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1 WHEREAS, 8 of the owners that received 3 or more violations own 20 of the
2 properties and represent 8% of all UHC violations.

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

5 SECTION 1. A new Article 28 under Chapter 14 of the Revised Ordinances
6 of Albuquerque, 1994 is adopted as follows:

7 § 14-28-1 SHORT TITLE. This Chapter 14, Article 28 shall be known and
8 cited as the “Rental Habitability Enforcement Ordinance.”

9 § 14-28-2 INTENT AND PURPOSES. The intent of this Ordinance is to
10 address violations of ROA 1994, § 14-3-2 Space and Occupancy Standards and
11 § 14-3-3 General Requirements under the City’s Uniform Housing Code. This
12 Ordinance applies to all residential rental units within the incorporated
13 Albuquerque City limits.

14 § 14-28-3 DEFINITIONS.
15 HABITABILITY VIOLATION. Any violation of conditions listed in the Uniform
16 Housing Code, ROA 1994, § 14-3-2-1, § 14-3-2-2, § 14-3-2-3, § 14-3-3-1, § 14-3-3-
17 2, and §14-3-3-3, that endangers life, limb, health, property, safety or public
18 welfare of the occupants of a Rental Property.

19 RESPONSIBLE PARTY. The owner(s) of any building, unit or property
20 subject to this Ordinance, or the owner’s designee, or any other party
21 responsible for such building, unit or property by way of management, agency
22 or otherwise.

23 § 14-28-4 OBLIGATION OF OCCUPANT OF RENTAL PROPERTY. The
24 occupant of the Rental Property shall provide notice to the Responsible Party
25 of the Rental Property prior to notifying the Planning Department of the
26 Habitability Violation.

27 § 14-28-5 ENFORCEMENT TIERS.

28 (A) Tier 1 Habitability Violation:

29 (1) Upon receipt of a Habitability Violation, the Responsible Party
30 shall have 72 hours to abate the condition.

31 (2) If abatement requires a longer period, an extension may be
32 granted pursuant to Section 14-28-7 herein.

33 (B) Tier 2 Habitability Violation:

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1 (1) If a Responsible Party receives three Habitability Violations
2 within a 12-month period the Responsible Party will be automatically fined
3 \$500.00 for the third violation and every Habitability Violation thereafter for a
4 12-month period from the issuance of the most recent violation.

5 (2) The Responsible Party shall have 72 hours to abate the
6 condition upon receipt of notice from the City. Unabated habitability violations
7 shall be issued daily, unless an extension is granted.

8 (3) If abatement requires a longer period, an extension may be
9 granted pursuant to Section 14-28-7 herein.

10 § 14-28-6 EXCLUSIONS. The Rental Unit Habitability Ordinance does not
11 apply to dwelling units that are only owner-occupied, short-term rentals,
12 hotels or other transient lodging units.

13 § 14-28-7 REMEDIATION EXTENSIONS.

14 (A) For Habitability Violation requiring a longer period than 72 hours for
15 abatement, the Responsible Party shall provide a written plan for how they will
16 achieve compliance at the Rental Property. The written plan shall include, but
17 is not limited to, a reasonable timeline, description of necessary
18 improvements, active building permit numbers, milestones for completion,
19 and anticipated occupancy date. The written plan shall be approved at the
20 discretion of the Planning Department.

21 (1) If the Habitability Violation is not abated pursuant to the
22 extended timelines provided in § 14-28-7(A) of this section, a civil penalty of
23 \$500.00 shall be imposed upon the Rental Property’s Responsible Party. An
24 extra \$500.00 daily fine shall be imposed upon the Rental Property’s
25 Responsible Party until the Habitability Violation is remediated.

26 § 14-28-8 RELOCATION. If remediation requires a longer abatement period
27 than 7 days, the Responsible Party of the Rental Property shall pay relocation
28 costs for the residents of such Rental Property(ies). This requirement shall be
29 applicable when any condition which is the basis for the order of remediation
30 is within control of the Responsible Party and the Responsible Party knew or
31 should have known of the existence of the conditions that violate applicable
32 codes, statutes, ordinances or regulations prior to the order for abatement.
33 Notice of such conditions by a governmental agency responsible for the

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1 enforcement of Rental Property or other appropriate code served on the
2 Responsible Party shall be proof that the Responsible Party knew of the
3 conditions.

