

CITY of ALBUQUERQUE

TWENTIETH COUNCIL

COUNCIL BILL NO. R-13-166 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton, by request

1 RESOLUTION
2 ADOPTING A ZONING CODE TEXT AMENDMENT, 12EPC-40075, TO WAIVE
3 THE SIGN FEES, SIGN BUILDING PERMIT FEES AND PLAN CHECK FEES FOR
4 ALL NEON SIGNS QUALIFYING WITH THE REQUIREMENTS AND
5 REGULATIONS OF THE CENTRAL AVENUE NEON DESIGN OVERLAY ZONE
6 (CAN DOZ). AN AMENDMENT TO EXEMPT HISTORIC SIGNS FROM
7 PROVISIONS OF THE GENERAL SIGN REGULATIONS OF THE ZONING CODE
8 IS ALSO INCLUDED.

9 WHEREAS, the Council, the Governing Body of the City of Albuquerque,
10 has the authority to adopt and amend plans for the physical development of
11 areas within the planning and platting jurisdiction of the City authorized by
12 statute, Section 3-19-3, NMSA 1978, and by its home rule powers; and

13 WHEREAS, on February 14, 2013 the Environmental Planning Commission,
14 in its advisory role on land use and planning matters, recommended approval
15 to the City Council of a text amendment to waive the fees involved with the
16 erection of a sign that complies with the requirements and regulations of the
17 Central Avenue Neon Design Overlay Zone; and

18 WHEREAS, the Environmental Planning Commission found that the above
19 mentioned text amendment is consistent with applicable Comprehensive Plan
20 goals and policies; and

21 WHEREAS, the Historic Preservation staff has included language that
22 exempts historic signs from the provisions of the General Signs Regulations
23 in the Zoning Code, Section 14-16-3-5, that would otherwise prohibit their
24 display; and

25 WHEREAS, historic signs give continuity to public spaces, becoming part
26 of the community memory. They sometimes become landmarks in themselves,

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

1 almost without regard for the building to which they are attached, or the
2 property on which they stand. In an age of uniform franchise signs and
3 generic plastic "box" signs, historic signs often attract by their individuality:
4 by a clever detail, a daring use of color and motion, or a reference to particular
5 people, shops, or events; and

6 WHEREAS, Historic signs should be exempted from provisions of the
7 Zoning code that conflict with other adopted goals and policies that
8 encourage the preservation of historic resources. The proposed amendments
9 would also clarify that historic signs are not subject to regulations related to
10 non-conforming signs.

11 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
12 ALBUQUERQUE:

13 Section 1. A WAIVER OF THE SIGN, BUILDING PERMIT AND PLAN CHECK
14 FEES IN SECTION 14-16-3-5 (A) (4) OF THE ZONING CODE FOR NEON SIGNS
15 IN THE CAN DOZ. The amendment is to the General Sign Regulations, §14-16-
16 3-5 (A) (4), of the Zoning Code to allow a waiver of the sign erection fees for a
17 neon sign in the CAN DOZ. In order to qualify for the fee waiver, the sign must
18 meet all requirements and regulations set forth by the CAN DOZ. The amended
19 language is as follows:

- 20 (4) Fees. A sign permit fee shall be charged to cover the cost of
21 enforcement of zoning regulations concerning signs erected after 1975
22 and for the costs associated with the enforcement of zoning regulations
23 for all electronic signs. The fee for a sign permit shall be:
 - 24 (a) \$.70 per square foot of the largest face of the sign or \$70, whichever
25 is more.
 - 26 (b) \$1.45 per square foot of the largest face of the sign or \$145,
27 whichever is more, for signs erected without a permit when it has
28 been determined by the Zoning Enforcement Officer that the sign
29 erector had full knowledge of the permit requirements.
 - 30 (c) Signs within the Central Avenue Neon Sign Design Overlay Zone,
31 which meet all the requirements, shall have the sign fees, building
32 permit fees, and plan check fees waived.
 - 33 (d) For electronic signs, the fee shall be paid annually.

