



**Environmental
Planning
Commission**

**Agenda Number: 10
Project Number: 1001620
Case Number: 16EPC-40014
April 14, 2016**

Staff Report

Agent City of Albuquerque Planning Department

Applicant City of Albuquerque Planning City
Council Services

Adding a new article (Article 20) to Chapter 14 Revised Ordinances of Albuquerque (ROA) 1994- Zoning, Planning and Building- to be known as the Vacant Commercial Buildings Ordinance, to allow regulation of vacant commercial buildings.

Location City-wide

Staff Recommendation

That a recommendation of *CONDITIONAL APPROVAL* of 16EPC-40014 be forwarded to the City Council based on the Findings beginning on Page 20 and subject to the Conditions beginning on Page 22.

**Staff Planner
Catalina Lehner, AICP-Senior Planner**

Summary of Analysis

The request is for a recommendation to City Council regarding a new article in Chapter 14- Zoning, Planning and Building, of ROA 1994. The proposed new Article 20 would be entitled Vacant Commercial Buildings Regulations. Bill No. O-16-11 was introduced at City Council on February 17, 2016 and referred to the Planning Department. The EPC is a recommending body; the City Council will make the final decision.

The proposed new article would allow regulation of vacant commercial buildings and structures and would apply City-wide. Vacant commercial buildings would be defined as non-residential structures that have not been lawfully occupied or subject to any construction activity for three months. The proposed regulations would require that vacant commercial buildings be maintained, monitored, and secured. A responsible party would have to register the building, and pay a fee, within 30 days of it becoming vacant or assuming ownership. Liability insurance would also be required.

Staff finds that the proposed new article generally furthers the few Goals and policies that apply, and the applicable, overarching intentions in the City Charter. However, much of what is proposed in the new article is already found elsewhere in ROA 1994, including regulations pertaining to weeds and litter, to securing, repairing or demolishing unsafe buildings, and to maintaining building exteriors. If the intention is to prevent vacant commercial buildings from adversely affecting aesthetics, this can be accomplished mostly with existing regulations.

Staff recommends that the legislation be substantively re-written to eliminate repetitive regulations and inconsistencies, and also to address enforcement and implementation issues. Staff recommends that a recommendation of conditional approval be forwarded to the City Council.

City Departments and other interested agencies reviewed this application from 02/29/2016 to 03/16/2016. Agency comments used in the preparation of this report begin on Page 26.

I. INTRODUCTION

Request

The request is for a recommendation to City Council regarding the addition of a new article to Chapter 14 of the Revised Ordinances of Albuquerque (ROA) 1994. Chapter 14 is titled Zoning, Planning and Building and the new article would be Article 20 and titled Vacant Commercial Buildings. The proposed new article would allow regulation of vacant commercial (non-residential) buildings and structures in the City of Albuquerque, and would be placed after Article 19- Impact Fees. Article 3, the Uniform Housing Code, contains regulations for vacant residential buildings.

The proposed new article is found in draft legislation authored by Council Services, known as Bill No. O-16-11 (see attachment). O-16-11 was introduced at City Council on February 17, 2016 and subsequently referred to the Planning Department for review.

Purpose

The overarching purpose of the proposed new article is to improve the aesthetics of the built environment, prevent further blight, and provide a mechanism to facilitate the restoration or demolition of vacant commercial buildings and/or finding a new use for them. Vacant commercial buildings, defined as non-residential structures that have been vacant or not lawfully occupied for at least three consecutive months, would be subject to the new regulations.

Currently, ROA 1994 contains regulations for vacant buildings as part of the Uniform Housing Code (§14-3-1-4), though these regulations apply only to vacant residential buildings. The proposed new article, however, would establish regulations that apply to vacant commercial buildings. To ensure that such buildings and sites do not adversely affect public health, safety and welfare, standards for maintenance and security are also included. Property owners would be required to maintain vacant commercial buildings, register them with the City and have liability insurance.

Scope

Like other cases that introduce a new article to ROA 1994, and cases consisting of proposed text amendments to the Zoning Code (Article 16) or other articles, the request would apply City-wide. The proposed legislation would apply to all vacant commercial buildings and is an ordinance of general application. The request is a legislative matter.

Environmental Planning Commission (EPC) Role

The task of the Environmental Planning Commission (EPC) is to make a recommendation to the City Council regarding the proposed new article. The City Council is the City's Zoning Authority and will make the final decision. The EPC is a recommending body with review authority.

II. OVERVIEW

Background

The proposed new article (Bill No. O-16-11) was created to address concerns that vacant commercial buildings adversely affect the aesthetics, and often safety, of the City's built environment. Many buildings have remained vacant and/or "boarded up" indefinitely, for long periods of time. Some are in a state of disrepair. The prolonged vacancies, disrepair and overall lack of attention over time can

contribute to blighted conditions in a neighborhood and/or area. Generally, blighted conditions can make it difficult for economic development or re-development to occur. In many cases, vacant commercial buildings are located in Metropolitan Redevelopment Areas (MRAs) designated by the City.

One example is the Franklin Plaza shopping center at the NE intersection of Juan Tabo Blvd. and Central Ave. NE, and in the East Gateway MRA. Though once a thriving commercial center, several tenants have moved out over time and it has fallen into disrepair. A few businesses remain, such as a bank and a fast-food restaurant. A bingo hall occupies part of the mostly vacant commercial strip along the back portion of the center.

Concern about vacant buildings, however, extends to other parts of the City, and particularly applies to areas such as San Mateo Blvd. south of Zuni Rd., where several commercial buildings have been vacant for some time and have contributed to the area's blighted character. This area is part of the Near Heights MRA Expansion Area.

Research & Information

Council Services Staff conducted research regarding how other municipalities deal with vacant commercial buildings. Ordinances from Denver, Chicago, Fresno, Tucson, and Milwaukee were reviewed (see attachment). Some concepts from these ordinances were carried over into Albuquerque's proposed legislation regarding vacant commercial buildings.

The comparison brings some relevant topics, such as definitions, to the forefront. All of the reviewed ordinances refer to vacant buildings or vacant structures. Denver, Tucson, Fresno, and Milwaukee do not differentiate between vacant residential and vacant commercial buildings in this portion of their Administrative Codes, though Chicago does. However Chicago, unlike the other jurisdictions, has a separate Department of Buildings to deal with vacant buildings and has been a highly-dense City for several years.

It appears that none of the jurisdictions reviewed have separate ordinances, or separate Articles in Chapters of their Administrative Codes, to differentiate between vacant residential buildings and vacant commercial buildings—but this is proposed for Albuquerque. Albuquerque's Uniform Housing Code is Article 3 of Chapter 14- Zoning, Planning & Building- and the proposed legislation would become a new Article 20 in Chapter 14.

In all but Tucson, registration of a vacant building is required. The Denver and Chicago ordinances require a local resident to be available as a primary contact. This requirement is included in the proposed legislation.

All of the reviewed ordinances require fees. Denver assesses a fee if the building owner fails to register or doesn't address violations. Chicago requires a registration fee and subsequent fees for not addressing violations. Albuquerque's proposed ordinance would require a registration fee, a registration renewal fee and a fee for each day of violations of Code requirements (see also Section VII of this report).

Summary of Related Regulations

Existing regulations address much of what is contained in the new proposed article. Regulations pertaining to weeds and litter, to securing, repairing or demolishing unsafe buildings, and to maintaining building exteriors are already found in ROA 1994.

Article 3 of Chapter 14 ROA 1994- Zoning, Planning and Building- the Uniform Housing Code, establishes requirements and standards for residential buildings, which are defined as buildings designed or used for human habitation. Though the proposed new article would address vacant non-residential buildings, portions of the Uniform Housing Code are similar and worth considering, especially Part 5- Administration and Enforcement.

Unsafe buildings are addressed in the Uniform Administrative Code (106.4) and in the Building Code (Sections 115-117). Maintenance of buildings and structures is required by the Uniform Administrative Code, the Building Code, and the Zoning Code.

The Weed & Anti-Litter Ordinance (§9-8-1 ROA 1994) requires that property owners remove weeds, debris, trash. The Graffiti Vandalism Ordinance is in Article 1 of Chapter 11- Nuisance Abatement.

→See Section V of this report for an analysis of existing regulations as they relate to the proposed legislation.

III. DEFINITIONS & LAND USE

Chapter 14 ROA 1994- Zoning, Planning & Building- contains definitions relevant to the proposed legislation. The following are from Article 16, the Zoning Code, and are found in §14-16-1-5(B):

NONCONFORMING. A structure or use of structure or land which does not conform to applicable zoning and which was in conformity with applicable zoning in effect at the time it was created.

OFFICE. A place where consulting, record keeping, the work of a professional person such as a physician or lawyer is done, or a headquarters of an enterprise or organization; the sale of on-premises goods is not included.

PREMISES. Any lot or combination of contiguous lots held in single ownership, together with the development thereon; there may be multiple occupancy.

STRUCTURE. Anything constructed or erected above ground level which requires location on the ground or attached to something having a location on the ground but not including a tent, vehicle, vegetation, or public utility pole or line.

Additional relevant definitions are found in Article 3- Uniform Housing Code- of Chapter 14 (§14-3-1-4):

STRUCTURE. A structure is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

VACANT BUILDING. A dwelling, dwelling unit, efficiency dwelling unit, habitable space, residential building, or structure lacking the continuous habitual presence of human beings who have a legal right to be on the premises for a period of 90 days or longer but excluding property under a listing agreement with a real estate agent licensed in New Mexico.

Though undefined in Zoning Code §14-16-1-5, Definitions, or elsewhere, commercial buildings are can be understood to be buildings used for the sale of on-premises goods. The definition of Office states that “the sale of on-premises goods is not included” in an office building. Both office and commercial buildings are non-residential buildings. The proposed new article contains the following definition of Vacant Commercial Building. Revisions are needed to improve clarity, which is desirable for enforcement purposes (see Section VIII of this report).

VACANT COMMERCIAL BUILDING. A vacant building shall be defined as a non-residential structure that is, for any three consecutive months, not lawfully occupied, wholly or partially boarded up, and does not show evidence of substantial and ongoing construction activity.

The Uniform Housing Code contains a definition of Vacant Building (see above) that defines a vacant building as a residential dwelling, space, or building. For clarity and internal consistency in ROA 1994, Staff suggests adding the word “residential” to the definition of Vacant Building in the Uniform Housing Code (see Section VIII of this report).

Staff does not suggest adding another definition of “structure” to ROA 1994. There are already two, and they differ. However, should Council desire that the proposed new article apply to structures and wants to define structure, Staff suggests the following for the proposed, new article:

STRUCTURE. Anything constructed or erected that requires location on the ground, a building of any kind, or any piece of work artificially built up excluding a tent, vehicle, vegetation, or public utility pole or line.

