

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. O-24-61 ENACTMENT NO. _____

SPONSORED BY: Joaquín Baca

1 **ORDINANCE**

2 **ADOPTING THE “DOWNTOWN VACANT PREMISES ORDINANCE” AS A NEW**
3 **ARTICLE IN CHAPTER 14 OF THE REVISED ORDINANCES OF**
4 **ALBUQUERQUE 1994 TO ACTIVATE VACANT BUILDINGS TO BENEFIT**
5 **ECONOMIC DEVELOPMENT IN THE DOWNTOWN CORE BY REQUIRING**
6 **REGISTRATION AND FEES; AND AMENDING ROA 1994 SECTION 14-3-5-14 OF**
7 **THE UNIFORM HOUSING CODE “VACANT BUILDING MAINTENANCE” TO ADD**
8 **A CROSS REFERENCE TO THE DOWNTOWN VACANT PREMISES**
9 **ORDINANCE.**

10 **WHEREAS, vacant premises are a public nuisance and a major cause and**
11 **source of blight in both residential and nonresidential areas of the City,**
12 **especially when the owner fails to actively maintain and manage the premises;**
13 **and**

14 **WHEREAS, vacant premises as a public nuisance tend to hasten further**
15 **vacancies, abandonment, and dilapidation in the area if left unchecked by the**
16 **City; and**

17 **WHEREAS, vacant premises present general health, safety, and welfare**
18 **concerns for the City because of dangerous physical deterioration, by**
19 **providing potential venues for illicit activity, and by negatively impacting**
20 **surrounding property values and economic development opportunities; and**

21 **WHEREAS, vacant premises can also be a private nuisance to neighboring**
22 **property owners who have their buildings maintained and occupied, and can**
23 **decrease the retail value and overall property values in the community; and**

24 **WHEREAS, establishing a Vacant Premises Ordinance will help both**
25 **property owners and City zoning enforcement identify specific requirements**

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1 for remediation and work together toward such remediation for the betterment
2 of the community; and

3 WHEREAS, initiating this project within the Downtown Core will help limit
4 the impact on City resources and help identify challenges or restraints to
5 enforcement that may be mitigated before establishing any City-wide
6 requirements; and

7 WHEREAS, the Downtown Core is the area bounded by 8th Street to the
8 West, Copper Ave. to the North, Gold Ave. to the South, and 1st Street to the
9 East, to include all premises with a front lot line along Gold Avenue to the
10 North and South; and

11 WHEREAS, the economic vitality of a region's downtown is increasingly
12 important to the health of the surrounding community, as well as to the
13 region's successful competition with other urban markets; and

14 WHEREAS, the Downtown Center in the Comprehensive Plan is
15 characterized by a hub for commercial activity supported by high-density
16 housing, but includes a plethora of land uses, including retail, multi-family
17 housing, entertainment, education, government offices and any use that
18 contributes to a highly active street life; and

19 WHEREAS, the Downtown Center is meant to have the highest level of
20 intensity for land use and with a vacancy rate of approximately 12.8 percent
21 for retail, 23 percent for office and over 30 percent of the land being used as
22 parking, over half of Downtown is far from achieving the vision set out by the
23 Albuquerque/Bernalillo County Comprehensive Plan; and

24 WHEREAS, most of the Downtown Core is considered a Main Street
25 Corridor, which is characterized by lively, highly walkable streets lined with
26 local-serving businesses, modeled after the American tradition of Main Street
27 as a place for working; and

28 WHEREAS, Downtown Albuquerque has many strengths and opportunities
29 that are presently limited in part by vacant buildings and properties, and the
30 Downtown Core is an appropriate area within which to initiate the provisions
31 of this Ordinance; and

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1 WHEREAS, affected Downtown property owners will be advised of this
2 Vacancy Ordinance to ensure they have adequate time to prepare for the
3 Vacancy Registration period; and

4 WHEREAS, Downtown Albuquerque plays a key role in the overall vitality
5 of the City and serves as a central gathering place, acting as a hub for
6 commerce, culture, and civic life, making its health and vibrancy essential to
7 the broader economic and social well-being of Albuquerque; and