1 (e)The Planning Director may adopt by regulation an additional fee to
2 cover the costs associated with the inspection and enforcement of
3 electronic signs.

4 Section 2. AMENDED LANGUAGE THAT PERTAINS TO HISTORIC SIGNS IN
5 SECTION 14-16-3-5 (C) (4) (k) OF THE ZONING CODE, THE GENERAL SIGN
6 REGULATIONS. The amended language is as follows:

7 Historic signs that are associated with the historic use of a premises are
8 exempt from provisions of the Zoning Code that would otherwise
9 prohibit their display. For the purposes of this section, a historic sign is
10 defined as a sign that is listed or determined to be eligible for listing in
11 the New Mexico Register of Cultural Properties either individually or as
12 a contributing part of a property, or a sign that contributes to the
13 historic character of a designated City Landmark. Historic signs may be
14 relocated on the premises to facilitate their preservation. If the copy or
15 imagery of a historic sign is altered, the alterations shall preserve the
16 historic integrity of the sign and any new portions of the sign may be
17 considered in determining the number and size of signs permitted.

18 Section 3. FINDINGS ACCEPTED. The following findings are adopted by
19 the City Council:

- 20 1. The City of Albuquerque Planning Department is proposing a text
21 amendment to the Zoning Code in order waive sign fees for neon signs that
22 abide by the requirements and regulations of the Central Avenue Neon
23 Sign Design Overlay Zone (CAN DOZ). This text amendment is to facilitate
24 the implementation of neon signs within the Central Avenue corridor.
- 25 2. The intent of this text amendment is for the City to waive the signage fee
26 for neon signs within the CAN DOZ. There are other fees associated with
27 the erection of a sign that should be considered to be included in such a
28 waiver – building permit fees and plan check fees. Staff has suggested
29 modifying the language of this text amendment to encourage the use of
30 neon signs within the CAN DOZ by relieving these fees as well.
- 31 3. The Charter of the City of Albuquerque, the Albuquerque Comprehensive
32 Plan and the City of Albuquerque Zoning Code are incorporated herein by
33 reference and made part of the record for all purposes.

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

- 1 4. The Zoning Code requires notification and other procedures for text
2 amendments to the text of the Zoning Code (§14-16-4-3 (A) (5), which refers
3 to §14-16-4-1(D)). The EPC is charged with evaluating the request and
4 forwarding a recommendation to the City Council.
- 5 5. The request meets the intent of the City Charter: Amending the text of the
6 Zoning Ordinance is a proper act of self-governance and falls within the
7 City's powers (Article I). Waiving sign, building permit and plan check fees
8 for neon signs within the CAN DOZ promotes and maintains an aesthetic
9 and humane urban environment (Article IX).
- 10 6. The proposed text amendment generally furthers the intent of the Zoning
11 Code to promote the health, safety and general welfare of the public
12 because it would support improvements to the roadway corridor along
13 Central Avenue. As the zoning authority for the City of Albuquerque, the
14 City Council will make the final determination.
- 15 7. The request is not in significant conflict with adopted elements of the
16 Comprehensive Plan or other city master plans including the following:
17 **CENTRAL URBAN AREA POLICIES**
18 The CAN DOZ is a new overlay district that promotes historic neon signs to
19 be sure that this historic culture does not get lost. This district includes all
20 neon signs that are to be rehabilitated or new qualifying signs. The
21 creation of a design overlay zone of historic visual art that bisects the
22 Central Urban Area will help to link the residential areas with a visually
23 pleasing commercial area. (Comprehensive Plan Goal for Central Urban
24 Area and Policies II.B.6.a and b)
25 **ESTABLISHED URBAN AREA POLICIES**
26 a) The location, intensity, and design of neon signs along the Central
27 Avenue corridor adds to the historic character of old Route 66, which
28 respects existing neighborhood values. The sign fee waiver will
29 encourage additional neon signs, and in turn, they will enhance the
30 visual urban environment. The CAN DOZ offers a level of innovation
31 that is unique and appropriate to the area in a cost-effective manner
32 that encourages the redevelopment of older neighborhoods.
33 (Comprehensive Plan Policies II.B.5.d, l, m, o and p)

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

1 b) This request will have a beneficial impact on social and economic
2 activities along Central Avenue as a whole, but more-so in the ten
3 Activity Centers that are along the Central Avenue corridor due to
4 the increased concentration of commercial activity.

