

**CITY of ALBUQUERQUE
TWENTY-THIRD COUNCIL**

COUNCIL BILL NO. C/S O-18-21 ENACTMENT NO. 0-2018-025

SPONSORED BY: Diane G. Gibson

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ORDINANCE

**AMENDING THE UNIFORM HOUSING CODE, SECTIONS 14-3-1-1 THROUGH
14-3-5-99 ROA 1994, RELATING TO MINIMUM DWELLING SAFETY AND
SANITATION STANDARDS, IDENTIFICATION OF HAZARDOUS DWELLING
CONDITIONS, NUISANCE ABATEMENT, ADMINISTRATION AND
ENFORCEMENT.**

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

Section 1. FINDINGS.

**(A) The "Uniform Housing Code" provides minimum standards to
safeguard public welfare by regulating the occupancy and maintenance of all
buildings and structures within the City of Albuquerque;**

**(B) The "Uniform Housing Code" requires periodic updates to conform to
new conditions and updated building safety standards;**

**(C) The Council created the Vacant and Abandoned Houses Task Force in
September 2017, to explore options and make recommendations for
addressing vacant and abandoned houses within the City of Albuquerque;**

**(D) The Vacant and Abandoned Houses Task Force recommended a
revision and update of the "Uniform Housing Code";**

**(E) The City of Albuquerque expended \$1,636,362 in GF from FY 14 through
FY 18 in demolitions, board-ups and clean-ups of vacant, abandoned or
substandard properties;**

**(F) Recovered costs and fees provide funding for rehabilitation and
nuisance abatement of vacant, abandoned or substandard properties;**

1 (G) The Council is amending the "Uniform Housing Code" in response to
2 the changing needs of the City of Albuquerque and pursuant to the
3 recommendations of the Vacant and Abandoned Houses Task Force.

4 Section 2. Sections 14-3-1-1 through 14-3-5-99 ROA 1994 are amended as
5 follows:

6 **"PART 1: GENERAL PROVISIONS**

7 **§ 14-3-1-1 SHORT TITLE.**

8 This article shall be known as the "Uniform Housing Code," may be cited as
9 such, and will be referred to herein as "this code."

10 **§ 14-3-1-2 PURPOSE.**

11 The purpose of this code is to provide minimum standards to safeguard life
12 or limb, health, property, safety, and public welfare by regulating and
13 controlling the occupancy level and maintenance of all buildings and
14 structures within this jurisdiction.

15 **§ 14-3-1-3 SCOPE.**

16 **(A) Application.**

17 (1) The provisions of this code shall apply to all buildings or portions
18 thereof used, designed or intended to be used for human habitation.
19 Occupancies in existing buildings may be continued as provided in Section
20 102.3 of the Uniform Administrative Code, except such structures as are found
21 to be substandard as defined in this code.

22 (2) Where any building or portion thereof is used or intended to be
23 used as a combination multi-family dwelling hotel, the provisions of this code
24 shall apply to the separate portions as if they were separate buildings.

25 **(B) Alteration.** Existing buildings which are altered, enlarged or repaired
26 shall be made to conform to this code insofar as the new work is concerned
27 and in accordance with Section 102.3 of the Uniform Administrative Code.

28 **(C) Relocation.** Residential buildings or structures moved into or within
29 this jurisdiction shall comply with the requirements of this code and Section
30 102.5 of the Uniform Administrative Code.

31 **§ 14-3-1-4 DEFINITIONS.**

1 **For the purpose of this code, certain terms, phrases, words and their**
2 **derivatives shall be construed as specified in either this chapter or as**
3 **specified in the Building Code. Where terms are not defined, they shall have**
4 **their ordinary accepted meanings within the context with which they are used.**
5 **Words in the singular include the plural and the plural the singular. Words**
6 **used in the masculine gender include the feminine and the masculine. All**
7 **citations and references to other codes, ordinances, statutes or regulations**
8 **thereto shall be construed to include any amendments or modifications**
9 **thereof.**

10 **ABANDONED PROPERTY. Any vacant building or a building where its**
11 **principal use has ceased and which no longer has any function or use and**
12 **which may have its doors and windows boarded up and may be frequented by**
13 **persons who are not legal occupants of such structure and absence of owner**
14 **or responsible party is not known. For those and other reasons this property**
15 **may have a substantial adverse effect on its immediate neighborhood.**

16 **AGENT. An entity or a person who is authorized by the owner of a**
17 **residential property to act for him or her in their place. An agent may be**
18 **named as the Responsible Party.**

19 **APPROVED. Approved, as to materials, types of construction, equipment**
20 **and systems, refers to approval by the Building Official as the result of**
21 **investigation and tests conducted by him, or by reason of accepted principles**
22 **or tests by recognized authorities or scientific organizations.**

23 **BUILDING CODE. The City's currently adopted version of the New Mexico**
24 **Commercial Building and Residential Building Code.**

25 **BUILDING OFFICIAL. The authorized City of Albuquerque employee**
26 **directed to enforce all the provisions of the City of Albuquerque's Uniform**
27 **Administrative Code (UAC) and Technical Codes as outlined in section 105 in**
28 **the UAC.**

29 **CHIEF ADMINISTRATIVE OFFICER (CAO). The Chief Administrative Officer**
30 **of the City.**

31 **CITY (THE). The City of Albuquerque.**

1 **DEPARTMENT.** The Department tasked by the Mayor with the
2 administration and enforcement of this code or any Department that may be
3 subsequently charged with the responsibility of the enforcement of this code.

4 **DIRECTOR.** The legally designated head of the Department, or any
5 Department that may be subsequently charged with the responsibility of the
6 enforcement of this code.

7 **DWELLING.** A building or portion thereof which contains not more than 2
8 dwelling units. This term includes any structure being used for human
9 habitation no matter the intended use of the structure at the time of its design
10 and construction.

11 **DWELLING UNIT.** One or more connected rooms and a kitchen designed
12 for and occupied by no more than one family for living and sleeping purposes,
13 permanently installed on a permanent foundation and meeting the
14 requirements of this code and the respective sections of the Uniform
15 Administrative Code, as of the date of the unit's construction. This term
16 includes any structure being used as a dwelling unit, as defined herein, for
17 human habitation.

18 **EFFICIENCY DWELLING UNIT.** A dwelling unit containing only 1 habitable
19 room and meeting the requirements of § 14-3-2-1(D).

20 **HABITABLE SPACE (ROOM).** A space in a structure for living, sleeping,
21 eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or
22 utility space and similar areas are not considered habitable space.

23 **HOTEL/MOTEL.** A building or a group of buildings in which sleeping
24 accommodations are offered to the public and intended primarily for rental for
25 temporary occupancy by persons on an overnight basis, not including Bed
26 and Breakfast establishments.

27 **HOT WATER.** Hot water supplied to plumbing fixtures at a temperature of
28 not less than 110° F.

29 **HOUSEHOLD.** All the individuals who occupy a dwelling unit. A household
30 includes the related family members and all the unrelated individuals, if any,
31 such as lodgers, foster children, wards, or employees who share the housing
32 unit. A person living alone in a dwelling unit, or a group of unrelated people

1 sharing a dwelling unit such as partners or roommates, is also counted as a
2 household.

3 **IMMINENT HAZARD.** A situation that demands unusual or immediate
4 action and which requires the Department to circumvent usual procedures and
5 warrant requirements in order to protect a person's health, safety, and life
6 from harm.

7 **IN PERSONAM.** Any civil or administrative action taken against a person,
8 corporation, trust, or similar entity.

9 **IN REM.** Any civil or administrative action taken against real or tangible
10 property.

11 **INSPECTOR.** Any City employee tasked with the enforcement of this code
12 or any subsequent position charged with the responsibility of making
13 inspections to enforce the provisions of the Housing Code adopted by this
14 jurisdiction.

15 **LAND BANK.** A public or a nonprofit entity specializing in the acquisition
16 of vacant or abandoned properties, with the intention of repurposing these
17 properties to stabilize a neighborhood in accordance with community goals.

18 **LOCAL PROPERTY MANAGEMENT COMPANY.** A company and/or an
19 appointed individual that is either based in or maintains an office in the State
20 of New Mexico.

21 **MECHANICAL CODE.** The City's currently adopted version of the New
22 Mexico Mechanical Code as outlined in the Uniform Administrative Code
23 (UAC).

24 **MOTEL/HOTEL.** A hotel as defined in this code.

25 **MULTI-FAMILY DWELLING.** A building, located on a single lot, containing 3
26 or more dwelling units, each of which is designed for or occupied by one
27 family only, with separate housekeeping and cooking facilities for each.

28 **NUISANCE.** The following shall be defined as nuisances:

29 (1) Any public or attractive nuisance known at common law or in
30 equity jurisprudence.

1 (2) Any public or attractive nuisance which may prove detrimental to
2 the public whether in a building, on the premises of a building, or upon an
3 unoccupied lot, including, but not limited to:

4 (a) abandoned wells, shafts, basements or excavations;

5 (b) abandoned refrigerators/freezers;

6 (c) structurally unsound fences or structures;

7 (d) lumber, trash, debris or weeds;

8 (e) abandoned or partially destroyed vehicles;

9 (3) Overcrowding a room with occupants.

10 (4) Insufficient ventilation or illumination.

11 (5) Inadequate or unsanitary sewage or plumbing facilities.

12 (6) Any violation of the housing standards and licensing requirements
13 set forth in this code.

14 **OWNER.** Any person who alone, jointly or severally with others, has legal
15 title to any premises, or dwelling units, with or without accompanying actual
16 possession thereof.

17 **PROPERTY MANAGER.** A broker, as defined by the NM State Real Estate
18 Commission, or an agent or employee of the property owner who, for a fee,
19 salary, commission or other valuable consideration, is engaged in managing
20 property for others. A residential property manager is, by virtue of a written
21 agency agreement, an agent of the owner(s) of the property for the purpose of
22 performing the obligations of the owner(s) under the Uniform Owner-Resident
23 Relations Act and/or under the rental or lease agreement.

24 **RELOCATION AGENCY.** Includes those employees of the Department of
25 Family and Community Services or persons under contract with the
26 Department of Family and Community Services responsible for implementing
27 the provisions of Ordinance 21-2007 (§ 14-3-5-16 ROA 1994).