8 WHEREAS, the Albuquerque/Bernalillo County Comprehensive Plan
9 envisions Downtown as a regional center with the highest employment and
10 commercial uses, offering a high-quality environment for pedestrians through
11 a series of goals, policies, and actions; and

12 WHEREAS, Action 5.7.2.15 calls for removing obstacles to private
13 investment (e.g., obsolete platting, deteriorating building conditions,
14 vacancies, outdated land uses, and high-crime areas) through regulatory
15 changes and partnerships; and

16 WHEREAS, Policy 7.3.2, “Community Character”, encourages design
17 strategies that recognize and embrace the unique characteristics of
18 communities, making them safe, attractive, and distinct; and

19 WHEREAS, addressing these conditions is essential for fostering a
20 renewed sense of civic pride, economic opportunity, and overall prosperity in
21 Downtown Albuquerque; and

22 WHEREAS, this bill approaches many large and challenging conversations
23 that have existed in the context for Downtown and is introduced along with a
24 Central Avenue Improvement project between 1st - 8th Streets that looks to
25 create a safer environment for cyclists, drivers, pedestrians, business owners
26 and visitors to Albuquerque’s Downtown.

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

29 **SECTION 1. A new Article 24 is hereby created in Chapter 14 of the Revised**
30 **Ordinances of Albuquerque, 1994, as follows:**

31 **§ 14-24-1 SHORT TITLE.**

32 **This Chapter 14, Article 24 shall be known and cited as the “Downtown**
33 **Vacant Premises Ordinance.”**

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1 § 14-24-2 INTENT AND PURPOSES.

2 The intent of this Ordinance is to further revitalization efforts in the
3 Downtown area by activating vacant premises by encouraging property
4 owners to make robust efforts to make productive use of their properties and
5 preventing such structures from being a public or private nuisance or
6 otherwise contributing to blight and negatively impacting surrounding
7 property values and redevelopment or economic development efforts.

8 § 14-24-3 DEFINITIONS.

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

11 **COMMON AREA.** Portions of a building that are available for use by all
12 tenants or occupants on a non-exclusive basis.

13 **COMPETITIVE MARKET RENT.** The rental rate commonly charged for
14 comparable properties within the same submarket.

15 **DOWNTOWN CORE.** The area bounded by 8th Street to the West, Copper
16 Ave. to the North, Gold Ave. to the South, and 1st Street to the East, to include
17 all premises with a front lot line along Gold Avenue to the North and South. A
18 map outlining this area is included as Exhibit A.

19 **FAIR MARKET VALUE (FMV).** The estimated sale price a property would
20 achieve under typical market conditions, as shown by comparable properties
21 within the same submarket. This value may be established through a third-
22 party appraisal or broker opinion based on comparable property sales and/or
23 income approach metrics.

24 **FISCAL YEAR.** The City of Albuquerque’s fiscal year is from July 1st - June
25 30th.

26 **RESPONSIBLE PARTY.** The owner(s) of any building or property subject to
27 this Ordinance, or the owner’s designee, or any other party responsible for
28 such building or property by way of management, agency, or otherwise.

29 **SQFT BASE COST.** The fee determined by the amount of vacant UFA that is
30 applicable to properties and buildings subject to this Ordinance, as outlined in
31 the Table under § 14-24-6.

32 **USEABLE FLOOR AREA (UFA).** The net floor area of a building where
33 persons may move about and carry-on usual tasks for working and living but

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1 does not include common area. For empty parcels or lots, the UFA is the total
2 area.

3 **VACANT PREMISES.** Any building or property which no person or persons
4 actually, currently conducts a lawfully licensed business, or lawfully resides
5 or lives in any part of the building or structure as the legal or equitable
6 owner(s) or tenant-occupant(s), or owner-occupant(s), or tenant(s), or
7 otherwise claiming possession through the owner, on a permanent, non-
8 transient basis.

9 a. A building is deemed vacant when 30 percent or more of the
10 ground floor UFA is vacant.

