



City of Albuquerque

PLANNING DEPARTMENT

Richard J. Berry, Mayor

Interoffice Memorandum

May 9, 2016

To: Dan Lewis, President, City Council

From: Suzanne Lubar, Planning Department Director

Subject: **O-16-11** - Project# 1001620 / 16EPC-40014 - The Environmental Planning Commission (EPC) forwards a recommendation of Denial to the City Council regarding the proposed addition of a new article (Article 20) to Chapter 14 ROA 1994, Zoning, Planning and Building, to be known as the Vacant Commercial Buildings Ordinance. City-wide. Staff Planner: Catalina Lehner

Request

The request is for a recommendation to City Council regarding the addition of a new article to Chapter 14 of the Revised Ordinances of Albuquerque (ROA) 1994. Chapter 14 is Zoning, Planning and Building. The new article would be Article 20 and titled Vacant Commercial Buildings. The proposed new article would allow regulation of vacant commercial (non-residential) buildings and structures in the City of Albuquerque, and would be placed after Article 19- Impact Fees. Article 3, the Uniform Housing Code, contains regulations for vacant residential buildings.

Intent & Scope

The overarching purpose of the proposed new article is to improve the aesthetics of the built environment, prevent further blight, and provide a mechanism to facilitate the restoration or demolition of vacant commercial buildings and/or find a new use for them. The proposed new article would apply City-wide to vacant commercial buildings and structures. Removal of the word "structures" from the proposed definition is needed so the legislation does not apply to structures such as free-standing signs, cell towers, or gas station canopies, etc.

Other Applicable Regulations

Existing regulations already address much of what is contained in the proposed legislation. The Weed and Anti-Litter Ordinance, the Uniform Administrative Code, the Building Code, the Zoning Code and Article 1, Chapter 11- Nuisance Abatement, contain regulations to address the following: weeds, litter, site maintenance, securing, repairing and demolishing unsafe buildings, and graffiti removal.

Implementation & Enforcement Issues

According to the EPC, the proposed new article, as written, would be difficult to implement and enforce because the Planning Department would be required to develop a new system to register and track vacant commercial buildings, administer fees and note violations, and determine if/how they've been addressed.

The proposed article would require tracking the following: the three consecutive months needed for a commercial building to be defined as vacant; the thirty-day period in which a vacant commercial building must be registered, and the no more than 180 days per year that a vacant commercial building can have boarded openings. Code Enforcement would also have to track each time there is a change in

a private party's insurance for a vacant commercial building. Each requirement would have to be monitored for each vacant commercial building, which would become quite complicated. For instance, the day a building becomes vacant may not be the same day the building was noted as vacant. Owners of vacant commercial buildings would be required to self-report, though there is no incentive to do so.

Also, the proposed legislation is likely to be invoked on an "as reported" basis. Individuals could report vacant commercial buildings if they become concerned about a building's state of disrepair, appearance or a safety issue. Even supposing this is possible for Staff to patrol the entire City looking for commercial buildings that have just become vacant, there would not be a way to know by a site visit when the building became vacant.

Public Comments

The proposed text amendments were announced in the March/April edition of the Neighborhood News and at the Planning Department's Development Discussion on February 18, 2016. Staff received one written comment from a development company, which was included with the Staff report.

Though comments were not provided in advance of the EPC hearing, a representative of NAIOP, the Commercial Real Estate Development Association, and others affiliated with this group, provided testimony in opposition to the proposed legislation. Concerns include overall costs, enforceability, vagueness of definitions, and burdensome timelines. Additional concerns are that the proposed legislation does not meet the goal of what's intended and that, since new legislation does not apply retroactively, it would not address existing blighted conditions as envisioned.

EPC Decision

At its April 14, 2016 hearing, the EPC voted 8-0 to forward a recommendation of denial to the City Council. The EPC heard testimony from the public, including representatives of NAIOP and commercial real estate brokers.


EPC members expressed concern that the proposed legislation would be unenforceable and have unintended consequences. Other concerns voiced were that commercial demolition is very expensive, and one demolition could consume a large, unprogrammed portion of the City's budget. The costs would be passed on to taxpayers. The City doesn't have the funds to administer and enforce another unfunded mandate. Though addressing blight is generally a good idea, the proposed legislation is not the best way to go about it.

Conclusion

The proposed new Article would allow regulation of vacant commercial (non-residential) buildings and structures in the City of Albuquerque. The EPC recommends that the proposed legislation be re-written to eliminate repetitive regulations and inconsistencies, and also to address enforcement and implementation difficulties.

Should the City Council disagree with the EPC's recommendation of denial, the EPC requests that the conditions in the Staff report be included in a C/S version of the proposed legislation.

Recommended:



Kym Dicome, Manager
Current Planning Section

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- 1 and the property owner may be subject to fines and penalties as set forth in
- 2 this section.
- 3 (B) All vacant buildings shall be actively maintained, monitored and secured in
- 4 the following manner:
- 5 (1) The owner or responsible party of a vacant building or structure shall
- 6 remove any accumulation of weeds, combustible waste, or refuse from the
- 7 interior of the building or structure and the surrounding yards; and shall
- 8 secure all doors, windows, and other openings to prevent unauthorized
- 9 entry. The owner or responsible party also shall post both the structure
- 10 and the exterior premises with signs to provide conspicuous and
- 11 reasonable notice prohibiting entry (i.e., "No Trespassing" signs)
- 12 (a) While vacant structures may temporarily be secured by boarding
- 13 up window and door openings, having or maintaining boarded
- 14 window or door openings on a vacant structure for one hundred
- 15 eighty (180) days or more in any one (1) year period is prohibited.
- 16 (2) The lot shall be maintained so that water does not accumulate or stand
- 17 on the ground.
- 18 (3) Exterior walls shall be free of holes, breaks, loose or rotting boards or
- 19 timbers, and any other conditions which might admit rain or dampness to
- 20 the interior portions of the walls or the interior spaces and shall be
- 21 protected against the entry of rodents or other animals
- 22 (4) Maintain the exterior of the building, including but not limited to, paint,
- 23 finishes, roofing materials, siding, stucco, masonry, railings, steps, gutters,
- 24 and structural elements in good condition. Painted surfaces shall be
- 25 deemed in good condition if there is at least 95% coverage of the structural
- 26 element that is painted.
- 27 (5) Remove all graffiti on the property within forty-eight (48) hours of
- 28 placement on the property
- 29 (C) The owner of any building that has become vacant shall within 30 days
- 30 after the building becomes vacant or within 30 days after assuming
- 31 ownership, whichever is later, register the building with the city through forms
- 32 provided on a city website or web application and pay a registration fee as
- 33 prescribed in §14-20-7(A).

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1 (1) the registration form shall include the name, street address and
2 telephone number of a natural person 21 years of age or older, designated
3 by the owner or owners as the authorized agent for receiving notices of
4 code violations and for receiving process, in any court proceeding or
5 administrative enforcement proceeding, on behalf of such non-resident
6 owners. This person must maintain an office in Bernalillo County or must
7 reside within Bernalillo County.

8 (2) the owner shall be required to renew the registration for successive 6-
9 month periods as long as the building remains vacant and shall pay a
10 registration renewal fee as prescribed in §14-20-7(B).

11 (D) The owner of any commercial building that has become vacant shall,
12 within 30 days, acquire or otherwise maintain liability insurance, in an amount
13 of not less than \$1,000,000.00 covering any damage to any person or any
14 property caused by any physical condition of or in the building. Any insurance
15 policy acquired after the building has become vacant shall provide for written
16 notice to Code Enforcement within 30 days of any lapse, cancellation or
17 change in coverage. The owner and the owner's authorized agent for service
18 of process shall provide evidence of the insurance, upon request, to Code
19 Enforcement.

20 (E) When all violations have been abated and a vacant building has been
21 legally reoccupied, or when the building has been demolished, the property
22 will be removed from the vacant building list.

23 § 14-20-6 ENFORCEMENT, NOTICE, APPEALS.

24 (A) The enforcement of §14-20 et seq. will be the responsibility of the Code
25 Enforcement Division.

26 (B) Notice. A notice of a violation of this section shall be sent in writing to the
27 owner of the property at their address of record listed in the county clerk's
28 office stating that there has been a violation of this section and providing a
29 brief description of the nature of the violation and right to appeal pursuant to §
30 14-20-6(C).

31 § 14-20-7 Appeals. Any person with a legal interest in a building deemed by
32 Code Enforcement to be in violation of this article may appeal such
33 determination of a violation by requesting a hearing in writing within 15 days

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1 of receipt of a notice of violation. The request must be filed with the City Clerk
2 and the appeals hearing shall be conducted pursuant to the IHO Ordinance
3 (§2-7-8-1, et. seq.).

4 § 14-20-8 FEES AND PENALTIES.

5 (A) The initial registration fee for a vacant non-residential building, as
6 referenced in §14-20-5(A) is \$500 for each such building until the building is
7 again occupied or demolished.

8 (B) The registration renewal fee for a vacant non-residential building, as
9 referenced in §14-20-5(A)(2) is \$100 for each 6-month renewal period.

10 (C) Any vacant building that is in violation of any provision set forth in section
11 14-20-5 at the time renewal is required shall be assessed a violation fee of
12 \$500 a day.

13 § 14-20-9 VACANT NON-RESIDENTIAL BUILDING ABATEMENT

14 All buildings or portions thereof which are determined to be substandard as
15 defined in this code are hereby declared to be nuisances and shall be abated
16 by repair, rehabilitation, demolition, removal or securing all accessible
17 openings and entrances to building in accordance with the procedure as
18 provided herein. Any building that has been determined to be substandard
19 and which has been abated by securing all accessible openings and entrances
20 shall be repaired, rehabilitated, demolished or removed within 12 months of
21 being secured. The failure to repair, rehabilitate, demolish or remove such
22 building within 12 months shall be prima facie evidence that the building is a
23 menace to the public comfort, health, peace or safety and should be
24 condemned. After 12 months, the City Council may present a Resolution of
25 Condemnation as provided for in Section 3-18-5 NMSA 1978 and proceed with
26 condemnation as provided for under that statute.

27 SECTION 2. FUNDING FOR ENFORCEMENT. The City Council will work
28 with the Administration during the Fiscal Year 2017 budget process to fund
29 adequate Code Enforcement staff for the enforcement of the Vacant
30 Commercial Buildings Ordinance.

31 SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
32 clause, word or phrase of this Ordinance is for any reason held to be invalid or
33 unenforceable by any court of competent jurisdiction, such decision shall not

1 affect the validity of the remaining provisions of this Ordinance. The Council
2 hereby declares that it would have passed this Ordinance and each section,
3 paragraph, sentence, clause, word or phrase thereof irrespective of any
4 provision being declared unconstitutional or otherwise invalid.

5 SECTION 4. COMPILATION. SECTION 1 of this Ordinance shall be
6 incorporated in and made part of the Revised Ordinances of Albuquerque,
7 New Mexico, 1994.

8 SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect five days
9 after publication by title and general summary.”

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16EPC-40014

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CITY OF ALBUQUERQUE



PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
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Office (505) 924-3860 Fax (505) 924-3339

OFFICIAL NOTIFICATION OF DECISION

April 14, 2016

City of Albuquerque
Council Services
One Civic Plaza NW
9th Floor, Suite 9087
Albuquerque, NM 87102

Project# 1001620
16EPC-40014 Amendment to Chapter 14 ROA 1994-
Zoning, Planning and Building

LEGAL DESCRIPTION:

The above action to add a new article (Article 20) to Chapter 14 ROA 1994, Zoning, Planning and Building, to be known as the Vacant Commercial Buildings Ordinance. City-wide. Staff Planner: Catalina Lehner

PO Box 1293
On April 14, 2016 the Environmental Planning Commission (EPC) voted to forward a recommendation of DENIAL of Project #1001620/16EPC-40014, a proposed new Article to regulate vacant commercial buildings, based on the following findings:

Albuquerque FINDINGS:

1. The request is for a recommendation to City Council regarding the addition of a proposed new article (Article 20) to Chapter 14- Zoning, Planning & Building, Revised Ordinances of Albuquerque (ROA) 1994 to allow the regulation of vacant commercial buildings. The proposed new article would apply City-wide.
2. Vacant commercial buildings would be defined as non-residential buildings that have not been lawfully occupied or subject to any construction activity for three consecutive months. Vacant commercial buildings would be required to be maintained, monitored, and secured. The building owner, or a responsible party, would be required to register the building and pay an associated fee within 30 days of it becoming vacant or assuming ownership. Liability insurance would also be required.
3. The proposed new article is found in legislation authored by Council Services Staff and known as Bill No. O-16-11. O-16-11 was introduced at City Council on February 17, 2016 and subsequently referred to the Planning Department for review. The EPC's task is to make a recommendation to the City Council regarding the proposed new article. The City Council is the City's Zoning Authority and will make the final decision.
4. The Albuquerque/Bernalillo County Comprehensive Plan and the Revised Ordinances of Albuquerque (ROA) 1994 are incorporated herein by reference and made part of the record for all

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purposes.

5. Intent of the City Charter:

Adding a new article to the ROA 1994 to allow regulation of vacant commercial buildings is an exercise in local self-government (City Charter, Article 1). Establishing regulations to require maintenance, security, and registration of vacant commercial buildings generally expresses the Council's desire to ensure the proper use and development of land (City Charter, Article IX). The proposed new article would generally help promote and maintain an aesthetic and humane urban environment and would apply City-wide.

6. The request generally furthers the following, applicable Comprehensive Plan Goals:

- A. **Developing and Established Urban Areas Goal:** The proposed new article would generally contribute to a quality urban environment because it would require the maintenance and registration of vacant commercial buildings, which would help create a visually pleasing built environment. However, it would not apply retroactively to commercial properties that were already vacant as of the ordinance's effective date. Buildings that become vacant after that time would have to be registered. Though it may not have a significant effect in some areas, the Goal is generally furthered.
- B. **Developed Landscape Goal:** In general, the proposed new article would help maintain and improve the quality of the developed landscape because it would require that vacant commercial buildings be maintained and repaired so that they appear to be in a good condition and are safe.

7. The request generally furthers the Public Safety Goal and Public Safety Policy II.D.9d. The proposed new article would generally help support development of a safe and secure community since it would address vacant buildings that have become a problem due to being improperly maintained or in a state of disrepair (Goal). Similarly, addressing such vacant buildings would generally help continue and improve crime prevention efforts (Policy II.D.9d).

8. Most of what is contained in the proposed new article is already found in ROA 1994. Regulations that address the removal of weeds and refuse, securing of doors, windows and openings, maintaining building exteriors, and removing graffiti, are found in the Weed & Anti-Litter Ordinance (§9-8-1 ROA 1994), the Uniform Administrative Code (106.4), the International Existing Building Code (Sections 115-117), the Zoning Code, and the Graffiti Vandalism Ordinance (Article 1, Chapter 11- Nuisance Abatement).

9. The Planning Department would be required to develop a system to administer and enforce the proposed legislation. Three requirements would have to be tracked for each vacant commercial building: the thirty day period to register a vacant commercial building, the no more than three consecutive months that a building is allowed to be vacant, and the no more than 180 days in one year that a vacant commercial building can be boarded up. More often than not, however, it won't be possible to know exactly when a commercial building became vacant and building owners are not likely to self-report, especially knowing that penalties such as fees and enforcement actions could result.

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10. In addition to fees and violations, three requirements would have to be tracked: the thirty day period to register a vacant commercial building, the no more than three consecutive months that a building is allowed to be vacant, and the no more than 180 days in one year that a vacant commercial building can be boarded up. More often than not, however, it won't be possible to know exactly when a commercial building became vacant.
11. The proposed legislation is likely to be invoked on an "as reported" basis. Individuals could report vacant commercial buildings if they become concerned about a building's state of disrepair, appearance or a safety issue. It is unfeasible for Staff to patrol the entire City looking for commercial buildings that have just become vacant. Even supposing this is possible, there would not be a way to know by a site visit if the building became vacant that same day, yesterday or months ago.
12. As of its effective date, the proposed new article would be an unfunded mandate. Though proposed language states that the Council will work with the Administration during Fiscal Year 2017 to fund adequate code enforcement staff, funding is not guaranteed and adequate is undefined. Furthermore, the costs of implementing the legislation are not limited to staffing and could be considerable. Additional funds would be needed for demolition of commercial buildings, which can be quite expensive. The proposed fees would be insufficient to off-set implementation costs.
13. The proposed new article (Article 20) would establish an appeal procedure, using an independent hearing officer, to settle instances of non-compliance when there is a disagreement about a Notice of Violation. The proposed new article would not create criminal complaints because it would not be part of the Zoning Code (Article 16 of Chapter 14), which is a criminal code.
14. The proposed legislation would require that the Code Enforcement Division of the Planning Department administer and enforce the new regulations, but without any additional resources to make implementation possible and consistent. As of its effective date, the proposed new article would be another unfunded mandate. Though Page 2, Lines 27-30 states that "the City Council will work with the Administration during Fiscal Year 2017" to obtain adequate funding, this is not a guarantee of funding and the Administration may have other priorities.
15. The costs of implementing the proposed new article could be considerable. Additional funds would need to be set aside to cover other City costs, such as demolition, or the money would have to be taken from other portions of the City Budget. Demolishing a commercial building can quickly become very expensive, especially if asbestos or lead-based paint is found. One commercial building, especially if it is old and large, could consume the entire budget and leave no funding to implement the regulations for the remainder of the fiscal year. The proposed fees would not be sufficient to off-set administrative costs or implement the new regulations.
16. The proposed text amendments were announced in the March/April 2016 issue of the Neighborhood News, published by the Office of Neighborhood Coordination (ONC), and at the Planning Department's Development Discussion on February 18, 2016. As of this writing, Staff received one comment from a development company.

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April 14, 2016

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17. Though comments were not provided in advance of the EPC hearing, a representative of the NAIOP, the Commercial Real Estate Development Association, and others affiliated with this group, provided testimony in opposition to the proposed legislation. Concerns include overall costs, enforceability, vagueness of definitions, and burdensome timelines. Additional concerns are that the proposed legislation does not meet the goal of what's intended and that, since new legislation does not apply retroactively, it would not address existing blighted conditions.
18. Should the City Council disagree with the EPC's recommendation, the EPC suggests that the conditions in the Staff report be included in a C/S version of the proposed legislation.

PROTEST: It is not possible to appeal EPC recommendations to the City Council. Rather, a formal protest of the EPC's recommendation can be filed within the 15 day period following the EPC's decision, which in this case is by **APRIL 29, 2016**.

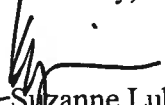
APPEAL TO THE CITY COUNCIL: If you wish to appeal a final decision, you must do so in the manner described below. A non-refundable filing fee is required at the time the appeal is filed. For more information regarding the appeal process, please refer to Zoning Code Section 14-16-4-4.

Persons aggrieved with a determination of the EPC, and who have legal standing as defined in Zoning Code Section 14-16-4-4(B)(2), may file an appeal to the City Council by submitting a written application, on Planning Department forms, to the Planning Department within 15 days of the decision. The date the determination in question is not included in the 15-day period for filing an appeal and, if the fifteenth day falls on a Saturday, Sunday or holiday as listed in the Merit System Ordinance, the next working day is considered the deadline for filing the appeal.

Appeals to the City Council are heard by the Land Use Hearing Office (LUHO), who will make a recommendation for approval, denial, or remand to the EPC. The City Council may accept or reject, in whole or in part, the LUHO's recommendation. The City Council has the option of hearing the appeal if it decides to do so. Such appeal, if heard, shall be heard within 45 days of its filing.

You will receive notification if any person files an appeal. If there is no appeal, you can receive building permits, if applicable, any time after the appeal deadline, provided that all conditions imposed at the time of approval have been met. Successful applicants are reminded that other regulations of the City Zoning Code must be complied with, even after approval of the referenced application(s).

Sincerely,


For Suzanne Lubar
Planning Director

SL/CLL

cc: City of Albuquerque, City Council, Attn: Andrew Webb, P.O. Box 1293, Abq. NM 87102
City of Albuquerque, Planning Department, Attn: Brennon Williams, P.O. Box 1293, Abq. NM 87102

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Project #1001620/16EPC-40014

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Martin Haynes, P.O. Box 9043, ABQ, NM 87119
Robert Lucero, P.O. Box 1888, ABQ, NM 87103
David Hassard, 115 Amherst Drive SE, ABQ, NM 87106
Jim Wible, 6801 Jefferson NE #200, ABQ, NM 87109
Dave Hill, 6801 Jefferson NE #200, ABQ, NM 87109
Debbie Harms, 6801 Jefferson NE, ABQ, NM 87109
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Shelly Branscom, 5722 Vista Bonita NE, ABQ, NM 87111



**Environmental
Planning
Commission**

**Agenda Number: 10
Project Number: 1001620
Case Number: 16EPC-40014
April 14, 2016**

Staff Report

Agent City of Albuquerque Planning Department
Applicant City of Albuquerque Planning City Council Services
Adding a new article (Article 20) to Chapter 14 Revised Ordinances of Albuquerque (ROA) 1994- Zoning, Planning and Building- to be known as the Vacant Commercial Buildings Ordinance, to allow regulation of vacant commercial buildings.
Location City-wide

Staff Recommendation
*That a recommendation of **CONDITIONAL APPROVAL** of 16EPC-40014 be forwarded to the City Council based on the Findings beginning on Page 20 and subject to the Conditions beginning on Page 22.*
**Staff Planner:
Catalina Lehner, AICP-Senior Planner**

Summary of Analysis
The request is for a recommendation to City Council regarding a new article in Chapter 14- Zoning, Planning and Building, of ROA 1994. The proposed new Article 20 would be entitled Vacant Commercial Buildings Regulations. Bill No. O-16-11 was introduced at City Council on February 17, 2016 and referred to the Planning Department. The EPC is a recommending body; the City Council will make the final decision.
The proposed new article would allow regulation of vacant commercial buildings and structures and would apply City-wide. Vacant commercial buildings would be defined as non-residential structures that have not been lawfully occupied or subject to any construction activity for three months. The proposed regulations would require that vacant commercial buildings be maintained, monitored, and secured. A responsible party would have to register the building, and pay a fee, within 30 days of it becoming vacant or assuming ownership. Liability insurance would also be required.
Staff finds that the proposed new article generally furthers the few Goals and policies that apply, and the applicable, overarching intentions in the City Charter. However, much of what is proposed in the new article is already found elsewhere in ROA 1994, including regulations pertaining to weeds and litter, to securing, repairing or demolishing unsafe buildings, and to maintaining building exteriors. If the intention is to prevent vacant commercial buildings from adversely affecting aesthetics, this can be accomplished mostly with existing regulations.
Staff recommends that the legislation be substantively re-written to eliminate repetitive regulations and inconsistencies, and also to address enforcement and implementation issues. Staff recommends that a recommendation of conditional approval be forwarded to the City Council.

City Departments and other interested agencies reviewed this application from 02/29/2016 to 03/16/2016. Agency comments used in the preparation of this report begin on Page 26.

I. INTRODUCTION

Request

The request is for a recommendation to City Council regarding the addition of a new article to Chapter 14 of the Revised Ordinances of Albuquerque (ROA) 1994. Chapter 14 is titled Zoning, Planning and Building and the new article would be Article 20 and titled Vacant Commercial Buildings. The proposed new article would allow regulation of vacant commercial (non-residential) buildings and structures in the City of Albuquerque, and would be placed after Article 19- Impact Fees. Article 3, the Uniform Housing Code, contains regulations for vacant residential buildings.

The proposed new article is found in draft legislation authored by Council Services, known as Bill No. O-16-11 (see attachment). O-16-11 was introduced at City Council on February 17, 2016 and subsequently referred to the Planning Department for review.

Purpose

The overarching purpose of the proposed new article is to improve the aesthetics of the built environment, prevent further blight, and provide a mechanism to facilitate the restoration or demolition of vacant commercial buildings and/or finding a new use for them. Vacant commercial buildings, defined as non-residential structures that have been vacant or not lawfully occupied for at least three consecutive months, would be subject to the new regulations.

Currently, ROA 1994 contains regulations for vacant buildings as part of the Uniform Housing Code (§14-3-1-4), though these regulations apply only to vacant residential buildings. The proposed new article, however, would establish regulations that apply to vacant commercial buildings. To ensure that such buildings and sites do not adversely affect public health, safety and welfare, standards for maintenance and security are also included. Property owners would be required to maintain vacant commercial buildings, register them with the City and have liability insurance.

Scope

Like other cases that introduce a new article to ROA 1994, and cases consisting of proposed text amendments to the Zoning Code (Article 16) or other articles, the request would apply City-wide. The proposed legislation would apply to all vacant commercial buildings and is an ordinance of general application. The request is a legislative matter.

Environmental Planning Commission (EPC) Role

The task of the Environmental Planning Commission (EPC) is to make a recommendation to the City Council regarding the proposed new article. The City Council is the City's Zoning Authority and will make the final decision. The EPC is a recommending body with review authority.

II. OVERVIEW

Background

The proposed new article (Bill No. O-16-11) was created to address concerns that vacant commercial buildings adversely affect the aesthetics, and often safety, of the City's built environment. Many buildings have remained vacant and/or "boarded up" indefinitely, for long periods of time. Some are in a state of disrepair. The prolonged vacancies, disrepair and overall lack of attention over time can

contribute to blighted conditions in a neighborhood and/or area. Generally, blighted conditions can make it difficult for economic development or re-development to occur. In many cases, vacant commercial buildings are located in Metropolitan Redevelopment Areas (MRAs) designated by the City.

One example is the Franklin Plaza shopping center at the NE intersection of Juan Tabo Blvd. and Central Ave. NE, and in the East Gateway MRA. Though once a thriving commercial center, several tenants have moved out over time and it has fallen into disrepair. A few businesses remain, such as a bank and a fast-food restaurant. A bingo hall occupies part of the mostly vacant commercial strip along the back portion of the center.

Concern about vacant buildings, however, extends to other parts of the City, and particularly applies to areas such as San Mateo Blvd. south of Zuni Rd., where several commercial buildings have been vacant for some time and have contributed to the area's blighted character. This area is part of the Near Heights MRA Expansion Area.

Research & Information

Council Services Staff conducted research regarding how other municipalities deal with vacant commercial buildings. Ordinances from Denver, Chicago, Fresno, Tucson, and Milwaukee were reviewed (see attachment). Some concepts from these ordinances were carried over into Albuquerque's proposed legislation regarding vacant commercial buildings.

The comparison brings some relevant topics, such as definitions, to the forefront. All of the reviewed ordinances refer to vacant buildings or vacant structures. Denver, Tucson, Fresno, and Milwaukee do not differentiate between vacant residential and vacant commercial buildings in this portion of their Administrative Codes, though Chicago does. However Chicago, unlike the other jurisdictions, has a separate Department of Buildings to deal with vacant buildings and has been a highly-dense City for several years.

It appears that none of the jurisdictions reviewed have separate ordinances, or separate Articles in Chapters of their Administrative Codes, to differentiate between vacant residential buildings and vacant commercial buildings—but this is proposed for Albuquerque. Albuquerque's Uniform Housing Code is Article 3 of Chapter 14- Zoning, Planning & Building- and the proposed legislation would become a new Article 20 in Chapter 14.

In all but Tucson, registration of a vacant building is required. The Denver and Chicago ordinances require a local resident to be available as a primary contact. This requirement is included in the proposed legislation.

All of the reviewed ordinances require fees. Denver assesses a fee if the building owner fails to register or doesn't address violations. Chicago requires a registration fee and subsequent fees for not addressing violations. Albuquerque's proposed ordinance would require a registration fee, a registration renewal fee and a fee for each day of violations of Code requirements (see also Section VII of this report).

Summary of Related Regulations

Existing regulations address much of what is contained in the new proposed article. Regulations pertaining to weeds and litter, to securing, repairing or demolishing unsafe buildings, and to maintaining building exteriors are already found in ROA 1994.

Article 3 of Chapter 14 ROA 1994- Zoning, Planning and Building- the Uniform Housing Code, establishes requirements and standards for residential buildings, which are defined as buildings designed or used for human habitation. Though the proposed new article would address vacant non-residential buildings, portions of the Uniform Housing Code are similar and worth considering, especially Part 5- Administration and Enforcement.

Unsafe buildings are addressed in the Uniform Administrative Code (106.4) and in the Building Code (Sections 115-117). Maintenance of buildings and structures is required by the Uniform Administrative Code, the Building Code, and the Zoning Code.

The Weed & Anti-Litter Ordinance (§9-8-1 ROA 1994) requires that property owners remove weeds, debris, trash. The Graffiti Vandalism Ordinance is in Article 1 of Chapter 11- Nuisance Abatement.

→See Section V of this report for an analysis of existing regulations as they relate to the proposed legislation.

III. DEFINITIONS & LAND USE

Chapter 14 ROA 1994- Zoning, Planning & Building- contains definitions relevant to the proposed legislation. The following are from Article 16, the Zoning Code, and are found in §14-16-1-5(B):

NONCONFORMING. A structure or use of structure or land which does not conform to applicable zoning and which was in conformity with applicable zoning in effect at the time it was created.

OFFICE. A place where consulting, record keeping, the work of a professional person such as a physician or lawyer is done, or a headquarters of an enterprise or organization; the sale of on-premises goods is not included.

PREMISES. Any lot or combination of contiguous lots held in single ownership, together with the development thereon; there may be multiple occupancy.

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

Additional relevant definitions are found in Article 3- Uniform Housing Code- of Chapter 14 (§14-3-1-4):

STRUCTURE. A structure is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

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

Though undefined in Zoning Code §14-16-1-5, Definitions, or elsewhere, commercial buildings are can be understood to be buildings used for the sale of on-premises goods. The definition of Office states that “the sale of on-premises goods is not included” in an office building. Both office and commercial buildings are non-residential buildings. The proposed new article contains the following definition of Vacant Commercial Building. Revisions are needed to improve clarity, which is desirable for enforcement purposes (see Section VIII of this report).

VACANT COMMERCIAL BUILDING. A vacant building shall be defined as a non-residential structure that is, for any three consecutive months, not lawfully occupied, wholly or partially boarded up, and does not show evidence of substantial and ongoing construction activity.

The Uniform Housing Code contains a definition of Vacant Building (see above) that defines a vacant building as a residential dwelling, space, or building. For clarity and internal consistency in ROA 1994, Staff suggests adding the word “residential” to the definition of Vacant Building in the Uniform Housing Code (see Section VIII of this report).

Staff does not suggest adding another definition of “structure” to ROA 1994. There are already two, and they differ. However, should Council desire that the proposed new article apply to structures and wants to define structure, Staff suggests the following for the proposed, new article:

STRUCTURE. Anything constructed or erected that requires location on the ground, a building of any kind, or any piece of work artificially built up excluding a tent, vehicle, vegetation, or public utility pole or line.

Commercial Land Uses

Examining commercial land use in Albuquerque gives an approximate idea of the scope of the proposed new article, which would apply City-wide to commercial buildings (but not to office buildings or residential buildings). Most commercial buildings are located on commercially zoned land, which includes zones such as C-1, C-2, C-3 and more intense zones such as M-2 and M-2 that refer to the C-2 zone.

Though the amount of commercial uses can be approximated by looking at zoning, land use is a better indicator because there are some instances when a land use does not correspond to a property’s zoning. For example, some commercial buildings may exist on land that is not commercially zoned and may be non-conforming uses. Also, SU-1 and SC zones often include commercial uses, but SU-1 zones are often for non-commercial uses such as churches or institutions.

GIS Staff prepared a City-wide map of commercial land uses (see attachment). The map shows the GIS layers “commercial/retail” and “commercial/ service”. The purpose is to give an approximation of the scope of the proposed new article and how many properties could potentially be affected, whether now or later.

Though a few of the properties in commercial land use may not have structures upon them, these properties could be affected by the proposed new article. Many such properties are located along major arterials such as Central Ave., Menaul Blvd., Fourth Street, and Coors Blvd. NW. It's not possible to tell from mapped information, however, if any properties have vacant buildings or structures upon them or for how long they have been vacant (see also Section VII of this report).

IV. ANALYSIS OF APPLICABLE LAWS, ORDINANCES & PLANS

Applicable ordinances, plans, and policies are in regular text followed by Staff analysis in ***bold italics***.

Albuquerque Code of Ordinances- City Charter

The Citizens of Albuquerque adopted the City Charter in 1971. Applicable articles include:

Article I, Incorporation and Powers

“The municipal corporation now existing and known as the City of Albuquerque shall remain and continue to be a body corporate and may exercise all legislative powers and perform all functions not expressly denied by general law or charter. Unless otherwise provided in this Charter, the power of the city to legislate is permissive and not mandatory. If the city does not legislate, it may nevertheless act in the manner provided by law. *The purpose of this Charter is to provide for maximum local self government.* A liberal construction shall be given to the powers granted by this Charter.” (emphasis added)

Article IX, Environmental Protection

“The Council (City Commission) in the interest of the public in general shall protect and preserve environmental features such as water, air and other natural endowments, ensure the proper use and development of land, and promote and maintain an aesthetic and humane urban environment. To affect these ends the Council shall take whatever action is necessary and shall enact ordinances and shall establish appropriate Commissions, Boards or Committees with jurisdiction, authority and staff sufficient to effectively administer city policy in this area.”

Adding a new article to the ROA 1994 to allow regulation of vacant commercial buildings is an exercise in local self-government (City Charter, Article 1). Establishing regulations to require maintenance, security, and registration of vacant commercial buildings generally expresses the Council's desire to ensure the proper use and development of land (City Charter, Article IX). The proposed new article would generally help promote and maintain an aesthetic and humane urban environment and would apply City-wide.

Albuquerque Code of Ordinances- Chapter 14, Zoning, Planning & Building

The proposed legislation would become a new Article 21 in Chapter 14 of the Albuquerque Code of Ordinances, referred to as the Revised Ordinances of Albuquerque 1994 (ROA 1994). The Zoning Code, Article 16 of Chapter 14, would not be affected. Unlike the Zoning Code, Chapter 14 does not include a general statement of purpose such as promoting the health, safety, and general welfare of the public. Staff's review of the City Charter, for Articles applicable to the request, is included above.

Albuquerque/Bernalillo County Comprehensive Plan

The Comprehensive Plan, the Rank I planning document for the City, contains goals and policies that provide a framework for development and service provision. The Plan's goals and policies serve as a means to evaluate development requests and proposed legislation. The following Goals and policies apply to the current request:

B. Land Use

Developing and Established Urban Area Goal: The Goal is "to create a quality urban environment, which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles, while creating a visually pleasing built environment."

The proposed new article would generally contribute to a quality urban environment because it would require the maintenance and registration of vacant commercial buildings, which would help create a visually pleasing built environment. However, it would not apply retroactively to commercial properties that were already vacant as of the ordinance's effective date. Buildings that become vacant after that time would have to be registered. Though it may not have a significant effect in some areas, the request generally furthers the Developing and Established Urban Area Goal.

Policy II.B.50: Redevelopment and rehabilitation of older neighborhoods in the Established Urban Area shall be continued and strengthened.

To the extent that older neighborhoods have commercial uses in or near them, the proposed new article could help address commercial buildings that have become vacant. Such buildings would be required to be maintained and, if blighted, repaired. However, the proposed legislation would apply City-wide and not just in older neighborhoods. The request partially furthers Policy II.B.50-redevelopment of older neighborhoods.

C. Environmental Protection & Heritage Conservation

Developed Landscape Goal: The Goal is to maintain and improve the natural and the developed landscapes' quality.

In general, the proposed new article would help maintain and improve the quality of the developed landscape because it would require that vacant commercial buildings be maintained and repaired so that they appear to be in a good condition and are safe. The request generally furthers the Developed Landscape Goal.

D. Community Resource Management

Public Safety Goal: The Goal is to develop a safe and secure community in cooperation with the public and other governmental agencies.

Policy II.D.9d: Emergency and routine crime prevention efforts shall be continued and improved.

The proposed new article would generally help support development of a safe and secure community since it would address vacant buildings that have become a problem due to being

improperly maintained or in a state of disrepair. The request generally furthers the Public Safety Goal. Similarly, addressing such vacant buildings would generally help continue and improve crime prevention efforts. The request generally furthers Public Safety Policy II.D.9d.

V. ANALYSIS OF EXISTING REGULATIONS

The proposed new article would create regulations for many topics that are already regulated in other locations of ROA 1994. Duplicative regulations are generally undesirable because they are more likely to result in inconsistent application than regulations that are non-repetitive and organized to group similar regulations by subject.

Organization

As mentioned, regulations for vacant residential buildings and related definitions are found in the Uniform Housing Code (the “UHC”), which is Article 3 of Chapter 14 ROA 1994- Zoning, Planning & Building. The proposed regulations would be a new Article 20, appended at the end of Chapter 14. Here are two organizational possibilities: 1) place all regulations for vacant buildings (residential and commercial) in one article, or 2) place the vacant commercial buildings regulations in Article 3 and re-title Article 3 (ex. Uniform Housing Code & Vacant Buildings Regulations).

Repetition & Substance

With the exception of the aesthetic aspects of vacant commercial buildings and the establishment of a tracking and administrative system specific to vacant commercial buildings, existing regulations in ROA 1994 address most of what is contained in the proposed new article. The following is a summary of a more detailed table prepared by Code Enforcement Staff (see attachment):

Part of Proposed Article	Topic	Existing Regulation(s)
(B)(1)	Remove weeds, waste, refuse	Weed & Anti-Litter Ordinance
(B)(1)	Secure doors, windows, openings to prevent unauthorized entry	Uniform Administrative Code, Building Code, Zoning Code
(B)(2)	Water not to accumulate or stand on ground	Hydrology, DPM
(B)(3)	Exterior walls free of holes, breaks, loose boards	Uniform Administrative Code, Building Code, Zoning Code
(B)(4)	Maintain building exterior in good condition	Uniform Administrative Code, Building Code, Zoning Code
(B)(5)	Remove graffiti	Street Excavation & Barricading Ordinance, Municipal Solid Waste Ordinance

The Uniform Administrative Code (106.4) and the Building Code (Sections 115-117) address unsafe buildings. The Uniform Administrative Code is Article 1 of Chapter 14- Zoning, Planning and Building. 14-1-3 adopts a long list of building codes (see attachment), including the New Mexico Commercial Building Code. These regulations allow the City to make a building safe, remove it or

restore it, and to pass costs on to a responsible party. The Uniform Administrative Code, the Building Code, and the Zoning Code all require maintenance of buildings and structures.

Weed & Anti-Litter Ordinance (§9-8-1 ROA 1994) requires that property owners remove weeds, debris, trash, etc. The Graffiti Vandalism Ordinance is in Article 1 of Chapter 11- Nuisance Abatement.

VI. ADDITIONAL CONCEPTUAL ISSUES & ANALYSIS

Definitions & Scope

Staff is concerned about the proposed definition of Vacant Commercial Building for two reasons. First, as stated in Section III of this report, two definitions of “structure” already exist: one is in Zoning Code §14-16-1-5, Definitions, and the other is in §14-3-1-4, the Uniform Housing Code (UHC). Staff does not recommend introducing a new definition for purposes of the proposed new article because doing so would create more internal inconsistency within Chapter 14-Zoning, Planning & Building. (However, should the EPC and/or the City Council disagree, a proposed definition is found in Section III.) Rather, the definition of “Vacant Building” found in the UHC should be revised to be “Vacant Residential Building”.

More importantly, using “structures” instead of building would significantly expand the scope of the proposed new article, and the result would not make sense. In the proposed legislation (see attachment), the term structure is found on Page 1, Lines 16 and 20, and on Page 2, Line 5. References are to “non-residential structures” and the second reference is to “building or structure”.

Structures include anything constructed above the ground that requires location on the ground, or attached to something on the ground, but excluding a tent, vehicle, vegetation, or public utility pole or line. The term structures includes buildings, but the term buildings does not include structures. Using the term structure instead of building would mean that commercial structures such as gas station canopies, wireless telecommunications facilities (WTFs), signs attached to the ground, etc. would become subject to regulations for vacant commercial buildings. These are not occupied uses so therefore they would never be vacant. Since the title of the proposed new article remains “Vacant Commercial Buildings Ordinance”, it is unlikely that this is an intended result.

Second, in the proposed definition (Page 1, Lines 18-22), the three consecutive months that must be met for the building to be defined as vacant is qualified as follows: it must not be lawfully occupied, boarded up, and not show evidence of construction activity. Are these “or” clauses or “and” clauses? In other words, must all be fulfilled for the building to be defined as vacant? If all must be met, the effect would be of leaving out buildings that meet one or two of the criteria and giving them a way to not be defined as vacant, thereby leaving them not subject to the regulations.

Third, the party responsible for a vacant building would be required to remove weeds, trash, etc. from the “interior of the building or structure and the surrounding yards”. Staff suggests using the term “building” only, as explained above. Also, it does not make sense for a property owner to be required to clean up surrounding yards. Yards are associated with residential uses. If “surrounding property” is

meant, it wouldn't make sense to require the owner of a vacant building to clean up the lots of the properties that surround his lot.

Appeal Processes

The proposed new article would establish an appeals process that utilizes a hearing officer through the Office of Independent Hearings. A property owner who receives a Notice of Violation would have 15 days from the notice's date to request an appeal hearing. Hearings would be conducted pursuant to the IHO Ordinance. The City Clerk's office would accept appeal applications. The Clerk's office may or may not be aware of the new administrative duty.

→See also Section VII of this report.