28 **RELOCATION COSTS.** The expenses reasonably incurred by a resident
29 displaced from a residential building pursuant to action of the City of
30 Albuquerque. Relocation costs shall be up to \$2,000 per household.

31 **RENTAL AGREEMENT.** Any written or oral agreement allowing occupancy
32 of all or a portion of a residential building by a resident.

1 **RENTAL PROPERTY.** A structure or part of a structure used as a home,
2 residence or sleeping unit by a single person or household; or any grounds or
3 other facilities or area promised for the use of a residential tenant and
4 includes, but without limitation, apartment units, boarding houses, rooming
5 houses, mobile home spaces, and single and 2-family dwellings. The person
6 or household has a rental agreement with the owner of the property. This
7 definition shall not apply to short-term/vacation rentals of 29 days or less,
8 hotels/motels, campgrounds, and bed & breakfasts.

9 **RESIDENT.** One or more people entitled under a rental agreement to
10 occupy all or a portion of a residential building to the exclusion of others and
11 who actually reside(s) at such location.

12 **RESIDENTIAL BUILDING.** A building or portion thereof designed or being
13 used for human habitation.

14 **RESPONSIBLE PARTY.** The property owner or person or entity who has the
15 authority from the owner or through a legal proceeding to make decisions
16 concerning the property, can make required expenditures pertaining to the
17 property and take legal responsibility for that property, including but not
18 limited to accepting legal service on behalf of the owner.

19 **SECURED.** Is a structure that is protected against unlawful entry by means
20 of locked doors and windows or the boarding of openings.

21 **SERIOUS VIOLATION.** A violation of a State of New Mexico law or this code
22 or other applicable code(s) that poses an imminent threat to the health and
23 safety of the dwelling occupant, occupants in surrounding structures nearby
24 or passerby.

25 **SHORT-TERM/VACATION RENTAL.** With the exception of hotels and
26 motels, campgrounds, bed & breakfasts, the rental of real property for a period
27 of 29 days or less.

28 **STRUCTURE.** Anything constructed or erected above ground level that
29 requires location on the ground or attached to something having a location on
30 the ground but not including a tent, vehicle, vegetation, or public utility pole or
31 line.

1 **SUBSTANDARD DWELLING.** Any building or portion thereof, including any
2 dwelling unit, guest room or suite of rooms, or the premises on which the
3 same is located, in which there exists any of the following conditions [set forth
4 in §§ 14-3-4-2, et seq.] to an extent that endangers the life, limb, health,
5 property, safety or public welfare or the occupants thereof.

6 **SUBSTANTIAL STEP.** An affirmative action, as determined by an inspector
7 or administrative court official, on the part of the property owner or
8 responsible party to remedy a serious violation, but not limited to, physical
9 improvements and/or repairs to the property, and/or securing the property
10 against trespassers.

11 **SUPERFICIAL FLOOR AREA.** The floor area that is obviously or apparently
12 used for habitable space.

13 **UNIFORM ADMINISTRATIVE CODE.** The provisions or code adopted by the
14 City of Albuquerque that shall serve as the administrative, organizational and
15 enforcement rules and regulations for the Technical Codes which regulate the
16 site preparation and construction, alteration, moving, demolition, repair, use
17 and occupancy of buildings, structures and building service equipment within
18 this jurisdiction and interpreted and enforced by the Building Official.

19 **VACANT BUILDING.** A dwelling, dwelling unit, efficiency dwelling unit,
20 habitable space, residential building, or structure lacking the continuous
21 habitual presence of human beings who have a legal right to be on the
22 premises for a period of 90 days or longer but excluding property under a
23 listing agreement with a real estate agent licensed in New Mexico.

24 **PART 2: SPACE AND OCCUPANCY STANDARDS**

25 **§ 14-3-2-1 ROOM DIMENSIONS.**

26 **(A) Ceiling Heights.**

27 **(1)** Habitable space shall have a ceiling height of not less than 7 feet 6
28 inches except as otherwise permitted in §§ 14-3-2-1 et seq. Kitchens, halls,
29 bathrooms and toilet compartments shall have a ceiling height of not less than
30 7 feet measured to the lowest part of the ceiling. Where exposed beam ceiling
31 members are spaced at less than 48 inches on center, ceiling height shall be
32 measured to the bottom of these members. Where exposed beam ceiling

1 members are spaced at 48 inches on center, ceiling height shall be measured
2 to the bottom of the deck supported by these members, provided that the
3 bottom of the members is not less than 7 feet above the floor.

4 (2) If any room in the building has a sloping ceiling, the prescribed
5 ceiling height for the room is required in only one-half the area thereof. No
6 portion of the room measuring less than 5 feet from the finished floor to the
7 finished ceiling shall be included in any computation of the minimum area
8 thereof.

9 (3) If any room has a furred ceiling, the prescribed ceiling height is
10 required in 2/3 the area thereof, but in no case shall the height of the furred
11 ceiling be less than 7 feet.

12 (B) Floor Space.

13 (1) Every dwelling unit shall contain at least 150 square feet of floor
14 space for the first occupant thereof and at least 100 additional square feet of
15 floor space for every additional occupant thereof, the floor space to be
16 calculated on the basis of total habitable room area.

17 (2) In every dwelling unit of 2 or more rooms, every room occupied for
18 sleeping purposes by 1 occupant shall contain at least 70 square feet of floor
19 space, and every room occupied for sleeping purposes by more than 1
20 occupant shall contain at least 45 square feet of floor space for each occupant
21 thereof.

22 (C) Width.

23 (1) No habitable room other than a kitchen shall be less than 7 feet in
24 any dimension.

25 (2) Each toilet compartment stool shall be located in a clear space not
26 less than thirty (30) inches in width and clear space in front of the toilet
27 compartment stool of not less than twenty-four (24) inches shall be provided.

28 (D) Exception. Nothing in §§ 14-3-2-1 et seq. shall prohibit the use of an
29 efficiency living unit within a multi-family dwelling meeting the following
30 requirements:

31 (1) The unit shall have a living room of not less than two hundred and
32 twenty (220) square feet of superficial floor area. An additional one hundred

1 (100) square feet of superficial floor area shall be provided for each occupant
2 of such unit in excess of 2 occupants.

3 (2) The unit shall be provided with a separate closet.

4 (3) The unit shall be provided with a kitchen sink, cooking appliance
5 and refrigeration facilities, each having a clear working space of not less than
6 30 inches in front. Light and ventilation conforming to this code shall be
7 provided.

8 (4) The unit shall be provided with separate bathroom containing a
9 toilet compartment, lavatory and bathtub or shower.

10 **§ 14-3-2-2 LIGHT AND VENTILATION.**

11 **(A) Natural Light and Ventilation.**

12 (1) All guest rooms, dormitories and habitable rooms within a dwelling
13 unit shall be provided with natural light by means of exterior glazed openings
14 with an area not less than 1/10 of the floor area of such rooms with a minimum
15 of ten (10) square feet. All bathrooms, toilet compartment, laundry rooms and
16 similar rooms shall be provided with natural ventilation by means of openable
17 exterior openings with an area not less than 1/20 of the floor area of such
18 rooms with a minimum of 1½ square feet.

19 (2) All guest rooms, dormitories and habitable rooms within a dwelling
20 unit shall be provided with natural ventilation by means of openable exterior
21 openings with an area of not less than 1/20 of the floor area of such rooms
22 with a minimum of 5 square feet.

23 **(B) Origin of Light and Ventilation.**

24 (1) Required exterior openings for natural light and ventilation shall
25 open directly onto a street, public alley, a yard or a courtyard located on the
26 same lot as the building.

27 **(2) Exception.**

28 (a) Required windows may open into a roofed porch where the
29 porch:

- 30 1. Abuts a street, public alley, a yard, or a courtyard;
- 31 2. Has a ceiling height of not less than 7 feet; and

1 **3. Has the longer side at least sixty-five (65) percent open and**
2 **unobstructed.**

3 **(3) For the purpose of determining light and ventilation requirements,**
4 **any room may be considered as a portion of an adjoining room when 1/2 of the**
5 **area of the common wall is open and unobstructed and provides an opening**
6 **of not less than 1/10 of the floor area of the interior room or twenty-five (25)**
7 **square feet, whichever is greater.**

8 **(C) Mechanical Ventilation. In lieu of required exterior openings for**
9 **natural ventilation, a mechanical ventilation system may be provided in all**
10 **guest rooms, dormitories, habitable rooms and public corridors. In**
11 **bathrooms, toilet compartment, laundry rooms and similar rooms a**
12 **mechanical ventilation system connected directly to the outside shall be**
13 **provided.**

14 **§ 14-3-2-3 SANITATION.**

15 **(A) Dwelling Units. Every dwelling unit shall be provided with a**
16 **bathroom equipped with facilities consisting of a toilet compartment, lavatory**
17 **and either a bathtub or shower.**

18 **(B) Kitchen. Each dwelling unit shall be provided with a kitchen. Every**
19 **kitchen shall be provided with a kitchen sink. Wooden sinks or sinks of**
20 **similarly absorbent material shall not be permitted.**

21 **(C) Fixtures.**

22 **(1) All plumbing fixtures shall be connected to a sanitary sewer or to**
23 **an approved private sewage disposal system. All plumbing fixtures shall be**
24 **connected to an approved system of water supply and provided with hot and**
25 **cold running water necessary for its normal operation.**

26 **(2) All plumbing fixtures shall be of an approved glazed earthenware**
27 **type or of a similarly nonabsorbent material.**

28 **(D) Toilet Compartment. A Toilet Compartment in a dwelling shall be**
29 **finished with approved nonabsorbent materials. Bathroom floor surfaces**
30 **shall be maintained so as to be reasonably impervious to water.**

31 **(E) Bathroom or Shower Accessories. All accessories such as grab bars,**
32 **towel bars, paper dispensers and soap dishes and the like, provided on or**

1 within walls, shall be installed and sealed to protect structural elements from
2 moisture.

3 (F) Showers. Showers in all occupancies shall be finished to a height of
4 not less than 70 inches above the drain inlet. Materials other than structural
5 elements used in such walls shall be of a type which is not adversely affected
6 by moisture.