11 b. An empty parcel or lot is deemed vacant.

12 **YEARS VACANT.** The number of years a premises has had more than nine
13 months of vacancy in a fiscal year. This number resets after a property is
14 considered occupied for a fiscal year.

15 **§ 14-24-4 APPLICABILITY.**

16 The provisions of this Ordinance apply only to buildings and properties
17 within the Downtown Core as defined herein in Section 14-24-3.

18 **§ 14-24-5 REGISTRY.**

19 (A) By June 30th of each year, all Responsible Parties must register their
20 Downtown Core premises, if the premises was vacant for at least nine months
21 during the prior City fiscal year. As defined above:

22 a. A building is deemed vacant when 30 percent or more of the
23 ground floor UFA is vacant.

24 b. An empty parcel or lot is deemed vacant.

25 (B) To ensure compliance with this Ordinance, the Mayor or their designee
26 shall conduct an annual survey of all buildings and properties within the
27 Downtown Core to determine if the premises are vacant or occupied. The
28 annual survey shall include all buildings and properties.

29 (C) The Mayor or their designee can require proof of occupancy to
30 determine if the premises was occupied for at least three months of the fiscal
31 year.

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1 (1) Proof of occupancy may include, but is not limited to: a bona fide
2 lease, utility records, mail, property inspections, business license or
3 registration, etc.

4 (D) The application for a vacancy registration shall be made on a form
5 provided by Albuquerque Code Enforcement and verified by the owner. The
6 application shall disclose all measures to be taken to ensure that the vacant
7 premises will be kept weather tight and secure from trespassers, safe for entry
8 by police officers and firefighters in times of emergency, and together with its
9 premises, free from nuisance and in good order. The Downtown Vacancy
10 Registration form shall include and be updated with the following information:

11 (1) Name, address, telephone number, and email of the property owner
12 and Responsible Party, if applicable;

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

15 (3) Name, local address and telephone number, and email of a property
16 manager, if any;

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

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

20 (6) A 24-hours emergency telephone number where the owner, agent, or
21 property manager or Responsible Party can be reached and is required to
22 respond to calls from the City within 2 hours.

23 (E) At the time of registration, the Responsible Party shall arrange for
24 inspection of the vacant premises by Albuquerque Code Enforcement or their
25 representative. If the Responsible Party fails or refuses to consent to and
26 arrange for an inspection, Albuquerque Code Enforcement may obtain a
27 search warrant from a court of competent jurisdiction to authorize inspection
28 of the vacant premises, if it is deemed necessary for public health and safety.
29 If a Responsible Party fails or refuses to consent to and arrange for an
30 inspection, their premises shall be deemed vacant and assessed the maximum
31 registration fee from the table in Section 14-24-6, regardless of the actual
32 SQFT of the premises.

33 § 14-24-6 ANNUAL REGISTRATION FEE.

1 The fee to register a vacant premises pursuant to Section 14-24-5 above
2 shall be assessed using area and time. The City shall use the equation and
3 table below to determine vacancy registration fees:

4 $(\text{Years Vacant}) * (\text{SQFT base cost}) = \text{Vacancy Registration Fee}$

Total Ground Floor Vacant UFA	SQFT Base Cost
< 1,000 sqft	\$1,000.00
1,001 - 5,000 sqft	\$2,000.00
5,001 – 10,000 sqft	\$3,000.00
10,001 – 15,000 sqft	\$4,000.00
> 15,001 sqft	\$5,000.00

5 **§ 14-24-7 EXEMPTIONS FOR CERTAIN BUILDINGS AND PROPERTIES.**

6 (A) The Downtown Vacant Premises Registration Fee does not apply in the
7 following circumstances, as determined by the Mayor or their designee:

8 (1) A City of Albuquerque active building permit shows the premises
9 undergoing construction, rehabilitation or renovation that is proceeding
10 without unreasonable delay caused by the owner or property manager. The
11 Responsible Party shall provide a written plan for how the active building
12 permit is working to achieve occupancy on the property. The written plan shall
13 include, but is not limited to, a reasonable timeline, description of necessary
14 improvements, milestones for completion, and anticipated occupancy date;