The appeal process for vacant commercial buildings would differ from the appeals process for vacant residential buildings established in the UHC (see §14-3-5-4). Appeals regarding vacant residential buildings go to a body, the Housing Advisory and Appeals Committee (the HAAC), which is administered through the Planning Department. Appeal applications are submitted at the Planning Front Counter.

Though unnecessary that the appeal procedures be the same, the amount of overlap in the regulations for vacant residential buildings and vacant commercial buildings suggests that a similar process to resolve appeals could be used for both. Staff's understanding is that City Legal prefers to go in the direction of using an independent hearing officer. Perhaps the UHC could be amended at some point to follow suit.

VII. ENFORCEMENT & IMPLEMENTATION ISSUES

Implementation issues warrant further discussion and can be divided into Enforcement Concerns and Financial Aspects. Staff met with Code Enforcement Staff and the Code Compliance Manager (CCM, often also referred to as the Zoning Enforcement Official or ZEO). Several practical concerns became apparent. So that the proposed legislation does not create lack of enforceability and/or misaligned expectations by the public, it is critical to explore these concerns now. The legislation needs to be manageable for it to be effective.

Tracking & Administration

As written, the proposed new article would create difficulty for Code Enforcement Staff. The regulations would require that the Planning Department develop a system to register and track vacant commercial buildings, administer fees and note violations and if/how they've been addressed. Though a system is in place for vacant residential buildings, a new system would be needed to deal with vacant commercial buildings. Someone would need to be in charge of administering the system.

In addition to fees and violations, three requirements would have to be tracked: the thirty day period to register a vacant commercial building, the no more than three consecutive months that a building is allowed to be vacant, and the no more than 180 days in one year that a vacant commercial building can be boarded up. Each requirement would have to be tracked for each vacant commercial building. This could get complicated quickly, for a variety of reasons.

The proposed legislation (Page 2, Lines 29-33) would give the owner of a vacant commercial building 30 days to register it—either 30 days after becoming vacant or 30 days after acquiring the building. More often than not, however, it won't be possible to know exactly when a commercial building became vacant. Building owners are not likely to self-report, especially knowing that penalties such as fees and enforcement actions could result. Also, it is unfeasible for a City Staff person to patrol the entire City looking for commercial buildings that have just become vacant. Even supposing this is possible, there would not be a way to know by a site visit if the building became vacant that same day, yesterday or months ago.

Therefore, the proposed legislation is likely to be invoked on an “as reported” basis. Individuals could report vacant commercial buildings if they become concerned about a building's state of disrepair, appearance or a safety issue. A Code Enforcement inspector would visit the property. It would still be difficult to determine when the building became vacant unless the owner provides that information. The vacant building clock would begin on the date the building was reported which, in many cases, is likely to differ from the date the building actually became vacant.

Tracking the “three consecutive months” of vacancy required for a commercial building to be deemed vacant (Page 1, Lines 19-22) could be difficult for several reasons. One that stands out is how to determine when Day 1 of the three month clock begins (see Section VI of this report for details). Similarly, it would be difficult to determine the exact day when a building became boarded up; the proposed regulations would not allow a vacant commercial building to be boarded up for more than 180 days (6 months) in any one-year period (Page 2, Lines 12-15). Staff would have to try to get information from the owner, who may (or may not) be willing or able to provide the exact date the building was boarded up. Staff would then be put in the awkward position of making an educated guess; guessing doesn't provide a solid foundation for pursuing enforcement action.

The proposed regulations for maintenance of a vacant building's site, and the building itself, could also be challenging to implement. On a field visit, Code Enforcement Staff would have to determine what “good condition” means in practicality; they would have to determine if at least 95% of the paint, on any painted surface, is intact via visual inspection (Page 2, Lines 22-26). Staff is again put in the awkward position of making an educated guess.

Violations & Remedies

The proposed new article would establish an appeal procedure to deal with instances of non-compliance, but it would differ from the process established by the Zoning Code. The new Article 20 would not be part of the Zoning Code (Article 16 of Chapter 14), which is a criminal code. Section 14-16-4-10, Violations and Remedies, expressly grants authority to the Zoning Enforcement Officer (Staff) to “institute an appropriate action or proceeding” to correct violations of the regulations. Similar language giving authority to enforce provisions of ROA 1994 is found in the Weed and Litter Ordinance and the Nuisance Abatement Ordinance, for example.

To establish a way to deal with violations, it would be possible to include language similar to the Zoning Code in the proposed legislation, though this is not advisable. Under the Zoning Code, a Notice of Violation (NOV) is issued for violating a regulatory provision; it is a criminal complaint. The person to whom the NOV was issued is notified by the Court and must enter a pleading: guilty

and pay the fee, or go to trial. Zoning Code violations are misdemeanors and go to Court alongside cases for traffic offenses, DWI, and abuse. Often judges do not consider such regulatory violations to be as serious as the other types of cases before them.

Another approach is to include language to allow an opportunity to settle regulatory violations and disagreements administratively; this is what is proposed (Pages 3 & 4, Lines 31-33 and 1-3). This can be done through a hearing officer, who would act as a judge and determine a remedy, outside of the judicial system. This way, the person who received the NOV would not be criminalized and would not receive a misdemeanor, and City cases would not burden the judicial system.

Language regarding appeal procedures is included. All NOVs issued pursuant to the Vacant Commercial Buildings regulations could be appealed by someone with a legal interest in the property, which would include the owner, tenants, managers, etc. If there is no disagreement between the NOV recipient and the City, the NOV could be settled administratively without an appeal. However, if there is a disagreement, the appeal procedures could be used. Appeals would be filed at the City Clerk's office and heard by a hearing officer from the Office of Administrative Hearings pursuant to the IHO Ordinance. The proposed appeals process would allow for settlement outside of the judicial system.

Financial Aspects

As written, the proposed legislation would create an expectation that the Code Enforcement Division of the Planning Department would administer and enforce the new regulations, but without any additional resources to make implementation possible and consistent. As of its effective date, the proposed new article would be another unfunded mandate for which the Code Enforcement Division would be responsible. Recent unfunded mandates include regulations pertaining to small loan businesses and food trucks.

The proposed new article (Page 2, Lines 27-30) states that "the City Council will work with the Administration during Fiscal Year 2017" to fund adequate code enforcement staff to enforce the Vacant Commercial Buildings Ordinance. It is unknown at this stage what "adequate" means. Is it one full-time Staff position or five or ten new positions? The effort to determine appropriate and effective staffing levels would need to begin soon.

However, the above language is not a guarantee of funding and the Administration may have other priorities. Furthermore, the costs of implementing the proposed new article are not limited to staff positions and could wind up being considerable. Additional funds would need to be set aside to cover other City costs, such as demolition, or the money would have to be taken from other portions of the City Budget. The proposed fees would not be sufficient to off-set administrative costs or implement the new regulations.

Demolishing a commercial building can become very expensive very quickly, especially if asbestos or lead-based paint is found. One commercial building, especially if it is old and large, could consume the entire budget and leave no funding to implement the vacant commercial building regulations for the remainder of the fiscal year. No additional funds are proposed at this time. Keep in mind that the Code Enforcement Division is already responsible for administering the Uniform Housing Code, which can call for the demolition of vacant residential buildings. The cost to the City is typically

between \$10k and \$30k for a residential building demolition. The cost for commercial demolition is much greater.

The proposed new article would require a vacant building owner to carry no less than one million dollars of liability insurance (Page 3, Lines 11-19). This provision may not be needed for a couple of reasons. First, when a building becomes vacant, the owner's insurance rates go up considerably; there is a financial disincentive to keep a building vacant and, the greater the occupancy rate, the cheaper the insurance becomes. Second, it is unlikely that a vacant building owner would provide written notice of "any lapse, cancellation or change in coverage". Not only is this requirement burdensome, there's no incentive to do so and there could be enforcement action if the requirement is not complied with, which means that property owners are unlikely to self-report.

Furthermore, Code Enforcement Staff wouldn't need to know every detail of when a certain private party's insurance situation changed. Administering tracking of the thirty day requirement, the three month requirement and the "no more than 180 days in one year requirement" would likely take precedence over the abovementioned insurance details.

VIII. ANALYSIS & DISCUSSION OF PROPOSED NEW ARTICLE

The proposed legislation would add a new article, 20 to Chapter 14-Zoniong, Planning & Building, to the ROA 1994. Page references are to the proposed legislation (see attachment).

New language is [underlined and bracketed]. Deleted language is ~~underlined and struck through~~. Planning Staff's suggested changes to the legislation as originally drafted are in grey highlighting. Explanations are in **bold italics**.

A) Substantive Recommended Revisions:

1. Page 1, Lines 15-17, Intent & Purposes:

(A) The intent of Article 14-20 et. seq. is to provide minimum standards to safeguard life or limb, health, property and public welfare by [+requiring basic maintenance of vacant commercial buildings and+] establishing a registry [+for such buildings+]. ~~for vacant, non-residential structures and requiring basic maintenance of.....~~

The substantive change is regarding use of the term "structure", which would include structures that are not buildings, such as gas station canopies, wireless telecommunication facilities, and signs. Though a building is a type of structure by definition (see also Section III of this report), a structure is not always a building.

It does not make sense to include structures such as gas station canopies, wireless telecommunications facilities, public art, signs, etc. that cannot be occupied and therefore would never be vacant. Since these are not occupied, it would not make sense to regulate them using provisions for vacant buildings.

Another proposed change is to the order of what the article aims to achieve: requiring basic maintenance is the primary objective, which is backed-up by establishing a registry. The latter should be listed second.

The intent is to require maintenance of vacant buildings and establish a registry for them. There are two reasons why "and surrounding property" is problematic: 1) How far from the site of a vacant building is "surrounding"?, and 2) An enforcement action would only pertain to the property upon which the vacant building is sited, and not neighboring properties unless they have also violated the regulations.

The term "vacant commercial building" is used to be consistent with the term used on Page 1, Line 3 of the proposed legislation.

2. Page 1, Lines 19-22, Definitions:

VACANT COMMERCIAL BUILDING: ~~A vacant building shall be defined as a~~
[+A+] non-residential structure [+building+] that is, for any
three consecutive months, [+is+] not lawfully occupied, wholly or partially boarded up, and does
not show evidence of substantial and ongoing construction activity.

As explained above, the term structure needs to be replaced with building to avoid regulating non-occupied structures with regulations that pertain to vacant commercial buildings.

It appears that all tests have to be met for a commercial building to be defined as vacant. A building would have to be "not lawfully occupied", and "wholly or partially boarded up", and not showing evidence of construction.

The "and" regarding the not showing evidence of construction qualifies both prior conditions, though it's not certain how "substantial and ongoing" would be determined. An inspector would not have a way of knowing when the construction started, and how much activity is needed for it to be considered substantial (see Section VII of this report).

3. Page 2, Lines 5-7:

~~(B) [+C+] All vacant [+commercial+] buildings shall be actively maintained, monitored [+], and secured in the following manner: [+by the owner or responsible party, as follows: +]~~

~~(1) The owner or responsible party of a vacant building or structure shall remove any accumulation of weeds, combustible waste, or [+All+] refuse [+shall be removed+] from the interior of the building or structure and the surrounding yards; and shall~~

It's preferable, and cleaner organizationally, to state up front that all items in (C) would be required of the owner or responsible party.

See comments about removing the term "structure". It is unclear what "surrounding yards" refers to. The affected properties would be commercial, not residential, and therefore wouldn't have yards. Also, the property that is in violation of the proposed regulations is the property that would be required to be cleaned up, not any properties next door unless they have also violated a City regulation.

The Weed and Anti-Litter Ordinance (9-8-1) already requires clean-up of the exterior of properties. Repetitive regulation is crossed-out, which leaves cleaning up the interior of the building.

The term "vacant commercial building" is used to be consistent with the term used on Page 1, Line 3 of the proposed legislation.

4. Page 2, Lines 7-9:

~~interior of the building or structure and the surrounding yards; and shall secure all doors, windows, and other openings to prevent unauthorized entry;~~

The Uniform Administrative Code (106.4), the Building Code (Sections 115-117) and the Zoning Code [14-16-3-2(D)(8)] already address unsafe buildings and require that they are secured. Repetitive regulations are crossed-out.

5. Page 2, Lines 9-10:

~~(2) entry. The owner or responsible party also shall post both the structure and the exterior premises with~~ [+Signs shall be posted on the building and on the exterior premises+] to provide conspicuous and reasonable notice prohibiting entry (i.e., "No Trespassing" signs) [+,+]

Staff recommends making this a new (2) under (B) (see Comment #5, above). The owner or responsible party would be required to post signs to provide notice that entry is prohibited.

6. Page 2, Lines 12-15:

~~(a) [(D+)] While vacant structures may temporarily be secured by boarding up window and door openings, having or maintaining Boarded window or door openings on a vacant structure~~ [+commercial building,+] for one hundred eighty (180) days or more in any one (1) year period [+,+] is prohibited.

In terms of organization, if there's no (b), there shouldn't be an (a). This prohibition is significant, especially from an enforcement perspective, and is best not embedded in a list of items required of the owner or responsible party to secure the vacant commercial building. Staff suggests making this a new (E), to be placed after the list of required items, and re-writing it as shown, with re-lettering of subsequent sub-sections.

7. Page 2, Lines 16-17:

~~(2) [(3)+]~~ The lot shall be maintained so that water does not accumulate or stand on the ground.

The City has requirements regarding drainage and site design that would not allow water to accumulate. However, these would not be triggered since the vacant commercial buildings would already exist. It is unclear how the property owner or responsible is to implement this.

8. Page 2, Lines 18-21:

~~(3) [(4)+]~~ Exterior walls shall be free of holes, breaks, ~~loose or rotting boards or~~

~~timbers, and any other conditions which [that+] might admit rain or dampness to the interior portions of the [building+]. [Buildings+] walls or the interior spaces and shall be protected against the [from+] entry of rodents or other animals [++]~~

Re-written for clarity. Note that the Uniform Administrative Code, the Building Code and the Zoning Code all address exteriors of walls that are in disrepair. A general cross-reference to other applicable regulations is included in a new, proposed (E).

9. Page 2, Lines 22-26:

(4) ~~[+(5)+] Maintain~~ The exterior of the building ~~[shall be maintained in good condition+]~~, including but not limited to, paint, finishes, ~~roofing~~ materials, ~~[+roofing+]~~ siding, stucco, masonry, railings, steps, gutters, and ~~[+any+]~~ structural elements ~~in good condition~~.

Re-written for clarity. It would be difficult to determine what "good condition" means with respect to a building overall, or to any of the items listed except paint (see Item 12, below).

Note that the Uniform Administrative Code, the Building Code and the Zoning Code all address exteriors of walls that are in disrepair. A general cross-reference to other applicable regulations is included in a new, proposed (E).

10. Page 2, Lines 25-26:

and structural elements ~~in good condition~~. Painted surfaces shall be deemed in good condition if there is at least 95% coverage of the structural element that is painted.

Staff is not aware of a way to determine, other than rough estimation, if paint covers at least 95% of the structural element painted. It's unlikely that such estimation would be consistent between individual inspectors. Code Enforcement Staff has indicated that it would be difficult to determine if this provision is met.

It is unclear what the term "structural element" means. Is that part of a building, such as a window or part of a wall, or perhaps the whole building in some cases?

11. Page 2, Lines 27-28:

~~Remove all graffiti on the property within forty eight (48) hours of placement on the property [+.+]~~

This provision would be difficult to implement as intended. First, it would be impossible to determine exactly when the graffiti was placed on the property unless someone witnessed it directly. Most graffiti occurs clandestinely, making it more difficult to determine when it happened.

Second, the City's Anti-Graffiti Ordinance (11-7-5) allows 16 days to remove graffiti from a property, which raises the issue that vacant commercial buildings would be subject to a much more stringent standard than vacant residential buildings, or other buildings or structures, are subject to. Staff recommends deletion.

12. Page 2 (or 3), Line 29 and onward:

~~[+(E) Vacant commercial buildings shall comply with applicable City regulations including, but not limited to, the Uniform Administrative Code, the Building Code, other applicable technical codes, the Zoning Code, the Weed and Litter Ordinance, and the Graffiti and Vandalism Ordinance.+]~~

Staff proposes a new section (E), which would go before the wording moved into a new subsection (D) (see #8, above). (D) would contain the requirement that vacant commercial buildings can't be boarded up for more than 6 months of a year. The new (E) would remind the reader that several existing City regulations would also apply to a vacant commercial building.

13. Page 3, Lines 11-14:

~~(D) [+F+] The owner of any commercial building that has become vacant shall, within 30 days, acquire or otherwise maintain liability insurance, in an amount of not less than \$1,000,000.00 [+.] covering any damage to any person or any~~

Staff's understanding is that insurance rates go up when a building, or part of a building, becomes vacant, so generally speaking there is an incentive to keep a commercial building rented. When this is not possible, and/or between tenants, it seems that it would be in the property owner's interest to protect themselves and that they would have insurance anyway. However, for those who might not, the provision can remain but would benefit from simplification.

14. Page 3, Lines 14-19:

~~property caused by any physical condition or of in the building. Any insurance policy acquired after the building has become vacant shall provide for written notice to Code Enforcement within 30 days of any lapse, cancellation or change in coverage. The owner and [+or responsible party, or their +] the owner's authorized agent for service of process shall provide evidence of the insurance, upon request, to Code Enforcement.~~

Enforcement and tracking of vacant commercial buildings City-wide is a large task. It doesn't seem reasonable to require a building owner to notify Code Enforcement in writing every time that some detail concerning their insurance policy changes. It would be more in line with the intent of the proposed, new article to focus Staff resources on field inspection and following up to ensure that blighted conditions improve. Furthermore, it is unlikely that many property owners would notify anyone of a lapse in insurance coverage; much less the agency charged with enforcing the regulations. It is reasonable, however, to be able to request evidence of insurance coverage upon request.

15. Page 3, Lines 20-22:

~~When all violations have been abated [+remedied+] and a vacant building has been legally reoccupied, or when the building has been demolished, the property will be removed from the vacant buildings list [+it will be noted in the vacant building registry+].~~

Though this level of administrative detail is probably unnecessary, Staff offers the above clarifications. Typically, for tracking purposes, a list of buildings (it's referred to as a registry in other parts of the proposed legislation) is maintained and nothing is removed in the interest of keeping complete records. A spreadsheet can have an "outcome" column to indicate that violations have been remedied and the building is no longer subject to the regulations, unless a violation occurs in the future. Since this is possible, it's a good idea to not remove any entries from the registry.

16. Page 3, Lines 26-30:

1) ~~[(B)]~~ A ~~written~~ notice of a violation of this section shall be sent ~~in writing~~ to the owner of the property ~~[+, or to the responsible party, +]~~ at their address of record listed in the county clerk's office stating that there has been a violation of this section and providing a brief description of the nature of the violation and right to appeal pursuant to §14-20-9.

Comments are for clarification and consistency.

17. Page 4, Lines 8-9:

(B) The registration renewal fee for a vacant ~~non-residential~~ ~~commercial~~ building, as referenced in 14-20-5(A)(2) ~~[+, +]~~ is \$100 for each 6-month renewal period.

The term "vacant commercial building" is used to be consistent with the term used on Page 1, Line 3 of the proposed legislation. Comments are for clarification and consistency.

18. Page 4, Lines 13-18:

§14-20-9 VACANT ~~NON-RESIDENTIAL~~ ~~COMMERCIAL~~ BUILDING ABATEMENT ~~[+A+]~~ All buildings ~~[+, +]~~ or portions thereof ~~[+, +]~~ which are determined to be substandard as defined in this code ~~[+Article+]~~ ~~are hereby declared to be nuisances and~~ shall be abated by repair, rehabilitation, demolition, removal or securing all accessible openings and entrances to ~~[+the+]~~ building in accordance with the procedure ~~[+s+]~~ as provided herein ~~[+and in related, applicable procedures in ROA 1994+]~~.

Staff suggests a cross-reference to other, applicable procedures since abatement is covered adequately elsewhere. The term "vacant commercial building" is used to be consistent with the term used on Page 1, Line 3 of the proposed legislation. Other comments are for clarification and consistency.

B) Recommended, Minor Revisions:

1. Page 1, Lines 3 & 4 and Line 9:

AND BUILDING, TO BE KNOWN AS THE "VACANT COMMERCIAL BUILDINGS ORDINANCE ~~[+REGULATIONS+]~~.

Commercial Buildings Ordinance".

These minor changes are for clarity. The existing Vacant Building Ordinance does not list building as plural. The Ordinance establishes regulations, which are referred to as

regulations for enforcement purposes (also, for example, the Wireless Regulations are referred to as regulations and not an ordinance).

2. Page 1, Lines 25 & 26:

this section. If the [+Planning+] Director finds [+that+] the building is being maintained in [+a+] blighted condition, the [+Planning+] Director may issue a Notice of Violation to the property owner

For clarification regarding which Director (and their Staff) is tasked with implementing the new regulations.

3. Page 4, Lines 13 – 26, organization:

[+A+] All buildings or portions thereof which are determined to be substandard

[+B+] Any building that has been determined to be substandard

[+C+] The failure to repair, rehabilitate, demolish or remove such

Add an A to Line 14, a B to Line 18 and a C to Line 21.

C) Recommended Revisions- Other portions of ROA 1994:

1. Page 2, Line 23, 14-3-1-4 ROA 1994, Uniform Housing Code, Definitions:

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

Now that an ordinance pertaining to vacant commercial buildings is proposed, the existing definition of Vacant Building should be specified to mean Vacant Residential Building for the sake of clarity.

IX. COMMENTS

Concerns of Reviewing Agencies

Few agency comments were received. Long Range Planning Staff states that it is generally a good idea to track vacancies and to ensure proper maintenance of vacant buildings.

Metropolitan Redevelopment (MR) Staff offer detailed comments, noting that it is unclear how the City will be made aware that a non-residential structure is unoccupied for 3 consecutive months. There is no definition of “construction activity” or “good condition.” They raise the issue of leasing. What if an owner of a vacant building gets a \$1.00 lease with a second party- does that make that structure “occupied”? Also, the majority of the legislation is already covered by City code enforcement for maintaining building safety and upkeep of weeds and graffiti.

Staff also interviewed the Code Compliance Manager (CCM) and Code Enforcement Staff about the proposed new article. Their concerns are explained in Section VII of this report. Agency comments begin on p. 26.

Neighborhood & Other Concerns

An article regarding the proposed legislation was published in the March/April 2016 issue of the Neighborhood News (see attachment). The proposed legislation was presented at the Planning Department's Development Discussion meeting on February 18, 2016.

As of this writing, Staff has received one comment from a development company. The representative suggests that a vacant building should be defined as 100% vacant, to avoid the situation that a vacant portion of a strip mall would render the entire mall a vacant commercial building. If a commercial building is being represented by a broker, it also shouldn't be defined as vacant.

X. CONCLUSION

The request is for a recommendation to City Council regarding the addition of a proposed new article (Article 20) to Chapter 14- Zoning, Planning & Building, Revised Ordinances of Albuquerque (ROA) 1994. The purpose of the proposed new article, which would apply City-wide, is to allow regulation of vacant commercial buildings.

Staff finds that the proposed new article generally furthers the few Goals and policies that apply, and the applicable, overarching intentions in the City Charter. However, several existing regulations in ROA 1994, such as the Weed and Anti-Litter Ordinance, the Uniform Administrative Code, the Building Code and the Zoning Code already address much of what is proposed.

The proposed text amendments were announced in the March/April edition of the Neighborhood News and at the Planning Department's Development Discussion on February 18, 2016. As of this writing, Staff has received one comment from a development company.

Staff recommends that the proposed legislation be substantively re-written to eliminate repetitive regulations and inconsistencies, and also to address enforcement and implementation difficulties. Staff recommends that a recommendation of conditional approval be forwarded to the City Council.

RECOMMENDED FINDINGS- 16EPC-40014, April 14, 2016- Proposed New Article Re: Vacant Commercial Buildings

1. The request is for a recommendation to City Council regarding the addition of a proposed new article (Article 20) to Chapter 14- Zoning, Planning & Building, Revised Ordinances of Albuquerque (ROA) 1994 to allow the regulation of vacant commercial buildings. The proposed new article would apply City-wide.
2. Vacant commercial buildings would be defined as non-residential buildings that have not been lawfully occupied or subject to any construction activity for three consecutive months. Vacant commercial buildings would be required to be maintained, monitored, and secured. The building owner, or a responsible party, would be required to register the building and pay an associated fee within 30 days of it becoming vacant or assuming ownership. Liability insurance would also be required.
3. The proposed new article is found in legislation authored by Council Services Staff and known as Bill No. O-16-11. O-16-11 was introduced at City Council on February 17, 2016 and subsequently referred to the Planning Department for review. The EPC's task is to make a recommendation to the City Council regarding the proposed new article. The City Council is the City's Zoning Authority and will make the final decision.
4. The Albuquerque/Bernalillo County Comprehensive Plan and the Revised Ordinances of Albuquerque (ROA) 1994 are incorporated herein by reference and made part of the record for all purposes.
5. Intent of the City Charter:

Adding a new article to the ROA 1994 to allow regulation of vacant commercial buildings is an exercise in local self-government (City Charter, Article 1). Establishing regulations to require maintenance, security, and registration of vacant commercial buildings generally expresses the Council's desire to ensure the proper use and development of land (City Charter, Article IX). The proposed new article would generally help promote and maintain an aesthetic and humane urban environment and would apply City-wide.
6. The request generally furthers the following, applicable Comprehensive Plan Goals:
 - A. Developing and Established Urban Areas Goal: The proposed new article would generally contribute to a quality urban environment because it would require the maintenance and registration of vacant commercial buildings, which would help create a visually pleasing built environment. However, it would not apply retroactively to commercial properties that were already vacant as of the ordinance's effective date. Buildings that become vacant after that time would have to be registered. Though it may not have a significant effect in some areas, the Goal is generally furthered.

- B. Developed Landscape Goal: In general, the proposed new article would help maintain and improve the quality of the developed landscape because it would require that vacant commercial buildings be maintained and repaired so that they appear to be in a good condition and are safe.
7. The request generally furthers the Public Safety Goal and Public Safety Policy II.D.9d. The proposed new article would generally help support development of a safe and secure community since it would address vacant buildings that have become a problem due to being improperly maintained or in a state of disrepair (Goal). Similarly, addressing such vacant buildings would generally help continue and improve crime prevention efforts (Policy II.D.9d).
 8. Most of what is contained in the proposed new article is already found in ROA 1994. Regulations that address the removal of weeds and refuse, securing of doors, windows and openings, maintaining building exteriors, and removing graffiti, are found in the Weed & Anti-Litter Ordinance (§9-8-1 ROA 1994), the Uniform Administrative Code (106.4), the Building Code (Sections 115-117), the Zoning Code, and the Graffiti Vandalism Ordinance (Article 1, Chapter 11- Nuisance Abatement).
 9. The proposed legislation is likely to be invoked on an “as reported” basis. Individuals could report vacant commercial buildings if they become concerned about a building’s state of disrepair, appearance or a safety issue. It is unfeasible for Staff to patrol the entire City looking for commercial buildings that have just become vacant. Even supposing this is possible, there would not be a way to know by a site visit if the building became vacant that same day, yesterday or months ago.
 10. In addition to fees and violations, three requirements would have to be tracked: the thirty day period to register a vacant commercial building, the no more than three consecutive months that a building is allowed to be vacant, and the no more than 180 days in one year that a vacant commercial building can be boarded up. More often than not, however, it won’t be possible to know exactly when a commercial building became vacant.
 11. As of its effective date, the proposed new article would be an unfunded mandate. Though proposed language states that the Council will work with the Administration during Fiscal Year 2017 to fund adequate code enforcement staff, funding is not guaranteed and adequate is undefined. Furthermore, the costs of implementing the legislation are not limited to staffing and could be considerable. Additional funds would be needed for demolition of commercial buildings, which can be quite expensive. The proposed fees would be insufficient to off-set implementation costs.
 12. The proposed new article (Article 20) would establish an appeal procedure, using an independent hearing officer, to settle instances of non-compliance when there is a disagreement about a Notice

of Violation. The proposed new article would not create criminal complaints because it would not be part of the Zoning Code (Article 16 of Chapter 14), which is a criminal code.

13. The proposed legislation should be substantively re-written to avoid creating repetitive regulations in ROA 1994, and the inconsistencies that could result. Implementation issues, such as administration and tracking, should also be addressed.
14. The proposed text amendments were announced in the March/April 2016 issue of the Neighborhood News, published by the Office of Neighborhood Coordination (ONC), and at the Planning Department's Development Discussion on February 18, 2016. As of this writing, Staff received one comment from a development company.

RECOMMENDATION- 16EPC-40014, April 14, 2016

That a recommendation of CONDITIONAL APPROVAL of a proposed new Article (Article 20), to be added to Chapter 14 Revised Ordinances of Albuquerque (ROA) 1994- Zoning, Planning and Building- to allow regulation of vacant commercial buildings, be forwarded to the City Council based on the preceding Findings and subject to the following Conditions for Recommendation of Approval.

CONDITIONS FOR RECOMMENDATION OF APPROVAL- 16EPC-40014, April 14, 2016

Notes: New language is [+underlined and bracketed+]. Deleted language is [~~underlined, bracketed and struck through~~]. Planning Staff's suggested changes are indicated by grey highlighting. Page references are to the proposed legislation (O-11-16).

Substantive Recommended Revisions:

1. Page 1, Lines 15-17, Intent & Purposes:

(A) The intent of Article 14-20 et. seq. is to provide minimum standards to safeguard life or limb, health, property and public welfare by [+requiring basic maintenance of vacant commercial buildings and+] establishing a registry [+for such buildings+]. ~~for vacant, non-residential structures and requiring basic maintenance of.....~~

2. Page 1, Lines 19-22, Definitions:

VACANT COMMERCIAL BUILDING: ~~A vacant building shall be defined as a~~ [+A+] non-residential ~~structure~~ [+building+] that is, for any three consecutive months, [+is+] not lawfully occupied, wholly or partially boarded up, and does not show evidence of substantial and ongoing construction activity.

3. Page 2, Lines 5-7:

~~(B)~~ ~~[+C+]~~ All vacant ~~[+commercial+]~~ buildings shall be actively maintained, monitored ~~[+,+]~~ and secured ~~in the following manner: [+by the owner or responsible party, as follows: +]~~

(1) ~~The owner or responsible party of a vacant building or structure shall remove any accumulation of weeds, combustible waste, or [+All+] refuse [+shall be removed+] from the interior of the building or structure and the surrounding yards; and shall~~

4. Page 2, Lines 7-9:

~~interior of the building or structure and the surrounding yards; and shall secure all doors, windows, and other openings to prevent unauthorized entry.~~

5. Page 2, Lines 9-10:

~~(2) entry. The owner or responsible party also shall post both the structure and the exterior premises with [+Signs shall be posted on the building and on the exterior premises+] to provide conspicuous and reasonable notice prohibiting entry (i.e., "No Trespassing" signs) [+,+]~~

6. Page 2, Lines 12-15:

~~(a) [(D+)] While vacant structures may temporarily be secured by boarding up window and door openings, having or maintaining Boarded window or door openings on a vacant structure [+commercial building,+] for one hundred eighty (180) days or more in any one (1) year period [+,+]~~ is prohibited.

7. Page 2, Lines 16-17:

~~(2) [(3)+]~~ The lot shall be maintained so that water does not accumulate or stand on the ground.

8. Page 2, Lines 18-21:

~~(3) [(4)+]~~ Exterior walls shall be free of holes, breaks, ~~loose or rotting boards or timbers,~~ and any other conditions which ~~[+that+]~~ might admit rain or dampness to the interior portions of the ~~[+building+]. [+Buildings+] walls or the interior spaces and~~ shall be protected ~~against the [+from+]~~ entry of rodents or other animals ~~[+,+]~~

9. Page 2, Lines 22-26:

~~(4) [(5)+]~~ ~~Maintain~~ The exterior of the building ~~[+shall be maintained in good condition+],~~ including but not limited to, paint, finishes, ~~roofing~~ materials, ~~[+roofing +]~~ siding, ~~stucco, masonry, railings, steps, gutters,~~ and ~~[+any+]~~ structural elements ~~in good condition.~~

10. Page 2, Lines 25-26:

~~and structural elements in good condition.~~ Painted surfaces shall be deemed in good condition if there is at least 95% coverage of the structural

element that is painted.

11. Page 2, Lines 27-28:

~~Remove all graffiti on the property within forty eight (48) hours of placement on the property~~
[+.+]

12. Page 2 (or 3), Line 29 and onward:

~~[+(E) Vacant commercial buildings shall comply with applicable City regulations including, but not limited to, the Uniform Administrative Code, the Building Code, other applicable technical codes, the Zoning Code, the Weed and Litter Ordinance, and the Graffiti and Vandalism Ordinance.]~~

13. Page 3, Lines 11-14:

~~(D) [+F+] The owner of any commercial building that has become vacant shall, within 30 days, acquire or otherwise maintain liability insurance, in an amount of not less than \$1,000,000.00 [+.] covering any damage to any person or any~~

14. Page 3, Lines 14-19:

~~property caused by any physical condition or of in the building. Any insurance policy acquired after the building has become vacant shall provide for written notice to Code Enforcement within 30 days of any lapse, cancellation or change in coverage. The owner and [+or responsible party, or their +] the owner's authorized agent for service of process shall provide evidence of the insurance, upon request, to Code Enforcement.~~

15. Page 3, Lines 20-22:

When all violations have been abated ~~abated~~ [+remedied+] and a vacant building has been legally reoccupied, or when the building has been demolished, ~~the property will be removed from the vacant buildings list~~ [+it will be noted in the vacant building registry+].

16. Page 3, Lines 26-30:

~~1) [+ (B) +] A [+written+] notice of a violation of this section shall be sent in writing to the owner of the property [+ , or to the responsible party, +] at their address of record listed in the county clerk's office stating that there has been a violation of this section and providing a brief description of the nature of the violation and right to appeal pursuant to §14-20-9.~~

17. Page 4, Lines 8-9:

(B) The registration renewal fee for a vacant ~~non-residential~~ [+commercial+] building, as referenced in 14-20-5(A)(2) [+ , +] is \$100 for each 6-month renewal period.

18. Page 4, Lines 13-18:

§14-20-9 VACANT ~~NON-RESIDENTIAL~~ [+COMMERCIAL+] BUILDING ABATEMENT
[+A+] All buildings [+], or portions thereof [+], which are determined to be substandard as
defined in this code [+Article+] ~~are hereby declared to be nuisances and~~ shall be abated
by repair, rehabilitation, demolition, removal or securing all accessible
openings and entrances to [+the+] building in accordance with the procedure[+s+]
as provided herein [+and in related, applicable procedures in ROA 1994+].

Recommended, Minor Revisions:

19. Page 1, Lines 3 & 4 and Line 9:

AND BUILDING, TO BE KNOWN AS THE "VACANT COMMERCIAL BUILDINGS
ORDINANCE [+REGULATIONS+].

Commercial Buildings Ordinance".

20. Page 1, Lines 25 & 26:

this section. If the [+Planning+] Director finds [+that+] the building is being maintained in [+a+]
blighted condition, the [+Planning+] Director may issue a Notice of Violation to the property
owner

21. Page 4, Lines 13 – 26, organization:

[+A+] All buildings or portions thereof which are determined to be substandard
[+B+] Any building that has been determined to be substandard
[+C+] The failure to repair, rehabilitate, demolish or remove such

Recommended Revisions- Other portions of ROA 1994:

22. Page 2, Line 23, 14-3-1-4 ROA 1994, Uniform Housing Code, Definitions:

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



Catalina Lehner, AICP
Senior Planner

cc: City of Albuquerque, City Council, Attn: Andrew Webb, P.O. Box 1293, Abq. NM 87102
City of Albuquerque, Planning Department, P.O. Box 1293, Abq. NM 87102
City of Albuquerque, Legal Department, attn.: Daniel Dietz, P.O. Box 1293, Abq. NM 87102

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Code Enforcement

Staff met with Code Enforcement Staff twice to discuss implementation and enforcement issues.

Office of Neighborhood Coordination (ONC)

City-wide. An article was published in the March/April edition of the Neighborhood News (see attachment).

Long Range Planning

- In general this is a good idea to track vacancies and to ensure proper maintenance of vacant buildings; however, we recommend consideration for making the fees and penalties more affordable for all types of building owners.
- Perhaps consider an incentive program, such as a building permit fee reduction, that can be offered to owners with properties that have been on the vacant building list for a set period of time, such as one year.

Metropolitan Redevelopment Agency

Metropolitan Redevelopment comments are in regard to the "Vacant Commercial Buildings Ordinance (O-16-11).

INTENT AND PURPOSES

Page 1, Line 14 to 17, (A): The legislation does not define what basic maintenance is nor is it clear what City division will be responsible for updating and maintaining a registry of vacant, non-residential structures.

DEFINITIONS

Page 1, Line 19 to 22: The legislation does not make it clear how the City will be made aware that a non-residential structure is not occupied for 3 consecutive months. Likewise, there is no definition of what qualifies as "construction activity."

Page 1, Line 24 to 25: The legislation does not define "good condition."

Page 2, Line 12 to 15: boarding up windows (180) days in any year prohibited.

Page 2, Line 29 to 33: The legislation does not make it clear the mechanism regarding registration of vacant buildings of 30 days with the City. (eg: Isotopes park is not occupied during the off season, does this mean the Isotopes need to register the park when the team is off season?)

- The proposed legislation does not have a mechanism to require a private owner to register a vacant building.
- The definition of vacant building, construction activity, good condition need to be better defined. (eg: If an owner of a vacant building gets a \$1.00 lease with a second party does that make that structure "occupied.")

- Prohibiting windows and doors to be prohibited for more than (180) days in any one year puts properties at risk for vandalism.
- The majority of the legislation is already covered by City code enforcement for maintaining building safety and upkeep of weeds and graffiti.

CITY ENGINEER

Transportation Development Services

- No objection to the request.

Hydrology

- Lines 16 and 17 on page 2 (disallows water sitting on ground) : The language should be expanded to make it clear that intentionally ponded stormwater needs to remain in place if it was a part of the flood control or first flush requirement. Some first flush ponds can be as shallow as 4” to 6” over a large area and they should not be filled in even if the building is vacant.

DEPARTMENT of MUNICIPAL DEVELOPMENT

Transportation Planning

- No objection to the request.

Traffic Engineering Operations (Department of Municipal Development):

Street Maintenance (Department of Municipal Development):

New Mexico Department of Transportation (NMDOT):

- NMDOT has no comments.

**RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT
and NMDOT:**

WATER UTILITY AUTHORITY

Utility Services- No adverse comment.

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Open Space Division

City Forester

POLICE DEPARTMENT/Planning

No Crime Prevention or CPTED comments concerning the proposed *Amendment to Zoning Code Regulations Text* at this time.

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division- No comment.

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

Project # 1001620 16EPC-40014 AMENDMENT TO ZONING CODE OR SUBDIVISION REGULATIONS TEXT CITYWIDE	Adjacent and nearby routes	None
	Adjacent bus stops	None.
	Site plan requirements	None.
	Large site TDM suggestions	None.
	Other information	None.

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY-

ALBUQUERQUE PUBLIC SCHOOLS

MID-REGION COUNCIL OF GOVERNMENTS

MRMPO has no adverse comments.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

PNM has no comments based on information provided to date.

PROPOSED LEGISLATION

Bill No. O-16-11 & Legislative Tracking (History)

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

1 and the property owner may be subject to fines and penalties as set forth in
2 this section.

3 (B) All vacant buildings shall be actively maintained, monitored and secured in
4 the following manner:

5 (1) The owner or responsible party of a vacant building or structure shall
6 remove any accumulation of weeds, combustible waste, or refuse from the
7 interior of the building or structure and the surrounding yards; and shall
8 secure all doors, windows, and other openings to prevent unauthorized
9 entry. The owner or responsible party also shall post both the structure
10 and the exterior premises with signs to provide conspicuous and
11 reasonable notice prohibiting entry (i.e., "No Trespassing" signs)

12 (a) While vacant structures may temporarily be secured by boarding
13 up window and door openings, having or maintaining boarded
14 window or door openings on a vacant structure for one hundred
15 eighty (180) days or more in any one (1) year period is prohibited.

16 (2) The lot shall be maintained so that water does not accumulate or stand
17 on the ground.

18 (3) Exterior walls shall be free of holes, breaks, loose or rotting boards or
19 timbers, and any other conditions which might admit rain or dampness to
20 the interior portions of the walls or the interior spaces and shall be
21 protected against the entry of rodents or other animals

22 (4) Maintain the exterior of the building, including but not limited to, paint,
23 finishes, roofing materials, siding, stucco, masonry, railings, steps, gutters,
24 and structural elements in good condition. Painted surfaces shall be
25 deemed in good condition if there is at least 95% coverage of the structural
26 element that is painted.

27 (5) Remove all graffiti on the property within forty-eight (48) hours of
28 placement on the property

29 (C) The owner of any building that has become vacant shall within 30 days
30 after the building becomes vacant or within 30 days after assuming
31 ownership, whichever is later, register the building with the city through forms
32 provided on a city website or web application and pay a registration fee as
33 prescribed in §14-20-7(A).

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough-Material] - Deletion

1 (1) the registration form shall include the name, street address and
2 telephone number of a natural person 21 years of age or older, designated
3 by the owner or owners as the authorized agent for receiving notices of
4 code violations and for receiving process, in any court proceeding or
5 administrative enforcement proceeding, on behalf of such non-resident
6 owners. This person must maintain an office in Bernalillo County or must
7 reside within Bernalillo County.