7 (G) Room Separations. Every toilet compartment, bathtub or shower
8 required by this code shall be installed in a room which will afford privacy to
9 the occupant. A room in which a toilet compartment is located shall be
10 separated from food preparation or storage rooms by a tight-fitting door.

11 (H) Installation and Maintenance. All sanitary facilities shall be installed
12 and maintained in a safe and sanitary condition and in accordance with all
13 applicable laws.

14 PART 3: GENERAL REQUIREMENTS

15 § 14-3-3-1 STRUCTURAL REQUIREMENTS.

16 (A) General. Buildings or structures may be of any type of construction
17 permitted by the Building Code. Roofs, floors, walls, foundations and all other
18 structural components of buildings shall be capable of resisting any and all
19 forces and loads to which they may be subjected. All structural elements shall
20 be proportioned and joined in accordance with the stress limitations and
21 design criteria as specified in the appropriate sections of the Building
22 Code. Buildings of every permitted type of construction shall comply with the
23 applicable requirements of the Building Code as determined by the Chief
24 Building Official.

25 (B) Shelter. Every building shall be weather protected so as to provide
26 shelter for the occupants against the elements and to exclude dampness.

27 (C) Protection of Materials. All wood shall be protected against termite
28 damage and decay as provided in the Building Code.

29 § 14-3-3-2 MECHANICAL REQUIREMENTS.

30 (A) Heating and Ventilation.

31 (1) Heating.

1 (a) Every dwelling unit and guest room shall be provided with
2 heating facilities capable of maintaining a room temperature of 68° F. at a
3 point of 3 feet above the floor in all habitable rooms. Such facilities shall be
4 installed and maintained in a safe condition and in accordance with the City's
5 currently adopted New Mexico Mechanical Code as adopted in the UAC.

6 (b) Unvented fuel-burning heaters shall not be permitted. All heating
7 devices or appliances shall be of an approved type. Ovens, stoves or ranges,
8 or other cooking appliances shall not be used for the purpose of heating any
9 portion of a dwelling. Approved portable space heaters may only be used as
10 the sole source of heating on a temporary basis when the permanent heating
11 system is being repaired or replaced.

12 (2) Electrical Equipment.

13 (a) All electrical equipment, wiring and appliances shall be installed
14 and maintained in a safe manner in accordance with all applicable laws. All
15 electrical equipment shall be of an approved type.

16 (b) Every habitable room shall contain at least 2 supplied electric
17 convenience outlets or 1 such convenience outlet and 1 supplied electric light
18 fixture. Every toilet compartment, bathroom, laundry room, furnace room and
19 public hallway shall contain at least 1 supplied electric light fixture.

20 (3) Ventilation. Ventilation for rooms and areas and for approved fuel-
21 burning appliances shall be provided as required in the Mechanical Code and
22 in this code. Where mechanical ventilation is provided in lieu of the natural
23 ventilation required by § 14-3-2-2(C), such mechanical ventilating system shall
24 be maintained in operation during the occupancy of any building or portion
25 thereof.

26 § 14-3-3-3 EXITS.

27 (A) Every dwelling unit or guest room shall have access directly to the
28 outside or to a public corridor.

29 (B) Every sleeping room below the fourth story shall have at least 1
30 operable window or exterior door approved for emergency escape or rescue.
31 The units shall be operable from the inside to provide a full clear opening
32 without the use of separate tools.

1 **(C) All escape or rescue windows from sleeping rooms shall have a**
2 **minimum net clear opening of 5.7 square feet. The minimum net clear opening**
3 **height dimension shall be twenty-four (24) inches. The minimum net clear**
4 **opening width dimension shall be twenty (20) inches. Where windows are**
5 **provided as a means of egress or rescue they shall have a finished sill height**
6 **not more than forty-four (44) inches above the floor.**

7 **PART 4: SUBSTANDARD BUILDINGS**

8 **§ 14-3-4-1 SUBSTANDARD BUILDING.**

9 **(A) No person shall occupy and no owner or operator of a dwelling or**
10 **dwelling unit shall give consent to any person to occupy any dwelling,**
11 **dwelling unit or structure that is not maintained in a safe and sanitary manner.**
12 **Safe and sanitary means a condition free of visible dirt, debris, clutter,**
13 **rubbish, trash, human or animal waste and free from other substances,**
14 **contaminants, materials, or environmental conditions harmful to human**
15 **health.**

16 **(B) Emergency abatement.**

17 **(1) Notwithstanding any other provision in this code if, in the opinion of**
18 **the inspector, the conditions at a property constitute an imminent hazard, the**
19 **inspector may order immediate abatement of the hazard without notice. Such**
20 **abatement of an imminent hazard shall be limited to the minimum work**
21 **necessary to remove the hazard, and may include disconnection of utilities,**
22 **securing of the structures or emergency cleaning of the property to abate any**
23 **violations found.**

24 **(2) The city shall pay the cost and expense of such abatement from any**
25 **appropriation made available for that purpose.**

26 **(3) A lien shall be recorded with the Bernalillo County Clerk's Office for**
27 **all the costs incurred by the City as a result of abating the property.**

28 **(4) Whenever the inspector finds that any structure contains an**
29 **imminent hazard or health hazard, the inspector may declare such structure**
30 **unfit for human occupancy and order it to be vacated or to remain vacant. A**
31 **structure declared unfit for occupancy and ordered vacated or to remain**
32 **vacant under the provisions of this section shall not be leased, rented or**

1 occupied, until it has been inspected and deemed fit for occupancy by the city.
2 The city shall reinspect, for the purpose of re-occupancy, within three (3)
3 business days of the receipt of a written request by the owner, their agent or
4 responsible party.

5 **§ 14-3-4-2 INADEQUATE SANITATION. Includes but is not limited to the**
6 **following:**

7 (A) Lack of, or not properly operative toilet compartment, lavatory,
8 bathtub or shower in a dwelling unit.

9 (B) Lack of, or not properly operative toilet compartments, lavatories
10 and bathtubs or showers in a motel/hotel/bed&breakfast.

11 (C) Lack of, or not properly operative kitchen sink.

12 (D) Lack of hot and cold running water to plumbing fixtures in a
13 motel/hotel/bed&breakfast.

14 (E) Lack of hot and cold running water to plumbing fixtures in a
15 dwelling unit.

16 (F) Lack of, or not properly operative adequate heating facilities.

17 (G) Lack of, or improper operation of required ventilating equipment.

18 (H) Lack of minimum amounts of natural light and ventilation required
19 by this code.

20 (I) Lack of required room and space dimensions as defined by this
21 code.

22 (J) Lack of required electrical lighting.

23 (K) Lack of adequate weather protection that results in dampness of
24 habitable rooms.

25 (L) Lack of adequate maintenance or the presence of general
26 dilapidation.

27 (M) Lack of connection to required sewage disposal system or
28 approved septic system.

29 (N) Lack of 1 or more of the following services; electrical, gas, water,
30 sewer connection by an utility company or approved septic system.

31 **§ 14-3-4-3 STRUCTURAL HAZARDS. Structures that are determined to be a**
32 **hazard by the Building Official as directed by the provisions of the City of**

1 **Albuquerque's Uniform Administrative Code (UAC) and Technical Codes as**
2 **outlined in section 105 in the UAC.**

3 **(K) Every interior wall and ceiling is free of holes and large cracks.**
4 **Every interior wall and ceiling is free of loose plaster and other structural**
5 **material, the collapse of which might constitute an accident hazard. Plaster,**
6 **paint, and all other surface materials are of such character as to be easily**
7 **cleanable and are reasonably smooth, clean, and tight.**

8 **§ 14-3-4-4 NUISANCE. As defined in this section a nuisance includes:**

9 **(A) Unsecured doorways or window openings or holes in the exterior of**
10 **the building or structure that permit entry of unauthorized persons and**
11 **without a legal responsible party immediately available to take position of or**
12 **secure the structure.**

13 **(B) A building or structure has been found, upon reinspection, to be**
14 **vacant and unsecured, and either:**

15 **1. The inspector has issued at least 1 previous notice and order to**
16 **secure within the preceding twelve (12) months, or more than 3 notice and**
17 **orders to secure over any time frame; or**

18 **2. The inspector has secured the building or structure on at least 1**
19 **previous occasion within the preceding twelve (12) months, or more than 3**
20 **times over any time frame.**

21 **(C) Any property or condition meeting definition of a nuisance as**
22 **described under § 14-3-1-4 of this code.**

23 **§ 14-3-4-5 HAZARDOUS WIRING. Includes all wiring except that which**
24 **conformed with all applicable laws in effect at the time of installation and**
25 **which has been maintained in good condition and is being used in a safe**
26 **manner.**

27 **All dwellings and dwelling units shall be provided with electrical**
28 **service. Electrical facilities connected to or in any building or structure are to**
29 **be maintained hazard-free and in a state of good repair. The electrical system**
30 **shall be free from such hazards as bare wiring; overloaded circuits or**
31 **services; equipment not properly grounded; over-fused circuits; misuse of**
32 **wiring, including the use of extension cords in lieu of permanent wiring; non-**

1 approved wiring; and wiring exposed to moisture or extreme heat. Broken,
2 loose, frayed, inoperable, defective or missing portions of the electrical
3 service, lines, switches, outlets, fixtures and fixture coverings shall be
4 repaired or replaced.

5 **§ 14-3-4-6 HAZARDOUS PLUMBING.** Includes any plumbing that does not
6 conform to all applicable laws in effect at the time of installation and which
7 has been maintained in good condition and which is free of cross-connections
8 and siphonage between fixtures.

9 (A) All dwellings and dwelling units shall be provided with water service.
10 Water facilities connected to or in any building or structure are to be
11 maintained hazard-free and in a state of good repair. The water system shall
12 be free from such hazards with the connections free from leaks, blockages, or
13 other defects. All plumbing fixtures shall be connected to an approved system
14 of water supply and provided with hot and cold running water necessary for
15 its normal operation.

16 (B) All plumbing shall be connected to an approved sewer or septic
17 system and maintained and be in accordance with all applicable laws and
18 codes at the time of installation.

19 **§ 14-3-4-7 HAZARDOUS MECHANICAL EQUIPMENT.** Includes any mechanical
20 equipment that does not conform to all applicable laws and codes in effect at
21 the time of installation and which has been maintained in a good and safe
22 condition.

