



Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

December 3, 2019 - 6:30 PM
City Hall, City Commission Chambers
1376 E. Ninth St.

- Richard Boss Mayor
- Jason Baldwin Mayor Pro-Tem, District 1
- Nadia Sikes District 2
- Susan Payne District 3
- Josh Rardin District 4
- Al Hernandez District 5
- Dusty Wright District 6

- Brian Cesar City Manager
- Petria Bengoechea City Attorney
- Rachel Hughs City Clerk

MISSION STATEMENT as Adopted by the City Commission on March 24, 1995.

The City of Alamogordo is a Municipal Corporation that exists solely for the purpose of providing the best possible services to our customers, the citizens of Alamogordo. We are committed to providing these services with honesty, integrity, compassion, fairness, and a commitment to excellence.

We are committed to the long-term financial stability and responsible growth of the City and all decisions will be driven by our commitment to provide the best services possible in a financially sound and responsible manner given the economic realities facing the City.

In accordance with Section 10-15-1.D, NMSA 1978 (2010 Cumulative Supplement), this agenda has been posted on the bulletin board located in the east/west lobby of the City Hall and in the glass case located outside a the north entrance of the City Hall, distributed to the appropriate news media, and posted on the City website: <http://ci.alamogordo.nm.us> within the required time frame. As a courtesy, the entire Agenda Packet has also been posted on the City of Alamogordo website: <http://ci.alamogordo.nm.us>

The Mayor and City Commission request that all cell phones be turned off or set to vibrate. Members of the audience are requested to step outside the Commission Chambers to respond to or to conduct a phone conversation. The Alamogordo Commission Chambers is wheelchair accessible. Other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Clerk's Office at 575-439-4205.

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PUBLIC COMMENT

Residents must sign up with the City Clerk to address the City Commission. Comments are limited to 3 Minutes, and there will be a maximum of 21 Minutes allowed for Public Comment.

CITY MANAGER'S REPORT

REMARKS AND INQUIRIES BY THE CITY COMMISSION

CONSENT AGENDA (Roll Call Vote Required for an Ordinance or Resolution)

All matters listed under the Consent Agenda are considered to be routine by the City Commission and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

1. Approve the minutes for the November 19, 2019 Regular meeting. *(Rachel Hughs, City Clerk)*
2. Approve the statements related to the Executive Closed Session held on November 19, 2019. *(Rachel Hughs, City Clerk)*
3. Consider, and act upon, final publication of Ordinance 1604 amending Chapter 8 of the Alamogordo Code of Ordinances regarding Backflow Prevention. *(Larry Garner, Public Works Director)* **(Roll Call Vote Required)**

ITEMS REMOVED FROM CONSENT AGENDA

NEW BUSINESS

4. Consider, and act upon, GRIP (Gross Receipts Investment Program) application submitted by White Sands Construction Industries, LLC for the construction of a 3200 square foot retail building at 423 S. White Sands Blvd. *(Petria Bengoechea, City Attorney)*
5. Consider, and act upon, approval of first publication of Ordinance No. 1605, a map amendment to the official zoning map of the City of Alamogordo to rezone the property located at 501 E. 16th St. from R-1 Single Family Dwelling District to R-3 Two Family Dwelling District. *(Stella Rael, City Planner)* **(Roll Call Vote Required)**
6. Consider, and act upon, first publication of Ordinance No. 1606 Adopting a "Food Vendor" Ordinance. *(Jim LeClair, Fire Chief)* **(Roll Call Vote Required)**
7. Consider, and act upon, Resolution 2019-47 changing the times of City Commission meetings for a portion of the year. *(Petria Bengoechea, City Attorney)*
8. Appointments to Boards and Committees. *(Richard Boss, Mayor)*

ADJOURNMENT

AGENDA REPORT

CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 12/3/2019

Report Date: 11/21/2019

Report No: 1.

Submitted By: Rachel Hughs

Subject: Approve the minutes for the November 19, 2019 Regular meeting. *(Rachel Hughs, City Clerk)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the minutes.

Background: This is required by the Open Meetings Act.

**CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
November 19, 2019**

**RICHARD BOSS, MAYOR
AL HERNANDEZ, COMMISSIONER
NADIA SIKES, COMMISSIONER
JOSH RARDIN, COMMISSIONER
SUSAN PAYNE, COMMISSIONER**

**JASON BALDWIN, MAYOR PRO-TEM
DUSTY WRIGHT, COMMISSIONER
BRIAN CESAR, INTERIM CITY MANAGER
PETRIA BENGOCHEA, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK**

CALL TO ORDER / ROLL CALL / INVOCATION / PLEDGE OF ALLEGIANCE

Mayor Boss called the meeting to order at 6:30 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by Commissioner Payne and the Pledge of Allegiance was led by Commissioner Payne.

APPROVAL OF AGENDA

**Commissioner Hernandez moved to approve the agenda.
Mayor Pro-Tem Baldwin seconded the motion. Motion carried with a vote of 7-0-0.**

PRESENTATIONS

1. Presentation of Small Business Saturday Proclamation. (*Richard Boss, Mayor*)

Mayor Boss presented Ms. Gill, Ms. Gandi, Ms. Livingston and Communications/Marketing Assistant Cosio, on behalf of Communications/Marketing Administrator Brideaux, with the Small Business Saturday Proclamation. He encouraged the community to shop small, shop local.

PUBLIC COMMENT

Gene Downer commented on the following:

He saluted City Manager Cesar for the tree planting around town. He acknowledged Commissioner Hernandez for his stunning property. He mentioned some of the older buildings on White Sands Blvd.

Commissioner Sikes asked the younger people in the audience to come up and say who they are and why they are here. A young man came up to say they are in the Cub Scouts so they came there to learn how to be an adult.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

1. He wished everyone a Happy Thanksgiving, and let the Commission know some staff would be out for the Thanksgiving holiday.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Sikes made the following comments:

She said last week they had the ICIP meeting, and City staff did a wonderful job presenting the City's projects and thanked staff.

Commissioner Payne made the following comments:

She said her mother-in-law passed away. She was 89 years old and was amazing. She said Thursday night Love Inc. is celebrating their 10th Anniversary in Otero County and invited everyone to go.

Commissioner Hernandez made the following comments:

He said Mr. Pallet passed away. He said Mr. Pallet served on the Commission for many years. He said when the pledge was recited, it was neat to hear the children's voices. He said it means a lot to him when people show up and don't leave when their item is done. He thanked the Cub Scouts for coming.

CONSENT AGENDA

- 2. Approve the minutes for the November 6, 2019 Regular meeting. (*Rachel Hughs, City Clerk*)**
- 3. Approve the Investment Report for the quarter ending September 30, 2019, in accordance with the City of Alamogordo Investment Ordinance. (*Stephanie Hernandez, Finance Director*)**
- 4. Consider, and act upon, Resolution 2019-46 requesting written approval from the Local Government Division of the Department of Finance and Administration, State of NM for the revised budget numbers computed as of November 19, 2019. (*Evelyn Huff, Budget Analyst*) (Roll Call Vote Required)**
- 5. Consider, and act upon, approving a grant application from the Alamogordo Public Library to the American Library Association for \$2,000. (*Sharon Rowe, Library Manager*)**
- 6. Consider, and act upon, the award of RFP 2019-004 Utility Statement Printing, Mailing, E-Billing & Payment Services to the high score qualified proposal, Postal Pros. (*Mark Threadgill, Customer Service Manager*)**

Commissioner Hernandez moved to approve the consent calendar.

Commissioner Sikes seconded the motion.

Roll Call vote was taken.

Motion carried with a vote of 7-0-0.

NEW BUSINESS

- 7. Consider, and act upon, changing the time of Regular Commission Meetings to 6:00 p.m. beginning January 2020. (*Brian Cesar, City Manager*)**

City Manager Cesar stated this is something that has come up several times since the meetings were changed from 7:30 p.m. He said some staff stay until the meetings. He does not believe there needs to be a whole lot of discussion, it is either they want it or don't want it. He does not think this will affect attendance.

Mayor Boss said in speaking personally, he thinks if they can make it convenient for the employees that have already worked 8 or 9 hours that day, to enable them to go home a half hour earlier, then he thinks it is worthwhile to change the time.

Commissioner Hernandez said he suggested they do the daylight savings time meetings. He said his only concern is that they start doing it at a certain time then they are limiting who can serve on the Commission. He said he understands the staff issue, and said it is important not to think just about staff but also think as the Commission as a whole, and who can and cannot serve.

Commissioner Rardin stated he is not in favor of changing the time, 6:30 p.m. is a good time.

Commissioner Payne moved to approve.

Mayor Pro-Tem Baldwin seconded the motion.

Motion carried with a vote of 2-5-0.

Mayor Pro-Tem Baldwin, Commissioner Sikes, Commissioner Wright, Commissioner Rardin and Commissioner Hernandez voted nay.

Commissioner Hernandez asked if the Commission would consider changing the meetings with daylight savings time. Commissioner Sikes said she agrees with Commissioner Hernandez. She said she can be anywhere at any time, but a lot of her colleagues work. She said getting to a meeting at 6:00 p.m. could be difficult if you worked until 5:00 p.m. She stated he sympathizes with staff, but we have to remember whose meeting this is, this is a Commission

Mayor Boss asked if they can change this or do they have to bring it back. City Attorney Bengoechea said they should bring it back and prepare a resolution for the next meeting and take another vote.

Commissioner Hernandez asked what the consensus was, there is no reason to bring it back if no one wants to do it. Mayor Boss said he thinks it is a great idea. Mayor Pro-Tem Baldwin said he has no objection. Commissioner Payne said she really does not care. Mayor Boss said they will bring it back. Commissioner Sikes asked if the consensus was 6 o'clock except in the summer they can start at 6:30. Mayor Pro-Tem Baldwin said he was ok with that. Commissioner Rardin said he is alright with that. Mayor Boss said they will bring it back in two weeks. Commissioner Rardin asked if it would change with the spring and fall and Commissioner Sikes said yes.

8. Notice of Vacancies to Boards and Committees. (*Richard Boss, Mayor*)

Mayor Boss read the vacancies for the Boards and Committees.

EXECUTIVE SESSION

9. Adjourn into Executive Closed Session in compliance with 10-15-1(h)(8), NMSA (as amended) to discuss Real Property - 210 Delaware, Alamogordo, NM.

Commissioner Rardin moved to adjourn into Executive Closed Session at 7:00 p.m.

Commissioner Hernandez seconded the motion.

Roll Call vote was taken.

Motion carried with a vote of 7-0-0

ADJOURNMENT

ATTEST:

Mayor Richard Boss

City Clerk Rachel Hughs

(Prepared by Eric Barraza, Deputy Clerk)

Approved at the Regular Meeting held on December 3, 2019.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/3/2019

Report Date: 8/15/2017

Report No: 2.

Submitted By: Rachel Hughs

Subject: Approve the statements related to the Executive Closed Session held on November 19, 2019.
(Rachel Hughs, City Clerk)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve the following statements authorizing them to be included in the minutes of December 3, 2019: "The Governing Body of the City of Alamogordo, New Mexico, hereby states that on November 19, 2019, a Closed Executive Session was held and matters discussed in the closed meeting were limited only to: Real Property - 210 Delaware, Alamogordo, NM.

Background: The statement is required per the Open Meetings Act.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/3/2019

Report Date: 11/7/2019

Report No: 3.

Submitted By: Larry Garner

Subject: Consider, and act upon, final publication of Ordinance 1604 amending Chapter 8 of the Alamogordo Code of Ordinances regarding Backflow Prevention. *(Larry Garner, Public Works Director)*
(Roll Call Vote Required)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Staff recommends approval of the modified version.

Background: At the November 6, 2019 Regular Commission meeting, this ordinance was approved for first publication.

Information given at the November 6, 2019 Commission meeting:

This is an existing Ordinance on backflow prevention that was updated. Replacing outdated language and providing a means to enforce it.

**ORDINANCE 1604, AMENDING CHAPTER 8, SECTION 08 OF THE CITY OF
ALAMOGORDO CODE OF ORDINANCES**

WHEREAS, the City of Alamogordo, New Mexico and its commissioners recognize that the City's water supply is of utmost important to the citizens of Alamogordo;

WHEREAS, the City Commission wishes to strengthen and update its ordinances in order to best protect its water supply;

BE IT ORDAINED by the City Commission of the City of Alamogordo, New Mexico that Chapter 8 of the *Code of Ordinances* be amended as follows:

ARTICLE 8-08. - CROSS CONNECTION, PREVENTION AND CONTROL

8-08-010. - Purpose.

The purpose of this article is to protect the health, safety and welfare of the citizens of the City of Alamogordo through the prevention and control of cross connections by:

- (1) Protecting the municipal water system, owned and operated by the City, hereinafter referred to as the "municipal public water system," from contamination or pollution due to cross connections by containing hazards at the service connection;
- (2) Requiring the elimination or control of existing cross connections, actual or potential, between the customer's potable water system(s) and non-potable water system(s), plumbing fixtures, and industrial piping systems; and
- (3) Providing for the maintenance of a continuing program of cross connection control that will systematically and effectively reduce the risk of the contamination of the municipal Public water system.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 38, 2-12-08)

8-08-020. - Applicability.

The provisions of this article shall apply to all new nonresidential and residential water services. For all other services, unless otherwise specified within individual sections of this article, existing services shall not be required to comply with the requirements of this article. Compliance with this article shall be a precondition of receiving or, in instances where existing installations are covered under this article, continuing to receive water service from the municipal Public water system.

(Ord. No. 1068, 12-14-99)

8-08-030. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this article.
Definitions put in alphabetic order for simplification.

Air-gap. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor and the flood level rim of the receptacle.

Approved assembly. The term approved assembly refers to a specific (by size, model and make) backflow prevention assembly listed by an approved listing agency as follows:

- (1) Containment backflow prevention assembly. An assembly listed by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California or other listing agency, acceptable to the New Mexico Environment Department and approved by the City ~~Building Code Division~~ Planning and Zoning Division, hereinafter referred to as the "Building Code Planning and Zoning Division."
- (2) Isolation backflow prevention assembly. An assembly listed by the International Association of Plumbing and Mechanical Officials or the International Code Council and approved by the ~~Building Code~~ Planning and Zoning Division.

