

**CITY of ALBUQUERQUE
TWENTY-SECOND COUNCIL**

COUNCIL BILL NO. C/S(2) O-17-34 ENACTMENT NO. O-2017-011

SPONSORED BY: Don Harris and Patrick Davis

1 ORDINANCE

**2 ADOPTING A NEW ARTICLE IN CHAPTER 14 ROA 1994, ZONING, PLANNING
3 AND BUILDING, TO BE KNOWN AS THE "DILAPIDATED COMMERCIAL
4 BUILDINGS AND PROPERTIES ORDINANCE", INITIATING A PILOT PROJECT.**

**5 WHEREAS, dilapidated commercial buildings and properties are often
6 vacant and unattended to by responsible parties which tends to hasten further
7 dilapidation if unchecked by the City; and**

**8 WHEREAS, dilapidated commercial buildings and properties often exist in
9 highly visible locations because of their past and future potential for
10 commercial viability, and can significantly contribute to blight within the City;
11 and**

**12 WHEREAS, dilapidated commercial buildings and properties present
13 general health, safety, and welfare concerns for the City because of dangerous
14 physical deterioration, by providing potential venues for illicit activity, and by
15 negatively impacting surrounding property values and economic development
16 opportunities; and**

**17 WHEREAS, monitoring and enforcing existing zoning rules against
18 dilapidated commercial buildings and properties presents several challenges
19 including limited enforcement options and resource constraints; and**

**20 WHEREAS, establishing a dilapidated commercial building and property
21 ordinance will help responsible parties and city zoning enforcement alike
22 identify specific requirements for remediation and work together toward such
23 remediation for the betterment of the community; and**

**24 WHEREAS, establishing a pilot project area within the City for a dilapidated
25 commercial building and property ordinance will help limit the initial impact on**

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1 city resources and help identify challenges or restraints to enforcement that
2 may be mitigated before establishing city-wide requirements; and

3 WHEREAS, southeast Albuquerque has many strengths and opportunities
4 that are presently limited in part by large, often vacant or abandoned,
5 dilapidated buildings and properties, and is an appropriate area within which
6 to initiate a pilot program for a dilapidated commercial building ordinance.

7 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
8 ALBUQUERQUE:

9 SECTION 1. A new article §14-20 of ROA 1994 is hereby adopted as follows:

10 "§14-20-1 SHORT TITLE.

11 SECTION §14-20 ROA 1994 shall be known and cited as the "Dilapidated
12 Commercial Buildings and Properties Ordinance".

13 § 14-20-2 APPLICABILITY; PILOT PROGRAM.

14 This Article adopts a pilot program to help remediate dilapidated commercial
15 buildings and properties as defined by subparagraph 14-20-4 within areas of
16 the City covered by City Council Districts six and nine.

17 § 14-20-3 INTENT AND PURPOSES.

18 The intent of this Article §14-20 et seq. is to provide minimum aesthetic
19 standards and maintenance standards for dilapidated nonresidential
20 structures and properties, to prevent such structures and properties from
21 contributing to blight and negatively impacting surrounding property values
22 and redevelopment or economic development efforts, and to establish a pilot
23 program to be reviewed 24 months from the date of enactment.

24 § 14-20-4 DEFINITIONS.

25 DILAPIDATED COMMERCIAL BUILDING OR PROPERTY: For purposes of this
26 Section, any non-residential building or property which exhibits one or more
27 characteristic of dilapidation, including but not limited to:

28 A. Overgrowth of fugitive plant materials including grasses or invasive
29 trees; or landscaping that is otherwise non-compliant with the requirements of
30 the zoning code, Section §14-16-3-10 (D)(3) and the Albuquerque Weed and
31 Anti-Litter Ordinance, Section 9-8-1 ROA 1994;

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1 **B. Unsecure, loose, or broken building façades, treatments, fixtures,**
2 **signs (including freestanding signs) or other façade features affecting more**
3 **than 15% of the façade or sign area;**

4 **C. Peeling or flaking paint, and any other significant deterioration of**
5 **building surface treatments affecting more than 15% of the facade;**

6 **D. Broken windows or building entrances, or any other characteristics**
7 **demonstrating a lack of security or access control to the property, building or**
8 **buildings at the site;**

9 **E. Unabated vandalism or graffiti;**

10 **F. Outdoor lighting that is no longer compliant with the minimum**
11 **requirements of the zoning code;**

12 **G. Broken pavement, interior sidewalks or pedestrian connections;**
13 **unsealed cracks exceeding 2 feet in length and 1 inch in width, or potholes**
14 **exceeding one (1) square foot in area within off-street parking areas; or**

15 **H. Unabated trespass, or police calls for service that are unrelated to**
16 **any lawful use or business establishment at the location.**

17 **RESPONSIBLE PARTY The owner(s) of any building or property subject to this**
18 **Ordinance, or any other party responsible for such building or property by**
19 **way lawful tenancy, management, agency, or otherwise.**

20 **§ 14-20-5 DILAPIDATED COMMERCIAL BUILDINGS PROHIBITED.**

21 **A. No responsible party shall permit any building or property to become**
22 **or remain a dilapidated commercial building or property within the area of the**
23 **City covered by this Article.**