Commercial Land Uses

Examining commercial land use in Albuquerque gives an approximate idea of the scope of the proposed new article, which would apply City-wide to commercial buildings (but not to office buildings or residential buildings). Most commercial buildings are located on commercially zoned land, which includes zones such as C-1, C-2, C-3 and more intense zones such as M-2 and M-2 that refer to the C-2 zone.

Though the amount of commercial uses can be approximated by looking at zoning, land use is a better indicator because there are some instances when a land use does not correspond to a property’s zoning. For example, some commercial buildings may exist on land that is not commercially zoned and may be non-conforming uses. Also, SU-1 and SC zones often include commercial uses, but SU-1 zones are often for non-commercial uses such as churches or institutions.

GIS Staff prepared a City-wide map of commercial land uses (see attachment). The map shows the GIS layers “commercial/retail” and “commercial/ service”. The purpose is to give an approximation of the scope of the proposed new article and how many properties could potentially be affected, whether now or later.

Though a few of the properties in commercial land use may not have structures upon them, these properties could be affected by the proposed new article. Many such properties are located along major arterials such as Central Ave., Menaul Blvd., Fourth Street, and Coors Blvd. NW. It's not possible to tell from mapped information, however, if any properties have vacant buildings or structures upon them or for how long they have been vacant (see also Section VII of this report).

IV. ANALYSIS OF APPLICABLE LAWS, ORDINANCES & PLANS

Applicable ordinances, plans, and policies are in regular text followed by Staff analysis in ***bold italics***.

Albuquerque Code of Ordinances- City Charter

The Citizens of Albuquerque adopted the City Charter in 1971. Applicable articles include:

Article I, Incorporation and Powers

“The municipal corporation now existing and known as the City of Albuquerque shall remain and continue to be a body corporate and may exercise all legislative powers and perform all functions not expressly denied by general law or charter. Unless otherwise provided in this Charter, the power of the city to legislate is permissive and not mandatory. If the city does not legislate, it may nevertheless act in the manner provided by law. *The purpose of this Charter is to provide for maximum local self government.* A liberal construction shall be given to the powers granted by this Charter.” (emphasis added)

Article IX, Environmental Protection

“The Council (City Commission) in the interest of the public in general shall protect and preserve environmental features such as water, air and other natural endowments, ensure the proper use and development of land, and promote and maintain an aesthetic and humane urban environment. To affect these ends the Council shall take whatever action is necessary and shall enact ordinances and shall establish appropriate Commissions, Boards or Committees with jurisdiction, authority and staff sufficient to effectively administer city policy in this area.”

Adding a new article to the ROA 1994 to allow regulation of vacant commercial buildings is an exercise in local self-government (City Charter, Article 1). Establishing regulations to require maintenance, security, and registration of vacant commercial buildings generally expresses the Council's desire to ensure the proper use and development of land (City Charter, Article IX). The proposed new article would generally help promote and maintain an aesthetic and humane urban environment and would apply City-wide.

Albuquerque Code of Ordinances- Chapter 14, Zoning, Planning & Building

The proposed legislation would become a new Article 21 in Chapter 14 of the Albuquerque Code of Ordinances, referred to as the Revised Ordinances of Albuquerque 1994 (ROA 1994). The Zoning Code, Article 16 of Chapter 14, would not be affected. Unlike the Zoning Code, Chapter 14 does not include a general statement of purpose such as promoting the health, safety, and general welfare of the public. Staff's review of the City Charter, for Articles applicable to the request, is included above.

Albuquerque/Bernalillo County Comprehensive Plan

The Comprehensive Plan, the Rank I planning document for the City, contains goals and policies that provide a framework for development and service provision. The Plan's goals and policies serve as a means to evaluate development requests and proposed legislation. The following Goals and policies apply to the current request:

B. Land Use

Developing and Established Urban Area Goal: The Goal is "to create a quality urban environment, which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles, while creating a visually pleasing built environment."

The proposed new article would generally contribute to a quality urban environment because it would require the maintenance and registration of vacant commercial buildings, which would help create a visually pleasing built environment. However, it would not apply retroactively to commercial properties that were already vacant as of the ordinance's effective date. Buildings that become vacant after that time would have to be registered. Though it may not have a significant effect in some areas, the request generally furthers the Developing and Established Urban Area Goal.

Policy II.B.5o: Redevelopment and rehabilitation of older neighborhoods in the Established Urban Area shall be continued and strengthened.

To the extent that older neighborhoods have commercial uses in or near them, the proposed new article could help address commercial buildings that have become vacant. Such buildings would be required to be maintained and, if blighted, repaired. However, the proposed legislation would apply City-wide and not just in older neighborhoods. The request partially furthers Policy II.B.5o-redevelopment of older neighborhoods.

C. Environmental Protection & Heritage Conservation

Developed Landscape Goal: The Goal is to maintain and improve the natural and the developed landscapes' quality.

In general, the proposed new article would help maintain and improve the quality of the developed landscape because it would require that vacant commercial buildings be maintained and repaired so that they appear to be in a good condition and are safe. The request generally furthers the Developed Landscape Goal.

D. Community Resource Management

Public Safety Goal: The Goal is to develop a safe and secure community in cooperation with the public and other governmental agencies.

Policy II.D.9d: Emergency and routine crime prevention efforts shall be continued and improved.

The proposed new article would generally help support development of a safe and secure community since it would address vacant buildings that have become a problem due to being

improperly maintained or in a state of disrepair. The request generally furthers the Public Safety Goal. Similarly, addressing such vacant buildings would generally help continue and improve crime prevention efforts. The request generally furthers Public Safety Policy II.D.9d.

V. ANALYSIS OF EXISTING REGULATIONS

The proposed new article would create regulations for many topics that are already regulated in other locations of ROA 1994. Duplicative regulations are generally undesirable because they are more likely to result in inconsistent application than regulations that are non-repetitive and organized to group similar regulations by subject.

Organization

As mentioned, regulations for vacant residential buildings and related definitions are found in the Uniform Housing Code (the “UHC”), which is Article 3 of Chapter 14 ROA 1994- Zoning, Planning & Building. The proposed regulations would be a new Article 20, appended at the end of Chapter 14. Here are two organizational possibilities: 1) place all regulations for vacant buildings (residential and commercial) in one article, or 2) place the vacant commercial buildings regulations in Article 3 and re-title Article 3 (ex. Uniform Housing Code & Vacant Buildings Regulations).

Repetition & Substance

With the exception of the aesthetic aspects of vacant commercial buildings and the establishment of a tracking and administrative system specific to vacant commercial buildings, existing regulations in ROA 1994 address most of what is contained in the proposed new article. The following is a summary of a more detailed table prepared by Code Enforcement Staff (see attachment):

Part of Proposed Article	Topic	Existing Regulation(s)
(B)(1)	Remove weeds, waste, refuse	Weed & Anti-Litter Ordinance
(B)(1)	Secure doors, windows, openings to prevent unauthorized entry	Uniform Administrative Code, Building Code, Zoning Code
(B)(2)	Water not to accumulate or stand on ground	Hydrology, DPM
(B)(3)	Exterior walls free of holes, breaks, loose boards	Uniform Administrative Code, Building Code, Zoning Code
(B)(4)	Maintain building exterior in good condition	Uniform Administrative Code, Building Code, Zoning Code
(B)(5)	Remove graffiti	Street Excavation & Barricading Ordinance, Municipal Solid Waste Ordinance

The Uniform Administrative Code (106.4) and the Building Code (Sections 115-117) address unsafe buildings. The Uniform Administrative Code is Article 1 of Chapter 14- Zoning, Planning and Building. 14-1-3 adopts a long list of building codes (see attachment), including the New Mexico Commercial Building Code. These regulations allow the City to make a building safe, remove it or

restore it, and to pass costs on to a responsible party. The Uniform Administrative Code, the Building Code, and the Zoning Code all require maintenance of buildings and structures.

Weed & Anti-Litter Ordinance (§9-8-1 ROA 1994) requires that property owners remove weeds, debris, trash, etc. The Graffiti Vandalism Ordinance is in Article 1 of Chapter 11- Nuisance Abatement.

VI. ADDITIONAL CONCEPTUAL ISSUES & ANALYSIS

Definitions & Scope

Staff is concerned about the proposed definition of Vacant Commercial Building for two reasons. First, as stated in Section III of this report, two definitions of “structure” already exist: one is in Zoning Code §14-16-1-5, Definitions, and the other is in §14-3-1-4, the Uniform Housing Code (UHC). Staff does not recommend introducing a new definition for purposes of the proposed new article because doing so would create more internal inconsistency within Chapter 14-Zoning, Planning & Building. (However, should the EPC and/or the City Council disagree, a proposed definition is found in Section III.) Rather, the definition of “Vacant Building” found in the UHC should be revised to be “Vacant Residential Building”.

More importantly, using “structures” instead of building would significantly expand the scope of the proposed new article, and the result would not make sense. In the proposed legislation (see attachment), the term structure is found on Page 1, Lines 16 and 20, and on Page 2, Line 5. References are to “non-residential structures” and the second reference is to “building or structure”.

Structures include anything constructed above the ground that requires location on the ground, or attached to something on the ground, but excluding a tent, vehicle, vegetation, or public utility pole or line. The term structures includes buildings, but the term buildings does not include structures. Using the term structure instead of building would mean that commercial structures such as gas station canopies, wireless telecommunications facilities (WTFs), signs attached to the ground, etc. would become subject to regulations for vacant commercial buildings. These are not occupied uses so therefore they would never be vacant. Since the title of the proposed new article remains “Vacant Commercial Buildings Ordinance”, it is unlikely that this is an intended result.

Second, in the proposed definition (Page 1, Lines 18-22), the three consecutive months that must be met for the building to be defined as vacant is qualified as follows: it must not be lawfully occupied, boarded up, and not show evidence of construction activity. Are these “or” clauses or “and” clauses? In other words, must all be fulfilled for the building to be defined as vacant? If all must be met, the effect would be of leaving out buildings that meet one or two of the criteria and giving them a way to not be defined as vacant, thereby leaving them not subject to the regulations.

Third, the party responsible for a vacant building would be required to remove weeds, trash, etc. from the “interior of the building or structure and the surrounding yards”. Staff suggests using the term “building” only, as explained above. Also, it does not make sense for a property owner to be required to clean up surrounding yards. Yards are associated with residential uses. If “surrounding property” is

meant, it wouldn't make sense to require the owner of a vacant building to clean up the lots of the properties that surround his lot.

Appeal Processes

The proposed new article would establish an appeals process that utilizes a hearing officer through the Office of Independent Hearings. A property owner who receives a Notice of Violation would have 15 days from the notice's date to request an appeal hearing. Hearings would be conducted pursuant to the IHO Ordinance. The City Clerk's office would accept appeal applications. The Clerk's office may or may not be aware of the new administrative duty.

→See also Section VII of this report.