15 (2) The premises was purchased through a foreclosure action and the
16 statutory redemption period has not expired;

17 (3) The premises is physically secured and the subject of a probate
18 action for a period not longer than one year, or other litigation in which
19 ownership is contested;

20 (4) Disaster Period. A one-year exemption period shall apply following
21 the date that a building or property was severely damaged and made
22 uninhabitable or unusable due to fire, natural disaster, or other catastrophic
23 event. This does not relieve the property owner of any restoration required or
24 enforced by the Planning Department;

25 (5) Actively Marketed Properties. If the premises is actively marketed for
26 sale or lease, a two-year exemption period shall apply, provided that the
27 marketing efforts meet the following conditions:

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1 (a) The responsible party shows evidence of the premises being
2 listed with a New Mexico real estate broker qualified to conduct business in
3 Bernalillo County within thirty (30) days of becoming vacant or
4 documented as being marketed on at least three commercially recognized
5 listing platforms.

6 (b) If offered for sale, the listing price must be no greater than 130%
7 of the Fair Market Value as established through an independent third-party
8 appraisal of Broker Opinion of Value (BOV), utilizing either a sales
9 comparison approach or income approach. If offered for lease, the
10 proposed rental rate must be no greater than 130% of the competitive
11 market rent, as established by a rent study by a certified MAI appraiser or
12 qualified real estate broker with relevant experience.

13 (c) Supplementary Marketing. The responsible party shows evidence
14 of marketing activities that enhance the visibility of the vacant space,
15 including but not limited to building signage, window wraps and marketing
16 other materials that comply with the Integrated Development Ordinance's
17 regulations.

18 **§ 14-24-8 ENFORCEMENT AND PENALTIES**

19 (A) If the Responsible Party fails to register their vacant premises within
20 20 days after an initial written notice from the City, the Responsible Party is
21 subject to:

22 (1) The penalty provisions set forth in § 1-1-99 of this code of
23 ordinances; each day of violation is considered a separate offense; and

24 (2) Instead of or in addition to the penalty provision set forth in § 1-1-99,
25 the City, acting through the City Attorney, is hereby authorized to file an action
26 in a court of competent jurisdiction as a means of compelling compliance with
27 this article, including compliance with those sections cross referenced within
28 the Zoning Code, to:

29 (i) Enjoin any person from violating or threatening to violate the
30 terms, conditions and restrictions of this article;

31 (ii) Collect civil assessments against the property of \$500 per day for
32 every day the property remains or remained in violation of this section after

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1 the expiration of the compliance period or any extensions granted by the City
2 identified in the written notice(s) sent by the City; and

3 (iii) Recover damages from the owner of a building or property in an
4 amount of money adequate for the City to undertake any construction
5 remediation, cleanup, or other activity necessary to bring about compliance
6 with this article.

7 (3) In addition to judicial remedies, any expenditure by the City to bring
8 the building or property into compliance, or any damages or assessments are
9 recoverable through the imposition of a municipal lien on the parcel under
10 NMSA 1978, §§ 3-36-1 to 3-36-5. To the extent that monetary penalties are
11 recovered as a result of enforcement under this section, any funds so
12 recovered shall be used exclusively for the purpose of funding enforcement
13 activities under this section. Should the building or property owner fail to
14 make reasonable efforts to satisfy and discharge the lien on the building or
15 property within one year of assessment, the City Attorney is authorized to file
16 suit to force the satisfaction of the lien in any way authorized by law.

17 § 14-24-9 APPEAL.

18 (A) General.

19 (1) Form of appeal.

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

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

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

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

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

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

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

9 (3) Scheduling and noticing appeal for hearing. The Office of
10 Administrative Hearings shall schedule the hearing pursuant to the provisions
11 of the IHO Ordinance, ROA 1994, Chapter 2, Article 7, Part 8.

