Plan (SIP) Revision: Limited Maintenance Plan for Carbon Monoxide (CO): Albuquerque/ Bernalillo County, NM (Second Half of the CO Maintenance Plan, 2006- 2016), the "Research Project: Air Quality Study Requirements for Land Use Projects- Other Jurisdictions", and the Intra-Office Correspondence technical "white paper" dated May 10, 2005, are incorporated herein by reference and made part of the record for all purposes.

4. The overarching Goal of the Clean Air Act (CAA) [42 U.S.C. §7401 et seq. (1970)] is to protect human health and the environment by regulating air pollutant emissions. The CAA authorizes the U.S. Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQSs) to protect public health. The NAAQSs for carbon monoxide (CO) are 9 ppm (8-hour standard) and 35 ppm (1-hour standard). When local CO levels are below the national air quality standards, public health and welfare can be ensured.

5. Carbon monoxide (CO) is a colorless, odorless gas formed when carbon in fuels is not burned completely. CO is a product of motor vehicle exhaust; concentrations generally occur in areas with heavy traffic congestion. Other CO sources are non-road equipment, wildfires, residential wood burning and industrial processes. CO is a winter time pollutant; concentrations typically occur during the colder months when inversion conditions are more common.

6. The CO study requirement was placed in Zoning Code §14-16-3-14 (via Bill No.O-13) in 1990, a time when carbon monoxide (CO) was a much greater concern than it is now. Local CO levels exceeded the NAAQSs for CO during the late seventies and early eighties. Albuquerque-Bernalillo County was initially

designated a nonattainment area for the 8-hour CO standard in 1978. Subsequently, with the decline of monitored CO levels in the 1980s, Albuquerque-Bernalillo County was classified a “low-moderate” nonattainment area in 1992.

7. Monitored CO levels continued to decline steadily. Albuquerque-Bernalillo County has been able to meet the NAAQSs for CO since the early 1990s. The last violation of a NAAQS for CO (8-hour) occurred in December 1991. The U.S. EPA redesignated Albuquerque-Bernalillo County to attainment status, under a maintenance plan, for the NAAQSs for CO via Federal Register notice (Vol. 61, No. 115) on June 13, 1996.

8. Through the State Implementation Plan (SIP) Revision: Limited Maintenance Plan (LMP) for Carbon Monoxide (CO): Albuquerque/Bernalillo County, NM, Albuquerque-Bernalillo County demonstrated that it has attained compliance with the NAAQSs for CO (8-hr. and 1-hr.) and has fulfilled its obligation under the CAA. The U.S. EPA approved the LMP for CO, including the supporting technical data, via Federal Register notice (Vol. 70, No. 71) on April 14, 2005.

9. Albuquerque-Bernalillo County is currently classified as a “low-moderate maintenance area” for CO, which means that it was once in nonattainment but has been reclassified by the U.S. EPA to attainment status under a maintenance plan. Albuquerque-Bernalillo County was allowed to do a “limited” maintenance plan (instead of a full maintenance plan) because monitored CO levels were well below 85% of the NAAQSs for CO; technical evidence in the LMP for CO demonstrates that a violation of the CO standards will not occur. Monitored CO data from 1994 to 2008 shows a downward trend in CO levels. Albuquerque-Bernalillo County will continue to attain the NAAQS for CO and meet its obligation under the CAA.

10. Intent of the City Charter:

Removing provisions from the ROA 1994, which have become obsolete and no longer useful, is an exercise in local self government (City Charter, Article 1). The removal of an unnecessary City requirement, which will have no adverse effect, expresses the Council’s desire to protect and preserve natural endowments such as air quality. The proper use and development of land would continue to be ensured through existing land development requirements, which would not be affected by removal of the requirement- though the overall process would be streamlined in certain cases (City Charter, Article IX).

11. Intent of the Zoning Code (Section 14-16-1-3):

The request furthers the intent of the Zoning Code to promote the health, safety and general welfare of the public. The removal of the requirement, which is no longer needed to help control carbon monoxide (CO), would make the Zoning Code consistent with the local area’s status of having complied with the Federal National Ambient Air Quality Standards (NAAQSs) for CO. Compliance with the NAAQS for CO has

been attained, so the public health, safety and welfare can be ensured. However, as zoning authority for the City, the City Council will make the final determination.

12. The proposed text amendments further the Activity Center Goal of the Comprehensive Plan and the following policy:

- A. Goal: Removal of the requirement, which is triggered by large-scale projects, could help encourage development in Activity Centers by simplifying the land development process, which would help expand and strengthen concentrations of higher-density mixed land use.
- B. Policy II.B.7j-City support for Activity Center development. Removal of an unnecessary land use regulation would generally support development of large-scale, dense projects, which are often located in Activity Centers, and would promote public/private cooperation in support of Activity Centers.