The appeal process for vacant commercial buildings would differ from the appeals process for vacant residential buildings established in the UHC (see §14-3-5-4). Appeals regarding vacant residential buildings go to a body, the Housing Advisory and Appeals Committee (the HAAC), which is administered through the Planning Department. Appeal applications are submitted at the Planning Front Counter.

Though unnecessary that the appeal procedures be the same, the amount of overlap in the regulations for vacant residential buildings and vacant commercial buildings suggests that a similar process to resolve appeals could be used for both. Staff's understanding is that City Legal prefers to go in the direction of using an independent hearing officer. Perhaps the UHC could be amended at some point to follow suit.

VII. ENFORCEMENT & IMPLEMENTATION ISSUES

Implementation issues warrant further discussion and can be divided into Enforcement Concerns and Financial Aspects. Staff met with Code Enforcement Staff and the Code Compliance Manager (CCM, often also referred to as the Zoning Enforcement Official or ZEO). Several practical concerns became apparent. So that the proposed legislation does not create lack of enforceability and/or misaligned expectations by the public, it is critical to explore these concerns now. The legislation needs to be manageable for it to be effective.

Tracking & Administration

As written, the proposed new article would create difficulty for Code Enforcement Staff. The regulations would require that the Planning Department develop a system to register and track vacant commercial buildings, administer fees and note violations and if/how they've been addressed. Though a system is in place for vacant residential buildings, a new system would be needed to deal with vacant commercial buildings. Someone would need to be in charge of administering the system.

In addition to fees and violations, three requirements would have to be tracked: the thirty day period to register a vacant commercial building, the no more than three consecutive months that a building is allowed to be vacant, and the no more than 180 days in one year that a vacant commercial building can be boarded up. Each requirement would have to be tracked for each vacant commercial building. This could get complicated quickly, for a variety of reasons.

The proposed legislation (Page 2, Lines 29-33) would give the owner of a vacant commercial building 30 days to register it—either 30 days after becoming vacant or 30 days after acquiring the building. More often than not, however, it won't be possible to know exactly when a commercial building became vacant. Building owners are not likely to self-report, especially knowing that penalties such as fees and enforcement actions could result. Also, it is unfeasible for a City Staff person to patrol the entire City looking for commercial buildings that have just become vacant. Even supposing this is possible, there would not be a way to know by a site visit if the building became vacant that same day, yesterday or months ago.

Therefore, the proposed legislation is likely to be invoked on an “as reported” basis. Individuals could report vacant commercial buildings if they become concerned about a building's state of disrepair, appearance or a safety issue. A Code Enforcement inspector would visit the property. It would still be difficult to determine when the building became vacant unless the owner provides that information. The vacant building clock would begin on the date the building was reported which, in many cases, is likely to differ from the date the building actually became vacant.

Tracking the “three consecutive months” of vacancy required for a commercial building to be deemed vacant (Page 1, Lines 19-22) could be difficult for several reasons. One that stands out is how to determine when Day 1 of the three month clock begins (see Section VI of this report for details). Similarly, it would be difficult to determine the exact day when a building became boarded up; the proposed regulations would not allow a vacant commercial building to be boarded up for more than 180 days (6 months) in any one-year period (Page 2, Lines 12-15). Staff would have to try to get information from the owner, who may (or may not) be willing or able to provide the exact date the building was boarded up. Staff would then be put in the awkward position of making an educated guess; guessing doesn't provide a solid foundation for pursuing enforcement action.

The proposed regulations for maintenance of a vacant building's site, and the building itself, could also be challenging to implement. On a field visit, Code Enforcement Staff would have to determine what “good condition” means in practicality; they would have to determine if at least 95% of the paint, on any painted surface, is intact via visual inspection (Page 2, Lines 22-26). Staff is again put in the awkward position of making an educated guess.

Violations & Remedies

The proposed new article would establish an appeal procedure to deal with instances of non-compliance, but it would differ from the process established by the Zoning Code. The new Article 20 would not be part of the Zoning Code (Article 16 of Chapter 14), which is a criminal code. Section 14-16-4-10, Violations and Remedies, expressly grants authority to the Zoning Enforcement Officer (Staff) to “institute an appropriate action or proceeding” to correct violations of the regulations. Similar language giving authority to enforce provisions of ROA 1994 is found in the Weed and Litter Ordinance and the Nuisance Abatement Ordinance, for example.

To establish a way to deal with violations, it would be possible to include language similar to the Zoning Code in the proposed legislation, though this is not advisable. Under the Zoning Code, a Notice of Violation (NOV) is issued for violating a regulatory provision; it is a criminal complaint. The person to whom the NOV was issued is notified by the Court and must enter a pleading: guilty

and pay the fee, or go to trial. Zoning Code violations are misdemeanors and go to Court alongside cases for traffic offenses, DWI, and abuse. Often judges do not consider such regulatory violations to be as serious as the other types of cases before them.

Another approach is to include language to allow an opportunity to settle regulatory violations and disagreements administratively; this is what is proposed (Pages 3 & 4, Lines 31-33 and 1-3). This can be done through a hearing officer, who would act as a judge and determine a remedy, outside of the judicial system. This way, the person who received the NOV would not be criminalized and would not receive a misdemeanor, and City cases would not burden the judicial system.

Language regarding appeal procedures is included. All NOVs issued pursuant to the Vacant Commercial Buildings regulations could be appealed by someone with a legal interest in the property, which would include the owner, tenants, managers, etc. If there is no disagreement between the NOV recipient and the City, the NOV could be settled administratively without an appeal. However, if there is a disagreement, the appeal procedures could be used. Appeals would be filed at the City Clerk's office and heard by a hearing officer from the Office of Administrative Hearings pursuant to the IHO Ordinance. The proposed appeals process would allow for settlement outside of the judicial system.

Financial Aspects

As written, the proposed legislation would create an expectation that the Code Enforcement Division of the Planning Department would administer and enforce the new regulations, but without any additional resources to make implementation possible and consistent. As of its effective date, the proposed new article would be another unfunded mandate for which the Code Enforcement Division would be responsible. Recent unfunded mandates include regulations pertaining to small loan businesses and food trucks.

The proposed new article (Page 2, Lines 27-30) states that "the City Council will work with the Administration during Fiscal Year 2017" to fund adequate code enforcement staff to enforce the Vacant Commercial Buildings Ordinance. It is unknown at this stage what "adequate" means. Is it one full-time Staff position or five or ten new positions? The effort to determine appropriate and effective staffing levels would need to begin soon.

However, the above language is not a guarantee of funding and the Administration may have other priorities. Furthermore, the costs of implementing the proposed new article are not limited to staff positions and could wind up being considerable. Additional funds would need to be set aside to cover other City costs, such as demolition, or the money would have to be taken from other portions of the City Budget. The proposed fees would not be sufficient to off-set administrative costs or implement the new regulations.

Demolishing a commercial building can become very expensive very quickly, especially if asbestos or lead-based paint is found. One commercial building, especially if it is old and large, could consume the entire budget and leave no funding to implement the vacant commercial building regulations for the remainder of the fiscal year. No additional funds are proposed at this time. Keep in mind that the Code Enforcement Division is already responsible for administering the Uniform Housing Code, which can call for the demolition of vacant residential buildings. The cost to the City is typically

between \$10k and \$30k for a residential building demolition. The cost for commercial demolition is much greater.

The proposed new article would require a vacant building owner to carry no less than one million dollars of liability insurance (Page 3, Lines 11-19). This provision may not be needed for a couple of reasons. First, when a building becomes vacant, the owner's insurance rates go up considerably; there is a financial disincentive to keep a building vacant and, the greater the occupancy rate, the cheaper the insurance becomes. Second, it is unlikely that a vacant building owner would provide written notice of "any lapse, cancellation or change in coverage". Not only is this requirement burdensome, there's no incentive to do so and there could be enforcement action if the requirement is not complied with, which means that property owners are unlikely to self-report.

Furthermore, Code Enforcement Staff wouldn't need to know every detail of when a certain private party's insurance situation changed. Administering tracking of the thirty day requirement, the three month requirement and the "no more than 180 days in one year requirement" would likely take precedence over the abovementioned insurance details.

VIII. ANALYSIS & DISCUSSION OF PROPOSED NEW ARTICLE

The proposed legislation would add a new article, 20 to Chapter 14-Zoniong, Planning & Building, to the ROA 1994. Page references are to the proposed legislation (see attachment).

New language is [underlined and bracketed]. Deleted language is ~~underlined and struck through~~. Planning Staff's suggested changes to the legislation as originally drafted are in grey highlighting. Explanations are in ***bold italics***.

A) Substantive Recommended Revisions:

1. Page 1, Lines 15-17, Intent & Purposes:

(A) The intent of Article 14-20 et. seq. is to provide minimum standards to safeguard life or limb, health, property and public welfare by [+requiring basic maintenance of vacant commercial buildings and+] establishing a registry [+for such buildings+]. ~~for vacant, non-residential structures and requiring basic maintenance of.....~~

The substantive change is regarding use of the term "structure", which would include structures that are not buildings, such as gas station canopies, wireless telecommunication facilities, and signs. Though a building is a type of structure by definition (see also Section III of this report), a structure is not always a building.

It does not make sense to include structures such as gas station canopies, wireless telecommunications facilities, public art, signs, etc. that cannot be occupied and therefore would never be vacant. Since these are not occupied, it would not make sense to regulate them using provisions for vacant buildings.

Another proposed change is to the order of what the article aims to achieve: requiring basic maintenance is the primary objective, which is backed-up by establishing a registry. The latter should be listed second.

The intent is to require maintenance of vacant buildings and establish a registry for them. There are two reasons why “and surrounding property” is problematic: 1) How far from the site of a vacant building is “surrounding”?, and 2) An enforcement action would only pertain to the property upon which the vacant building is sited, and not neighboring properties unless they have also violated the regulations.

The term “vacant commercial building” is used to be consistent with the term used on Page 1, Line 3 of the proposed legislation.

2. Page 1, Lines 19-22, Definitions:

VACANT COMMERCIAL BUILDING: ~~A vacant building shall be defined as a~~
[+A+] non-residential ~~structure~~ [+building+] that is, for any
three consecutive months, [+is+] not lawfully occupied, wholly or partially boarded up, and does
not show evidence of substantial and ongoing construction activity.

As explained above, the term structure needs to be replaced with building to avoid regulating non-occupied structures with regulations that pertain to vacant commercial buildings.

It appears that all tests have to be met for a commercial building to be defined as vacant. A building would have to be “not lawfully occupied”, and “wholly or partially boarded up”, and not showing evidence of construction.

The “and” regarding the not showing evidence of construction qualifies both prior conditions, though it’s not certain how “substantial and ongoing” would be determined. An inspector would not have a way of knowing when the construction started, and how much activity is needed for it to be considered substantial (see Section VII of this report).