8 (2) the owner shall be required to renew the registration for successive 6-
9 month periods as long as the building remains vacant and shall pay a
10 registration renewal fee as prescribed in §14-20-7(B).

11 (D) The owner of any commercial building that has become vacant shall,
12 within 30 days, acquire or otherwise maintain liability insurance, in an amount
13 of not less than \$1,000,000.00 covering any damage to any person or any
14 property caused by any physical condition of or in the building. Any insurance
15 policy acquired after the building has become vacant shall provide for written
16 notice to Code Enforcement within 30 days of any lapse, cancellation or
17 change in coverage. The owner and the owner's authorized agent for service
18 of process shall provide evidence of the insurance, upon request, to Code
19 Enforcement.

20 (E) When all violations have been abated and a vacant building has been
21 legally reoccupied, or when the building has been demolished, the property
22 will be removed from the vacant building list.

23 § 14-20-6 ENFORCEMENT, NOTICE, APPEALS.

24 (A) The enforcement of §14-20 et seq. will be the responsibility of the Code
25 Enforcement Division.

26 (B) Notice. A notice of a violation of this section shall be sent in writing to the
27 owner of the property at their address of record listed in the county clerk's
28 office stating that there has been a violation of this section and providing a
29 brief description of the nature of the violation and right to appeal pursuant to §
30 14-20-6(C).

31 § 14-20-7 Appeals. Any person with a legal interest in a building deemed by
32 Code Enforcement to be in violation of this article may appeal such
33 determination of a violation by requesting a hearing in writing within 15 days

1 of receipt of a notice of violation. The request must be filed with the City Clerk
2 and the appeals hearing shall be conducted pursuant to the IHO Ordinance
3 (§2-7-8-1, et. seq.).

4 § 14-20-8 FEES AND PENALTIES.

5 (A) The initial registration fee for a vacant non-residential building, as
6 referenced in §14-20-5(A) is \$500 for each such building until the building is
7 again occupied or demolished.

8 (B) The registration renewal fee for a vacant non-residential building, as
9 referenced in §14-20-5(A)(2) is \$100 for each 6-month renewal period.

10 (C) Any vacant building that is in violation of any provision set forth in section
11 14-20-5 at the time renewal is required shall be assessed a violation fee of
12 \$500 a day.

13 § 14-20-9 VACANT NON-RESIDENTIAL BUILDING ABATEMENT

14 All buildings or portions thereof which are determined to be substandard as
15 defined in this code are hereby declared to be nuisances and shall be abated
16 by repair, rehabilitation, demolition, removal or securing all accessible
17 openings and entrances to building in accordance with the procedure as
18 provided herein. Any building that has been determined to be substandard
19 and which has been abated by securing all accessible openings and entrances
20 shall be repaired, rehabilitated, demolished or removed within 12 months of
21 being secured. The failure to repair, rehabilitate, demolish or remove such
22 building within 12 months shall be prima facie evidence that the building is a
23 menace to the public comfort, health, peace or safety and should be
24 condemned. After 12 months, the City Council may present a Resolution of
25 Condemnation as provided for in Section 3-18-5 NMSA 1978 and proceed with
26 condemnation as provided for under that statute.

27 SECTION 2. FUNDING FOR ENFORCEMENT. The City Council will work
28 with the Administration during the Fiscal Year 2017 budget process to fund
29 adequate Code Enforcement staff for the enforcement of the Vacant
30 Commercial Buildings Ordinance.

31 SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
32 clause, word or phrase of this Ordinance is for any reason held to be invalid or
33 unenforceable by any court of competent jurisdiction, such decision shall not

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1 affect the validity of the remaining provisions of this Ordinance. The Council
2 hereby declares that it would have passed this Ordinance and each section,
3 paragraph, sentence, clause, word or phrase thereof irrespective of any
4 provision being declared unconstitutional or otherwise invalid.

5 SECTION 4. COMPILATION. SECTION 1 of this Ordinance shall be
6 incorporated in and made part of the Revised Ordinances of Albuquerque,
7 New Mexico, 1994.

8 SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect five days
9 after publication by title and general summary.”

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Details Reports

File #: O-16-11

Type: Ordinance

File created: 2/17/2016

Status: In Committee

In control: Environmental Planning Commission

Final action:

Enactment #:

Enactment date:

Title: Adopting A New Article In Chapter 14 ROA 1994, Zoning, Planning And Building, To Be Known As The "Vacant Commercial Buildings Ordinance." (Harris, Davis)

Attachments: 1. [O-11](#)

History (2) Text

2 records Group Export

Date	Action By	Action	Result	Action Details
2/17/2016	City Council	Introduced and Referred		Action details
2/17/2016	President	Referred		Action details

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RELEVANT REGULATIONS

Relevant, Existing Regulations

PROPOSED ORDINANCE SECTION	PROPOSED ORDINANCE LANGUAGE	EXISTING CITY STANDARDS	COMMENTS
14-20-5(B)(1)	" ...remove any accumulation of weeds, combustible waste, or refuse..."	Weed & Anti-Litter Ordinance (9-8-1)	<ul style="list-style-type: none"> Existing standards require all property owners to remove weeds, litter, debris, trash, etc. from their yards and exterior spaces Proposed standards would also require vacant building owners/responsible parties to remove weeds and refuse from the <u>inside</u> of a building
14-20-5(B)(1)	<p>" ...secure all doors, windows, and other openings to prevent unauthorized entry."</p> <p><i>International Existing</i></p> <p>2009 Building Code (IBC) Sections 115-117</p> <p>Comprehensive City Zoning Code (14-16-3-2(D))(8)</p>	<p>Uniform Administrative Code (106.4)</p> <p>2009 Building Code (IBC) Sections 115-117</p> <p>Comprehensive City Zoning Code (14-16-3-2(D))(8)</p>	<ul style="list-style-type: none"> Existing provisions of the UAC allow the Building Official to repair, rehabilitate, demolish, and/or remove any "unsafe buildings, structures or appendages and building service equipment". These problematic structures are also declared to be public nuisances by the UAC. Section 115 of the Building Code address unsafe buildings and equipment, and allows the code official (i.e., Building Official) to obligate a building owner to take down, remove, restore, and/or make safe any building or structures determined by the code official to be "unsafe". Section 116 of the Building Code provides emergency measures to the code official for matters determined to be an imminent danger ("boarding up of openings", "render such structure temporarily safe", etc.) and affords a building owner disagreeing with the code official's determination with the right to an appeal hearing to contest the action Section 117 of the Building Code allows the code official to demolish and remove any structure deemed to be "old, dilapidated, or has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy" or if construction on the site has ceased for a period of more than two (2) years. Additionally, this section references the code official's ability to have any demolition or removal work performed by "an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate." For vacant "large retail facilities" (defined by the Zoning Code to mean "A single tenant structure with at least 75,000 square feet of net leasable area for the purpose of retailing."), the following requirements must be met: <ul style="list-style-type: none"> large retail facilities shall be maintained during periods of abandonment or vacancies at the same standard as when occupied. The owner of a site shall sign a maintenance agreement with the city that the site will be maintained when vacant to the following minimal standards, among others as deemed appropriate by the Planning Director: <ol style="list-style-type: none"> The landscaping shall be watered, pruned and weeded. The parking areas shall be cleaned of dirt and litter. The building facades shall be kept in good repair, cracked windows shall be replaced and graffiti removed. Outdoor security lighting shall be maintained and operated. Hydrology systems shall be kept in good working order.

14-20-5(B)(2)	" ...water does not accumulate or stand on the ground."	No know city ordinance addresses this specific concern	<ul style="list-style-type: none"> • Properties must be in compliance with the approved grading and drainage plan for the site. Inherently, this plan will prevent water from accumulating in areas not specified as being approved retention ponds on the property.
14-20-5(B)(3)	<p>"Exterior walls shall be free of holes, breaks, loose boards or timbers..."</p> <p><i>Interpretation: Existing</i></p>	<p>Uniform Administrative Code (106.4)</p> <p><i>Interpretation: Existing</i></p> <p>2009 Building Code (DEBC) (Sections 115-117)</p> <p>Comprehensive City Zoning Code (14-16-3-2(D))(8)</p>	<ul style="list-style-type: none"> • Existing provisions of the UAC allow the Building Official to repair, rehabilitate, demolish, and/or remove any "unsafe buildings, structures or appendages and building service equipment". These problematic structures are also declared to be public nuisances by the UAC. • Section 115 of the Building Code address unsafe buildings and equipment, and allows the code official (i.e., Building Official) to obligate a building owner to take down, remove, restore, and/or make safe any building or structures determined by the code official to be "unsafe". • Section 116 of the Building Code provides emergency measures to the code official for matters determined to be an imminent danger ("boarding up of openings", "render such structure temporarily safe", etc.) and affords a building owner disagreeing with the code official's determination with the right to an appeal hearing to contest the action • Section 117 of the Building Code allows the code official to demolish and remove any structure deemed to be "old, dilapidated, or has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy" or if construction on the site has ceased for a period of more than two (2) years. Additionally, this section references the code official's ability to have any demolition or removal work performed by "an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate." • For vacant "large retail facilities" (defined by the Zoning Code to mean "A single tenant structure with at least 75,000 square feet of net leasable area for the purpose of retailing."), the following requirements must be met: <ul style="list-style-type: none"> - large retail facilities shall be maintained during periods of abandonment or vacancies at the same standard as when occupied. The owner of a site shall sign a maintenance agreement with the city that the site will be maintained when vacant to the following minimal standards, among others as deemed appropriate by the Planning Director: <ul style="list-style-type: none"> (f) The landscaping shall be watered, pruned and weeded. (g) The parking areas shall be cleaned of dirt and litter. (h) The building facades shall be kept in good repair, cracked windows shall be replaced and graffiti removed. (i) Outdoor security lighting shall be maintained and operated. (j) Hydrology systems shall be kept in good working order.
14-20-5(B)(4)	<p>"Maintain the exterior of the building, including but</p>	<p>Uniform Administrative Code (106.4)</p> <p><i>Interpretation: Existing</i></p> <p>2009 Building Code (DEBC) (Sections 115-117)</p>	<p>REF. COMMENTS ABOVE</p>

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	<p>not limited to, paint, finishes, roofing materials, siding, stucco, masonry, railings, steps, gutters, and structural elements in good condition."</p>	<p>Comprehensive City Zoning Code (14-16-3-2(D))(8)</p>	
<p>14-20-5(B)(5)</p>	<p>"Remove all graffiti on the property..."</p>	<p>Graffiti Vandalism Ordinance (11-7-1)</p>	<p>Street Excavation and Barricading Ordinance (6-5-2-1) and Municipal Solid Waste Ordinance (9-10-1) also have provisions for handling or removing graffiti</p>

①

ARTICLE 8: WEEDS, LITTER AND SNOW

Section

- 9-8-1 Short title
- 9-8-2 Purpose
- 9-8-3 Definitions
- 9-8-4 Growth or accumulation of weeds and litter
- 9-8-5 Duty of owner, lessee, or occupant
- 9-8-6 Litter in public places
- 9-8-7 Placement of litter in receptacle so as to prevent scattering
- 9-8-8 Merchants' duty to keep sidewalks and parking areas free of litter
- 9-8-9 Sweeping litter into gutters prohibited
- 9-8-10 Litter thrown by persons in vehicles
- 9-8-11 Truck loads causing litter
- 9-8-12 Litter in parks
- 9-8-13 Litter in lakes and fountains
- 9-8-14 Throwing or distributing commercial or noncommercial handbills in public places
- 9-8-15 Placing commercial or noncommercial handbills on vehicles
- 9-8-16 Depositing commercial and noncommercial handbills on uninhabited or vacant premises
- 9-8-17 Prohibiting distribution of handbills where properly posted
- 9-8-18 Distributing commercial and noncommercial handbills at inhabited private premises
- 9-8-19 Dropping litter from aircraft
- 9-8-20 Posting notice prohibited
- 9-8-21 Litter on occupied private property
- 9-8-22 Owner to maintain premises free of litter
- 9-8-23 Litter on vacant lots
- 9-8-24 Snow and ice
- 9-8-25 Notice to cut and remove
- 9-8-26 When city to remove
- 9-8-27 Method of removal
- 9-8-28 Appeal procedure administrative hearing
- 9-8-29 Judicial review
- 9-8-30 Removal upon default of owner
- 9-8-31 Illegal commercial handbills prevention
- 9-8-32 Smoking tobacco product litter
- 9-8-99 Penalty

§ 9-8-1 SHORT TITLE.

This article shall be known and cited as the "Albuquerque Weed and Anti-Litter Ordinance." ('74 Code, § 6-15-1) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

§ 9-8-2 PURPOSE.

(A) This article is intended to promote the general health, safety and welfare of the people of the city by prohibiting the maintenance or accumulation of those plants determined to be of major allergenic significance, or which constitute a fire hazard when wind collected, or which otherwise present a hazard or nuisance to inhabitants of the city. Further, this article is intended to promote the growth of native and other grasses and plants whose root structures tend to aid in stabilizing the soil and reducing dust. It is also the intent of this article that by prohibiting those methods of plant removal and control which fail to differentiate between harmful and helpful plants and which tend to create the still greater problem of air pollution, the aforementioned purposes will be realized and accomplished.

(B) This article is also intended to promote the general health, safety and welfare of the people of the city by prohibiting the throwing, depositing or accumulation of litter in public places.

('74 Code, § 6-15-2) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

§ 9-8-3 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIRCRAFT. Any contrivance now known or hereafter invented used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

APPROPRIATE PRIVATE RECEPTACLE. A litter receptacle with a fireproof interior capable of containing and withstanding fire.

AUTHORIZED PRIVATE RECEPTACLE. A litter storage and collection receptacle as required and authorized in the solid waste collection regulations set forth in §§ 9-10-1-1 et seq.

COMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

- (1) Which advertises for sale any merchandise, product commodity, or thing; or
- (2) Which directs attention to any business or mercantile or commercial establishments or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit.
- (4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

(5) Newspaper as defined herein is and to be construed to be included within the definition of **COMMERCIAL HANDBILL**.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER. "Garbage," "refuse" and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited tends to create a danger to public health, safety and welfare.

MAYOR. The Mayor or his authorized representative.

NEWSPAPER. Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

NONCOMMERCIAL HANDBILL. Any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

OWNER. Owner, agent, lessee or occupant or person having charge or control of the property.

PARK. A park, reservation, playground, beach, recreation center, zoo, golf course, or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

PERSON. One or more persons, natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being sued.

PRIVATE PREMISES. Any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporary or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant or such dwelling, house, building, or other structure.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, sources, spaces, grounds and buildings.

REFUSE. All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, inoperative vehicles and appliances, and solid market and industrial wastes.

RUBBISH. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, smoking tobacco products, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

SMOKING TOBACCO PRODUCT. Tobacco leaves smoked in the form of a cigar or cigarette.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

WEEDS. All rank, noxious, poisonous, harmful, unhealthful vegetation, deleterious to health, and shall include but is not limited to the following named plants:

- (1) Pigweed (*Amaranthus retroflexus*).
- (2) Russian Thistle (*Salsola pestifer*).
- (3) Ragweeds (*Ambrosia spp.*).
- (4) Lambsquarter. (*Kenopodium spp.*).
- (5) Kochia.
- (6) London Rocket (*Sisymbrium irio*).
- (7) Flix Weed (*Descurainia sophia*).
- (8) Tansy Mustard (*Descurainia pinnata*).
- (9) Spurge.
- (10) Silverleaf Nightshade (*Solanum elaeagnifolium*).
- (11) Puncture Vine.
- (12) Field Bind Weed (*Convolvulus arvensis*).
- (13) Purslane.
- (14) Hoary Cress.
- (15) Yellow Foxtail (*Setaria glauca*).
- (16) Green Foxtail (*Setaria Viridis*).

The Mayor is hereby authorized and delegated the authority and duty to determine if any other plants, due to their unhealthy or dangerous attributes or consequences, should be placed on the list of weeds as defined herein and shall put such plants on said list if, after a hearing based on the evidence before him it appears that such plants do come within the meaning of the term weeds as hereinbefore set out.

('74 Code, § 6-15-3) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992; Am. Ord. 50-2005; Am. Ord. 57-2005; Am. Ord. 41-2006; Am. Ord. 35-2011)

§ 9-8-4 GROWTH OR ACCUMULATION OF WEEDS AND LITTER.

It shall be unlawful for any owner of any occupied or unoccupied lot or tract of land within the city to permit or maintain on any such lot or tract of land, including the area located between the property line and the middle of the alley adjacent to the property, and the area located between

the property line and the curb, the area of any curbs or sidewalks located on the property, and the area located ten feet outside the property line where there is no curb, any growth of weeds whose height, width or spread is greater than four inches, or any accumulation of weeds and/or litter. ('74 Code, § 6-15-4) (Ord. 89-1967; Am. Ord. 40-1968; Am. Ord. 32-1976; Am. Ord. 4-1992; Am. Ord. 57-2005; Am. Ord. 35-2011)

☐ § 9-8-5 DUTY OF OWNER, LESSEE, OR OCCUPANT.

It shall be the duty of any owner of any occupied or unoccupied lot or tract of land to cut the weeds and remove the cuttings or any accumulation of weeds to be removed as often as necessary in order to comply with the provisions set out in § 9-8-4.

('74 Code, § 6-15-5) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-6 LITTER IN PUBLIC PLACES.

No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the city except in public receptacles or in authorized private receptacles for collection, or in an official city sanitary land fill.

('74 Code, § 6-15-6) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-7 PLACEMENT OF LITTER IN RECEPTACLE SO AS TO PREVENT SCATTERING.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public or private place.

('74 Code, § 6-15-7) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-8 MERCHANTS' DUTY TO KEEP SIDEWALKS AND PARKING AREAS FREE OF LITTER.

It shall be the responsibility of the person in charge of a place of business to maintain the sidewalk area adjacent to his place of business and his private parking area, if any, used by his patrons for parking, in a reasonably litter free condition. If, in the opinion of the Mayor, the amount of litter in said areas amounts to a nuisance due to odors or eyesore characteristics the Mayor shall notify the person in charge to provide adequate, approved litter receptacles located so as to be convenient to the patrons of the place of business and/or to parking areas. The person in charge of such business shall be responsible for providing said litter receptacles and be responsible for emptying such containers as often as is necessary to prevent their becoming a nuisance. In no event shall the litter located on sidewalks and driveways adjacent to a place of business be allowed to be swept into the gutters or streets of the city.

('74 Code, § 6-15-8) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-9 SWEEPING LITTER INTO GUTTERS PROHIBITED.

No person shall sweep into or deposit in any gutter, street or other public or private place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk and driveways abutting their premises clean and free of litter.

('74 Code, § 6-15-9) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-10 LITTER THROWN BY PERSONS IN VEHICLES.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any private property, any street or other public place within the city.

('74 Code, § 6-15-10) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-11 TRUCK LOADS CAUSING LITTER.

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other private or public place.

('74 Code, § 6-15-11) (Ord. 4-1992)

§ 9-8-12 LITTER IN PARKS.

No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any streets or other private or public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

('74 Code, § 6-15-12) (Ord. 4-1992)

§ 9-8-13 LITTER IN LAKES AND FOUNTAINS.

No person shall throw or deposit litter in any fountain, pond, lake, stream, or any other body of water in a park or elsewhere in the city.

('74 Code, § 6-15-13) (Ord. 4-1992)

§ 9-8-14 THROWING OR DISTRIBUTING COMMERCIAL OR NONCOMMERCIAL HANDBILLS IN PUBLIC PLACES.

(A) No person shall throw, post or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public places within the city. Nor shall any person hand out, post or distribute or sell any commercial or noncommercial handbill in any public place provided, however it shall not be a violation of this article for any person to hand out or distribute without charge to the receiver thereof any noncommercial handbill to any person willing to accept it in such public places.

(B) It may be rebuttably presumed that the owner, manager, distributor, provider or responsible party of any business, product or service which is the subject of an illegally posted, thrown or deposited commercial handbill has caused the commercial handbill to be posted, thrown or deposited.

('74 Code, § 6-15-14) (Ord. 4-1992; Am. Ord. 25-2005)

§ 9-8-15 PLACING COMMERCIAL OR NONCOMMERCIAL HANDBILLS ON VEHICLES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle.

('74 Code, § 6-15-15) (Ord. 4-1992)

§ 9-8-16 DEPOSITING COMMERCIAL AND NONCOMMERCIAL HANDBILLS ON UNINHABITED OR VACANT PREMISES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

('74 Code, § 6-15-16) (Ord. 4-1992)

§ 9-8-17 PROHIBITING DISTRIBUTION OF HANDBILLS WHERE PROPERLY POSTED.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon or to any private premises, if requested by any one thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

('74 Code, § 6-15-17) (Ord. 4-1992)

§ 9-8-18 DISTRIBUTING COMMERCIAL AND NONCOMMERCIAL HANDBILLS AT INHABITED PRIVATE PREMISES.

(A) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such

handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted as provided in this article, such person, unless requested by anyone upon such premises not to do so, shall have the authority to place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

(B) *Exemption for Mail and Newspapers.* The provisions of this section shall not apply to the distribution of mail by the United States nor to newspapers as defined herein.

('74 Code, § 6-15-18) (Ord. 4-1992)

☐ § 9-8-19 DROPPING LITTER FROM AIRCRAFT.

No person in any aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object.

('74 Code, § 6-15-19) (Ord. 4-1992)

☐ § 9-8-20 POSTING NOTICE PROHIBITED.

No person shall post, place or affix or cause to be posted, placed or affixed any commercial handbill, sign, notice, poster or other paper or device calculated to attract the attention of the public at any lamp post, public utility pole, street median, public right-of-way, or shade tree, or upon any public structure or building, except as may be authorized or required by law. This provision shall not apply to signs relating to matters of public health, safety and welfare posted, placed, or affixed by the city.

('74 Code, § 6-15-20) (Ord. 4-1992; Am. Ord. 25-2005)

☐ § 9-8-21 LITTER ON OCCUPIED PRIVATE PROPERTY.

No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.

('74 Code, § 6-15-21) (Ord. 4-1992)

☐ § 9-8-22 OWNER TO MAINTAIN PREMISES FREE OF LITTER.

The owner of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

('74 Code, § 6-15-22) (Ord. 4-1992)

☐ § 9-8-23 LITTER ON VACANT LOTS.

No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not.

('74 Code, § 6-15-23) (Ord. 4-1992)

☐ § 9-8-24 SNOW AND ICE.

It shall be the duty and responsibility of all owners of property, whether vacant or inhabited abutting any sidewalks or drivepads, if they are part of the sidewalk to keep same free and clear of all snow and ice, provided however, that such snow and ice shall not be placed in the gutter or street.

('74 Code, § 6-15-24) (Ord. 4-1992)

☐ § 9-8-25 NOTICE TO CUT AND REMOVE.

If the provisions of this article regarding removal of weeds or litter are not complied with, the Mayor or his authorized representative shall notify the owner of any occupied or unoccupied lot

or tract of land to comply with the provisions of this article. The notification to the owner of any such lot or tract of land shall be in writing. In the event such owner of such lot or tract of land cannot be determined or the owner shall be a nonresident of the city, such notice may be served by posting a copy of the written notice upon the premises.

('74 Code, § 6-15-25) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-26 WHEN CITY TO REMOVE.

In those cases where the owner of any occupied or unoccupied lot or tract of land is a nonresident of the city or cannot be determined and compliance with the provisions set forth in the notice has not occurred within ten days, the Mayor shall cause such weeds or litter to be cut and the cuttings or any accumulation of weeds or litter removed. If the owner of any such lot or tracts of land is notified in writing as provided and fails to comply with the provisions of this article within ten days, the Mayor may cause such weeds or litter to be cut and the cuttings or any accumulation of weeds or litter removed. In any event, should it appear to be a matter of public necessity for health or safety reasons, the Mayor may give notice that the weeds or litter must be cut or removed immediately in which event should there be noncompliance the Mayor is authorized to cause such weeds or litter to be cut and the cuttings or any accumulation of weeds or litter removed immediately. The actual cost of the cutting or removal of weeds or litter plus any other penalties or costs allowed by law in connection therewith, under any of the circumstances herein set out, shall become a lien upon the property from which such weeds or litter were removed in the manner prescribed by law.

('74 Code, § 6-15-26) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-27 METHOD OF REMOVAL.

The approved methods of controlling weeds shall be mowing, cutting, digging, or other methods designed to remove the weeds but not disturb other vegetation or unnecessarily disturb the soil. The scraping and tillage of lots and tracts of land is prohibited unless permission of the Mayor is first obtained; except, that scraping and tillage as part of normal construction activities or as ground preparation for agriculture or landscaping activities shall be allowed. The Mayor shall allow scraping and tillage of lots or tracts of land when this will not detract from or violate the clear intent and purpose of this article.

('74 Code, § 6-15-27) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-28 APPEAL PROCEDURE ADMINISTRATIVE HEARING.

The owner may appeal the determination of the need for weed or litter removal to the City Hearing Officer by filing an appeal within seven calendar days of the date of service of the notice to remove. Such request shall be made in writing and filed in the Office of the City Clerk. The appeal shall identify the property and state the grounds for appeal together with all material facts in support thereof. A filing fee of \$50 shall accompany each appeal application. When a hearing is requested the Hearing Officer shall send written notice by certified mail, return receipt requested, to the owner of the time and place of the hearing. At the hearing the owner shall have the right to present evidence as to the alleged facts upon which the Mayor based the determination of the need for weed or litter removal and any other facts which may aid the Hearing Officer in determining whether this article has been violated. The Hearing Officer shall, following the hearing, issue a written decision. If the decision is that this article has been violated, the decision shall set forth the time within which removal shall be completed by the owner. This decision shall be served in the same manner as the Notice to Remove.

('74 Code, § 6-15-28) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-29 JUDICIAL REVIEW.

The exclusive remedy for parties dissatisfied with the action of the City Hearing Officer shall be the filing of a petition for a writ of certiorari with the State District Court. The petition for

review shall be limited to the record made at the administrative hearing held pursuant to this article.

('74 Code, § 6-15-29) (Ord. 4-1992)

§ 9-8-30 REMOVAL UPON DEFAULT OF OWNER.

After said hearing if removal has not been commenced or prosecuted to completion with due diligence as required by the written hearing decision, the Mayor shall commence removal upon the premises as set forth in § 9-8-26.

('74 Code, § 6-15-30) (Ord. 4-1992)

§ 9-8-31 ILLEGAL COMMERCIAL HANDBILLS PREVENTION.

(A) The Mayor shall create and maintain a 24-hour seven-day per week hotline and website for individuals to report commercial handbills in public places.

(B) The Mayor shall implement a public outreach program to educate the public about the penalties for illegally posting commercial handbills in public places.

(C) The Mayor shall initiate a kiosk program to prevent the illegal distribution of commercial handbills. The city kiosk program shall permit kiosks on public rights-of-ways and city owned property where deemed appropriate by the Mayor in exchange for a reasonable fee.

(Ord. 25-2005)

§ 9-8-32 SMOKING TOBACCO PRODUCT LITTER.

No person shall dispose of any portion of a smoking tobacco product except in public receptacles or in appropriate private receptacles. Any smoking tobacco product previously lit shall be extinguished prior to disposal.

(Ord. 41-2006)

§ 9-8-99 PENALTY.

(A) Any person who violates any of the provisions of this article, excluding § 9-8-32, shall be deemed guilty of a petty misdemeanor and, upon conviction thereof, shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances to include a minimum fine of \$150. Any person deemed guilty of a subsequent violation shall be subject to a minimum fine of \$300 and then \$500 for each violation thereafter. Community service may be imposed in lieu of or in addition to any such fine. Every violation shall be a separate misdemeanor.

(B) Any person who violates the provisions of § 9-8-32 regarding smoking tobacco product litter shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances to include a minimum fine of \$250. Any person deemed guilty of a subsequent violation of § 9-8-32 shall be subject to a minimum fine of \$500 for each violation thereafter.

('74 Code, § 6-15-31) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992; Am. Ord. 52-2003; Am. Ord. 25-2005; Am. Ord. 41-2006)

ARTICLE 1: UNIFORM ADMINISTRATIVE CODE AND TECHNICAL CODES

Section

- 14-1-1 Intent
- 14-1-2 Uniform administrative code adopted
- 14-1-3 Technical codes adopted
- 14-1-4 Amendments to uniform codes
- 14-1-5 Availability of uniform construction codes
- 14-1-6 Building safety division — jurisdiction
- 14-1-7 Fire marshal — jurisdiction; application of fire code
- 14-1-8 Conflict of codes

14-1-99 Penalty

Cross-reference:

Fire Code, see Ch. 14, Art. 2

§ 14-1-1 INTENT.

It is the intent of this article that the city shall recover from fees derived from Building and Safety 100% of the full cost, including indirect charges, of code enforcement activities. It shall be the responsibility of the Mayor to review the Building and Safety income at yearly intervals and to recommend to the Council the need to increase or decrease fees according to the result of this review.

(74 Code, § 7-28-1) (Ord. 2014-018)

§ 14-1-2 UNIFORM ADMINISTRATIVE CODE ADOPTED.

The Uniform Administrative Code is hereby adopted and shall serve as the administrative, organizational and enforcement rules and regulations for the adopted technical codes within the city.

(74 Code, § 7-28-2) (Ord. 2014-018)

→ § 14-1-3 TECHNICAL CODES ADOPTED.

For the purpose of prescribing minimum standards regulating construction and maintenance of buildings and structures, including all building service equipment and installations within the city, the following codes are adopted:

(A) The New Mexico Building Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(B) The 2009 New Mexico Commercial Building Code as adopted by the Construction Industries Division of the State of New Mexico, including Appendix Chapters E and I, but not including Appendix Chapters A, B, C, D, F, G, H, J, and K with an effective date of January 1, 2011;

(C) The 2009 New Mexico Residential Building Code as adopted by the Construction Industries Division of the State of New Mexico, including Appendix Chapters G, H, J, K and M, but not including Appendix Chapters A, B, C, D, E, F, I, L, N, O, P, and Q with an effective date of January 1, 2011;

(D) The 2009 New Mexico Earthen Building Materials Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(E) The 2009 New Mexico Historic Earthen Building Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(F) The 2009 New Mexico Existing Building Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(G) The 2009 New Mexico Non-Load Bearing Baled Straw Construction Building Standards as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(H) The 2009 International Code Council Performance Code for Building and Facilities, including all Appendix Chapters, as published by the International Code;

(I) The 1997 Uniform Code for the Abatement of Dangerous Buildings as published (previously) by the International Conference of Building Officials;

(J) The 2009 New Mexico Mechanical Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(K) The 2009 New Mexico Plumbing Code as adopted by the Construction Industries Division of the State of New Mexico including Appendix Chapters A, B, D, E, F, I, and L with an effective date of January 1, 2011;

(L) The 2009 New Mexico Swimming Pool, Spa and Hot Tub Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of November 1, 2011;

(M) The 2009 New Mexico Solar Energy Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of November 1, 2011;

(N) The 2009 New Mexico Energy Conservation Code;

(O) The 2014 New Mexico Electrical Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of August 1, 2014;

(P) The 2012 New Mexico Electrical Safety Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of August 1, 2014;

(Q) Errata sheets to the adopted portions of the Codes promulgated by the International Code Council, International Association of Plumbing and Mechanical Officials and National Electrical Code;

(R) The City of Albuquerque amendments to the New Mexico Codes referred to herein are available at the City Clerk's office and are hereby adopted and together with the Codes in divisions (A) through (Q) of this section that shall be known as the Uniform Construction Codes of the city. From the date on which this article takes effect they shall be controlling within the municipal boundaries of the city.

('74 Code, § 7-28-3) (Ord. 2014-018) Penalty, see § 14-1-99

2

EXHIBIT A

**CITY OF ALBUQUERQUE AMENDMENTS
TO THE NEW MEXICO BUILDING CODE,
AS ADOPTED BY THE CONSTRUCTION INDUSTRIES DIVISION
OF THE STATE OF NEW MEXICO
WITH AN EFFECTIVE DATE OF
October 1, 2011**

The 1997 Uniform Code for the Abatement of Dangerous Buildings as published (previously) by the International Conference of Building Officials;
The 2009 New Mexico Mechanical Code;
The 2009 New Mexico Plumbing Code; including Appendix Chapters A, B, D, E, F, I, and L;
The 2006 New Mexico Swimming Pool, Spa and Hot Tub Code (Phase 3);
The 2006 New Mexico Solar Energy Code (Phase 3);
The 2009 New Mexico Energy Conservation Code;
The 2009 New Mexico Commercial Building Code including Appendix Chapters E and I, but not including Appendix Chapters A, B, C, D, F, G, H, J, and K;
The 2009 New Mexico Residential Building Code including Appendix Chapters G, H, J, K, and M, but not including Appendix Chapters A, B, C, D, E, F, I, L, N, O, P, and Q;
The 2009 New Mexico Earthen Building Materials Code;
The New Mexico Historic Earthen Building Code;
The 2009 New Mexico Existing Building Code;
The 2009 New Mexico Non-Load Bearing Baled Straw Construction Building Standards;
The 2009 International Code Council Performance Code for Building and Facilities, including all Appendix Chapters as published by the International Code Council;
The 2008 New Mexico Electrical Code;
The 2008 New Mexico Electrical Safety Code;
Errata sheets to the adopted portions of Codes promulgated by the International Code Council, International Association of Plumbing and Mechanical Officials and National Electrical Code;

ARE AS FOLLOWS:

Title 14, Chapter 5 of the New Mexico Building Code has been deleted and replaced with Chapter 1, on the following pages. Sections from various other parts of the Technical Codes have been amended, added, or deleted. These changes are noted on the pages following the Administrative Chapter No. 1.

**UNIFORM ADMINISTRATIVE CODE
CHAPTER I
Part I
TITLE, SCOPE AND GENERAL**

SECTION 101 -- TITLE, PURPOSE AND SCOPE

101.1. Title These regulations shall be known as the "Uniform Administrative Code of the City of Albuquerque," may be cited as such and will be referred to herein as "this Code."

101.2. Purpose The purpose of this Code is to provide for the administration and enforcement of the Technical Codes adopted by this jurisdiction.

101.3 Scope The provisions of this Chapter shall serve as the administrative, organizational and enforcement rules and regulations for the Technical Codes which regulate the site preparation and construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures and building service equipment within this jurisdiction.

SECTION 102 -- APPLICATION TO EXISTING BUILDINGS AND BUILDING SERVICE EQUIPMENT

102.1 General. Buildings, structures and their building service equipment to which additions, alterations or repairs are made shall comply with the 2009 New Mexico Existing Building Code.

102.2 Existing Installations. Building service equipment lawfully in existence at the time of the adoption of the Technical Codes may have their use, maintenance, or repair continued if the use, maintenance, or repair is in accordance with the original design and no hazard to life, health or property has been created by such building service equipment.

102.3 Existing Occupancy. Buildings in existence at the time of the adoption of the Building Code may have their existing use or occupancy continued if such use or occupancy was legal at the time of the adoption of the Building Code, provided such continued use is not dangerous to life, health, and safety.

A change in the use or occupancy of any existing building or structure shall comply with the provisions of The 2009 New Mexico Existing Building Code.

102.4 Maintenance. Buildings, structures and building service equipment, existing and new, and parts thereof shall be maintained in a safe and sanitary condition. Devices or safeguards which are required by the Technical Codes shall be maintained in conformance with the technical code under which installed. Yards that are necessary for allowable area increases per the Building Code, shall be maintained open and unobstructed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and their building service equipment. To determine compliance with this section, the Building Official may cause any structure to be re-inspected.

Building materials, construction trash and other debris shall be kept within the confines of the construction site and maintained in such a manner that it will not be blown to adjacent properties by the wind.

102.5 Moved Buildings. Buildings, structures and their building service equipment moved into or within this jurisdiction shall comply with the provisions of the Technical Codes for new buildings or structures and their building service equipment.

102.6 Temporary Structures. Temporary structures such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around and in conjunction with construction work may be erected by special permit from the Building Official for a limited period of time. Buildings or structures erected under a special permit need not comply with the type of construction or fire-resistive time periods required by the Building Code. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

102.7 Historic Buildings. Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building, structure, or its building service shall comply with The 2009 New Mexico Existing Building Code.

SECTION 103 -- CONFLICTING PROVISIONS

When conflicting provisions or requirements occur between this Code and any other codes or laws, the most restrictive shall govern.

Where conflicts occur between the Technical Codes, those provisions providing the greater safety to life shall govern. In other conflicts, where sanitation, life safety, or fire safety are not involved, the most restrictive provisions shall govern.

Exception: Where a conflict occurs between the Building Code and the Mechanical or Plumbing Codes the Building Code shall govern. The 2009 International Mechanical Code and 2009 International Plumbing Code, both published by the International Code Council may be used as reference documents to help resolve such conflicts.

Where in any specific case different sections within any of the Technical Codes specify different materials, methods of construction, or other requirements, the most restrictive shall govern. When there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

When conflicts occur between any specific provision of this Code and any administrative provisions in any Technical Code which is then applicable within this jurisdiction, those provisions becoming the law last in time shall prevail.

SECTION 104 -- MODIFICATIONS

Wherever there are practical difficulties involved in carrying out the provisions of this Code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of Building Safety;

104.1 Alternative Materials Design And Methods Of Construction And Equipment. The provisions of this Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability and safety;

104.2 Research Reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Code, shall consist of valid research reports from approved sources;

104.3 Tests. Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such test shall be retained by the Building Official for the period for retention of public records;

SECTION 105 -- POWERS AND DUTIES OF BUILDING OFFICIAL

105.1 General. The Building Official is hereby authorized and directed to enforce all the provisions of this Code and the referenced Technical Codes. For such purposes, the Building Official shall have the powers of a law enforcement officer.

The Building Official shall have the power to render interpretations of this Code and the referenced Technical Codes, and to adopt and enforce rules and regulations supplemental to this Code as may be deemed necessary to clarify the application of the provisions of this Code. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Code.

105.2 Deputies. In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint a Chief Plans Examiner, a Chief Building Inspector, a Chief Electrical Inspector, a Chief Mechanical Inspector, a Chief Plumbing Inspector, and other related technical officers and inspectors and other employees as shall be authorized from time to time to carry out the functions of the Building Safety Division.

105.3 Report and Records. The Building Official shall keep a permanent, accurate account of all fees and other moneys collected and received under this Code, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate.

105.4 Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe as defined in this Code, the Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this Code; provided that if such building or premises be occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If entry is refused, the Building Official shall proceed to obtain a search warrant by filing a complaint made before the Metropolitan Court or District Court upon oath or affirmation. The complaint shall:

- (1) set forth the particular building, premises or portion thereof sought to be inspected,
- (2) state that the owner or occupant of the building, premises, or portion thereof, has refused entry,
- (3) state that inspection of the building, premises, or portion thereof is necessary to determine whether it complies with the requirement of this Code,
- (4) set forth the particular provisions of this Code sought to be enforced,
- (5) set forth any other reason necessitating the inspection, including knowledge or belief that a particular condition exists in the building, premises or portion thereof which constitutes a violation of this Code,
- (6) state that the Building Official or his representative is authorized by the City to make the inspection.

Each inspector shall be furnished with an identification card signed by the Building Official and Chief Administrative Officer indicating his authority and must present same to the Metropolitan Court or District Court for the purpose of this section and to other persons, when requested to do so during the performance of his duty. "Authorized Representative" shall include the officers named in Section 105.1 and 105.2 of this Code.

No owner or occupant or any other person having charge, care, or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Building Official or his authorized representative for the purpose of inspection and examination pursuant to this Code. Any person violating this subsection shall be guilty of a misdemeanor.

105.5 Stop Orders. When work is being done contrary to the provisions of this Code, the Technical Codes, or other pertinent laws or ordinances implemented through the enforcement of this Code, the Building Official may order the work stopped by notice in writing served on persons engaged in the doing or causing such work to be done, and such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.

105.6 Occupancy Violations. When a building or structure or building service equipment therein regulated by this Code and the Technical Codes is being used contrary to the provisions of such codes, the Building Official may order such use discontinued by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Building Official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of such codes.

105.7 Authority to Disconnect Utilities. The Building Official or the Building Official's authorized representative shall have the authority to disconnect a utility service or energy supplied to the building, structure or building service equipment therein regulated by this Code or the Technical Codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter.

105.8 Authority to Condemn Building Service Equipment. When the Building Official ascertains that building service equipment regulated in the Technical Codes has become hazardous to life, health, property, or becomes unsanitary, he shall order in writing that such equipment either be removed or restored to a safe or sanitary condition as appropriate. The written notice itself shall fix a time limit for compliance with such order. Defective building service equipment shall not be maintained after receiving such notice.

When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefore shall be given within 24 hours to the serving utility, the owner and occupant of such building, structure or premises.

When any building service equipment is maintained in violation of a notice issued pursuant to the provisions of this section, the Building Official shall institute any appropriate action to prevent, restrain, correct or abate the violation.

105.9 Connection after Order to Disconnect. Persons shall not make connections from any energy, fuel or power supply nor supply energy or fuel to building service equipment which has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Official authorizes the reconnection and use of such equipment.

105.10 Liability. The Building Official, or his authorized representative charged with the enforcement of this Code and the Technical Codes, acting in good faith and without malice in the discharge of his duties, shall not thereby render himself personally liable for any damage that may accrue to persons or property as a result of any approval, act or by reason of any act or omission in the discharge of his duties. A suit brought against the Building Official or employee because of such approval, act or omission performed by him in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this Code or enforced by the code enforcement agency shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting there from shall be assumed by this jurisdiction.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling a building, structure or building service equipment therein for damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this Code or any permits or certificates issued under this Code.

