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1 WHEREAS, 8 of the owners that received 3 or more violations own 20 of the
2 properties and represent 8% of all UHC violations.

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

5 SECTION 1. A new Article 28 under Chapter 14 of the Revised Ordinances
6 of Albuquerque, 1994 is adopted as follows:

7 § 14-28-1 SHORT TITLE. This Chapter 14, Article 28 shall be known and
8 cited as the “Rental Habitability Enforcement Ordinance.”

9 § 14-28-2 INTENT AND PURPOSES. The intent of this ordinance is to
10 address violations of ROA 1994, § 14-3-2 Space and Occupancy Standards and
11 § 14-3-3 General Requirements under the City’s Uniform Housing Code. This
12 Ordinance applies to all residential rental units within the incorporated
13 Albuquerque City limits.

14 § 14-28-3 DEFINITIONS.

15 HABITABILITY VIOLATION. Any violation of conditions listed in the Uniform
16 Housing Code, ROA 1994, § 14-3-2-1, § 14-3-2-2, § 14-3-2-3, § 14-3-3-1, § 14-3-3-
17 2, and §14-3-3-3, that endangers life, limb, health, property, safety or public
18 welfare of the occupants of a Rental Property.

19 RESPONSIBLE PARTY. The owner(s) of any building, unit or property
20 subject to this ordinance, or the owner’s designee, or any other party
21 responsible for such building, unit or property by way of management, agency
22 or otherwise.

23 § 14-28-4 ENFORCEMENT TIERS.

24 (A) Tier 1 Habitability Violation:

25 (1) Upon receipt of a Habitability Violation, the Responsible Party
26 shall have 24 hours to abate the condition.

27 (2) If abatement requires a longer period, an extension may be
28 granted pursuant to Section 14-28-6 herein.

29 (B) Tier 2 Habitability Violation:

30 (1) If a Responsible Party receives three Habitability Violations
31 within a 12-month period the Responsible Party will be automatically fined
32 \$500.00 for the third violation and every Habitability Violation thereafter for a
33 12-month period from the issuance of the most recent violation.

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1 (2) The Responsible Party shall have 24 hours to abate the
2 condition upon receipt of notice from the City. Unabated habitability violations
3 shall be issued daily, unless an extension is granted.

4 (3) If abatement requires a longer period, an extension may be
5 granted pursuant to Section 14-28-6 herein.

6 § 14-28-5 EXCLUSIONS. The Rental Unit Habitability Ordinance does not
7 apply to dwelling units that are only owner-occupied, short-term rentals,
8 hotels or other transient lodging units.

9 § 14-28-6 REMEDIATION EXTENSIONS.

10 (A) If the Habitability Violation requires a longer period than 24 hours for
11 abatement, the Responsible Party shall provide a written plan for how they will
12 achieve compliance at the Rental Property. The written plan shall include, but
13 is not limited to, a reasonable timeline, description of necessary
14 improvements, active building permit numbers, milestones for completion,
15 and anticipated occupancy date.

16 (1) If the Habitability Violation is not abated pursuant to the
17 extended timelines provided in § 14-28-6(A) of this section, a civil penalty of
18 \$500.00 shall be imposed upon the Rental Property’s Responsible Party. An
19 extra \$500.00 daily fine shall be imposed upon the Rental Property’s
20 Responsible Party until the Habitability Violation is remediated.

21 § 14-28-7 RELOCATION. If remediation requires a longer abatement period
22 than 7 days, the Responsible Party of the Rental Property shall pay relocation
23 costs for the residents of such Rental Property(ies). This requirement shall be
24 applicable when any condition which is the basis for the order of remediation
25 is within control of the Responsible Party and the Responsible Party knew or
26 should have known of the existence of the conditions that violate applicable
27 codes, statutes, ordinances or regulations prior to the order for abatement.
28 Notice of such conditions by a governmental agency responsible for the
29 enforcement of Rental Property or other appropriate code served on the
30 Responsible Party shall be proof that the Responsible Party knew of the
31 conditions.