3. Page 2, Lines 5-7:

~~(B)~~ [+C+] All vacant [+commercial+] buildings shall be actively maintained, monitored [+], and
secured ~~in the following manner:~~ [+by the owner or responsible party, as follows: +]

(1) ~~The owner or responsible party of a vacant building or structure shall~~
~~remove any accumulation of weeds, combustible waste, or~~ [+All+] refuse [+shall be
removed+] from the interior of the building or structure and the surrounding yards; and shall

It’s preferable, and cleaner organizationally, to state up front that all items in (C) would be required of the owner or responsible party.

See comments about removing the term “structure”. It is unclear what “surrounding yards” refers to. The affected properties would be commercial, not residential, and therefore wouldn’t have yards. Also, the property that is in violation of the proposed regulations is the property that would be required to be cleaned up, not any properties next door unless they have also violated a City regulation.

The Weed and Anti-Litter Ordinance (9-8-1) already requires clean-up of the exterior of properties. Repetitive regulation is crossed-out, which leaves cleaning up the interior of the building.

The term “vacant commercial building” is used to be consistent with the term used on Page 1, Line 3 of the proposed legislation.

4. Page 2, Lines 7-9:

~~interior of the building or structure and the surrounding yards; and shall secure all doors, windows, and other openings to prevent unauthorized entry.~~

The Uniform Administrative Code (106.4), the Building Code (Sections 115-117) and the Zoning Code [14-16-3-2(D)(8)] already address unsafe buildings and require that they are secured. Repetitive regulations are crossed-out.

5. Page 2, Lines 9-10:

~~(2) entry. The owner or responsible party also shall post both the structure and the exterior premises with~~ [+Signs shall be posted on the building and on the exterior premises+] to provide conspicuous and reasonable notice prohibiting entry (i.e., “No Trespassing” signs) [+.+]

Staff recommends making this a new (2) under (B) (see Comment #5, above). The owner or responsible party would be required to post signs to provide notice that entry is prohibited.

6. Page 2, Lines 12-15:

~~(a) [(D+)] While vacant structures may temporarily be secured by boarding up window and door openings, having or maintaining~~ Boarded window or door openings on a vacant structure [+commercial building,+] for one hundred eighty (180) days or more in any one (1) year period [+.+] is prohibited.

In terms of organization, if there’s no (b), there shouldn’t be an (a). This prohibition is significant, especially from an enforcement perspective, and is best not embedded in a list of items required of the owner or responsible party to secure the vacant commercial building. Staff suggests making this a new (E), to be placed after the list of required items, and re-writing it as shown, with re-lettering of subsequent sub-sections.

7. Page 2, Lines 16-17:

~~(2) [(3)+]~~ The lot shall be maintained so that water does not accumulate or stand on the ground.

The City has requirements regarding drainage and site design that would not allow water to accumulate. However, these would not be triggered since the vacant commercial buildings would already exist. It is unclear how the property owner or responsible is to implement this.

8. Page 2, Lines 18-21:

~~(3) [(4)+]~~ Exterior walls shall be free of holes, breaks, loose or rotting boards or

~~timbers, and any other conditions which~~ **[+that+]** might admit rain or dampness to the interior ~~portions~~ of the **[+building+]**. **[+Buildings+]** ~~walls or the interior spaces and~~ shall be protected ~~against the~~ **[+from+]** entry of rodents or other animals **[+.+]**

Re-written for clarity. Note that the Uniform Administrative Code, the Building Code and the Zoning Code all address exteriors of walls that are in disrepair. A general cross-reference to other applicable regulations is included in a new, proposed (E).

9. Page 2, Lines 22-26:

- (4) **[+(5)+]** ~~Maintain~~ The exterior of the building **[+shall be maintained in good condition+]**, including but not limited to, paint, finishes, ~~roofing~~ materials, **[+roofing +]** ~~siding, stucco, masonry, railings, steps, gutters, and~~ **[+any+]** structural elements ~~in good condition~~.

Re-written for clarity. It would be difficult to determine what “good condition” means with respect to a building overall, or to any of the items listed except paint (see Item 12, below).

Note that the Uniform Administrative Code, the Building Code and the Zoning Code all address exteriors of walls that are in disrepair. A general cross-reference to other applicable regulations is included in a new, proposed (E).

10. Page 2, Lines 25-26:

~~and structural elements in good condition.~~ Painted surfaces shall be deemed in good condition if there is at least 95% coverage of the structural element that is painted.

Staff is not aware of a way to determine, other than rough estimation, if paint covers at least 95% of the structural element painted. It’s unlikely that such estimation would be consistent between individual inspectors. Code Enforcement Staff has indicated that it would be difficult to determine if this provision is met.

It is unclear what the term “structural element” means. Is that part of a building, such as a window or part of a wall, or perhaps the whole building in some cases?

11. Page 2, Lines 27-28:

~~Remove all graffiti on the property within forty-eight (48) hours of placement on the property~~ **[+.+]**

This provision would be difficult to implement as intended. First, it would be impossible to determine exactly when the graffiti was placed on the property unless someone witnessed it directly. Most graffiti occurs clandestinely, making it more difficult to determine when it happened.

Second, the City’s Anti-Graffiti Ordinance (11-7-5) allows 16 days to remove graffiti from a property, which raises the issue that vacant commercial buildings would be subject to a much more stringent standard than vacant residential buildings, or other buildings or structures, are subject to. Staff recommends deletion.

12. Page 2 (or 3), Line 29 and onward:

[+(E) Vacant commercial buildings shall comply with applicable City regulations including, but not limited to, the Uniform Administrative Code, the Building Code, other applicable technical codes, the Zoning Code, the Weed and Litter Ordinance, and the Graffiti and Vandalism Ordinance.+]

Staff proposes a new section (E), which would go before the wording moved into a new subsection (D) (see #8, above). (D) would contain the requirement that vacant commercial buildings can't be boarded up for more than 6 months of a year. The new (E) would remind the reader that several existing City regulations would also apply to a vacant commercial building.

13. Page 3, Lines 11-14:

~~(D) [+F+] The owner of any commercial building that has become vacant shall, within 30 days, acquire or otherwise maintain liability insurance, in an amount of not less than \$1,000,000.00 [+.] covering any damage to any person or any~~

Staff's understanding is that insurance rates go up when a building, or part of a building, becomes vacant, so generally speaking there is an incentive to keep a commercial building rented. When this is not possible, and/or between tenants, it seems that it would be in the property owner's interest to protect themselves and that they would have insurance anyway. However, for those who might not, the provision can remain but would benefit from simplification.

14. Page 3, Lines 14-19:

~~property caused by any physical condition or of in the building. Any insurance policy acquired after the building has become vacant shall provide for written notice to Code Enforcement within 30 days of any lapse, cancellation or change in coverage. The owner and [+or responsible party, or their +] the owner's authorized agent for service of process shall provide evidence of the insurance, upon request, to Code Enforcement.~~

Enforcement and tracking of vacant commercial buildings City-wide is a large task. It doesn't seem reasonable to require a building owner to notify Code Enforcement in writing every time that some detail concerning their insurance policy changes. It would be more in line with the intent of the proposed, new article to focus Staff resources on field inspection and following up to ensure that blighted conditions improve. Furthermore, it is unlikely that many property owners would notify anyone of a lapse in insurance coverage; much less the agency charged with enforcing the regulations. It is reasonable, however, to be able to request evidence of insurance coverage upon request.

15. Page 3, Lines 20-22:

When all violations have been ~~abated~~ [+remedied+] and a vacant building has been legally reoccupied, or when the building has been demolished, ~~the property will be removed from the vacant buildings list~~ [+it will be noted in the vacant building registry+].

Though this level of administrative detail is probably unnecessary, Staff offers the above clarifications. Typically, for tracking purposes, a list of buildings (it's referred to as a registry in other parts of the proposed legislation) is maintained and nothing is removed in the interest of keeping complete records. A spreadsheet can have an "outcome" column to indicate that violations have been remedied and the building is no longer subject to the regulations, unless a violation occurs in the future. Since this is possible, it's a good idea to not remove any entries from the registry.

16. Page 3, Lines 26-30:

~~1) [(B)+]~~ A ~~+~~ written notice of a violation of this section shall be sent ~~in writing~~ to the owner of the property +, or to the responsible party, + at their address of record listed in the county clerk's office stating that there has been a violation of this section and providing a brief description of the nature of the violation and right to appeal pursuant to §14-20-9.

Comments are for clarification and consistency.

17. Page 4, Lines 8-9:

(B) The registration renewal fee for a vacant ~~non-residential~~ commercial building, as referenced in 14-20-5(A)(2) +,+ is \$100 for each 6-month renewal period.

The term "vacant commercial building" is used to be consistent with the term used on Page 1, Line 3 of the proposed legislation. Comments are for clarification and consistency.

18. Page 4, Lines 13-18:

§14-20-9 VACANT ~~NON-RESIDENTIAL~~ COMMERCIAL BUILDING ABATEMENT +A+ All buildings +,+ or portions thereof +,+ which are determined to be substandard as defined in this ~~code~~ Article ~~are hereby declared to be nuisances and~~ shall be abated by repair, rehabilitation, demolition, removal or securing all accessible openings and entrances to the building in accordance with the procedure +,+ as provided herein and in related, applicable procedures in ROA 1994+.

Staff suggests a cross-reference to other, applicable procedures since abatement is covered adequately elsewhere. The term "vacant commercial building" is used to be consistent with the term used on Page 1, Line 3 of the proposed legislation. Other comments are for clarification and consistency.

B) Recommended, Minor Revisions:

1. Page 1, Lines 3 & 4 and Line 9:

AND BUILDING, TO BE KNOWN AS THE "VACANT COMMERCIAL BUILDINGS ORDINANCE REGULATIONS."

Commercial Buildings Ordinance".

These minor changes are for clarity. The existing Vacant Building Ordinance does not list building as plural. The Ordinance establishes regulations, which are referred to as

regulations for enforcement purposes (also, for example, the Wireless Regulations are referred to as regulations and not an ordinance).

2. Page 1, Lines 25 & 26:

this section. If the [+Planning+] Director finds [+that+] the building is being maintained in [+a+] blighted condition, the [+Planning+] Director may issue a Notice of Violation to the property owner

For clarification regarding which Director (and their Staff) is tasked with implementing the new regulations.

3. Page 4, Lines 13 – 26, organization:

[+A+] All buildings or portions thereof which are determined to be substandard

[+B+] Any building that has been determined to be substandard

[+C+] The failure to repair, rehabilitate, demolish or remove such

Add an A to Line 14, a B to Line 18 and a C to Line 21.

C) **Recommended Revisions- Other portions of ROA 1994:**

1. Page 2, Line 23, 14-3-1-4 ROA 1994, Uniform Housing Code, Definitions:

VACANT [+RESIDENTIAL+] BUILDING. A dwelling, dwelling unit, efficiency dwelling unit, habitable space, residential building, or structure lacking the continuous habitual presence of human beings who have a legal right to be on the premises for a period of 90 days or longer but excluding property under a listing agreement with a real estate agent licensed in New Mexico.