23 All dwellings and dwelling units that use gas shall be provided with
24 gas service. Gas facilities connected to or in any building or structure are to
25 be maintained hazard-free and in a state of good repair. All heating facilities
26 shall be free from health hazards associated with ventilation, mounting, and
27 gas connections and other defects. Unvented fuel-burning heaters must be of
28 a listed and approved type and are prohibited as the sole source of heating.
29 Ovens, stoves or ranges, or other cooking appliances shall not be used for the
30 purpose of heating any portion of a dwelling. Listed, approved portable space
31 heaters may only be used as the sole source of heating on a temporary basis
32 when the permanent heating system is being repaired or replaced.

1 **§ 14-3-4-8 INADEQUATE WEATHER PROTECTION. Includes but is not limited**
2 **to the following:**

3 **(A) Deteriorated or ineffective waterproofing of exterior walls, roof,**
4 **foundations or floors, including broken windows, doors and basement**
5 **hatchways.**

6 **(B) Defective or lack of weather protection for exterior wall coverings,**
7 **including lack of paint, or weathering due to lack of paint or other approved**
8 **protective covering.**

9 **(C) Broken, rotted, split or buckled exterior wall coverings or roof**
10 **coverings.**

11 **§ 14-3-4-9 INADEQUATE MATERIALS OF CONSTRUCTION. This section**
12 **refers to all materials of construction except those which are specifically**
13 **allowed or approved by this code and the Building Code, and which have been**
14 **adequately maintained in good and safe condition.**

15 **§ 14-3-4-10 INADEQUATE MAINTENANCE. Includes any building or portion**
16 **thereof which is determined to be an unsafe building in accordance with §106**
17 **of the UAC – UNSAFE BUILDINGS, STRUCTURES, OR BUILDING SERVICE**
18 **EQUIPMENT.**

19 **§ 14-3-4-11 INADEQUATE EXITS.**

20 **(A) Includes all buildings or portions thereof not provided with**
21 **adequate exit facilities as required by this code except those buildings or**
22 **portions thereof whose exit facilities conformed with all applicable laws at the**
23 **time of their construction and which have been adequately maintained and**
24 **increased in relation to any increase in occupant load, alteration or addition,**
25 **or any change in occupancy.**

26 **(B) When an unsafe condition exists through lack of exits, the**
27 **blocking of required exits or improper location of exits, additional exits may**
28 **be required to be installed.**

29 **PART 5: ADMINISTRATION AND ENFORCEMENT**

30 **§ 14-3-5-1 ENFORCEMENT.**

1 **The Department is hereby authorized and directed to enforce all of the**
2 **provisions of this code. For such purposes, the Department shall have all the**
3 **powers specified herein.**

4 **§ 14-3-5-2 ADMINISTRATIVE HEARING PROCEDURE.**

5 **(A) The City shall designate a Hearing Officer to provide for final**
6 **interpretation of the provisions of this code and to hear appeals provided for**
7 **herein.**

8 **(B) The Hearing Officer shall meet the qualifications set forth in City**
9 **Ordinance § 2-7-8-3, or any subsequent City ordinance which generally sets**
10 **forth the standard qualifications for administrative hearing officers or**
11 **administrative law judges.**

12 **§ 14-3-5-3 NOTICES AND ORDERS OF THE DEPARTMENT.**

13 **(A) General.**

14 **(1) Commencement of Proceedings. Whenever the Department has**
15 **inspected or caused to be inspected any building and has found and**
16 **determined that such building is a substandard building, he shall commence**
17 **proceedings to cause the repair, rehabilitation, vacation, demolition or**
18 **securing of the building.**

19 **(2) Notice and Order. The Department shall issue a notice and**
20 **order directed to the owner of the building, their agent and/or responsible**
21 **party and where appropriate to the occupant of the building, as indicated by**
22 **the county assessor's and the Department's records. The effective date of the**
23 **order shall be eight (8) days from the date of the notice. The notice and order**
24 **shall contain:**

25 **(a) The street address and a legal description sufficient for**
26 **identification of the premises upon which the building is located.**

27 **(b) A statement that the Department has found the building to be**
28 **substandard with a brief and concise description of the conditions found to**
29 **render the building dangerous under the provisions of this code.**

30 **(c) A statement of the action required to be taken as determined**
31 **by the Mayor.**

1 1. If the Department has determined that the building or
2 structure must be repaired, the order shall provide that all required permits be
3 secured therefor and the work physically commenced within such time, not to
4 exceed 30 days from the effective date of the order, and completed within
5 such time as the Department shall determine is reasonable under all the
6 circumstances.

7 2. If the Department has determined that the building or
8 structure must be vacated, the order shall require that the building or
9 structure shall be vacated within a certain time from the effective date of the
10 order as determined by the Department to be reasonable.

11 3. If the Department has determined that the building or
12 structure must be demolished, the order shall require that the building be
13 vacated within such time as the Department shall determine reasonable, not to
14 exceed 30 days from the effective date of the order; that all required permits
15 be secured therefor within 60 days from the date of the order, and that the
16 demolition be completed within such time as the Department shall determine
17 is reasonable. Failure to comply with the order to demolish the building or
18 structure within such time as the Department shall determine reasonable, not
19 to exceed 30 days from the effective date of the order, will result in a
20 Resolution of Condemnation being presented to the City Council on a
21 specified date pursuant to § 3-18-5 NMSA 1978.

22 4. If the Department has determined that the building or
23 structure is a nuisance or an attractive nuisance; the order shall require the
24 nuisance to be abated within such time the Department shall determine to be
25 reasonable, not to exceed 30 days from the effective date of the order; where
26 there has been a failure to comply with such order the Department shall
27 proceed to obtain an appropriate court order to abate such nuisance. Any
28 such abatement of the nuisance shall be accomplished and the cost thereof
29 paid and recovered in the manner provided by § 14-3-5-6.

30 (d) Statements advising:

31 1. That any person having any title or legal interest in the
32 building may appeal from the notice and order or any action of the

1 Department, excluding demolition, to the Office of Administrative Hearings,
2 provided the appeal is made in writing as provided in this code, and filed with
3 the Office of the Administrative Hearings within seven (7) days of Service of
4 notice and order, and that failure to timely appeal the notice and order shall
5 result in the order becoming effective;

6 2. That in the case of demolition the appeal procedure shall
7 be as set forth in Section 3-18-5 NMSA 1978.

8 (3) Method of Service in Cases Other than Demolition.

9 (a) Service of the notice and order shall be made upon all
10 persons entitled thereto either personally or by mailing a copy of such notice
11 and order by certified mail, postage prepaid, return receipt requested, to each
12 such person and owner, responsible party or identified agent at his address as
13 it appears on the last assessment roll of the county or as known to the
14 Department. If no address of any such person so appears or is known to the
15 Department, then a copy of the notice and order shall be so mailed, addressed
16 to such person, at the address of the building involved in the proceedings and
17 posted thereon.

18 (b) The failure of any such person to receive such notice shall
19 not affect the validity of any proceedings taken under this section. Service by
20 certified mail in the manner herein provided shall be effective on the date of
21 mailing.

22 (4) Proof of Service. Proof of service of the notice and order shall
23 be certified to by a written affidavit executed by the person effecting service,
24 declaring the time, date and manner in which service was made. The
25 declaration, together with any receipt card returned in acknowledgement of
26 receipt by certified mail shall be affixed to the copy of the notice and order
27 retained by the Department.

28 (B) Recordation of Notice and Order.

29 (1) If compliance with the order is not achieved within the time
30 specified therein, and no appeal has been properly and timely filed, the
31 Department shall file in the office of the County Clerk a certificate describing

1 the property, an assessment of any costs, fees, and fines claimed by the City
2 against the property related to enforcement of this code, and certifying:

3 (a) The building is a substandard building; and

4 (b) The owner, their agent and/or responsible party has been so
5 notified.

6 (2) Whenever the corrections ordered shall thereafter have been
7 completed or the building demolished so that it no longer exists as a
8 substandard building on the property described in the certificate, the
9 Department shall file a new certificate with the County Clerk certifying that the
10 building has been demolished or all required corrections have been made so
11 that the building is no longer substandard, whichever is appropriate.

12 (C) Repair, Vacation, Securing or Demolition.

13 (1) Standards to be Followed. The following standards shall be
14 followed by the Department (and by the Office of Administrative Hearings if an
15 appeal is taken) in ordering the repair, vacation, demolition or securing of any
16 substandard building or structure:

17 (a) If any building is declared a substandard building under this
18 code it shall either be repaired in accordance with the current Building and
19 Housing Codes or shall be demolished at the option of the building owner.

20 (b) If the building or structure is in such condition as to make it
21 immediately dangerous to the life, limb, health, property or safety of the public
22 or of the occupants, it shall be ordered to be vacated through the posting of a
23 Notice and Order to Vacate.

24 (2) If the building or structure is open and determined to be an
25 attractive nuisance and/or nuisance, a court order to secure the building or
26 structure will be obtained as provided herein.

27 (D) Notice and Order to Vacate.

28 (1) Posting. Every notice to vacate shall, in addition to being
29 served, be posted at or upon each exit of the building, and shall be in
30 substantially the following form:

31 DO NOT ENTER

32 SUBSTANDARD BUILDING

1 UNSAFE TO OCCUPY

**2 NO PERSON SHALL RESIDE IN THIS STRUCTURE OR PROPERTY. NO
3 PERSON SHALL OCCUPY THIS STRUCTURE OR PROPERTY PAST DAYLIGHT
4 HOURS. ONLY PERSONS AUTHORIZED BY THE CITY OR THE OWNER MAY
5 OCCUPY THIS PROPERTY DURING DAYLIGHT HOURS FOR PURPOSE OF
6 REPAIRING, SECURING OR CLEANING THIS PROPERTY.**

**7 It is a misdemeanor to occupy this building, or to remove or deface this
8 notice.**

9 City of Albuquerque

**10 (2) Compliance. Whenever such notice is posted, the Department
11 shall include a notification thereof in the notice and order issued reciting the
12 emergency and specifying the conditions which necessitate the posting. No
13 person shall remain in or enter any building which has been so posted, except
14 that entry may be made to secure, repair, demolish or remove such building
15 under permit. No person shall remove or deface any such notice after it is
16 posted until the required repairs, demolition, or removal have been completed
17 and a Certificate of Compliance filed with the County Clerk. Any person
18 violating this division (D)(2) shall be guilty of a misdemeanor.**

19 § 14-3-5-4 APPEAL.