Atmospheric vacuum breaker assembly. An assembly consisting of a float check, a check seat and an air inlet port. The assembly shall include a tightly closing, full ported, resilient seated shut-off valve immediately upstream of the valve body.

Auxiliary water supply. A water supply on or available to the premise other than the municipal water system supply.

Back pressure. An increased pressure in a customer's water system caused by a pump, elevated tank, boiler, or any other means that may result in backflow.

Back siphonage. A backflow condition wherein water is being drawn or pulled backwards as a result of a negative or decreased pressure in the water supply.

Backflow. The reversal of water flow into a potable water system.

Backflow prevention assembly. An assembly or means to prevent backflow.

Certified backflow prevention assembly repair person. A person who is a certified backflow prevention assembly tester, is cognizant of all applicable federal, state and local laws, rules and regulations and is licensed by the New Mexico Regulation and Licensing Department, Construction Industries Division to perform the necessary repair work and has provided the City Planning and Zoning Division with their credentials and has been added to the list of qualified people to perform the necessary repair work.

Certified backflow prevention assembly tester. A person who has demonstrated competence in the testing of backflow prevention assemblies by attending and passing the written and performance examinations administered as part of a training course approved by the ~~Building Code Division~~ New Mexico Regulation and Licensing Division and who has a current certificate issued by the ~~Building Code~~ the New Mexico Regulation and Licensing Division and who has provided the City Planning and Zoning Division a copy of said certifications(s) and added to the list of certified people able to work on such devices.

C.I.D. Construction Industries Division. A division of the Regulation and Licensing Department charged with governing contracted work in the State of New Mexico. NMSA 60-13-01 through 60-13-59.

Contamination. An actual or potential impairment of a potable water system by the introduction, of any substance that could cause the water to be a hazard.

Cross connection. An actual or potential connection between any part of a potable water system and any other environment containing other substances in a manner that, under any circumstances, would allow such substances to enter the potable water system. Other substances may be gases, liquids, or solids, such as chemicals, waste products, steam, water from other sources (potable or non potable), or any matter that may change the taste, color or odor of the water.

Cross connection control by containment. The use of an air-gap or an approved backflow prevention assembly at each service connection to a customer's water system.

Cross connection control by isolation. The use of an air-gap or an approved backflow prevention assembly within the customer's water system at the point of each and every cross connection to effectively isolate the customer's potable water system from the remainder of the customer's water system.

Cross connections, controlled. A connection between a potable water system and a nonpotable water system with an approved backflow prevention assembly or air-gap properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

Customer. The account holder responsible for payment of fees set forth in article 28-03 of the Alamogordo Code of Ordinances.

Customer's water system. The water system on the customer's premises beginning at the service connection.

Double check valve assembly. An assembly consisting of two (2) internally loaded check valves, either spring loaded or internally weighted, installed as a unit between two (2) tightly closing, full ported, resilient seated shut-off valves and equipped with properly located resilient seated test cocks.

Enforcement authority. The Building Code Planning and Zoning Division of the City of Alamogordo, authorized to administer and enforce the provisions of the cross connection, backflow Prevention and control ordinance as adopted and amended. Enforcement authority may also refer to the authorized agent of the Building Codes Planning and Zoning Division.

Hazard, degree of. Degree of hazard is determined by the enforcement authority based on evaluation of conditions within the customer's premises. Hazards are classified as follows:

- (1) Health hazard. An actual or potential threat of contamination of a physical or toxic nature to the municipal water system or the customer's water system that could be a danger to the public health.
- (2) Non-health hazard. An actual or potential threat of pollution of a physical nature to the municipal water system but which would not constitute a health hazard. The maximum degree of intensity of pollution to which the potable water system could be degraded would be that which would cause a nuisance or be aesthetically objectionable.
- (3) System hazard. An actual or imminent threat of contamination to the municipal water system which presents an imminent danger to public health.

Industrial fluids. Fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration, such as would constitute a hazard if introduced into a potable water system. This may include, but is not limited to: polluted or contaminated waters; all types of process waters and used waters originating from the municipal potable water system that may have deteriorated in sanitary quality; chemicals in fluid form, plating acids and alkalis; circulating cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters, such as wells, springs, streams, rivers, irrigation canals or systems, and so forth; oils, gasses, glycerin, paraffin, caustic and acid solutions, and other liquid and gaseous fluids used in industrial areas for the purposes of suppressing fires.

Municipal Public water system. The potable water system owned and operated by the City to supply residential and nonresidential water users within and beyond the corporate city limits of the city.

Nonresidential service. Any service connected to the municipal water system that supplies water for a premises intended for uses other than those defined as single-family residential within the current adopted building codes.

Pollution. An actual or potential impairment of a potable water system by the introduction or admission of any substance that does or tends to degrade the taste, color, odor or aesthetic quality of the water system but does not constitute a health hazard.

Pressure vacuum breaker assembly. An assembly consisting of one (1) independently operating spring loaded check valve and an independently operating spring loaded air inlet valve located on the discharge side of the check valve, installed as a unit between two (2) tightly fitting, full ported, resilient seated shut-off valves and equipped with properly located resilient seated test cocks.

Reduced pressure principle backflow prevention assembly. An assembly consisting of two (2) independently acting approved check valves together with hydraulically operating, mechanically independent pressure differential relief valves located between the check valves and below the first check valve. These units are located between two (2) tightly closing, full ported, resilient seated shut-off valves as an assembly and equipped with properly located resilient seated test cocks.

Residential service. Any service connected to the municipal water system that supplies water for a premises intended for uses defined as any dwelling that has four (4) residential units or less.

Service connection. The terminal end of a water service from a municipal water system

(1). The terminal end of the water service from a Public Water System.

(2). For metered water services, the terminal end is the customer's side of the city's water meter to a customer's water system.

(3). For unmetered water services and fire lines which serve private fire protection systems the terminal end, is located at the property boundary or at the water utility easement boundary to a customer's premises.

(4). For the use of a fire hydrant and all other temporary or emergency water services, the terminal end is located at the point of connection to the ~~municipal~~ **Public** water system.

~~Thermal Expansion.~~ The resulting effect when water is heated in a closed system. In effect the heat causes the water to expand but since the system is closed, the pressure increases.

Water, fire sprinkler. Water contained in a fire protection system intended for extinguishing fires and begins at the point of connection to the ~~municipal~~ **Public** water mains for unmetered fire line services and for metered fire line services, the fire sprinkler water begins at the customer's side of the city water meter.

Water, nonpotable. Water that is not safe for human consumption or that has questionable quality.

Water, potable. Water delivered by the ~~municipal~~ **Public** water system or water located within the customer's ~~nonmunicipal~~ **non-Public** owned plumbing intended for human consumption.

Water, used. Any water delivered by the ~~municipal~~ **Public** water system to a customer's water system after it has passed the service connection.

(Ord. No. 1068, 12-14-99; Ord. No. 1114, § 19, 3-27-01; Ord. No. 1321, § 39, 2-12-08)

8-08-040. - Regulations and technical specifications.

The ~~building code division~~ **Public Works Department** shall be responsible for development of rules and regulations necessary to carry out the intent of this article. Said rules and regulations are subject to reasonable compliance with the standards set forth within this article and are subject to the review of the city manager. Said rules and regulations shall include specifications to define back flow prevention assembly standard installation, details, and criteria. Initial and subsequent changes to the rules and regulations, and technical specifications shall be published by the ~~building code division~~ **Public Works Department**.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 40, 2-12-08)

8-08-050. - Responsibilities and enforcement.

It shall be the responsibility of the ~~building code~~ **Planning and Zoning** division, the public works department and to the utility billing division to administer and enforce the provisions of this article. Customers, certified backflow prevention assembly testers and repair persons are responsible for compliance as described in the following sections:

- (1) *Public works department.* The public works department shall be responsible for the protection of the ~~municipal~~ **Public** water system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connections. The public works department shall work in close concert with the ~~building code~~ **Planning and Zoning** division in locating possible violations and providing assistance as may be needed in the successful enforcement of this article. The public works department shall

not knowingly install or maintain a water service connection unless the ~~municipal~~ **Public** water system is protected as required by this article.

The public works department shall where possible ensure that a double check backflow prevention assembly is provided when any meter is being replaced by the city on any existing connection to the ~~municipal~~ **Public** water system, including all existing residential services. Reconnections are subject to inspections and must comply with the Ordinance prior to being turned on. The public works department shall be responsible for the maintenance of all double check backflow prevention assemblies installed at the connection to the municipal water system except where responsibility for maintenance is otherwise specified within this article.

~~(2) *Building code division.* The building code division shall be responsible for reviewing and approving plans, issuing plumbing permits, and conducting inspections of backflow prevention assembly installations for new and remodeled structures within the jurisdictional limits of the division. The building code division's responsibilities begin at each service connection and extend throughout the entire length of the customer's water system.~~

(2). Planning and Zoning Division. The planning and Zoning Division shall be responsible for reviewing and approving plans (through the technical review committee), issuing permits, and referring inspectors from contractors on the City's list of qualified inspectors to conduct inspections of backflow prevention assembly(s) information for new and remodeled structures within the jurisdiction limits of the division. The Public Works Department's responsibilities begin at each service connections from the Public Water System and end at the water meter for all customer's water system.

~~Building code~~ The Planning and Zoning division shall enforce the provisions of this article that relate to cross connection control by containment and shall administer a continuing cross connection control program ~~through the Public Works Department.~~

(3) *Utility billing division.* After the effective date of this article the utility billing division shall not connect any new service without establishing, at a minimum, that a double check valve assembly is installed at the service connection.

In the event that the utility billing division personnel become aware of any cross connection creating an actual or potential health hazard the utility billing division shall immediately notify the ~~building code division~~ **Public Works Inspector** of the location and hazard noted.

(4) *Customer.* All customers shall be responsible for the prevention of contaminants, items of potential health hazard, system hazard as defined within this article or water from auxiliary water supplies from entering the customer's water system within the premises and the ~~municipal~~ **Public** water system. Customers shall provide backflow prevention assembly(s) or air-gap(s) as required by the plumbing codes. The customer's responsibility begins at the service connection and extends throughout the entire length of the water system within the premises. Customers shall install, have tested, and maintain, at their own expense, backflow prevention assembly(s) and/or air-gap(s) as directed by the enforcement authority. Accurate records of all inspections, tests, repairs,

overhauls and replacements of backflow prevention assembly(s) or air-gap(s) shall be maintained by the customer for a period of at least two (2) years.

- (5) *Certified backflow prevention assembly tester.* Certified backflow prevention assembly testers shall inspect and test backflow prevention assemblies in accordance with city approved methods and procedures; shall be equipped with and be competent in the use of all the necessary tools and gauges required to properly conduct testing of backflow prevention assemblies; complete and submit accurate and timely reports to the ~~building code~~ **Planning and Zoning** division; and report to the customer and the enforcement authority any discovered discrepancies associated with an existing backflow prevention assembly or existing cross connection within a customer's water system.
- (6) *Certified backflow prevention assembly repair person.* Certified backflow prevention assembly repair persons shall: make competent repairs on backflow prevention assemblies; not change the design, material or operation characteristics of a backflow prevention assembly without prior approval from the enforcement authority; complete and submit accurate and timely reports to the ~~building code~~ **Planning and Zoning** division; and report to the customer ~~and the building code division~~ any discovered discrepancies associated with an existing backflow prevention assembly or existing cross connections within the customer's water system.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 41, 2-12-08)

8-08-060. - Specific requirements.

Specific requirements for cross connection control and backflow prevention assemblies are as follows:

- (1) *Mandatory cross-connection control by containment.* Premises where any of the following conditions or activities exist or occur are deemed to present a sufficient backflow contamination hazard such that cross connection control by containment is required: hospitals and clinics; nursing and convalescent homes; dental offices; laboratories; mortuaries and cemeteries; sewage and storm water pumping and treatment plants; radiator facilities; metal plating industries; veterinary and animal grooming clinics; taxidermists; food and beverage processing plants; chemical plants; electric and electronic component manufacturer; vehicle car washes; hydraulic testing facilities; premises where inspection is restricted; ready mix concrete, sand and gravel plants; schools and colleges with laboratories; water services dedicated solely to landscape irrigation systems; greenhouses; premises with auxiliary water supplies; water tank trucks or water tanks filled from fire hydrants; buildings with a height greater than thirty (30) feet; and other conditions and or activities as may be deemed by ~~the building code division to constitute similar hazards to those listed above.~~ **Public Works Department.**
- (2) *Containment backflow prevention assembly requirements.* The type of backflow prevention assembly used for containment shall be required commensurate with the hazard in the premises as follows:

- a. In cases of premises having an auxiliary water supply, the ~~municipal~~ **Public** water system shall be protected against back flow from the premises by installing an approved air-gap or an approved reduced pressure principal backflow prevention assembly.
- b. In cases of premises on which any individual fluids or any other contaminants are handled in such a fashion as to create an actual or potential hazard to the ~~municipal~~ **Public** water system, the ~~municipal~~ **public** water system shall be protected against backflow from the premises by installing an approved air-gap or an approved reduced pressure backflow prevention assembly. This shall include the handling of process waters and waters originating from the customer's water system that have been subjected to deterioration in quality. Examples of premises where these conditions or activities exist include but are not limited to hospitals and clinics, dental office, laboratories, mortuaries and cemeteries, radiator shops, car washes, plating industries, photographic film processing facilities, commercial laundries, food and beverage processing plants, ready-mix concrete, sand and gravel plants, sewage and storm water treatment plants, veterinary and animal grooming clinics, schools and colleges with laboratories and greenhouses.
- c. In cases of premises having internal cross connection or water piping systems that are impractical or impossible to ascertain whether or not cross connections exist on such systems, the ~~municipal~~ **public** water system shall be protected against backflow from the premises by installing an approved air-gap or an approved reduced pressure backflow prevention assembly. **The premises owner is also required to install an expansion tank on their system to eliminate the possibility of thermal expansion, if a closed system has been created by the installation of a backflow prevention assembly. Any damage accruing to the customer's water system due to thermal expansion will be solely the responsibility of the owner of the customers water system. The public water system shall be held harmless if the owner of the customer's water system fails to install such devices.**
- d. In the case of a premises having multiple water services connected at more than one (1) point to the ~~municipal~~ **public** water system and where the services create a looped water system with the customer's water system, the ~~municipal~~ **public** water system shall be protected against backflow from these premises by installing an approved backflow prevention assembly (type of backflow prevention assembly to be determined by the city) at each service connection to the ~~municipal~~ **public** water system.
- e. In the case of water services to landscape irrigation systems connected to the ~~municipal~~ **public** water system, the ~~municipal~~ **public** water system shall be protected against backflow by installing an approved pressure vacuum breaker or an approved reduced pressure principle backflow prevention assembly.
- f. In the case of any premises where there is water or a pollutant that would be objectionable but not hazardous to health if introduced into the ~~municipal~~ **public** water system, the ~~municipal~~ **public** water system shall be protected against backflow by an approved double check valve assembly. In cases of nursing homes and buildings taller than thirty (30) feet not having a contamination hazard, the

~~municipal~~ public water system shall be protected against backflow by an approved double check valve assembly.