4 (a) Payment of relocation costs shall be made by the owner to the
5 Rental property tenant to facilitate relocation within 7 days after the
6 Responsible Party's receipt of a Habitability Violation.

7 (b) If the Responsible Party fails to relocate their tenant within 7
8 days, the City shall administer the relocation and the relocation costs shall be
9 paid in full by the Responsible Party, to the City, within 30 days of the original
10 receipt of the Habitability Violation, or the order of a lien may be placed first
11 upon the subject property or may be subsequently placed on any asset owned
12 by the subject property's owner and that the City may seek remedies,
13 including foreclosure, for any unpaid liens.

14 § 14-28-9 IMMINENT HAZARD. If the Habitability Violation rises to the status
15 of Imminent Hazard per § 11-1-1, the Mayor's Designee will follow the
16 abatement process identified therein.

17 § 14-28-10 NOTICE OF VIOLATION.

18 (1) When the Mayor's designee imposes a civil fine for violations
19 of this article occurring on real property, the Mayor's designee shall issue
20 notice directed to the Owner and/or Responsible Party of the subject Rental
21 Property and the occupant of the Rental Property, as shown on the record of
22 the Bernalillo County Clerk and/or the Bernalillo County Assessor's Office.
23 The notice shall be presented in person to the Responsible Party, if
24 accessible, or sent via certified mail, if the Responsible Party is absent, and
25 must contain:

26 (a) The street address and a legal description of the subject
27 property;

28 (b) A statement that the Mayor's designee has found the subject
29 property to be in violation of this article;

30 (c) A concise description of the conditions found to render the
31 subject property containing a Habitability Violation;

32 (d) The amount of the fine assessed;

33 (e) A statement that the fine must be paid in full within 30 days of

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1 the date of the order or a lien will be placed first upon the subject property or
2 may be subsequently placed on any asset owned by the subject property's
3 owner and that the City may seek remedies, including foreclosure, for any
4 unpaid liens;

5 (f) Instructions for how the fine can be paid;
6 (g) A statement that payment plans or waivers may be available if
7 the person can demonstrate hardship, low income or indigent status;

8 (h) Description of the Tiered System under § 14-28-5 for
9 Habitability Violations; and

10 (i) Description of the appeal process.

11 (2) Service by certified mail in the manner herein provided shall
12 be effective on the earlier of: (1) the date the certified mail is received; or (2)
13 seven (7) days after the first attempted delivery.

14 (3) APPEAL. Any individual who has been assessed a civil fine
15 issued pursuant to this article may appeal that decision. The request for
16 appeal and the hearing shall comply with the procedures outlined in the
17 Independent Office of Hearing Ordinance, ROA 1994 §§ 2-7-8-1 to 2-7-8-9.

18 SECTION 2. HABITABILITY VIOLATION ANNUAL REPORT. Per SECTION 1
19 of this Ordinance, the Mayor, or the Mayor's designee shall provide an annual
20 report to the City Council at the first City Council meeting in January, via
21 Executive Communication (EC), which shall include, but is not limited to:

22 (a) A list of all Tier 1 and Tier 2 Habitability Violations city-wide
23 throughout the previous calendar year.

24 (b) Revenue collected through the requirements of this
25 Ordinance.

26 (c) A map showing all locations of the Habitability Violations.

27 SECTION 3. USE OF FEES AND REVENUE. Revenue derived from the
28 Rental Unit Habitability Ordinance shall be accounted for separately within the
29 General Fund (110) and shall be used solely for Rental Unit Habitability
30 Ordinance enforcement and tenant assistance.

31 SECTION 4. SEVERABILITY. If any section, paragraph, sentence, clause,
32 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 5. COMPILATION. SECTION 1 of this Ordinance is to be compiled
6 as a new Article 28 in Chapter 14 of the Revised Ordinances of Albuquerque,
7 New Mexico, 1994, titled "Rental Habitability Enforcement Ordinance."

8 SECTION 6. EFFECTIVE DATE. This Ordinance takes effect five days after
9 publication by title and general summary.

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