

## Homeless in Albuquerque - Part 1



Always remember to share our emails with any New Mexico Citizen who cares about our state.

**EPC STRIKING**  
**"SAFE OUTDOOR SPACES"**  
**From Integrated Development Ordinance**



**We The People New Mexico** just received a very comprehensive report concerning the issues swirling around the handling of the *Homeless Problem in Albuquerque*. This information became available during the presentation before the **Albuquerque EPA department** reviewing the issues.

The testimony was very extensive and long. **We are going to present the information as a 3 part series 3 days in a row.** We believe it will be easier to digest the actions being taken because the *rising up* of the **Citizens of Albuquerque** exposed the under belly of this issue.

*Thank you to all of you that took action* to stall a plan that will not solve a very complex problem especially when there is a real plan that does work. **Our Republic** form of government works when the Citizens become involved.

The latest vote by the EPA is to *remove the camps* from the IDO. **If that holds, the camps are illegal.** But again the Mayor can veto the decision. We the people are watching. It is just another battle in this war to *bring back our beautiful city* and truly *help the Homeless to become successful moving out of homelessness.*

## **PART 1**

From Pete Dinelli

**EPC Votes To Recommend Striking "Safe Outdoor Spaces" From Integrated Development Ordinance; A Political Battle Of Epic Proportions Of Elected Officials Telling Public "We Know What's Best For**

## **You”; A “Few Tools” Not Needed**

On Thursday, September 15, the City Council nominated, and Mayor appointed Environmental Planning Commission (EPC) voted to Eliminate **“Safe Outdoor Spaces”** from the Integrated Development Ordinance (IDO). The vote was 4 to 3 to delete all references of **Safe Outdoor Spaces** in the IDO effectively outlawing the conditional land use anywhere in the city. Two of the 9 commissioners were not present for the hearing. It was on June 22 that legislation was introduced by city Councilor Brook Bassan at city council to repeal and to eliminate Safe Outdoor Spaces amendment to the IDO. The repeal legislation was referred to the Environmental Planning Commission (EPC) for review and hearing and to make recommendations to the City Council.

### **EPC HEARING PRESENTATION AND TESTIMONY**

The hearing began with a very detailed analysis of the legislation presented by a representative of City Councilor Brook Basaan who is the sponsor of the legislation calling for elimination of Safe Outdoor Spaces from the IDO. The presentation went through numerous provisions of the IDO and identified how Safe Outdoor Spaces violated the IDO provisions and the spirit and intent of the IDO.

During the course of the September 15 hearing, and after the presentation of Councilor Basan’s city council legislative analysis, the public was allowed to speak, with each speaker given a mere 2 minutes. The overwhelming majority of the testimony given by members of the general public was in opposition to Safe Outdoor Spaces. Representatives from neighborhood associations, including the Santa Barbara Martineztown Neighborhood Association, Wells Park Neighborhood Association and the Greater Albuquerque Business Alliance, a coalition of downtown businesses, testified in opposition to Safe Outdoor Spaces. The main arguments made by those opposed to Safe Outdoor Spaces include the following:

The City Council amendment for Safe Outdoor Space is not well planned out. Safe Outdoor Spaces will not be safe despite security plans and will be magnets for crime.

Safe Outdoor Spaces in the form of “tent encampments for the homeless” constitute temporary housing that has been found to be the **least** effective means with dealing with the homeless. Many city’s that once embraced city sanctioned homeless encampment such as tent encampments are abandoning them in favor of more permanent housing.

Safe Outdoor Spaces will be detrimental to the neighborhoods and surrounding business and interfere with the peaceful use and enjoyment of property, both private and public property, and will reduce property values and interfere with redevelopment efforts.

The Safe Outdoor Spaces provisions are not in conformity and contradict the numerous provisions of the Integrated Development Ordinance (IDO), including relating to **“higher and best use”** of property and the intent and goal of the IDO to have reasonable, responsible redevelopment provisions that do not hinder development.

Annual updates and amendments to the IDO, such as is the case with Safe Outdoor Spaces, are enacted without public support or input. The Integrated Development Ordinance (IDO) annual amendment process undertaken by the City Council is seriously flawed and is defective and does not allow for community input for major types of amendments affecting communities, such as Safe Outdoor Spaces.