12 (B) Effect of failure to appeal. Failure of any person to file an appeal in
13 accordance with the provisions herein shall constitute a waiver of his or her
14 right to an administrative hearing and adjudication of the notice and order or
15 to any portion thereof.

16 (C) Scope of hearing appeal. Only those matters or issues specifically
17 raised by the appellant shall be considered in the hearing of the appeal.

18 (D) Staying of order under appeal. Enforcement of any notice and order of
19 the City issued under this code shall be stayed during the pendency of an
20 appeal therefrom which is properly and timely filed.

21 **§ 14-24-10 PROCEDURES FOR CONDUCT OF HEARING APPEALS.**

22 Procedures regarding the hearing shall be the procedures outlined in the
23 IHO Ordinance, Chapter 2, Article 7, Part 8 of the Revised Ordinances of
24 Albuquerque 1994.

25 **§ 14-24-11 USE OF FEES, FINES, AND MONETARY PENALTIES.**

26 100% of all registration fees, fines, and monetary penalties collected
27 pursuant to this Ordinance shall be used for the purpose of funding
28 enforcement activities under this Downtown Vacant Premises Ordinance.

29 **SECTION 2.** The Uniform Housing Code, ROA 1994, Section 14-3-5-14 is
30 hereby amended as follows:

31 **§ 14-3-5-14 VACANT BUILDING MAINTENANCE.**

32 (A) The owner of a vacant building shall apply to the Albuquerque Code
33 Enforcement for and obtain a vacant building maintenance license 15 days

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1 prior to vacating the premises. The vacant building maintenance license shall
2 be renewed annually. The owner shall pay an annual fee to renew the vacant
3 building maintenance license. Albuquerque Code Enforcement shall establish
4 the amount of the fee by regulation. Buildings or properties located within the
5 Downtown Core (as identified in ROA 1994, Section 14-24-3), shall also be
6 subject to the Downtown Vacant Premises Ordinance, ROA 1994, Sections 14-
7 24-1 et. seq.

8 SECTION 3. DOWNTOWN CORE VACANCY REPORT. Per SECTION 1 of this
9 Ordinance, the Mayor, or the Mayor’s designee shall provide an annual report
10 to the City Council at the first City Council meeting in August, via Executive
11 Communication, which shall include, but not limited to:

- 12 (a) a list of all buildings and properties within the Downtown Core;
- 13 (b) condition of dilapidation and/or vacancy;
- 14 (c) dilapidation remediation status;
- 15 (d) Calculation of Downtown Core vacancy rate based on number of vacant
16 premises and ground floor area; and
- 17 (e) A list of all vacancy registration exemptions and any plans pursuant to
18 ROA 1994, Section 14-24-7(A)(1).

19 SECTION 4. DOWNTOWN CORE ANNUAL SURVEY NOTIFICATION. At least
20 30 days prior to the annual survey, the Mayor or their designee shall send out
21 notification to all property owners within the Downtown Core, advising them of
22 the upcoming start of the survey.

23 SECTION 5. SEVERABILITY. If any section, paragraph, sentence, clause,
24 word or phrase of this Ordinance is for any reason held to be invalid or
25 unenforceable by any court of competent jurisdiction, such decision shall not
26 affect the validity of the remaining provisions of this Ordinance. The Council
27 hereby declares that it would have passed this Ordinance and each section,
28 paragraph, sentence, clause, word or phrase thereof irrespective of any
29 provision being declared unconstitutional or otherwise invalid.

30 SECTION 6. COMPILATION. SECTION 1 of this Ordinance is to be compiled
31 as a new Article 24 in Chapter 14 of the Revised Ordinances of Albuquerque,
32 New Mexico, 1994, titled “Downtown Vacant Premises Ordinance.” SECTION 2
33 of this Ordinance amends, is incorporated in, and is to be compiled as part of

1 the Revised Ordinances of Albuquerque, New Mexico, 1994 in Section 14-3-5-
2 14.

3 SECTION 7. EFFECTIVE DATE. This Ordinance takes effect on July 1, 2025
4 after publication by title and general summary.

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