20 (A) General.

21 (1) Form of Appeal.

**22 (a) Any person entitled to appeal under this code may do so by
23 filing at the Office of the City Clerk a written appeal containing:**

- 24 1. The names of all appellants participating in the appeal.**
- 25 2. A brief statement setting forth the legal interest of each of
26 the appellants in the building or the land involved in the appeal.**
- 27 3. A brief statement in ordinary and concise language of that
28 specific order or action protested along with a copy of the order, notice, or
29 action together with any material facts claimed to support the contentions of
30 the appellant.**

1 4. A brief statement in ordinary and concise language of the
2 relief sought and the reasons why it is claimed the protested order or action
3 should be reversed, modified or otherwise set aside.

4 5. The signatures of all parties named as appellants and their
5 official mailing addresses.

6 6. The verification, by declaration under penalty of perjury, of
7 at least one (1) appellant as to the truth of the matters stated in the appeal.

8 (b) The appeal shall be filed prior to the effective date of the
9 order.

10 (2) Processing of Appeal. Upon receipt of any appeal filed
11 pursuant to this section, the City Clerk or their staff shall file and stamp the
12 appeal then deliver by mail or electronic means a copy of it to the party
13 responsible for issuing the order, notice, or action under appeal as well as a
14 copy to the Office of the City Attorney.

15 (3) Scheduling and Noticing Appeal for Hearing. The Office of
16 Administrative Hearings shall schedule the hearing to a date and time not to
17 exceed fifteen (15) business days from the date of the filing of the appeal.
18 Written notice of the time and place of the hearing shall be given at least ten
19 (10) business days prior to the date of the hearing to each appellant either by
20 causing a copy of such notice to be delivered to the appellant personally or by
21 mailing a copy thereof, postage prepaid, addressed to the appellant at his
22 address shown on the appeal.

23 (4) Appeal of Council Action. Any person aggrieved by the finding
24 of the City Council that a building, structure or premise is so ruined, damaged
25 and dilapidated that it is such a menace to the public comfort, health, peace or
26 safety so as to require the removal from the municipality of the building,
27 structure, ruins, rubbish, wreckage or debris, may file a written objection with
28 the City Clerk within ten (10) days of the receipt of a copy of the Resolution of
29 Condemnation, asking for a hearing before the City Council. After receiving a
30 valid written objection the City Council shall hold a hearing as provided for in
31 § 3-18-5, NMSA 1978.

1 **(B) Effect of Failure to Appeal.** Failure of any person to file an appeal
2 in accordance with the provisions herein shall constitute a waiver of his right
3 to an administrative hearing and adjudication of the notice and order or to any
4 portion thereof.

5 **(C) Scope of Hearing Appeal.** Only those matters or issues
6 specifically raised by the appellant shall be considered in the hearing of the
7 appeal.

8 **(D) Staying of Order Under Appeal.** Enforcement of any notice and
9 order of the Department issued under this code shall be stayed during the
10 pendency of an appeal therefrom which is properly and timely filed.

11 **§ 14-3-5-5 PROCEDURES FOR CONDUCT OF HEARING APPEALS.**

12 **(A) Form of Notice of Hearing.** The notice to appellant shall be
13 substantially in the following form, but may include other information:

14 "You are hereby notified that a hearing will be held before the City of
15 Albuquerque Office of Administrative Hearings at _____ on the ____
16 day of _____, 20____, at the hour of _____, upon the notice and order
17 served upon you. You may be present at the hearing. You may be, but need
18 not be, represented by legal counsel. You may present any relevant evidence
19 and will be given full opportunity to cross-examine all witnesses testifying
20 against you."

21 **(B) Conduct of Hearings.**

22 **(1) Disclosure.** The Hearing Officer may require that the parties
23 provide, prior to the hearing, a written statement of all issues to be addressed,
24 a list of proposed witnesses, a brief statement of the nature of each witness'
25 testimony, and copies of all documentary evidence to be introduced, which
26 material shall be available for inspection and copying by all parties.

27 **(2) Evidence.**

28 **(a)** The Hearing Officer shall afford all parties an opportunity to
29 present oral or documentary evidence and argument on all issues involved,
30 except that irrelevant, immaterial and unduly repetitious evidence shall be
31 excluded.

1 (b) The Hearing Officer may impose reasonable limits on the
2 number of witnesses heard and on the nature and length of the testimony or
3 questioning.

4 (c) Hearsay testimony is admissible subject to the other
5 limitations on admissibility contained in these rules.

6 (d) The Hearing Officer shall base its decision on substantial
7 evidence. The decision must be supported by at least some evidence which is
8 admissible in a court of law.

9 (3) Hearing Procedure.

10 (a) The Hearing Officer shall preside over the hearing. The
11 hearing shall be recorded by an audio recording device. The Hearing Officer
12 shall swear in all witnesses who are anticipated to testify. The Hearing Officer
13 may ask for opening and closing statements from the parties. The Appellant
14 shall proceed first with its case in chief, followed by the City-Appellee unless
15 otherwise ordered by the Hearing Officer. Rebuttal testimony may be
16 entertained by the Hearing Officer.

17 (4) Decision. All decisions of the Hearing Officer shall be in
18 writing, mailed or delivered by electronic means to all the parties to the
19 appeal, and made within ten (10) days of the close of the hearing unless
20 otherwise so stipulated to by the parties. The Hearing Officer may affirm the
21 decision of the City, reverse the decision of the City, or modify the decision of
22 the City in a manner which is not arbitrary, capricious, contrary to law, or
23 unsupported by substantial evidence.

24 **§ 14-3-5-6 ENFORCEMENT OF THE ORDER OF THE DEPARTMENT OR THE**
25 **HEARING OFFICER.**

26 (A) Compliance.

27 (1) General. After any order of the Department or the Hearing
28 Officer made pursuant to this code shall have become final, no person to
29 whom any such order is directed shall fail, neglect, or refuse to obey any such
30 order. Any such person who fails to comply with any such order is guilty of a
31 misdemeanor or a civil penalty of five hundred dollars (\$500).

1 (2) **Failure to Obey Order.** If, after any order of the Department or
2 Hearing Officer made pursuant to this code has become final, the person to
3 whom such order is directed shall fail, neglect or refuse to obey such order,
4 the Department may:

5 (a) **Cause such person to be prosecuted under division (A)(1)**
6 **above; or**

7 (b) **Institute any appropriate action to abate such nuisance; or**

8 (c) **file a motion to show cause before the Office of**
9 **Administrative Hearings within sixty (60) days. If the Hearing Officer**
10 **determines that there is good cause, the Hearing Officer shall reconvene the**
11 **hearing with all parties to the appeal and notice them of the hearing in the**
12 **manner provided above for administrative hearings. The show cause hearing**
13 **will be conducted in substantially the same manner as the appeal hearing. If**
14 **the Hearing Officer determines that there is substantial evidence that the**
15 **person to whom the order is directed has failed, neglected, or refused to obey**
16 **such order, then the Hearing Officer shall order that such person must pay a**
17 **fee not to exceed five hundred dollars (\$500.00) plus an additional one**
18 **hundred dollars (\$100) for each month after the date of the original order that**
19 **such person failed, neglected, refused to obey the order. The total fee shall be**
20 **paid to the City of Albuquerque in the manner required by the Hearing Officer.**
21 **If the person fails to pay the total fee in the manner required by the Hearing**
22 **Officer, then the City may place a lien for the unpaid amount upon the subject**
23 **property or upon any asset or personal property of the person.**

24 (3) **Failure to Commence Work.** Whenever the required repair or
25 demolition is not commenced within 30 days after any final notice and order
26 issued under this code becomes effective:

27 (a) **The Department shall cause the building described in such**
28 **notice and order to be vacated by posting at each entrance thereto a notice**
29 **reading:**

30 **DO NOT ENTER**

31 **SUBSTANDARD BUILDING**

32 **UNSAFE TO OCCUPY**

1 **NO PERSON SHALL RESIDE IN THIS STRUCTURE OR PROPERTY. NO**
2 **PERSON SHALL OCCUPY THIS STRUCTURE OR PROPERTY PAST DAYLIGHT**
3 **HOURS. ONLY PERSONS AUTHORIZED BY THE CITY OR THE OWNER MAY**
4 **OCCUPY THIS PROPERTY DURING DAYLIGHT HOURS FOR PURPOSE OF**
5 **REPAIRING, SECURING OR CLEANING THIS PROPERTY.**

6 **It is a misdemeanor to occupy this building, or to remove or deface this**
7 **notice.**

8 **City of Albuquerque**

9 **(b) No person shall occupy any building which has been posted**
10 **as specified in this section in a manner contrary to the terms of the notice. No**
11 **person shall be on the property without the written permission from the**
12 **Department or and with the permission on them at all times while on the**
13 **property. Permission shall only be granted for the reasonable time to remove**
14 **personal belongings or the correction of violations and on a case by case**
15 **basis. No person shall remove or deface any such notice so posted until the**
16 **repairs, demolition or removal ordered by the Department have been**
17 **completed and a Certificate of Compliance issued pursuant to the provisions**
18 **of the Housing Code.**

19 **(c) The Department may, in addition to any other remedy herein**
20 **provided cause the building to be repaired to the extent necessary to correct**
21 **the conditions which render the building substandard as set forth in the notice**
22 **and order; or, if the resolution of the City Council requires demolition, to**
23 **cause the building to be demolished, and the materials, rubble and debris**
24 **therefrom removed and the lot cleaned. Any such repair or demolition work**
25 **shall be accomplished and the cost thereof paid and recovered in the manner**
26 **hereinafter provided in this code or in the manner provided in §§ 3-36-1**
27 **through 3-36-6 NMSA 1978.**

28 **(B) Extension of Time to Perform Work. Upon receipt of an**
29 **application from the person required to conform to the order and an**
30 **agreement by such person that he will comply with the order if allowed**
31 **additional time, the Department may, at his discretion, grant an extension of**
32 **time, not to exceed an additional one hundred twenty (120) days, within which**

1 to complete said repair, rehabilitation or demolition, if the Department
2 determines that such an extension of time will not create or perpetuate a
3 situation imminently dangerous to life or property. The Department's
4 authority to extend time is limited to the physical repair, rehabilitation or
5 demolition of the premises and will not in any way affect or extend the time to
6 appeal his notice and order.