13. The proposed text amendments further the Economic Development Goal of the Comprehensive Plan and the following policy:

- A. Goal: Removal of the requirement would result in one less step in the land development process for large-scale projects, which can encourage economic development. Such economic development would be balanced with the environmental goal of maintaining CO levels within the National Ambient Air Quality Standards (NAAQSs), which have been attained.
- B. Policy II.C.6f-obstacles to sound growth management and economic development. The City's removal of the requirement, which now can be considered an obstacle to sound growth management and economic development, would not affect Albuquerque-Bernalillo County's ability to continue to meet the NAAQSs for CO.

14. The proposed text amendments do not affect the Air Quality Goal of the Comprehensive Plan and the following air quality policies:

- A. Goal: The request to remove the requirement for a CO study would not affect "air quality" in overly general terms: CO is one of six criteria air pollutants. Air Quality will continue to be safeguarded through a variety of control strategies for all criteria pollutants, and other local CO control programs would remain in place. Technical evidence has demonstrated that public health and quality of life will continue to be safeguarded because the NAAQSs for CO will continue to be maintained.
- B. Policy II.C.1a-enforcement of air quality standards. A Zoning Code requirement does not intersect with enforcement of the NAAQSs for the criteria pollutants, including CO. Enforcement of air quality standards is based on the Albuquerque-Bernalillo County Air Quality Control Board

(AQCB) regulations. Also, the local air agency must report to the U.S. EPA, which is responsible for ensuring that the NAAQSs are met.

- C. Policy II.C.1b-automobile travel/air quality. Removing the CO study requirement would not affect the overall land use/transportation system in the City, or the extent to which the land use/transportation system is balanced. CO studies only address certain intersections near a proposed project, and do not affect placement of housing, employment and services.
- D. Policy II.C.1e- motor vehicle emissions/adverse effects. Technical evidence approved by the U.S. EPA demonstrates that public health will continue to be safeguarded because the NAAQSs for CO will continue to be met. Improved vehicle technology has contributed to declining CO levels over the years; the CO study requirement does not affect vehicle technology. The Inspection and Maintenance (I&M) Program will remain in place to mitigate motor vehicle emissions.

15. The CO study requirement was placed in the Zoning Code. The Zoning Code is not a part of the established Federal, State and local processes for dealing with air quality and does not contain air quality control regulations. Rather, air quality control regulations are housed in the Albuquerque-Bernalillo County Air Quality Control Board (AQCB) regulations compilation which is a part of Title 20, Chapter 11 NMAC; the CO study requirement was never included therein. Removing the requirement would create congruence between local and Federal regulations.

16. Great progress has been made in the control of carbon monoxide (CO) at the national and local levels. The U.S. EPA's main approaches to reduce CO have been to establish NAAQSs, require national controls for motor vehicle emissions, and require reductions from large industrial facilities. Only one CO non-attainment area remains in the U.S.: the Las Vegas Valley Hydrographic Area 212, which includes part of Clark County. There are 42 areas, including Albuquerque-Bernalillo County, which were formerly nonattainment areas that have been reclassified to maintenance areas.

17. The most recent local monitor data, from 2008, indicate the following: an average 8-hour CO reading of 1.4 ppm, which is 15.6% of the 8-hour CO standard; and an average 1-hour CO reading of 2.8 ppm, which is 8.0% of the 1-hour CO standard. The gap between local monitored CO levels and the NAAQSs for CO has continued to widen.

18. As originally drafted, the proposed text amendments warrant clarification in places to ensure that references to the requirement are removed and that minor errors are corrected. The proposed conditions of recommendation are intended to achieve these objectives.

19. Notice regarding the proposed text amendments was published in the Neighborhood News and posted on the Planning Department's web page. The Office of Neighborhood Coordination (ONC) also notified all neighborhood representatives who have an e-mail address on file. Staff received an e-mail inquiry

from the La Mesa Community Improvement Association. As of this writing, Staff has not received any other inquiries or correspondence.

RECOMMENDATION- 10EPC-40039, August 12, 2010

That a recommendation of APPROVAL of 10EPC-40039, Text Amendments to the Zoning Code to repeal the requirement for a Carbon Monoxide (CO) study (or Air Quality Impact Analysis-AQIA) and amending associated sections of the Zoning Code, be forwarded to the City Council based on the preceding Findings and subject to the following Conditions of Recommendation.