Now that an ordinance pertaining to vacant commercial buildings is proposed, the existing definition of Vacant Building should be specified to mean Vacant Residential Building for the sake of clarity.

IX. COMMENTS

Concerns of Reviewing Agencies

Few agency comments were received. Long Range Planning Staff states that it is generally a good idea to track vacancies and to ensure proper maintenance of vacant buildings.

Metropolitan Redevelopment (MR) Staff offer detailed comments, noting that it is unclear how the City will be made aware that a non-residential structure is unoccupied for 3 consecutive months. There is no definition of “construction activity” or “good condition.” They raise the issue of leasing. What if an owner of a vacant building gets a \$1.00 lease with a second party- does that make that structure “occupied”? Also, the majority of the legislation is already covered by City code enforcement for maintaining building safety and upkeep of weeds and graffiti.

Staff also interviewed the Code Compliance Manager (CCM) and Code Enforcement Staff about the proposed new article. Their concerns are explained in Section VII of this report. Agency comments begin on p. 26.

Neighborhood & Other Concerns

An article regarding the proposed legislation was published in the March/April 2016 issue of the Neighborhood News (see attachment). The proposed legislation was presented at the Planning Department's Development Discussion meeting on February 18, 2016.

As of this writing, Staff has received one comment from a development company. The representative suggests that a vacant building should be defined as 100% vacant, to avoid the situation that a vacant portion of a strip mall would render the entire mall a vacant commercial building. If a commercial building is being represented by a broker, it also shouldn't be defined as vacant.

X. CONCLUSION

The request is for a recommendation to City Council regarding the addition of a proposed new article (Article 20) to Chapter 14- Zoning, Planning & Building, Revised Ordinances of Albuquerque (ROA) 1994. The purpose of the proposed new article, which would apply City-wide, is to allow regulation of vacant commercial buildings.

Staff finds that the proposed new article generally furthers the few Goals and policies that apply, and the applicable, overarching intentions in the City Charter. However, several existing regulations in ROA 1994, such as the Weed and Anti-Litter Ordinance, the Uniform Administrative Code, the Building Code and the Zoning Code already address much of what is proposed.

The proposed text amendments were announced in the March/April edition of the Neighborhood News and at the Planning Department's Development Discussion on February 18, 2016. As of this writing, Staff has received one comment from a development company.

Staff recommends that the proposed legislation be substantively re-written to eliminate repetitive regulations and inconsistencies, and also to address enforcement and implementation difficulties. Staff recommends that a recommendation of conditional approval be forwarded to the City Council.

RECOMMENDED FINDINGS- 16EPC-40014, April 14, 2016- Proposed New Article Re: Vacant Commercial Buildings

1. The request is for a recommendation to City Council regarding the addition of a proposed new article (Article 20) to Chapter 14- Zoning, Planning & Building, Revised Ordinances of Albuquerque (ROA) 1994 to allow the regulation of vacant commercial buildings. The proposed new article would apply City-wide.
2. Vacant commercial buildings would be defined as non-residential buildings that have not been lawfully occupied or subject to any construction activity for three consecutive months. Vacant commercial buildings would be required to be maintained, monitored, and secured. The building owner, or a responsible party, would be required to register the building and pay an associated fee within 30 days of it becoming vacant or assuming ownership. Liability insurance would also be required.
3. The proposed new article is found in legislation authored by Council Services Staff and known as Bill No. O-16-11. O-16-11 was introduced at City Council on February 17, 2016 and subsequently referred to the Planning Department for review. The EPC's task is to make a recommendation to the City Council regarding the proposed new article. The City Council is the City's Zoning Authority and will make the final decision.
4. The Albuquerque/Bernalillo County Comprehensive Plan and the Revised Ordinances of Albuquerque (ROA) 1994 are incorporated herein by reference and made part of the record for all purposes.
5. Intent of the City Charter:

Adding a new article to the ROA 1994 to allow regulation of vacant commercial buildings is an exercise in local self-government (City Charter, Article 1). Establishing regulations to require maintenance, security, and registration of vacant commercial buildings generally expresses the Council's desire to ensure the proper use and development of land (City Charter, Article IX). The proposed new article would generally help promote and maintain an aesthetic and humane urban environment and would apply City-wide.
6. The request generally furthers the following, applicable Comprehensive Plan Goals:
 - A. Developing and Established Urban Areas Goal: The proposed new article would generally contribute to a quality urban environment because it would require the maintenance and registration of vacant commercial buildings, which would help create a visually pleasing built environment. However, it would not apply retroactively to commercial properties that were already vacant as of the ordinance's effective date. Buildings that become vacant after that time would have to be registered. Though it may not have a significant effect in some areas, the Goal is generally furthered.

- B. Developed Landscape Goal: In general, the proposed new article would help maintain and improve the quality of the developed landscape because it would require that vacant commercial buildings be maintained and repaired so that they appear to be in a good condition and are safe.
7. The request generally furthers the Public Safety Goal and Public Safety Policy II.D.9d. The proposed new article would generally help support development of a safe and secure community since it would address vacant buildings that have become a problem due to being improperly maintained or in a state of disrepair (Goal). Similarly, addressing such vacant buildings would generally help continue and improve crime prevention efforts (Policy II.D.9d).
 8. Most of what is contained in the proposed new article is already found in ROA 1994. Regulations that address the removal of weeds and refuse, securing of doors, windows and openings, maintaining building exteriors, and removing graffiti, are found in the Weed & Anti-Litter Ordinance (§9-8-1 ROA 1994), the Uniform Administrative Code (106.4), the Building Code (Sections 115-117), the Zoning Code, and the Graffiti Vandalism Ordinance (Article 1, Chapter 11- Nuisance Abatement).
 9. The proposed legislation is likely to be invoked on an “as reported” basis. Individuals could report vacant commercial buildings if they become concerned about a building’s state of disrepair, appearance or a safety issue. It is unfeasible for Staff to patrol the entire City looking for commercial buildings that have just become vacant. Even supposing this is possible, there would not be a way to know by a site visit if the building became vacant that same day, yesterday or months ago.
 10. In addition to fees and violations, three requirements would have to be tracked: the thirty day period to register a vacant commercial building, the no more than three consecutive months that a building is allowed to be vacant, and the no more than 180 days in one year that a vacant commercial building can be boarded up. More often than not, however, it won’t be possible to know exactly when a commercial building became vacant.
 11. As of its effective date, the proposed new article would be an unfunded mandate. Though proposed language states that the Council will work with the Administration during Fiscal Year 2017 to fund adequate code enforcement staff, funding is not guaranteed and adequate is undefined. Furthermore, the costs of implementing the legislation are not limited to staffing and could be considerable. Additional funds would be needed for demolition of commercial buildings, which can be quite expensive. The proposed fees would be insufficient to off-set implementation costs.
 12. The proposed new article (Article 20) would establish an appeal procedure, using an independent hearing officer, to settle instances of non-compliance when there is a disagreement about a Notice

of Violation. The proposed new article would not create criminal complaints because it would not be part of the Zoning Code (Article 16 of Chapter 14), which is a criminal code.

13. The proposed legislation should be substantively re-written to avoid creating repetitive regulations in ROA 1994, and the inconsistencies that could result. Implementation issues, such as administration and tracking, should also be addressed.
14. The proposed text amendments were announced in the March/April 2016 issue of the Neighborhood News, published by the Office of Neighborhood Coordination (ONC), and at the Planning Department's Development Discussion on February 18, 2016. As of this writing, Staff received one comment from a development company.

RECOMMENDATION- 16EPC-40014, April 14, 2016

That a recommendation of CONDITIONAL APPROVAL of a proposed new Article (Article 20), to be added to Chapter 14 Revised Ordinances of Albuquerque (ROA) 1994- Zoning, Planning and Building- to allow regulation of vacant commercial buildings, be forwarded to the City Council based on the preceding Findings and subject to the following Conditions for Recommendation of Approval.

CONDITIONS FOR RECOMMENDATION OF APPROVAL- 16EPC-40014, April 14, 2016

Notes: New language is [underlined and bracketed]. Deleted language is [~~underlined, bracketed and struck through~~]. Planning Staff's suggested changes are indicated by grey highlighting. Page references are to the proposed legislation (O-11-16).

Substantive Recommended Revisions:

1. Page 1, Lines 15-17, Intent & Purposes:

(A) The intent of Article 14-20 et. seq. is to provide minimum standards to safeguard life or limb, health, property and public welfare by [requiring basic maintenance of vacant commercial buildings and] establishing a registry [for such buildings]. ~~for vacant, non-residential structures and requiring basic maintenance of.....~~

2. Page 1, Lines 19-22, Definitions:

VACANT COMMERCIAL BUILDING: A ~~vacant building shall be defined as a~~ [A] non-residential ~~structure~~ [building] that ~~is~~, for any three consecutive months, [is] not lawfully occupied, wholly or partially boarded up, and does not show evidence of substantial and ongoing construction activity.

3. Page 2, Lines 5-7:

(B) ~~[+C+]~~ All vacant ~~[+commercial+]~~ buildings shall be actively maintained, monitored ~~[+,+]~~ and secured ~~in the following manner:~~ [+by the owner or responsible party, as follows: +]

(1) ~~The owner or responsible party of a vacant building or structure shall remove any accumulation of weeds, combustible waste, or~~ [+All+] ~~refuse~~ [+shall be removed+] from the interior of the building or structure and the surrounding yards; and shall

4. Page 2, Lines 7-9:

~~interior of the building or structure and the surrounding yards; and shall secure all doors, windows, and other openings to prevent unauthorized entry.~~

5. Page 2, Lines 9-10:

(2) ~~entry. The owner or responsible party also shall post both the structure and the exterior premises with~~ [+Signs shall be posted on the building and on the exterior premises+] to provide conspicuous and reasonable notice prohibiting entry (i.e., "No Trespassing" signs) ~~[+,+]~~

6. Page 2, Lines 12-15:

(a) ~~[(D+)] While vacant structures may temporarily be secured by boarding up window and door openings, having or maintaining~~ Boarded window or door openings on a vacant ~~structure~~ [+commercial building,+] for one hundred eighty (180) days or more in any one (1) year period ~~[+,+]~~ is prohibited.

7. Page 2, Lines 16-17:

(2) ~~[+(3)+]~~ The lot shall be maintained so that water does not accumulate or stand on the ground.