- g. In the case of any premises where there are uncontrolled cross connections, either actual or potential, the ~~municipal~~ public water system shall be protected against backflow by an approved air-gap or an approved reduced pressure principle backflow prevention assembly.
 - h. In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete premises cross connection survey, the ~~municipal~~ public water system shall be protected against backflow from the premises by an approved air-gap or an approved reduced pressure principle backflow prevention assembly.
 - i. In the case of any premises where an undue health hazard is posed because of the presence of extremely toxic substances, the ~~building code division~~ Public Works Department may require an air-gap at the service connection to protect the ~~municipal~~ public water system.
 - j. In the case of public fire hydrants approved for drawing water for filling tanks and tank trucks and for temporary irrigation systems, the ~~municipal~~ public water system shall be protected against backflow by an approved air-gap or an approved reduced pressure backflow prevention assembly.
 - k. In the case of any premises having existing private wells and the owner desires to connect to the ~~municipal~~ public water system, the options are as follows:
 - 1. Customers shall agree to permanently abandon wells by plugging the wells in accordance with the City of Alamogordo technical standards section of water supply item 6.0 Well Abandonment and with AWWA standards, ~~code administration procedures~~ prior to connection to the ~~municipal~~ public water system; or
 - 2. Customers who choose to maintain their private wells active plumbing system, the property owner will install an approved dual check valve at the water meter. The owner of the premises shall also sign a covenant that runs with the land that the private well shall not be reconnected to the premises plumbing without complying with item 3 of this subsection.
 - 3. If the customer chooses to maintain the well as a dual application use for the premises and maintain both connections, the ~~municipal~~ public water system shall be protected against backflow by an approved air-gap or approved reduced pressure principle backflow prevention device.
 - l. Atmospheric vacuum breakers shall not be used for containment applications. Atmospheric vacuum breakers may be used on isolation applications only.
- (3) Fire protection systems. Fire protection systems begin at the service connection and include sprinklers, hose connections, hydrants, reservoirs, tanks, stand pipes, pumps, distribution pipes and other appurtenances within a premises that are owned, operated and maintained by the customer for the purposes of fire suppression. For all fire

protection systems, except those described in paragraphs a and b below, an approved backflow prevention assembly is required to be installed at the service connection.

- a. Fire protection systems with no reservoirs, no fire pumper connections, no connections from auxiliary water systems, no antifreeze or other additives, and with all sprinkler drains discharging to atmosphere, constructed with acceptable potable water piping materials (approved listed products certified for conformance with ANSI/NSF standard 60 or 61) except as otherwise required by this article will not require an approved backflow protection assembly other than a double check valve assembly at the service connection.
- b. Fire protection systems with pumps, fire pumper connections, and no antifreeze or other additives, and with all sprinkler drains discharging into the atmosphere, constructed prior to this article with nonpotable water piping materials shall either retrofit with an approved backflow prevention assembly or have the fire protection system sampled annually at the customer's expense. Annual water sampling procedures shall be conducted by collecting first draw water samples and having them analyzed by a laboratory certified by the New Mexico Environment Department or the United States Environmental Protection Agency (EPA). The requirement shall be established from the implementation date of this article or from the date in which the system described by this subsection was placed in service. If water sample analysis is acceptable, no further action is necessary until the next annual inspection. If the annual water sample analyses are unacceptable, then the customer shall have an approved backflow prevention assembly installed at the service connection. The first draw of water shall be collected before any water runs through the fire protection system and shall be taken from the downstream side of the single check valve. The water samples shall be collected by a compliance water sampler who is certified by the New Mexico Environment Department Certification Office. Laboratory results shall be sent directly to the ~~Building Code~~ Public Works Department, Water Filter Division as soon as the laboratory results are available. The water samples shall be analyzed for concentrations of iron, lead, copper, cadmium, and chromium and for the presence/absence of total coliform bacteria and for density of heterotopic bacteria. Water sample analysis results are acceptable if no total coliform are present, the number of colonies per milliliter is less than five hundred (500) in the heterotopic plate count analysis and concentrations of iron, lead, copper, cadmium and chromium do not exceed the maximum containment levels as established by the New Mexico Drinking Water Regulations. The laboratory shall use approved methods for testing water samples in accordance with one (1) of the methods cited in the 16th or most current edition of the Standard Methods for the examination of water and wastewater. The ~~Building Code~~ Planning and Zoning Division shall maintain an inventory of customers opting to have fire protection systems sampled annually and shall notify customers that are out of compliance.
- c. Where backflow protection is required on an industrial domestic service that is located on the same premises, backflow protection shall be provided on the fire service connection. The industrial domestic system and the fire protection systems

shall both require an approved backflow prevention assembly at the service connections.

- d. Fire protection systems that are connected at more than one (1) point to the ~~municipal~~ public water system shall contain approved backflow prevention assemblies at each service connection.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 42, 2-12-08)

8-08-070. - Inspections.

- (a) *Right of entry.* Whenever necessary to make an inspection to enforce the provisions of this article, or wherever the building code division or its authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe as defined in this article, the building code division or its authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the enforcement authority by this article. If such building is occupied, the inspector shall present proper credentials and demand entry. If such building or premises are not occupied, the inspector shall first make reasonable effort to locate the owner or other person having charge or control of the building or premises, and demand entry. If entry is refused, the enforcement authority shall proceed to obtain a search warrant from the district court.

No owner or occupant or any other person having charge, care, or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the enforcement authority or an authorized agent thereof for the purpose of inspection and examination pursuant to this article. Any person violation this subsection shall be subject to the same penalties as provided for violation of other city ordinances.

- (b) *Containment inspection of premises.* Premises considered to pose an actual or potential contamination, health hazard or system hazard threat to the ~~municipal~~ public water system shall be subject to an inspection by the ~~building code~~ Planning and Zoning division and Public Works Department or authorized agent of the ~~either~~ division. Inspections shall be scheduled at a reasonable time by the division. The ~~building code~~ Planning and Zoning division or Public Works Department shall give the customer written notice prior to a containment inspection. The purpose and authority to conduct such an inspection shall be disclosed in the notice. If actual or potential cross connections, which could result in backflow of contaminants, any product of a potential health hazard, system hazard, or water from auxiliary water supplies through the water service connection and into the ~~municipal~~ public water system, are determined to exist during the premises inspection, the ~~building code~~ Planning and Zoning division or Public Works Department shall evaluate the degree of hazard and proceed in accordance with one (1) of the following criteria.
 - (1) In the event a system hazard is determined to exist, the ~~building code division~~ Public Works Department shall immediately instruct the water utility to terminate water service to the premises and the customers water will be cut off at that time. The water utility shall restore services to the premises once the ~~building code division~~ Public Works Department has determined that the system hazard has been controlled or eliminated.

- (2) In the event an actual or potential cross connection presents a substantial endangerment to the ~~municipal public~~ water system, the ~~building code division~~ **Public Works Department** shall enlist the assistance of the customer to immediately control or eliminate the hazard. If the immediate hazard is not resolved within one (1) day, water service to the premises shall be terminated until the hazard has been eliminated.
- (3) In the event no system hazard or substantial dangers are determined to exist, but actual or potential cross connections require control or containment, the ~~building code division~~ **Public Works Department** shall give the customer written notice to comply with the following requirements:
 - a. Submit a design and plan of implementation to the ~~building code~~ **Planning and Zoning** division within sixty (60) days; and,
 - b. Have an approved backflow prevention assembly(s) installed, inspected and tested within an additional sixty (60) days.

For good cause, the ~~building code~~ **planning and zoning** division may extend the time to comply with the requirements of this article. The customer shall install such backflow prevention assembly(ies) as directed by the ~~building code~~ **planning and zoning** division at the customer's own expense; and failure, refusal, or inability on the part of the customer to install, have tested, and maintain said assembly(ies) shall constitute grounds for disconnecting water services to the premises until such requirements have been satisfactorily met.

- (c) *Isolation inspections on premises served by the municipal water system.* The customer shall be responsible, without further notice, for the prevention of contaminants or pollutants or water from auxiliary water supplies from entering the potable water system within the premises. The customer's responsibility begins at the service connection and carries throughout the entire length of the water system within the premises. To accomplish this mandate, customers are required to comply with the most current adopted plumbing code (2006) and all related amendments as may be adopted by the state and the **City of Alamogordo**.

- (1) The ~~building code~~ **planning and zoning** division is authorized to conduct inspections or audits of premises within the city limits to determine compliance with the provision of cross connection isolation requirements in order to protect the public health, safety and welfare. Approved backflow prevention assembly(s) or air-gap(s), commensurate with the degree of hazard shall be installed, as required by the ~~building code~~ **planning and zoning** division, within the customer's water system for the safety and protection of the customer's water system for the safety and protection of the customer's potable water system. Premises considered to pose an actual or potential contamination to the customer's water system may be subject to audit by the building code division. The ~~building code~~ **planning and zoning** division may direct the customer to upgrade its water plumbing system in accordance with the Uniform Plumbing Codes in the "Regulation of Backflow Prevention and Cross Connection Control." If the actual or potential unprotected cross connections, which could result in backflow of contaminants, pollutants, or water from auxiliary water supplies into the customer's water system are discovered during the audit or inspection of the premises, the ~~building~~

~~code division~~ Public Works Department, Water Filter Division shall evaluate the degree of hazard.

- (2) In the event a system hazard is determined to exist, the ~~building code~~ planning and zoning division shall notify the utility billing division to immediately discontinue service to the premises. The utility billing division shall restore water service to the premises once the system hazard has been controlled or eliminated and the ~~building code~~ planning and zoning division has approved restoration of service.
 - (3) In the event an actual or potential cross connection presents a substantial endangerment to the customer's water system, the ~~building code~~ planning and zoning division shall enlist the assistance of the customer to immediately control or eliminate the hazard. If the immediate hazard is not resolved within one day, water service to the premises shall be terminated until the hazard has been eliminated.
 - (4) In the event no system hazards or substantial danger is determined to exist, but actual or potential cross connections require control by isolation, the ~~building code~~ planning and zoning division shall direct the customer to have approved backflow prevention assemblies or air-gaps, commensurate with the degree of hazard, installed at specific location(s) within the customer's water system. Such approved backflow prevention assemblies or air-gaps must be installed, inspected and tested, within a reasonable time period as determined by the ~~building code~~ planning and zoning division, not to exceed thirty (30) days of such notification.
- (d) *Isolation inspections on premises not served by the ~~municipal~~ public water system.* In order to protect the public health, safety and welfare at premises not served by the ~~municipal~~ public water system, the building code division may conduct inspections and require the elimination or control of existing cross connections, actual or potential, between the potable water system and nonpotable water systems, plumbing fixtures and industrial piping systems contained within premises located within the city limits or otherwise connected to the ~~municipal~~ public water system.
- (e) *Isolation control in lieu of containment.* At specific residential or commercial premises where specific cross connection hazards can be controlled by isolation without compromise to the safety of the ~~municipal~~ public water system, the ~~building code division~~ Public Works Department, Water Filter Division may allow cross connection control for containment purposes with a backflow prevention assembly located at the point of cross connection rather than at the service connection.
- (1) *Applicability.* Isolation in lieu of containment shall be applicable only to make-up water connections to commercial space heating boilers rated at less than 200,000 BTU/H input where no water treatment is provided to the circulating heating water, landscape irrigation systems, or automated photo-processing unit with a single water connection.
 - (2) *Assemblies considered to be contaminant devices.* A backflow prevention assembly installed to provide isolation control of a cross connection in lieu of containment shall be considered a containment device rather than an isolation device and shall be subject to all containment device requirements.

- (f) *Reinspection.* Reinspection of premises shall be conducted by the ~~building code division~~ **Public Works Inspector** to verify corrective action as required by this article within one hundred twenty (120) days of correction notification.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 43, 2-12-08))

8-08-080. - Plan review, permits, and plumbing inspections on premises within the city limits.

The ~~building code~~ **planning and zoning division** through the TRC (Technical Review Committee) shall be responsible for checking plans and issuing building and plumbing permits for new and remodel construction to ensure compliance with this article. The ~~building code division~~ **Public Works Inspector** shall conduct inspections and approve all installations of backflow prevention assemblies.

