

**Presentation to the Los Alamos County Council
From the Community Development Advisory Board**

Input regarding the rewrite of Chapter 18 of the Municipal Code
And other recommendations developed by CDAB in 2022

SUMMARY

The current membership of CDAB has leaned increasingly toward emphasizing health and safety issues over matters of aesthetics. There are members of CDAB who place value in maintaining properties in a neat and orderly manner in terms of appearance, but the majority of the CDAB membership consistently takes the position that if it is not a matter of public health and safety the County should not be regulating it.

Health and safety concerns that have been flagged as areas of importance during CDAB discussions include keeping sidewalks free of obstructions for pedestrians and other users; and ensuring that accumulations of vegetative materials do not create a fire hazard.

There also was a general sense among Board members that residents should not be penalized because of the specifics of their property or neighborhood. For example, storage regulations that require the use of a garage are biased against properties that don't have garages. The Board, generally, saw a basic unfairness in such regulations.

CDAB members informed their positions by reviewing public comments received and posted by Dekker/Perich/Sabatini, by comments directed to CDAB's public email address, and by the community survey conducted as part of the Chapter 18 rewrite process.

Recommendations Specific to the Chapter 18 Rewrite

The following recommendations were developed by CDAB during a special session held Sept. 9 and our regular session held Sept. 19. The recommendations were presented to Dekker/Perich/Sabatini for consideration during the rewrite process.

CDAB actions Sept. 19, 2022

By a vote of 5-0¹, CDAB approved a motion not to recommend including a time period in Section 18-34, Outdoor Storage in connection with allowing storage of materials to support home projects or other activities.

By a vote of 4-2 CDAB approved a motion to recommend striking Section 18-34, Outdoor Storage and instead rely on the provisions of Section 18-32, Accumulation of Litter, Garbage, and Refuse to regulate the accumulation of materials on properties.

By a vote of 6-0 CDAB approved a motion that recommends changing the language in Section 18-32, Accumulation of Litter, Garbage, and Refuse regarding when receptacles for litter, garbage, or refuse can be moved to the curb to be consistent with the language in Section 32-7, Placement and Management of Containers.

By a vote of 5-1 CDAB approved motions that recommended the proposed Alternative Language for Section 18-38, Inoperable or Abandoned Vehicles be adopted so that vehicle repairs and active vehicle restoration projects can be conducted on a driveway, that no time limit be imposed if the vehicle is registered, and that the clause "with an opaque cover designed to fit the motor vehicle" be removed from the text of the Alternative Language.

¹ Note: The meeting began with five members and a sixth joined later, after the first vote was taken.

By a vote of 4-2 CDAB approved a motion to recommend that “snow” not be explicitly called out in Section 18-31, Obstructive Vegetation.

Discussion: CDAB had suggested expanding this section to include obstructions other than vegetation and the question of snow removal came up. After some discussion CDAB held a vote on whether to include the issue of snow.

By a vote of 6-0 CDAB approved a motion that recommends eliminating Section 18-71c and to impose a cap on total possible fines.

Discussion: The Board was concerned that the accumulating fines could become excessive.

By a vote of 6-0 CDAB approved a motion that recommends restructuring the text of Section 18-71, Authority to Enter to better highlight that “the authority to enter shall not include the interiors of private parties, dwellings or living quarters, or the portions of commercial premises used as dwellings, or the non-public portions of commercial premises, except upon obtaining a search warrant, or permission of the occupant thereof”.

CDAB Actions Sept. 9, 2022

CDAB by a vote of 4 to 3 passed a motion that recommends elimination of Section 18-30, Sidewalks and Driveways

Discussion: Members noted in discussion the need to keep sidewalks and public rights of way free of obstructions and hazards, even if this section is removed.

CDAB by a vote of 4 to 3 passed a motion that recommends changing the title of Section 18-31 from Obstructive Vegetation to Right of Way Obstruction.

Discussion: Members felt this section could be broadened to include obstructions that were more than just vegetation. If Section 18-30 is eliminated it would be useful to incorporate some of its provisions into 18-31.

CDAB by a vote of 7 to 0 passed a motion that requests that the consultant Dekker/Perich/Sabatini provide CDAB at its Sept. 19, 2022, meeting a rewrite of Section 18-31 that incorporates language from Section 18-30 regarding maintaining public right of way in a safe and passable condition free from obstruction².

Discussion: The main issue brought up in this discussion was that 18-31 could be broadened to address more than just vegetative obstructions, specifically snow but also possibly landscaping materials (such as rocks) that might get scattered on a sidewalk or other public right of way and create an obstruction or hazard.

CDAB by a vote of 2 to 4 did not pass a motion that would have recommended eliminating Section 18-33, Outdoor Furniture.³

CDAB by a vote of 4 to 2 passed a motion that requests the consultant Dekker/Perich/Sabatini provide CDAB at its Sept. 19, 2022, meeting a rewrite of Section 18-34 that incorporates deteriorated furniture items⁴.

