



Legislation Text

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CITY of ALBUQUERQUE
TWENTY-THIRD COUNCIL

COUNCIL BILL NO. O-19-72 ENACTMENT NO. _____

SPONSORED BY: Don Harris

ORDINANCE

Amending §14-20, The “Dilapidated Commercial Buildings And Properties Ordinance” To Implement Permanent Procedures Following The Conclusion Of A 24-Month Pilot Project (Harris)

WHEREAS, dilapidated commercial buildings and properties are often vacant and unattended to by responsible parties which tends to hasten further dilapidation if unchecked by the City; and

WHEREAS, dilapidated commercial buildings and properties often exist in highly visible locations because of their past and future potential for commercial viability, and can significantly contribute to blight within the City; and

WHEREAS, dilapidated commercial buildings and properties present general health, safety, and welfare concerns for the City because of dangerous physical deterioration, by providing potential venues for illicit activity, and by negatively impacting surrounding property values and economic development opportunities; and

WHEREAS, monitoring and enforcing existing zoning rules against dilapidated commercial buildings and properties presents several challenges including limited enforcement options and resource constraints; and

WHEREAS, establishing a dilapidated commercial building and property ordinance will help responsible parties and city zoning enforcement alike identify specific requirements for remediation and work together toward such remediation for the betterment of the community; and

WHEREAS, The City conducted a 24-month pilot project of the Dilapidated Commercial Buildings Ordinance in City Council Districts Six and Nine; and

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

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

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

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

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

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

“§14-20-1 SHORT TITLE.

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

§ 14-20-2 APPLICABILITY; PILOT PROGRAM.

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

§ 14-20-3 INTENT AND PURPOSES.

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

§ 14-20-4 DEFINITIONS.

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

A. Overgrowth of fugitive plant materials including grasses or invasive trees; or landscaping that is otherwise non-compliant with the requirements of the zoning code, Section

§14-16-3-10 (D)(3) and the Albuquerque Weed and Anti-Litter Ordinance, Section 9-8-1 ROA 1994;

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

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

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

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

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

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

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

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

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

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

§ 14-20-5 DILAPIDATED COMMERCIAL BUILDINGS PROHIBITED.

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

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

§ 14-20-6 COMPLIANCE & REMEDIATION.

A. Initial Focus. The Planning Department shall identify dilapidated buildings or properties within the area of the City covered by this Article and perform an inspection to itemize the

conditions that constitute a dilapidated commercial building or property as proscribed by this Article. Initial inspections should be prioritized to address the largest and/or most dilapidated buildings or properties first.

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

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

1. Register the building or property with the Planning Department through forms provided by the Department within 20 days of expiration of the Compliance Period. 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 responsible party. The Planning Department shall collect a registration fee of \$500 for each initial registration, but the Planning Director may reduce or waive this fee if it is determined that substantial efforts have been made to bring the property into compliance; and

2. Provide a written plan for how the property will be brought into compliance with this ordinance within a ~~[six-month-period]~~ [90 day period], or longer if deemed appropriate by the Planning Director or designee. The Planning Department shall make property owners aware of incentives and fee reductions (e.g. impact fee waivers for redevelopment, façade improvement programs) that are enabled in Metropolitan Redevelopment Areas under the Metropolitan Redevelopment Act, if applicable.

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

§ 14-20-7 ENFORCEMENT AND PENALTIES.

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

1. The penalty provisions set forth in § 1-1-99 of this code of ordinances; 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 with this Ordinance, including compliance with those sections cross referenced within the Zoning Code, 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 Compliance Period or any extensions granted by the Planning Department identified in the written notice(s) sent by the Department; and
- c. Recover damages from the owner of a building or property 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 ordinance.

B. In addition to judicial remedies, any expenditure by the City to bring the building or 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.

§ 14-20-8 EXEMPTIONS. Buildings or properties 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.

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

SECTION 2. 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 3. COMPILATION. SECTION 1 of this Ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

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