- (1) The customer shall submit plans for review and approval by the ~~building code~~ **planning and zoning division** for installation of backflow prevention assemblies. Where actual or potential cross connections are called for by the plans, the plans shall include the make, model, size and type of any backflow prevention assembly(s) to be installed.
- (2) The customer's licensed contractor shall obtain a ~~plumbing~~ permit from the ~~building code~~ **planning and zoning division** for such installations. All new installations or air-gaps and backflow prevention assemblies shall be inspected and approved by a ~~building code division~~ **Certified Installer (preferably from the City's list of Certified Contractors)**. The ~~building code~~ **planning and zoning division** shall notify the utility billing division when installations are completed. Customers shall correct any faults within thirty (30) days of notification. Failure to correct faulty backflow prevention systems(s) or air-gap systems(s) will result in suspension of public water system services to the customer.
- (3) In instances of failure, refusal or inability on the part of the customer to install and have tested said assembly(s) or air-gap(s), the ~~building code~~ **planning and zoning division** shall suspend or revoke a ~~plumbing~~ permit issued under the administrative provisions of the plumbing code as adopted by the city.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 44, 2-12-08)

8-08-090. - Inspection of premises outside the city limits served by the municipal water system.

Customer services located outside the inspection jurisdiction of the city **of Alamogordo**, which are connected to the ~~municipal~~ **public** water system, shall be subject to this article and all rules and regulations adopted in accordance with these provisions with the exception of permitting requirements. The customer's contractor, when outside of the city jurisdiction, shall obtain a plumbing permit from the construction industries division of the state regulation and licensing department for the installation of air-gaps and backflow prevention assemblies. Installations must comply with the city specifications. It shall be the responsibility of the customer's contractor to arrange for required inspection by the inspection jurisdiction and provide proof of inspection to the city ~~building code~~ **planning and zoning division**. As a condition of continued service, the customer shall be required to provide access for inspection by the ~~building code~~ **Public Works Inspector division** or authorized agent at reasonable times to

inspect the air-gaps and backflow prevention assemblies, and to make all required corrections arising out of said inspection(s). The customer must meet all applicable specifications in the AWWA/ANSI C511-97. These specifications are always kept current.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 45, 2-12-08)

8-08-100. - Installation of backflow assemblies.

With the exception of backflow assemblies installed by city employees under the direction of certified city staff, all backflow prevention assemblies shall be installed by a contractor licensed by the state construction industries division and certified in accordance with the provisions of this article to install backflow prevention assemblies. The contractor shall be responsible for obtaining all required approvals, such as approved plans, permits and inspections. The Planning and Zoning Division has a list of qualified contractors that meet the required criteria. If a contractor desires to be included on the Cities list, they must produce the required documentation to prove they are qualified and at that time that contractor may be added to (in alphabetic order) the Cities list of qualified contractors.

(Ord. No. 1068, 12-14-99)

8-08-110. - Test and maintenance of backflow prevention assemblies.

All approved containment and isolation backflow prevention assemblies which are classified as testable devices shall be tested at least once per year. The ~~building code division~~ Public Works Department, Water Filter Division may require tests at more frequent intervals, if the ~~building code division~~ Public Works Department deems the hazard in the premises to be great enough or if previous tests have failed. Tests shall be performed by certified backflow prevention assembly testers. Assemblies that fail a test shall be repaired, overhauled and re-tested within one (1) week, or, in accordance with a time period established by the building code division. Said test shall be performed by a certified backflow prevention assembly repair person. The certified testers shall submit all test results to the ~~building code~~ planning and zoning division. Tests and repairs shall be at the expense of the customer. Backflow prevention assemblies must be tested in accordance with the test procedures set forth in the ~~building code~~ planning and zoning division. The customer for ~~the life of the building~~ a minimum of two (2) years must maintain all records of inspections, tests, repairs, overhauls, and replacements.

- (1) *Testing of backflow prevention assemblies.* With the exception of assemblies which are owned by the city, the testing of containment backflow prevention assemblies shall be performed by a ~~private sector~~ licensed contractor who is a certified tester. City owned assemblies may be tested by city staff or by a ~~private sector~~ licensed contractor who is a certified tester. The initial test of any containment backflow prevention assembly shall be performed by a ~~private sector~~ licensed contractor who is a certified tester and witnessed by the ~~building code division~~ Public Works Inspector or authorized agent.
 - a. All new installation of air-gaps and backflow prevention assemblies at the service connection shall be tested immediately upon installation and before water service is turned on or restored to the premises. The customer's certified tester shall then

notify the ~~building code~~ ~~planning and zoning~~ division that the backflow prevention assembly is ready for inspection and for the initial acceptance test.

- b. The customer shall make the necessary arrangements for subsequent annual testing and containment backflow prevention assemblies with a ~~private sector~~ licensed contractor who is a certified tester. The tester shall notify the ~~building code~~ ~~planning and zoning~~ division in advance when the tests are to be undertaken so that the ~~building code~~ ~~division~~ ~~Public Works Inspector~~ may witness the testing if so desired. Testers shall submit test reports to the ~~building code~~ ~~planning and zoning~~ division within one (1) week from the time that the contractor has provided the results to the customer. .
- c. If a test discloses that the backflow prevention assembly(s) is not operating satisfactorily, the customer shall arrange for a certified repair person to immediately make the necessary repairs. The repair person shall prepare a detailed report on each test requiring repairs of each backflow prevention assembly and submit the report to the ~~building code~~ ~~planning and zoning~~ division within one (1) week from the time that the repairs were completed. Failure to do so will result in the customer's service to the Public Water System to be suspended and disconnected until such time as the backflow prevention assembly(s) are brought into compliance.

- (2) Testing isolation backflow prevention assemblies. New installations of backflow prevention assemblies within the customer's water system shall be tested immediately upon installation and before water service is turned on or restored to the unit requiring the backflow prevention assemblies. The testing of backflow isolation prevention assemblies shall be conducted by a licensed contractor and certified tester that is on the required listing with ~~planning and zoning~~ division that have shown proof of their credentials and are certified to conduct such tests. If a test discloses that the backflow prevention assemblies are not operating satisfactorily, the customer shall arrange for a certified repair person to immediately make the necessary repairs. The repair person shall prepare a detailed report and submit that report to the ~~building code~~ ~~division~~ customer within one (1) week from the time the repairs were done which must then be presented to the ~~planning and zoning~~ division in order to have services restored..

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 46, 2-12-08)

8-08-120. - Existing backflow prevention assemblies.

Any existing backflow prevention assemblies are to be approved to continue service unless a higher degree of protection is required. In premises where the hazard has increased, as in the case of a change of occupancy, any existing backflow prevention assembly(s) shall be upgraded to comply with this article, or in the event that no assemblies are present, any premises where the ~~building code~~ ~~planning and zoning~~ division has determined that a real or potential health hazard or system hazard exists shall be brought into compliance with this article. Any existing backflow prevention assemblies that are not on the current list of approved backflow prevention assemblies may be approved to continue in service provided that the assemblies can be maintained, tested and that repair parts are available through the manufacturer. Whenever

obsolete assemblies are replaced, they shall be replaced with current approved backflow prevention assemblies.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 47, 2-12-08)

~~8-08-130.— Certification of testers and repairpersons.~~

- ~~(a) — *Initial certification.* To initially certify as a backflow prevention assembly tester, a person shall attend a forty-hour training course that has been approved by the building code division and successfully completed the written and performance examinations administered as part of the approved training course. A person who is employed by the appropriate licensed contractor in accordance with the New Mexico Construction Industries Licensing Act and attends and successfully completes the approved training course may be certified as a backflow prevention assembly repair person. The initial training shall be valid for the duration of three (3) years from the completion date of the approved training course. The building code division shall issue a certificate to any person who meets the above requirements.~~
- ~~(b) — *Recertification of testers and repair persons.* A certified tester or repair person who wishes to remain active as a backflow assembly tester or repair person must renew their training requirements every three (3) years. To renew training requirements, certified testers and repair persons shall complete one (1) of the following methods for recertification:~~
- ~~(1) — Repeat an approved training course; or~~
 - ~~(2) — Successfully complete an approved eight-hour recertification training course; or~~
 - ~~(3) — Accrue twenty (20) hours of approved continuing education credits; or~~
 - ~~(4) — Successfully complete an approved re-certification examination administered by the building code division.~~
- ~~(c) — *Approved training courses and examinations.* The building code division shall be responsible for approval of training courses. The approved training course shall meet the following minimum criteria:~~
- ~~(1) — The instructor shall be a certified tester or repair person;~~
 - ~~(2) — The duration of the course shall be at least forty (40) hours, including laboratory time and examinations; and~~
 - ~~(3) — The material covered shall be equivalent to the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research training course.~~
- ~~(d) — *Examinations.* Other than recertification examinations as may be administered by the building code division, examinations shall be administered by the instructor conducting the training course or by an independent organization approved by the building code division. For initial certification examinations a performance of seventy (70) percent or better on the written portion of the examination and satisfactory completion of the laboratory examination constitutes successful completion of the course. For recertification testing administered by the building code division or authorized agent of the building code division a performance of seventy-five (75) percent or greater is required for recertification application.~~

- (e) ~~Recertification training course.~~ The building code division shall be responsible for approval of a recertification training course(s). The approved recertification training course shall meet the following minimum requirements:
- (1) ~~The duration of the course shall be at least eight (8) hours; and~~
 - (2) ~~The course shall include a laboratory examination consisting of the actual testing of the three (3) testable types of backflow prevention assemblies and a written examination.~~
- (f) ~~Continuing education credits.~~ Continuing education credits may be approved for participation in workshops and seminars whose curriculum is approved by the building code division, such as the workshops and seminars conducted by the New Mexico Backflow Prevention Society and other professional organizations.

8-08-130 Requirements for Certification.

(A). Certification. No person shall engage in any activity listed in this section unless he or she is a certified backflow repairman or tester and holds a current City Business License and certificate issued by the City of Alamogordo and is on the list of certified contractors to perform such acts. Certified backflow repairmen must also be licensed in accordance with the New Mexico Construction Industries Licensing Act and produce proof to the City's Planning and Zoning Division in order to be added to the list.

(1). Initial Certification. To initially certify as a backflow prevention assembly tester, a person shall attend a 40-hour training course that has been approved by the planning and zoning division and the person must successfully complete the written and performance examinations administered as part of the approved training course. A person who is employed by the appropriate licensed contractor in accordance with the New Mexico Construction Licensing Act, attends, and successfully completes the approved training course may be certified as a backflow prevention assembly repairman. The planning and zoning division will issue a certificate and add to the City's list of qualified contractors any person who meets the above requirements.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 48, 2-12-08)

8-08-140. - Revocation of certification.

(1). Recertification of testers and repairmen. A certified tester or repairman who wishes to remain an active backflow prevention assembly tester must renew his/her certification every three (3) years. To re-certify, testers and repairmen must either:

(a). Complete an approved 40-hour backflow prevention training course; or

(b). Complete an approved eight-hour backflow prevention refresher training course and accrue 16 hours of approved continuing education credits related to backflow prevention.

Testers or repairmen shall provide proof of training credits earned and training courses attended to the planning and zoning division. The planning and zoning division will re-certify any person who meets the above requirements.

(2). Approved training courses and examinations. The planning and zoning division shall be responsible for approval of backflow prevention training courses. The approved training course shall meet the following minimum criteria:

(a). Instructor shall be a certified backflow prevention tester and repairman;

(b). The material covered shall be equivalent to the University of Southern California's

Foundation for Cross-Connection Control and Hydraulic Research training course.

All certifications for backflow prevention testers and backflow prevention repair persons shall be subject to revocation by the city.

- (1) ~~The city building code division may revoke certification of any certified backflow prevention assembly tester or certified backflow prevention assembly repair person:~~
 - a. ~~Who fails to comply with the provisions of this article; or~~
 - b. ~~Who falsifies tests, records or report; or~~
 - c. ~~Who fails to submit copies of test reports to the building code divisions; or~~
 - d. ~~Who fails to properly maintain test equipment; or~~
 - e. ~~Who alters an existing backflow prevention assembly without approval of the building code division.~~
- (2) ~~Any person who falsifies backflow prevention assembly tests, records and reports shall be subject to the penalties provided within this article.~~
- (3) The building code **planning and zoning** division shall advise the certified backflow prevention tester or certified backflow prevention repair person in writing of the revocation of certification and include the cause thereof. The certificate holder may appeal the decision and request a hearing before the ~~code official~~. **Planning and zoning division**. Said request must be filed in writing with the ~~building code~~ **planning and zoning** division within ten (10) days of the mailing of notification of revocation. Said hearing shall be scheduled within three (3) working days of the receipt of the request for hearing by the ~~building code~~ **planning and zoning** division. ~~The building official~~ **Planning and Zoning division** may enforce the original decision or overturn the decision. Any action to overturn may include probationary periods in which no further issues of violations may take place. If the ~~building official~~ **planning and zoning division**

reaffirms the original decision to revoke certification, the ~~building official~~ **planning and zoning division** shall notify the certificate holder through certified mail service. Said letter to be mailed within three (3) working days of the date of the hearing. The certificate holder may further appeal the revocation before the city commission. Within ten (10) days of the receipt of notification of final determination from the ~~building official~~, **planning and zoning division**, the certificate holder may file a written request for hearing before the city commission with the city clerk's office. The matter will be placed on the next available agenda to be heard before the commission. The decision rendered by the commission shall be considered final.

(Ord. No. 1321, § 49, 2-12-08; Ord. No. 1340, § 3, 8-11-08)

8-08-150. - Fees.