7 (C) Interference with Repair or Demolition Work Prohibited. No
8 person shall obstruct, impede or interfere with any officer, employee,
9 contractor or authorized representative of the city or with any person who
10 owns or holds any estate or interest in any building which has been ordered
11 repaired, vacated, demolished or secured under the provisions of this code,
12 whenever such person is engaged in the work of repairing, vacating and
13 repairing, demolishing or securing any such building pursuant to the
14 provisions of this code, or in performing any necessary act preliminary to or
15 incidental to such work or authorized or directed pursuant to this code.

16 **§ 14-3-5-7 WORK PERFORMED TO SECURE, REMOVE NUISANCE OR**
17 **DEMOLISH A BUILDING.**

18 (A) General.

19 (1) Procedure. When any work performed to secure, remove a
20 nuisance or demolish a building is to be done pursuant to this code, the
21 Department shall cause the work to be accomplished by city personnel or by
22 private contract under the direction of the Department. Plans and
23 specifications therefor may be prepared by the Department, or it may employ
24 such architectural and engineering assistance on a contract basis as it may
25 deem reasonably necessary.

26 (2) Costs. The cost of such work shall be paid from City funds and
27 shall be a lien against the property involved, and a personal obligation of the
28 property owner.

29 **§ 14-3-5-8 REQUESTED INSPECTIONS; FEE.**

30 A requested inspection will be made upon payment of a fee of one hundred
31 and fifty dollars (\$150) for the first dwelling unit and one hundred dollars

1 (\$100) for each additional unit to offset the city's administrative costs
2 including an inspection, and reinspection.

3 (A) The inspector is authorized to make inspections of property to
4 determine compliance. Interior inspections will be done with approval of the
5 owner, their agent and/or responsible party, occupant or by a court order or as
6 otherwise authorized by law.

7 (B) Any person who neglects, fails or refuses to correct the violations
8 contained within a notice and order issued pursuant to this code may be
9 assessed a re-inspection fee for inspections that occur after the compliance
10 date specified in the notice, where such re-inspection demonstrates the failure
11 to comply. The fee for these re-inspections shall be set by the Department.
12 Failure to pay re-inspection fees within ten (10) days of assessment is a
13 violation of this section. Re-inspection fees may be collected in any manner as
14 provided by law, including as a lien against the real property where the
15 violation occurred.

16 (C) A person may appeal the imposition of a re-inspection fee to the code
17 Office of Administrative Hearing.

18 § 14-3-5-9 RIGHT OF ENTRY.

19 (A) Whenever necessary to make an inspection to enforce any of the
20 provisions of this code, or whenever the Department has reasonable cause to
21 believe that there exists in any building or upon any premises any condition or
22 code violation which makes such building or premises unsafe, dangerous or
23 hazardous, the Department may enter such building or premises at all
24 reasonable times to inspect the same or to perform any duty imposed upon
25 the Department by this code, provided that if such building or premises be
26 occupied, he shall first present proper credentials and request entry; and if
27 such building or premises be unoccupied, he shall first make a reasonable
28 effort to locate the owner, their agent or responsible party or other persons
29 having charge or control of the building or premises and request entry. If
30 such entry is refused or consent cannot be obtained, the Department shall
31 proceed to obtain a search warrant or other appropriate legal authorization by

1 filing a verified petition with the Metropolitan Court or District Court. The
2 petition shall:

3 (1) Set forth the particular building, premises or portion thereof
4 sought to be inspected;

5 (2) State that the owner, their agent or responsible party or
6 occupant of the building, premises or portion thereof, has refused entry, or
7 cannot be located in order to obtain right of entry;

8 (3) State that inspection of the building, premises or portion
9 thereof is necessary to determine whether it complies with the requirements of
10 this code;

11 (4) Set forth the particular provisions of this code sought to be
12 enforced;

13 (5) Set forth any other reason necessitating the inspection,
14 including knowledge or belief that a particular condition exists in the building,
15 premises or portion thereof which constitutes a violation of this code;

16 (6) State that the Department is authorized by the city to make the
17 inspection.

18 (B) When the Department shall have first obtained a proper inspection
19 warrant or other remedy provided by law to secure entry, no owner, their agent
20 or responsible party or occupant or any other persons having charge, care or
21 control of any building or premises shall fail or neglect, after proper request is
22 made as herein provided, to promptly permit entry therein by the Department
23 for the purpose of inspection and examination pursuant to this code.

24 **§ 14-3-5-10 IDENTIFICATION.**

25 Each inspector shall be furnished with an identification card signed by
26 the Department indicating his authority and must present same to other
27 persons, during the performance of his duty.

28 **§ 14-3-5-11 RESPONSIBILITIES OF OWNERS.**

29 (A) Every owner remains liable for violations of duties imposed upon
30 him by this code even though an obligation is also imposed on the occupants
31 of his building, and even though the owner has, by agreement, imposed on the
32 occupant the duty of complying with this code.

1 **(B) Every owner or responsible party shall be responsible for**
2 **maintaining the property in a sound structural condition, clean, sanitary and**
3 **safe, including the common areas.**

4 **(C) Every owner of a rental property found to be violating any of the**
5 **provisions of this Housing Code and failing or neglecting to comply with any**
6 **orders issued pursuant to any section thereof shall register the property and**
7 **pay a one-time twenty-five dollars (\$25.00) registration fee. Such registration**
8 **shall be made on a form provided by the Department and verified by the owner**
9 **or responsible party. Any changes to the information listed below will require**
10 **an updated registration with a twenty-five dollars (\$25.00) registration fee.**
11 **Excluded from this requirement are single-family residences in which the**
12 **owner permanently resides and rents out less than half of square footage of**
13 **the residence to no more than two adult tenants who share a single lease. The**
14 **following information shall be kept current:**

15 **(1) Name, address, telephone number and email of the property owner**
16 **and/or responsible party;**

17 **(2) Name, address, telephone number and email of a local agent for the**
18 **owner, if the owner is not a resident of Bernalillo County;**

19 **(3) Name, local address and telephone number and email of a property**
20 **manager, if any;**

21 **(4) Street address, parcel number and legal description of the property;**

22 **(5) Any known fines and/or liabilities being assessed against the property;**

23 **(6) A 24-hrs emergency telephone number where the owner, agent,**
24 **property manager or responsible party can be reached.**

25 **(D) An owner of a residential rental property who fails to comply with**
26 **any provision of this subsection is responsible for a civil infraction and shall**
27 **be assessed a civil penalty of five hundred dollars (\$500.00), plus an additional**
28 **one hundred dollars (\$100.00) for each month after the date of the original**
29 **violation until compliance occurs. The City shall serve notice of any assessed**
30 **civil penalty upon the owner by mailing such notice to the address of record**
31 **maintained by the County Clerk or otherwise known to the Department. Any**
32 **person served with a notice may appeal such notice to the Office of**

1 Administrative Hearings in writing within fourteen (14) days pursuant to the
2 procedures contained in § 14-3-5-3.

3 (E) Notwithstanding subsection (E) of this section, if the owner or
4 responsible party complies within ten (10) days after receiving the complaint
5 that notices the violation, the hearing officer shall not impose a civil penalty
6 unless the City can demonstrate that the person has a history of
7 noncompliance with the registration requirements set forth in this section.

8 **§ 14-3-5-12 SUBSTANDARD BUILDINGS.**

9 All buildings or portions thereof which are determined to be
10 substandard as defined in this code are hereby declared to be nuisances and
11 shall be abated by repair, rehabilitation, demolition, removal or securing all
12 accessible openings and entrances to building in accordance with the
13 procedure as provided herein.

14 Any building that has been determined to be substandard and which has
15 been abated by securing all accessible openings and entrances shall be
16 repaired, rehabilitated, demolished or removed within twelve (12) months of
17 being secured. The failure to repair, rehabilitate, demolish or remove such
18 building within twelve (12) months shall be prima facie evidence that the
19 building is a menace to the public comfort, health, peace or safety and should
20 be condemned. At the first City Council meeting following the twelve (12)
21 month period the administration may present the City Council with a
22 Resolution of Condemnation as provided for in § 3-18-5 NMSA 1978 and
23 proceed with condemnation as provided for under that statute.

24 **§ 14-3-5-13 REPORTING ILLEGAL ACTIVITY; COOPERATION.**

25 (A) Albuquerque Code Enforcement shall notify Animal Control upon
26 the discovery of violations of the Albuquerque Animal Services Ordinance.

27 (B) Albuquerque Code Enforcement shall notify the Environmental
28 Health Department upon the discovery of violations of the Noise Control
29 Ordinance.

30 (C) Albuquerque Code Enforcement shall notify the Department of
31 Environmental Health to enforce the Insect and Rodent Control Ordinance
32 upon discovery of violations of that ordinance.