105.11 Cooperation of Other Officials and Officers. The Building Official may request, and shall receive the assistance and cooperation of other officials of this jurisdiction so far as is required in the discharge of the duties required by this Code or other pertinent laws or ordinances.

SECTION 106 -- UNSAFE BUILDINGS, STRUCTURES, OR BUILDING SERVICE EQUIPMENT

106.1 Inadequate Structure and Egress. Buildings or structures regulated by this Code and the Technical Codes which are structurally inadequate or have inadequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are for the purpose of this section, unsafe buildings.

106.2 Unsafe Service Equipment. Building service equipment regulated by such codes, which constitute a fire, electrical, health hazard, unsanitary condition, or is otherwise dangerous to human life, is for the purpose of this section, unsafe. Any use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use.

106.3 Attachments to Buildings. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby designated as unsafe building appendages.

→ **106.4 Abatement.** Unsafe buildings, structures or appendages and building service equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the 1997 Uniform Code for the Abatement of Dangerous Buildings or such alternate adopted by this jurisdiction. As an alternative, the Building Official or other employee or official of this jurisdiction as designated by the governing body may institute any other appropriate action to prevent, restrain, correct or abate the violation.

SECTION 107 -- BOARD OF APPEALS

107.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretations of the Technical Codes, there shall be and is hereby created a Board of Appeals consisting of nine (9) members who are qualified by experience and training to pass upon matters pertaining to building construction and building service equipment and who are not employees of the jurisdiction. The Building Official shall be an ex officio member but shall have no vote upon any matter before the board. The Board of Appeals shall be appointed by the mayor with the advice and consent of the city council and shall hold office at his pleasure.

The Board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

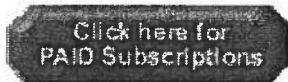
107.2 Applications. Application for an appeal shall be made in writing to the Chief Building Official and shall include a fee of one-hundred dollars (\$100.00) made payable to the Building Safety Division, City of Albuquerque. The application fee will be retained by the City of Albuquerque regardless of the outcome of the appeal. The applicant shall pay for all tests, calculations, samples, and/or supporting information requested by any member of the Board of Appeals or the Chief Building Official. The applicant shall also pay for the recording fees and photocopies.

107.3 Qualifications. Both regular and alternate members of the Board of Appeals shall be qualified by education, training and experience to pass upon matters pertaining to building design and construction, including appliances, equipment, facilities, systems, and conditions.

Alternate members of the Board of Appeals shall serve in the absence of the principal members and insofar as possible the alternate member shall be of the same classification as the regular members they replace. The mayor shall appoint all members and alternate members for a three (3) year term.

Each member of the Board shall have had at least seven (7) years experience in his profession and be a resident of or have his principal place of business in the City of Albuquerque. The members and alternates shall have the following classifications:

1. A REGISTERED ARCHITECT in active practice.
2. A REGISTERED PROFESSIONAL ENGINEER whose field of active practice is Mechanical Design.
3. A REGISTERED PROFESSIONAL ENGINEER whose field of active practice is Structural or Civil Design.
4. A REGISTERED PROFESSIONAL ENGINEER whose field of active practice is Electrical Design.
5. A LICENSED GENERAL CONTRACTOR whose field of active practice is General Building Contracting.
6. A LICENSED GENERAL CONTRACTOR whose field is Building Contracting specializing in single-family residences.
7. A LICENSED MECHANICAL CONTRACTOR whose field is Mechanical Contracting.
8. A LICENSED ELECTRICAL CONTRACTOR whose field is Electrical Contracting.
9. A LICENSED PLUMBING CONTRACTOR whose field is Plumbing Contracting.



International Existing Building Code
[2009 (Seventh Printing)]
Chapter 1 - Scope and Administration

▪ SECTION 115 UNSAFE BUILDINGS AND EQUIPMENT

115.1 Conditions.

115.2 Record.

115.3 Notice.

115.4 Method of service.

115.5 Restoration.

115.1 Conditions.

115.2 Record.

115.3 Notice.

115.4 Method of service.

115.5 Restoration.

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SECTION 115 UNSAFE BUILDINGS AND EQUIPMENT

115.1 Conditions. Buildings, structures or equipment that are or hereafter become unsafe, shall be taken down, removed or made safe as the code official deems necessary and as provided for in this code.

115.2 Record. The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

115.3 Notice. If an unsafe condition is found, the *code official* shall serve on the owner, agent, or person in control of the structure a written notice that describes the condition deemed unsafe and specifies the required *repairs* or improvements to be made to abate the unsafe condition, or that requires the unsafe building to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the *code official* acceptance or rejection of the terms of the order.

115.4 Method of service. Such notice shall be deemed properly served if a copy thereof is delivered to the owner personally; sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

115.5 Restoration. The building or equipment determined to be unsafe by the *code official* is permitted to be restored to a safe condition. To the extent that *repairs, alterations, or additions* are made or a *change of occupancy* occurs during the restoration of the building, such *repairs, alterations, additions, or change of occupancy* shall comply with the requirements of this code.

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[2009 (Seventh Printing)]

Chapter 1 - Scope and Administration

▪ SECTION 116 EMERGENCY MEASURES

116.1 Imminent danger.

116.2 Temporary safeguards.

116.3 Closing streets.

116.4 Emergency repairs.

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SECTION 116 EMERGENCY MEASURES

116.1 Imminent danger. When, in the opinion of the *code official*, there is imminent danger of failure or collapse of a building that endangers life, or when any building or part of a building has fallen and life is endangered by the occupation of the building, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, or operation of defective or *dangerous* equipment, the *code official* is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the *Code Official*." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required *repairs*, removing the hazardous condition, or of demolishing the same.

116.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is imminent danger due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

116.3 Closing streets. When necessary for public safety, the *code official* shall temporarily close structures and close or order the authority having jurisdiction to close sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being utilized.

116.4 Emergency repairs. For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

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116.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

116.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

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SECTION 117 DEMOLITION

117.1 General. The *code official* shall order the owner of any premises upon which is located any structure that in the *code official's* judgment is so old, dilapidated, or has become so out of *repair* as to be *dangerous*, unsafe, insanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to *repair* the structure, to demolish and remove such structure; or if such structure is capable of being made safe by *repairs*, to *repair* and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

117.2 Notices and orders. All notices and orders shall comply with Section 113.

117.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

117.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

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§ 14-16-3-2 SHOPPING CENTER REGULATIONS.

This section controls the development of shopping center sites.

(A) *General.*

(1) No structure shall be erected on a shopping center site except in conformance with a duly approved site development plan. Once approved, such a plan or subsequent amended plan is binding on the entire area of the original site development plan. Sales of all or part of the premises do not alter the effect of the plan. Platting of lots or creation of smaller premises do not alter the effect of the plan. Subsequent to execution of the site development plan, use of the site entirely for manufacturing, assembling, treating, repairing, rebuilding, wholesaling, and warehousing for a period of over one year does change the status of the site as a shopping center and suspends the legal effect of the site development plan for so long as the uses remain.

(2) The rights and duties of the city and of the applicant which result from the approval of an application under this section run with the land and are binding upon successors in interest of the applicant. When an application is approved, a copy of the approved Site Development Plan and Landscaping Plan or record of exemption shall be kept in the office of the Planning Director. A building permit for a shopping center site shall be issued only upon presentation of working plans and specifications drawn in close conformity with an approved Site Development Plan.

(3) The Planning Director shall designate shopping center sites on the official zone map by the symbol "SC."

(4) The Planning Commission may modify the boundaries of or eliminate an existing Shopping Center designation for any site, upon application by the property owner, if the Planning Commission finds no public benefit in continued application of the shopping center regulations because most of the site has been allowed to develop without the guidance of a site development plan.

(B) *Shopping Center Requirements.* The following regulations apply to an application for a building permit for construction on a shopping center site, except applications covering on-site parking expansion:

(1) An applicant shall submit a Site Development Plan and Landscaping Plan for the shopping center site.

(2) (a) Access to the shopping center site is limited to approaches designed according to accepted traffic engineering practice, so laid out as to be an integral part of the parking area and loading facilities.

(b) Pickup points shall be so designed that vehicles do not create congestion on an abutting public way. No loading and unloading is to be conducted on a public way.

(3) Landscaping of shopping center sites must comply with the regulations of § 14-16-3-10 of this Zoning Code. The Planning Commission may require additional buffer landscaping if it finds it necessary due to demonstrably unusual circumstances.

(4) Free-standing signs on shopping center sites shall be limited to one on-premise sign per 300 feet of street frontage on arterial and collector streets. Maximum signable area shall be 150 square feet per sign face and maximum sign height shall be 26 feet. Off-premise signs shall not be permitted on shopping center sites.

(5) Upon approval, the applicant is responsible for payment of the cost for the necessary traffic control devices and channelization to shelter vehicular turning movements into the shopping center or shopping center site, channelization to be designed according to accepted advanced geometric design technique. These responsibilities must be outlined and agreed upon between the applicant and the city at the time of approval of the Site Development Plan.

(6) The site division regulations established in § 14-16-3-2(D)(3) ROA 1994, apply to all retail facilities with over 90,001 aggregate square feet of gross leasable space.

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(C) *Procedure.*

- (1) Approval and revision of plans is the same procedure as for SU-1 plans.
- (2) The Planning Commission may review the plan and progress of development at least every four years until it is fully implemented to determine if it should be amended.

(D) *Large Retail Facility Regulations.*

(1) *Applicability.*

(a) Provisions of this section and § 14-8-2-7, Responsibilities of Applicants and Developers, shall apply to the following, as determined by the Environmental Planning Commission (EPC):

- 1. New construction of a large retail facility;
- 2. Change of use from a non- large retail facility to a large retail facility as defined in § 14-16-1-5;
- 3. Building expansion of more than 50% of the existing square footage.

(b) Building expansion of 10% to 50% of the existing square footage of an existing large retail facility shall be subject to the following requirements:

- 1. Pre-application discussion with the Planning Review Team (PRT).
- 2. Compliance with the large retail facilities design regulations as determined by the EPC. The EPC before issuing final design regulations shall request input from neighborhood associations with boundaries that are within 200 feet of the proposed project.

(c) Building expansion up to 10% of the existing square footage and building renovation of an existing large retail facility shall comply with the design regulations in this section to the extent possible as determined by the Planning Director.

(2) *Location and Access of Large Retail Facility.* The following regulations manage the location and design of large retail facilities. These regulations are necessary for the proper functioning and enjoyment of the community. They protect the quality of life within surrounding residential areas, support efficient traffic flows, and provide consistent regulations for such facilities. Large retail facilities shall be located to secure adequate street capacity to transport pedestrians and vehicles to and from large retail facilities, and discourage traffic from cutting through residential neighborhoods. The regulations result in efficient and safe access for both vehicles and pedestrians from roadways in the Metropolitan Transportation Plan to neighborhoods in the vicinity of large retail facilities. The Planning Director, after initial review of a large retail facilities proposal, may require the site to comply with the next level of large retail facilities regulations.

(a) Large retail facilities containing 75,000 to 90,000 sq. ft. net leasable area are:

- 1. Permitted in C-2, C-3, M-1, M-2, IP, SU-1 and the SU-2 Zones for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and
- 2. Permitted in C-1 zones if the project site or site plan reviewed for subdivision is greater than seven acres.
- 3. Required to be located adjacent to and have primary and full access to a street designated as at least a collector in the Mid-Region Council of Governments' Metropolitan Transportation Plan and having at least two through traffic lanes.

(b) Large retail facilities containing 90,001 to 124,999 sq. ft. net leasable area are:

- 1. Permitted in C-2, C-3, M-1, M-2, and IP zones and SU-1 and SU-2 zones for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and
- 2. Required to be located adjacent to and have primary and full access to a street designated as at least a collector in the Mid-Region Council of Governments' Metropolitan Transportation Plan and having at least four through traffic lanes.

(c) Large retail facilities containing 125,000 square feet or greater of net leasable area are:

1. Permitted in the C-2, C-3, M-1, M-2, IP, SU-1 and SU-2 for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and

2. Required to be located within 700 feet of the intersection of two roadways, both of which are designated as at least a collector street in the Mid-Region Council of Governments' Metropolitan Transportation Plan and shall have full access to these roadways. One of the adjacent roadways shall have at least four through traffic lanes and the other adjacent roadway shall have at least six through traffic lanes or is designated a limited access principal arterial in the Mid-Region Council of Governments' Metropolitan Transportation Plan and have a minimum of four lanes.

3. If an arterial or collector street has yet to be built to its full cross-section and does not have the required number of lanes, the large retail facility may have access onto the roadway if the roadway is identified on the Metropolitan Transportation Plan as having the required number of lanes at full build-out.

4. If access control policies prohibit access onto one of the adjacent roadways, a local road may be used as access if it has direct access to at least two roadways that are identified on the Long Metropolitan Transportation Plan, does not pass directly through a residential subdivision and at least one of the intersections is signalized.

5. If access to a location fulfills the criteria of this section but control policies outside the city jurisdiction prohibit access onto one of the adjacent arterial or collector streets, the remaining arterial or collector street may serve as the sole access if it has direct access to two intersections with an arterial and the intersections are signalized.

6. If warrants are met, the intersection of the primary driveway and the arterial street shall be signalized, unless prohibited by the City Traffic Engineer for safety reasons, at the expense of the applicant. The applicant may place the name of the development on the mast-arm of the signal.

(3) *Site division.* These regulations create block sizes for large retail facility that are walkable and support land use changes over time. The site plans for subdivision in Phase One and the Final Phase, if proposed, shall subdivide or plan the site as follows:

(a) The entire site shall be planned or platted into maximum 360 foot by 360 foot blocks except as provided in Items (c) and (d) of this division (D)(3).

(b) Primary and secondary driveways (or platted roadways) that separate the blocks shall be between 60 feet and 85 feet wide and shall include the following:

1. Two ten-foot travel lanes;
2. Two parallel or angle parking rows or a combination of such on both sides of the driveway rights of way are permitted but not required;
3. Two six-foot landscaped buffers with shade trees spaced approximately 30 feet on center;
4. Two eight-foot pedestrian walkways constructed of material other than asphalt;
5. Pedestrian scale lighting that provides at least an illumination of 1.2 to 2.5 foot candles or the equivalent foot lamberts; and
6. Standup curb.

(c) One block can be expanded to approximately 790 feet by 360 feet if a main structure (including retail suite liners) covers more than 80% of the gross square footage of a block.

(d) If the site dimensions result in irregular block sizes, blocks of different dimensions are allowed provided:

1. The block sizes achieve the intent of this section;
2. Approval is granted by the EPC;
3. The narrow side of the block abuts the adjacent street that provides the primary access; and

4. The center of the long side has a major entrance, including a forecourt.

(4) *Development Phasing and Mixed-Use Component.* The large retail facility regulations address the build-out of a large site over time in order to guide the transition from more vehicle-oriented "big box" type retail development with large surface parking fields to finer-scaled, pedestrian oriented, mixed-use development, replacing surface parking with some parking structures, producing a village center that is integrated into the surrounding neighborhoods. This transition reflects actual trends in development and creates a better, more marketable, and higher use development.

(a) Site development plans for Phase One shall be submitted to the EPC for approval. If future and/or final phases are proposed on the site, site development plans containing a level of detail appropriate for the phasing of the development shall also be submitted to the EPC for approval.

(b) *Mixed Use Component.* Mixed use development is strongly encouraged in both Phase One and the Final Phase of the site plans for all large retail facilities.

(5) *Site Design.* These regulations are intended to create pedestrian connections throughout the site by linking structures, make pedestrian connections to external neighborhoods and other uses, and to provide landscaping compatible with the site's scale for pedestrian shade and aesthetic beauty. The regulations will result in an active pedestrian street life, replace large off-street parking fields with parking structures and transit options, conserve energy and water, and meet the goals of the Albuquerque/ Bernalillo County Comprehensive Plan and the Planned Growth Strategy. The following subsections (a) through (n) apply to all large retail facility sites:

(a) *Context:* The design of structures shall be sensitive to and complement the aesthetically desirable context of the built environment, e.g., massing, height, materials, articulation, colors, and proportional relationships.

(b) *Off-Street Parking Standards:*

1. If a structure or structures, including retail suite liners, occupies more than 80% of a planned or platted block, the off street parking shall be placed on another block.

2. Parking shall be distributed on the site to minimize visual impact from the adjoining street. Parking shall be placed on at least two sides of a building and shall not dominate the building or street frontage. Parking areas may front onto roadways identified as limited access in the Mid-Region Council of Governments' Metropolitan Transportation Plan, provided that they are adequately screened with landscape walls and plantings. If a project has multiple phases the final phase site plan, if proposed, shall show the elimination of surface parking areas but may include parking structures.

3. If the site is planned into 360 foot by 360 foot lots as called for in these regulations, parking requirements may be met by spaces located on a block immediately adjacent to the structure creating the parking demand.

4. Every third double row of parking shall have a minimum ten foot wide continuous walkway dividing that row. The walkway shall be either patterned or color material other than asphalt and may be at-grade. The walkway shall be shaded by means of trees, a trellis or similar structure, or a combination thereof. Tree wells, planters or supports for shading devices may encroach on the walkway up to three feet. In no case shall the walkway be diminished to less than five feet width at any point.

5. Parking requirements for a large retail facility with a mixed use component may use "best practice" standards for shared parking such as *Driving Urban Environments: Smart Growth Parking Best Practices*, a publication of the Governor's Office of Smart Growth, State of Maryland. Refer to § 14-16-3-1 for shared parking requirements.

(c) *On-Street Parking Standards:*

1. Arterial or collector roadways abutting a large retail facility with a posted speed limit of 35 miles or less per hour shall have on-street parking utilizing a parking/queuing lane under the following standards and if approved by the Traffic Engineer:

a. On-street parking may use the existing adjacent outside lanes on an arterial or collector.

b. The parking/queuing lane may be provided by moving the curb lines within the property line and dedicating the parking/queuing lane to the city. The existing through lanes shall not be used as the parking/queuing lane unless a traffic analysis indicates that this will not result in unacceptable degradation of traffic flow, though existing can be restriped in a narrower configuration to provide space for the parking/queuing lane.

c. The parking/queuing lane has a maximum width of 16'.

d. Curb extensions/bump-outs shall be constructed at the ends of each block and shall include landscaping to be maintained by the property owner pursuant to a maintenance agreement with the city.

e. Street trees shall be planted pursuant to the Street Tree Ordinance, Chapter 6, Article 6, ROA 1994.

2. The regulations for parking credits and reductions set forth in § 14-16-3-1(E)(6) shall apply to this subsection except that 100% of the on-street parking shall be credited towards the project's parking requirements.

(d) *Signage.*

1. Signage shall comply with the shopping center regulations for signage, § 14-16-3-2 (B).

2. All signage shall be designed to be consistent with and complement the materials, color and architectural style of the building(s).

3. All free-standing signs shall be monument style.

4. The maximum height of any monument sign shall be 15 feet.

5. Building-mounted signage that faces residential zoning shall not be illuminated.

6. Building-mounted signs shall consist of individual channel letters. Illuminated plastic panel signs are prohibited.

(e) Drive-up windows must be located on or adjacent to the side or rear walls of service or retail structures and the window shall not face a public right of way.

(f) *Petroleum Products Retail Facility.*

1. Facilities shall be located at a street or driveway intersection.

2. The frontage of the principal structure shall face and line the two streets and follow the set-back and glazing standards for retail suite liner.

3. Fuel pumps, service facilities, ATMs, storage areas, and repair bays are to be screened from the major street by the principal structure.

4. If the structure between the street and the fueling island is not at least the length of the canopy that is over the fueling island, or if there is no service facility structure, the perimeter of the facility shall be screened by either a landscaped berm three feet in height or a wall at least three feet in height.

(g) *Truck Bays.*

1. Truck bays adjacent to residential lots must be separated from the adjacent lot by a minimum of 40 feet. A minimum 15 foot wide landscape buffer and a six-foot high solid masonry wall shall be provided along the property line. The landscape buffer shall contain evergreen trees or trellises with climbing vines to provide year round screening and buffering from noise. Dock and truck well facilities must also be screened with a masonry wall that extends vertically eight feet above the finish floor level and horizontally 100 feet from the face of the dock. Screen walls shall be designed to blend with the architecture of the building.

Trucks may not be moved or left idling between the hours of 10:00 p.m. and 6:30 a.m. if the truck bays are located within 300 feet of a residential structure unless negotiated with adjacent property owners and approved by the EPC.

2. Truck bays not adjacent to residential lots must be screened with a masonry wall extending vertically eight feet above the finish floor level and horizontally 100 feet from the face of the dock to screen the truck. Screen walls shall be designed to blend with the architecture of the building.

(h) *Landscaping.* The following landscaping requirements shall apply:

1. Landscaped traffic circles are encouraged at the intersection of interior driveways or platted streets.

2. One shade tree is required per eight parking spaces. Shade trees may be located at the center of a group of four to eight parking spaces, clustered in parking row end caps, or located along internal pedestrian ways. Shade trees lining a pedestrian way internal to a parking area may count as a canopy tree of a parking space. Trees in landscape buffer areas shall not count as parking space trees.

3. Shade trees along pedestrian walkways shall be spaced approximately 25 feet on center.

4. Water conservation techniques shall be utilized where possible and as approved by the City Hydrologist or City Engineer. Such techniques may include water harvesting and permeable paving. Water from roof runoff should be directed or stored and used to assist all trees and landscaping. Parking spaces that meet infiltration basins or vegetated storm water controls should be bordered by permeable paving. Grasses and other ground vegetation should be near edges to help filter and slow runoff as it enters the site.

(i) *Pedestrian walkways.* Internal pedestrian walkways shall be planned and organized to accommodate the inter-related movement of vehicles, bicycles, and pedestrians safely and conveniently, both within the proposed development and to and from the street, transit stops, and the surrounding areas. Pedestrian walkways shall contribute to the attractiveness of the development and shall be a minimum of eight feet in width and constructed of materials other than asphalt. Pedestrian walkways along internal driveways or streets internal to the site shall also be lined with shade trees and pedestrian scale lighting. Pedestrian crosswalks shall be constructed of patterned concrete or a material other than asphalt and may be at grade.

(j) A pedestrian plaza or plazas shall be required of all large retail facility development as follows:

1. Large retail facility sites that include a main structure less than 125,000 square feet in size shall provide public space pursuant to § 14-16-3-18(C)(4) of the Zoning Code.

2. Large retail facility sites that include a main structure 125,000 square feet or greater shall provide pedestrian plaza space in the amount of 400 square feet for every 20,000 square feet of building space. A minimum of 50% of the required public space shall be provided in the form of aggregate space that encourages its use and that serves as the focal point for the development. The aggregate space required shall:

a. Be linked to the main entrance of the principal structure and the public sidewalk or internal driveway;

b. Include adequate seating areas. Benches, steps, and planter ledges can be counted for seating space;

c. Have a portion (generally at least 40%) of the square footage of the plaza area landscaped with plant materials, including trees;

d. Be designed for security and be visible from the public right of way as much as possible;

e. Have pedestrian scale lighting and pedestrian amenities such as trash receptacles, kiosks, etc.

(k) *Lighting.*

1. Ornamental poles and luminaries, a maximum of 16 feet in height, shall be used as pedestrian scale lighting.

2. The maximum height of a light pole, other than those along pedestrian walkways, shall be 20 feet, measured from the finished grade to the top of the pole.

3. All on-site lighting fixtures shall be fully shielded to prevent fugitive light from encroaching into adjacent properties and/or right-of-way.

(l) *Outdoor Storage.* Outdoor storage as part of a mixed use development or within a C-1 or C-2 zoned site is not allowed. Outdoor uses such as retail display shall not interfere with pedestrian movement. Where the zoning permits and where outdoor storage is proposed, it shall be screened with the same materials as the building.

(m) *Transit stops.* If transit stops exist or are planned adjacent to a large retail facility, they shall include a covered shelter with seating provided at the developer's expense. Either the interior of the structures shall be lighted or the area surrounding the structures shall be lighted to the same standards as pedestrian walkways. If the transit stop is within the public right-of-way, the city shall assume ownership of the shelter and responsibility for maintenance.

(n) *Storm Water Facilities and Structures.* The following regulations apply to site hydrology:

1. Impervious surfaces shall be limited by installing permeable paving surfaces, such as bricks and concrete lattice or such devices that are approved by the City Hydrologist, where possible.

2. Where possible, transport runoff to basins by using channels with landscaped pervious surfaces. Landscaped strips may be converted into vegetative storm-water canals but must be shallow to avoid defensive fencing.

3. Ponds, retention and detention areas shall be shallow to prevent the need for defensive/security fencing yet have the capacity to manage storm waters in a 100 year event.

4. Trees, shrubs, and groundcover shall be included in storm water basins.

5. Bare patches shall be re-vegetated as soon as possible to avoid erosion, according to a landscaping and maintenance plan.

(o) Energy efficient techniques shall be utilized to reduce energy and water consumption where possible and as approved by the City Hydrologist or City Engineer.

(6) *Main Structure Design.* The following subsections (a) through (d) apply to main structures:

(a) *Setback.*

1. Main structures shall be screened from the adjacent street by means of smaller buildings, retail suite liners, or 20 foot wide landscape buffers with a double row of trees.

2. Where the front facade of a retail suite liner is adjacent to a street, the maximum front setback shall be ten feet for private drives and 25 feet for public roadways.

3. Main structures abutting residentially zoned land shall be set back from the property line at least 60 feet.

(b) *Articulation.*

1. Facades that contain a primary customer entrance and facades adjacent to a public street or plaza or an internal driveway shall contain retail suite liners, display windows, or a recessed patio at a minimum depth of 20 feet, or a combination of all three, along 50% of the length of the façade. Where patios are provided, at least one of the recessed walls shall contain a window for ease of surveillance and the patio shall contain shading and seating. Where retail suite liners are provided, they shall be accessible to the public from the outside.

2. Every 30,000 gross square feet of structure shall be designed to appear as a minimum of one distinct building mass with different expressions. The varied building masses shall have a change in visible roof plane or parapet height. Massing and articulation are required to be developed so that no more than 100 feet of a wall may occur without an offset vertically of at least 24 inches.

3. For the retail suite liner, the vertical offset shall be a visible change (minimum 6 inches), a change in material may be used for articulation at the same interval and the visible change in roof plane or parapet height shall be a minimum of 18 inches.

4. Facades adjacent to a public right-of-way or internal driveway and facades that contain a primary customer entrance shall contain features that provide shade along at least 40% of the length of the façade for the benefit of pedestrians.

(c) *Materials.*

1. Engineered wood panels, cyclone, chain-link, and razor-wire fencing are prohibited.

2. Design of the external walls and the principal entrance must include three of the below listed options:

- a. Multiple finishes (i.e. stone and stucco);
- b. Projecting cornices and brackets;
- c. Projecting and exposed lintels;
- d. Pitched roof forms;
- e. Planters or wing-walls that incorporate landscaped areas and can be used for sitting;
- f. Slate or tile work and molding integrated into the building;
- g. Transoms;
- h. Trellises;
- i. Wall accenting (shading, engraved patterns, etc.);
- j. Any other treatment that meets the approval of the EPC.

(d) *Landscaping.*

1. The buffer for main structures across the street from residentially-zoned land shall be at least 23 feet wide and include two rows of street trees. The trees shall be located pursuant to the guidelines set forth in *Crime Prevention Through Environmental Design Recommendations*. The landscaping of the berm shall provide year-round screening.

2. The public sidewalk adjacent to the main structure may be located within the berm and between the rows of trees. The sidewalk must be a minimum of seven feet behind the curb.

(7) *Mixed-Use Component.* The following subsections (a) through (g) apply to Mixed Use Development:

(a) *Uses and building forms.* The mixed use component may include a mix of the following building forms and uses:

1. Apartments or condominiums.
2. Apartments or condominiums over storefronts.
3. Courtyard housing.
4. Live-work.
5. Townhouses.
6. Lofts.
7. Lofts over flex.
8. Senior housing.
9. Mixed income housing including a minimum of 20% affordable at 80% or less of Area Median Income (AMI) for fee simple unit and 60% or less of AMI for rental units. If rental units are multiple sizes, only a maximum of 50% of the rental units set aside for 60% or less of AMI shall be the size of the smallest size category of rental unit in the project.
10. Office building.

- 11. Office over storefronts.
- 12. Civic, cultural, and community buildings.
- 13. Parking structures with commercial or housing liners.
- 14. Schools, both traditional and technical vocational.

(b) *Density.*

- 1. Minimum density: 12 dwelling units per acre.
- 2. Minimum FAR: .30.
- 3. Maximum density: As determined by the EPC.

(c) *Building Heights.* Heights within the mixed use portion of the large retail facility site may vary depending on location. Structures adjacent to residentially zoned parcels shall be subject to the height requirements of the O-1 Zone and shall not exceed 26 feet in height within 85 feet of a lot zoned specifically for houses. The heights of buildings along the central driveway or street and adjacent to a major arterial or freeway may exceed four stories so long as the average building height of all structures in the mixed use site does not exceed the maximum of four stories and no individual structure exceeds a height of seven stories.

(d) *Building Setbacks.*

Primary Building	Mixed Use Component
(1) Street-Facing Setback with Ground-Floor Storefront	
a. On Private Drive	10 foot minimum
b. On Public Street	15 foot maximum
(2) Street-Facing Setback without Ground-Floor Storefronts	
a. On Private Drive	10 foot minimum
b. On Public Street	15 maximum
Interior Side Setback (from property line)	Attached or 5' maximum
Interior Side-Side Separation (btw. Adjacent buildings)	Attached or 10' maximum
Interior Rear Setback (from property line)	5' from alley ROW; 20' if no alley (e.g. parking lot)
Interior Rear-Rear Separation] (btw. Adjacent buildings)	30' minimum.
	20' minimum

Interior Side-Rear Separation - (btw. Adjacent buildings)	
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Note 1: Features that may encroach into a pedestrian way up to the maximum specified: eaves (4' max.), awnings (8' max.), and minor ornamental features (2' max). Over pedestrian ways, projections must be more than 8 feet above finished grade.

Note 2: Features that may encroach into setbacks facing driveways or streets (but not driveway or street right-of-ways), up to the maximum specified: arcades & trellises (to driveway or street r.o.w.), porches & stoops (8' max.), eaves (4' max.), awnings (8' max.), and minor ornamental features.

(e) *Street Frontage.* All street frontages in the mixed-use component shall be:

1. Lined by buildings with windows and primary entries, not garage doors; parking areas shall be located to the rear or side of the building.
2. Building facades shall occupy at least 50% of the street frontage.

(f) *Articulation.* Mixed-use structures shall have a change in visible roof plane or parapet height for every 50 feet in length, however each distinct roof length does not have to equal 50 feet in length. Massing and articulation are required to be developed so that no more than 50 feet of wall may occur within a six foot minimum change in the visible vertical offset, or at the same interval a change in material may be used for articulation and the visible change in roof plane or parapet height shall be a minimum of 18 feet.

(g) *Entrances and Glazing.* Each ground floor use shall have one entrance minimum for each 50' or less of building frontage length.

(h) *Materials.* The materials standards for the mixed use component are as follows:

1. Engineered wood panels, cyclone, chain-link, and razor-wire fencing are prohibited.
2. Arcades, awnings, cantilevers, portals and shed roofs may be made of metal, fabric, concrete tile, clay tile, or slate (equivalent synthetic or better).
3. A mixed-use component shall include at least four of the following design features:
 - a. Balconies.
 - b. Projecting cornices and brackets.
 - c. Eaves.
 - d. Exposed lintels.
 - e. Multiple veneers (i.e. stone and stucco).
 - f. Pitched roof forms.
 - g. Planter boxes.
 - h. Slate or tile work and molding integrated into the building.
 - i. Transoms.
 - j. Trellises.
 - k. Wall accenting (shading, engraved patterns, etc.).
 - l. Any other treatment that meets the intent of this section and that receives the approval of the EPC.

(i) *On-Premise Signage.*

1. Appropriate signage includes blade signs, awning signs, and wall-mounted or hanging metal panel signs. Internally illuminated box signs, billboards, roof-mounted, free-standing, any kind of animation, and painted window signs, and signs painted on the exterior walls of buildings are not allowed. No flashing, traveling, animated, or intermittent lighting shall be on or visible from (i.e. through windows) the exterior of any building.

2. Wall signs are permitted within the area between the second story floor line and the first floor ceiling within a horizontal band not to exceed two feet in height. Letters shall not

exceed 18 inches in height or width and three feet in relief. Company logos or names may be placed within this horizontal band or placed or painted within ground floor or second story office windows and shall not be larger than a rectangle of eight square feet. Projecting signs may not be more than 24 inches by 48 inches and a minimum ten feet clear height above the sidewalk and may be hung below the third story level. Signs may not project more than 36 inches perpendicular to the right-of-way beyond the façade. Lettering on awnings is limited to nine inches in height.

→ (8) *Maintenance Agreement for Vacant or Abandoned Site.* Large retail facilities sometimes are vacated due to changing conditions in the retail market. To maintain a quality built environment, large retail facilities shall be maintained during periods of abandonment or vacancies at the same standard as when occupied. The owner of a site shall sign a maintenance agreement with the city that the site will be maintained when vacant to the following minimal standards, among others as deemed appropriate by the Planning Director:

- (a) The landscaping shall be watered, pruned and weeded.
 - (b) The parking areas shall be cleaned of dirt and litter.
 - (c) The building facades shall be kept in good repair, cracked windows shall be replaced and graffiti removed.
 - (d) Outdoor security lighting shall be maintained and operated.
 - (e) Hydrology systems shall be kept in good working order.
- ('74 Code, § 7-14-40B) (Am. Ord. 23-2007)

§ 11-6-6 PROCEDURES FOR CRIMINAL COMPLAINT.

Proceedings under this article shall be instituted by the City Attorney's or District Attorney's filing of formal criminal complaint in court alleging that specific material as defined herein is obscene by a law enforcement officer or prosecutor, and only after a finding of probable cause by a judge in the course of issuing either a search or arrest warrant regarding the matter.

('74 Code, § 12-9-7) (Ord. 65-1988)

§ 11-6-7 EVIDENCE OF OBSCENITY.

(A) Expert testimony or other ancillary evidence is not required to determine obscenity if the allegedly obscene item has been placed in evidence. The matter itself is the best evidence of what it represents.

(B) The fact that other sexually explicit items are distributed in the local community is not admissible as evidence of the local contemporary community standard unless it is shown that:

(1) Such other item is similar to the item at issue. Similarity shall be measured by the degree of sexual explicitness and type of sexual conduct or activity depicted. It must also be in a similar medium as the item at issue; and

(2) Such other item enjoys a reasonable degree of community acceptance.

('74 Code, § 12-9-8) (Ord. 65-1988)

§ 11-6-8 SEIZURE OF OBSCENE MATERIAL.

There shall be no seizure of obscene material prior to an adversary proceeding on the issue of whether the material is in fact obscene, provided that the material may be seized for the *bona fide* purpose of preserving evidence, if seized pursuant to a warrant issued after a determination of probable cause that the material is obscene, and that following the seizure a prompt judicial determination of the obscenity issue in an adversary proceeding is available at the request of any interested party. A trial on the merits of any alleged violation of § 11-6-5 shall constitute a prompt judicial hearing as required herein. However, on a showing to the trial court that other copies of the specific material are not available for exhibition, the court should permit the seized evidence to be copied where feasible so that exhibition can be continued pending judicial resolution of the obscenity issue in an adversary proceeding. Nothing herein shall be deemed to authorize the seizure of large quantities of allegedly obscene material prior to an adversary hearing unless otherwise authorized by law or a court order.

('74 Code, § 12-9-9) (Ord. 65-1988)

§ 11-6-99 PENALTY.

Any person who violates any of the provisions of this article shall be deemed guilty of misdemeanor, and upon conviction thereof shall be subject to the penalty provisions set forth in § 1-1-99. Each time this article is violated shall be considered a separate offense.

('74 Code, § 12-9-6) (Ord. 65-1988)

ARTICLE 7: GRAFFITI VANDALISM

Section

11-7-1 Intent

11-7-2 Short title

11-7-3 Definitions

11-7-4 Office of anti-graffiti coordination

11-7-5 Elimination of graffiti

§ 11-7-1 INTENT.

Graffiti is a form of vandalism which injures and stains Albuquerque. It is a public purpose and the intent of §§ 11-7-1 et seq. to eradicate or minimize this visual blight.

('74 Code, § 1-24-1) (Ord. 1-1993)

§ 11-7-2 SHORT TITLE.

Sections 11-7-1 et seq. may be cited as the "Graffiti Vandalism Ordinance."
(74 Code, § 1-24-2) (Ord. 1-1993)

§ 11-7-3 DEFINITIONS.

For the purpose of this §§ 11-7-1 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GRAFFITI. Unauthorized painting, writing or inscription.

PERSON. An individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest or any other legal entity.

(74 Code, § 1-24-3) (Ord. 1-1993)

§ 11-7-4 OFFICE OF ANTI-GRAFFITI COORDINATION.

The Mayor shall create an office of Anti-Graffiti Coordination within the city government. The office's primary charge is graffiti eradication in Albuquerque. The office shall be a centralized source of education, advice and assistance on the removal and avoidance of graffiti as well as the place for the city to collect information on graffiti's occurrence on both public and private property. The office shall study and advise on strategies and programs to eradicate or minimize graffiti, including, but not limited to, licensing to assure responsible retailing of spray paint and markers. The director of the office shall make semi-annual reports to the Mayor and the Council starting on June 1, 1993. The director of the office shall also introduce to the Council by June 1, 1993 amendments to §§ 11-7-1 et seq. which seem appropriate.

(74 Code, § 1-24-4) (Ord. 1-1993)

§ 11-7-5 ELIMINATION OF GRAFFITI.

(A) Whenever the city becomes aware of the existence of graffiti on any real property, including structures, within the city and visible from the public right-of-way or city-owned land, the office of Anti-Graffiti Coordination shall give or cause to be given notice that the graffiti should be removed or effectively obscured within 16 days of notice being conveyed by the city, removal being either by the person in charge of the property or by the city or the city's agent. A reasonable, good faith effort shall be made to deliver the notice to the owner or person in charge of the property. The owner or person in charge of the property may cause the graffiti to be removed or completely obliterated; if this is that person's intent they should so advise the office of Anti-Graffiti Coordination within ten days from the time the notice is delivered if the property owner/agent will remove the graffiti within the time specified. Within a similar period, the owner/agent may advise the office that the marking identified was authorized by the owner or person in charge of the property and thus is not graffiti as herein defined; the city will then not authorize removal.

(B) The director of the office of Anti-Graffiti Coordination shall implement a program of graffiti removal.

(1) If the owner or person in control of the property does not notify the office of Anti-Graffiti Coordination that they will remove the graffiti or alternatively that it is not graffiti because the installation was authorized as provided in division (A) of this section, it will be deemed to be consent to the city's entering on the property and removing or completely obliterating the graffiti; any color used shall be similar to that of the structure affected.

(2) The office of Anti-Graffiti Coordination is authorized to use city employees, contractors, volunteers, and prisoners who have been duly made available for such graffiti removal work.

(C) The office of Anti-Graffiti Coordination is authorized to assure that all graffiti on city-owned property is eliminated within 24 hours of discovery or report.

(D) The office of Anti-Graffiti Coordination shall ensure coordination and set standards for all graffiti removal work performed by the city or its agents.

(E) The Mayor may create reasonable rules and regulations to govern and guide the office and otherwise implement §§ 11-7-1 et seq.

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. 0-14-18 ENACTMENT NO. 0-2014-018

SPONSORED BY: **Trudy E. Jones**, by request

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1 ORDINANCE
2 **ADOPTING A UNIFORM ADMINISTRATIVE CODE AND TECHNICAL CODES**
3 **PRESCRIBING MINIMUM STANDARDS REGULATING THE CONSTRUCTION,**
4 **ALTERATION, MOVING, REPAIR AND USE AND OCCUPANCIES OF**
5 **BUILDINGS AND STRUCTURES AND BUILDING SERVICE EQUIPMENT AND**
6 **INSTALLATIONS INCLUDING PLUMBING, SWIMMING POOLS, ELECTRICAL,**
7 **MECHANICAL, SIGNS, SOLAR, ENERGY CONSERVATION, BUILDING**
8 **CONSERVATION AND THE ABATEMENT OF DANGEROUS BUILDINGS WITHIN**
9 **THE CITY OF ALBUQUERQUE; PROVIDING FOR THE ISSUANCE OF PERMITS**
10 **AND COLLECTING FEES THEREFORE; REPEALING CHAPTER 14, ARTICLE 1,**
11 **ROA 1994, THE PRESENT UNIFORM ADMINISTRATIVE CODE AND**
12 **TECHNICAL CODES INCLUDING THE BUILDING CODE, THE PLUMBING**
13 **CODE, THE SWIMMING POOL CODE, THE MECHANICAL CODE, THE SOLAR**
14 **ENERGY CODE, THE ELECTRICAL CODE, PROVIDING FOR PENALTIES FOR**
15 **VIOLATION OF THE CODE.**
16 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
17 **ALBUQUERQUE:**

18 **Section 1. INTENT OF ORDINANCE. It is the intent of this ordinance that**
19 **the City shall recover from fees derived from Building and Safety 100% of the**
20 **full cost, including indirect charges of code enforcement activities. It shall be**
21 **the responsibility of the Mayor to review the Building and Safety income at**
22 **yearly intervals and to recommend to the Council the need to increase or**
23 **decrease fees according to the result of this review.**

24 **Section 2. ADOPTION OF THE UNIFORM ADMINISTRATIVE CODE OF THE**
25 **CITY OF ALBUQUERQUE. The Uniform Administrative Code is hereby**
26 **adopted and shall serve as the administrative, organizational and enforcement**

1 rules and regulations for the adopted technical codes within the City of
2 Albuquerque, New Mexico.

3 Section 3. ADOPTION OF THE TECHNICAL CODES OF THE CITY OF
4 ALBUQUERQUE. For the purpose of prescribing minimum standards
5 regulating construction and maintenance of buildings and structures,
6 including all building service equipment, and installations within the City of
7 Albuquerque, New Mexico, the following codes are hereby adopted:

8 (A) The New Mexico Building Code as adopted by the Construction
9 Industries Division of the State of New Mexico with an effective date of
10 January 1, 2011;

11 (B) The 2009 New Mexico Commercial Building Code as adopted by the
12 Construction Industries Division of the State of New Mexico, including
13 Appendix Chapter E, and I but not including Appendix Chapters A, B, C, D, F,
14 G, H, J, and K with an effective date of January 1, 2011;

15 (C) The 2009 New Mexico Residential Code as adopted by the Construction
16 Industries Division of the State of New Mexico, including Appendix Chapters
17 G, H, J, K and M, but not including Appendix Chapters A, B, C, D, E, F, I, L, N,
18 O, P, and Q with an effective date of January 1, 2011;

19 (D) The 2009 New Mexico Earthen Building Materials Code as adopted by
20 the Construction Industries Division of the State of New Mexico with an
21 effective date of January 1, 2011;

22 (E) The 2009 New Mexico Historic Earthen Building Code as adopted by
23 the Construction Industries Division of the State of New Mexico with an
24 effective date of January 1, 2011;

25 (F) The 2009 New Mexico Existing Building Code as adopted by the
26 Construction Industries Division of the State of New Mexico with an effective
27 date of January 1, 2011;

28 (G) The 2009 New Mexico Non-Load Bearing Baled Straw Construction
29 Building Standards as adopted by the Construction Industries Division of the
30 State of New Mexico with an effective date of January 1, 2011;

31 (H) The 2009 International Code Council Performance Code for Building
32 and Facilities, including all Appendix Chapters, as published by the
33 International Code;

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- 1 (I) The 1997 Uniform Code for the Abatement of Dangerous Buildings as
- 2 published (previously) by the International Conference of Building Officials;
- 3 (J) The 2009 New Mexico Mechanical Code as adopted by the
- 4 Construction Industries Division of the State of New Mexico with an effective
- 5 date of January 1, 2011;
- 6 (K) The 2009 New Mexico Plumbing Code as adopted by the
- 7 Construction Industries Division of the State of New Mexico including
- 8 Appendix Chapters A, B, D, E, F, I, and L with an effective date of January 1,
- 9 2011;
- 10 (L) The 2009 New Mexico Swimming Pool, Spa and Hot Tub Code as
- 11 adopted by the Construction Industries Division of the State of New Mexico
- 12 with an effective date of November 1, 2011;
- 13 (M) The 2009 New Mexico Solar Energy Code as adopted by the
- 14 Construction Industries Division of the State of New Mexico with an effective
- 15 date of November 1, 2011;
- 16 (N) The 2009 New Mexico Energy Conservation Code;
- 17 (O) The 2014 New Mexico Electrical Code as adopted by the
- 18 Construction Industries Division of the State of New Mexico with an effective
- 19 date of August 1, 2014;
- 20 (P) The 2012 New Mexico Electrical Safety Code as adopted by the
- 21 Construction Industries Division of the State of New Mexico with an effective
- 22 date of August 1, 2014;
- 23 (Q) Errata sheets to the adopted portions of the Codes promulgated by
- 24 the International Code Council, International Association of Plumbing and
- 25 Mechanical Officials and National Electrical Code;
- 26 (R) The City of Albuquerque amendments to the New Mexico Codes
- 27 referred to herein are available at the City Clerk's office and are hereby
- 28 adopted and together with the Codes in divisions (A) through (Q) of this
- 29 section that shall be known as the Uniform Construction Codes of the City of
- 30 Albuquerque. From the date on which this ordinance takes effect they shall be
- 31 controlling within the municipal boundaries of the City of Albuquerque, New
- 32 Mexico.

1 Section 4. AMENDMENTS TO THE UNIFORM CODES OF THE CITY OF
2 ALBUQUERQUE. The Uniform Codes of the City of Albuquerque hereby
3 adopted may be amended or repealed in the same manner as ordinances are
4 amended or repealed.

5 Section 5. AVAILABILITY OF THE UNIFORM CONSTRUCTION CODES OF
6 THE CITY OF ALBUQUERQUE. A copy of the Uniform Administrative Code
7 and a copy of the Uniform Construction Codes of the City of Albuquerque as
8 adopted by this ordinance are on file in the Office of the City Clerk of the City
9 of Albuquerque, and are available for inspection by the public during regular
10 business hours. A copy of said codes shall be available to any individual
11 upon request and the payment of a reasonable charge as set by the Chief
12 Administrative Officer, to be not less than the actual cost per copy.

13 Section 6. BUILDING SAFETY DIVISION - JURISDICTION. The Building
14 Safety Division of the Planning Department shall have jurisdiction to
15 administer the Uniform Construction Codes of the City of Albuquerque for
16 construction, alteration, moving, demolition, repair, use and occupancy of
17 buildings, structures and building service equipment.

18 Section 7. FIRE MARSHAL - JURISDICTION; APPLICATION OF FIRE CODE.

19 (A) The Fire Marshal shall have jurisdiction under the Fire Code of the
20 City of Albuquerque to test and inspect fire alarm systems and fire
21 suppression systems, including fire hydrants, fire extinguishers and sprinkler
22 systems installed in construction, alteration, moving, repair, demolition, use
23 and occupancy of buildings, structures and building service equipment. The
24 Fire Marshal shall have jurisdiction under the Fire Code as adopted by the Fire
25 Department of the City of Albuquerque as applicable to construction,
26 alteration, moving, demolition, repair, use and occupancy of buildings,
27 structures and building service equipment.

28 (B) Existing Buildings. The Fire Marshal shall have jurisdiction to
29 administer the Fire Code of the City of Albuquerque as applicable to all
30 existing structures.

31 Section 8. CONFLICT OF CODES. When a conflict exists in specific code
32 requirements between applicable sections of the Uniform Construction Codes

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1 of the City of Albuquerque and the Fire Code of the City of Albuquerque, the
2 Uniform Construction Codes shall prevail.

3 Section 9. PENALTIES. Any person violating any of the provisions of this
4 code or failing or neglecting to comply with any orders issued pursuant to any
5 section thereof shall be deemed guilty of a misdemeanor and such person
6 shall be guilty of a separate offense for each and every day or portion thereof
7 during which any such violation is continued or permitted. Upon conviction of
8 any such violation, such person shall be punished by fine of not more than
9 \$500 or by imprisonment for not more than 90 days, or by both such fine and
10 imprisonment.

11 Section 10. REPEALER. Ordinance No. 2012-020 adopting the Uniform
12 Administrative Code, the Building Code, the Mechanical Code, the Plumbing
13 Code, the Swimming Pool Code, the Solar Energy Code, the Electrical Code,
14 and all amendments thereto, which is compiled as Chapter 14, Article 1 of the
15 Revised Ordinances of Albuquerque, New Mexico, 1994, is hereby repealed;
16 provided, however, that nothing contained in this ordinance shall, in any
17 manner, affect pending actions for violations of Ordinance No. 2012-020 or the
18 Codes incorporated therein as such actions shall be governed by Ordinance
19 No. 2012-020 and the Uniform Administrative and Construction Codes
20 incorporated therein.

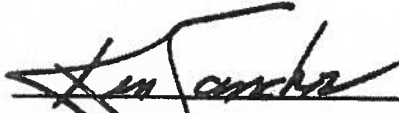
21 Section 11. SEVERABILITY CLAUSE. If any section, subsection, sentence,
22 clause, word or phrase of this ordinance is for any reason held to be
23 unconstitutional or otherwise invalid by any court of competent jurisdiction,
24 such decision shall not affect the validity of the remaining portions of this
25 ordinance. The City Council, the Governing Body of the City of Albuquerque,
26 hereby declares that it would have passed this ordinance and each section,
27 subsection, sentence, clause, word, or phrase thereof irrespective of any one
28 or more sections, subsections, sentences, clauses, words, or phrases being
29 declared unconstitutional or otherwise invalid.

30 Section 12. COMPILATION. This ordinance shall be incorporated in and
31 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

32 Section 13. EFFECTIVE DATE. This ordinance shall take effect five days
33 after publication by title and general summary.

1 PASSED AND ADOPTED THIS 3rd DAY OF September 2014
2 BY A VOTE OF: 9 FOR 0 AGAINST.

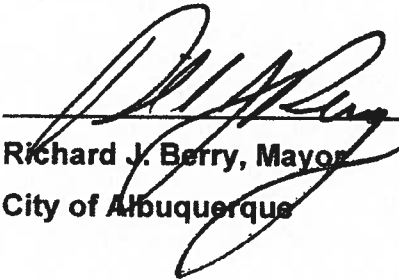
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Ken Sanchez, President
City Council

APPROVED THIS 16th DAY OF September, 2014

Bill No. O-14-18



Richard J. Berry, Mayor
City of Albuquerque

ATTEST:



Trina M. Gurule, Acting City Clerk

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vacant residential buildings

CITY of ALBUQUERQUE SIXTEENTH COUNCIL

COUNCIL BILL NO. F/S FOR 0-04-34 ENACTMENT NO. _____

SPONSORED BY: Martin Heinrich

1 **ORDINANCE**
 2 **REQUIRING VACANT BUILDING MAINTENANCE LICENSES; AMENDING**
 3 **SECTIONS 14-3-1-4 AND 14-3-4-4, ROA 1994, THE UNIFORM HOUSING CODE;**
 4 **CALLING FOR INSPECTIONS OF VACANT BUILDINGS; ESTABLISHING A**
 5 **PROCEDURE TO REPORT UNSAFE VACANT BUILDINGS; SPECIFYING WHAT**
 6 **CONSTITUTES A NUISANCE; CREATING A PENALTY.**
 7 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
 8 **ALBUQUERQUE:**

9 Section 1. The following definitions contained in Section 14-3-1-4, ROA
10 1994 are amended to read:

11 "INSPECTOR. The inspector is the Housing Inspector or any subsequently
12 titled position, including Albuquerque Code Enforcement, charged with the
13 responsibility of making inspections to enforce the provisions of the Housing
14 Code adopted by this jurisdiction.

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

16 (1) Any nuisance known at common law or in equity jurisprudence.

17 (2) Any attractive nuisance which may prove detrimental to children
18 whether in a building, on the premises of a building, or upon an unoccupied
19 lot. This includes any:

20 a. abandoned wells, shafts, basements or excavations;

21 b. abandoned refrigerators;

22 c. structurally unsound fences or structures;

23 d. lumber, trash, fences or debris;

24 e. abandoned or partially destroyed vehicles;

25 f. pooled oil accumulation;

26 g. ponds or pools of stagnant water;

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- 1 h. all diseased animals running at large;
- 2 i. carcasses of animals not buried or destroyed within 24 hours after
- 3 death;
- 4 j. exposed accumulation of decayed or unwholesome food or
- 5 vegetable matter;
- 6 k. accumulations of manure, refuse or other debris; and
- 7 l. privy vaults and garbage cans which are not rodent free or fly-tight
- 8 or which are so maintained as to constitute a health hazard or to emit foul
- 9 or disagreeable odors.

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

12 (4) Overcrowding a room with occupants.

13 (5) Insufficient ventilation or illumination.

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

15 (7) Any violation of the housing standards and licensing requirements
16 set forth in this code.

17 (8) Any violation of Chapter 6, Article 6, Part 1.

18 (9) Any violation of Chapter 8, Article 5, Part 2.”

19 Section 2. Section 14-3-1-4, ROA 1994 is amended to include the following
20 definition:

21 “VACANT BUILDING. A dwelling, dwelling unit, efficiency dwelling unit,
22 habitable space, residential building, or structure lacking the continuous
23 habitual presence of human beings who have a legal right to be on the
24 premises for a period of 90 days or longer.”

25 Section 3. Section 14-3-4-4 ROA 1994 is amended to read:

26 “NUISANCE.

27 A NUISANCE shall include:

28 (A) unlicensed vacant buildings;

29 (B) buildings that have broken windows or doors constituting hazardous
30 conditions and inviting trespassers or malicious mischief;

31 (C) buildings that are boarded up, partially destroyed, not properly
32 secured or partially constructed or incomplete after the building permit
33 authorizing its construction has expired;

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1 (D) buildings whose maintenance is so out of harmony and conformity
2 with the maintenance and quality of adjacent or nearby properties as to cause
3 substantial diminution in the enjoyment, use or property value of such
4 adjacent or nearby properties; and

5 (E) buildings in an unsecured state that are not securely fenced or
6 adequately lighted to prevent access to trespassers, criminals or others
7 unauthorized to enter for the purpose of committing a nuisance or unlawful
8 act or that constitutes an attractive nuisance for children .”

9 Section 4. A new section of the Uniform Housing Code is enacted to
10 read:

11 **“REPORTING ILLEGAL ACTIVITY-COOPERATION.**

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

14 (B) Albuquerque Code Enforcement shall notify the Environmental
15 Health Department upon the discovery of violations of the Noise Control
16 Ordinance.

17 (C) Albuquerque Code Enforcement shall notify the department
18 designated by the Mayor to enforce the Albuquerque Weed and Anti-Litter
19 Ordinance and the Insect and Rodent Control Ordinance upon discovery of
20 violations of those ordinances.

21 (D) Albuquerque Code Enforcement shall notify the Albuquerque Police
22 Department upon discovery of suspected criminal activity.

23 (E) Albuquerque Code Enforcement shall coordinate its activities with
24 the Safe City Strike Force.”

25 Section 5. A new section of the Uniform Housing Code is enacted to read:

26 “(A) The owner of a vacant building shall apply to the Albuquerque Code
27 Enforcement for and obtain a vacant building maintenance license fifteen days
28 prior to vacating the premises. The business maintenance license shall be
29 renewed annually. The owner shall pay an annual fee to renew the business
30 maintenance license. Albuquerque Code Enforcement shall establish the
31 amount of the fee by regulation.

32 (B) Application for a vacant building maintenance license shall be made
33 on a form provided by Albuquerque Code Enforcement and verified by the

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1 owner. The application shall disclose all measures to be taken to ensure that
2 the vacant building will be kept weather tight and secure from trespassers,
3 safe for entry by police officers and firefighters in times of emergency, and,
4 together with its premises, free from nuisance and in good order.

5 (C) At the time of application, the owner shall arrange for inspection of
6 the vacant building by Albuquerque Code Enforcement. If the owner fails or
7 refuses to consent to and arrange for an inspection, Albuquerque Code
8 Enforcement shall first obtain a search warrant from a court of competent
9 jurisdiction to authorize inspection of the vacant building.

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

16 (E) Albuquerque Code Enforcement shall issue any orders for work
17 needed to:

18 (1) adequately protect the vacant building from intrusion by
19 trespassers and from deterioration by the weather; and

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

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

28 (G) Albuquerque Code Enforcement shall issue a vacant building
29 maintenance license only after inspecting the building and concluding that the
30 building complies with the Uniform Housing Code. The Mayor is authorized to
31 administer and enforce the Uniform Housing Code as provided in Sections 14-
32 3-5-1 et. seq. if the vacant building does not comply with any other provisions

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1 of the Uniform Housing Code. Albuquerque Code Enforcement shall have the
2 authority to inspect the vacant building at any time.

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

6 Section 6. A new section of the Uniform Housing Code is enacted to read:
7 “RESIDENT REPORTS-HOTLINE-WEBSITE-EXCEPTIONS.

8 (A) Albuquerque Code Enforcement shall implement and operate a
9 complaint system that includes a hotline and a website available to City
10 residents to report violations of the Property Maintenance Ordinance.
11 Albuquerque Code Enforcement shall implement an advertising campaign to
12 inform residents of this complaint system.

13 (B) Vacant buildings under the authority or within the control of the
14 Metropolitan Redevelopment Agency are exempt from the business
15 maintenance licensing provisions of the Uniform Housing Code.”

16 Section 7. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
17 clause, word or phrase of this ordinance is for any reason held to be invalid or
18 unenforceable by any court of competent jurisdiction, such decision shall not
19 affect the validity of the remaining provisions of this ordinance. The Council
20 hereby declares that it would have passed this ordinance and each section,
21 paragraph, sentence, clause, word or phrase thereof irrespective of any
22 provision being declared unconstitutional or otherwise invalid.

23 Section 8. COMPILATION. This ordinance shall be incorporated in and
24 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

25 Section 9. EFFECTIVE DATE. This ordinance shall take effect five days
26 after publication by title and general summary.

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APPLICATION & STAFF INFORMATION



Supplemental Form (SF)

SUBDIVISION

- Major subdivision action
- Minor subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- Administrative Approval (DRT, URT, etc.)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
- Zone Map Amendment (Establish or Change Zoning, includes Zoning within Sector Development Plans)
- Adoption of Rank 2 or 3 Plan or similar Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd. Regulations
- Street Name Change (Local & Collector)
- APEAL / PROTEST of...**
 - Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): COA PLANNING DEPT. PHONE: 924.3860
 ADDRESS: 600 2ND STREET FAX: 924.3339
 CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: _____
 APPLICANT: COA COUNCIL SERVICES PHONE: 768.3126
 ADDRESS: CITY/COUNTY BUILDING FAX: _____
 CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: _____
 Proprietary interest in site: _____ List all owners: _____

DESCRIPTION OF REQUEST: TO ADD A NEW ARTICLE (14.20) IN CHAPTER 14. ZONING, PLANNING + BUILDING TO BE KNOWN AS THE VACANT

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes. No. COMMERCIAL BUILDINGS ORDINANCE

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. CITY WIDE Block: _____ Unit: _____
 Subdiv/Addn/TBKA: _____
 Existing Zoning: _____ Proposed zoning: _____ MRGCD Map No _____
 Zone Atlas page(s): _____ UPC Code: _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX_Z_, V_, S_, etc.): _____

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? _____
 No. of existing lots: _____ No. of proposed lots: _____ Total site area (acres): _____
 LOCATION OF PROPERTY BY STREETS: On or Near: _____
 Between: _____ and _____
 Check if project was previously reviewed by: Sketch Plat/Plan or Pre-application Review Team(PRT) Review Date: _____

SIGNATURE [Signature] DATE 2/25/2016
 (Print Name) KYM E. DICOME Applicant: Agent:

FOR OFFICIAL USE ONLY

Revised: 11/2014

<input type="checkbox"/> INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees
<input type="checkbox"/> All checklists are complete	<u>16 EPC - 40014</u>	<u>Text Amendment</u>		\$ <u>0</u>
<input type="checkbox"/> All fees have been collected	_____	_____	_____	\$ _____
<input type="checkbox"/> All case #s are assigned	_____	_____	_____	\$ _____
<input type="checkbox"/> AGIS copy has been sent	_____	_____	_____	\$ _____
<input type="checkbox"/> Case history #s are listed	<u>92</u>	_____	_____	\$ _____
<input type="checkbox"/> Site is within 1000ft of a landfill	_____	_____	_____	\$ _____
<input type="checkbox"/> F.H.D.P. density bonus	_____	_____	_____	\$ _____
<input type="checkbox"/> F.H.D.P. fee rebate	_____	_____	_____	\$ _____
	Hearing date <u>April 14, 2016</u>			Total \$ <u>0</u>

[Signature] 22516 Project # 1001620

**CITY OF ALBUQUERQUE
CITY COUNCIL**

INTEROFFICE MEMORANDUM

TO: Suzanne Lubar, Director, Planning Department

FROM: Jon K. Zaman, Director, Council Services

SUBJECT: Bill No. O-16-11

DATE: February 23, 2016

Jon 2/23/16

1001620

The attached ordinance was introduced by the City Council on February 17, 2016. The intent of this ordinance is to regulate vacant commercial buildings. This ordinance would add a registration requirement for vacant commercial buildings that would have a recurring fee associated with it. The ordinance also lists other provisions, such as requiring liability insurance for the building, establishing maintenance and safety standards, and requiring that there be a local agent to receive notices on behalf of non-resident owners.

We request that you submit this ordinance to the Environmental Planning Commission for a hearing as soon as possible.

Please submit the Environmental Planning Commission's comments and recommendations, including the transcript from the meeting, back to the City Council as soon as possible. Thank you.

cc: Russell Brito, Planning Department
Kym Dicome, Planning Department
File O-16-11

Lehner, Catalina L.

**see attachment in Relevant Regulations
in this report*

From: Williams, Brennon
Sent: Wednesday, March 30, 2016 8:40 AM
To: Webb, Andrew; Lynne Andersen; Davis, Pat; Harris, Don; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.
Cc: 'Kevin Yearout'; Schultz, Shanna M.; Lehner, Catalina L.; Dietz, Daniel P.; Whitcomb, Blake; DuBois, John E.; Jacobi, Jenica L
Subject: RE: Response: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process
Attachments: VCBO regs compared.pdf*

All – FYI; after several discussions with different people regarding current city standards related to property maintenance and commercial building requirements, I've compiled a list of the proposed upkeep standards as compared to existing regulations (attached). I've forwarded this information on to the case planner for inclusion with the EPC packet. Please let me know if you have any questions regarding this matter. Thanks. – Brennon

Sincerely,

Brennon Williams

Associate Director
Acting Code Compliance Manager
Planning Department
City of Albuquerque
600 2nd St. NW, Suite 300
Albuquerque, NM 87102
bnwilliams@cabq.gov

From: Webb, Andrew
Sent: Friday, March 11, 2016 12:01 PM
To: Lynne Andersen; Davis, Pat; Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.
Cc: 'Kevin Yearout'; Schultz, Shanna M.
Subject: RE: Response: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Hi, Lynne – of the cities we looked at in depth, Chicago, Fresno and Milwaukee required registration of structures that had been vacant for a set period of time, as noted in the 4th column of the matrix I sent previously.

Thanks,
Andrew

Andrew Webb
Policy Analyst/Planning
Albuquerque City Council
505-768-3161

From: Lynne Andersen [<mailto:Lynne@naiopnm.org>]
Sent: Friday, March 11, 2016 11:43 AM
To: Webb, Andrew; Davis, Pat; Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.
Cc: 'Kevin Yearout'; Schultz, Shanna M.
Subject: Response: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Thanks Andrew...I am talking to all of the cities that you mentioned. I'm doing a search around the country on types of "vacant building" ordinances. The Chicago (Cook County) is considered the most stringent but has gone through some significant changes due to push back from the banks and businesses. However, I have yet to encounter an ordinance that simply requires ANY vacancy to be registered. All seemed to be tied to some sort of structural or other concerns with the actual property. Are there cities that just want every commercial building to register after 3 months of vacancy?

The current Cook County one includes both residential and commercial and includes a fee for registering a vacant building (ONLY \$250); and the need for a local legal contact.

HOWEVER, the most interesting thing to me was the definition of "Vacant"....see below. It would, in my opinion, eliminate everyone but the really BAD buildings.

The full ordinance is at: <http://www.cookcountyl.gov/wp-content/uploads/2014/06/VACANT-BUILDING-ORDINANCE.pdf>

Property means any real, residential, commercial or industrial property, or portion thereof, located within unincorporated Cook County or within the boundaries of a participating municipality, including buildings or structures situated on the property.

Residential property means buildings of three stories or less in height where the whole building or parts thereof are designed or used as residential units or auxiliary uses to a residential unit.

Vacant means a building which is lacking habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business or construction operations or residential occupancy has ceased, or which is substantially devoid of content. In determining whether a building is vacant, it is relevant to consider, among other factors, the percentage of overall square footage of the building or floor to the occupied space, the condition and value of any items in the building and the presence of rental or for sale signs on the property; provided that a residential property shall not be deemed vacant if, a person or entity with an interest in the property proves, by a preponderance of evidence that, it has been used as a residence by a person entitled to possession for a period of at least three months within the previous nine months and a person entitled to possession intends to resume residing at the property; and further provided that multi-family residential property containing ten or more dwelling units shall be considered vacant when ninety percent or more of the dwelling units are unoccupied. A property shall not be considered vacant if there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

Winterize means cleaning all toilets and completely draining all plumbing and heating systems.

From: Webb, Andrew [<mailto:awebb@cabq.gov>]

Sent: Friday, March 11, 2016 11:22 AM

To: Davis, Pat; Lynne Andersen; Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.

Cc: Kevin Yearout; Schultz, Shanna M.

Subject: RE: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Hi, Lynne – thanks for sending your research findings. I believe we gave you a printed copy of some research done by our office, but just in case, I've attached it electronically as well. Of all the cities we looked at with some regulations limiting the length of time non-residential structures could be left boarded up, Tucson's appeared to be the least restrictive.

Thanks,
Andrew

Andrew Webb
Policy Analyst/Planning
Albuquerque City Council
505-768-3161

From: Davis, Pat

Sent: Wednesday, March 09, 2016 3:50 PM

To: Lynne Andersen; Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.; Webb, Andrew

Cc: Kevin Yearout

Subject: RE: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Thanks, Lynne

From: Lynne Andersen [<mailto:Lynne@naiopnm.org>]

Sent: Wednesday, March 09, 2016 11:35 AM

To: Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Davis, Pat; Foran, Sean M.; Lubar, Suzanne G.; Webb, Andrew

Cc: Kevin Yearout

Subject: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Importance: High

Guys,

Here is the result of my research on the Tucson vacant building process. I contacted the Code Enforcement Administrator and discussed their ordinance and procedures.

The results of that conversation and some internet research is attached and pasted below.

Lynne Andersen, NAIOP President

345-6976

To: ABQ City Councilors Don Harris and Pat Davis

From: Lynne Andersen, President of NAIOP Commercial Real Estate Development Association

Re: Result of research into Tucson's vacant commercial building process

Tucson "Neighborhood Preservation Ordinance"

Information provided by Mike Wyneaeen, Code Enforcement Administrator for City of Tucson

1. Tucson does not have a "Vacant Building Ordinance" as such according to Mr. Wyneaeen. The only ordinance that addresses vacant buildings is a Neighborhood Preservation Ordinance which includes both residential and commercial buildings. This ordinance only addresses hazardous properties including health & public safety issues such as broken windows, excessive weeds/debris, structural problems, access to vagrants, etc.
2. An inspection is triggered by a police or resident complaint or by an emergency situation such as a fire or car accident involving the building, etc.
3. The inspectors secure the building if necessary and then contact the owners. If the owner cannot be contacted or is unresponsive, then the City hires a contractor to board broken windows, clean any debris and/or weeds, etc. The owner is then billed for the cost. If there is no payment or response, then the City lien's the building.
4. There is no fee or fine other than the lien, and the cost of securing/cleaning the property. The City tried a "Re-inspection Fee" for properties that received continued complaints but most owners would not pay the fee, and, according to Mr. Wyneaeen, it cost twice as much to try and collect the fee.
5. They do have a "Vacant & Neglected Structures Program" that is federally funded by a Community Development Block grant. In this case, owners either voluntarily sign-up or are compelled to do so by a court order. The money is allocated to demolish the building and clean/scrape the site. The City does not acquire the property, and the owner retains title to the scrapped site. This has been successful, but is being phased-out since the funds are being diverted to other projects.

6. Tucson does not have a registry of vacant buildings, and Mr. Wynean did not see the need for one, particularly as it concerned buildings that are maintained. He mentioned that most commercial buildings are occasionally vacant due to market forces, and he did not see the need to track those nor does he have the manpower to do so since that would require a large number of inspectors.

Background Research

Vacant Building Ordinance Research Matrix

	Maintenance Requirements for Vacant Structure	Registration Process of Vacant Structure	Fees associated with Vacant Structure	Other Regulations
<p>Denver, Co. Department who regulates: Neighborhood Inspections Link to code here</p>	<p>• Take actions necessary to maintain and preserve the property and to comply with the Code, including the Denver Building, Denver Housing, and Denver Zoning Codes.</p>	<p>• Once a violation letter has been sent, the property is added to the Neglected and Derelict Building List (NADB) – Accessible online • Property is assessed quarterly (at a minimum) to ensure compliance with all codes and regulations • Building is removed from list when it has either 1) completed its remedial plan or 2) been demolished</p>	<p>• Yearly fee of \$1,000 if a property is on the NADB list if they don't: ○ Submit a remedial plan or meet deadlines in remedial plan ○ Comply with property related codes ○ Pay all other fees and penalties related to NABD ordinance ○ This fee is assessed every 12 months on the anniversary date of the initial assessment ○ Fee is due 30 days after the date of the invoice ○ Fee can be paid in 4 installments of \$250 • If the owner fails to register, or comply w/registration requirements, the City can fine the owner \$500 per day • Fees will become a lien on the property if not paid within the 30-day time period</p>	<p>• A non-resident owner must designate a person 18+ resident of the City of Denver to be the primary contact for notifications, citations, summons, complaints, etc.</p>

Vacant Building Ordinance Research Matrix

	Definition of "Vacant Structure"	Maintenance Requirements for Vacant Structure	Registration Process of Vacant Structure	Fees associated with Vacant Structure	Other Regulations
Link to code here		<p>repair or replacement of exterior</p> <ul style="list-style-type: none"> • Take reasonable steps to prevent criminal activity. Steps include monitored security system and frequent physical inspections • Maintain all windows and doors with locks. Replace all broken doors or windows, secure any other openings trespassable • Remove graffiti within 48 hours of notification 	<p>to the City every 6 months to demonstrate how building/grounds will be brought into/kept in compliance.</p>		
<p>TUCSON, AZ Department who regulates: Code enforcement Link to code here</p>	<ul style="list-style-type: none"> • a fire or health hazard because of the accumulation of weeds, debris, or flammable or combustible waste or refuse or • a nuisance or hazard to the public because unsecured doorways or window openings or holes in the exterior of the building or structure permit entry of unauthorized 	<ul style="list-style-type: none"> • Vacant structures may temporarily be secured by boarding up window and door openings. Having boarded window or door openings on a vacant structure for one hundred eighty (180) days or more in any one (1) year period is prohibited. • The owner or responsible party of a vacant building or structure must remove weeds, combustible waste, or refuse from the interior of the building or structure and the surrounding yards. • Secure all doors, windows, and other openings to prevent unauthorized entry. • The owner or responsible party must post both the structure and the exterior premises with signs to provide notice prohibiting entry (i.e., "No Trespassing" signs). 	<ul style="list-style-type: none"> • No registration process defined – called Code Enforcement Dept on 10/9 to investigate further 	<ul style="list-style-type: none"> • The code official shall periodically reinspect a building or structure that was cleaned or secured pursuant to an administrative or judicial order to ensure continued compliance. The code official may assess a reinspection fee for actual costs of each inspection in those instances where the building or structure is again found to be vacant and unsecured or in need of debris or weed removal. 	

¹ **Denver defines a neighborhood nuisance** as: "Neighborhood nuisance means a property that, by reason of inadequate maintenance, dilapidation, obsolescence or other similar reason, is a danger to the public health, safety or welfare; is structurally unsafe or unsanitary; is not provided with adequate safe egress; constitutes a fire hazard; is otherwise dangerous to human life; or in relation to the existing use constitutes a danger to the public health, safety or welfare."

²**Tucson defines a building as a public nuisance if...**

1. The building or structure lacks safe and adequate means of exit in case of fire or panic.

2. The stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1 1/2) times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.

3. The building, structure or any portion thereof has been damaged by fire, earthquake, wind, flood or any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before the damage and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location.

4. The building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:

a. An attractive nuisance to children; or

b. A harbor for trespassers or persons committing unlawful acts.

5. The building, structure, or any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to partially or completely collapse and thereby injure persons or damage property.

6. Any portion of a building or structure, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified in the building code for new buildings of

similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.

7. Any portion of a building or structure that has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. The walls or other vertical structural members of the building or structure list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

9. The building or structure, excluding the foundation, has thirty-three (33) percent or more damage or deterioration to the supporting member or members or structural assembly, or fifty (50) percent damage or deterioration to the nonsupporting members, enclosing or outside walls or coverings.

10. The building or structure is infested by rodents, insects or other noxious pests, rendering it uninhabitable.

11. The building or structure exhibits conditions that present actual or imminent hazards or dangers, or is otherwise unsafe for the purpose for which it is being used.

12. The building or structure, whether or not erected in accordance with all applicable laws, has in any nonsupporting part, member or portion less than fifty (50) percent, or in any supporting part, member or portion less than sixty-six (66) percent of the (a)

strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

13. A dwelling is unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

14. The building or structure, because of obsolescence, dilapidated condition, damage, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause.

15. The building or structure has been found, upon reinspection, to be vacant and unsecured, and either:

a. The code official has issued at least one (1) previous abatement order to secure within the preceding twelve (12) months, or more than three (3) abatement orders to secure over any time frame; or

b. The code official has secured the building or structure on at least one (1) previous occasion within the preceding twelve (12) months, or more than three (3) times over any time frame.

16. A building or structure or portion thereof remains for any period of time on a site after the demolition or destruction of the building or structure; or normal construction of an unfinished or incomplete building or structure has ceased for a period of more than twelve (12) months.

NOTIFICATION & COMMENTS

Parks and Recreation Department - continued from page 7

All Year Long, 25 Cent Night, All Open City Pools

Fridays from 5 p.m. - 8:30 p.m.

Who: Open to the Public.

What: Entry is only 25 cents every Friday Night! Come swim for a fraction of our regular admission! West Mesa will be 50 cents.

Where: All open City of Albuquerque Pools.

Contact Information: Please go to <cabq.gov/aquatics> for specific pool hours or call your nearest pool!

Yoga with a View, Open Space Visitor Center

Sundays from 9 a.m. - 9:30 a.m.

Who: Adults.

What: Begin Sundays with a relaxing outdoor meditation at 8:30 a.m. followed by an invigorating YOGA session at 9 a.m. Your first class is \$5, subsequent classes are \$15 and if you buy in bulk they're even less. Class fees include a donation to the Open Space Alliance.

Where: 6500 Coors Boulevard NW between Montano Road NW and Paseo del Norte NW at the end of Bosque Meadows Road NW. Contact: 505-897-8831.

Weekday Specials, #GolfABQ All Four CABQ Golf Courses

Includes green fee, bucket of balls, hot dog and a drink.

Monday: Los Altos - \$30.

Tuesday: Ladera - \$30.

Wednesday: Arroyo del Oso - \$30.

Thursday: Puerto del Sol - \$20.

Bike Clinic (Open Shop), Esperanza Bicycle Safety Education Center

Tuesday/Wednesday/Thursday from 6 p.m. - 8 p.m. and on Sunday from Noon - 7 p.m.

Who: Youth and Adults.

What: Public access to all of the tools and guidance that you need to maintain your bike! This is a non-RSVP first come first served time for you to learn all of the details about your bike in a friendly and inviting environment.

Where: 5600 Esperanza NW.

Contact Information: <esperanza@cabq.gov>, 505-224-6668.

The City of Albuquerque does not discriminate on the basis of race, color, religion, national origin or ancestry, disability, age, gender, Vietnam Era or disabled veteran status, sexual orientation or medical condition in employment or in the provision of services. If you have a disability and will need special assistance to benefit from any of the meetings, hearings or workshops, etc., appearing in the newsletter contact the office sponsoring the event two weeks prior to the date of the meeting you plan to attend. Whenever possible, TTY phone numbers will be listed. TTY users may call any phone number listed in this publication via Relay New Mexico at 1-800-659-8331.

Planning Department

Submitted by Catalina Lehner

Project #1001620, 16EPC-40014: Proposed New Article 14-20 of ROA 1994.

At its regularly scheduled Public Hearing on April 14, 2016, the Environmental Planning Commission (EPC) will consider a proposed Ordinance to regulate Vacant Commercial Buildings, which would be defined as non-residential structures that have not been lawfully occupied or subject to any construction activity for three consecutive months. The proposed ordinance would apply city wide. The proposed regulations would require that vacant commercial buildings be maintained, monitored and secured. The building owner would be required to register the building and pay an associated fee, within 30 days of it becoming vacant or assuming ownership. Liability insurance would also be required. The proposed bill (O-16-11) can be found by searching for it at <<https://cabq.legistar.com/Legislation.aspx>>.

Please contact Catalina Lehner-AICP, Senior Planner, at 505-924-3935 or <clehner@cabq.gov> for more information. Please submit any comments to her no later than Monday, April 4, 2016.

Planning Department

Submitted by Melissa Perez

Planning Department – Administration Division

Did You Know?

Question: Is there a limit to the number of garage or yard sales my neighbor can hold in the R-1 Zone where I live?

Answer: **Yes.** Garage or yard sales are only allowed once every 12 months at a given home in an R-1 zone. The sale may not exceed three days in length and only typical household goods may be sold. Advertising signs are not permitted on medians or other City property.



Lehner, Catalina L.

From: Dicome, Kym
Sent: Monday, February 29, 2016 8:32 AM
To: Lehner, Catalina L.
Subject: FW: Development Discussion Group Follow-Up

CLL:

Please add to your staff report for the vacant commercial building legislation. See below.

Kym

From: Williams, Brennon
Sent: Sunday, February 28, 2016 12:37 PM
To: Brian Patterson
Cc: Dicome, Kym
Subject: RE: Development Discussion Group Follow-Up

Brian –

Thanks for your email. Sorry it's taken me so long to get back with you on this.

I agree with your suggestion. It seems contrary to the overall intent of the legislation to impact other buildings on an otherwise occupied property. Additionally, similar registration standards outlined in the city's housing code exempt a property if it is being marketed by a licensed NM real estate agent.

I'll pass this along to the planner who'll be presenting this to the EPC and ask that they incorporate these concerns into the staff report.

Let me know if you have any other questions.

Sincerely,
Brennon Williams
Associate Director
Acting Code Compliance Manager
Planning Department
City of Albuquerque
600 2nd St. NW, Suite 300
Albuquerque, NM 87102
bnwilliams@cabq.gov

From: Brian Patterson [<mailto:bpatterson@Titan-Development.com>]
Sent: Friday, February 19, 2016 12:52 PM
To: Perez, Melissa X.; RRB; Dietz, Daniel P.; Fishman; Hugh; Christopher R. Gunning; jdhernandez@tierrawestllc.com; Louise Janney; GMeans; Hilltop Landscaping; JMortensen; Kevin Patton; Garret.Price@PulteGroup.com; Josh Rogers; Peter Steen (Peter.Steen@PulteGroup.com); bstidworthy@bhinc.com; CP; TechNM; PWymer
Cc: Lubar, Suzanne G.; Williams, Brennon; Biazar, Shahab; Clark, Land; Brito, Russell D.; Kurt Browning; Ben Spencer; Lynne Andersen - NAIOP (lynn@naiopnm.org)
Subject: RE: Development Discussion Group Follow-Up

Brennon,

You had indicated yesterday, that one of your main concerns in the proposed ordinance was how the language was written about the building being vacant. You mentioned that if you had a strip mall and one of the stores was vacant, technically after 90 days the entire strip mall could be placed on the city's vacant building list and the entire property could be condemned after one year. Correct? The current language doesn't really say anything (just says vacant). After our discussion earlier and speaking to others in the office, I would suggest adding language to state that the building be 100% vacant. Also, adding language that if the building is on the market and/or is being represented by a Broker, that the building would not fall into this category.

Just some thoughts. Thanks.

Brian Patterson, P.E.
Development Project Manager



(O) 505-998-0163

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Sent: Friday, February 19, 2016 8:52 AM

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Subject: Development Discussion Group Follow-Up

Good morning everyone,

As promised at yesterday's Development Discussion, attached is the proposed Vacant Commercial Building Ordinance. In addition, Director Lubar wanted me to let you all know that the Alternative Construction of Sidewalks legislation has been signed and will be delivered to the City Clerk today.

All the best,

MELISSA PEREZ

Public Information Officer

PLANNING DEPARTMENT

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Beserra and Serrano.

~~8. Project# 1000032
15EPC-40079 Site Development Plan for
Subdivision~~

~~Retail Equity Development 3, LLC, agent for Oxbow Town Center LLC, request the above actions for all or a portion of Tract X-1-A2 Plat of Tracts X-1-A1 & X-1-A2 University of Albuquerque Urban Center, zoned SU-3/Mixed Use, located on Coors Blvd., between St. Josephs and Western Trail NW, containing approximately 21.3 acres. (G-11)~~

~~Staff Planner: Vicente Quevedo~~

~~**(DEFERRED FROM JANUARY 14, 2016)**~~

~~A motion was made by Commissioner McCoy and Seconded by Commissioner Bohannan that matter 15EPC-40079 be approved based on findings and conditions. The motion carried by the following vote:~~

~~For: 8 Hudson, Bohannan, Nicholls, Peck, McCoy, Mullen, Beserra and Serrano.~~

10. Project# 1001620
16EPC-40014 Amendment to Chapter 14 ROA
1994- Zoning, Planning and Building

The City of Albuquerque Planning Department, agent for City of Albuquerque Council Services, requests the above action to add a new article (Article 20) to Chapter 14 ROA 1994, Zoning, Planning and Building, to be known as the Vacant Commercial Buildings Ordinance. City-wide.

Staff Planner: Catalina Lehner

A motion was made by Commissioner Peck and Seconded by Commissioner McCoy that matter 16EPC-40014 be forwarded to the City Council with a recommendation of denial based on findings. The motion carried by the following vote:

SEE ATTACHED TRANSCRIPT

For: 8 Hudson, Bohannan, Nicholls, Peck, McCoy, Mullen, Beserra and Serrano.

~~II. OTHER MATTERS:~~

~~A. Approval of December 10, 2015 Amended Action Summary Minutes **(DEFERRED FROM MARCH 10, 2016)**~~

~~A motion was made by Commissioner Mullen and Seconded by Commissioner Peck that this matter be approved. The motion carried by the following vote:~~

~~For: 8 Hudson, Bohannan, Nicholls, Peck, McCoy, Mullen, Beserra and Serrano.~~

CITY OF ALBUQUERQUE
ENVIRONMENTAL PLANNING COMMISSION

M I N U T E S

Agenda Item 10
Project #1001620
16EPC-40014

April 14, 2016

COMMISSION MEMBERS PRESENT:

Karen Hudson, Chair
Derek Bohannon, Vice Chair
Maia Mullen, Member
Bill McCoy, Member
James Peck, Member
Peter Nicholls, Member
Victor Beserra, Member
Dan Serrano, Member

STAFF PRESENT:

Catalina Lehner, Planning Department
Christopher J. Tebo, Legal Department

CHAIRWOMAN HUDSON: Number 10. Good afternoon, Ms. Lehner.

MS. LEHNER: Good afternoon, Madam Chair.

CHAIRWOMAN HUDSON: We saved you for the last.

While she's getting ready, Mr. Quevedo, I commend you on your good job today, your staff reports and your hard work. Thank you.

MR. QUEVEDO: Thank you. Appreciate it.

MS. LEHNER: Good afternoon, Madam Chair, Members of the Commission. This is Agenda Item Number 10. It is Project Number 10001620, 16EPC-40014.

This request is for a recommendation to City Council regarding Bill O-16-11, proposed legislation that would add a new Article 20 to Chapter 14 of ROA 1994, which is a zoning, planning and building chapter. This would not be in the zoning code. That is Chapter 16.

The proposed new article would allow regulation of vacant commercial buildings and structures and would apply citywide. The map that Mr. Quevedo has just pulled up on your screen shows land use, commercial land use, both commercial retail and commercial service land use in the Albuquerque city limits. And those are the properties that could potentially be affected at some point in time with this regulation.

The overarching of the proposed regulation is to improve aesthetics of the built environment and to prevent further blights.

The proposed regulations would require that vacant commercial buildings be maintained, monitored and secured, and that an administrative process is established for permitting and fees. A responsible party would register the building and pay a fee within 30 days of it becoming vacant or assuming ownership. Liability insurance would also be required.

Vacant commercial buildings will be defined as nonresidential structures that have not be lawfully occupied, or subject to any construction activity for three months.

Staff is suggesting a significant rewrite of the proposed definition. This is necessary because it would not make sense to apply vacant commercial building regulations to all structures, such as free-standing signs, light poles and cell towers, because these are not occupied.

Staff finds that the proposed new article generally furthers the few goals and policies that apply and the overarching intentions of the city charter. However, much of the proposed regulations are already existing somewhere else in ROA 1994, including regulations dealing with weed and litter, securing, repairing or demolishing unsafe buildings and maintaining building exteriors.

If the intention is to prevent vacant commercial buildings from adversely affecting aesthetics, this can be accomplished mostly with existing regulations.

Therefore, staff recommends that the legislation be substantially rewritten to eliminate repetitive regulations. It's generally not a sound governmental practice to have layers of repetitive

regulations because it can lead to inconsistencies and confusion. Staff has worked closely with code enforcement staffing, including the code compliance manager, to understand enforcement and implementation issues.

I'd like to explain a couple of procedural matters for the benefit of those in attendance.

First, I'm aware that there is some opposition out there, but as a publication of the staff report, I only received one written comment, and that was forwarded to me. So I just want to point out that the best bet is to submit comments in writing to the staff planner so that I have a chance to address the comments in the staff report, include them in the record and make them available to the commissioners prior to the hearing, which makes for a more efficient and responsive process for all.

The second point is that regarding legislation, the EPC is a recommending body only. The City Council will make the final decision. And this means a couple things. First, there will be opportunities for additional public input at the land use planning and zoning, or LUPZ, hearing, and that the legislation when it leaves here can still change after it's out of the EPC process.

So in the EPC process, our job is to analyze the bill for enforcement implications and inconsistencies and recommend how to best clean it up if council decides to go forward with it. That's what the conditions are for; hopefully to be rolled into a committee substitute version of the bill and that's what gets presented to council for its further consideration.

The request was advertised in the March/April edition of the neighborhood news. At the publication of the staff report, staff has received one comment from a development company.

Regarding Project Number 1001620 16EPC-40014, staff recommends that a recommendation of conditional approval be forwarded to the City Council.

There are 21 suggested conditions that would result in a substantive rewrite of the proposed legislation. Revisions would clarify it, eliminate repetitive regulations and address most enforcement and implementation difficulties.

And when we get to discussing findings and conditions, staff has two minor changes. And with that, I stand for any questions.

CHAIRWOMAN HUDSON: Commissioners, anyone have any questions or comments?

Commissioner McCoy.

COMMISSIONER MCCOY: Ms. Lehner, thank you for a large piece of work. Hopefully a fairly simple question. Can you -- do you have the information as to why in the proposal we're looking at that the city MRA would be exempt from these statutes?

MS. LEHNER: Madam Chair, Commissioner McCoy, there is nothing in the legislation that mentions the city MRA, or metropolitan redevelopment areas. I had spoken about them in the staff report simply because the metropolitan redevelopment areas have to meet a definition of blighted conditions, and often, vacant commercial buildings are in those areas. So it's highly likely that they would be affected perhaps disproportionately compared to other portions of the city, but there's nothing that calls them out

specifically in the proposal.

COMMISSIONER MCCOY: I will do some looking. I was pretty sure -- I thought the properties owns by the Metropolitan Redevelopment Agency were exempted from the registration. I may be mistaken.

MS. LEHNER: Madam Chair, Commissioner McCoy, I don't recall seeing anything in the proposed bill that -- the bill that I analyzed is an attachment to your staff report, and it's label O-16-11. I don't recall that in the legislation, but I can certainly take another look.

Madam Chair, Commissioner McCoy, I don't see anything to that effect.

COMMISSIONER MCCOY: Thank you. I've not found it yet. I'll keep looking. Please proceed.

CHAIRWOMAN HUDSON: Okay.

Does anyone else have any questions of Ms. Lehner at this point?

Okay. We will come back to that question.

All right. Ms. Henry, are there any people that are signed up from the public?

MS. HENRY: Yes, Madam Chair.

CHAIRWOMAN HUDSON: How many do we have?

MS. HENRY: Eleven.

CHAIRWOMAN HUDSON: Okay. Why don't you call the first two.

MS. HENRY: Terrie Hertweck, followed by Lynne Anderson.

MS. HERTWECK: Yes. My name is Terrie Hertweck. I work at Colliers International, at 2424 Louisiana Boulevard, Northeast.

CHAIRWOMAN HUDSON: And before you begin, I've got to swear you in.

(Witness sworn.)

CHAIRWOMAN HUDSON: Thank you. Who are you representing?

MS. HERTWECK: I'm representing myself as a property owner, and several clients.

CHAIRWOMAN HUDSON: Okay. I'm going to give you two minutes.

MS. HERTWECK: Okay. Madam Chair and Members of the Commission, I am here today to request that this ordinance be vacated. It is a matter of adding a tax on top of a vacancy building that respectful property owners have not brought upon themselves.

Property owners, the last thing they want to do is have a vacancy. They don't enjoy it. Therefore, by having this registration and fees involved with a vacancy, it's penalizing them. It also penalizes any future buyers of properties and developers who may want to redevelop or repurpose a property, in which case, you can't repurpose it until it is vacant. Three months is just not a reasonable time to even do a tenant turnaround.

Therefore, I appreciate you letting me speak today, and I would really encourage that you vacate this ordinance.

CHAIRWOMAN HUDSON: Thank you.

MS. HENRY: Lynne Anderson, followed by Martin Haynes.

CHAIRWOMAN HUDSON: Hi. Good afternoon.

MS. ANDERSON: Good afternoon, Madam Chairman, Commissioners. My name is Lynne Anderson, and I represent NAIOP, the commercial real estate development association.

CHAIRWOMAN HUDSON: And your address, please?

MS. ANDERSON: 504 Camino Espanol, Northwest, 87107.

(Witness sworn.)

CHAIRWOMAN HUDSON: Okay. I'm going to give you five minutes.

MS. ANDERSON: Actually, I think I will be fairly brief, because we have some real experts in the room and I'll let them speak on the more detail of everything.

CHAIRWOMAN HUDSON: Okay.

MS. ANDERSON: But thank you for that.

CHAIRWOMAN HUDSON: Okay.

MS. ANDERSON: As the president of NAIOP, I'm speaking today for NAIOP. The industry is very concerned about this ordinance, not because we're against moving aggressively against blighted buildings, but because the bill creates duplicate city ordinance and regulations, does not provide clear, easily understood definitions, and imposes onerous cost requirements on buildings that meet all code and maintenance regulations and are the opposite of blights.

I'm going to talk very briefly, and then I'll let the rest of the room speak. But the one that seems to come up the most in my conversations with property owners and property managers, who are members of my organization, was the definition of "vacant commercial buildings."

A vacant building should be defined as a nonresidential structure, that is, for any three consecutive months, not lawfully occupied, wholly or partially boarded up, and does not show evidence of substantial and ongoing construction activity.

A concern when I showed this to land use attorneys was that it was not clear whether all three of those situations needed to be involved or only one of them needed to be involved before you were suddenly required to go down and register a vacant building and pay \$500 to the city. Which seems counterproductive if you're trying to keep people engaged in keeping their properties up to code and maintenance and not eyesores when you're taking money from them that could be used to accomplish those ends.

It also doesn't really clearly explain whether if you have a strip center and one storefront is empty, does that mean that you have to go down and register that storefront or then the whole vacant building. What about multi-story office buildings, if a floor is vacant and waiting for these things?

I would also add that three months is not even commonsense. Because very often, particularly in the current economy we have, trying to find new tenants for a building that has been vacated, and I'm sure you all can understand that this is frequent around the city, does not allow -- three months is hardly enough time to get the word out.

So there's a lot in this code as it exists now. It really penalizes office and industrial -- and commercial buildings, sorry, commercial buildings that really are up to code, that are maintained, that are good looking, that are not eyesores. I understand, we all understand that blight is not anything we want in our city, and certainly, you don't want to live next to it.

But this ordinance doesn't really accomplish what they're seeking to do other than spread the pain among people who are doing everything they can do to not only release their buildings but to keep them up to code and in good repair. It's not to their benefit if they're the owners of these buildings they allow them to disintegrate.

So I would also ask you to vacant it. If it's possible to return it for rewrite, we would not be against that. But we would like to be engaged in part of that process, if possible, because you're dealing with the people on the ground that are eventually going to have to pay for these fees. So I thank you for that.

CHAIRWOMAN HUDSON: Thank you.

Hi. Good afternoon. Could you please give us your name and address for the record.

MR. HAYNES: My name is Martin Haynes. The address is Post Office Box 9043, Albuquerque, 87119.

Madam Chair, members --

CHAIRWOMAN HUDSON: Before you start --

MR. HAYNES: -- I really appreciate --

CHAIRWOMAN HUDSON: -- I need to swear you in.

MR. HAYNES: -- being here.

(Witness sworn.)

CHAIRWOMAN HUDSON: Okay. Now you can thank us.

MR. HAYNES: Thank you, Madam Chair. I am so glad for the opportunity to be here. I am one of those guys that actually owns a few properties around Albuquerque, commercial properties in the past, the fortunate cycle of over three decades of owning some property here. I think it actually is over four decades, unfortunately.

But the -- this is just another reason for a small developer like myself -- I'll be done in --

CHAIRWOMAN HUDSON: No. That's okay.

MR. HAYNES: I think this is just an example of another reason for me to go and develop someplace else. This is just one more action on behalf of this municipality that is not doing anything for the overall industry and in the form of the legislation

that's in front of us.

And as a matter of fact, to me, it's a situation where you're guilty before you've even had due process. I mean, you know, because I got a vacancy, now I've got to pay additional fees, I've got to find an insurance broker that will write a policy or, I don't know, a certificate, you know, notifying the city?

There are just so many things about this ordinance that is just negative on top of negative.

I ask that while staff is recommending and went into detail about we can make changes at a later date and to the process, I think this piece of legislation just needs to be denied. I ask you to just deny this and let us start all over. Let the industry get involved and try to make this a palatable and reasonable piece of work that will protect the neighbors and protect the municipality.

I mean, to give staff -- give the municipality the ability to take somebody to court makes sense if a property is in disarray, et cetera, but to do it the other way is just unfair.

Thank you.

CHAIRWOMAN HUDSON: Who's next?

MS. HENRY: Robert Lucero, followed by David Hassard.

CHAIRWOMAN HUDSON: Hi. Good evening. Would you please state your name and address for the record.

MR. LUCERO: Yes. Robert Lucero. It's P.O. Box 1888, Albuquerque, New Mexico, 87103. And I'm actually appearing on behalf of Roberts Oil Company.

CHAIRWOMAN HUDSON: Okay. I need to swear you in.

MR. LUCERO: Sure.

(Witness sworn.)

CHAIRWOMAN HUDSON: So you're representing?

MR. LUCERO: Correct. I'm here on behalf of Roberts Oil Company. Their address is 11024 Montgomery, Northeast, TMV 338, Albuquerque, New Mexico, 87111.

CHAIRWOMAN HUDSON: Okay. I'm going to give you two minutes to start.

MR. LUCERO: Thank you, Madam Chair. Madam Chair, Members of the Commission, you know, this ordinance is an example of something that is great in concept. You know, like Ms. Anderson mentioned earlier, the idea of fighting blight is wonderful, and I think everyone can get behind that. But as you get down into the details, it becomes very troublesome.

And as Ms. Lehner pointed out, you know, one of the keystone elements of drafting legislation is to avoid being repetitive. And as stated in the staff report, you know, much of what is proposed is already found elsewhere in our ordinances. I mean, why do we need this -- why do we need more law to do what we already have on the books?

And also, as stated in the staff report, you know, none of the other jurisdictions reviewed by staff have separate ordinances, articles or chapters, you know, that differential residential from commercial. It would seem that if our residential ordinances are already sufficient, we could just easily adapt them to expand to cover commercial purposes.

And, you know, the fee structure that is proposed is more onerous than any of the other jurisdictions reviewed. It would just be an onerous penalty system.

And, you know, three months is really an unreasonable term, you know, given that we're just coming out of the great recession. You know, properties stay on the market for a long time, whether it's for lease or for sale. It's very difficult to impose such a short time frame.

There are questions as to whether, you know, city property would be exempt. I can think of some city-owned properties that might fall under the classification of vacant building that, you know, would then have to -- would they have to comply with this or not?

And so we would request that this be denied. I understand that the effect of denial would be that, you know, LUPZ could then just pull it out themselves and hear it on their own. But I think it would send a clear message to council that these sort of half-baked ideas shouldn't be brought forth. We should really work to develop them and hone them before we bring them forward.

So with that, I request denial of the application.

Thank you.

CHAIRWOMAN HUDSON: Thank you very much.

COMMISSIONER BESERRA: Excuse me, Madam Chair.

CHAIRWOMAN HUDSON: Oh, stay up for just a moment, please.

Yeah, Commissioner Beserra.

COMMISSIONER BESERRA: I've got a question. What would be your recommendation how to address these in particular issues in a more, I guess, responsible manner in terms of time frames, ease and things of this nature?

MR. LUCERO: Madam Chair and Commissioner Beserra and Commissioners, you know, I think by beginning by evaluating the laws that we have on the books already, which would form a reasonable basis. And then looking at how the commercial context is different than residential.

And, you know, in terms of time frame, I think that there also has to be some consideration of the condition of the property. You know, if there's a very well maintained property that's been vacant for nine months just because of the market, why should they be penalized, you know, the same as someone whose property maybe has only been vacant for three months but the property is falling apart, it's a fire hazard, you know, there -- it's attracting a nuisance. I think there has to be some consideration given to the degree of blight that the property is causing. Properties that aren't causing blight shouldn't be penalized.

COMMISSIONER BESERRA: So are you saying that staff has not worked with property owners with regard to these issues?

MR. LUCERO: Madam Chair and Commissioner Beserra, you know, I'd like to commend Ms. Lehner and staff. I think that they did a wonderful job on the staff report.

Thank you. Sorry about that.

So what I was saying is, I think that Ms. Lehner and staff did a great job on the staff report. You know, they ought to be commended. I just think that -- and, you know, I, myself, I can't -- I have to give my mea culpa. I found out about this very late and sort of late on the bandwagon, and, you know, would be happy to participate going forward.

But I think that some communication -- and as Ms. Lehner said, you know, there was only one written submittal in opposition. I think that having some more time to work on it could really benefit the entire community.

COMMISSIONER BESERRA: Thank you.

CHAIRWOMAN HUDSON: Anyone else have any questions?

Okay. Thank you very much.

MS. HENRY: David Hassard, followed by James Wible.

CHAIRWOMAN HUDSON: Hi. Good afternoon.

MR. HASSARD: Good afternoon. My name is David Hassard. I'm a principal and current president of SMPC Architects. We're located at 115 Amherst Drive, Southeast in Albuquerque.

(Witness sworn.)

CHAIRWOMAN HUDSON: Okay. And who are you representing?

MR. HASSARD: I'm representing myself and SMPC Architects.

CHAIRWOMAN HUDSON: Okay. I'll start you off with two minutes.

MR. HASSARD: Okay. Well, I'm concerned about regarding the rule of our local government as it relate to this proposed legislation and the magnitude of it.

As I read it, the ordinance attempts to address the aesthetic sensitivities of a select group of its citizenry concerning just vacant buildings. I think it can be argued that there's a lot of ugliness in a built environment, most of which is currently occupied.

As an architect, one thing I've learned is that there's really no accounting for taste. The Franklin Plaza was cited as an example of why this legislation is needed. It was vacant for over a decade and was finally sold to a developer this month.

This is probably the norm for redevelopment of distressed properties. I've driven by several times a week for years and believe it has been kept up pretty well. This legislation would probably hinder, at the very least, or prevent redevelopment of distressed properties. Had this ordinance been applied, the city probably would have taken ownership of Franklin Plaza, condemned it, torn it down long before now. Then what? Try to get a developer interested? How is that working at the former Spruce Bar property?

Demolition of many properties along east central over the past 20 years has not spurred redevelopment of those properties or the area in general. One could easily make the case that the area appears even more plighted.

Consider the Rail Yards, the El Vado Motel, the De Anza Motel, all of which add value to the community and may have also been torn down under this legislation.

The city should agree that the demolition of the Eldorado Hotel was a huge mistake, or I doubt they would have modeled the intermodal transportation center after it some 30 years later.

This sort of really heavy-handed urban renewal legislation has been proven not to work nationally, and it's disturbing that the city does not learn from these examples. Ultimately, it will be the citizens of Albuquerque who will pay for their local government's mistakes.

Does the city even know how many vacant properties there are in Albuquerque? At the end of last year, the retail vacancy rate in Albuquerque stood at about 6.1 percent. Look at that map, 6.1 percent of that. Industrial is 6.4, and office, 20 percent. These figures are really significant.

You've heard the phrase, "The road to ruin is paved with good intentions." This ordinance may be an excellent example. This legislation should not go forward.

Planning staff has recommended a substantial rewrite of it. It's punitive rather than an incentive-based ordinance. This type of amendment is one reason the entire zoning ordinance is currently being rewritten. And frankly, there ought to be a moratorium put in place on any new zoning amendments until action is taken on a new zoning ordinance.

Lastly, there surely will be additional cost to the Albuquerque citizens for the city to administer it.

CHAIRWOMAN HUDSON: Thank you very much.

MS. HENRY: Jim Wible, followed by David Hill.

CHAIRWOMAN HUDSON: Good afternoon.

MR. WIBLE: Good afternoon.

CHAIRWOMAN HUDSON: State your name and address for the record, please.

MR. WIBLE: Jim Wible. My address is 6801 Jefferson, Northeast, Suite 200. I'm sorry. What else did you --

CHAIRWOMAN HUDSON: You need to raise your hand, sir.

(Witness sworn.)

CHAIRWOMAN HUDSON: Okay. And tell me who you're representing.

MR. WIBLE: With respect, Commissioners, I'm a commercial real estate developer here in Albuquerque and in New Mexico in general, and I'm here representing myself as a commercial property owner, a lot of clients that I had in Albuquerque, and also, to a very limited extent, I'm currently the president of CARNM.

I'm not here representing CARNM because it's not -- this issue hasn't been in front of that board yet. We haven't really had time to consider it. So it's very limited that I'm here to kind of represent CARNM, but I'm not speaking on behalf of CARNM.

CHAIRWOMAN HUDSON: Okay. So we'll meet you in the middle. I'll give you four minutes.

MR. WIBLE: Okay. I also agree that this legislation is -- is not what fits our community right now. I think that there are blighted properties -- or I think that we know that there are blighted properties in the community right now.

But what this is really trying to target are the buildings that we have an owner that doesn't pay attention or somebody that doesn't care about that property, it's very low on their priority list, that really doesn't care about the community that it's in, they probably don't live here.

So I don't see the purpose of this legislation to penalize everybody that's in the community for the actions of a very small percentage of people in the community.

I think that at times this legislation would definitely hurt redevelopment of properties. For example, you're in a sector plan and you're trying to do a redevelopment and you're trying to get a deal done that is essentially going to buy a property, remodel it, refurb it, rehab it, whatever, certainly, that three months, it's not a very long time at all. It takes that amount of time to essentially get an LOI out of a lot of people.

So I think that's something that if a piece of legislation goes forward, that needs to be extended greatly.

What I would suggest is that we go to Commissioner Beserra's previous question, that we go to something that is incentive based, that gives somebody an incentive to work with the city.

There are plenty of pieces of legislation that will tell us whether a piece of property is blighted because it's got graffiti all over it, there's calls of service. There's all kinds of thing that are in the housing ordinance that Safe City Strike Force needs to be used on derelict department owners.

And granted, that was a heavy-handed approach to some of those buildings at the time, but it was necessary probably at the time. And that was providing safe housing. And so that's a little bit of a different situation. But it's a situation where they worked with that entity, whatever the entity was.

So I think that this should be -- if you're going to have a vacant building ordinance, it should be part of sort of an escalating series of actions, not to start out with a very heavy line for having a vacancy, and then a continuing upping the level with a bunch of fines along the way.

I would like to see something -- if we're going to have a piece of legislation like this, where we actually benchmark communities that are like us, Chicago is mentioned, essentially a lot of communities that weren't like us were mentioned, except for maybe Tucson. And so if we're going to do a piece of legislation like this, why don't we benchmark people that are like us, instead of communities that are definitely not.

I would recommend or ask that the commissioners would vote to essentially send this piece of legislation back to the city

councillors, tell them that we really don't need this type of approach at this time, it doesn't help our community.

And if I have any questions, I'd be glad to answer them.

CHAIRWOMAN HUDSON: Anyone have any questions?

Thank you.

MS. HENRY: Dave Hill, followed by Debbie Harms.

CHAIRWOMAN HUDSON: Good afternoon.

MR. HILL: Good afternoon, Chairman.

CHAIRWOMAN HUDSON: Can you please state your name and address for the record.

MR. HILL: I'm Dave Hill. I'm with -- at 6801 Jefferson, Suite 200.

(Witness sworn.)

CHAIRWOMAN HUDSON: And who are you representing?

MR. HILL: I'm representing myself, as a commercial broker and a property owner in the city.

CHAIRWOMAN HUDSON: Okay. I'll give you two minutes.

MR. HILL: Thank you. I would recommend that you deny this piece of legislation.

As a property owner, I look at the article, and I'm going to concentrate on Article C, which states that, as a property owner, I would have to notify the city within 30 days of a vacancy and pay a \$500 fine.

I think the \$500 fine is burdensome for a property owner with a vacant property, and the 30-day notice is almost inconceivable. Does the 30-day notice start at the definition of vacancy, which is truly three months that the place has been vacant, or an actual vacancy. So there's some vagaries there on that.

In addition, after six months, I, as the property owner, would have to pay an additional \$500 fee and notify the city that the property is still vacant.

For this article alone and the burdensome for the property owner, I think you should deny it. I think the staff is looking at the possibility of helping the city become better, and should concentrate on the term "blighted," not "vacant." As has been stated earlier, vacant buildings can be in good shape and well maintained that are not a nuisance to the city.

So my recommendation is to deny this piece of legislature and concentrate on blighted facilities versus vacant.

CHAIRWOMAN HUDSON: Thank you.

Anyone have any questions?

Thanks for coming out.

MS. HENRY: Debbie Harms, followed by Paul Silverman.

CHAIRWOMAN HUDSON: Hi. Good afternoon.

MS. HARMS: Good afternoon.

CHAIRWOMAN HUDSON: State your name and address for the record, please.

MS. HARMS: My name is Debbie Harms. My address is P.O. Box 91868, Albuquerque.

(Witness sworn.)

CHAIRWOMAN HUDSON: Okay. And you are representing?

MS. HARMS: I'm representing 137 commercial properties here in Albuquerque, one of which is Franklin Plaza, the poster child of this whole ordinance.

CHAIRWOMAN HUDSON: Okay. Well, I think that warrants you five minutes.

MS. HARMS: I would first like to say that I am under no circumstances against getting rid of blighted properties. I am absolutely for our city being the very best city that it can be. And I want you to know that I truly believe, and the 137 property owners that I represent believe that taking care of your property is not just a right, it's a responsibility of owning property.

I'm very concerned about a couple -- well, I read this entire thing, okay, and I have notes throughout the entire thing. There are a couple of issues that concern me a great deal.

And I'm happy to talk about Franklin Plaza at any point that you would like to talk about it.

So a couple of the things that I'm particularly concerned about is, as you read through this document that the city has created, they say that applicable ordinances, plans, and policies are in regular text, followed by staff analysis in bold italics. Okay?

One of the sections that is written in this specifically states: The proposed new article would generally contribute to a quality urban environment because it would require the maintenance and registration of vacant commercial buildings which would help create a visually pleasing built environment.

And then it says, clearly: However it would not apply retroactively to commercial properties that were already vacant as of the ordinance's effective date.

This ordinance does nothing to take care of the problem that we have right now. Our economy has been the worst economy that has been seen since the 1929 Great Depression. We have just lived through the worst recession that any of us have ever seen. We have properties all over this city that are vacant and some are blighted.

And I'd like you to know that I personally take offense to Franklin Plaza being the poster child for this ordinance. The owner of that property spends about 2- to \$3,000 a month keeping the graffiti cleaned up, the fence built, the trash cleaned up, the mattresses hauled away, all of the crap that everybody can manage to throw under that property, all of the abandoned vehicles. He spends a lot of money every month trying to keep that property as neat and clean as he possibly can.

The city, two years ago, had the -- we had the opportunity to have this property not be vacant. We had a tenant that was going to go into the property, that was going to take the majority of the property. And it would have been completely redeveloped. However, that particular tenant needed as part of their business model, they needed an outdoor storage area, an outdoor storage sales area where they sold outdoor products, outdoor patio furniture, things for outdoors. The city would not work with the property owner to allow outdoor storage at that property.

We could have -- the blight, this poster child that the city has specifically stated over and over and over that this property is the reason that we want to rid -- the reason that we want this ordinance, it could have been handled, but the city did not work with the property owner.

The other item that I am particularly concerned about is Page 2, Lines 9 and 10 of the ordinance, itself, which specifically states, signs shall be posted on the building and the exterior premises to provide conspicuous and reasonable notice prohibiting entry, i.e., no trespassing.

Why don't we just put big signs on everything that says, "I'm vacant. Come steal my copper wire." There is nothing about this piece of the ordinance that makes any sense. What good does it do to put up the sign other than to tell thieves, "I am now vacant. Come steal everything that you want"? So I'm particularly concerned about that ordinance.

There are several other things throughout the ordinance that are concerning, but other people have already addressed those.

I would recommend that this ordinance be denied completely, or at the very least, that it be sent back for rewriting into something that works with the ordinances that are already in place.

Thank you.

CHAIRWOMAN HUDSON: Thank you.

Anyone have any questions?

I want to ask you about Franklin Plaza, just because you know it and --

MS. HARMS: You're brave.

CHAIRWOMAN HUDSON: I'm brave, and well, you know, it is the poster child of this. It was the property that they or -- that the councillors used, as, you call, the poster child.

So now you say that that's going to be -- and we saw in the newspaper -- that's going to be redeveloped. Can you share with us at all what the plan is with that?

MS. HARMS: That there is a developer that is working with the property owner on a joint venture project to redevelop that property. However, that property happens to be part of the East Central Sector Overlay Plan, which will prevent it from being developed again unless the city is willing to do something to work with the owner.

As several people have already stated, incentivizing doesn't mean paying money. Incentivizing means working with the developer. Okay?

CHAIRWOMAN HUDSON: Thank you.

MS. HARMS: Uh-huh.

CHAIRWOMAN HUDSON: Anyone else signed up?

MS. HENRY: Yes. Paul Silverman, followed by David Silverman.

CHAIRWOMAN HUDSON: Okay.

Good afternoon. Hi.

MR. P. SILVERMAN: Paul Silverman, 6211 San Mateo.

(Witness sworn.)

CHAIRWOMAN HUDSON: And who are you representing?

MR. P. SILVERMAN: I'm representing myself, my family and our properties.

CHAIRWOMAN HUDSON: Okay. I'm going to start you off with two minutes.

MR. P. SILVERMAN: I'll try not to be repetitive, but this ordinance is like giving chemo to somebody to cure a pimple. It just can't be overstated how much overkill there is with this.

To give you a little bit of my past experience, I served on the air quality control board for ten years. Ms. Lehner was part of our staff.

After about three years of having really contentious rule making, I figured out that what the problem was was that when we were proposing rules, we never went and talked to the people who we were making rules to govern.

And I finally (inaudible) fit that staff finally heard me, and I said, "Don't never bring anything here unless you're going to ask to talk to the people who are being affected." Once they adopted that as a way of rule making, we had really good rules and almost no controversy.

Given that this piece of legislation came out of the Council, you know, they don't have to ask anybody. So they draft it, they send it down, staff has to, you know, totally rework it the best that they can. But when you start out with a piece of crap, you end up with a piece of crap, and that's what this is.

So you're not in a position to deny this. You're not in a position to approve it. You're an advisory rule-making board. But I think that you have the power to table this, and table this and ask staff, planning and zoning, city attorney, and the industry to go work this out, and to come back with a set of amendments that we can all support, and that do good work for the city.

We have a very workable ordinance that deals with housing. And I was told by staff this morning that that ordinance is in the housing ordinance, or wherever it is currently embedded. And so we can't amend that to address commercial buildings because it's in the residential code.

But what we could do is pull that out of the residential code and put it with weed and litter and blight and everything else in the code so that we have one set of rules that applies to everybody

and everything using a demonstrated effective manner -- methodology to accomplish what we want to accomplish.

So I would ask you to table this for three months, four months, whatever it takes, to get it put into shape so that it can be a workable ordinance. In lieu of that, I would ask you to strongly recommend to the City Council that they send it back and let us work on this and let us come up with something that works for the community.

CHAIRWOMAN HUDSON: Thank you very much.

Anyone have any questions?

Thank you.

MS. HENRY: Dave Silverman, followed by Shelly Branscom.

CHAIRWOMAN HUDSON: Hi.

MR. D. SILVERMAN: My name is David Silverman. I'm at 6211 San Mateo, Northeast, Number 130.

(Witness sworn.)

MR. D. SILVERMAN: I'm here as an advocate for the revitalization of downtown Albuquerque.

Before I get started, I want to thank you guys all for your commitment to our community and for your volunteer efforts. I know that there's a lot of time that you sacrifice from your own work and your families to do this on behalf of all of us. So thank you for that. And usually, your compensation is a sandwich. So I hope you had a good sandwich today.

All of these comments that have come before me, I'm in complete support of. I have a background in leasing, retail leasing, specifically. So some of the things that Jim and Dave said are very accurate. Things take a long time in this business, and a three-month requirement is certainly not something that is best practice that you can and force.

But I'd like for all of you to think about what downtown Albuquerque looks like and what this might entail, you know, just on that specific area in a vacuum.

There's 3 million square feet of office space in downtown Albuquerque. There's 30 percent vacancy. That's a million square feet that are sitting empty in downtown. Some of those are entire buildings themselves.

It's an infill area, it's, you know -- I know owners have been going to other areas where the income supported revitalization projects. It's our community's front door, and, you know, we're putting a lot of resources and time every day into making it a better place.

The Rosenwald Building, for example, at the southeast of 4th and Central has been sitting empty for a very long time. A lot of that is because of the bureaucratic nature and relationship of the ownership. The city owns the building, the state's involved, there's a third-party owner on the 3rd floor. (Inaudible) all over that and it's been sitting empty, yet it's one of the most beautiful buildings that we have left in this town. It's historic, it's cast-in-place concrete, it's amazing.

So in one example, you could be fining the city themselves for not being able to work through their own problems. I think we need to take a look at this. I support some suggestions made before us to bring this back, have industry get involved, everybody come together and come up with some reasonable solutions so that a few bad apples that have caused this problem, we address that particularly and leave the rest of us who know how to manage property, you know, to do our work.

Thank you for your time.

CHAIRWOMAN HUDSON: Thank you for coming out.

MS. HENRY: Shelly Branscom.

CHAIRWOMAN HUDSON: Is this the last speaker?

MS. HENRY: Yes.

CHAIRWOMAN HUDSON: Okay. Thank you.

Good afternoon. Can you please state your name and address for the record.

MS. BRANSCOM: Good afternoon, Madam Commissioner -- Madam and Commissioners. My name is Shelly Branscom, 5722 Vista Bonita Northeast, 87111.

(Witness sworn.)

CHAIRWOMAN HUDSON: And you are representing who?

MS. BRANSCOM: I'm representing myself.

CHAIRWOMAN HUDSON: Okay.

MS. BRANSCOM: I'm a commercial real estate broker, but I'm representing myself as a citizen of this community.

I agree with many of the comments that have been made today. I don't want to repeat them, but my thoughts are synonymous with those.

I have two things that I would like to bring to your attention today, and those are regarding the enforcement and the liability aspects of this proposal.

Under the enforcement section, it relays on the fact that this code enforcement division is going to be administered and enforce this regulation, but they're not going to have any new resources to do so. So with the number of properties that have been brought to light today, how are we going to manage that as a city? So I think that needs a little bit more development and consideration.

And the second piece is the liability piece of the code says that they want to demolish some of these pieces of real estate. If it gets to the point where there's demolition, who is responsible for the liability of this demolition? There may be asbestos in this building that's being demolished, depending upon the age of that building.

So at the very least, the code needs a little bit more development, perhaps more time spent with professionals in this community and the community citizens to better prepare this particular regulation for what would be a synonymous and happy

environment between both the city and the citizens of Albuquerque.

CHAIRWOMAN HUDSON: Thank you very much.

Anyone have any questions?

Thank you.

That's our last speaker, and I think it's a great segue. We're talking about zoning and the enforcement of which, and I see our friend Brennon Williams sitting in the back.

So, Brennon, would you mind coming up here so we can ask you some questions? I think you probably need to give us your name and your address, please.

MR. WILLIAMS: Yes, ma'am, Madam Chair. My name is Brennon Williams, 600 2nd Street, Northwest, Suite 300. I'm with the city planning department.

(Witness sworn.)

CHAIRWOMAN HUDSON: Very good. We can start by asking questions, or I can just ask you to weigh in on this on where you stand from zoning enforcement.

MR. WILLIAMS: Well, I can give you a few comments. Again, I think you've heard many of the concerns or some of the confusion that has been expressed by some of the speakers, which certainly would be echoed by myself and the code enforcement division. Just a couple that I want to touch on briefly.

One of the previous speakers mention that there were -- it's unknown the number of existing vacant commercial buildings that we currently have in Albuquerque. And from a management standpoint, that's concerning to me. I'm worried that if a legislation is passed and the code enforcement division is charged with enforcing that, there may be more out there than we're able to handle or to take on.

So from a staffing perspective, I've been asked, you know, "How many additional staff members would you need?" I truly don't know. I can only guesstimate based on our experience with the residential homes -- residential properties that are vacant and our responsibility to have those properties registered and to monitor them on a recurring basis. But certainly taking on the unknown of the vacant commercial buildings is concerning.

Additionally, there's some real hard questions that need to be asked about the enforceability or the -- how we would go about implementing some of these provisions. For example, the penalty provision does establish fines or fees that will be charged against someone that's found to be in violation, but I don't understand how those will be collected.

I guess we could start sending invoices, but typically speaking, when we have a violation of the zoning ordinance, we're prosecuting that noncompliance -- if compliance is not garnered, we're prosecuting that in the metropolitan court. The judge, in their discretion, if they find the property owner guilty, can either assess a fine or throw them in jail. But that's not something that the city collects. We don't see any of that money. Those are all fees and fines that are imposed by the court. And I don't see similar allowance for a similar vehicle within this particular proposal.

And finally, probably the biggest challenge to our enforcement efforts is weighing the presumption or the perception about what we do and why we do it against the reality. Last night one of the television stations ran a story about a vacant home in downtown Albuquerque, and it was the classic the neighbor is complaining: I struggled with this for 18 months, and the city is doing nothing.

The reality is, we have been working, the city has been working very hard to not only notify the property owner about the problem and what needs to be done to correct it, the homeless damage due to a fire -- it was so significantly damaged that the owner has opted to try and knock it down than to try and repair it, because of the cost, but the housing code has a provision that allows the property owner at least 12 months' time in which to do the work that needs to be done.

Now, to the outsider, that may be perceived as nothing is being done for a year. The reality is, we're doing everything we can on the city's behalf to make sure that property is boarded and secured and relatively safe. But we're not there painting shutters, we're not putting on a new roof, we're not making improvements to the property. And, again, sometimes that can be frustrating.

I find that this legislation will probably suffer the same assumptions or the same problems. Somebody mentioned the efforts of the Safe City Strike Force. That office is now incorporated within Code Enforcement, but the operations of the Safe City Strike Force in the late '90s and the early 2000s is remarkably different from their operations today. And some of that is due to some legal issues that the city got into based upon the efforts to knock down some of those properties. So that's always a concern as well.

Finally, perhaps from budgetary a standpoint, the most significant consideration is that, again, if it's past as it's proposed, this legislation will allow the city -- give the city the authority to bring a property forward for condemnation. And if the city were to -- City Council were to grant that ability, then it becomes code enforcement's job to arrange for a contractor to go out to the property and do the work. That work then results as a lien that's filed against the property.

For residential properties, typically we're talking tens of thousands of dollars just to knock down a 1500-square-foot home. That is complicated if the property has asbestos or some other hazard that needs to be remediated.

Commercial construction typically is more costly not only to build but also to demolish as compared to residential. So, again, it could be quite possible that we would have the ability to go out and knock down a commercial piece of property, but either not have the money to do it, or knock down one but then not be able to knock down others that might be in worse condition simply because of the costs that would be incurred to do that work.

With that, I'll stand for questions.

CHAIRWOMAN HUDSON: Commissioner Serrano.

COMMISSIONER SERRANO: Thank you, Madam Chair.

Thank you, Mr. Williams. Just a couple of questions. Those

costs associated, if we got that far with demolition, is incurred by who?

MR. WILLIAMS: Initially, those costs are paid for by the city. And then a lien is placed against the property. There are times -- Mr. Chair, Commissioner Serrano, there are times where either the property does not change hands for several years, there are some statutory considerations for collection of the time period that we can collect on those liens. So it's possible that the city could pay to have the work done, pay a whole lot of money, and then it could be many, many years if we ever collected those funds that were extended.

COMMISSIONER SERRANO: It would burden the taxpayer?

MR. WILLIAMS: Correct.

COMMISSIONER SERRANO: Okay. Let me ask you this. I know Safe City Strike Force has changed and I'm well familiar with it, having been involved with it back in the early days in the Southeast Heights.

Under the nuisance abatement ordinance, won't it make more sense to maybe amend that, add a clause, to deal with blighted commercial buildings than to go down this path?

MR. WILLIAMS: Mr. Chair, Commissioner Serrano, some of the comments that I provided to staff and to other folks that had asked this question before, what we have on the books now versus what's being proposed and what's different, and to answer your question, there are existing standards that govern or regulate both commercial and residential properties that are considered to be a nuisance, that present a health, safety issue, a problem, so whether adding to existing ordinances or just using the ones that are already on the books, that can be done. There are standards there that are used to deal with problem properties across the city.

COMMISSIONER SERRANO: So that's a yes?

MR. WILLIAMS: That's a yes.

COMMISSIONER SERRANO: Thank you, Madam Chair.

CHAIRWOMAN HUDSON: Thank you.

Commissioner McCoy.

COMMISSIONER MCCOY: Thank you, Madam Chair.

My biggest concern about this is the enforceability and the burden to the taxpayer. Would you have any chance of being able to answer I guess a two-step question?

Number 1, is the scope of the nonresidential property issue much larger than the residential issue in the city?

MR. WILLIAMS: Madam Chair, Commissioner McCoy, I'm not sure. I mean, I'm just -- it's an educated guess. We have approximately, at any given time, between 1500 and 2,000 vacant residential properties that are registered with the Code Enforcement office.

I can tell you that I know that there are many more residential properties that are vacant that are not registered with our office. But, again, I would assume that, from a commercial standpoint, it might be equal or maybe even greater than the

residential component.