The ~~building code~~ **planning and zoning division** shall assess fees associated with the implementation of this article. The fees imposed by this article are as follows:

- (1) *Containment inspection fees.* An inspection fee of fifty dollars (\$50.00) shall be assessed to all customers required to have premises inspections to cover the costs incurred by the ~~building code~~ **planning and zoning division** during the initial inspection of the premises. The inspection fee will only be assessed to those customers whose premises are not in compliance with this article at the time of inspection.
- (2) *Backflow prevention assembly administrative charge.* All customers required to provide cross connection control containment and/or isolation shall be assessed an annual administrative fee of thirty dollars (\$30.00) (fee is not to be prorated in case of change of ownership) for each testable backflow prevention assembly(s) located at the premises. This fee incorporates expenses incurred by the ~~building code~~ **planning and zoning division** to maintain records, to process required testing notices and to enter data as required. **Proof and records of testing must be submitted at the time of Business Registration with the City of Alamogordo**
- (3) *Initial installation registration fee.* New testable backflow prevention assemblies shall be subject to an initial registration fee by the ~~city building code~~ **planning and zoning division**. A fee of fifty-five dollars (\$55.00) shall be assessed to cover the initial registration and cost of first year notifications expenses as incurred by the ~~building code~~ **planning and zoning division**.
- (4) *Work schedule.* Inspections which are required to be witnessed by the ~~building code division~~ **Public Works Inspector** shall be scheduled between the hours of 8:00 a.m. and 4:00 ~~2:30~~ p.m., Monday through Friday, **no weekends**, ~~excluding regularly scheduled holidays.~~ Required notice of inspections shall be in accordance with the rules and regulations established by the ~~building code division~~. Testing outside regular hours will be allowed at the discretion of the code official at an additional charge of forty dollars (\$40.00) per hour or fraction thereof for hours outside those list above and for Saturdays, and seventy dollars (\$70.00) per hour or fraction thereof for Sundays and holidays. In case of emergency, fees may be waived at the discretion of the ~~city manager~~.

- (5) *Backflow tester and repairman certification.* An administrative fee of fifteen dollars (~~(\$15.00)~~ (\$30.00) shall be assessed by the city for each application for backflow prevention certification and certification renewal. Replacement cards shall be made available through the city for a fee of five dollars (~~(\$5.00)~~ (\$15.00) for each replacement card issued. Cost of course curriculum shall be the responsibility of the applicant.
- (6). *Filing Fee.* An administrative fee of (\$10.00) shall be assessed and paid to the ~~planning and zoning division~~ for a filing fee per inspection by the contractor.

The fees listed in subsections (1), (2) and (3) of this section do not apply to non-testable containment devices installed on residential services by the city to protect the ~~municipal public~~ water supply.

(Ord. No. 1068, 12-14-99; Ord. No. 1114, § 20, 3-27-01; Ord. No. 1321, § 50, 2-12-08; Ord. No. 1340, § 3, 8-11-08)

8-08-160. - Other fees and charges.

Other fees and charges may include but are not necessarily limited to the type shown within this section. Items not covered within this section will be charged for based on reasonable charges and existing charges for similar items as may be charged by the city. ~~All fees in the Ordinance may increase according to CPI annually.~~

- (1) *Regulation documents.* All persons may obtain a copy of the regulations from the city for a fee not less than actual costs to reproduce the document.
- (2) *Technical specifications document.* All persons may obtain copies of the technical specifications from the city for a fee of not less than the actual cost to reproduce the document.
- (3) *Application for alternative methods and materials.* All persons filing an application for alternative methods and materials under section 8-08-170, shall include with said application a nonrefundable fee of one hundred dollars (\$100.00) to cover costs incurred by the city in review of the alternate methods and materials proposed.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 51, 2-12-08)

8-08-170. - Alternate materials and methods.

Alternate methods for compliance to achieve the objectives of this article may be submitted for review to the ~~building code~~ ~~planning and zoning~~ division. Approval requires that the customer show that compliance with the requirements would pose an unreasonable burden and that the proposed alternate would provide equivalent backflow prevention.

- (1) *Procedures for requesting an alternate method for compliance to achieve the objectives of this article.* A written application requesting an alternative method for complying with this article shall be addressed to ~~the code official~~ ~~the Public Works Department~~ through ~~planning and zoning division~~. In order to be considered, the application shall describe the specific requirement(s) for which an alternate installation

is requested, justify the request by explaining the site specific circumstances that make compliance with the requirements of this article and associated rule, regulations and specifications is unreasonably difficult or impossible, and propose specific alternate specifications that will provide equivalent cross connection protection. The code official shall provide a written decision to the applicant within thirty (30) days of receipt of a complete application.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 52, 2-12-08; Ord. No. 1340, § 3, 8-11-08)

8-08-180. - Remote installation of containment backflow prevention assemblies.

In instances where containment backflow prevention assemblies cannot be installed at the service connection, the customer may install the approved backflow prevention assembly at a remote location from the service connection.

- (1) On retrofit containment backflow prevention assembly installations, the customer must prove to the satisfaction of the ~~building code~~ Public Works Department through ~~planning and zoning~~ division that the water service line between the city meter and the location of the containment backflow prevention assembly is completely protected from actual or potential cross connections. The customer shall implement steps satisfactory to the ~~building code division~~ Public Works Department to assure that no future connections will be made to this portion of the service line.
- (2) On new construction, the customer shall protect the service line between the meter and the containment backflow prevention assembly(s) by encasing it in concrete as per standard details and specifications, which are included in the technical specifications. The customer shall implement steps satisfactory to the ~~building code~~ ~~planning and zoning~~ division and the TRC committee to assure that no future connections will be made to the service line between the city meter and the containment backflow prevention assembly(s).

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 53, 2-12-08)

8-08-190. - Grounds for termination of water service.

- (a) Notwithstanding any other provisions of this Article, in the event a system hazard is determined to exist; the ~~building code division~~ Public Works Department shall immediately terminate water service to the premises. The city shall attempt to notify the customer of the water service termination to the premises and of the system hazard in the premises. The city shall restore water service to the premises once the customer has controlled or eliminated the system hazard.
- (b) Failure to install required backflow prevention assembly(s) as directed by the ~~building code~~ ~~planning and zoning~~ division, failure to conduct required tests, failure to submit accurate and timely reports, failure to perform testing and maintenance of backflow prevention assemblies, or failure to allow the ~~building code division~~ Public Works Inspector entry into a premises shall constitute grounds for termination of water service to the premises. Service shall not be restored until such conditions or defects are corrected. If

water service is terminated for any of these reasons, a turn off and turn on water service fee will be assessed to the customer as per the requirements of city ordinance governing water, sewer rates.

- (c) The city may terminate water service for nonpayment of the fees included in this article in accordance with the provisions of the city ordinance governing water, sewer rates within 30 days of notification.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 54, 2-12-08)

8-08-200. - Effective date of this article.

The effective date of this Article is ~~March 1, 2000~~ January 1st, 2020. In the event that the building code planning and zoning division determines that a system hazard presents the potential of immediate hazard, the building code planning and zoning division may direct immediate correction within existing facilities in accordance with the provisions of this article.

(Ord. No. 1068, 12-14-99; Ord. No. 1321, § 55, 2-12-08)

DONE this ____ day of _____, 2019.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard A. Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Bengoechea, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/3/2019

Report Date: 11/18/2019

Report No: 4.

Submitted By: Petria Bengoechea

Subject: Consider, and act upon, GRIP (Gross Receipts Investment Program) application submitted by White Sands Construction Industries, LLC for the construction of a 3200 square foot retail building at 423 S. White Sands Blvd. (*Petria Bengoechea, City Attorney*)

Fiscal Impact: 14,700

Amount Budgeted: (\$150,000.00)

Fund:

Additional Fiscal Impact:

Recommendation:

Background: WSCI, LLC is building a 3200 square foot building to house a Fatwood Barbecue restaurant as well as a New Mexico Credit Corp business at 423 S White Sands. The approximate cost of construction is \$1,200,000 making the abatement approximately \$14,700 ($1,200,000 \times 1.225\%$).

Fund is budgeted with \$100,000 each fiscal year, and has monies for Home2Suites earmarked (~\$91,000) as well as monies for Gerald Champion (~\$1,000,000).

**APPLICATION FOR GROSS RECEIPTS TAX ABATEMENT
CITY OF ALAMOGORDO, NEW MEXICO**

FILING INSTRUCTIONS:

This filing acknowledges familiarity and assumed conformance with "Ordinance No. 1379, and Ordinance No. 1505, Gross Receipts Investment Program" ("GRIP"), (Copy attached). This application will become part of any later agreement or contract and knowingly false representations thereon will be grounds for the voiding of any later agreement or contract.

ORIGINAL COPY OF THIS APPLICATION AND ATTACHMENTS SHOULD BE SUBMITTED TO:

CITY MANAGER
CITY OF ALAMOGORDO
1376 EAST 9TH STREET
ALAMOGORDO, NM 88310

PART 1 - APPLICANT INFORMATION

Business Name: WSCI LLC

Submittal Date: 10/30/19

Address/City: , 1700 10th St.

Name/Address/Phone of Business Contact on this Project: Dennis Crimmins, 1700 10th St. Alamogordo, New Mexico 88310 575-437-7816

Business Owner [] Developer []

Type of Business: Corporation [] Partnership []

Proprietorship [] Limited Liability Company []

PART II - PROJECT INFORMATION

This application is for a: New Business [] Expanding Existing Business []

Type of Activity: Commercial [] Retail []

Attach a brief company overview, including a brief description of the product(s) and/or services, years in respective industry, and major clients/buyers of company's products and/or services.

Attachment Yes []

Attach a brief description of the product(s) and/or services that will be produced or sold in Alamogordo? Attachment Yes [] food and drinks, financial loans

Type of Construction: New Construction [] Rehabilitation of Existing Structure []

Proposed Facility Address and Legal Description: (See Exhibit A)

Attach a map showing site: (See Exhibit B)

Estimated value of property upon completion of the project subject.

LAND IMPROVEMENTS
\$ \$240,000 \$ \$900,000

Estimated Gross Receipt Taxes generated by the business prior to the expansion or construction. \$ _____

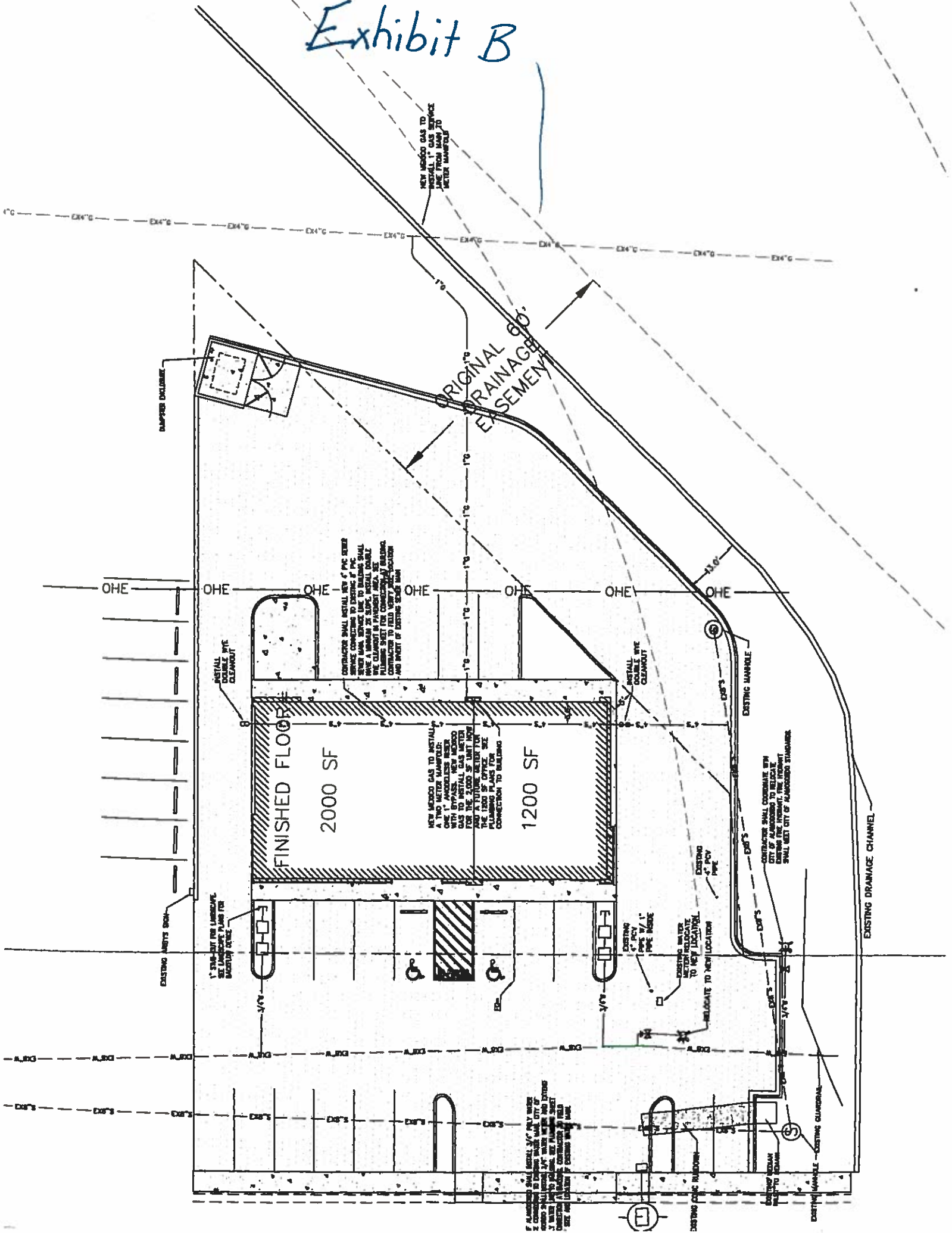
Estimated Gross Receipt Taxes to be generated by the business after the expansion or construction. \$ \$72,000 _____

I declare under the penalties of falsification that this application, including all enclosed documents and statements, has been examined by me, and to the best of my knowledge and belief is true, correct, and complete.

