

CITY of ALBUQUERQUE

TWENTY-SECOND COUNCIL

COUNCIL BILL NO. C/S O-16-11 ENACTMENT NO. _____

SPONSORED BY: DON HARRIS & 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 as follows:

6 “[§14-20-1 SHORT TITLE.

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

9 § 14-20-2 APPLICABILITY.

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

12 § 14-20-3 INTENT AND PURPOSES

13 The intent of Article §14-20 et seq. is to provide minimum standards to prevent
14 neighborhood blight that can negatively affect economic development and
15 surrounding property values by establishing basic maintenance standards for
16 vacant commercial buildings and surrounding property.

17 § 14-20-4 DEFINITIONS.

18 VACANT COMMERCIAL BUILDING: For purposes of this Section, any non-
19 residential building which, for any twelve consecutive month period, is not
20 lawfully occupied to at least 50% of total occupancy for a single-tenant
21 building, or which has few than 65% of the total number of leasable units
22 occupied in a multi-tenant building, .

23 § 14-20-5 GENERAL PROVISIONS.

24 A. The owner or party otherwise responsible for a vacant commercial
25 building by way of lawful tenancy, management or otherwise shall:

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1 1. Register the building with the Planning Department through forms
2 provided within 30 days of becoming a vacant commercial building as defined
3 by this section, and reregister annually thereafter for any building that remains
4 a vacant commercial building. The registration form shall at a minimum
5 require a description of the location and address of the building, and the
6 name, street address and telephone number of the building owner, or of a
7 natural person 21 years of age or older with a physical address located within
8 Bernalillo County, designated by the owner or owners as the authorized agent
9 for receiving notices or process on behalf of the owner(s) for purposes of
10 notifications under this section. The Planning Department shall collect a
11 registration fee of \$200 for each initial registration, and \$50 for the required
12 annual reregistration;

13 2. Remove any accumulation of weeds, combustible waste, or
14 refuse from the property;

15 3. Secure any loose building components such as gutters or
16 roofing materials, and secure all doors, windows, and other openings to
17 prevent unauthorized entry. If boards are affixed for purposes of security or
18 maintenance, they must be painted to closely match building exterior
19 colors and maintained so as to remain secure;

20 4. Post signs prohibiting trespassing or limiting entry to
21 authorized personnel on at least one building façade and at each
22 pedestrian or vehicle entry point.

23 5. Remove pieces of peeling or flaking paint or stucco, and
24 repaint such areas to closely match existing color, and repair holes or
25 breaks that appear to affect more than 5% the building façade;

26 6. Replace dead landscape material as expeditiously as possible;

27 7. Keep all free-standing signs on the property in a state of good
28 repair or otherwise have them removed. In addition to any other
29 appropriate maintenance, at a minimum, good repair requires removal and
30 replacement of any peeling or flaking paint or finish that affects more than
31 5% of a surface that can be viewed from a public right-of-way, and
32 replacement or covering of missing elements that expose internal structure
33 or lighting components;

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1 8. Maintain and keep all outdoor lighting operational and
2 illuminated from dusk until dawn; and

3 9. Maintain parking lots to be free of potholes exceeding 6 inches
4 in width or other pavement damage exceeding 1 square foot in area.

5 § 14-20-6 Enforcement & Penalties.

6 A. Notice. The Zoning Enforcement Officer shall send a written notice
7 by certified mail, return receipt requested, to the agent designated for such
8 purposes pursuant to Section 14-20-5(A)(1), or if no such person has been
9 identified then to the owner of record as listed in the real property records of
10 the County Clerk. At a minimum, the notice must include:

- 11 1. A statement that a violation of this Section has been observed or
12 otherwise determined to exist;
- 13 2. A brief description of the nature of the violation;
- 14 3. Advisement of a 30 day grace period (or longer if appropriate in the
15 reasonable determination of the Zoning Enforcement Officer) within which
16 to come into compliance; and
- 17 4. A reference to the penalty provisions of this Section.

18 B. Penalty. If the property has not been brought into compliance within
19 the grace period set forth by the notice prescribed under subsection ‘A’ above
20 or any period of extension grated by the Zoning Enforcement Officer, the
21 owner or responsible party is subject to:

- 22 1. The penalty provisions set forth in § 1-1-99 of this code of
23 ordinances, with 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 to:
 - 27 a. Enjoin any person from violating or threatening to violate the terms,
28 conditions and restrictions of this ordinance;
 - 29 b. Collect civil assessments against the property of \$500 per day for
30 every day the property remains or remained in violation of this Section after
31 the expiration of the grace period or any extensions granted by the Zoning
32 Enforcement Officer identified in the notice by the Zoning Enforcement Officer
33 and;

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1 c. Recover damages from the owner of a parcel in an amount of money
2 adequate for the City to undertake any construction remediation, cleanup, or
3 other activity necessary to bring about compliance with this Section
4 ordinance.

5 3. In addition to judicial remedies, any expenditure by the City to bring the
6 property into compliance, or any damages or assessments are recoverable
7 through the imposition of a municipal lien on the parcel under NMSA 1978, §§
8 3-36-1 to 3-36-5. To the extent that monetary penalties are recovered as a
9 result of enforcement under this Section, any funds so recovered shall be
10 used exclusively for the purpose of funding enforcement activities under this
11 Section.”

12 SECTION 2. INITIAL COMPLIANCE. All vacant commercial buildings in
13 existence at the time of enactment of this ordinance, must become compliant
14 with the requirements of this ordinance within 90 days from the date of
15 enactment.

16 SECTION 3. 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 4. COMPILATION. SECTION 1 of this Ordinance shall be
24 incorporated in and made part of the Revised Ordinances of Albuquerque,
25 New Mexico, 1994.

26 SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect five days
27 after publication by title and general summary.