CONDITIONS OF RECOMMENDATION-10EPC-40039, August 12, 2010-Text Amendments to the Zoning Code to repeal the requirement for a Carbon Monoxide (CO) study (or Air Quality Impact Analysis-AQIA) and amending associated sections of the Zoning Code.

1. Page 1, Line 2:

REPEALING SECTIONS 14-16-2-6(G), 14-16-2-7(I), [~~14-16-2-8(G)~~] [~~+14-16-2-8(H)~~]
14-16-2-9(H)

2. Page 1, Line 5:

14-16-2-22(G), 14-16-2-24(E), 14-16-2-25(K), [~~14-16-2-26(A)(2)~~], [~~14-16-3-11(A)~~] [~~+14-16-3-11(A)(2)~~]

3. Page 1, Line 6:

16-4-3(A)(6) AND 14-16-3-14 ROA 1994; AMENDING SECTIONS [~~14-16-3-11(A)~~]

4. Page 1, Line 6:

3. Since that time, measured CO [~~has~~] [~~+levels have+~~] steadily decreased as a result of more

5. Page 1, Line 26:

Albuquerque-Bernalillo County Vehicle Inspection and Maintenance [~~+I & M~~] Program [~~+and the Winter Advisory No Burn Program~~].

6. Page 2, Lines 1 & 2:

4. Albuquerque is well below the maximum levels of CO allowed by the [~~+National Ambient Air Quality Standards (NAAQSs) for CO, which are Federal~~] health-based standards.

7. Page 2, insert at Line 3:

[+Local CO levels exceeded the NAAQSs for CO during the late seventies and early eighties, when CO was a much greater concern than it is now. Monitored CO levels continued to decline steadily. The U.S. EPA redesignated Albuquerque-Bernalillo County to attainment status, under a maintenance plan, for the NAAQSs for CO on June 13, 1996 (FR Vol. 61, No. 115).+]

8. Page 2, Lines 5 & 6:

5. The City's Air Quality staff have represented that the AQIAs produce no relevant or useful data and that AQIAs are no longer ~~[necessary or]~~ effective [+as a CO control strategy+] ~~[in meeting the health-based national, state and local carbon monoxide standards]~~ [+and are not needed to help meet the national, health-based air quality standards for carbon monoxide (CO)+.]

9. Page 2, insert at Line 7:

[+5. As demonstrated in the "State Implementation Plan (SIP) Revision: Limited Maintenance Plan (LMP) for Carbon Monoxide (CO): Albuquerque/Bernalillo County, NM", compliance with the National Ambient Air Quality Standards (NAAQSs) for CO has been achieved. The U.S. EPA approved the LMP for CO, including the supporting data, in 2005 (FR Vol. 70, No. 71).+]

10. Page 2, Lines 19 & 20:

C. ~~[The City has not had a CO level in violation of federal standards since 1991;]~~ [+The last violation of a National Ambient Air Quality Standard (NAAQS) for CO (the 8-hour standard) occurred in December 1991.+]

11. Page 2, Lines 21 & 22:

D. Given ~~[improved]~~ [+improvements+] in vehicle emission[s] [+control technology+] over the past twenty years, every city in the U.S., including Los Angeles, meets federal CO standards;

12. Page 2, Lines 24-26:

8. The failure to perform an AQIA, as required by current City ordinance[s] [+O-13 and the Zoning Code+], has been used as legal justification to block the adoption of a sector [+development+] plan even though conducting an AQIA provides no benefit.

13. Page 2, Lines 27-28:

8. The City Council finds that all evidence supports the repeal of the AQIA requirement as unnecessary [+, as technical evidence demonstrates,+] and a waste of City and private resources.

14. Page 1, Line 7:

14-16-4-1(A)(2), 14-16-3-22(A)(4)(b)[~~5~~] [~~+(5)+~~] ROA 1994 ALL TO REMOVE THE

15. Page 3, Lines 1-3:

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

16. Page 3, Lines 4-6:

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

17. Page 3, Lines 17-18:

SECTION 11. Section 14-16-2-16(G) ROA 1994 concerning air quality impact review in a C-1 Zone is hereby repealed [~~+~~and subsequent subsections renumbered accordingly.~~+~~]

18. Page 3, Lines 25-26:

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

19. Page 3, Lines 27-28:

SECTION 16 Section 14-16-2-21(G) ROA 1994 concerning air quality impact review in an M-2 Zone is hereby repealed [~~+~~and subsequent subsections renumbered accordingly.~~+~~]

20. Page 4, Lines 6-8:

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

21. Page 4, Lines 9-19:

SECTION 21. Section [~~14-16-3-11(A)~~] [~~+~~14-16-3-11(A)(2)~~+~~] regarding Site Development Plan Approval Requirements is [~~amended to read as follows:~~] [~~+~~hereby repealed and subsequent subsections are renumbered accordingly~~+~~].