October 29, 2019
Date


Signature of Applicant

Exhibit B



NEW MEXICO GAS TO INSTALL 1" GAS SERVICE WITH 1/2" METER AND 1/2" METER MANIFOLD TO

ORIGINAL 60" DRAINAGE EASEMENT

CONTRACTOR SHALL INSTALL NEW 4" PVC SEWER WITH 1/2" MANIFOLD SERVICE TO BUILDING. ALL SEWER LINES SHALL BE 1/2" SLOPE. INSTALL DOUBLE WYE CLEANOUT AT PARADEY AREA. SEE PLUMBING SHEET FOR CONNECTIONS TO BUILDING AND PART OF EXISTING SEWER MAIN

NEW MEXICO GAS TO INSTALL 1" GAS SERVICE WITH 1/2" METER AND 1/2" METER MANIFOLD TO BUILDING. GAS TO INSTALL GAS METER FOR THE 2000 SF UNIT AND THE 1200 SF UNIT. SEE PLUMBING PLANS FOR CONNECTION TO BUILDING

CONTRACTOR SHALL COORDINATE WITH CITY OF ALBUQUERQUE TO INSTALL EXISTING 4" PVC PIPE. SHALL MEET CITY OF ALBUQUERQUE STANDARDS

IF MANHOLE SHALL BE 36" ONLY WHEN CONNECTION IS EXISTING. SHALL MEET CITY OF ALBUQUERQUE STANDARDS. ALL 36" MANHOLES SHALL BE 48" DEEP. CONTRACTOR TO VERIFY EXISTING MANHOLE DEPTH AND LOCATION BY EXISTING MANHOLE

1"0' EX4"0' EX4"0' EX4"0' EX4"0' EX4"0' EX4"0' EX4"0' EX4"0' EX4"0' EX4"0'

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Developing Tomorrows Future Today...



FINANCING & DEVELOPMENT

Grip Attachment

To Whom It May Concern:

This attachment is In reference to the application for gross receipts tax abatement, part two and three.

Part II. Project information:

This retail project is being developed by WSCI, LLC of Alamogordo, New Mexico. The principle of WSCI, LLC has built and developed in Alamogordo for 38 years. His companies have been building and developing in five states, including New Mexico, Texas, Arizona, Colorado and the State of Washington. A few of the more recent projects he has owned and developed here in Alamogordo are, Carl's Jr., Buffalo Wild Wings, IHOP, the Otero County Annex and the Suburban Extended Stay Motel.

This new two tenant retail center will include a new barbecue restaurant, FatWood Barbecue and a finance company New Mexico Credit Corp.

FatWood is owned by David Quinlan from here in Alamogordo, who purchased an existing barbecue restaurant, which was located on the north end of Alamogordo called the Hitching Post. Mr. Quinlan was needing to expand and asked me if I would be willing to build him a new restaurant, in which he can hire more employees, and have a larger dining area to accommodate his new barbecue restaurant.

New Mexico Credit Corp. is a finance company based out of Texas. I have been fortunate enough to develop for this company previously, which we added them to one of my retail centers in Las Cruces, New Mexico. They were wanting a location in Alamogordo, they contacted me and asked if I would develop them a location in our local market. We agreed and they now will occupy the second half of the retail center.

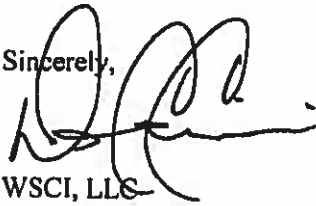
Part III. Project description:

The General Contractor for this project will be White Sands Construction, Inc., a local contractor who's been part of the community for over 40 years. They are one of the largest contractors, in the state of New Mexico and work in the three states surrounding New Mexico. A large percentage of White Sands employees are from the Alamogordo, Otero County area. White Sands principal office is at 1700 10th St.

here in Alamogordo. White Sands prides itself on using local subcontractors and suppliers for its projects, when it all possible. 80% of this project will be completed by local subcontractors and suppliers. The subcontractors for this project are: MGS Refrigeration Heating and Cooling, New Mexico Drywall, Southwest Flooring and Solutions, General Hydroponics, General Hydroponics Concrete, Southwest Air Systems, Stone Electric and Power, J & L Landscaping, LeFevre Masonry, Ochoa Stucco, Construction Surveying Services, and Continental Termite and Pest Control.

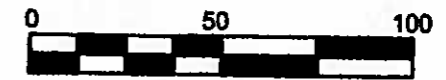
Please let me know if there's any further information I can provide.

Sincerely,



WSCI, LLC
Dennis C Crimmins
PO Box 862
High Rolls/Mountain Park 88325
Phone: (575) 437-7816
Dennis@whitesandsconstruction.com

A SURVEY PLAT OF A TRACT OF LAND IN THE SW 1/4 NE 1/4
OF SECTION 30, T16S, R10E, NMPM, OTERO COUNTY, NEW MEXICO



Ⓜ RIGHT OF WAY MARKED BY UNKNOWN PARTY
⊥ BREAKLINE

DESCRIPTION - PER INSTRUMENT NO. 201500731

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (SW1/4 NE1/4) OF SECTION 30, TOWNSHIP 16 SOUTH, RANGE 10 EAST, NMPM, OTERO COUNTY, NEW MEXICO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

STARTING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 30 AND GOING N88°23'E ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER A DISTANCE OF 306.39 FEET TO THE POINT ON THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 54-70; THENCE S1°39'E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 130.50 FEET TO THE PLACE OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; THENCE N88°23'E A DISTANCE OF 156.31 FEET; THENCE S43°11'45"W ALONG A DRAINAGE EASEMENT BOUNDARY LINE A DISTANCE OF 170.0 FEET; THENCE S83°19'W A DISTANCE OF 36.58 FEET; THENCE N1°39'W ALONG THE EAST RIGHT-OF-WAY LINE OF SAID HIGHWAY A DISTANCE OF 123.85 FEET TO THE PLACE OF BEGINNING, AND CONTAINING 0.268 ACRES, MORE OR LESS.

SUBJECT TO ANY RIGHTS-OF-WAY OR OTHER EASEMENTS AS GRANTED OR RESERVED BY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID TRACT.

CERTIFICATE
I, BRANDEN LANGLEY, A NEW MEXICO LICENSED PROFESSIONAL SURVEYOR, CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THIS SURVEY AND PLAT MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO.

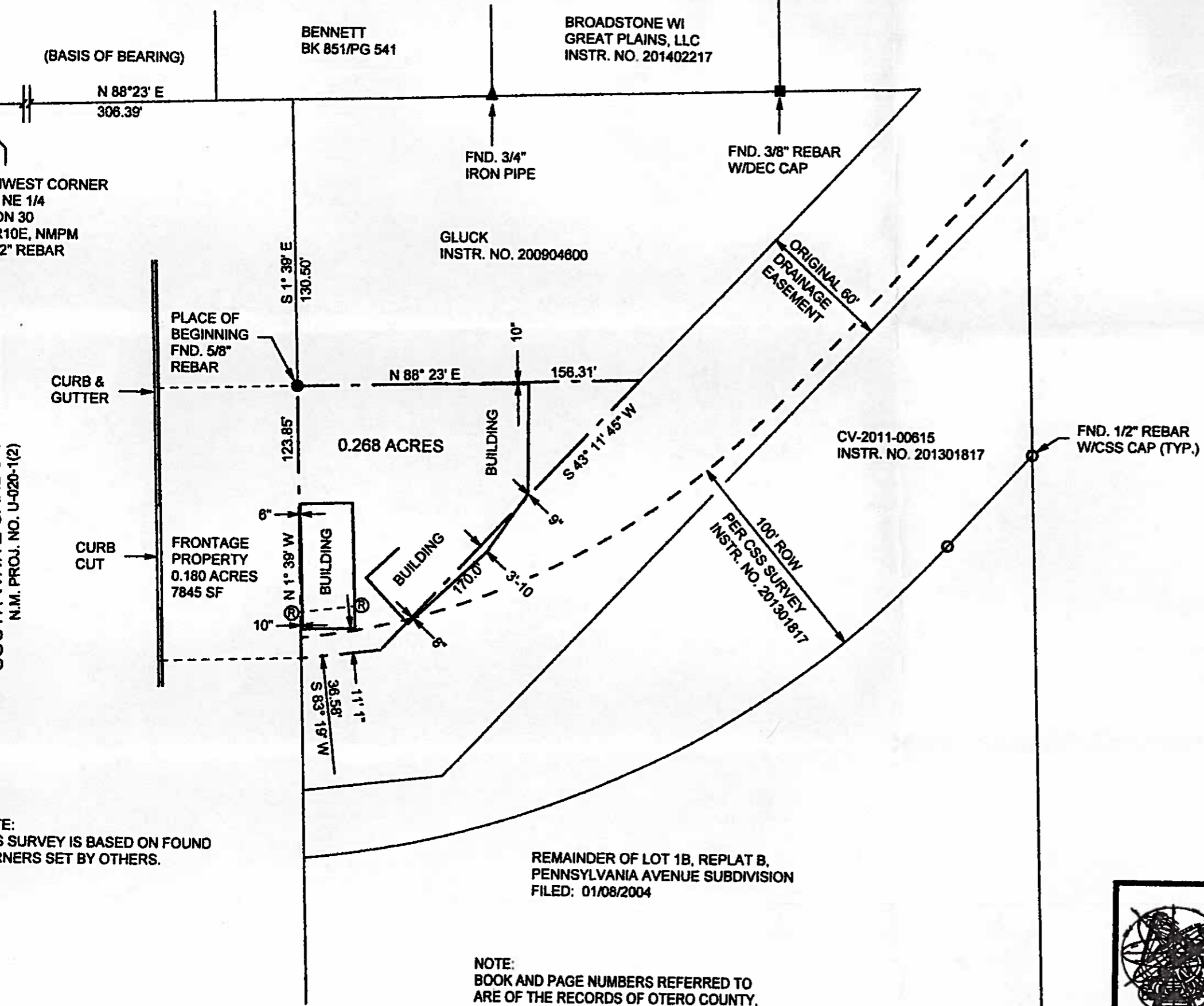
NOTE:
IF THE SEAL IS NOT RED OR EMBOSSED AND THE SIGNATURE BLACK, THEN THIS IS AN UNAUTHORIZED COPY AND THE CERTIFICATIONS ARE NULL AND VOID.



WSCI LLC

ALAMOTERO LAND SURVEYS, P.C. PROFESSIONAL LAND SURVEYORS
1101 NORTH FLORIDA AVENUE
ALAMOGORDO, NEW MEXICO
PHONE 575-437-7074 FAX 575-437-7075
COPYRIGHT © 2015 ALAMOTERO LAND SURVEYS, P.C.

DATE: 02/19/15 SCALE: 1" = 50'
DRAWN BY: LTR JOB NO.: 15-0061
CHECKED BY: BL SHEET 1 OF 1



NORTHWEST CORNER
NE 1/4
ON 30
R10E, NMPM
1/2" REBAR

N.M. PROJ. NO. U-020-1(2)

NOTE:
THIS SURVEY IS BASED ON FOUND
CORNERS SET BY OTHERS.

REMAINDER OF LOT 1B, REPLAT B,
PENNSYLVANIA AVENUE SUBDIVISION
FILED: 01/08/2004

NOTE:
BOOK AND PAGE NUMBERS REFERRED TO
ARE OF THE RECORDS OF OTERO COUNTY,
NEW MEXICO, OBTAINED FROM THE FILES
OF THE OTERO COUNTY ASSESSOR'S OFFICE.

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/3/2019

Report Date: 11/18/2019

Report No: 5.

Submitted By: Shelbe Abbott

Subject: Consider, and act upon, approval of first publication of Ordinance No. 1605, a map amendment to the official zoning map of the City of Alamogordo to rezone the property located at 501 E. 16th St. from R-1 Single Family Dwelling District to R-3 Two Family Dwelling District. (*Stella Rael, City Planner*) **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Approve for first publication of Ordinance 1605.

Background: This is a map amendment to the official zoning map of the City of Alamogordo to rezone the property located at 501 E. 16th St. from R-1 Single Family Dwelling District to R-3 Two Family Dwelling District.



City of Alamogordo

City Commission



Z-2019-0004(A)

Stella Rael
City Planner
December 3, 2019

Zoning Request Case: Z-2019-0004(A)

Request:

The applicant is requesting a map amendment to the official zoning map of the City of Alamogordo to rezone the property located at 501 E. 16th St. from R-1 – Single Family Dwelling District to R-3 Two Family Dwelling District.

Applicant:

Myriam Boza Hand

501 E. 16th Street

Alamogordo, NM 88310

Zoning Request Case: Z-2019-0004(A)

Section 29-01-020 – Amendments and Changes

Petition for amendment. From time to time, the city, after public notice and hearing, may amend the zoning regulations and established districts. Amendment may be initiated by motion of the city commission; by petition of the owners of the property to be affected; or by petition of one (1) or more agents, designated in an acknowledged power of attorney, or owner or owners of the property affected. Every such proposed amendment shall be considered by the planning and zoning commission before being considered by the city commission.

Z-2019-0004(A) SURROUNDING AREA



Z-2019-0004(A) AIRIAL



Zoning Request Case: Z-2019-0004(A)

Findings of Fact

- ◆ 1. The property is located at 501 E. 16th Street. within the R-1 Single Family Dwelling District.
- ◆ 2. The request is for a map amendment to rezone the property from R-1 Single Family Dwelling to R-3 Two Family Dwelling District.. The application was filed on October 7, 2019
- ◆ 4. The legal notice was published on October 13, 2019
- ◆ 5 Twenty five (25) letters were mailed by certified/return receipt mail to all property owners of record within two hundred (200) feet from the property excluding public right-of-way, of the property for which the rezoning is sought.
- ◆ 6. As of November 15, 2019 there have been two (2) letters returned undeliverable. One (1) phone call requesting clarification.
- 7. Planning and Zoning Board recommended approval on 11/7/2019 by a vote of 4-0-0.

Zoning Request Case: Z-2019-0004(A)

7

Staff Recommends:

To accept the finding of facts as presented and approve Zone Request Case: Z-2019-0004(A).

ORDINANCE No. 1605

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ALAMOGORDO, CHANGING THE CLASSIFICATION OF A CERTAIN PROPERTY COMMONLY KNOWN AS 501 E. SIXTEENTH STREET FROM THEIR PRESENT DESIGNATION AND ZONING DISTRICT OF R-1 SINGLE FAMILY DWELLING DISTRICT TO R-3 TWO FAMILY DWELLING, WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO.

