

O.2020.011

CITY OF ALBUQUERQUE
CITY COUNCIL

INTEROFFICE MEMORANDUM

TO: Timothy M. Keller, Mayor

FROM: Isaac Padilla, Director of Council Services

MM / For
IEP

SUBJECT: Transmittal of Legislation

Transmitted herewith is Bill No. O-26-10 Amending Section 14-16-6-4(U)(5) Of The Integrated Development Ordinance To Define The Criteria For Awarding Appeal Costs (Peña), which was passed at the Council meeting of April 6, 2026, by a vote of 5 FOR AND 4 AGAINST.

FOR: Bassan, Champine, Grout, Lewis, Peña
AGAINST: Baca, Fiebelkorn, Rogers, Telles

In accordance with the provisions of the City Charter, your action is respectfully requested.

CITY of ALBUQUERQUE

TWENTY SEVENTH COUNCIL

COUNCIL BILL NO. O-26-10 ENACTMENT NO. 0.2020.011

SPONSORED BY: Klarissa J. Peña

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ORDINANCE

AMENDING SECTION 14-16-6-4(U)(5) OF THE INTEGRATED DEVELOPMENT
ORDINANCE TO DEFINE THE CRITERIA FOR AWARDING APPEAL COSTS.

WHEREAS, land use appeals to the City Council under the City's Integrated
Development Ordinance (IDO) are closed record proceedings, meaning that
the Land Use Hearing Officer (LUHO) and the City Council must base their
findings and recommendations solely on the administrative record and the
arguments presented by the parties; and

WHEREAS, existing language in Section 6-4(U)(5)(b) of the IDO requires
consideration of factors such as financial hardship and the City's Social
Vulnerability Index, which are not part of the administrative record and
therefore cannot be properly evaluated within the procedural limits of a closed
record appeal; and

WHEREAS, defining the procedures for incorporating these extra-record
factors into the record and incorporating the additional considerations
identified below ensures that the LUHO's findings on appeal costs and fees
are based solely on the merits of an appeal, the record, and conduct presented
in the record, consistent with the fair and impartial administration of the
appeal process; and

WHEREAS, these revised criteria are objective, legally sound factors that
align more closely with the standards used in judicial proceedings for
determining the extent to which reasonable costs and attorney's fees should
be awarded; and

WHEREAS, these revised criteria promote fairness and accountability while
preserving access to the appeal process; and

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1 **WHEREAS, this amendment ensures that the assessment of costs and fees**
2 **remains consistent with both the closed-record nature of the appeal and the**
3 **legal and equitable principles that guide similar determinations in court**
4 **settings.**

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

7 **SECTION 1. Section 14-16-6-4(U)(5) of the Integrated Development**
8 **Ordinance is hereby amended as follows:**

9 **6-4(U)(5) Appeal Costs and Fees.**

10 **6-4(U)(5)(a) For an appeal to City Council related to an application that was**
11 **denied, all parties shall be responsible for their own costs and fees.**

12 **6-4(U)(5)(b) For an appeal to City Council related to an application that was**
13 **approved, if the appellant loses their appeal, they shall be responsible for**
14 **paying up to \$1,000 for the reasonable costs and fees of the appellee.**

15 **1. A finding on the reasonableness of any costs and fees shall be made by**
16 **the LUHO. The finding shall be based on the following factors:**

17 **a. The conduct of the parties during the appeal, and whether that**
18 **conduct was in bad faith, or malicious.**

19 **b. The objective reasonableness of the claims and defenses asserted by**
20 **the parties.**

21 **c. The extent to which an award of costs and fees in the case would**
22 **deter others from asserting good faith claims or defenses in similar appeals.**

23 **d. The extent to which an award of a costs and fees in the case would**
24 **deter others from asserting meritless claims and defenses in future appeals.**

25 **e. The objective reasonableness of the parties and the diligence of the**
26 **parties and/or their attorneys during the proceedings.**

27 **2. A costs and fees exemption may be granted to an appellant that**
28 **demonstrates in their appeal application that they meet one of the following**
29 **criteria. The review of these criteria shall be conducted administratively by the**
30 **Planning Department and included in the appeal record transmitted to the**
31 **LUHO.**

32 **a. Any individual appellant that demonstrates hardship, low income, or**
33 **indigent status.**

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b. Any entity appellant with a geographic boundary that includes more than 50 percent of its area within an area that has an overall score of 50 or greater on the City’s Social Vulnerability Index.

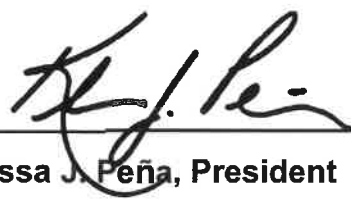
SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council hereby 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 amends, is incorporated in, and is to be compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 4. EFFECTIVE DATE. This Ordinance takes effect five days after publication by title and general summary.

1 PASSED AND ADOPTED THIS 6 DAY OF April, 2026
2 BY A VOTE OF: 5 FOR 4 AGAINST.

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4 FOR: Bassan, Champine, Grout, Lewis, Peña
5 AGAINST: Baca, Fiebelkorn, Rogers, Telles
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11 _____
12 Klarissa J. Peña, President
13 City Council
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15 APPROVED THIS _____ DAY OF _____, 2026
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19 Bill No. O-26-10
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23 Timothy M. Keller, Mayor
24 City of Albuquerque
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27 ATTEST:

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30 Ethan Watson, City Clerk
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City of Albuquerque

Office of the City Clerk

Timothy M. Keller, Mayor

Ethan Watson, City Clerk

Interoffice Memorandum

April 21, 2026

To: CITY COUNCIL

From: Ashley Santistevan, Assistant City Clerk

Subject: BILL NO. O-26-10; ENACTMENT NO. O-2026-011

I hereby certify that on April 20, 2026, the Office of the City Clerk received Bill No. O-26-10 as signed by the president of the City Council, Klarissa J. Pena. Enactment No. O-2026-011 was passed at the April 6, 2026 City Council meeting. Mayor Keller did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect beginning May 6, 2026 without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. O-26-10.

Sincerely,

Ethan Watson
City Clerk