Discussion: The notion behind this was that if deteriorated furniture items were captured in 18-34, Outdoor Storage, it would eliminate the need to regulate them under

² Note: CDAB did not receive any rewritten text per this request.

³ Note: One CDAB member dropped out of the Zoom meeting so we were left with six voting members.

⁴ Note: CDAB did not receive any rewritten text per this request.

18-33. It implies the issue isn't necessarily using indoor furniture outdoors, but the condition of furniture being used outdoors that should be the driving factor.

CDAB by a vote of 4 to 2 passed a motion that recommends removing the word "junk" from Section 18-34, Outdoor Storage.

Discussion: Members were concerned that using the term "junk," according to the definition provided, does not allow for any secondhand or used materials to be kept on private property for possible future use.

CDAB by a vote of 4 to 1 passed a motion that recommends removing the words "heavy equipment" from Section 18-34, Outdoor Storage.⁵

Discussion: Board members were sympathetic to concerns that some small businesses have no place to store heavy equipment other than at their private property.

CDAB by a vote of 3 to 3 stalemated on a motion to move from Section 18-34, Outdoor Storage to Section 18-31, Obstructive Vegetation the paragraph on tents or canopies and modify the language so that they not be permitted to block public right of way (vs. be visible from the public right of way).

CDAB by a vote of 2 to 4 did not pass a motion that would have recommended modifying Section 18-34, Outdoor Storage to allow up to 10 percent of a carport's footprint to be used for storage, provided the storage was neat and orderly, on properties without a garage or other storage facility.

Discussion: CDAB members opposed to the motion worried how the 10 percent requirement would be enforced and that "neat and orderly" was too subjective.

CDAB by a vote of 4 to 2 passed a motion that recommends Section 18-34, Outdoor Storage be modified to allow for the accumulation and storage of materials in carports or elsewhere on properties that do not have a garage or carport.⁶

Discussion: CDAB members opposed to the motion worried that as worded this would not put any restrictions on what was stored in a carport or how it looked.

CDAB Recommendations from July 18, 2022 Meeting

By a vote of 5-0 CDAB members approved a recommendation that CDAB not involve itself in any dispute between a property owner and CDD.

Discussion: CDAB should be a conduit for public input and awareness, as specified in its charter, but to play an Ombuds or other type of role in mediating disputes between citizens and the County could create legal headaches for CDAB members and possibly create an adversarial (vs. advisory) relationship between the Board and the County. It is a role best avoided as a formal body.

By a vote of 5-0 CDAB approved a recommendation directed to CDD that the Chapter 18 sections that address sidewalks include a provision that shrubs or other foliage or objects be maintained along the sidewalk edge so as not to impede any users of the sidewalk. CDAB further recommended that the grade at the sidewalk edge not be so low that it presents a serious tripping hazard.

⁵ Note: Due to technical issues one member lost connection to the meeting during this vote.

⁶ Note: Several of the recommendations regarding Section 18-34 were superseded by an action taken Sept. 19 regarding striking this section.

By a vote of 4-1 CDAB recommended to CDD that the Chapter 18 sections that address outdoor storage provide some accommodation for properties with severely limited storage space. Furthermore, CDAB recommended to CDD that outdoor storage that neither presents a risk to public safety nor is subject to being distributed by wind, wildlife, or other natural forces shall not be in violation.

Discussion: The final part of this recommendation drew concern from the Council Liaison. In hindsight, we recognized that had we reviewed recommendations from the sub-quorum working group in a different order we may have ended up with a different result. By voting on this recommendation first we precluded a discussion and vote on an alternative, less far-reaching version.

Other Pertinent CDAB Discussions

CDAB discussed but chose not to make any recommendation regarding neighborhood-specific code requirements

One could make an argument for different requirements for more rural parts of the County such as La Senda and Pajarito Acres, but in considering whether to create different requirements for, say, the Denver Steels area versus the Western area the discussion quickly ran into the difficulties of such an arrangement, especially when it comes to enforcement. How can you rationally argue that two adjacent property owners of different side of a neighborhood “boundary” are subject to different requirements?

Anonymous Complaint System

CDAB explored a concern whether the anonymous reporting system would allow residents to target or harass neighbors. A review of historical data convinced CDAB members that the hybrid reporting system was working well: there was no evidence of abuse by allowing citizens to register complaints anonymously. It also was evident that if the complaint was unwarranted, the Enforcement Officer would note this and close the complaint as such.

Vacant Building Ordinance

CDAB at its January 2022 meeting passed a motion recommending that the County create an ordinance for vacant commercial buildings. CDAB did not take a position on the language in the draft vacant building ordinance that was presented to Council at that time.