WHEREAS, Myriam Boza Hand (hereinafter referred to as "the Owners") is the owner of certain real property commonly known as 501 E. 16th Street and legally described below (herein after referred to as "the Property") located within the corporate boundaries of the City of Alamogordo, New Mexico, (hereinafter referred to as "the City"); and

WHEREAS, an application has been filed in the Owner's names under Case No. **Z-2019-0004(A)** to change the zoning of the Property, and

WHEREAS, the Planning and Zoning Commission, after notice and hearing did recommend to the City Commission adoption of an ordinance amending the zoning map by removing the Property from the present designation and zoning district of R-1, Single Family Dwelling District to R-3, Two Family Dwelling District; and

WHEREAS, the City Commission, after notice and hearing, finds and determines that the application for re-zoning of the Property is in the public interest and is consistent with proper development of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION, THAT the zoning of the Property, which is more fully described below:

Alamo Blocks Replat Blk 203 LOT 44 Less E 60'

Is hereby changed from R-1 Single Family Dwelling District to R-3, Two Family Dwelling District; and the official zoning map and comprehensive plan of the City are hereby

amended to reflect this change.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2019

**CITY OF ALAMOGORDO, NEW MEXICO a
New Mexico municipal corporation**

By: _____
Richard Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Bengoechea, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/3/2019

Report Date: 11/21/2019

Report No: 6.

Submitted By: Jim LeClair

Subject: Consider, and act upon, first publication of Ordinance No. 1606 Adopting a "Food Vendor" Ordinance. (*Jim LeClair, Fire Chief*) **(Roll Call Vote Required)**

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact: None

Recommendation: Staff Recommends the Adoption of this Ordinance.

Background: With the Adoption of Ordinance 1606, anything to do with food vending will fall under this Ordinance. In addition; it will require Section 3-01-070, paragraph 4 to be repealed, Section 17-01A-050 titled "License fees for certain businesses" to be amended, Section 29-01-086 titled "Farmers Market" to be repealed, Section 29-01-087 titled "Days of Operation" to be repealed, and Section 29-01-088 titled "Prohibited acts" to be repealed.

ORDINANCE NO 1606

AMENDING AND ADDING SECTIONS REGARDING FOOD VENDORS

WHEREAS,

WHEREAS,

BE IT THEREFORE ORDAINED by the City Commission of the City of Alamogordo that the following sections of the Code of Ordinances be amended to read as follows:

3-01-070. - Permitted activities.

Commercial activities of sale or display of merchandise, and advertising signs, are prohibited on streets, sidewalks, and adjoining rights-of-way with the following exceptions:

- (1) Any sign advertising an adjoining residential property for sale, when located in an unimproved portion of a right-of-way.
- (2) Any advertising sign within a motor vehicle, or attached to a motor vehicle so as not to project beyond the normal contours of the vehicle.
- (3) Display of wares by a merchant or merchants in a sidewalk, other right-of-way or street where authorized by the city manager. Sales in the sidewalk or other right-of-way shall be outside the roadway, adjacent to the merchant's place of business, and shall allow sufficient area for safe and efficient pedestrian travel outside the roadway, and the display shall not create any hazard to traffic. Sales in the roadway shall involve closure of sufficient roadway for traffic safety.
- ~~(4) Sales of food and beverage from vehicles (including trailers or carts) which travel along fixed or variable routes within the city, and which stop no longer than is necessary to complete the sale for which the stop is made, or which are stopped for a specified period of time at a city park. Any business operating such a vehicle must be licensed by the city, with routes and park sales approved by the city manager, and must be approved by the state environment department.~~

(§ 4) Advertising signs, benches or similar structures erected and maintained pursuant to a lease with the city.
(Ord. No. 1332, § 5, 4-22-08)

17-01A-050. - License fees for certain businesses.

All persons, firms, corporations or associations engaged in any of the following pursuits, businesses and occupations shall, before commencing business, and on or before the 16th day of March of each year thereafter, secure a license from the city clerk and pay the listed fee instead of the business registration required by article I of this chapter:

Amusement halls, per year \$ 35.00

Boxing, sparring, wrestling or martial arts contest, per day 35.00

Carnivals and circuses, per day 35.00

Commercial solicitors (in addition to other license and business registration fees), per year 35.00

Drive-in restaurants, per year 35.00

Outdoor concerts, exhibitions and amusements for profit, per day 35.00

Outdoor displays and sales, per year 35.00

Pawnbrokers, per year 35.00

Public dances, per day 35.00

Route Food vendors (see section 21-01-020(d)), per year 35.00

Vehicles for hire regulated by Chapter 27 35.00

Drivers of vehicles for hire if required by section 27-01-040, per year 15.00

(Ord. No. 652, § 3, 2-22-83; Ord. No. 680, § 3, 7-10-84; Ord. No. 702, § 2, 10-22-85; Ord. No. 784, § 4, 2-13-90)

~~29-01-086. — Farmer's market.~~

~~A farmer's market is hereby allowed in the city due to its benefits to the city and the health and welfare of its citizens.~~

~~The city manager is authorized and charged with the responsibility for:~~

~~(1) — Establishing the location of the farmer's market in the city parks.~~

~~(2) — Establishing the location of display and sales areas.~~

- ~~a. The city manager or designated representative is authorized and directed to establish space limitations for the farmer's market and rules for display facilities, set up, signs, sales and cleanup, which will be incorporated in, and attached to each permit.~~

~~(3) — Classifying such areas with relation to the kinds of produce, commodities and crafts displayed:~~

- ~~a. Display and sales shall be restricted to locally grown agricultural products, including fruits, vegetables, nuts, plants, eggs, honey, and home food preparations limited to baked goods produced or prepared by the seller, including cream or "soft" pies sealed to prevent contamination and approved for sale by the state environmental protection agency.~~

~~The fee for a farmer's market permit shall be seventy dollars (\$70.00) per year, which said permit shall be obtained from the city clerk's office prior to display and sale. All other parks policies shall apply.~~

~~(Ord. No. 1531, § 2, 12-6-16)~~

29-01-087. -- Days of Operation.

The market shall be available for not more than three (3) days per week from April 15 through November 30 of each calendar year.

(Ord. No. ~~1531~~, § 3, 12-6-16)

29-01-088. -- Prohibited acts.

- (a) ~~Food and drink concessions and sales for on-premises consumption.~~
- (b) ~~Amplified speakers and yelling.~~
- (c) ~~Blockage of ingress and egress to market areas.~~

The following new Article 17-011 is hereby added to the *Alamogordo Code of Ordinances* to read as follows:

ARTICLE 17-11. – FOOD VENDORS.**17-11-010. – Purpose.**

The purpose of this ordinance is to regulate food vendors, whether mobile and/or temporary food vending activities in order to protect public health, safety, and welfare, while accommodating commercial uses that generally promote an active and social pedestrian environment within the appropriate areas of the City of Alamogordo. This ordinance is also written with specific consideration given to the continued successful operation of existing brick and mortar restaurant establishments in recognition of the investments they make, and tax revenue they generate within the City of Alamogordo. The overall goal of this ordinance is to provide a business climate that offers fair opportunities for all food vendor operations and permanent restaurants in order to provide residents and visitors with a variety of food options that promote a vibrant food selection within our community.

17-11-020. – Scope.

This Ordinance shall apply to all food vendor establishments operating within the City of Alamogordo, regardless of type.

17-11-030. – Definitions.

- (a) The term “Ice cream truck” means a mobile food establishment that sells either frozen dessert servings that are prepackaged/enclosed in a wrapper or container having been manufactured, prepared or wrapped in a licensed food establishment or ice cream that is not pre-packaged.
- (b) The term “Licensee” means a food vendor that holds a City of Alamogordo food vendor license.
- (c) The term “food vendor” means a restaurant or retail food establishment where food is served or sold from a mobile food truck, mobile food trailer, mobile sidewalk cart, temporary food booth, tent and/or stand.

- (d) The term “Mobile food truck” means a vehicle specifically designed and used for cooking, keeping, storing or warming food or beverage which are for sale by a vendor, which may move under its own power.
- (e) The term “Mobile food trailer” means a trailer specifically designed and used for cooking, keeping, storing or warming food or beverage which are for sale by a vendor, which does not move under its own power, but may be towed by a vehicle.
- (f) The term “Mobile food vendor” means a vendor selling from a mobile food establishment.
- (g) The term “Mobile sidewalk cart” means a bicycle cart or a wheeled pushcart, specifically designed and used for keeping, storing, or warming food or beverage which are for sale by a vendor, which may be moved by one person without the assistance of a motor. Each sidewalk cart shall be non-motorized and capable of being moved and kept under control by one person.
- (h) The term “Temporary farm stand” means a booth, tent, or stand which exclusively sells non-processed raw agricultural products.
- (i) The term “Temporary food booth, tent, or stand” means a booth, tent, or stand vending type unit which sells food or beverages.
- (j) City Official- City manager, City Attorney, Fire Department Command Staff, Police Department Command Staff, Code Enforcement Supervisor and Officers.

17-11-040. – Licensing Requirements for Food Vendors

It shall be unlawful for any Food Vendor to engage in sales activities in the City of Alamogordo without first obtaining a business license from the city.

- A. License Application. Each food vendor owner that wishes to operate within the City of Alamogordo shall file annually for an application for a City of Alamogordo food vendor operator’s license with the city clerk or his/her designee on forms provided by the city. Each applicant shall pay an established license fee before a license is issued, and be subject to an annual fire inspection that will be conducted by the Alamogordo Fire Department. All food vendors will be inspected according to the International Fire Code adopted, and according to the standards outlined in the National Fire Code (NFC). The application form provided shall require the following information from the applicant:
1. The name, address and telephone number of the person, firm, association or corporation that owns the unit.
 2. The length of time for which the right to conduct business is desired.
 3. The make, model and license number of any vehicle or trailer to be used in the food vendor operation.
 4. The location or locations from which the applicant desires to operate the unit.
 5. A copy of the applicant’s valid food and beverage license issued by the State of New Mexico Health Department or other agency within the jurisdiction.

6. A copy of the vendor's proof of insurance.
7. A letter of written permission to operate on private property if applicable, and
8. At the time of filing the application, the food vendor owner shall present a valid driver's license or other acceptable picture proof identification to the City Clerk for examination.

B. License Approval Process. Upon receipt of proper documentation and payment of an application for a license, the City Clerk will start the license approval process, and will refer the application to Planning and Zoning, the Fire Chief, or his/her designee, the Police Chief, or his/her designee, and the City Manager or his/her designee in order to complete the application process. All applications will be processed within ten (10) business days. Upon completion, the permit will be issued unless the City Clerk determines any of the following:

1. The applicant made a false statement on the application.
2. The applicant is under eighteen (18) years old. This is only applicable to operators of mobile food establishments which requires a CDL License.
3. The application is incomplete, or
4. The application and/or its contents do not meet the criteria of any city ordinance, and/or policy adopted by the City of Alamogordo.

C. Appeal Process for Licensed Vendors. Any decision of the City Clerk or his/her designee in respect to the issuance or refusal to issue a permit or the revocation of a permit may be appealed to the City Manager by written notice. The decision of the City Manager shall be made in writing and shall be final.

D. License Revocation or Suspension for Licensed Vendors. A license may be suspended or revoked by the City Clerk, the Fire Chief, the Chief of Police and/or the City Manager, or their designee if it is found at any time that the license holder made any material omission or inaccurate statements in the license application, or if the license holder is found to be in violation of any ordinance or statutory violation directly related to the licensed activity. A "Notice of Suspension or Revocation" will be served on the applicant and will include a statement of violations. The appeal process is addressed in Section 17-11-040.

E. Operational Requirements. Operational requirements for all food vendors shall be consistent with Section 17-11-080 of this ordinance.

17-11-050. – Food Vendors Operating at Special Events and Block Parties

All food vendors operating at special events and/or block parties are required to be fully permitted through the New Mexico Health Department, the City of Alamogordo, and be subject to a fire inspection conducted by the Alamogordo Fire Department as stated above. The City of Alamogordo will require all special event and block party organizers submit a list of vendor operator names 10 (ten) business days prior to the event for the purpose of verifying that all vendors have meet the criteria set forth by the City of Alamogordo. Note: Additional fees may be required by the organizer of such events that are not part of the annual license fee.

17-11-060. – Non-Profit Operators

All Non-profit temporary food vendors covered by this article operating at special events and/or block parties are required to be fully permitted through the New Mexico Health Department, the City of Alamogordo, and be subject to a fire inspection conducted by the Alamogordo Fire Department, with the exception of minor's under the age of eighteen (18) who participate in food vendor activities are exempt from the licensing requirements of this article except when they are acting as agents of adults. Please refer to section 17-08-030 titled "Exemptions". Non-profit groups may operate on private property if granted permission, provided that public health, safety and welfare is not compromised. Non-profit groups may vend in public places designated by the City of Alamogordo adhering to all conditions required by the City, which such conditions may address compensation for use of City property as well as limitations on hours of operation and specific places of operation. As stated above, Non-profits groups may also operate in conjunction with special events.

17-11-070. – Farm Stand Operators

Temporary farm stands food vendors operating at special events and/or block parties are required to be fully permitted through the New Mexico Health Department, the City of Alamogordo, and be subject to a fire inspection conducted by the Alamogordo Fire Department. Farm Stand operators may operate on private property if granted permission, provided that public health, safety and welfare is not compromised. Temporary farm stands may vend in public places designated by the City of Alamogordo adhering to all conditions required by the City, which such conditions may address compensation for use of City property as well as limitations on hours of operation and specific places of operation. Temporary farm stands may also operate in conjunction in with special events.

17-11-080. – General Operating Requirements

A. Operations

1. The licensee or the licensee's employee or agent shall be present within the vending site during all times in which items are sold.
2. Food vendor display of license and proper documentation:
 - (a) Each license issued or required under this ordinance shall be displayed in a conspicuous location which is visible to the public.
 - (b) Each licensee shall display the copy of the applicant's valid food and beverage license issued by the State of New Mexico Health Department in a conspicuous location which is visible to the public.
 - (c) If operating on private property, the vendor must keep written permission from the property owner within the vending unit at all times.
 - (d) If operating on a route, the vendor must keep the outlined route map that was provided to the City Clerk within the vending unit at all times.
3. Temporary free-standing signs associated with mobile food vendors shall be prohibited unless allowed by the sign ordinance. Please refer to 3-01-015 titled "Temporary signs".
4. No mobile food vendors shall use bells or lights, noise-makers, including music, to attract customers. "Ice cream/dessert vendors" are exempt from this restriction. Any noise originating from a mobile food vendor operation shall comply with the City of Alamogordo noise ordinance.