5 (Comprehensive Plan Goal for Activity Centers)

6 **ENVIRONMENTAL PROTECTION AND HERITAGE CONSERVATION**

7 **5. Historic Resources**

8 a) The CAN DOZ is not an historic district, but is the creation of a
9 corridor that provides incentives for neon signs that are
10 considered of historic significance. The amendment to the
11 Zoning Code that will allow the fee waiver will encourage this
12 corridor to be realized. (Comprehensive Plan Goal for Historic
13 Resources)

14 **8. Developed Landscape**

15 a) Creating mechanisms with incentives in order to allow the
16 realization of the CAN DOZ along Central Avenue will enhance the
17 quality and visual impact of the developed landscape.
18 (Comprehensive Plan Goal for Historic Resources)

19 **9. Community Identity**

20 a) Encouraging neon signs to line Central Avenue enhances the built
21 environment. The CAN DOZ will create an identity within the City
22 that doesn't exist today: a place that businesses can utilize neon
23 signs as a way of signifying that they belong to a special district.
24 The CAN DOZ is also a unique way to connect Activity Centers
25 along a Major Transit Corridor. (Comprehensive Plan Goal for
26 Community Identity and Policy II.C.9.b and e)

27 **COMMUNITY RESOURCE MANAGEMENT**

28 **4. Transportation and Transit**

29 a) The request is in response to create an innovative way to enhance
30 the streetscape by providing incentives for businesses to utilize
31 neon signage along the Central Avenue corridor. The current
32 form of the text amendment is straightforward: waive sign fees for
33 signs that meet the requirements and regulations of the CAN

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

1 DOZ. This will encourage more activity along the Central Avenue
2 corridor as pedestrians and vehicles will frequent the corridor
3 because of the increased usage of this amenity. The increase in
4 pedestrianism will have a direct impact on increased transit
5 ridership throughout the corridor as well. A balance of multi-
6 modal transportation will encourage an increased amount of
7 economic vitality, which is directly linked to an increase in
8 employment and services along Central Avenue. (Comprehensive
9 Plan Goal for Transportation and Transit)

10 8. The additional language that is added to the text amendment of the Zoning
11 ordinance maintains the City’s intent to offer a fee waiver as an incentive
12 for the erection of a neon sign within the CAN DOZ. The new language is
13 offered as a Condition for recommending approval to the City Council.

14 9. The Historic Preservation Staff has suggested an additional change to the
15 General Sign Regulations: to exempt historic signs from provisions of the
16 sign regulations that would otherwise prohibit their display. The
17 suggested language reflecting this addition is a Condition of
18 Recommendation For Approval.

19 10. Notification was presented in the December 2012 Neighborhood News
20 Newsletter on December 18, 2012, and staff has received no
21 communication from parties that either support or oppose this amendment.
22 Notification has also been posted on ONC’s homepage for the newsletter
23 as well.

24 11. Staff has not received any communications supporting or opposing
25 this request.

26 Section 4. EXPIRATION DATE FOR THE WAIVER OF THE SIGN, BUILDING
27 PERMIT AND PLAN CHECK FEES FOR NEON SIGNS IN THE CAN DOZ. The
28 waiver of fees set forth in this resolution for qualifying signs shall expire five
29 years from the effective date of this resolution unless the Council takes action
30 on or prior to that date to extend the waiver.

31 Section 5.EFFECTIVE DATE AND PUBLICATION. This legislation shall take
32 effect thirty days after publication by title and general summary.

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

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion