

CITY of ALBUQUERQUE

TWENTY SECOND COUNCIL

COUNCIL BILL NO. O-16-11 ENACTMENT NO. _____

SPONSORED BY: Don Harris and Patrick Davis

1 ORDINANCE

2 ADOPTING A NEW ARTICLE IN CHAPTER 14 ROA 1994, ZONING, PLANNING
3 AND BUILDING, TO BE KNOWN AS THE “VACANT COMMERCIAL BUILDINGS
4 ORDINANCE.”

5 SECTION 1. A new article §14-20 of ROA 1994 is hereby adopted to read as
6 follows:

7 “[+§14-20-1 SHORT TITLE.

8 SECTION §14-20 ROA 1994 shall be known and cited as the “Vacant
9 Commercial Buildings Ordinance”.

10 § 14-20-2 APPLICABILITY.

11 This Article applies to non-residential buildings as defined by subparagraph
12 14-20-4, definition.

13 § 14-20-3 INTENT AND PURPOSES

14 (A) The intent of Article §14-20 et seq. is to provide minimum standards to
15 safeguard life or limb, health, property and public welfare by establishing a
16 registry for vacant, non-residential structures and requiring basic
17 maintenance of said structures and surrounding property.

18 § 14-20-4 DEFINITIONS.

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

23 § 14-20-5 GENERAL PROVISIONS.

24 (A) All vacant buildings shall be maintained, consistent with requirements of
25 this section. If the Director finds the building is being maintained in blighted
26 condition, the Director may issue a Notice of Violation to the property owner

[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).

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

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.”

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

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