24 **§ 14-20-6 COMPLIANCE & REMEDIATION.**

25 **A. Initial Focus. The Planning Department shall identify dilapidated**
26 **buildings or properties within the area of the City covered by this Article and**
27 **perform an inspection to itemize the conditions that constitute a dilapidated**
28 **commercial building or property as proscribed by this Article. Initial**
29 **inspections should be prioritized to address the largest and/or most**
30 **dilapidated buildings or properties first.**

31 **B. Remediation. The responsible party shall remediate or abate the**
32 **conditions identified in an initial written notice within 60 days (such 60-day**
33 **period hereafter shall be referred to as “Compliance Period”). This**

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1 Compliance Period may be reduced or eliminated by the Planning Department
2 should it appear to be a matter of public necessity for health and safety
3 reasons, and the Department is authorized to take immediate action to abate
4 such reasons.

5 C. If it is not possible, or if the responsible party declines or is
6 unsuccessful in fully remediating or abating the conditions creating a
7 dilapidated commercial building or property within the Compliance Period set
8 forth in Section 2 above, the responsible party shall:

9 1. Register the building or property with the Planning
10 Department through forms provided by the Department within 20 days of
11 expiration of the Compliance Period. The registration form shall at a minimum
12 require a description of the location and address of the building, and the
13 name, street address and telephone number of the responsible party. The
14 Planning Department shall collect a registration fee of \$500 for each initial
15 registration, but the Planning Director may reduce or waive this fee if it is
16 determined that substantial efforts have been made to bring the property into
17 compliance; and

18 2. Provide a written plan for how the property will be brought into
19 compliance with this ordinance within a six-month period, or longer if deemed
20 appropriate by the Planning Director or designee. The Planning Department
21 shall make property owners aware of incentives and fee reductions (e.g.
22 impact fee waivers for redevelopment, façade improvement programs) that are
23 enabled in Metropolitan Redevelopment Areas under the Metropolitan
24 Redevelopment Act, if applicable.

25 D. The Planning Department shall reinitiate the process prescribed by
26 this subsection as necessary at any time or move directly to the enforcement
27 and penalties procedures described in Section 14-20-7, or otherwise take
28 enforcement action as authorized by any Section of the Zoning Code.

29 **§ 14-20-7 ENFORCEMENT AND PENALTIES.**

30 A. If the building or property is not successfully remediated or made
31 compliant pursuant to the process set forth in Section 14-20-6 above, the
32 responsible party is subject to:

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- 1 1. The penalty provisions set forth in § 1-1-99 of this code of
2 ordinances; each day of violation is considered a separate offense; and
- 3 2. Instead of or in addition to the penalty provision set forth in §
4 1-1-99, the City acting through the City Attorney, is hereby authorized to file an
5 action in a court of competent jurisdiction as a means of compelling
6 compliance with this Ordinance, including compliance with those sections
7 cross referenced within the Zoning Code, to:
- 8 a. Enjoin any person from violating or threatening to
9 violate the terms, conditions and restrictions of this ordinance;
- 10 b. Collect civil assessments against the property of \$500
11 per day for every day the property remains or remained in violation of this
12 Section after the expiration of the Compliance Period or any extensions
13 granted by the Planning Department identified in the written notice(s) sent by
14 the Department; and
- 15 c. Recover damages from the owner of a building or
16 property in an amount of money adequate for the City to undertake any
17 construction remediation, cleanup, or other activity necessary to bring about
18 compliance with this ordinance.
- 19 B. In addition to judicial remedies, any expenditure by the City to bring the
20 building or property into compliance, or any damages or assessments are
21 recoverable through the imposition of a municipal lien on the parcel under
22 NMSA 1978, § § 3-36-1 to 3-36-5. To the extent that monetary penalties are
23 recovered as a result of enforcement under this Section, any funds so
24 recovered shall be used exclusively for the purpose of funding enforcement
25 activities under this Section.
- 26 § 14-20-8 EXEMPTIONS. Buildings or properties which are on the National
27 Register of Historic Places, have been designated as Contributing Properties
28 to a Historic District on the National Register of Historic Places, or have been
29 designated by the City as City Landmarks are exempt from the requirements
30 of this ordinance.
- 31 § 14-20-9 EVALUATION OF PROGRAM. Upon the expiration of 24 months from
32 the date of enactment, the Planning Department shall report to the City
33 Council regarding the process and effectiveness of this pilot enforcement

1 project, to include recommendations for adding or amending regulations and
2 procedures described herein based on the results of initial implementation.
3 The City Council shall analyze the effectiveness of this Article at that time and
4 determine whether to repeal the program, expand it to other areas, or make
5 other changes to this Ordinance.”

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

13 SECTION 3. COMPILATION. SECTION 1 of this Ordinance shall be
14 incorporated in and made part of the Revised Ordinances of Albuquerque,
15 New Mexico, 1994.

16 SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect five days
17 after publication by title and general summary.

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1 PASSED AND ADOPTED THIS 17th DAY OF April, 2017
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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Isaac Benton, President
City Council

APPROVED THIS 3rd DAY OF May, 2017

Bill No. C/S(2) O-17-34


Richard J. Berry, Mayor
City of Albuquerque

ATTEST:


Natalie Y. Howard, City Clerk

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