5. Mobile food vendors are prohibited from using city water, electricity or other utilities in the course of its operations unless explicitly provided permission from the City of Alamogordo with an arrangement made for compensation.

B. Required Insurance

Food vendors licensed by the City of Alamogordo shall provide proof of liability insurance for any single accident and for any property damage in the amount required by the “State of New Mexico Tort Claims Act”. Such liability insurance shall be in effect at all times the vendor is licensed in accordance with this section. A certificate of insurance for such coverage shall be delivered to the city clerk or his/her designee prior to issuance of a license. If such insurance coverage is cancelled, not renewed, or changed, the insurer and licensee shall immediately provide notice to the city clerk or his/her designee. Failure to maintain such insurance may result in the suspension or revocation of the license.

C. Vehicle Regulations

1. Each food vendor platform or vehicle shall be designed and constructed specifically for the purpose of vending the product or products to be sold.
2. Each food vendor platform or vehicle shall have valid license plates and registration as required by the State of New Mexico Department of Motor Vehicles Division.
3. Each food vendor platform or vehicle shall be in compliance with all Federal, State and local laws or regulations which govern motor vehicles, including, but not limited to, vehicle size requirements.
4. Each food vendor platform or vehicle shall be kept in a safe, operable condition with no visible signs of rust or other deterioration or unsightly condition.

D. Garbage Requirements

1. The licensee and his/her employee(s) shall be responsible at all times for the removal of all refuse resulting from his/her business or customers use of his/her business. Such refuse shall be placed solely in the mobile food establishment’s waste bins. All such containers shall be kept covered with a tight fitting lid. No food vendor establishments shall discharge any material onto the street, sidewalk, gutters, storm drain or the property of another, including, but not limited to, public property. All operators are responsible for ensuring that all waste is disposed of in accordance with city ordinances and/or maintaining all areas used for food vending and customer activity in a safe and clean condition.
2. All food vendors shall deploy at least two (2) leak-proof, thirty (30) gallon trash containers accessible to the public.
3. All mobile sidewalk carts shall be equipped with at least one (1) appropriately sized leak-proof garbage container.

E. Specified Locations of Operation

1. No food vendor may conduct businesses located on City-owned or controlled location unless permitted by the City of Alamogordo.
2. All food vendors shall be located on a paved surface at all times, unless expressly allowed by the City of Alamogordo.

3. All food vendor business activity taking place in the public right-of-way shall be conducted from the curbside of the vehicle at all times, unless expressly approved by the City.
4. No food vendor shall operate in a way that impedes pedestrian or vehicle circulation.
5. Food vendor parking on designated City owned or controlled property will be allowed to operate on a “first come first served” basis within designated vending locations identified by the City of Alamogordo. Parking spaces may be occupied by non-vendors. Designated vending locations will be in effect at all times unless otherwise expressly approved by the City of Alamogordo and/or permitted in conjunction with a special event.

F. Distance Restriction from Restaurants Generally

Food vendors are prohibited from conducting business within two hundred (200) feet of a public entrance of any business which is a licensed or permitted restaurant by the New Mexico Health Department, and the City of Alamogordo during the hours the subject business is open to the public. If a food vendor wishes to operate within the (200) foot threshold, written permission must be granted by the business owner, all food vendors shall keep the written permission on site for review purposes.

G. Distance Restriction from Restaurants during Special Events

During permitted special events, food vendors may not operate within one hundred (100) feet of any business selling the same or similar type products unless written permission is granted by the business.

H. Distance Restriction from Permitted Special Events

Food vendors shall not conduct business within five hundred (500) feet of any City of Alamogordo permitted special event unless the vendor has obtained written permission from the event organizer or permittee.

I. Operating on Private Property

Food vendors shall be prohibited from conducting business on any private property without written permission from the property owner. A copy of the written permission shall be kept in the food vendor unit at all times. The food vendor shall comply if asked to leave the private property by the property owner or a city official.

J. Operating in Residential Zones

Food vendors are prohibited from operating in residentially zoned districts or residential property uses. “Mobile ice cream/dessert vendors” may conduct business within R-1, R-2, and R-3 residential zoned districts from the public right-of-way, while adhering to all other operational regulations of this ordinance.

K. Designated Hours of Operation

1. Sunday through Saturday: 6 a.m. to 10 p.m.
2. Food vendors may operate in designated locations/areas for the duration of designated times of operation and are not required to move during those times.

- 3. Day and time of operation restrictions shall be in effect for food vendors in all designated vending locations, unless operating in conjunction with special events.
- 4. In addition to those times listed in (1) of this section, licensed ice cream/dessert vendors may operate from the public right-of-way within the R-1, R-2, and R-3 residential districts Sunday through Saturday, 11 a.m. to a half hour before sunset but no later than 8 p.m. Ice cream/dessert vendors may not conduct business at a location longer than fifteen (15) continuous minutes in residential zoned districts, meaning the vendor must move not less than two hundred fifty (250) feet every fifteen (15) minutes.
- 5. Food vendors may operate at a special events during approved hours of the event.

DONE this _____ day of _____, 2019.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard A. Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Bengoechea, City Attorney



**FOOD
VENDOR
ORDINANCE
No. 1606**

DECEMBER 3, 2019

FOOD VENDOR ORDINANCE 17-11 *cont.*

I am before you tonight asking you to vote “YES” on a new publication of Ordinance No. 1606 titled “Food Vendor”.

Months Back I was tasked with putting together an Ordinance that would encompass everything to do with food vendors. As I researched other communities, had countless meeting with the City Clerk, and our Legal Department, this “Food Vendor Ordinance” is what we found to be a good fit for the City of Alamogordo.

At the end of the presentation you should have a clear understanding of;

- Why this Food Vendor Ordinance is needed,
- How this one ordinance cleans up other ordinances,
- How this one ordinance makes food vending less confusing for city staff and our businesses community, and
- Have a good understanding of this ordinance and what is in it.

FOOD VENDOR ORDINANCE 17-11 *cont.*

Why is this “Food Vendor Ordinance” needed?

Currently the City of Alamogordo does not have a Food Vendor Ordinance that covers everything to do with food vending whether it be;

- Ice Cream Trucks*
- Mobile Food Trucks*
- Mobile Food Trailers*
- Mobile Sidewalk Carts*
- Temporary Farm Stands*
- Temporary Food Booths, etc.*

With the adoption of this ordinance, the city will have a one stop shop when it comes to “Food Vending” making things less confusing for city staff and our business community.

FOOD VENDOR ORDINANCE 17-11 *cont.*

So the big question... how this one ordinance cleans up other ordinances?

- 1. If you would refer to 3-01-070 titled “Permitted Activities of your attachment, you will see that paragraph 4 regarding the sale of food and beverages will be struck from that ordinance.**
- 2. Referring to 17-01A-050 titled “License fees for certain businesses, route food vendors will be changed to Food Vendors, and**
- 3. Again referring to 29-01-086 titled “Farmers Market”, this entire ordinance will be appealed due to it being covered in the newly drafted ordinance in greater detail. In addition, the \$70.00 per year permit fee will be changed to \$35.00 standardizing the fees across the board promoting a business friendly environment.**

FOOD VENDOR ORDINANCE 17-11 *cont.*

How does this new ordinance make things less confusing for city staff and our business community?

If this ordinance is adopted, city staff along with the business community can refer to one ordinance, one location regarding anything to do with food vending. This ordinance goes into great detail explaining the following:

- 1. The purpose of the ordinance,**
- 2. The scope,**
- 3. Gives definitions,**
- 4. Talks about licensing requirements,**
- 5. Talks about special events,**
- 6. Non profits,**
- 7. Farm stand operators, and**
- 8. Goes into detail about the general operating requirements.**

FOOD VENDOR ORDINANCE 17-11 *cont.*

In closing; as we went over the newly drafted Food Vendor Ordinance, I hope that you found it to be informative, giving whom ever reads it detailed information needed to be a food vendor within our City.

Questions?

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/3/2019

Report Date: 11/21/2019

Report No: 7.

Submitted By: Petria Bengoechea

Subject: Consider, and act upon, Resolution 2019-47 changing the times of City Commission meetings for a portion of the year. *(Petria Bengoechea, City Attorney)*

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation:

Background: This resolution sets the time of City commission meetings at 6:30PM during daylight savings (approximately March - November) and at 6:00PM the rest of the year. It requires notice of the dates to be published in the City's Reasonable Notice of Meetings resolution that is done at the first of every calendar year.

RESOLUTION NO. 2019-47

CHANGING THE TIMES OF CITY COMMISSION MEETINGS FOR A PORTION OF THE YEAR

WHEREAS, the City of Alamogordo, New Mexico holds City Commission meetings at least twice each month, and;

WHEREAS, the City of Alamogordo, New Mexico, wishes to modify the times at which the meetings are held for the portion of the year in which the sun sets earlier;

WHEREAS, the City Commission wishes to change its meeting times to match Daylight savings time;

NOW, THEREFORE BE IT RESOLVED by the City Commission of the City of Alamogordo, New Mexico that:

City Commission meetings shall start at 6:30PM during Daylight savings time (approximately March through November) and shall start at 6:00PM during the rest of the year (approximately November through March). The exact dates of change shall be settled each year in the City's Reasonable Notice of Meetings resolution.

DONE this ___ day of _____, 2019.

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico municipal corporation

By: _____
Richard A. Boss, Mayor

ATTEST:

APPROVED AS TO FORM:

Rachel Hughs, City Clerk

Petria Bengoechea, City Attorney

AGENDA REPORT

CITY OF ALAMOGORDO

CITY COMMISSION

Meeting Date: 12/3/2019

Report Date: 10/1/2019

Report No: 8.

Submitted By: April Jones

Subject: Appointments to Boards and Committees. (*Richard Boss, Mayor*)

Fiscal Impact:

Amount Budgeted:

Fund:

Additional Fiscal Impact:

Recommendation: Appoint to the Promotions Board and the Mayor's Committee on Aging.

Background: Airport Zoning Board. One (1) city vacancy. Staff Liaison - Cheryl Otero-Baker
No applications received.

Alamogordo Library Board. One (1) city vacancy. Vacancy due to expiring term of Roque Rosales. Staff Liaison - Melissa Garcia.
No applications received.

Alamogordo Promotions Board. One (1) lodging industry vacancy. Staff Liaison - Michelle Brideaux.
The following individual is interested in being appointed:
Jessica Blackwell - If appointed, this will be her first term.

Cemetery Board. One (1) city or county vacancy. Staff Liaison - Tony Gonzalez.
No applications received.

Mayor's Committee on Aging. Two (2) vacancies. One vacancy may be filled by a county resident. One vacancy due to the expiring term of Jose Rodriguez. Staff Liaison - Britney Courtier.
The following individual is interested in being reappointed:
Jose Rodriguez - If reappointed, this will be his 2nd term.

Senior Volunteer Programs Advisory Council. One (1) city vacancies. Staff Liaison - Neil McFarland.
No applications received.

If anyone is interested in serving on a board or committee you may apply with the City Clerk's office.

RECEIVED

NOV 13 2019

CITY CLERK

City of Alamogordo
APPLICATION TO SERVE ON A
CITY BOARD/COMMITTEE

Name: Jessica Blackwell
Home Phone: 575-439-5347 Work Phone: 575-439-1782
Cell Phone: 761-571-9224 Fax No: 575-439-5080
E-mail address: Jessica.blackwell@hilton.com
Physical Address: 208 Kerny Ave Alamogordo
Is the above address within City limits? Yes No
Mailing Address: 208 Kerny Ave Alamogordo
Present Employer: Hampton Inn Job Title: General manager

Board/Committee you wish to serve on:
First choice: Lodging/Tourism
Second choice: _____

Are you related to anyone who is presently employed by the City of Alamogordo?
Yes _____ No If so, what is their relation to you? _____

Are you related to any Elected Official of the City of Alamogordo?
Yes _____ No If so, what is their relation to you? _____

Experience and education relating to the Board/Committee: I have managed hotels for 14 years. I have also worked closely with tourism departments in the past as a hotel partner.

Please indicate your interest in serving on a City Board/ Committee: I would like to assist in bringing in new tourism to Alamogordo. I am a huge believer in everything local, and would like to be able to give my hotel guests better opportunities to experience our city.

Please return completed application to:
City Clerk's Office
1376 E. Ninth Street
Alamogordo, NM 88310
PHONE: (575)439-4100
FAX: (575)439-4396

City of Alamogordo
APPLICATION TO SERVE ON A
CITY BOARD/COMMITTEE

RECEIVED

NOV 18 2019

CITY CLERK

Name: Jose Rodriguez
Home Phone: 615-594-9338 Work Phone: 575-443-7780
Cell Phone: 615-594-9338 Fax No: 575-443-7788
E-mail address: ~~XXXXXXXX~~ JRodriguez@germc.org
Physical Address: 3345 Sequoia Ave, Alamogordo, NM
Is the above address within City limits? Yes No
Mailing Address: ~~3345~~ Same as physical address
Present Employer: GERMC Job Title: Director Clinic Information

Board/Committee you wish to serve on:

First choice: Mayor's Committee on Aging
Second choice: _____

Are you related to anyone who is presently employed by the City of Alamogordo?

Yes No If so, what is their relation to you? _____

Are you related to any Elected Official of the City of Alamogordo?

Yes No If so, what is their relation to you? _____

Experience and education relating to the Board/Committee: _____

HEALTH CARE ADMINISTRATION AND HEALTH CARE PROVIDER

Please indicate your interest in serving on a City Board/ Committee: _____

TO HAVE A POSITIVE IMPACT IN OUR COMMUNITY

Please return completed application to:

City Clerk's Office
1376 E. Ninth Street
Alamogordo, NM 88310
PHONE: (575)439-4100
FAX: (575)439-4396