COMMISSIONER MCCOY: Okay. So I'm not trying to put you on the spot. Do you have any idea what the total budget or how many FTEs we have in the Safe City Task Force?

MR. WILLIAMS: The safe city task force is one individual. He serves as the liaison, the ombudsman to create and organize various city agencies. So he's working in conjunction with the police department, the fire department, the Code Enforcement office, building safety, environmental health, all sorts of different attention, agencies, as well as -- not only state agencies, but quasi-governmental agencies, AMAFCA, State of New Mexico is included sometimes to coordinate the resources and deal with problems.

COMMISSIONER MCCOY: Thank you.

MR. WILLIAMS: But it's just one individual.

CHAIRWOMAN HUDSON: Commissioner Peck.

COMMISSIONER PECK: Thank you, Madam Chair.

Mr. Williams, as a follow-up to Commissioner McCoy's question, how many code enforcement inspectors do we currently have?

MR. WILLIAMS: Madam Chair, Commissioner Peck, we have roughly 22 full-time employees that are code enforcement inspectors. The vast majority of those folks are in the field. We have 16 folks that are in the field right now that cover the entire city.

COMMISSIONER PECK: And they'd more or less be tasked with the enforcement of this ordinance?

MR. WILLIAMS: Correct. Yes, sir.

COMMISSIONER PECK: Okay. Thank you.

CHAIRWOMAN HUDSON: Mr. Williams, you stated that there are 1500 to 2,000 presently registered residential homes on the registry that are vacant, and many more that are not, that you're aware of.

What do you do about those?

MR. WILLIAMS: Madam Chair, we do our best. I mean, there are times where -- well, there are basically two processes. One is that property owners, residential property owners, they have a vacant home, that are abiding by the law, they're registering with us. Typically, those are banks or lending institutions that are in possession of the property. What they do is they fill out a form, a registration form, and then our inspectors, when they have the opportunity to do so, make a site inspection to confirm that the property meets the minimum requirements of the code, which is that it's secure, the windows aren't broken, the door isn't kicked in, the garage door goes all the way to the ground. That sort of thing. We're also looking at the exterior of the home, want to make sure that the yards don't have weeds, they don't have litter, that sort of thing.

While we've got folks that work very hard, it is extremely difficult for us to keep on top of making those vacant home inspections in addition to all the other work that's being done. So there are times where property may be registered as being vacant. It may be several weeks before we can get out to the

property. And during that time period, we find that either, you know, weeds have grown up on the property, somebody has breached the back door, or neighbors begin complaining about it because of those problems, and we haven't gotten to it yet.

So unfortunately, many times, we're more reactive than we'd like to be instead of being proactive. But when people complain, you know, we go out and we make a inspection. And if it's in violation, then we enforce accordingly.

CHAIRWOMAN HUDSON: So how are you notified now when there's a commercial property that is blighted?

MR. WILLIAMS: Madam Chair, we're notified the same way we would be notified about any other property. Typically, those come in through the city's 311 system. Somebody calls and files a complaint with one of their operators, they create a case, they forward it to our office. We get ahold of it, assign it to the area inspector and have them go out and makes an inspection.

At this point, there's no distinction, if you will, between weeds or a broken window on a commercial property versus weeds or a broken window on residential property.

CHAIRWOMAN HUDSON: So can you tell us roughly how many of those you respond to via 311?

MR. WILLIAMS: Madam Chair, for commercial properties?

COMMISSIONER HUDSON: For commercial properties.

MR. WILLIAMS: Again, I'd have to guess. The vast majority of our enforcement efforts as it relates to property maintenance issues are for residential properties.

CHAIRWOMAN HUDSON: Okay.

MR. WILLIAMS: Seventy-five percent or so, I'd say.

CHAIRWOMAN HUDSON: Commissioner Beserra.

COMMISSIONER BESERRA: Thank you, Madam Chair.

So I guess what I'm hearing is that you have no money that's been earmarked for this particular regulation, and you have no FTEs to enforce it. So wouldn't that be one of your questions to the City Council before you bring this out for us to vote on it?

MR. WILLIAMS: Madam Chair, Commissioner Beserra, there have been discussions with the City Council office regarding, you know, my desire to have additional funding either for -- to implement the program or for additional employees. But, of course, it's up to the City Council to determine if that's appropriate, and that will be -- when that will be -- that wish will be granted.

However, it's not uncommon for Council to adopt legislation and for our office to be charged with endorsing it. One of the more recent ones that you all probably remember were the changes to the zoning code as it pertains to food trucks, mobile food trucks. They came up with the standards, it went through the process, it was adopted by City Council, and we were charged with now enforcing those particular provisions within the zoning code.

COMMISSIONER BESERRA: As part of the final report on this particular -- these particular regulations, will that be one of your requirements, is that additional FTEs will be needed in

order to enforce it?

MR. WILLIAMS: Madam Chair, Commissioner Beserra, yes. We are working with staff. We've expressed those concerns. That was included within the staff report and we will continue that discussion.

COMMISSIONER BESERRA: Thank you.

CHAIRWOMAN HUDSON: Anyone else have any questions of Mr. Williams?

Thank you for being here this afternoon.

MR. WILLIAMS: Thank you.

CHAIRWOMAN HUDSON: We appreciate that.

Okay. Ms. Lehner, do you have anything in closing.

MS. LEHNER: Madam Chair, commissioners, I have several things in closing. And let's see, where to start.

First of all, I think I'll just start with what Commissioner Beserra just said, because that's the freshest in my mind. And speaking about, again, following up with what Mr. Williams said also regarding getting staff to be able to actually implement something, because as he had mentioned, unfunded mandates are quite common. Having analyzed several pieces of legislation, I know that they come through more often than not.

So I would point out that there is Section 2 of the proposed ordinance, and let me read that to you. It says: Funding for enforcement. This is on Page 4. The City Council will work with the administration during the Fiscal Year 2017 budget process to fund adequate code enforcement staff for the enforcement of vacant commercial buildings ordinance.

Well, that's a very general acknowledgment that this is an unfunded mandate, which we know. But the problems I've written up in the staff report with respect to this language are one, as stated by Mr. Williams, we don't know how many staff will be needed. And two, the administration does not have to put this in their budget. The Council can't make them.

So I really -- I wanted to point that out so that, I mean, while it's great to put it in there, they can't force the administration to do that.

So on to some other topics. All right. The first one is, I really appreciate that I see that a lot of people have read the staff report. I know that it's just enjoyable reading, it might even put you to sleep. So thank you to those who took the time to read it.

Unfortunately, I kind of wish I had better knowledge of some of these concerns going into the staff report, that way -- there's a section in the staff report regarding comments received. And had I been aware of the comments that many of the speakers have brought up, that perhaps would have given us a chance to better discuss them today. It's just that I did not receive any phone calls, any e-mails. And I'm kind of disappointed about that, because I could have provided something more to you and you would have had that a week in advance of the hearing. So that's unfortunate.

I also wanted to explain the process. You know, I heave heard a couple of speakers say, "Okay. Let's just table this. Let's just table it, and Ms. Lehner, why don't you go out there and do a community Kumbaya thing, come back, fix this whole thing and we'll go from there."

Well, okay, I want to point out, procedurally, that's really not the most effective way to go from here. Why? Well, because of the way this works.

Bills are drafted by City Council staff because a City Councillor has an idea in their head that they want something done, something is bugging them, even if it's one property, two properties, that might come up with an ordinance. Unfortunately, that applies citywide. It has huge implications.

So they say, "Hey, Council staff, draft this for me. This is what I want."

Okay. So they draft it. Ideally, the place for the outreach and the research to occur is at that point. I think it would make sense to say, okay. Let's talk to the community about this. Let's see what they say. Let work together on this proposed bill ideally before it gets here. That would be great. But that's not how it works.

I understand that Councillors get in a hurry and they want stuff sent over ASAP, so then it rolls over here, comes in for application, and it finds its way to my desk.

Okay. So what do I do? I take a look at it, I try to figure out is this a good idea overarchingly, in the most general sense of the word, yes or no. Okay. And then I deal with that.

And then with this one, I found that the in the most general sense, yes, but the more you get into the weeds, the more convoluted and the worse it gets.

So that's why I try, to the best of my ability, to offer 21 conditions to clean it up. Why did I do that? Well, because when the bill leaves here, oftentimes, Council will do as they please. Again, this is a recommending body, and the function of our role here is to do the very best job possible to clean it up, should they choose to have it go forward. They're going to have to create a committee substitute anyway, so it might as well be the best that it can be. And then to deal with enforcement and inconsistencies at this level.

But to table it here really isn't going to do any good, other than to make me spin my wheels. And I think that I've done a very thorough analysis and coordinated extensively with Mr. Williams and code enforcement. And additional public input can also be received at LUPZ. So the place to table this a LUPZ. In other words, all the same speakers can bring these issues up at LUPZ. I would suggest that they put them in writing so that they can be made part of the record. And then they can ask LUPZ to go ahead and defer it and the bill can be reworked by Council staff when the ball is back in the court of Council, which is where this belongs.

So that would be my suggestion, is to just make some sort of recommendation, take it out of here and take it back to Council, which is the more property forum for continuing to deal with it. So that is my suggestion.

And I think with that, I have nothing further.

CHAIRWOMAN HUDSON: Commissioner Peck.

COMMISSIONER PECK: Thank you, Madam Chair.

We could also make a recommendation of denial to City Council on this, correct?

MS. LEHNER: Madam Chair, Commissioner Peck, yes, you may. You may recommend denial. I have alternate findings for a recommendation of denial. You may also, I believe, send in no recommendation.

COMMISSIONER PECK: Okay.

MS. LEHNER: It is entirely up to you.

CHAIRWOMAN HUDSON: Commissioner Serrano.

COMMISSIONER SERRANO: Thank you, Madam Chair. I think Commissioner Peck hit on one of my questions. I'll defer my comments to the next phase.

CHAIRWOMAN HUDSON: Okay.

Well, any comments, questions?

All right. Well, thank you. Thanks for all your hard work on this. We understand that you did this quickly and somewhat alone, without a whole lot of input. So thank you very much for everything you did.

Commissioners, I'm going to close the floor. Okay. With that, I'm going to close the floor. So I will start some conversation amongst the commissioners.

Commissioner Serrano.

COMMISSIONER SERRANO: Thank you, Madam Chair. I'll try to be brief.

I appreciate the staff's efforts and hard work on this. And I think I understand what you were trying to do in cleaning it up and how maybe this body can maybe either accept that cleaning or maybe clean it up even better in its recommendation. And I understand what recourse we have with respect to what we do here.

But I'm reminded of an old saying that goes like this: Not all change is progress and not all movement is forward.

And to add to that I'm thinking of another phrase we use throughout this long day that our illustrious city attorney brought up and I think one of the other speakers, and that's: Arbitrary and capricious.

And when I look at this legislation and I look at it and I listen to the commentary and I look at what -- what it's doing, and the intent may be different, but when you look at it, it's exactly that. I mean, we really have a lack of judgment in how we approach this issue, and I think in its most simplistic form, we can go to the nuisance abatement or some of the other legislation or ordinances that exist to deal with a blighted commercial vacant property, if that is indeed what this is all about.

I appreciate speakers and the time they spent here today having to wait till the very end to be heard on this matter.

My recommendation is that we send this back to the City Council with a recommendation of denial and then see what they want to do from there.

CHAIRWOMAN HUDSON: Okay. Thank you.

Commissioner Nicholls.

COMMISSIONER NICHOLLS: Thank you, Madam Chair.

Usually when legislation is written, there's a reason why it's written. So when I look at this legislation and I look at this page, Line Item 14, it starts A, the intent of the article is -- kind of it goes through its preamble there. But what it doesn't do, and this is a point that I think is really important, when you're writing legislation like this -- yes, I understand it's to preserve life and limb, et cetera, et cetera, et cetera, but it does not at any point say why we're doing this.

Is it because we have a thousand vacant properties that are blighted in the city, commercial properties that are blighted in the city? It doesn't say that. It's so general that it really doesn't get down to the specifics of why this legislation was drafted. So that's my first concern.

Let me take that one step further. I'm not a mathematician. I was very dismal at math, as well as Latin. But, I mean, if you're charging \$500 as an initial fee, and what we've heard is (inaudible) a thousand or more of these properties, you do the math. This is a money maker for the city. Period. It is not going to ultimately change anything. The properties that are blighted are going to stay blighted. But it is going to penalize, and I go to one other step, and that is this three-month stay of execution, if you will. Three months in real estate terms, and I'm not a real estate person, although I've moved houses a few times, three months is not a long time at all.

And there's another thing that occurs to me here, and I think some of the speakers brought this out. And I know when I was looking at (inaudible) in the medical labs, what you get is, one bad apple does something that they shouldn't be doing. So what happens is the big boys in the office of the laboratory say, "Right. Well, everybody has to now conform to this rule," because of one or two people.

And I think what this legislation is doing is penalizing good people because of the one or two persons that are out there that are not doing what they should be doing by being responsible, and they're losing tenants.

So at this point, I certainly can't support this in its form. I think it needs to go back for serious rewrite. And the best way I think we can do that, certainly from my perspective, is that I would much rather support a recommendation to City Council for deny.

CHAIRWOMAN HUDSON: Thank you.

Commissioner Peck.

COMMISSIONER PECK: Thank you, Madam Chair.

I think this is one of those pieces of legislation that is the law of unintended consequences.

Right out of the box, as one of the speakers aptly pointed out, this doesn't apply to existing -- it's not retroactive, so all the blighted or vacant or whatever you want to call them buildings that are currently out there, including the one that Mr. Silverman mentioned at Gold and Central -- or 4th and Central wouldn't apply to any of these. So right out of the box, I think the idea of fixing something that we can't fix makes no sense.

The other -- the other point Mr. Williams made, we don't know how many more people we're going to need to do this, and we clearly don't have the money to do it. Again, that makes no sense. I think it's -- basically, this is an unenforceable ordinance. It's -- I understand the idea behind it. I think Ms. Lehner did an admirable job rewriting it, but clearly pointing out that we're rewriting something that doesn't make any sense.

Why can't we put this into, you know, the existing housing -- you know, use the words "housing and commercial buildings," or whatever you want to do? But penalizing people with \$500 fines every six months, that's \$1,000 a year, some buildings take at least a year to re-lease. And then it excludes buildings that are being marketed by a broker. Well, any good property owner would do that. Being in the business, that's how you get people to get in your building.

So I, again, would support and would like to see findings on denial.

CHAIRWOMAN HUDSON: Thank you.

Commissioner McCoy.

COMMISSIONER MCCOY: Thank you, Madam Chair. I'll try not to be too redundant.

The unintended consequences part terrifies me on this. Had this been around years ago, we might have lost the Albuquerque High building, the Wool Warehouse, other very important thoughts.

The absorption rate on large empty commercial space certainly exceeds the six months within this in virtually every case. And while Commissioner Nicholls is not the numbers guy, I am. So with the round numbers we're speculating at now, if our entire code enforcement staff stopped every incoming complaint today and cleared 200 cases each of blighted property, we'd be back to zero. At a \$30,000 cost to demolish average between residential and commercial, we would bring in a million-two in fees and cost the city \$71 million.

Now, I can't make that up on volume, Peter.

So I don't believe it's a money maker. I believe it's well intentioned, but no way to go. And Ms.

Lehner, I couldn't imagine anybody having done a better job of picking this apart. And I'm somewhat terrified with just a pure denial recommendation because if we were to be ignored and this were to be put in place as it is, the legal profession would probably do back flips and thank us dramatically.

I can't support this as written, so I'm a little confused. I'm closer to supporting a complete recommendation of denial than anything else.

CHAIRWOMAN HUDSON: Thank you.

Commissioner Bohannan.

COMMISSIONER BOHANNAN: First off, I'd like to thank staff for all their hard work.

Especially, Ms. Lehner, you really brought a good insights to this through your staff report.

Thank you to the public for their input. It also provided a lot of great insight and comments for us.

Just as I don't believe the government can tax us into prosperity, I don't believe we can tax ourselves into occupancy. The unintended consequences of this are, I believe, disastrous, and the fees that it puts on commercial property owners is onerous.

One thing nobody caught is just a small clerical error. If you were to miss filing your fee and didn't bring your property into compliance, it's \$500,000-a-day fine, which roughly translates out to \$182,000 a year per property.

UNIDENTIFIED COMMISSIONER: (Inaudible) revenue, then.

COMMISSIONER BOHANNAN: We might get to that 71 million, but I don't think it is worth it.

I also think there's a lot of ambiguity in a lot of the language in terms of how to interpret a lot of these rules. And I do not want to sit here and craft language and put lipstick on this pig.

I am going to recommend full denial.

CHAIRWOMAN HUDSON: Thank you.

Commissioner Beserra.

COMMISSIONER BESERRA: Thank you, Madam Chair.

I want to thank staff, too.

And, Ms. Lehner, you did a great job with what you had, really. I'm sorry to hear that you had to deal with that, really, because there WERE so many empty holes in this one, I can't even count them.

But more importantly, we, as a commission, always encourage interaction with the people that are being affected by our decisions. And in this case, they are completely left out of the box. And I believe that unless that happens, with some common sense, as some of my commissioners have said, I think we can come up with something a lot better that's fair.

Three months, I don't even know where that came from. You know, you can't even rent an apartment with a three months' leeway there. So I'm just not understanding any of this.

I think the intent is well -- is well thought out, but as far as the process and implementing this, there's just a lot of work that needs to be done. I'm against this and will vote denial.

CHAIRWOMAN HUDSON: Thank you.

And Commissioner Mullen.

COMMISSIONER MULLEN: Thank you, Madam Chair.

I'm in full agreement with what my fellow commissioners said. And maybe just a final comment or footnote, and I would hope that they would agree with me.

There's part of this that almost saddens me, because Albuquerque so often works against itself. We work against ourselves. And to be purely punitive to deal with blight in our urban community and revitalization and infill so lacks vision and collaboration that it's almost upsetting to even consider a problem with this method of solving it.

And so that -- and, again, I think staff did a brilliant job, and I appreciate all the comments that came in today from the community.

And so I'm also in favor of denying it, and I just would hope that as a community, we could come together and just benefit ourselves in a far more collaborative visionary and prosperous manner. You know, just merely to impose fines and just think we're going to change our landscape is so shortsighted. I don't know if you can hear it in my voice, but it's truly upsetting to me.

But I, too, I think I would be in favor of a pure denial.

CHAIRWOMAN HUDSON: Commissioner Nicholls

COMMISSIONER NICHOLLS: Thank you, Madam Chair. I just want to share something. When I was speaking a moment ago, what I didn't do, and that was my error, I did not thank Ms. Lehner for the work that she's done. She got imposed with this, and as always, has done an absolutely superb job of teasing everything out.

And thank you for your hard work.

CHAIRWOMAN HUDSON: Thank you, Commissioner Nicholls.

Well, I, too, agree with all my fellow commissioners. I don't need to reiterate everything that has been said. But there's obviously a lot of holes in this.

And I'm going to look to legal.

Mr. Tebo, I'd like to know what our options are, that we do this legally. And it sounds to me like we're going to have a motion here, but I would just like to hear from you what our options are and tell us where they will go, depending on what we do, if you understand what I'm saying.

Mr. TEBO: I do understand, Madam Chair.

Madam Chairman, Members of the Commission, you're in a nonjudicial setting right now, I want you to be aware of that, as opposed to a quasi-judicial setting that you've been in previously today.

I also want you to know that you have the ability to accept the proposed resolution with modifications. You have the ability to deny. Those are two ends of the spectrum.

And what you also have that has been prepared very well for you are findings that reflect a denial of the resolution as presented.

The denial with the findings puts you in a position of fulfilling

your role of advising the City Council, which is why the resolution was sent to you by the City Council. And so you're fulfilling your mandate and your role, and you're doing so in a straightforward way with regard to the findings which you will be presenting.

My understanding is that there are findings that have been prepared that are specific to a denial, and those can be presented to you by staff.

CHAIRWOMAN HUDSON: Could you share with us if there were a denial, what happens then?

Mr. TEBO: And just so you know, that was background that can be elaborated on.

The short answer to your question, medical, Members of the Commission, is that it will go back to Council, and Council will have the opportunity to review the material submitted by the EPC, and then that particular circuit will be closed, if you will.

Council will then have the ability to consider the recommendation to the EPC, to consider the basis of those recommendations and it's only one recommendation, denial, but the basis is multi-paragraphed, and then decide what to do with this particular piece of legislation. And then the Council will make a determination as to what direction to proceed.

CHAIRWOMAN HUDSON: Very good.

Does anyone else have any questions of counsel?

Thank you, Mr. Tebo.

MR. TEBO: Thank you.

CHAIRWOMAN HUDSON: I think we were handed some recommended findings. This was for -- based on denial. So what I'd like to do is -- Ms. Lehner, did you have something else you wanted to share with us?

MS. LEHNER: Yes, Madam Chair, Commissioners. I can walk you through the changes --

CHAIRWOMAN HUDSON: Okay.

MS. LEHNER: -- from the staff report to the recommended findings for recommendation of denial.

CHAIRWOMAN HUDSON: Great.

MS. LEHNER: I also want to point out one thing. It will be important to know that the whole record will be transmitted over to the City Council, so should they want to revise the bill to a committee substitute for further consideration by the Council, they will have all the conditions in the staff report to do that, if they wish.

CHAIRWOMAN HUDSON: Very good.

Commissioner Bohannan.

COMMISSIONER BOHANNAN: It's misunderstanding that the EPC can have a representative at Council when this is brought up to discuss the discussion that took place here. Is that true?

MS. LEHNER: Madam Chair, Commissioner Bohannan, I am not certain. That would be a question for someone else.

CHAIRWOMAN HUDSON: Maybe legal can answer that for us.

Mr. TEBO: Madam Chairman, Members of the Commission, I don't have the specific answer to that question right now. I am aware that EPC did send a representative in the past. And whether or not a representative would be able to provide testimony is a bit out of my purview because I don't advise the Council relative to that.

But we can identify the answer and we can provide that to the EPC.

COMMISSIONER BOHANNAN: Thank you, sir.

CHAIRWOMAN HUDSON: Thank you.

So, Ms. Lehner, you want to walk through these findings with us so we understand what's been written?

Oh, I'm sorry. Commissioner Peck.

COMMISSIONER PECK: Well, and it actually relates to what you're about to do.

But Finding Number 17, it just says "Concerns included," and then it just drops off. And I don't know if we just get to fill in the blanks or...

MS. LEHNER: Madam Chair, Commissioner Peck, that would be correct. Because not having received any phone calls or e-mails, I couldn't really elaborate on what people's concerns were. I think you certainly heard them today, so you can fill that in as you see fit.

And when I do alternate findings, you'll see that anything that is added is in gray, and it's underlined. And anything that is in strike-out is in that strike-out. So it should be fairly obvious as to what has changed from the staff report.

CHAIRWOMAN HUDSON: I think we just want to take a little time to read the alternate findings, and we've got a couple areas that we can work on, so.

(Discussion off the record.)

CHAIRWOMAN HUDSON: Okay, everyone. Let's bring this back to order and see if we can get out before it gets dark.

Okay. So -- all right. So I think the main thing that we need to do is fill in the blanks, Number 17, where it just says, "Concerns include." And I think we've all talked about that. So I think we should just throw out some concerns that we have that we can give to staff and then she can include it.

Commissioner Bohannan.

COMMISSIONER BOHANNAN: I think -- Jim and I were just talking about this. Some of the main things I think we need to include are the overall cost, enforceability, whether the policy actually meets the overall goal for which it was intended.

And help me. I forgot --

COMMISSIONER PECK: The other one was some of the vague definitions in the ordinance, like what is really a vacant building.

COMMISSIONER HUDSON: And/or?

COMMISSIONER PECK: I think we can just say definitions in the --

CHAIRWOMAN HUDSON: Right.

COMMISSIONER BOHANNAN: Oh, yeah, the last one we brought up was unacceptable timelines that place kind of a running --

COMMISSIONER PECK: Burdensome timelines?

COMMISSIONER BOHANNAN: Burdensome timelines.

CHAIRWOMAN HUDSON: Just burden in general. Burden by and large.

COMMISSIONER MULLEN: I also think this grandfather policy is a little ironic, because it's, you know, if we accept their blighted properties, and we can debate that -- right, it's going forward, so it's not even really effectively dealing with an existing condition. And so therefore, it kind of almost continues the blight without a reasonable or visionary answer. That's too much -- I know too many words, as (inaudible) would do.

(Inaudible crosstalk.)

CHAIRWOMAN HUDSON: Okay. Does anyone else have anything you want to add? Or do you feel comfortable with those that we added in there? Concerns?

COMMISSIONER PECK: Include -- include (inaudible) parties in the design.

UNIDENTIFIED COMMISSIONER: Oh, in terms that -- like the yeah, you got the concerns about the professional public, the (inaudible) real estate (inaudible).

COMMISSIONER PECK: A part of the -- yes.

CHAIRWOMAN HUDSON: Okay.

COMMISSIONER MULLEN: (Inaudible) in the original legislation.

CHAIRWOMAN HUDSON: So stakeholders not included in the drafting of this?

COMMISSIONER MCCOY: And then, I think, Ms. Lehner, you told us this, but if we need to write it down, I'd feel really good about it.

If I were going to try to support this, the very first thing I would do is take all of your recommendations out of the staff report. I still can't get there, but I do appreciate your work. And what I would like is to make sure is that this is actually reviewed carefully by Council that they would see those edits that were proposed. Because I think they were pretty important.

COMMISSIONER BESERRA: And lack of --

MS. LEHNER: Madam Chair, Commissioner McCoy, since similar language has been included in other legislation that I've

analyzed, it was something to the effect of should the Council disagree with the EPC's recommendation, the findings in the staff report, we suggest that the findings in the staff report be incorporated into a committee substitute bill. Something of that sort.

COMMISSIONER MCCOY: I'd be okay with any of that wording. I just would like them to -- if we were to get a total loss on our recommendation of denial and move forward because nobody gets it. I'd like them to see your good work. So any wording that would do that. I would appreciate a lot.

MS. LEHNER: Madam Chair, Commissioner McCoy, thank you. And we can write a new Finding 18.

CHAIRWOMAN HUDSON: Thank you.

Commissioner Beserra, did you have some more?

COMMISSIONER BESERRA: Yes. I just had one other, is the collection and processing of fees. That will be accumulated?

CHAIRWOMAN HUDSON: We did talk about unreasonable costs.

COMMISSIONER BOHANNAN: Yeah, I think we did, unreasonable costs.

COMMISSIONER BESERRA: Well, I was thinking who collects it?

COMMISSIONER HUDSON: Oh, just the process of collecting it.

UNIDENTIFIED COMMISSIONER: The department -- enforceability.

CHAIRWOMAN HUDSON: Enforceability.

COMMISSIONER BESERRA: Enforceability. Okay.

CHAIRWOMAN HUDSON: Commissioner Mullen.

COMMISSIONER MULLEN: I'm done. I was gesturing at Commissioner Bohannan.

CHAIRWOMAN HUDSON: Oh, I thought you --

COMMISSIONER MULLEN: It was inappropriate. I'm sorry.

CHAIRWOMAN HUDSON: I thought you wanted to give us another word.

COMMISSIONER BOHANNAN: Now we're just getting punchy.

CHAIRWOMAN HUDSON: Everyone good?

Counsel, Mr. Tebo, I just want to make sure that what we're doing is legally correct and that you're in agreement with what our recommendation is as far as the findings, and that you have reviewed the findings as well.

Mr. TEBO: Madam Chairwoman, Members of the Commission, I have reviewed the findings, and you are within your purview to submit those findings back to the City Council. I can't provide you with any guidance in terms of the appropriateness of those findings, but findings are certainly within your purview and they reflect the will of the commission that's been expressed through this record. I do want to remind you that this record will go to the City Council as well. And so even if specific language that's being crafted for a specific finding is not in that finding, the record will stand for itself with regard to this

issue.

CHAIRWOMAN HUDSON: Very good. Thank you for your guidance. And just confirming that it was within our purview to do that.

Mr. TEBO: Thank you, Madam Chairwoman.

COMMISSIONER MCCOY: Not that we're gun-shy or anything.

CHAIRWOMAN HUDSON: Okay. That being said now, I believe it's time for someone to make a motion.

Commissioner Peck.

COMMISSIONER PECK: Thank you, Madam Chair.

Regarding Project Number 1001620, Case Number 16EPC-40014, I make a motion of denial, recommendation of denial to City Council based on the findings 1 through 17 and Number 18, as read into the record.

COMMISSIONER MCCOY: Second.

CHAIRWOMAN HUDSON: I have a motion for denial, and I have a second from Commissioner McCoy. All in favor, signify by saying aye. Raise your hand.

ALL MEMBERS: Aye.

CHAIRWOMAN HUDSON: Those opposed?

That's unanimous.

(8-0 vote. Motion approved.)

(Conclusion of recording.)

RE: Agenda Item 10, Project #1001620
16EPC-40014, April 14, 2016

TRANSCRIPTIONIST'S AFFIRMATION

I HEREBY STATE AND AFFIRM that the foregoing is a correct transcript of an audio recording provided to me and that the transcription contains only the material audible to me from the recording and was transcribed by me to the best of my ability.

IT IS ALSO STATED AND AFFIRMED that I am neither employed by nor related to any of the parties involved in this matter other than being compensated to transcribe said recording and that I have no personal interest in the final disposition of this matter.

DATED this 2nd day of May 2016.

KEIII A. Gallagos-----

ARTICLE 3: UNIFORM HOUSING CODE

Section

Part 1: General Provisions

- 14-3-1-1 Short title
- 14-3-1-2 Purpose
- 14-3-1-3 Scope
- 14-3-1-4 Definitions

Part 2: Space and Occupancy Standards

- 14-3-2-1 Room dimensions
- 14-3-2-2 Light and ventilation
- 14-3-2-3 Sanitation

Part 3: General Requirements

- 14-3-3-1 Structural requirements
- 14-3-3-2 Mechanical requirements
- 14-3-3-3 Exits
- 14-3-3-4 Fire protection

Part 4: Substandard Buildings

- 14-3-4-1 Substandard building defined
- 14-3-4-2 Inadequate sanitation
- 14-3-4-3 Structural hazards
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- 14-3-4-6 Hazardous plumbing
- 14-3-4-7 Hazardous mechanical equipment
- 14-3-4-8 Faulty weather protection
- 14-3-4-9 Fire hazard
- 14-3-4-10 Faulty materials of construction
- 14-3-4-11 Inadequate maintenance
- 14-3-4-12 Inadequate exits
- 14-3-4-13 Inadequate fire-protection or firefighting equipment

Part 5: Administration and Enforcement

- 14-3-5-1 Enforcement
- 14-3-5-2 Housing advisory and appeals committee
- 14-3-5-3 Notices and orders of mayor
- 14-3-5-4 Appeal
- 14-3-5-5 Procedures for conduct of hearing appeals
- 14-3-5-6 Enforcement of the order of the mayor or the housing advisory and appeals committee
- 14-3-5-7 Performance of work or repair, demolition, or securing building
- 14-3-5-8 Requested inspections; fee
- 14-3-5-9 Right of entry
- 14-3-5-10 Identification
- 14-3-5-11 Responsibilities of owners
- 14-3-5-12 Substandard buildings
- 14-3-5-13 Reporting illegal activity; cooperation
- 14-3-5-14 Vacant building maintenance
- 14-3-5-15 Resident reports; hotline; website; exceptions
- 14-3-5-16 Payment of relocation costs
- 14-3-5-98 Violations

14-3-5-99 Penalty

PART 1: GENERAL PROVISIONS

§ 14-3-1-1 SHORT TITLE.

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

('74 Code, § 7-24-1A) (Ord. 34-1986)

§ 14-3-1-2 PURPOSE.

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

('74 Code, § 7-24-1B) (Ord. 34-1986)

§ 14-3-1-3 SCOPE.

(A) *Application.*

(1) The provisions of this code shall apply to all buildings or portions thereof used or designed to be used or intended to be used for human habitation. Such occupancies in existing buildings may be continued as provided in Section 104(d) of the Uniform Administrative Code, except such structures as are found to be substandard as defined in this code.

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

(3) Every rooming house shall comply with all the requirements of this code for dwellings.

(B) *Alteration.* Existing buildings which are altered, enlarged or repaired shall be made to conform to this code insofar as the new work is concerned and in accordance with Section 104(a) and (b) of the Uniform Administrative Code.

(C) *Relocation.* Residential buildings or structures moved into or within this jurisdiction shall comply with the requirements of this code and Section 104(f) of the Uniform Administrative Code.

('74 Code, § 7-24-1C) (Ord. 34-1986)

§ 14-3-1-4 DEFINITIONS.

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

APARTMENT HOUSE. An apartment house is any building or portion thereof which contains three or more dwelling units.

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

BUILDING CODE. Building Code is the Uniform Building Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

CHIEF ADMINISTRATIVE OFFICER or CAO. The Chief Administrative Officer of the city.

DEPARTMENT. The department is the Department of Human Services or the Department that may be subsequently charged with the responsibility of the enforcement of this code.

DIRECTOR. The Director is the legally designated head of the Department of Human Services or the Department that may be subsequently charged with the responsibility of the enforcement of this code.

DWELLING. A dwelling is any building or portion thereof which contains not more than two dwelling units.

DWELLING UNIT. A dwelling unit is any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this code, for not more than one family.

EFFICIENCY DWELLING UNIT. Efficiency dwelling unit is a dwelling unit containing only one habitable room and meeting the requirements of § 14-3-1-1(D).

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

HEALTH OFFICER. Health Officer is the legally designated head of the Environmental Health Department of this jurisdiction or his designated representative.

HOTEL. A hotel is any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

HOT WATER. Hot water is hot water supplied to plumbing fixtures at a temperature of not less than 110° F.

INSPECTOR. The inspector is the Housing Inspector or any subsequently titled position, including Albuquerque Code Enforcement, charged with the responsibility of making inspections to enforce the provisions of the Housing Code adopted by this jurisdiction.

MAYOR. The Mayor or his designated representative.

MECHANICAL CODE. Mechanical code is the Uniform Mechanical Code promulgated jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, as adopted by this jurisdiction.

MOTEL. A motel shall mean hotel as defined in this code.

NUISANCE. The following shall be defined as nuisances:

- (1) Any nuisance known at common law or in equity jurisprudence.
- (2) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes any:
 - (a) abandoned wells, shafts, basements or excavations;
 - (b) abandoned refrigerators;
 - (c) structurally unsound fences or structures;
 - (d) lumber, trash, fences or debris;
 - (e) abandoned or partially destroyed vehicles;
 - (f) pooled oil accumulation;
 - (g) ponds or pools of stagnant water;
 - (h) all diseased animals running at large;
 - (i) carcasses of animals not buried or destroyed within 24 hours after death;
 - (j) exposed accumulation of decayed or unwholesome food or vegetable matter;
 - (k) accumulations of manure, refuse or other debris; and
 - (l) privy vaults and garbage cans which are not rodent free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul or disagreeable odors.
- (3) Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.
- (4) Overcrowding a room with occupants.
- (5) Insufficient ventilation or illumination.

- (6) Inadequate or unsanitary sewage or plumbing facilities.
- (7) Any violation of the housing standards and licensing requirements set forth in this code.
- (8) Any violation of Chapter 6, Article 6, Part 1.
- (9) Any violation of Chapter 8, Article 5, Part 2.

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

RELOCATION COSTS. The expenses reasonably incurred by a resident displaced from a residential building pursuant to action of the City of Albuquerque. Relocation costs shall be \$2,000 per family unless the resident can demonstrate special circumstances that make the relocation cost a greater amount. If special circumstances are demonstrated, relocation costs may include the actual cost of physically moving to a residential building approved by the relocation agency (the "replacement unit"); costs of moving to a location outside of the immediate area; any security/damage deposit required by the replacement unit owner which exceed the amount of the security/ damage deposit recovered from the owner of the building the resident is moving from; utility deposits and hook up cost and the rent for the first month; costs of moving back to the residential building originally vacated after housing code compliance; and any other reasonable relocation costs.

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

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

RESIDENTIAL BUILDING. A residential building is a building or portion thereof designed or used for human habitation.

ROOMING HOUSE. Rooming house is any building or portion thereof, containing not more than five guest rooms, which are used by not more than five guests where rent is paid in money, goods, labor or otherwise. A rooming house shall comply with all the requirements for this code for dwellings.

STRUCTURE. A structure is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUPERFICIAL FLOOR AREA. Superficial floor area is the floor area that is obviously or apparently used for habitable space.

UNIFORM ADMINISTRATIVE CODE. The Uniform Administrative Code, adopted in § 14-1-2, is the code promulgated by the International Conference of Building Officials as adopted and amended by the State of New Mexico and the City of Albuquerque to provide for the administration and enforcement of the adopted and amended Uniform Construction Codes (Technical Codes), adopted in § 14-1-3, within the boundaries of the city.

VACANT BUILDING. A dwelling, dwelling unit, efficiency dwelling unit, habitable space, residential building, or structure lacking the continuous habitual presence of human beings who have a legal right to be on the premises for a period of 90 days or longer but excluding property under a listing agreement with a real estate agent licensed in New Mexico. ('74 Code, § 7-24-2) (Ord. 34-1986; Am. Ord. 45A-2004; Am. Ord. 60-2004; Am. Ord. 21-2007)

▣ PART 2: SPACE AND OCCUPANCY STANDARDS

▣ § 14-3-2-1 ROOM DIMENSIONS.

(A) *Ceiling Heights.*

(1) Habitable space shall have a ceiling height of not less than 7 feet 6 inches except as otherwise permitted in §§ 14-3-2-1 et seq. Kitchens, halls, bathrooms and toilet compartments

shall have a ceiling height of not less than 7 feet measured to the lowest part of the ceiling. Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members. Where exposed beam ceiling members are spaced at 48 inches on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the members is not less than 7 feet above the floor.

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

(3) If any room has a furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet.

(B) *Floor Space.*

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

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

(C) *Width.*

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

(2) Each water closet stool shall be located in a clear space not less than 30 inches in width and clear space in front of the water closet stool of not less than 24 inches shall be provided.

(D) *Exception.* Nothing in §§ 14-3-2-1 et seq. shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements:

(1) The unit shall have a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of such unit in excess of two.

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

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

(4) The unit shall be provided with separate bathroom containing a water closet, lavatory and bathtub or shower.

('74 Code, § 7-24-5A) (Ord. 34-1986)

§ 14-3-2-2 LIGHT AND VENTILATION.

(A) *Natural Light and Ventilation.*

(1) All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural light by means of exterior glazed openings with an area not less than one tenth of the floor area of such rooms with a minimum of 10 square feet. All bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than 1/20 of the floor area of such rooms with a minimum of 1½ square feet.

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

(B) *Origin of Light and Ventilation.*

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

(2) Exception.

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

1. Abuts a street, yard, or court;
2. Has a ceiling height of not less than 7 feet; and
3. Has the longer side at least 65 percent open and unobstructed.

(b) A required window in a service room may open into a vent shaft which is open and unobstructed to the sky and not less than 4 feet in least dimension. No vent shaft shall extend through more than two stories.

(3) For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when one half of the area of the common wall is open and unobstructed and provides an opening of not less than one tenth of the floor area of the interior room or 25 square feet, whichever is greater.

(C) *Mechanical Ventilation.* In lieu of required exterior openings for natural ventilation, a mechanical ventilation system may be provided in all guest rooms, dormitories, habitable rooms and public corridors. In bathrooms, water closet compartments, laundry rooms and similar rooms a mechanical ventilation system connected directly to the outside shall be provided.

(D) *Hallways.* All public hallways, stairs and other exitways shall be illuminated at any time the building is occupied with light having intensity of not less than 1 foot candle at floor level. Exit signs where required must be in accordance with Section 3314 of the Building Code (adopted in § 14-1-3).

(74 Code, § 7-24-5B) (Ord. 34-1986)

☐ § 14-3-2-3 SANITATION.

(A) *Dwelling Units.* Every dwelling unit shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory and either a bathtub or shower.

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

(C) *Fixtures.*

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

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

(D) *Water Closet Compartments.* Water closet compartments in dwellings shall be finished with approved nonabsorbent materials. Bathroom floor surface shall be maintained so as to be reasonably impervious to water.

(E) *Bathroom or Shower Accessories.* All accessories such as grab bars, towel bars, paper dispensers and soap dishes and the like, provided on or within walls, shall be installed and sealed to protect structural elements from moisture.

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

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

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

('74 Code, § 7-24-5C) (Ord. 34-1986)

☐ PART 3: GENERAL REQUIREMENTS

☐ § 14-3-3-1 STRUCTURAL REQUIREMENTS.

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

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

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

('74 Code, § 7-24-6) (Ord. 34-1986)

☐ § 14-3-3-2 MECHANICAL REQUIREMENTS.

(A) *Heating and Ventilation.*

(1) Heating.

(a) Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of 70° F. at a point 3 feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with Chapter 37 of the Building Code and the Mechanical Code (adopted in § 14-1-3) and all other applicable laws.

(b) Unvented fuel-burning heaters shall not be permitted. All heating devices or appliances shall be of an approved type.

(2) Electrical Equipment.

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

(b) Every habitable room shall contain at least two supplied electric convenience outlets or one such convenience outlet and one supplied electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one supplied electric light fixture.

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

('74 Code, § 7-24-7) (Ord. 34-1986)

☐ § 14-3-3-3 EXITS.

(A) *General.*

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

(2) All buildings or portions thereof shall be provided with exits, exitways and appurtenances as required by Chapter 33 of the Building Code adopted in § 14-1-3.