[~~“(A)—Site Development Plan approval for either subdivision or building purposes may include:~~

- ~~(1) Imposition of relevant requirements contained within or authorized by the city's Subdivision Ordinance, including but not limited to dedication of rights of way and assurances for required infrastructure improvements both on site and off site.
(2) Submission of an air quality impact assessment pursuant to § 14-16-3-14 of this Zoning Code.
(3)(2) Imposition of other requirements of other city ordinances.”~~

22. Page 5, Lines 3-5:

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

23. Page 6, Lines 6-8:

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

“5. Traffic Impact Study [~~and Air Quality Assessment~~] [exemptions] [+exemption+].

***Catalina Lehner, AICP
Senior Planner***

cc: COA Council Services, Attn: Sara Westbrook, PO Box 1293, Albuquerque, NM 87103
COA City Council, Attn: Bruce Thompson, PO Box 1293, Albuquerque, NM 87103
COA Env. Health Dept., Air Quality Division, Attn: Margaret Nieto, PO Box 1293, Albuquerque, NM 87103
COA Env. Health Dept., Air Quality Division, Attn: Neal Butt, PO Box 1293, Albuquerque, NM 87103

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Code Enforcement

1. How will the issue be resolved when and if a Sector Development plan has referenced Section number 14-16-3-14?

Office of Neighborhood Coordination (ONC)

All Neighborhoods; 10EPC-40039, Project #1001620; City of Albuquerque, Planning Department at **505-924-3860**; The City's Planning Department will consider text amendments to the Zoning Code to remove the requirement for Carbon Monoxide (CO) studies, known as Air Quality Impact Analyses (AQIAs), found in Section 14-16-3-14 of the Zoning Code, and to revise associated sections of the Zoning Code to reflect the change. The development requirement for CO studies (AQIAs) created in 1990 when CO levels were much higher does not provide a public benefit. Since the last local violation of the Federal 8-hour CO standard in 1991, local CO levels have been steadily in decline and now measure less than half the Federal standard as documented in the Federally-approved Limited Maintenance Plan (LMP) for CO. Only one area in the nation (Clark County, NV) is currently in non-attainment status for a Federal CO standard. The downward national trend in CO levels is also due to improved vehicle technology and cleaner fuels. Because other air pollutants (ex. ozone) are not tied to land use like CO is land development requirements would not be appropriate air pollution control strategies; Catalina Lehner at **505-924-3935**, e-mail: <clehner@cabq.gov>.

7/7/10 – E-mailed to all neighborhood representatives with e-mail address listed with ONC – siw

Long Range Planning

1001620 Amendment to the Zoning Code

The proposed change will not be injurious to the general health safety and welfare or the City. It will benefit the Code by bringing it in line with City's recent and current attainment status for air quality. An unnecessary hurdle for land use planning and development will be removed with the repeal of the subject sections.

CITY ENGINEER

Transportation Development (City Engineer/Planning Department):

- Reviewed, no comments.

Hydrology Development (City Engineer/Planning Department):

- The Hydrology Section has no objection to the text amendment.

Transportation Planning (Department of Municipal Development):

- Reviewed, and no comments regarding on-street bikeways or roadway system facilities.

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 comments received.

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

Conditions of approval for the proposed Text Amendment shall include:

- a. None.

WATER UTILITY AUTHORITY

Utility Services

No adverse comments.

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

⇒ Please see the attached letter.

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Reviewed, no objection. Request does not affect our facilities.

Open Space Division

Open Space has no adverse comments.

City Forester

POLICE DEPARTMENT/Planning

No Crime Prevention of CPTED comments concerning the proposed Amendment to Zoning Code request at this time.

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

<i>Project # 1001620 10EPC-40039 AMENDT TO ZONING CODE OR SUBDN REGS TEXT.</i>	Adjacent and nearby routes	None
	Adjacent bus stops	None
	Site plan requirements	None.
	Large site TDM suggestions	N/A
	Other information	None.

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY

Reviewed, no comment.

ALBUQUERQUE PUBLIC SCHOOLS

MID-REGION COUNCIL OF GOVERNMENTS

MRCOG staff have no comment on the application.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

PNM has no comments based on information provided to date.