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1 WHEREAS, 25 buildings over the last 24-months have been brought into
2 compliance by making necessary improvements, ranging from re-paving a
3 parking lot to demolition and construction of a new building; and

4 WHEREAS, the Planning Department has affirmed in their review of the
5 pilot project this program has been successful over the last 24-months in
6 helping to remediate dilapidated buildings and properties; and

7 WHEREAS, the changes contained within this ordinance will permanently
8 implement the program in Council Districts Six and Nine; and

9 WHEREAS, there are minor changes to the program proposed in this
10 ordinance that will help the Planning Department with enforcement of this
11 program.

12 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
13 ALBUQUERQUE:

14 SECTION 1. §14-20 of ROA 1994 is hereby amended as follows:

15 “§14-20-1 SHORT TITLE.

16 SECTION §14-20 ROA 1994 shall be known and cited as the “Dilapidated
17 Commercial Buildings and Properties Ordinance”.

18 § 14-20-2 APPLICABILITY; PILOT PROGRAM.

19 This Article ~~adopts a pilot program to help remediate~~ [shall apply to]
20 dilapidated commercial buildings and properties as defined by subparagraph
21 14-20-4 within areas of the City covered by City Council Districts Six and Nine.

22 § 14-20-3 INTENT AND PURPOSES.

23 The intent of this Article §14-20 et seq. is to provide minimum aesthetic
24 standards and maintenance standards for dilapidated nonresidential
25 structures and properties, to prevent such structures and properties from
26 contributing to blight and negatively impacting surrounding property values
27 and redevelopment or economic development efforts ~~[, and to establish a pilot
28 program to be reviewed 24 months from the date of enactment].~~

29 § 14-20-4 DEFINITIONS.

30 DILAPIDATED COMMERCIAL BUILDING OR PROPERTY: For purposes of this
31 Section, any non-residential building or property which exhibits one or more
32 characteristic of dilapidation, including but not limited to:

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1 A. Overgrowth of fugitive plant materials including grasses or invasive
2 trees; or landscaping that is otherwise non-compliant with the requirements of
3 the zoning code, Section §14-16-3-10 (D)(3) and the Albuquerque Weed and
4 Anti-Litter Ordinance, Section 9-8-1 ROA 1994;

5 B. Unsecure, loose, or broken building façades, treatments, fixtures,
6 signs (including freestanding signs) or other façade features affecting more
7 than 15% of the façade or sign area;

8 C. Peeling or flaking paint, and any other significant deterioration of
9 building surface treatments affecting more than 15% of the facade;

10 **[D. Broken or unrepaired glass within any window or door (including**
11 **windows and doors covered by plywood or similar materials for a period**
12 **greater than seven days);**

13 **[E. Unsecured, loose, or broken features affecting more than 15% of any**
14 **sign (including freestanding signs);]**

15 ~~**[D.]**~~**[F.]** Broken windows or building entrances, or any other
16 characteristics demonstrating a lack of security or access control to the
17 property, building or buildings at the site;

18 ~~**[E.]**~~**[G.]** Unabated vandalism or graffiti;

19 ~~**[F.]**~~**[H.]** Outdoor lighting that is no longer compliant with the minimum
20 requirements of the zoning code;

21 ~~**[G.]**~~**[I.]** Broken pavement, interior sidewalks or pedestrian connections;
22 unsealed cracks exceeding 2 feet in length and 1 inch in width, or potholes
23 exceeding one (1) square foot in area within off-street parking areas; or

24 ~~**[H.]**~~**[J.]** Unabated trespass, or police calls for service that are
25 unrelated to any lawful use or business establishment at the location.

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

29 **§ 14-20-5 DILAPIDATED COMMERCIAL BUILDINGS PROHIBITED.**

30 A. No responsible party shall permit any building or property to become
31 or remain a dilapidated commercial building or property within the area of the
32 City covered by this Article.

1 **[B. No activities other than rehabilitation efforts to bring a building or**
2 **property into compliance with this Article are permitted to occur on the**
3 **building or property that has been deemed dilapidated.]**

4 **§ 14-20-6 COMPLIANCE & REMEDIATION.**

5 **A. Initial Focus. The Planning Department shall identify dilapidated**
6 **buildings or properties within the area of the City covered by this Article and**
7 **perform an inspection to itemize the conditions that constitute a dilapidated**
8 **commercial building or property as proscribed by this Article. Initial**
9 **inspections should be prioritized to address the largest and/or most**
10 **dilapidated buildings or properties first.**