8. Page 2, Lines 18-21:

(3) ~~[+(4)+]~~ Exterior walls shall be free of holes, breaks, ~~loose or rotting boards or timbers,~~ and any other conditions which ~~[+that+]~~ might admit rain or dampness to the interior ~~portions~~ of the ~~[+building+]~~. [+Buildings+] ~~walls or the interior spaces~~ and shall be protected ~~against the~~ [+from+] entry of rodents or other animals ~~[+,+]~~

9. Page 2, Lines 22-26:

(4) ~~[+(5)+]~~ ~~Maintain~~ The exterior of the building [+shall be maintained in good condition+], including but not limited to, paint, finishes, ~~roofing~~ materials, [+roofing +] ~~siding, stucco, masonry, railings, steps, gutters,~~ and [+any+] structural elements ~~in good condition.~~

10. Page 2, Lines 25-26:

~~and structural elements in good condition.~~ Painted surfaces shall be deemed in good condition if there is at least 95% coverage of the structural

element that is painted.

11. Page 2, Lines 27-28:

~~Remove all graffiti on the property within forty-eight (48) hours of placement on the property~~
[+.+]

12. Page 2 (or 3), Line 29 and onward:

[(E) Vacant commercial buildings shall comply with applicable City regulations including, but not limited to, the Uniform Administrative Code, the Building Code, other applicable technical codes, the Zoning Code, the Weed and Litter Ordinance, and the Graffiti and Vandalism Ordinance.]

13. Page 3, Lines 11-14:

~~(D)~~ [+F+] The owner of any commercial building that has become vacant shall, within 30 days, acquire or ~~otherwise~~ maintain liability insurance, in an amount of not less than \$1,000,000.00 [+.+] ~~covering any damage to any person or any~~

14. Page 3, Lines 14-19:

~~property caused by any physical condition or of in the building. Any insurance policy acquired after the building has become vacant shall provide for written notice to Code Enforcement within 30 days of any lapse, cancellation or change in coverage.~~ The owner and [+or responsible party, or their +] ~~the owner's~~ authorized agent ~~for service of process~~ shall provide evidence of the insurance, upon request, to Code Enforcement.

15. Page 3, Lines 20-22:

When all violations have been ~~abated~~ [+remedied+] and a vacant building has been legally reoccupied, or when the building has been demolished, ~~the property will be removed from the vacant buildings list~~ [+it will be noted in the vacant building registry+].

16. Page 3, Lines 26-30:

~~H)~~ [(B)+] A [+written+] notice of a violation of this section shall be sent ~~in writing~~ to the owner of the property [+, or to the responsible party, +] at their address of record listed in the county clerk's office stating that there has been a violation of this section and providing a brief description of the nature of the violation and right to appeal pursuant to §14-20-9.

17. Page 4, Lines 8-9:

(B) The registration renewal fee for a vacant ~~non-residential~~ [+commercial+] building, as referenced in 14-20-5(A)(2) [+,+] is \$100 for each 6-month renewal period.

18. Page 4, Lines 13-18:

§14-20-9 VACANT ~~NON-RESIDENTIAL~~ [+COMMERCIAL+] BUILDING ABATEMENT
[+A+] All buildings [+], or portions thereof [+], which are determined to be substandard as
defined in this code [+Article+] ~~are hereby declared to be nuisances and~~ shall be abated
by repair, rehabilitation, demolition, removal or securing all accessible
openings and entrances to [+the+] building in accordance with the procedure[+s+]
as provided herein [+and in related, applicable procedures in ROA 1994+].

Recommended, Minor Revisions:

19. Page 1, Lines 3 & 4 and Line 9:

AND BUILDING, TO BE KNOWN AS THE “VACANT COMMERCIAL BUILDINGS
ORDINANCE [+REGULATIONS+].

Commercial Buildings Ordinance”.

20. Page 1, Lines 25 & 26:

this section. If the [+Planning+] Director finds [+that+] the building is being maintained in [+a+] blighted condition, the [+Planning+] Director may issue a Notice of Violation to the property owner

21. Page 4, Lines 13 – 26, organization:

[+A+] All buildings or portions thereof which are determined to be substandard

[+B+] Any building that has been determined to be substandard

[+C+] The failure to repair, rehabilitate, demolish or remove such

Recommended Revisions- Other portions of ROA 1994:

22. Page 2, Line 23, 14-3-1-4 ROA 1994, Uniform Housing Code, Definitions:

VACANT [+RESIDENTIAL+] BUILDING. A dwelling, dwelling unit, efficiency dwelling unit, habitable space, residential building, or structure lacking the continuous habitual presence of human beings who have a legal right to be on the premises for a period of 90 days or longer but excluding property under a listing agreement with a real estate agent licensed in New Mexico.



Catalina Lehner, AICP
Senior Planner

cc: City of Albuquerque, City Council, Attn: Andrew Webb, P.O. Box 1293, Abq. NM 87102
City of Albuquerque, Planning Department, P.O. Box 1293, Abq. NM 87102
City of Albuquerque, Legal Department, attn.: Daniel Dietz, P.O. Box 1293, Abq. NM 87102

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Code Enforcement

Staff met with Code Enforcement Staff twice to discuss implementation and enforcement issues.

Office of Neighborhood Coordination (ONC)

City-wide. An article was published in the March/April edition of the Neighborhood News (see attachment).

Long Range Planning

- In general this is a good idea to track vacancies and to ensure proper maintenance of vacant buildings; however, we recommend consideration for making the fees and penalties more affordable for all types of building owners.
- Perhaps consider an incentive program, such as a building permit fee reduction, that can be offered to owners with properties that have been on the vacant building list for a set period of time, such as one year.

Metropolitan Redevelopment Agency

Metropolitan Redevelopment comments are in regard to the “Vacant Commercial Buildings Ordinance (O-16-11).”

INTENT AND PURPOSES

Page 1, Line 14 to 17, (A): The legislation does not define what basic maintenance is nor is it clear what City division will be responsible for updating and maintaining a registry of vacant, non-residential structures.

DEFINITIONS

Page 1, Line 19 to 22: The legislation does not make it clear how the City will be made aware that a non-residential structure is not occupied for 3 consecutive months. Likewise, there is no definition of what qualifies as “construction activity.”

Page 1, Line 24 to 25: The legislation does not define “good condition.”

Page 2, Line 12 to 15: boarding up windows (180) days in any year prohibited.

Page 2, Line 29 to 33: The legislation does not make it clear the mechanism regarding registration of vacant buildings of 30 days with the City. (eg: Isotopes park is not occupied during the off season, does this mean the Isotopes need to register the park when the team is off season?)

- The proposed legislation does not have a mechanism to require a private owner to register a vacant building.
- The definition of vacant building, construction activity, good condition need to be better defined. (eg: If an owner of a vacant building gets a \$1.00 lease with a second party does that make that structure “occupied.”)

- Prohibiting windows and doors to be prohibited for more than (180) days in any one year puts properties at risk for vandalism.
- The majority of the legislation is already covered by City code enforcement for maintaining building safety and upkeep of weeds and graffiti.

CITY ENGINEER

Transportation Development Services

- No objection to the request.

Hydrology

- Lines 16 and 17 on page 2 (disallows water sitting on ground) : The language should be expanded to make it clear that intentionally ponded stormwater needs to remain in place if it was a part of the flood control or first flush requirement. Some first flush ponds can be as shallow as 4” to 6” over a large area and they should not be filled in even if the building is vacant.

DEPARTMENT of MUNICIPAL DEVELOPMENT

Transportation Planning

- No objection to the request.

Traffic Engineering Operations (Department of Municipal Development):

Street Maintenance (Department of Municipal Development):

New Mexico Department of Transportation (NMDOT):

- NMDOT has no comments.

**RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT
and NMDOT:**

WATER UTILITY AUTHORITY

Utility Services- No adverse comment.

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Open Space Division

City Forester

POLICE DEPARTMENT/Planning

No Crime Prevention or CPTED comments concerning the proposed *Amendment to Zoning Code Regulations Text* at this time.

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division- No comment.

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

Project # 1001620 16EPC-40014 AMENDMENT TO ZONING CODE OR SUBDIVISION REGULATIONS TEXT CITYWIDE	Adjacent and nearby routes	None
	Adjacent bus stops	None.
	Site plan requirements	None.
	Large site TDM suggestions	None.
	Other information	None.

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY-

ALBUQUERQUE PUBLIC SCHOOLS

MID-REGION COUNCIL OF GOVERNMENTS

MRMPO has no adverse comments.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

PNM has no comments based on information provided to date.

PROPOSED LEGISLATION

Bill No. O-16-11 & Legislative Tracking (History)

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- 1 and the property owner may be subject to fines and penalties as set forth in
- 2 this section.
- 3 (B) All vacant buildings shall be actively maintained, monitored and secured in
- 4 the following manner:
- 5 (1) The owner or responsible party of a vacant building or structure shall
- 6 remove any accumulation of weeds, combustible waste, or refuse from the
- 7 interior of the building or structure and the surrounding yards; and shall
- 8 secure all doors, windows, and other openings to prevent unauthorized
- 9 entry. The owner or responsible party also shall post both the structure
- 10 and the exterior premises with signs to provide conspicuous and
- 11 reasonable notice prohibiting entry (i.e., "No Trespassing" signs)
- 12 (a) While vacant structures may temporarily be secured by boarding
- 13 up window and door openings, having or maintaining boarded
- 14 window or door openings on a vacant structure for one hundred
- 15 eighty (180) days or more in any one (1) year period is prohibited.
- 16 (2) The lot shall be maintained so that water does not accumulate or stand
- 17 on the ground.
- 18 (3) Exterior walls shall be free of holes, breaks, loose or rotting boards or
- 19 timbers, and any other conditions which might admit rain or dampness to
- 20 the interior portions of the walls or the interior spaces and shall be
- 21 protected against the entry of rodents or other animals
- 22 (4) Maintain the exterior of the building, including but not limited to, paint,
- 23 finishes, roofing materials, siding, stucco, masonry, railings, steps, gutters,
- 24 and structural elements in good condition. Painted surfaces shall be
- 25 deemed in good condition if there is at least 95% coverage of the structural
- 26 element that is painted.
- 27 (5) Remove all graffiti on the property within forty-eight (48) hours of
- 28 placement on the property
- 29 (C) The owner of any building that has become vacant shall within 30 days
- 30 after the building becomes vacant or within 30 days after assuming
- 31 ownership, whichever is later, register the building with the city through forms
- 32 provided on a city website or web application and pay a registration fee as
- 33 prescribed in §14-20-7(A).

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1 (1) the registration form shall include the name, street address and
2 telephone number of a natural person 21 years of age or older, designated
3 by the owner or owners as the authorized agent for receiving notices of
4 code violations and for receiving process, in any court proceeding or
5 administrative enforcement proceeding, on behalf of such non-resident
6 owners. This person must maintain an office in Bernalillo County or must
7 reside within Bernalillo County.

8 (2) the owner shall be required to renew the registration for successive 6-
9 month periods as long as the building remains vacant and shall pay a
10 registration renewal fee as prescribed in §14-20-7(B).