1 **(D) Albuquerque Code Enforcement shall notify the Albuquerque**
2 **Police Department upon discovery of suspected criminal activity.**

3 **(E) Albuquerque Code Enforcement shall coordinate its activities with**
4 **the SCSF.**

5 **(F) Albuquerque Code Enforcement shall notify Albuquerque Fire**
6 **Rescue upon discovery of potential fire hazards or violations to the Fire Code.**

7 **§ 14-3-5-14 VACANT BUILDING MAINTENANCE.**

8 **(A) The owner of a vacant building shall apply to the Albuquerque**
9 **Code Enforcement for and obtain a vacant building maintenance license**
10 **fifteen (15) days prior to vacating the premises. The vacant building**
11 **maintenance license shall be renewed annually. The owner shall pay an**
12 **annual fee to renew the vacant building maintenance license. Albuquerque**
13 **Code Enforcement shall establish the amount of the fee by regulation.**

14 **(B) Application for a vacant building maintenance license shall be**
15 **made on a form provided by Albuquerque Code Enforcement and verified by**
16 **the owner. The application shall disclose all measures to be taken to ensure**
17 **that the vacant building will be kept weather tight and secure from**
18 **trespassers, safe for entry by police officers and firefighters in times of**
19 **emergency, and, together with its premises, free from nuisance and in good**
20 **order.**

21 **The registration form shall include and be updated with the following**
22 **information:**

23 **(1) Name, address, telephone number and email of the property owner**
24 **and/or responsible party;**

25 **(2) Name, address, telephone number and email of a local agent for the**
26 **owner, if the owner is not a resident of Bernalillo County;**

27 **(3) Name, local address and telephone number and email of a property**
28 **manager, if any;**

29 **(4) Street address, parcel number and legal description of the property;**

30 **(5) Any known fines and/or liabilities being assessed against the property.**

31 **(6) A 24-hrs emergency telephone number where the owner, agent,**
32 **property manager or responsible party can be reached.**

1 **(C) At the time of application, the owner, his/her agent and/or the**
2 **responsible party shall arrange for inspection of the vacant building by**
3 **Albuquerque Code Enforcement. If the owner fails or refuses to consent to**
4 **and arrange for an inspection, Albuquerque Code Enforcement may obtain a**
5 **search warrant from a court of competent jurisdiction to authorize inspection**
6 **of the vacant building, if it is deemed necessary for public health and safety.**

7 **(D) Albuquerque Code Enforcement shall inspect the vacant building**
8 **for the purpose of determining the structural integrity of the vacant building;**
9 **the repairs necessary to ensure its structural integrity; that it will be safe for**
10 **entry by fire fighters and police officers in time of emergency; and that the**
11 **vacant building and its contents do not present a hazard to the public during**
12 **the time that the building remains vacant.**

13 **(E) Albuquerque Code Enforcement shall issue any orders for work**
14 **needed to:**

15 **(1) Adequately protect the vacant building from intrusion by**
16 **trespassers and from deterioration by the weather; and**

17 **(2) Insure that allowing the vacant building to remain will not be**
18 **detrimental to the public health, safety and welfare, will not unreasonably**
19 **interfere with the reasonable and lawful use and enjoyment of other premises**
20 **within the neighborhood, and will not pose any extraordinary hazard to police**
21 **officers or fire fighters entering the vacant building in times of emergency.**

22 **(F) Within 45 days of the issuance of any orders, the owner shall bring**
23 **the vacant building into compliance with any orders that may have been**
24 **issued as conditions for the issuance of the license.**

25 **(G) Albuquerque Code Enforcement shall issue a vacant building**
26 **maintenance license only after inspecting the building and concluding that the**
27 **building complies with the Uniform Housing Code. The Department is**
28 **authorized to administer and enforce the Uniform Housing Code as provided**
29 **in §§ 14-3-5-1 et seq. if the vacant building does not comply with any other**
30 **provisions of the Uniform Housing Code. Albuquerque Code Enforcement**
31 **shall have the authority to inspect the vacant building at any time.**

1 **(H) The owner shall notify Albuquerque Code Enforcement fifteen (15)**
2 **days before a vacant building becomes inhabited so that Albuquerque Code**
3 **Enforcement can inspect the vacant building prior to occupancy.**

4 **§ 14-3-5-15 RESIDENT REPORTS; HOTLINE; WEBSITE; EXCEPTIONS.**

5 **(A) Albuquerque Code Enforcement shall implement and operate a**
6 **complaint system that includes a hotline and a website available to city**
7 **residents to report violations of this Code.**

8 **(B) Vacant buildings under the authority or within the control of the**
9 **Metropolitan Redevelopment Agency or a land bank are exempt from the**
10 **business maintenance licensing provisions of the Uniform Housing Code.**

11 **§ 14-3-5-16 PAYMENT OF RELOCATION COSTS.**

12 **(A) Whenever the Department orders that all or a portion of a**
13 **residential building be vacated pursuant to this Code, the owner of such**
14 **residential building (the "owner") shall pay relocation costs for the residents**
15 **of such residential building who reside at the residential building when the**
16 **order to vacate is issued, subject to the provisions of division (F) of this**
17 **section. This requirement shall be applicable when any condition which is the**
18 **basis for the order to vacate is within the control of the owner and the owner**
19 **or his agent and/or responsible party knew or should have known of the**
20 **existence of the conditions that violate applicable codes, statutes, ordinances**
21 **or regulations prior to the order to vacate. Notice of such conditions by a**
22 **governmental agency responsible for the enforcement of a building,**
23 **residential unit, housing or other appropriate code served on the owner or the**
24 **owner's agent and/or responsible party shall be proof that the owner knew of**
25 **the conditions. Payment of relocation costs shall be made by the owner to the**
26 **agency designated by the City to administer relocation (the "relocation**
27 **agency") within thirty (30) days after the owner's receipt of the relocation cost**
28 **assessment issued by the relocation agency. Interest shall accrue on any**
29 **amount unpaid by the owner commencing thirty (30) days after the date the**
30 **relocation agency first advances relocation assistance funds to the displaced**
31 **resident. Interest accrual shall not be stayed during an appeal by the owner,**
32 **but an owner who is successful on appeal shall not be liable for interest.**

1 Owners who, on appeal, are found to not owe relocation costs shall have
2 payments they have made to the relocation agency refunded to them without
3 interest except for any interest actually paid by the owner.

4 (B) At the time the notice and order to vacate is served on the owner
5 or their agent and/or responsible party in addition to other requirements of
6 this Code, notification shall be given to the owner or their agent and/or
7 responsible party that the owner may be required to pay the relocation costs
8 of the displaced residents. The owner or their agent and/or responsible party
9 shall also be served with a copy of Ordinance 21-2007.

10 (C) At the time that a notice of an order to vacate is served on the
11 owner of a property or their agent and/or responsible party pursuant to § 14-3-
12 5-3 ROA 1994, a notice in substantially the following form shall be served on
13 those residents known by name to the Department. Such notice shall be
14 served by personal service or by mailing a copy of such notice by certified
15 mail, postage prepaid, return receipt requested. As to residents unknown by
16 name to the Department, service may be accomplished by posting such notice
17 at the main entrances or at some other prominent place on or within the
18 residential building. The notice shall be written in both English and Spanish.
19 The notice shall be provided to the relocation agency on or before the day the
20 notice to the residents is served or posted.

21 **NOTICE TO RESIDENTS**

22 **YOU MUST MOVE FROM WHERE YOU ARE LIVING**

23 **BECAUSE YOU MUST MOVE YOU MAY BE ENTITLED TO MONEY**

24 The City has found health and/or safety problems with the building
25 where you live. The City has ordered this building to be closed.

26 City law may allow you to be paid, by your landlord, for the cost of
27 moving and for some of your rent at a new location.

28 Please contact the City Relocation Agency at the following phone
29 number and address, as soon as possible, for more information on your
30 rights. If you wait more than 60 days you will lose your right to any money.

31 Phone Number:

32 Address:

1 **(D) In addition to payment of relocation costs a minimum fixed fee for**
2 **temporary relocation may be established by regulation. Rental payments shall**
3 **not be made beyond temporary relocation periods.**

4 **(E) The relocation agency shall determine eligibility for and the**
5 **amount of relocation benefits. Residents shall not be eligible for relocation**
6 **costs if they do not make a claim with the relocation agency for relocation**
7 **costs within 60 calendar days after being served with the notice in division (C).**
8 **In determining eligibility, the relocation agency shall consider whether:**

9 **(1) The residents had a rental agreement at the time the notice was**
10 **served on the residents;**

11 **(2) A court had issued an eviction order to the residents prior to**
12 **the date the notice was served on the residents;**

13 **(3) The residents caused or substantially contributed to the**
14 **conditions that were the basis of the notice to vacate;**

15 **(4) The conditions that were the basis for the notice to vacate were**
16 **caused by fire, flood or other natural disasters;**

17 **(5) The failure to meet the requirements of this Code was due to the**
18 **willful or negligent acts or omissions of the owner;**

19 **(6) The resident was in default for non- payment of rent;**

20 **(7) The basis of the notice to vacate is for a condition caused by**
21 **the resident's or any third party's illegal conduct without the owner's prior**
22 **knowledge; or**

23 **(8) For an owner occupant of a mobile home who is renting a lot or**
24 **parcel for use as a site for the location of the mobile home, whether the**
25 **requirement to vacate was caused by actions outside the control of the**
26 **resident.**

27 **(F) After notice to the owner or their agent and/or responsible party**
28 **and a hearing at which the owner shall have an opportunity to appear and**
29 **present evidence, the Department shall be entitled to place a lien on the**
30 **property on which the residential building that is the subject of a notice to**
31 **vacate is located, and to recover costs paid by the relocation agency that are**

1 **owed but have not been reimbursed by the owner provided the Department**
2 **proves:**

3 **(1) The residents were parties to a rental agreement at the time the**
4 **notice was served on the residents whose term had not expired;**

5 **(2) The residents had not been served with a valid notice of default**
6 **under the rental agreement which would have entitled the owner to evict the**
7 **resident;**

8 **(3) The residents did not cause or substantially contribute to the**
9 **conditions that were the basis of the notice to vacate;**

10 **(4) The conditions that were the basis for the notice to vacate were**
11 **not caused by fire, flood or other natural disasters;**

12 **(5) The failure to meet the requirements of this Code was due**
13 **substantially to the willful or grossly negligent acts or omissions of the owner;**

14 **(6) The resident was not in default for non-payment of rent;**

15 **(7) The basis of the notice to vacate is for a condition that was not**
16 **caused by the resident's or any third party's illegal conduct without the**
17 **owner's prior knowledge; and**

18 **(8) For an owner occupant of a mobile home who is renting a lot or**
19 **parcel for use as a site for the location of the mobile home, the requirement to**
20 **vacate was not caused by actions outside the control of the resident.**

21 **(G) The City shall, by regulation, establish a procedure for notice and**
22 **an impartial evidentiary hearing prior to any determination that an owner must**
23 **repay relocation costs. The owner shall be entitled to appeal the assessment**
24 **of relocation costs by the relocation agency pursuant to the appeal provisions**
25 **of this Code. Such appeal shall be filed within 30 calendar days of the owner's**
26 **receipt of the relocation cost assessment from the relocation agency. The**
27 **filing of an appeal shall not stay the relocation process.**

28 **(H) The City may promulgate regulations governing the administration**
29 **of this section, including but not limited to eligibility for relocation costs, the**
30 **amount and method of payment of relocation costs, the criteria replacement**
31 **units must meet.**

1 (I) No action taken pursuant to this section shall affect the rights of
2 residents and owners in any civil litigation. Nothing in this section shall be
3 construed to change the obligations and rights of owners and residents as
4 required in the Uniform Owner-Resident Relations Act, §§ 47-8-1 et seq. NMSA
5 1978.