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1 (a) Payment of relocation costs shall be made by the owner to the
2 Rental property tenant to facilitate relocation within 7 days after the
3 Responsible Party's receipt of a Habitability Violation.

4 (b) If the Responsible Party fails to relocate their tenant within 7
5 days, the City shall administer the relocation and the relocation costs shall be
6 paid in full by the Responsible Party, to the City, within 30 days of the original
7 receipt of the Habitability Violation, or the order of a lien may be placed upon
8 the subject property or any asset owned by the subject property's
9 Responsible Party and that the City may seek remedies, including foreclosure,
10 for any unpaid liens.

11 § 14-28-8 IMMINENT HAZARD. If the Habitability Violation rises to the status
12 of Imminent Hazard per § 11-1-1, the Mayor's Designee will follow the
13 abatement process identified therein.

14 § 14-28-9 NOTICE OF VIOLATION.

15 (1) When the Mayor's designee imposes a civil fine for violations of this
16 article occurring on real property, the Mayor's designee shall issue notice
17 directed to the Owner and/or Responsible Party of the subject Rental Property
18 and the occupant of the Rental Property, as shown on the record of the
19 Bernalillo County Clerk and/or the Bernalillo County Assessor's Office. The
20 notice shall be presented in person to the Responsible Party, if accessible, or
21 sent via certified mail, if the Responsible Party is absent, and must contain:

- 22 (a) The street address and a legal description of the subject
23 property;
- 24 (b) A statement that the Mayor's designee has found the subject
25 property to be in violation of this article;
- 26 (c) A concise description of the conditions found to render the
27 subject property containing a Habitability Violation;
- 28 (d) The amount of the fine assessed;
- 29 (e) A statement that the fine must be paid in full within 30 days of
30 the date of the order or a lien will be placed upon the subject property or any
31 asset owned by the subject property's owner and that the City may seek
32 remedies, including foreclosure, for any unpaid liens;
- 33 (f) Instructions for how the fine can be paid;

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1 (g) A statement that payment plans or waivers may be available if
2 the person can demonstrate hardship, low income or indigent status; and

3 (h) Description of the Tiered System under § 14-28-4 for
4 Habitability Violations.

5 (i) Description of the appeal process.

6 (2) The failure of any such person to receive such notice shall not affect
7 the validity of any proceedings taken under this section. Service by certified
8 mail in the manner herein provided shall be effective on the date of mailing.

9 (3) APPEAL. Any individual who has been assessed a civil fine issued
10 pursuant to this article may appeal that decision. The request for appeal and
11 the hearing shall comply with the procedures outlined in the Independent
12 Office of Hearing Ordinance, ROA 1994 §§ 2-7-8-1 to 2-7-8-9.

13 SECTION 2. HABITABILITY VIOLATION ANNUAL REPORT. Per SECTION 1
14 of this Ordinance, the Mayor, or the Mayor’s designee shall provide an annual
15 report to the City Council at the first City Council meeting in January, via
16 Executive Communication (EC), which shall include, but is not limited to:

17 (a) A list of all Tier 1 and Tier 2 Habitability Violations city-wide
18 throughout the previous calendar year.

19 (b) Revenue collected through the requirements of this Ordinance.

20 (c) A map showing all locations of the Habitability Violations.

21 SECTION 3. USE OF FEES AND REVENUE. Revenue derived from the
22 Rental Unit Habitability Ordinance shall be accounted for separately within the
23 General Fund (110) and shall be used solely for Rental Unit Habitability
24 Ordinance enforcement and tenant assistance.

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

32 SECTION 5. COMPILATION. SECTION 1 of this Ordinance is to be
33 compiled as a new Article 28 in Chapter 14 of the Revised Ordinances of

1 **Albuquerque, New Mexico, 1994, titled “Rental Habitability Enforcement**
2 **Ordinance.”**

3 **SECTION 6. EFFECTIVE DATE. This Ordinance takes effect five days after**
4 **publication by title and general summary.**

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