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

(4) All escape or rescue windows from sleeping rooms shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimension shall be 24

inches. The minimum net clear opening width dimension shall be 20 inches. Where windows are provided as a means of egress or rescue they shall have a finished sill height not more than 44 inches above the floor.

('74 Code, § 7-24-8) (Ord. 34-1986)

§ 14-3-3-4 FIRE PROTECTION.

All buildings or portions thereof shall be provided with the degree of fire-resistive construction as required by the Building Code for the appropriate occupancy, type of construction and location on property; and shall be provided with the appropriate fire-extinguishing systems or equipment required by the chief of the fire department or his deputy.

('74 Code, § 7-24-9) (Ord. 34-1986)

PART 4: SUBSTANDARD BUILDINGS

§ 14-3-4-1 SUBSTANDARD BUILDING DEFINED.

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

('74 Code, § 7-24-10A.1) (Ord. 34-1986)

§ 14-3-4-2 INADEQUATE SANITATION.

INADEQUATE SANITATION shall include but not be limited to the following:

- (A) Lack of, or not properly operative water closet, lavatory, bathtub or shower in a dwelling unit.
- (B) Lack of, or not properly operative water closets, lavatories and bathtubs or showers in a motel.
- (C) Lack of, or not properly operative kitchen sink.
- (D) Lack of hot and cold running water to plumbing fixtures in a motel.
- (E) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
- (F) Lack of adequate heating facilities.
- (G) Lack of, or improper operation of required ventilating equipment.
- (H) Lack of minimum amounts of natural light and ventilation required by this code.
- (I) Room and space dimensions less than required by this code.
- (J) Lack of required electrical lighting.
- (K) Dampness of habitable rooms because of faulty weather protection.
- (L) General dilapidation or inadequate maintenance.
- (M) Lack of connection to required sewage disposal system.
- (N) Infestation of insects, vermin or rodents as set forth in Chapter 9, Article 7 of this code.

('74 Code, § 7-24-10A.2) (Ord. 34-1986)

§ 14-3-4-3 STRUCTURAL HAZARDS.

STRUCTURAL HAZARDS shall include but not be limited to the following:

- (A) Deteriorated or inadequate foundations.
- (B) Defective or deteriorated flooring or floor supports.
- (C) Flooring or floor supports of insufficient size to carry imposed loads with safety.
- (D) Members of walls, partitions or other vertical supports that spilt, lean, list or buckle.
- (E) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
- (F) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle.
- (G) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(H) Fireplaces or chimneys which list, bulge or settle.

(I) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(J) Every inside and outside stair, every porch, and every appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon.

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

('74 Code, § 7-24-10A.3) (Ord. 34-1986)

§ 14-3-4-4 NUISANCE.

A **NUISANCE** shall include:

(A) Unlicensed vacant buildings;

(B) Buildings that have broken windows or doors constituting hazardous conditions and inviting trespassers or malicious mischief;

(C) Buildings that are boarded up, partially destroyed, not properly secured or partially constructed or incomplete after the building permit authorizing its construction has expired;

(D) Buildings whose maintenance is so out of harmony and conformity with the maintenance and quality of adjacent or nearby properties as to cause substantial diminution in the enjoyment, use or property value of such adjacent or nearby properties; and

(E) Buildings in an unsecured state that are not securely fenced or adequately lighted to prevent access to trespassers, criminals or others unauthorized to enter for the purpose of committing a nuisance or unlawful act or that constitutes an attractive nuisance for children.

('74 Code, § 7-24-10A.4) (Ord. 34-1986; Am. Ord. 45A-2004)

§ 14-3-4-5 HAZARDOUS WIRING.

HAZARDOUS WIRING shall include all wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

('74 Code, § 7-24-10A.5) (Ord. 34-1986)

§ 14-3-4-6 HAZARDOUS PLUMBING.

HAZARDOUS PLUMBING shall include all plumbing except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross-connections and siphonage between fixtures.

('74 Code, § 7-24-10A.6) (Ord. 34-1986)

§ 14-3-4-7 HAZARDOUS MECHANICAL EQUIPMENT.

HAZARDOUS MECHANICAL EQUIPMENT shall include all mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in a good and safe condition.

('74 Code, § 7-24-10A.7) (Ord. 34-1986)

§ 14-3-4-8 FAULTY WEATHER PROTECTION.

FAULTY WEATHER PROTECTION shall include but not be limited to the following:

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

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

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

('74 Code, § 7-24-10A.8) (Ord. 34-1986)

§ 14-3-4-9 FIRE HAZARD.

A **FIRE HAZARD** shall include any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the Chief of the Fire Department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

('74 Code, § 7-24-10A.9) (Ord. 34-1986)

§ 14-3-4-10 **FAULTY MATERIALS OF CONSTRUCTION.**

FAULTY MATERIALS OF CONSTRUCTIONS shall include all materials of construction except those which are specifically allowed or approved by this code and the Building Code, and which have been adequately maintained in good and safe condition.

('74 Code, § 7-24-10A.10) (Ord. 34-1986)

§ 14-3-4-11 **INADEQUATE MAINTENANCE.**

INADEQUATE MAINTENANCE shall include any building or portion thereof which is determined to be an unsafe building in accordance with Section 203 of the Uniform Administrative Code.

('74 Code, § 7-24-10A.11) (Ord. 34-1986)

§ 14-3-4-12 **INADEQUATE EXITS.**

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

(B) When an unsafe condition exists through lack of, or improper location of exits, additional exits may be required to be installed.

('74 Code, § 7-24-10A.12) (Ord. 34-1986)

§ 14-3-4-13 **INADEQUATE FIRE-PROTECTION OR FIREFIGHTING EQUIPMENT.**

INADEQUATE FIRE-PROTECTION or **FIREFIGHTING EQUIPMENT** shall include all buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code and the Chief of the Fire Department, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

('74 Code, § 7-24-10A.13) (Ord. 34-1986)

PART 5: ADMINISTRATION AND ENFORCEMENT

§ 14-3-5-1 **ENFORCEMENT.**

The Mayor is hereby authorized and directed to enforce all of the provisions of this code. For such purposes, he shall have all the powers specified herein.

('74 Code, § 7-24-3A.1) (Ord. 34-1986)

§ 14-3-5-2 **HOUSING ADVISORY AND APPEALS COMMITTEE.**

(A) In order to provide for final interpretation of the provisions of this code and to hear appeals provided for herein, there is hereby established a Housing Advisory and Appeals Committee consisting of seven members.

(B) In addition, the Committee shall act as an advisory body to the Department of Human Services in the administration and enforcement of this code and shall perform such other functions that may be provided for elsewhere.

(C) (1) The Committee shall consist of one representative from the Departments of Finance and Management, Planning, and Legal, as well as two representatives appointed by the Mayor,

from recognized neighborhood associations, a representative from the building industry and a representative from the Mayor's office.

(2) Each respective department head shall appoint a representative and an alternate, to sit on this Committee. The CAO shall appoint the representative and alternate from the Mayor's office and the Mayor shall appoint two representatives and alternates from recognized neighborhood associations to represent neighborhood interests. The Mayor shall appoint a representative and alternate from the building industry.

(3) The alternate shall sit on the Committee in the absence of the designated representative.

(4) The Committee shall select a Chairperson and Vice-Chairperson and may adopt reasonable rules, regulations, and procedures for conducting its business and appeals not otherwise provided for. Appeals to the Committee shall be processed in accordance with the provisions contained in § 14-3-5-4. The Department shall provide the necessary staffing for the Committee. Sections 2-6-1-1 et seq. shall not be applicable to this Committee.

('74 Code, § 7-24-3C) (Ord. 34-1986; Am. Ord. 5-2001)

§ 14-3-5-3 NOTICES AND ORDERS OF MAYOR.

(A) *General.*

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

(2) Notice and Order. The Mayor shall issue a notice and order directed to the owner of the building as indicated by the county assessor's records and where appropriate the occupant of the building. The notice and order shall contain:

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

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

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

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

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

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

4. If the Mayor has determined that the building or structure is a nuisance or an attractive nuisance; the order shall require the nuisance to be abated within such time the Mayor shall determine to be reasonable, not to exceed 30 days from the date of the order; where there has been a failure to comply with such order the Mayor shall proceed to obtain an appropriate

court order to abate such nuisance. Any such abatement of the nuisance shall be accomplished and the cost thereof paid and recovered in the manner provided by § 14-3-5-6.

(d) Statements advising:

1. That any person having any title or legal interest in the building may appeal from the notice and order or any action of the Mayor, excluding demolition, to the Housing Advisory and Appeals Committee, provided the appeal is made in writing as provided in this code, and filed with the Mayor prior to the effective date of the order;

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

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

(a) Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last assessment roll of the county or as known to the Mayor. If no address of any such person so appears or is known to the Mayor, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings and posted thereon.

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

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

(B) *Recordation of Notice and Order.*

(1) If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the Mayor shall file in the office of the County Clerk a certificate describing the property and certifying:

(a) That the building is a substandard building; and

(b) That the owner has been so notified.

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

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

(1) Standards to be Followed. The following standards shall be followed by the Mayor (and by the Housing Advisory and Appeals Committee if an appeal is taken) in ordering the repair, vacation, demolition or securing of any substandard building or structure:

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

(b) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants, it shall be ordered to be vacated.

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

(D) *Notice to Vacate.*

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

DO NOT ENTER
SUBSTANDARD BUILDING
UNSAFE TO OCCUPY

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

Director of Community Services
City of Albuquerque

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

('74 Code, § 7-24-11) (Ord. 34-1986)

§ 14-3-5-4 APPEAL.

(A) *General.*

(1) Form of Appeal.

(a) Any person entitled to appeal under this code may do so by filing at the office of the Mayor a written appeal containing:

1. The names of all appellants participating in the appeal.
2. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the appeal.
3. A brief statement in ordinary and concise language of that specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
4. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
5. The signatures of all parties named as appellants and their official mailing addresses.
6. The verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.

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

(2) Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the Mayor shall present it at the next regular or special meeting of the Committee.

(3) Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the Committee shall fix a date, time and place for the hearing of the appeal by the board. Such date shall be not less than ten days nor more than 60 days from the date the appeal was filed with the Mayor. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

(4) Appeal of Council Action. Any person aggrieved by the finding of the City Council that a building, structure or premise is so ruined, damaged and dilapidated that it is such a menace to the public comfort, health, peace or safety so as to require the removal from the municipality of the building, structure, ruins, rubbish, wreckage or debris, may file a written objection with the City Clerk within ten days of the receipt of a copy of the Resolution of Condemnation, asking for

a hearing before the City Council. After receiving a valid written objection the City Council shall hold a hearing as provided for in Section 3-18-5, NMSA 1978.

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

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

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

('74 Code, § 7-24-12) (Ord. 34-1986)

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

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

"You are hereby notified that a hearing will be held before the Housing Advisory and Appeals Committee at _____ on the ____ day of _____, 19__, at the hour of _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by legal counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you."

(B) *Conduct of Hearings.*

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

(2) Evidence.

(a) The Committee shall afford all parties an opportunity to present oral or documentary evidence and argument on all issues involved, except that irrelevant, immaterial and unduly repetitious evidence shall be excluded. It is the policy of the Committee that testimony and information presented during the hearing must have a direct and substantial bearing on the case at hand.

(b) The Committee may impose reasonable limits on the number of witnesses heard and on the nature and length of the testimony or questioning.

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

(d) The Committee shall base its decision on evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The decision must be supported by at least some evidence which is admissible in a court of law.

(3) Hearing Procedure.

(a) The Chairperson of the Committee shall act as the presiding officer at the hearing unless he or she is unavailable or wishes to delegate this duty, in which case, the Committee members shall select a presiding officer. The presiding officer shall:

1. Determine the admissibility of evidence and testimony;
2. Make rulings on procedural issues; and
3. Be responsible for the Committee's written ruling in each case.

(b) Should an action of the presiding officer be challenged by another Committee member, and should the presiding officer disagree with the challenge, the issue will be decided by a majority vote of the Committee.

(c) Any interested parties shall be allowed to attend the hearing.

(d) The Committee can recognize any agreements on facts and issues between the parties or decide that certain facts are not in dispute in order to define the issues to be heard.

(e) The Committee may request the clarification of a complaint prior to a hearing; request that certain facts be examined initially in order to determine whether such facts exist as will support the allegations to be heard or make any other rulings, procedural, limiting, dispositive, or otherwise, which are in accordance with the law as applied to the facts at issue.

(f) In the absence of the Committee's decision to proceed in a different manner, notice of which shall be given to the parties at least three days in advance of the hearing, the sequence of the hearing shall be as follows:

1. Opening statement of issues. The appellant and then the Mayor will present statements of issues involved in the case and outline the case which will be presented.

2. Appellant's presentation of its case. The appellant will first present its case to the Committee unless the parties agree otherwise. Witnesses for the appellant will be called, sworn in, and questioned on their involvement in, or knowledge of the case. Following each witness' testimony, the Mayor will have the opportunity to cross-examine the witness. Committee members will then have the opportunity to question the witness on matters related to his/her testimony. Follow-up or redirect questioning will be allowed at the discretion of the presiding officer. This procedure will be followed for each of the Appellant's respective witnesses.

3. Presentation of the Mayor's case. This presentation shall follow the same format as presentation of the appellant's case.

4. Rebuttal testimony. Following presentations of the Appellant's and Mayor's positions, rebuttal testimony will be allowed at the discretion of the presiding officer. Such testimony should be brief and specifically address the issues brought forth in the previous presentations.

5. Closing statements. At the conclusion of the case presentations and rebuttal testimony, the parties will each make his or her closing statements. The closing statements should briefly review the issues presented and the desired outcome. The appellant will then have the opportunity to make a final statement, which shall be limited to issues brought forth in the Mayor's closing statement.

(4) Decision. All decisions of the Committee shall be by majority vote.

(5) Quorum. A majority of the members of the Committee shall constitute a quorum and no business shall be conducted unless there is a quorum present.

(6) Record. A record of the Committee's proceedings shall be kept in the following manner:

(a) A full record of the hearing by sound recording or by a qualified court reporter which record shall be retained for at least one year after the final decision is issued;

(b) All documents or other items considered and received as evidence; and

(c) Any decision or opinion of the Committee, including findings of fact.

('74 Code, § 7-24-13) (Ord. 34-1986)

§ 14-3-5-6 ENFORCEMENT OF THE ORDER OF THE MAYOR OR THE HOUSING ADVISORY AND APPEALS COMMITTEE.

(A) *Compliance.*

(1) General. After any order of the Mayor or the Housing Advisory and Appeals Committee made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

(2) Failure to Obey Order. If, after any order of the Mayor or Housing Advisory and Appeals Committee made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Mayor may:

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- (a) Cause such person to be prosecuted under division (A)(1) above; or
 - (b) Institute any appropriate action to abate such nuisance.
- (3) Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

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

DO NOT ENTER
SUBSTANDARD BUILDING
UNSAFE TO OCCUPY

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

Director of Community Services

City of Albuquerque

(b) No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the Mayor have been completed and a Certificate of Compliance issued pursuant to the provisions of the Housing Code.

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

(B) *Extension of Time to Perform Work.* Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the Mayor may, at his discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the Mayor determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Mayor's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect or extend the time to appeal his notice and order.

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

('74 Code, § 7-24-14) (Ord. 34-1986)

§ 14-3-5-7 PERFORMANCE OF WORK OR REPAIR, DEMOLITION, OR SECURING BUILDING.

(A) *General.*

(1) Procedure. When any work of repair, demolition or securing of building is to be done pursuant to this code, the Mayor shall cause the work to be accomplished by city personnel or by private contract under the direction of the Mayor. Plans and specifications therefor may be prepared by the Mayor, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary.

(2) Costs. The cost of such work shall be paid from the repair and demolition fund, and shall be a lien against the property involved, and a personal obligation of the property owner. ('74 Code, § 7-24-15) (Ord. 34-1986)

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

(A) The city will inspect dwelling units for violations of this code prior to sale or refinancing of same upon request of the buyer or the owner.

(B) A requested inspection will be made upon payment of a fee of \$50 for the first dwelling unit and \$15 for each additional unit to offset the city's administrative costs including an inspection, inspection report, reinspection and issuance of Certification of Compliance with this code.

('74 Code, § 7-24-4) (Ord. 34-1986)

§ 14-3-5-9 RIGHT OF ENTRY.

(A) Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the Mayor has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Mayor may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Mayor by this code, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Mayor shall proceed to obtain a search warrant or other appropriate legal authorization by filing a verified petition with the Metropolitan Court or District Court. The petition shall:

- (1) Set forth the particular building, premises or portion thereof sought to be inspected;
- (2) State that the owner or occupant of the building, premises or portion thereof, has refused entry, or cannot be located in order to obtain right of entry;
- (3) State that inspection of the building, premises or portion thereof is necessary to determine whether it complies with the requirements of this code;
- (4) Set forth the particular provisions of this code sought to be enforced;
- (5) Set forth any other reason necessitating the inspection, including knowledge or belief that a particular condition exists in the building, premises or portion thereof which constitutes a violation of this code;
- (6) State that the Mayor is authorized by the city to make the inspection.

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

('74 Code, § 7-24-3A.2) (Ord. 34-1986)

§ 14-3-5-10 IDENTIFICATION.

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

('74 Code, § 7-24-3A.3) (Ord. 34-1986)

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

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

(B) Every owner, or his agent, in addition to being responsible for maintaining his building in a sound structural condition, shall be responsible for keeping that part of the building or premises which he occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building or on the premises containing two or more dwelling units.

('74 Code, § 7-24-3A.4) (Ord. 34-1986)

§ 14-3-5-12 SUBSTANDARD BUILDINGS.

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

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

('74 Code, § 7-24-3B) (Ord. 34-1986; Am. Ord. 2-2007)

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

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

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

(C) Albuquerque Code Enforcement shall notify the department designated by the Mayor to enforce the Albuquerque Weed and Anti-Litter Ordinance and the Insect and Rodent Control Ordinance upon discovery of violations of those ordinances.

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

(E) Albuquerque Code Enforcement shall coordinate its activities with the Safe City Strike Force.

(Ord. 45A-2004)

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

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

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

(C) At the time of application, the owner shall arrange for inspection of the vacant building by Albuquerque Code Enforcement. If the owner fails or refuses to consent to and arrange for an inspection, Albuquerque Code Enforcement shall first obtain a search warrant from a court of competent jurisdiction to authorize inspection of the vacant building.

(D) Albuquerque Code Enforcement shall inspect the vacant building for the purpose of determining the structural integrity of the vacant building; the repairs necessary to ensure its

structural integrity; that it will be safe for entry by fire fighters and police officers in time of emergency; and that the vacant building and its contents do not present a hazard to the public during the time that the building remains vacant.

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

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

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

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

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

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

(Ord. 45A-2004)

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

(A) Albuquerque Code Enforcement shall implement and operate a complaint system that includes a hotline and a website available to city residents to report violations of the Property Maintenance Ordinance. Albuquerque Code Enforcement shall implement an advertising campaign to inform residents of this complaint system.

(B) Vacant buildings under the authority or within the control of the Metropolitan Redevelopment Agency are exempt from the business maintenance licensing provisions of the Uniform Housing Code.

(Ord. 45A-2004)

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

(A) Whenever the Mayor orders that all or a portion of a residential building be vacated pursuant to this code, the owner of such residential building (the "owner") shall pay relocation costs for the residents of such residential building who reside at the residential building when the order to vacate is issued, subject to the provisions of division (F) of this section. This requirement shall be applicable when any condition which is the basis for the order to vacate is within the control of the owner and the owner or his agent knew or should have known of the existence of the conditions that violate applicable codes, statutes, ordinances or regulations prior to the order to vacate. Notice of such conditions by a governmental agency responsible for the enforcement of a building, residential unit, housing or other appropriate code served on the owner or the owner's agent shall be proof that the owner knew of the conditions. Payment of relocation costs shall be made by the owner to the agency designated by the Mayor to administer relocation (the "relocation agency") within 30 days after the owner's receipt of the relocation cost assessment issued by the relocation agency. Interest shall accrue on any amount unpaid by the owner commencing 30 days after the date the relocation agency first advances relocation assistance funds to the displaced resident. Interest accrual shall not be stayed during an appeal by the owner, but an owner who is successful on appeal shall not be liable for interest. Owners

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

(B) At the time the notice and order to vacate is served on the owner, in addition to other requirements of this code, notification shall be given to the owner that the owner may be required to pay the relocation costs of the displaced residents. The owner shall also be served with a copy of Ordinance 21-2007.

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

NOTICE TO RESIDENTS

YOU MUST MOVE FROM WHERE YOU ARE LIVING

BECAUSE YOU MUST MOVE YOU MAY BE ENTITLED TO MONEY

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

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

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

Phone Number:

Address:

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

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

- (1) The residents had a rental agreement at the time the notice was served on the residents;
- (2) A court had issued an eviction order to the residents prior to the date the notice was served on the residents;
- (3) The residents caused or substantially contributed to the conditions that were the basis of the notice to vacate;
- (4) The conditions that were the basis for the notice to vacate were caused by fire, flood or other natural disasters;
- (5) The failure to meet the requirements of this code was due to the willful or negligent acts or omissions of the owner;
- (6) The resident was in default for non- payment of rent;
- (7) The basis of the notice to vacate is for a condition caused by the resident's or any third party's illegal conduct without the owner's prior knowledge; or
- (8) For an owner occupant of a mobile home who is renting a lot or parcel for use as a site for the location of the mobile home, whether the requirement to vacate was caused by actions outside the control of the resident.

(F) After notice to the owner and a hearing at which the owner shall have an opportunity to appear and present evidence, the Mayor shall be entitled to place a lien on the property on which the residential building that is the subject of a notice to vacate is located, and to recover costs paid by the relocation agency that are owed but have not been reimbursed by the owner provided the Mayor proves:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 21-2007)

§ 14-3-5-98 VIOLATIONS.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code. The Mayor may, for any violation of this code, issue a citation in accordance with the provisions of § 1-1-98 and/or take any other legal action at his disposal.

('74 Code, § 7-24-3D (part))

§ 14-3-5-99 PENALTY.

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

('74 Code, § 7-24-3D (part)) (Ord. 34-1986)



NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Albuquerque Environmental Planning Commission will hold a **Public Hearing on Thursday, April 14, 2016 at 8:30 a.m.**, in the Plaza del Sol Hearing Room, Lower Level, Plaza del Sol building, 600 2nd St. NW, Albuquerque, NM to consider the following items.

Distribution of the Planning Department's staff reports regarding the following items will occur at a **Case Distribution Session on Thursday, April 7, 2016 at 3:00 p.m.**, in the Plaza del Sol Hearing Room, Lower Level, Plaza del Sol Building, 600 2nd St. NW, Albuquerque, NM.

Project# 1001620

16EPC-40014 Amendment to Chapter 14 ROA 1994- Zoning, Planning and Building

The City of Albuquerque Planning Department, agent for City of Albuquerque Council Services, requests the above action to add a new article (Article 20) to Chapter 14 ROA 1994, Zoning, Planning and Building, to be known as the Vacant Commercial Buildings Ordinance. City-wide.
Staff Planner: Catalina Lehner

Project# 1001695

16EPC-40008 Site Development Plan for Building Permit

DAC Enterprises, Inc., agent for Firoz S. and Jabeen Vagh, requests the above action for Lots 31 and 32, Block 4, North Albuquerque Acres, Unit 3, zoned SU-2 for C-1, located on the NE corner of Signal Ave. and Louisiana Blvd., between Alameda Blvd. NE and Wilshire Ave. NE, containing approximately 1.5 acres. (C-19)
Staff Planner: Catalina Lehner

Project# 1003532

16EPC-40010 Site Development Plan for Building Permit

Slagle Herr Architects, agent for Robert C. and Katie Kerschen, request the above action for all or a portion of Lot 11, Block 10, Plat of lots 11-A & 22-A, Block 10 Tract 2 Unit 3, North Albuquerque Acres, zoned SU-2 Mixed Use, located at 7400 Holly Ave. NE, between Louisiana Blvd. NE and Wyoming Blvd. NE, and North of Paseo del Norte containing approximately 0.70 of an acre. (C-19)
Staff Planner: Vicente Quevedo

Project# 1004167

16EPC-40011 Site Development Plan for Subdivision Amendment

Consensus Planning, agent for Guardian Storage, request the above action for all or a portion of Lots 1-4, 5A, 6A, 7A, 8A, 9, 10A, 10B1, 10B2, Bosque Plaza Subdivision, zoned C-1 (SC), located on SE Corner of La Orilla and SW corner of Coors Blvd., containing approximately 11.5 acres. (E-12)
Staff Planner: Maggie Gould

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Project# 1004309
16EPC-40012 Zone Map Amendment
(Zone Change)

Modulus Architects, agent for Blake's Lotaburger, LLC, request the above action for all or a portion of Tract Q-2. Replat of Tract Q of Unit #2, Atrisco Business Park, zoned SU-1 for Planned Industrial Park to C-2, located at 615 Fortuna Rd. NW, between Coors Blvd., and Fortuna Rd., and North of Los Volcanes, containing approximately 0.62 acre. (J-10)
Staff Planner: Vicente Quevedo

Project# 1004675
16EPC-40013 Site Development Plan for
Building Permit

Modulus Architects, agent for Rain Tunnel Car Spa, request the above action for all or a portion of Tract J, Plat for Vista de La Luz, zoned SU-1/O-1 and C-1 Permissive Uses with Exclusions, located at 5401 Sevilla Ave. NW, between Coors Blvd. and Costa Almeria Dr. NW, containing approximately 1.9 acres. (F-11)
Staff Planner: Vicente Quevedo

Project# 1009904
16EPC-40009 EPC review of a Proposed Use

Slagle Herr Architects, agent for Sidetrack Brewing Co., LLC, request the above action for all or a portion of Lot 13A, Block 37, New Mexico Town Companys Original Townsite, zoned SU-3 Government/Financial-Hospitality, located on 2nd St., between Lead and Coal, containing approximately 0.1 acre. (K-14)
Staff Planner: Maggie Gould

Project# 1000771
16EPC-40007 Site Development Plan for
Subdivision

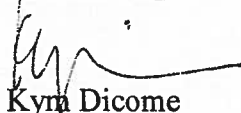
RBA Architects, agent for Brad Allen, request the above action for all or a portion of Tract C, Cottonwood Pointe, zoned SU-1 for IP/C-2/R-2 Uses, located on Irving Blvd. and Eagle Ranch Rd., containing approximately 6.77 acres. (B-13) Staff Planner: Maggie Gould

Details of these applications may be examined at the Planning Department, 3rd Level, Plaza Del Sol Building, 600 Second Street NW, between 8:00 a.m. and 5:00 p.m., Monday through Friday, or you may call 924-3860. INDIVIDUALS WITH DISABILITIES who need special assistance to participate at the public hearing should call 924-3860.

Karen Hudson, Chair
Environmental Planning Commission

TO BE PUBLISHED IN THE ALBUQUERQUE JOURNAL MARCH 16, 2016.

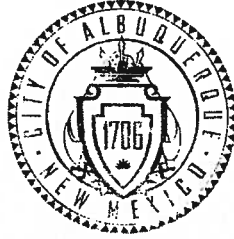
APPROVED



Kym Dicome

Urban Design & Development
Planning Department

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**ENVIRONMENTAL PLANNING COMMISSION
AGENDA**

**Thursday, April 14, 2016
8:30 a.m.**

**Plaza Del Sol Hearing Room, Lower Level
600 2nd Street NW**

MEMBERS

**Karen Hudson, Chair
Derek Bohannon, Vice-Chair**

**Maia Mullen
Bill McCoy
James Peck
Dan Serrano**

**Moises Gonzalez
Peter Nicholls
Victor Beserra**

NOTE: A LUNCH BREAK AND/OR DINNER BREAK WILL BE ANNOUNCED AS NECESSARY

Agenda items will be heard in the order specified unless changes are approved by the EPC at the beginning of the hearing; deferral and withdrawal requests (by applicants) are also reviewed at the beginning of the hearing. Applications with no known opposition that are supported by the Planning Department are scheduled at the beginning of the agenda; these cases are noted with an asterisk (*). Applications deferred from a previous hearing are normally scheduled at the end of the agenda.

There is no set time for cases to be heard. However, interested parties can monitor the progress of the hearing by calling the Planning Department at 924-3860. All parties wishing to address the Commission must sign-in with the Commission Secretary at the front table prior to the case being heard. Please be prepared to provide brief and concise testimony to the Commission if you intend to speak. **In the interest of time, presentation times are limited as follows, unless otherwise granted by the Commission Chair: Staff – 5 minutes; Applicant – 10 minutes; Public speakers – 2 minutes each. An authorized representative of a recognized neighborhood association or other organization may be granted additional time if requested. Applicants and members of the public with legal standing have a right to cross-examine other persons speaking per Rule B.13 of the EPC Rules of Conduct.**

All written materials – including petitions, legal analysis and other documents – should ordinarily be submitted at least 10 days prior to the public hearing, ensuring presentation at the EPC Study Session. The EPC strongly discourages submission of written material at the public hearing. Except in extraordinary circumstances, the EPC will not consider written materials submitted at the hearing. In the event the EPC believes that newly submitted material may influence its final decision, the application may be deferred to a subsequent hearing.

NOTE: ANY AGENDA ITEMS NOT HEARD BY 8:30 P.M. MAY BE DEFERRED TO ANOTHER HEARING DATE AS DETERMINED BY THE PLANNING COMMISSION.

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Call to Order:

- A. Pledge of Allegiance
- B. Announcement of Changes and/or Additions to the Agenda
- C. Approval of Amended Agenda
- D. Swearing in of City Staff
- E. Presentation to EPC: Legal Staff on Findings and Conditions of decisions

1. Project# 1001695

16EPC-40008 Site Development Plan for Building Permit

DAC Enterprises, Inc., agent for Firoz S. and Jabeen Vagh, requests the above action for Lots 31 and 32, Block 4, North Albuquerque Acres, Unit 3, zoned SU-2 for C-1, located on the NE corner of Signal Ave. and Louisiana Blvd., between Alameda Blvd. NE and Wilshire Ave. NE, containing approximately 1.5 acres. (C-19)

Staff Planner: Catalina Lehner

2. Project# 1003532

16EPC-40010 Site Development Plan for Building Permit

Slagle Herr Architects, agent for Robert C. and Katie Kerschen, request the above action for all or a portion of Lot 11, Block 10, Plat of lots 11-A & 22-A, Block 10 Tract 2 Unit 3, North Albuquerque Acres, zoned SU-2 Mixed Use, located at 7400 Holly Ave. NE, between Louisiana Blvd. NE and Wyoming Blvd. NE, and North of Paseo del Norte containing approximately 0.70 of an acre. (C-19)

Staff Planner: Vicente Quevedo

3. Project# 1009904

16EPC-40009 EPC review of a Proposed Use

Slagle Herr Architects, agent for Sidetrack Brewing Co., LLC, request the above action for all or a portion of Lot 13A, Block 37, New Mexico Town Companys Original Townsite, zoned SU-3 Government/Financial-Hospitality, located on 2nd St., between Lead and Coal, containing approximately 0.1 acre. (K-14)

Staff Planner: Maggie Gould

4. Project# 1000771

16EPC-40007 Site Development Plan for Subdivision

RBA Architects, agent for Brad Allen, request the above action for all or a portion of Tract C, Cottonwood Pointe, zoned SU-1 for IP/C-2/R-2 Uses, located on Irving Blvd. and Eagle Ranch Rd., containing approximately 6.77 acres.

(B-13) Staff Planner: Maggie Gould

5. Project# 1004309

16EPC-40012 Zone Map Amendment (Zone Change)

Modulus Architects, agent for Blake's Lotaburger, LLC, request the above action for all or a portion of Tract Q-2, Replat of Tract Q of Unit #2, Atrisco Business Park, zoned SU-1 for Planned Industrial Park to C-2, located at 615 Fortuna Rd. NW, between Coors Blvd., and Fortuna Rd., and North of Los Volcanes, containing approximately 0.62 acre. (J-10)

Staff Planner: Vicente Quevedo

6. Project# 1004167

16EPC-40011 Site Development Plan for Subdivision Amendment

Consensus Planning, agent for Guardian Storage, request the above action for all or a portion of Lots 1-4, 5A, 6A, 7A, 8A, 9, 10A, 10B1, 10B2, Bosque Plaza Subdivision, zoned C-1 (SC), located on SE Corner of La Orilla and SW corner of Coors Blvd., containing approximately 11.5 acres. (E-12)
Staff Planner: Maggie Gould

7. Project# 1004675

16EPC-40013 Site Development Plan for Building Permit

Modulus Architects, agent for Rain Tunnel Car Spa, request the above action for all or a portion of Tract J, Plat for Vista de La Luz, zoned SU-1/O-1 and C-1 Permissive Uses with Exclusions, located at 5401 Sevilla Ave. NW, between Coors Blvd. and Costa Almeria Dr. NW, containing approximately 1.9 acres. (F-11)
Staff Planner: Vicente Quevedo

8. Project# 1000032

15EPC-40079 Site Development Plan for Subdivision

Retail Equity Development 3, LLC, agent for Oxbow Town Center LLC, request the above actions for all or a portion of Tract X-1-A2 Plat of Tracts X-1-A1 & X-1-A2 University of Albuquerque Urban Center, zoned SU-3/Mixed Use, located on Coors Blvd., between St. Josephs and Western Trail NW, containing approximately 21.3 acres. (G-11)
Staff Planner: Vicente Quevedo
(DEFERRED FROM JANUARY 14, 2016)

9. Project# 1010582*

15EPC-40051 Zone Map Amendment
15EPC-40052 Site Development Plan
For Building Permit

***AC-15-6 & AC-15-7 Remanded by the City Council**

Wilson & Company, agent for City of Albuquerque, Department of Municipal Development, requests the above actions for all or a portion of a northerly portion of Tract 107B1A1, Tract 107B1A1 excluding portion to right-of-way & excluding a northerly portion, Tract 107B1A2 excluding portion to right-of-way, Tract in the SW corner-Tract 107B1B, Tract 108A3A1A, Tract 108A3A1B, and Tract 108A3B, Tracts 108A1A2B1B & 108A1A2B2, Tract 108A1A2B1A, Tract 107B2A2 excluding portion to the right-of-way, Tract 107B2A1 excluding portion to the right-of-way, MRGCD MAP #33, zoned M-1 to SU-1 for M-1, Solid Waste Transfer Station and Convenience Center, located on Edith and Comanche (4600 Edith NE), containing approximately 22 acres. (G-15)
Staff Planner: Vicente Quevedo

10. Project# 1001620

16EPC-40014 Amendment to Chapter 14 ROA 1994- Zoning, Planning and Building

The City of Albuquerque Planning Department, agent for City of Albuquerque Council Services, requests the above action to add a new article (Article 20) to Chapter 14 ROA 1994, Zoning, Planning and Building, to be known as the Vacant Commercial Buildings Ordinance. City-wide.
Staff Planner: Catalina Lehner

11. OTHER MATTERS:

- A. Approval of December 10, 2015 Amended Action Summary Minutes (**DEFERRED FROM MARCH 10, 2016**)
- B. Approval of March 10, 2015 Action Summary/Minutes
- C. Update on Appeals and Legislation of EPC cases

12. ADJOURNED:



**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT**

INTER-OFFICE MEMORANDUM

TO: ENVIRONMENTAL HEALTH – Paul Olson
LEGAL DEPARTMENT – Tyson Hummell
PARKS & RECREATION:
PARK DESIGN – Carol Dumont
OPEN SPACE DIVISION – Kent Swanson
CITY FORRESTER – Joran Viers
PLANNING:
LONG RANGE PLANNING – Linda Rumpf
METROPOLITAN REDEVELOPMENT – Rebecca Velarde
HYDROLOGY – Abiel Carrillo
NEIGHBORHOOD COORDINATION – Stephani Winklepleck
TRANSPORTATION DEV. SERVICES – Gary Sandoval
ZONING – Ben McIntosh
ABC WATER UTILITY AUTHORITY – Kris Cadena
POLICE DEPARTMENT – Steve Sink
FIRE DEPARTMENT – Antonio Chinchilla
SOLID WASTE MANAGEMENT DEPARTMENT – Michael Anaya
TRANSPORTATION PLANNING – John MacKenzie
TRANSIT DEPARTMENT – Shabih Rizvi
ALBUQUERQUE PUBLIC SCHOOLS – April Winters
AMAFCA – Lynn Mazur
COUNTY OF BERNALILLO – Catherine VerEecke
MID-REGION COUNCIL OF GOVERNMENTS – Maida Rubin
MIDDLE RIO GRANDE CONSERVANCY DISTRICT – Subhas Shah
NM DEPARTMENT OF TRANSPORTATION – Nancy Perea
NM GAS COMPANY –
PETROGLYPH NATIONAL MONUMENT – Diane Souder
PUBLIC SERVICE COMPANY OF NEW MEXICO – Laurie Moye

FROM: Russell Brito, Urban Design and Development Division, Planning Department

SUBJECT: ENVIRONMENTAL PLANNING COMMISSION CASE DISTRIBUTION

NOTE THAT AFTER THIS MONTH WE WILL BE SENDING APPLICATIONS ELECTRONICALLY AND NO LONGER SUPPLYING PAPER COPIES. ALSO WE WILL NOT HAVE AN AGENCY DISTRIBUTION MEETING (USUALLY HELD THE FIRST MONDAY OF THE MONTH AT 10 AM). IF YOU NORMALLY RECEIVE FULL SIZED SITE PLANS, THOSE WILL BE AVAILABLE AT THE THIRD FLOOR OF THE PLAZA DEL SOL BUILDING. THERE IS A LIMITED # OF COPIES AVAILABLE.

Attached are the legal descriptions, applications, and related materials for the cases scheduled for public hearing before the Environmental Planning Commission on **April 14, 2016**.

Please remember that all agency comments are due NO LATER THAN March 16, 2016.

COMMENTS TO: Maggie Gould (mgould@cabq.gov) Catalina Lehner (klehner@cabq.gov)
Vicente Quevedo (vquevedo@cabq.gov)

Project# 1001620
16EPC-40014 Amendment to Zoning Code or
Subdivision Regulations Text

COA Planning Department, agent for COA Council Services, request the above action to add a New Article in Chapter 14 ROA 1994, Zoning, Planning and Building to be known as the Vacant Commercial Buildings Ordinance. CITY WIDE
Staff Planner: Catalina Lehner

Project# 1001695
16EPC-40008 Site Development Plan for
Building Permit

DAC Enterprises, Inc., agent for Firoz S. and Jabeen Vagh, request the above action for all or a portion of Lots 31 and 32, Block 4, North Albuquerque Acres, Unit 3, zoned SU-2 for C-1, located on Signal Avenue NE, between Alameda Blvd. NE and Wilshire Ave. NE, containing approximately 1.4 acres. (C-19)
Staff Planner: Catalina Lehner

Project# 1003532
16EPC-40010 Site Development Plan for
Building Permit

Joe Slagle, Slagle Herr Architects, agent for Robert C. and Katie Kerschen, request the above action for all or a portion of Lot 11, Block 10, Tract 2, North Albuquerque Acres, Unit 3, zoned SU-2 Mixed Use, located on Holly Ave. Between Louisiana NE and Wyoming NE, containing approximately .6975 acre. (C-19)
Staff Planner: Vicente Quevedo

Project# 1004167
16EPC-40011 Site Development Plan for
Subdivision Amendment

James Strozier, Consensus Planning, agent for Guardian Storage, request the above action for all or a portion of Lots 1-9, 10A, 10B, 10C, Bosque Plaza Subdivision, zoned C-1 (SC), located on SE Corner of La Orilla and SW corner of Coors Blvd., containing approximately 11.46 acres. (E-12)
Staff Planner: Maggie Gould

Project# 1004309
16EPC-40012 Zone Map Amendment
(Zone Change)

Angela Benson, Principal Partner, Modulus Architects, agent for Blake's Lotaburger, LLC, request the above action for all or a portion of Tract Q-2 Replat of Tract Q of UNIT #2 Atrisco Business Park, zoned SU-1 for Planned Industrial Park to C-2, located on 615 Fortuna Rd. NW, between Coors Blvd., and Fortuna Rd., North of Los Volcanos, containing approximately .613 acre. (J-10)
Staff Planner: Vicente Quevedo

Project# 1004675
16EPC-40013 SITE DEVELOPMENT -
BUILDG PRMT

Angela Benson, Principal Partner, Modulus Architects, agent for Rain Tunnel Car Spa, request the above action for all or a portion of Tract J, within Section 35, Township 11 North, Range 2 East, Vista De La Luz, zoned SU-1 for O-1/C-1 Permissive Uses, located on 5401 Sevilla Ave. NW, containing approximately 1.872 acres. (F-11)
Staff Planner: Vicente Quevedo

Project# 1009904
16EPC-40009 Site Development Plan for
Building Permit Amendment

Dan Herr, Slagle Herr Architects, agent for Sidetrack Brewing Co., LLC, request the above action for all or a portion of Lot 13A, Block 37, New Mexico Town Companys Original Townsite, zoned SU-3 Government/Financial-Hospitality, located on 2nd St., between Lead and Coal, containing approximately 0.1 acre . (K-14)
Staff Planner: Maggie Gould

Project# 1010767
16EPC-40007 Site Development Plan for
Subdivision

RBA Architects, agent for Brad Allen, request the above action for all or a portion of Tract C, Cottonwood Pointe, zoned SU-1 for IP/C-2/R-2 Uses, located on Irving Blvd. and Eagle Ranch Rd., containing approximately 6.771 acres. (B-13)
Staff Planner: Maggie Gould