6 (J) There is created in the City Treasury the "Relocation Assistance
7 Fund" that shall be used solely for the purpose of relocation cost payments,
8 costs of administration and enforcement costs related to relocation costs. All
9 relocation payments received by the relocation agency shall be deposited in
10 the Relocation Assistance Fund. Remaining balances at the end of the fiscal
11 year shall remain in the Relocation Assistance Fund and shall not revert to the
12 general fund.

13 (K) The relocation agency shall provide assistance in finding
14 alternative housing for residents who are displaced and qualify for relocation
15 assistance under this section.

16 (L) From the time that the city first notifies an owner of conditions that
17 violate applicable codes, statutes, ordinances or regulations to the time that
18 the relocation assistance payments are paid to eligible residents or the time
19 the conditions cited are corrected, the owner shall not evict, harass or
20 intimidate any resident for the purpose of avoiding or diminishing application
21 of this section. Included in this prohibition is the reduction of services to a
22 resident or materially increasing or changing the obligations of any resident,
23 including but not limited to rent increases, for purposes of attempting to have
24 the resident vacate the residential building.

25 (M) The city shall be entitled to attorneys' fees and costs arising from
26 any legal action to collect relocation costs assessed to owners.

27 **§ 14-3-5-17 APPOINTMENT OF TEMPORARY RECEIVER AND RECOVERY**
28 **COSTS.**

29 In addition to other remedies provided in this Code for the abatement of a
30 substandard property, the inspector is authorized to seek the appointment of a
31 temporary receiver and recover costs associated with such appointment
32 including the filing of liens as provided by law and to seek the appointment of

1 trained security personnel to monitor and surveil the property at the property
2 owner's expense.

3 **§ 14-3-5-18 FEES, FINES AND MONETARY JUDGMENTS.**

4 All fees, fines and monetary judgments obtained through the enforcement
5 of this ordinance shall be placed in a fund specifically created by the City for
6 the purpose of funding residential rehabilitation projects and residential code
7 enforcement efforts in the City.

8 **§ 14-3-5-98 VIOLATIONS.**

9 It shall be unlawful for any person, firm, agency or corporation to violate
10 this Code or cause or permit the same to be done. The Department may, for
11 any violation of this code, issue a citation in accordance with the provisions of
12 § 1-1-98 and/or take any other legal action at its disposal.

13 **§ 14-3-5-99 PENALTY.**

14 Any person violating any of the provisions of this Housing Code or
15 failing or neglecting to comply with any orders issued pursuant to any section
16 thereof shall be deemed guilty of a misdemeanor and such persons shall be
17 guilty of a separate offense for each and every day or portion thereof during
18 which any such violation is continued or permitted. Upon conviction of any
19 such violations such person shall be subject to the penalty provisions set
20 forth in § 1-1-99 of this Code of ordinances.

21 The Department may impose a civil fine, notice of which shall be
22 appealable under the administrative appeal procedures of this ordinance, of
23 two hundred dollars (\$200.00) for a first violation of this ordinance, and three
24 hundred dollars (\$300.00) for a second violation of this ordinance and five
25 hundred dollars (\$500.00) for a third or subsequent violation of this ordinance.
26 Failure to pay the fine, appeal the fine, or prevail at an administrative hearing
27 challenging the fine shall allow the Department to place a lien upon the
28 subject property or any asset owned by the owner. The Department may also
29 choose to collect on the fine through any other method allowed by law.

30 In addition to any other remedy available at law, remedies available in
31 equity or other remedies as provided for in this Code, the Department may

1 institute the following actions against the owner of any vacant, abandoned or
2 substandard dwelling that is in serious violation of this Code:

3 (A) An In Personam action may be initiated for a continuing violation for
4 which the owner or responsible party takes no substantial step to correct
5 within the six (6) months following receipt of a Notice and Order to correct the
6 violation, unless the Notice and Order is subject to a pending appeal before an
7 administrative agency or court. Notwithstanding any law limiting the form of
8 action for the recovery of penalties by a municipality for the violation of this
9 Code, the Department may recover, in a single action under this section, an
10 amount equal to the penalties imposed against the owner and any costs of
11 remediation lawfully incurred by, or on behalf of, the Department to remedy
12 any violation.

13 (B) A proceeding in equity.

14 (C) A lien may be placed against the assets of an owner of any vacant,
15 abandoned or substandard dwelling that is in serious violation of this Code
16 after a judgment, decree or order is entered by a court of competent
17 jurisdiction or City of Albuquerque Hearing Officer against the owner of the
18 property for an adjudication under either an In Personam action or a
19 proceeding in equity as set forth above. In the case of an owner that is an
20 association or trust, this does not authorize a lien to be placed upon the
21 individual assets of the general partner, trustee, limited partner, shareholder,
22 member or beneficiary of the associate or trust except as otherwise allowed
23 by law. Any lien placed upon any asset pursuant to this ordinance shall be
24 foreclosed upon in the manner prescribed by State law.

25 (D) The City may deny issuing a building or business registration permit to
26 the owner of any vacant, abandoned or substandard dwelling that is in serious
27 violation of this Code when any of the following conditions exist on that
28 dwelling:

29 A. Liens were placed on the property for serious violations of this Code,
30 State law or other applicable codes, including municipal service liens which
31 exist on account of the actions of the owner, their agent or responsible party;
32 or

1 **B. A serious violation is present and the owner, their agent or**
2 **responsible party has taken no substantial step to correct the serious**
3 **violation within six (6) months following the notification of the violation and for**
4 **which fines, penalties or a judgment to abate or correct were imposed by a**
5 **court or administrative proceeding or a judgment at law or in equity was**
6 **imposed by a court or administrative proceeding. No denial shall be permitted**
7 **if a judgment is subject to a stay or is superseded by order of court.**

8 **(E) The building or business registration permit denial as above described**
9 **shall not apply to charges that are under appeal or otherwise contested**
10 **through a court or administrative process.**

11 **(F) In issuing a denial of a building or business registration permit, the**
12 **Department shall indicate the street address where each parcel cited is**
13 **located as a basis for the denial.**

14 **(G)The denial shall also state that the applicant, their agent or responsible**
15 **party may request a letter of compliance from the appropriate agency or Board**
16 **in the form specified by such entity.**

17 **(H) All building or business registration permits denied in accordance with**
18 **this section may be withheld by the Department until an applicant obtains a**
19 **letter of compliance from the appropriate agency or Board indicating any of**
20 **the following conditions that are applicable:**

- 21 a. **The municipal lien(s) have been paid in full or the property**
22 **owner has agreed to participate in a payment plan to pay off**
23 **the lien(s) in full;**
- 24 b. **The property in question is now in compliance with State law,**
25 **this Code or applicable codes;**
- 26 c. **The owner of the property or their agent or responsible party**
27 **has presented and the appropriate entity has accepted a plan**
28 **to begin remediation of a serious violation of State law, this**
29 **Code or other applicable codes.**

30 **(I) If a letter of compliance is not obtained within forty-five (45) days of the**
31 **denial, the property shall be deemed to be in non-compliance for the purposes**

1 of this section. Each agency or Board shall specify the form and the method of
2 verification in which the request for a compliance letter shall be made.

3 (J) The City may deny approval of municipal permits – which includes
4 special exception approval and/or variance relief- if warranted as set forth
5 above.

6 (K) A building or business registration permit may only be denied to an
7 applicant of such permit other than an owner if the applicant is acting under
8 the direction or with the permission of the owner and that owner owns real
9 property that is subject to denial as set forth herein above.

10 (L) Any denial of a building or business registration permit denied by the
11 City may be appealed to the Office of Administrative Hearings pursuant to §
12 14-3-5-3 of this Code.”

13 Section 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
14 clause, word or phrase of this ordinance is for any reason held to be invalid or
15 unenforceable by any court of competent jurisdiction, such decision shall not
16 affect the validity of the remaining provisions of this ordinance. The Council
17 hereby declares that it would have passed this ordinance and each section,
18 paragraph, sentence, clause, word or phrase thereof irrespective of any
19 provision being declared unconstitutional or otherwise invalid.

20 Section 4. COMPILATION. Section 2 of this ordinance shall amend, be
21 incorporated in and compiled as part of the Revised Ordinances of
22 Albuquerque, New Mexico, 1994.

23 Section 5. EFFECTIVE DATE. This ordinance shall take effect five (5)
24 days after publication by title and general summary.

1 PASSED AND ADOPTED THIS 5th DAY OF November, 2018
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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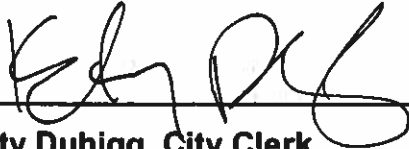


Ken Sanchez, President
City Council

APPROVED THIS _____ DAY OF _____, 2018

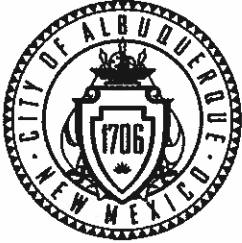
Bill No. C/S O-18-21

Timothy M. Keller, Mayor
City of Albuquerque

ATTEST:


Katy Duhigg, City Clerk

[+ Bracketed/Underscored Material +] - New
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City of Albuquerque

Office of the City Clerk

Timothy M. Keller, Mayor

Katy Duhigg, City Clerk

Interoffice Memorandum

December 4, 2018

To: CITY COUNCIL

From: Camille Cordova, City Clerk Executive Assistant

Subject: BILL NO. C/S O-18-21; ENACTMENT NO. O-2018-025

I hereby certify that on November 30, 2018, the Office of the City Clerk received Bill No. C/S O-18-21 as signed by the president of the City Council, Ken Sanchez. Enactment No. O-2018-025 was passed at the November 5, 2018 City Council meeting. Mayor Keller did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. C/S O-18-21.

Sincerely,



Katy Duhigg
City Clerk