

# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

COUNCIL BILL NO. R-19-192 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Patrick Davis

1 RESOLUTION

2 DECLARING THE PROPERTY AT 3801 CENTRAL AVENUE NORTH EAST A  
3 PUBLIC NUISANCE; DIRECTING THE OWNER ENTER INTO A NUISANCE  
4 ABATEMENT AGREEMENT WITH THE CITY; DIRECTING THE CITY ATTORNEY  
5 TO FILE NUISANCE PROCEEDINGS WITH THE COURT FOR  
6 NONCOMPLIANCE.

7 WHEREAS, the building, structure or premises is located at 3801 Central  
8 Avenue Northeast, which is located and is more particularly described as:  
9 003LOTS 1 THRU 6 COLLEGE VIEW BUSINESS ADD; and

10 WHEREAS, the Police Department has responded to this property 437  
11 times between January 1, 2018 and April 30, 2019 (16 months), for calls  
12 including:

- 13 • 1 stabbing
- 14 • 18 other assaults
- 15 • 4 felony warrant arrests
- 16 • 41 incidents pf shoplifting, grab and runs, and forgery
- 17 • 125 calls for suspicious activity
- 18 • 2 calls for vandalism
- 19 • 246 disturbance calls to include fights, panhandler, shots fired; and

20 WHEREAS, the Fire Department has responded to this property 119 times  
21 between January 1, 2018 and April 30, 2019 (16 months), for medical and fire  
22 related calls; and

23 WHEREAS, The City of Albuquerque's 3-1-1 center has received 436  
24 complaints from residents reporting incidents within a one block radius of this  
25 location in the past two years; and

26 WHEREAS, COA COO 11-1-1-3(A), the "Nuisance Abatement Ordinance,"

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1 defines a nuisance as, among other things, "Any parcel of real property,  
2 commercial or residential, any personal property, or any vehicle on or in which  
3 any of the following illegal activities occurs, or which is used to commit,  
4 conduct, promote, facilitate, or aid the commission of or flight from any of the  
5 following activities," and includes incidents which have occurred on the  
6 property to include:

- 7 (23) Incidents of assault
- 8 (24) Aggravated assault
- 9 (25) Assault with the intent to commit a violent felony
- 10 (26) Battery
- 11 (27) Aggravated battery
- 12 (29) Assault against a household member
- 13 (30) Aggravated assault against a household member
- 14 (31) Assault against a household member with intent to commit a violent  
15 felony
- 16 (32) Battery against a household member
- 17 (33) Aggravated battery against a household member
- 18 (50) Incidents of littering
- 19 (60) Criminal damage to property
- 20 (61) Unauthorized graffiti on personal or real property
- 21 (62) Larceny
- 22 (68) Shoplifting; and

23 WHEREAS, COA COO 11-1-1-1, the "Nuisance Abatement Ordinance," also  
24 defines a nuisance as, among other things, "11-1-1-3(0), A public nuisance  
25 shall include and is further defined as any parcel of real property, commercial  
26 or residential, that is the subject of or that has been involved with calls for  
27 service to any law enforcement agency(ies) for violations of the criminal  
28 statutes cited in § 11 -1-1-3(A) defining public nuisance and shall include a  
29 repeated pattern of calls for service and complaints of vagrants, suspicious  
30 persons, suspicious cars, general calls for welfare checks, disorderly conduct,  
31 domestic violence, domestic altercations, domestic disputes, loud parties,  
32 loud music, neighborhood complaints, noise ordinance violations, and public

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1 drunkenness and shall be subjected to the imposition of penalties for public  
2 nuisance as provided by § 11-1-1-11 ROA 1994; and

3 WHEREAS, the business operating at the property operates 24 hours a day,  
4 seven days a week, year-round and has representatives on site to observe the  
5 listed activities, and police and fire reports indicate multiple contacts with  
6 staff on site regarding the calls for service outlined here, demonstrating that  
7 the management and/or owner knows or should know of the many public  
8 safety responses to the property; and

9 WHEREAS, the Nuisance Abatement Ordinance allows the City to enter into  
10 a nuisance abatement agreement with the owner of a nuisance property, or to  
11 file legal action against a nuisance property owner for non-compliance.

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

14 SECTION 1. That the findings of the City Council, in regard to said property  
15 at 3801 Central Avenue Northeast, it is found to be a nuisance property  
16 pursuant to § 11-1-1-11 ROA 1994, "The Nuisance Abatement Ordinance."

17 SECTION 2. That SOUTHWEST CONVENIENCE STRS INC C/O K E  
18 ANDREWS & COMPANY of ROWLETT, TX, record owner of said property or  
19 the current owner shall enter into a nuisance abatement agreement of same  
20 within fifteen (15) days after service of a copy of this Resolution or within said  
21 fifteen (15) day period, file written objection to findings herein with the City  
22 Clerk/Recorder of the City of Albuquerque, asking for a hearing before the City  
23 Council.

24 SECTION 3. If there is a failure of compliance with the provision of Section  
25 2 herein, the City Attorney is directed to file criminal proceedings pursuant to  
26 § 11-1-1-11ROA 1994.

27 SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
28 clause, word or phrase of this resolution is for any reason held to be invalid or  
29 unenforceable by any court of competent jurisdiction, such decision shall not  
30 affect the validity of the remaining provisions of this resolution. The Council  
31 hereby declares that it would have passed this resolution and each section,  
32 paragraph, sentence, clause, word or phrase thereof irrespective of any  
33 provisions being declared unconstitutional or otherwise invalid.