There is no complete review of data coming from the Planning Department to the EPC for IDO Amendments. Substantive amendments to the IDO are not being fully investigated and vetted by the Planning Department for recommendations to EPC as was the case with Safe Outdoor Spaces.

Safe Outdoor Spaces violates the city’s **“Housing First”** policy jeopardizing millions of dollars in federal funding by offering temporary housing and tent encampments to the homeless. In the 2021 fiscal year, the city spent \$40 million and in the 2022 fiscal year will be spending \$60 million to assist the homeless and much of the federal funding will be placed in jeopardy because of Safe Outdoor Spaces.

Safe Outdoor Spaces are nuisances and are in violation of city ordinances dealing with nuisance abatement on real property, especially property owned by the city. The following city ordinances were cited to the EPC:

***The City's nuisance abatement ordinance defines nuisance as:***

***"Any parcel of real property, commercial or residential, ... on which ... illegal activities occur, or which is used to commit, conduct, promote, facilitate, or aide the commission of ... any [felony or misdemeanor, including illicit drugs and prostitution]"***

***The city's nuisance abatement ordinance prohibits "public nuisances" as follows:***

***"It shall be unlawful for any owner, manager, tenant, lessee, occupant, or other person having any legal or equitable interest or right of possession in real property ... or other personal property to intentionally, knowingly, recklessly, or negligently commit, conduct, promote, facilitate, permit, fail to prevent, or otherwise let happen, any public nuisance in, on or using any property in which they hold any legal or equitable interest or right of possession."***

***See City's Nuisance Abatement Ordinance, Section 11-1-1-10 Public Nuisances Prohibited.***

***The City of Albuquerque's Uniform Housing Code also defines "nuisance" as:***

***"(1) Any nuisance known to common law ...***

***(2) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. ...***

***(3) Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.***

***...***

***(6) Inadequate or unsanitary sewage or plumbing facilities.***

***(7) Any violation of the housing standards set forth in this code."***

***City of Albuquerque and 14-3-1-4 ROA 1994 of Housing Code, Definitions for public nuisance.***

#### **CITY ATTEMPTS TO DISCREDIT PRIVATE CITIZENS**

After the public spoke, the planning department representatives proceeded to attempt to discredit the arguments made by the public who testified. It became obvious to those who had testified that the city representatives were advocating the Keller Administration policy supporting Safe Outdoor Spaces. City representatives took issue and challenged Pete Dinelli and his request to be recognized as being a qualified expert in nuisance abatement laws. Dinelli has been a licensed private attorney for 43 years, 28 in government service, who offered his expert legal opinion on the city's nuisance abatement laws, which he enforced for a full 8 years on behalf of the city as Director of the Safe City Strike Force. The absurd argument was made by an assistant city attorney that the EPC cannot qualify anyone to be an expert who testify before them under oath, yet expert testimony and presentations are given before the EPC on a regular basis and EPC hearings are often "quasi-judicial". Dinelli gave his expert legal opinion that Safe Outdoor Spaces constitute a public nuisance under the City Nuisance Abatement Ordinance, and he read into the record the above provisions of city ordinances.

City representatives were not at all subtle with their opposition to the proposed legislation to eliminate Safe Outdoor Spaces from the IDO and advocated that the EPC commission recommend a **"do not pass"** of the legislation to the City Council. City planning officials went so far as to offer **"alternative findings" prepared** in advance and ask for a delay so the EPC could consider alternatives that ostensible the Keller Administration wanted. The EPC decided to go forward with a vote anyway and voted 4-3, with 2 commissioners being absent.

At the conclusion of the September 15 EPC hearing, the committee adopted upwards of 4 pages of very detailed findings in support of their ruling to recommend the elimination of Safe Outdoor Spaces from the Integrated Development Ordinance. Those findings outlined and extensive number of provisions of the IDO that Safe Outdoor Spaces violate. The EPC recommendation will now be referred to the City

Council Land Use and Zoning Committee for further hearings and ultimately the legislation will be presented for a vote to the full City Council. It is the City Council that has the ultimate and final authority over land use issues.

Remember,  
**Part 2** will be  
*released tomorrow*

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**"Knowledge not shared remains unknown."**