



Legislation Text

File #: O-16-11, Version: 3

CITY of ALBUQUERQUE
TWENTY-SECOND COUNCIL

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

SPONSORED BY: Don Harris and Patrick Davis

ORDINANCE

F/S Adopting A New Article In Chapter 14 ROA 1994, Zoning, Planning And Building, To Be Known As The "Vacant Commercial Buildings Ordinance." (Harris, Davis)

SECTION 1. A new article §14-20 of ROA 1994 is hereby adopted as follows:

§14-20-1 SHORT TITLE.

SECTION §14-20 ROA 1994 shall be known and cited as the "Vacant Commercial Buildings Ordinance".

§ 14-20-2 APPLICABILITY.

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

§ 14-20-3 INTENT AND PURPOSES

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

§ 14-20-4 DEFINITIONS.

VACANT COMMERCIAL BUILDING: For purposes of this Section, any non-residential building which, for any twelve consecutive month period, is not lawfully occupied to at least 50% of total occupiable square footage, or 65% of total units for buildings divided into permanently separated units. Occupancy shall be determined by the presence of furniture, equipment, inventory and human resources necessary to conduct business operations. Buildings which are on the National

Register of Historic Places, have been designated as Contributing Properties to a Historic District on the National Register of Historic Places, or have been designated by the City as City Landmarks are exempt from the requirements of this ordinance.

§ 14-20-5 GENERAL PROVISIONS.

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

1. Register the building with the Planning Department through forms provided within 30 days of becoming a vacant commercial building as defined by this section, and reregister annually thereafter for any building that remains a vacant commercial building. The registration form shall at a minimum require a description of the location and address of the building, and the name, street address and telephone number of the building owner, or of a natural person 21 years of age or older with a physical address located within Bernalillo County, designated by the owner or owners as the authorized agent for receiving notices or process on behalf of the owner(s) for purposes of notifications under this section. The Planning Department shall collect a registration fee of \$200 for each initial registration, and \$50 for the required annual reregistration;
2. Remove any accumulation of weeds, combustible waste, or refuse from the property;
3. Secure any loose building components such as gutters or roofing materials, and secure all doors, windows, and other openings to prevent unauthorized entry. If boards are affixed for purposes of security or maintenance, they must be painted to closely match building exterior colors and maintained so as to remain secure;
4. Post signs prohibiting trespassing or limiting entry to authorized personnel on at least one building façade and at each pedestrian or vehicle entry point.
5. Remove significant pieces of peeling or flaking paint or stucco, and repaint such areas to closely match existing color, and repair holes or breaks that appear to affect more than 5% of the building façade;
6. Replace dead landscape material as expeditiously as possible;
7. Keep all free-standing signs on the property in a state of good repair or otherwise have them removed. In addition to any other appropriate maintenance, at a minimum, good repair requires removal and replacement of any significant portions of peeling or flaking paint or finish that affects more than 5% of a surface that can be viewed from a public right-

of-way, and replacement or covering of missing elements that expose internal structure or lighting components;

8. Maintain and keep all existing or required outdoor lighting operational; and

9. Maintain parking lots to be level and serviceable.

B. For properties which are in violation of any of the requirements set forth in §A.2. through §A.9. upon initial registration or renewal described in §A.1., property owners shall provide a written plan for how the property will be brought into compliance with this ordinance within a period of time deemed appropriate by the Planning Director or his/her designee.

§ 14-20-6 Enforcement & Penalties.

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

1. A statement that a violation of this Section has been observed or otherwise determined to exist;

2. A brief description of the nature of the violation;

3. Advisement of a 30 day grace period (or longer if appropriate in the reasonable determination of the Zoning Enforcement Officer) within which to come into compliance;

and

4. A reference to the penalty provisions of this Section.

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

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

2. Instead of or in addition to the penalty provision set forth in § 1-1-99, the City acting through the City Attorney, is hereby authorized to file an action in a court of competent jurisdiction as a means of compelling compliance to:

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

b. Collect civil assessments against the property of \$500 per day for every day the property remains or remained in violation of this Section after the expiration of the grace

period or any extensions granted by the Zoning Enforcement Officer identified in the notice by the Zoning Enforcement Officer and;

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

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

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

SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

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

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