11 (D) The owner of any commercial building that has become vacant shall,
12 within 30 days, acquire or otherwise maintain liability insurance, in an amount
13 of not less than \$1,000,000.00 covering any damage to any person or any
14 property caused by any physical condition of or in the building. Any insurance
15 policy acquired after the building has become vacant shall provide for written
16 notice to Code Enforcement within 30 days of any lapse, cancellation or
17 change in coverage. The owner and the owner's authorized agent for service
18 of process shall provide evidence of the insurance, upon request, to Code
19 Enforcement.

20 (E) When all violations have been abated and a vacant building has been
21 legally reoccupied, or when the building has been demolished, the property
22 will be removed from the vacant building list.

23 § 14-20-6 ENFORCEMENT, NOTICE, APPEALS.

24 (A) The enforcement of §14-20 et seq. will be the responsibility of the Code
25 Enforcement Division.

26 (B) Notice. A notice of a violation of this section shall be sent in writing to the
27 owner of the property at their address of record listed in the county clerk's
28 office stating that there has been a violation of this section and providing a
29 brief description of the nature of the violation and right to appeal pursuant to §
30 14-20-6(C).

31 § 14-20-7 Appeals. Any person with a legal interest in a building deemed by
32 Code Enforcement to be in violation of this article may appeal such
33 determination of a violation by requesting a hearing in writing within 15 days

1 of receipt of a notice of violation. The request must be filed with the City Clerk
2 and the appeals hearing shall be conducted pursuant to the IHO Ordinance
3 (§2-7-8-1, et. seq.).

4 § 14-20-8 FEES AND PENALTIES.

5 (A) The initial registration fee for a vacant non-residential building, as
6 referenced in §14-20-5(A) is \$500 for each such building until the building is
7 again occupied or demolished.

8 (B) The registration renewal fee for a vacant non-residential building, as
9 referenced in §14-20-5(A)(2) is \$100 for each 6-month renewal period.

10 (C) Any vacant building that is in violation of any provision set forth in section
11 14-20-5 at the time renewal is required shall be assessed a violation fee of
12 \$500 a day.

13 § 14-20-9 VACANT NON-RESIDENTIAL BUILDING ABATEMENT

14 All buildings or portions thereof which are determined to be substandard as
15 defined in this code are hereby declared to be nuisances and shall be abated
16 by repair, rehabilitation, demolition, removal or securing all accessible
17 openings and entrances to building in accordance with the procedure as
18 provided herein. Any building that has been determined to be substandard
19 and which has been abated by securing all accessible openings and entrances
20 shall be repaired, rehabilitated, demolished or removed within 12 months of
21 being secured. The failure to repair, rehabilitate, demolish or remove such
22 building within 12 months shall be prima facie evidence that the building is a
23 menace to the public comfort, health, peace or safety and should be
24 condemned. After 12 months, the City Council may present a Resolution of
25 Condemnation as provided for in Section 3-18-5 NMSA 1978 and proceed with
26 condemnation as provided for under that statute.

27 SECTION 2. FUNDING FOR ENFORCEMENT. The City Council will work
28 with the Administration during the Fiscal Year 2017 budget process to fund
29 adequate Code Enforcement staff for the enforcement of the Vacant
30 Commercial Buildings Ordinance.

31 SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
32 clause, word or phrase of this Ordinance is for any reason held to be invalid or
33 unenforceable by any court of competent jurisdiction, such decision shall not

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1 affect the validity of the remaining provisions of this Ordinance. The Council
2 hereby declares that it would have passed this Ordinance and each section,
3 paragraph, sentence, clause, word or phrase thereof irrespective of any
4 provision being declared unconstitutional or otherwise invalid.

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

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

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Details Reports

File #: O-16-11 **Status:** In Committee
Type: Ordinance **In control:** Environmental Planning Commission
File created: 2/17/2016 **Final action:**

Enactment date: **Enactment #:**

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

Attachments: 1. [O-11](#)

History (2) Text

2 records Group Export

Date	Action By	Action	Result	Action Details
2/17/2016	City Council	Introduced and Referred		Action details
2/17/2016	President	Referred		Action details

RELEVANT REGULATIONS

Relevant, Existing Regulations

PROPOSED ORDINANCE SECTION	PROPOSED ORDINANCE LANGUAGE	EXISTING CITY STANDARDS	COMMENTS
14-20-5(B)(1)	<p>"...remove any accumulation of weeds, combustible waste, or refuse..."</p>	<p>Weed & Anti-Litter Ordinance (9-8-1)</p>	<ul style="list-style-type: none"> Existing standards require all property owners to remove weeds, litter, debris, trash, etc. from their yards and exterior spaces Proposed standards would also require vacant building owners/responsible parties to remove weeds and refuse from the <u>inside</u> of a building
14-20-5(B)(1)	<p>"...secure all doors, windows, and other openings to prevent unauthorized entry."</p>	<p>Uniform Administrative Code (106.4) <i>International Existing</i> 2009 Building Code (IBC) Sections 115-117 Comprehensive City Zoning Code (14-16-3-2(D))(8)</p>	<ul style="list-style-type: none"> Existing provisions of the UAC allow the Building Official to repair, rehabilitate, demolish, and/or remove any "unsafe buildings, structures or appendages and building service equipment". These problematic structures are also declared to be public nuisances by the UAC. Section 115 of the Building Code address unsafe buildings and equipment, and allows the code official (i.e., Building Official) to obligate a building owner to take down, remove, restore, and/or make safe any building or structures determined by the code official to be "unsafe". Section 116 of the Building Code provides emergency measures to the code official for matters determined to be an imminent danger ("boarding up of openings", "render such structure temporarily safe", etc.) and affords a building owner disagreeing with the code official's determination with the right to an appeal hearing to contest the action Section 117 of the Building Code allows the code official to demolish and remove any structure deemed to be "old, dilapidated, or has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy" or if construction on the site has ceased for a period of more than two (2) years. Additionally, this section references the code official's ability to have any demolition or removal work performed by "an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate." For vacant "large retail facilities" (defined by the Zoning Code to mean "A single tenant structure with at least 75,000 square feet of net leasable area for the purpose of retailing."), the following requirements must be met: <ul style="list-style-type: none"> large retail facilities shall be maintained during periods of abandonment or vacancies at the same standard as when occupied. The owner of a site shall sign a maintenance agreement with the city that the site will be maintained when vacant to the following minimal standards, among others as deemed appropriate by the Planning Director: <ol style="list-style-type: none"> The landscaping shall be watered, pruned and weeded. The parking areas shall be cleaned of dirt and litter. The building facades shall be kept in good repair, cracked windows shall be replaced and graffiti removed. Outdoor security lighting shall be maintained and operated. Hydrology systems shall be kept in good working order.

14-20-5(B)(2)	" ...water does not accumulate or stand on the ground."	No know city ordinance addresses this specific concern	<ul style="list-style-type: none"> • Properties must be in compliance with the approved grading and drainage plan for the site. Inherently, this plan will prevent water from accumulating in areas not specified as being approved retention ponds on the property.
14-20-5(B)(3)	<p>"Exterior walls shall be free of holes, breaks, loose or rotting boards or timbers..."</p>	<p>Uniform Administrative Code (106.4)</p> <p><i>International Existing</i> 2009 Building Code (IBC) (Sections 115-117)</p> <p>Comprehensive City Zoning Code (14-16-3-2(D))(8)</p>	<ul style="list-style-type: none"> • Existing provisions of the UAC allow the Building Official to repair, rehabilitate, demolish, and/or remove any "unsafe buildings, structures or appendages and building service equipment". These problematic structures are also declared to be public nuisances by the UAC. • Section 115 of the Building Code address unsafe buildings and equipment, and allows the code official (i.e., Building Official) to obligate a building owner to take down, remove, restore, and/or make safe any building or structures determined by the code official to be "unsafe". • Section 116 of the Building Code provides emergency measures to the code official for matters determined to be an imminent danger ("boarding up of openings", "render such structure temporarily safe", etc.) and affords a building owner disagreeing with the code official's determination with the right to an appeal hearing to contest the action • Section 117 of the Building Code allows the code official to demolish and remove any structure deemed to be "old, dilapidated, or has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy" or if construction on the site has ceased for a period of more than two (2) years. Additionally, this section references the code official's ability to have any demolition or removal work performed by "an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate." • For vacant "large retail facilities" (defined by the Zoning Code to mean "A single tenant structure with at least 75,000 square feet of net leasable area for the purpose of retailing."), the following requirements must be met: <ul style="list-style-type: none"> - large retail facilities shall be maintained during periods of abandonment or vacancies at the same standard as when occupied. The owner of a site shall sign a maintenance agreement with the city that the site will be maintained when vacant to the following minimal standards, among others as deemed appropriate by the Planning Director: <ul style="list-style-type: none"> (f) The landscaping shall be watered, pruned and weeded. (g) The parking areas shall be cleaned of dirt and litter. (h) The building facades shall be kept in good repair, cracked windows shall be replaced and graffiti removed. (i) Outdoor security lighting shall be maintained and operated. (j) Hydrology systems shall be kept in good working order.
14-20-5(B)(4)	<p>"Maintain the exterior of the building, including but</p>	<p>Uniform Administrative Code (106.4)</p> <p><i>International Existing</i> 2009 Building Code (IBC) (Sections 115-117)</p>	<p>REF. COMMENTS ABOVE</p>

	<p>not limited to, paint, finishes, roofing materials, siding, stucco, masonry, railings, steps, gutters, and structural elements in good condition.</p>	<p>Comprehensive City Zoning Code (14-16-3-2(D))(8)</p>
<p>14-20-5(B)(5)</p>	<p>"Remove all graffiti on the property..."</p>	<p>Street Excavation and Barricading Ordinance (6-5-2-1) and Municipal Solid Waste Ordinance (9-10-1) also have provisions for handling or removing graffiti</p>

①

ARTICLE 8: WEEDS, LITTER AND SNOW

Section

- 9-8-1 Short title
- 9-8-2 Purpose
- 9-8-3 Definitions
- 9-8-4 Growth or accumulation of weeds and litter
- 9-8-5 Duty of owner, lessee, or occupant
- 9-8-6 Litter in public places
- 9-8-7 Placement of litter in receptacle so as to prevent scattering
- 9-8-8 Merchants' duty to keep sidewalks and parking areas free of litter
- 9-8-9 Sweeping litter into gutters prohibited
- 9-8-10 Litter thrown by persons in vehicles
- 9-8-11 Truck loads causing litter
- 9-8-12 Litter in parks
- 9-8-13 Litter in lakes and fountains
- 9-8-14 Throwing or distributing commercial or noncommercial handbills in public places
- 9-8-15 Placing commercial or noncommercial handbills on vehicles
- 9-8-16 Depositing commercial and noncommercial handbills on uninhabited or vacant premises
- 9-8-17 Prohibiting distribution of handbills where properly posted
- 9-8-18 Distributing commercial and noncommercial handbills at inhabited private premises
- 9-8-19 Dropping litter from aircraft
- 9-8-20 Posting notice prohibited
- 9-8-21 Litter on occupied private property
- 9-8-22 Owner to maintain premises free of litter
- 9-8-23 Litter on vacant lots
- 9-8-24 Snow and ice
- 9-8-25 Notice to cut and remove
- 9-8-26 When city to remove
- 9-8-27 Method of removal
- 9-8-28 Appeal procedure administrative hearing
- 9-8-29 Judicial review
- 9-8-30 Removal upon default of owner
- 9-8-31 Illegal commercial handbills prevention
- 9-8-32 Smoking tobacco product litter
- 9-8-99 Penalty

§ 9-8-1 SHORT TITLE.