11 **B. Remediation. The responsible party shall remediate or abate the**
12 **conditions identified in an initial written notice within 60 days (such 60-day**
13 **period hereafter shall be referred to as “Compliance Period”). This**
14 **Compliance Period may be reduced or eliminated by the Planning Department**
15 **should it appear to be a matter of public necessity for health and safety**
16 **reasons, and the Department is authorized to take immediate action to abate**
17 **such reasons.**

18 **C. If it is not possible, or if the responsible party declines or is**
19 **unsuccessful in fully remediating or abating the conditions creating a**
20 **dilapidated commercial building or property within the Compliance Period set**
21 **forth in Section 2 above, the responsible party shall:**

22 **1. Register the building or property with the Planning**
23 **Department through forms provided by the Department within 20 days of**
24 **expiration of the Compliance Period. The registration form shall at a minimum**
25 **require a description of the location and address of the building, and the**
26 **name, street address and telephone number of the responsible party. The**
27 **Planning Department shall collect a registration fee of \$500 for each initial**
28 **registration, but the Planning Director may reduce or waive this fee if it is**
29 **determined that substantial efforts have been made to bring the property into**
30 **compliance; and**

31 **2. Provide a written plan for how the property will be brought into**
32 **compliance with this ordinance within a ~~[six-month period]~~ [90 day period], or**
33 **longer if deemed appropriate by the Planning Director or designee. The**

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1 Planning Department shall make property owners aware of incentives and fee
2 reductions (e.g. impact fee waivers for redevelopment, façade improvement
3 programs) that are enabled in Metropolitan Redevelopment Areas under the
4 Metropolitan Redevelopment Act, if applicable.

5 D. The Planning Department shall reinitiate the process prescribed by this
6 subsection as necessary at any time or move directly to the enforcement and
7 penalties procedures described in Section 14-20-7, or otherwise take
8 enforcement action as authorized by any Section of the Zoning Code.

9 **§ 14-20-7 ENFORCEMENT AND PENALTIES.**

10 A. If the building or property is not successfully remediated or made
11 compliant pursuant to the process set forth in Section 14-20-6 above, the
12 responsible party is subject to:

13 1. The penalty provisions set forth in § 1-1-99 of this code of
14 ordinances; each day of violation is considered a separate offense; and

15 2. Instead of or in addition to the penalty provision set forth in §
16 1-1-99, the City acting through the City Attorney, is hereby authorized to file an
17 action in a court of competent jurisdiction as a means of compelling
18 compliance with this Ordinance, including compliance with those sections
19 cross referenced within the Zoning Code, to:

20 a. Enjoin any person from violating or threatening to
21 violate the terms, conditions and restrictions of this ordinance;

22 b. Collect civil assessments against the property of \$500
23 per day for every day the property remains or remained in violation of this
24 Section after the expiration of the Compliance Period or any extensions
25 granted by the Planning Department identified in the written notice(s) sent by
26 the Department; and

27 c. Recover damages from the owner of a building or
28 property in an amount of money adequate for the City to undertake any
29 construction remediation, cleanup, or other activity necessary to bring about
30 compliance with this ordinance.

31 B. In addition to judicial remedies, any expenditure by the City to bring the
32 building or property into compliance, or any damages or assessments are
33 recoverable through the imposition of a municipal lien on the parcel under

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1 NMSA 1978, ~~§~~ § 3-36-1 to 3-36-5. To the extent that monetary penalties are
2 recovered as a result of enforcement under this Section, any funds so
3 recovered shall be used exclusively for the purpose of funding enforcement
4 activities under this Section.

5 § 14-20-8 EXEMPTIONS. Buildings or properties which are on the National
6 Register of Historic Places, have been designated as Contributing Properties
7 to a Historic District on the National Register of Historic Places, or have been
8 designated by the City as City Landmarks are exempt from the requirements
9 of this ordinance.

10 ~~§ 14-20-9 EVALUATION OF PROGRAM. Upon the expiration of 24 months~~
11 ~~from the date of enactment, the Planning Department shall report to the City~~
12 ~~Council regarding the process and effectiveness of this pilot enforcement~~
13 ~~project, to include recommendations for adding or amending regulations and~~
14 ~~procedures described herein based on the results of initial implementation.~~
15 ~~The City Council shall analyze the effectiveness of this Article at that time and~~
16 ~~determine whether to repeal the program, expand it to other areas, or make~~
17 ~~other changes to this Ordinance.”]~~

18 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
19 clause, word or phrase of this Ordinance is for any reason held to be invalid or
20 unenforceable by any court of competent jurisdiction, such decision shall not
21 affect the validity of the remaining provisions of this Ordinance. The Council
22 hereby declares that it would have passed this Ordinance and each section,
23 paragraph, sentence, clause, word or phrase thereof irrespective of any
24 provision being declared unconstitutional or otherwise invalid.

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

28 SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect five days
29 after publication by title and general summary.

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