This article shall be known and cited as the "Albuquerque Weed and Anti-Litter Ordinance." ('74 Code, § 6-15-1) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

§ 9-8-2 PURPOSE.

(A) This article is intended to promote the general health, safety and welfare of the people of the city by prohibiting the maintenance or accumulation of those plants determined to be of major allergenic significance, or which constitute a fire hazard when wind collected, or which otherwise present a hazard or nuisance to inhabitants of the city. Further, this article is intended to promote the growth of native and other grasses and plants whose root structures tend to aid in stabilizing the soil and reducing dust. It is also the intent of this article that by prohibiting those methods of plant removal and control which fail to differentiate between harmful and helpful plants and which tend to create the still greater problem of air pollution, the aforementioned purposes will be realized and accomplished.

(B) This article is also intended to promote the general health, safety and welfare of the people of the city by prohibiting the throwing, depositing or accumulation of litter in public places.

('74 Code, § 6-15-2) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

§ 9-8-3 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIRCRAFT. Any contrivance now known or hereafter invented used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

APPROPRIATE PRIVATE RECEPTACLE. A litter receptacle with a fireproof interior capable of containing and withstanding fire.

AUTHORIZED PRIVATE RECEPTACLE. A litter storage and collection receptacle as required and authorized in the solid waste collection regulations set forth in §§ 9-10-1-1 et seq.

COMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

- (1) Which advertises for sale any merchandise, product commodity, or thing; or
- (2) Which directs attention to any business or mercantile or commercial establishments or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit.
- (4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

(5) Newspaper as defined herein is and to be construed to be included within the definition of **COMMERCIAL HANDBILL**.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER. "Garbage," "refuse" and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited tends to create a danger to public health, safety and welfare.

MAYOR. The Mayor or his authorized representative.

NEWSPAPER. Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

NONCOMMERCIAL HANDBILL. Any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

OWNER. Owner, agent, lessee or occupant or person having charge or control of the property.

PARK. A park, reservation, playground, beach, recreation center, zoo, golf course, or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

PERSON. One or more persons, natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being sued.

PRIVATE PREMISES. Any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporary or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant or such dwelling, house, building, or other structure.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, sources, spaces, grounds and buildings.

REFUSE. All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, inoperative vehicles and appliances, and solid market and industrial wastes.

RUBBISH. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, smoking tobacco products, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

SMOKING TOBACCO PRODUCT. Tobacco leaves smoked in the form of a cigar or cigarette.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

WEEDS. All rank, noxious, poisonous, harmful, unhealthful vegetation, deleterious to health, and shall include but is not limited to the following named plants:

- (1) Pigweed (*Amaranthus retroflexus*).
- (2) Russian Thistle (*Salsola pestifer*).
- (3) Ragweeds (*Ambrosia spp.*).
- (4) Lambsquarter. (*Kenopodium spp.*).
- (5) Kochia.
- (6) London Rocket (*Sisymbrium irio*).
- (7) Flix Weed (*Descurainia sophia*).
- (8) Tansy Mustard (*Descurainia pinnata*).
- (9) Spurge.
- (10) Silverleaf Nightshade (*Solanum elaeagnifolium*).
- (11) Puncture Vine.
- (12) Field Bind Weed (*Convolvulus arvensis*).
- (13) Purslane.
- (14) Hoary Cress.
- (15) Yellow Foxtail (*Setaria glauca*).
- (16) Green Foxtail (*Setaria Viridis*).

The Mayor is hereby authorized and delegated the authority and duty to determine if any other plants, due to their unhealthy or dangerous attributes or consequences, should be placed on the list of weeds as defined herein and shall put such plants on said list if, after a hearing based on the evidence before him it appears that such plants do come within the meaning of the term weeds as hereinbefore set out.

('74 Code, § 6-15-3) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992; Am. Ord. 50-2005; Am. Ord. 57-2005; Am. Ord. 41-2006; Am. Ord. 35-2011)

§ 9-8-4 GROWTH OR ACCUMULATION OF WEEDS AND LITTER.

It shall be unlawful for any owner of any occupied or unoccupied lot or tract of land within the city to permit or maintain on any such lot or tract of land, including the area located between the property line and the middle of the alley adjacent to the property, and the area located between

the property line and the curb, the area of any curbs or sidewalks located on the property, and the area located ten feet outside the property line where there is no curb, any growth of weeds whose height, width or spread is greater than four inches, or any accumulation of weeds and/or litter. ('74 Code, § 6-15-4) (Ord. 89-1967; Am. Ord. 40-1968; Am. Ord. 32-1976; Am. Ord. 4-1992; Am. Ord. 57-2005; Am. Ord. 35-2011)

☐ § 9-8-5 DUTY OF OWNER, LESSEE, OR OCCUPANT.

It shall be the duty of any owner of any occupied or unoccupied lot or tract of land to cut the weeds and remove the cuttings or any accumulation of weeds to be removed as often as necessary in order to comply with the provisions set out in § 9-8-4.

('74 Code, § 6-15-5) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-6 LITTER IN PUBLIC PLACES.

No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the city except in public receptacles or in authorized private receptacles for collection, or in an official city sanitary land fill.

('74 Code, § 6-15-6) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-7 PLACEMENT OF LITTER IN RECEPTACLE SO AS TO PREVENT SCATTERING.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public or private place.

('74 Code, § 6-15-7) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-8 MERCHANTS' DUTY TO KEEP SIDEWALKS AND PARKING AREAS FREE OF LITTER.

It shall be the responsibility of the person in charge of a place of business to maintain the sidewalk area adjacent to his place of business and his private parking area, if any, used by his patrons for parking, in a reasonably litter free condition. If, in the opinion of the Mayor, the amount of litter in said areas amounts to a nuisance due to odors or eyesore characteristics the Mayor shall notify the person in charge to provide adequate, approved litter receptacles located so as to be convenient to the patrons of the place of business and/or to parking areas. The person in charge of such business shall be responsible for providing said litter receptacles and be responsible for emptying such containers as often as is necessary to prevent their becoming a nuisance. In no event shall the litter located on sidewalks and driveways adjacent to a place of business be allowed to be swept into the gutters or streets of the city.

('74 Code, § 6-15-8) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-9 SWEEPING LITTER INTO GUTTERS PROHIBITED.

No person shall sweep into or deposit in any gutter, street or other public or private place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk and driveways abutting their premises clean and free of litter.

('74 Code, § 6-15-9) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-10 LITTER THROWN BY PERSONS IN VEHICLES.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any private property, any street or other public place within the city.

('74 Code, § 6-15-10) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

☐ § 9-8-11 TRUCK LOADS CAUSING LITTER.

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other private or public place.

('74 Code, § 6-15-11) (Ord. 4-1992)

§ 9-8-12 LITTER IN PARKS.

No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any streets or other private or public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

('74 Code, § 6-15-12) (Ord. 4-1992)

§ 9-8-13 LITTER IN LAKES AND FOUNTAINS.

No person shall throw or deposit litter in any fountain, pond, lake, stream, or any other body of water in a park or elsewhere in the city.

('74 Code, § 6-15-13) (Ord. 4-1992)

§ 9-8-14 THROWING OR DISTRIBUTING COMMERCIAL OR NONCOMMERCIAL HANDBILLS IN PUBLIC PLACES.

(A) No person shall throw, post or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public places within the city. Nor shall any person hand out, post or distribute or sell any commercial or noncommercial handbill in any public place provided, however it shall not be a violation of this article for any person to hand out or distribute without charge to the receiver thereof any noncommercial handbill to any person willing to accept it in such public places.

(B) It may be rebuttably presumed that the owner, manager, distributor, provider or responsible party of any business, product or service which is the subject of an illegally posted, thrown or deposited commercial handbill has caused the commercial handbill to be posted, thrown or deposited.

('74 Code, § 6-15-14) (Ord. 4-1992; Am. Ord. 25-2005)

§ 9-8-15 PLACING COMMERCIAL OR NONCOMMERCIAL HANDBILLS ON VEHICLES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle.

('74 Code, § 6-15-15) (Ord. 4-1992)

§ 9-8-16 DEPOSITING COMMERCIAL AND NONCOMMERCIAL HANDBILLS ON UNINHABITED OR VACANT PREMISES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

('74 Code, § 6-15-16) (Ord. 4-1992)

§ 9-8-17 PROHIBITING DISTRIBUTION OF HANDBILLS WHERE PROPERLY POSTED.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon or to any private premises, if requested by any one thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

('74 Code, § 6-15-17) (Ord. 4-1992)

§ 9-8-18 DISTRIBUTING COMMERCIAL AND NONCOMMERCIAL HANDBILLS AT INHABITED PRIVATE PREMISES.

(A) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such

handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted as provided in this article, such person, unless requested by anyone upon such premises not to do so, shall have the authority to place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

(B) *Exemption for Mail and Newspapers.* The provisions of this section shall not apply to the distribution of mail by the United States nor to newspapers as defined herein.

('74 Code, § 6-15-18) (Ord. 4-1992)

☐ § 9-8-19 DROPPING LITTER FROM AIRCRAFT.

No person in any aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object.

('74 Code, § 6-15-19) (Ord. 4-1992)

☐ § 9-8-20 POSTING NOTICE PROHIBITED.

No person shall post, place or affix or cause to be posted, placed or affixed any commercial handbill, sign, notice, poster or other paper or device calculated to attract the attention of the public at any lamp post, public utility pole, street median, public right-of-way, or shade tree, or upon any public structure or building, except as may be authorized or required by law. This provision shall not apply to signs relating to matters of public health, safety and welfare posted, placed, or affixed by the city.

('74 Code, § 6-15-20) (Ord. 4-1992; Am. Ord. 25-2005)

☐ § 9-8-21 LITTER ON OCCUPIED PRIVATE PROPERTY.

No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.

('74 Code, § 6-15-21) (Ord. 4-1992)

☐ § 9-8-22 OWNER TO MAINTAIN PREMISES FREE OF LITTER.

The owner of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

('74 Code, § 6-15-22) (Ord. 4-1992)

☐ § 9-8-23 LITTER ON VACANT LOTS.

No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not.

('74 Code, § 6-15-23) (Ord. 4-1992)

☐ § 9-8-24 SNOW AND ICE.

It shall be the duty and responsibility of all owners of property, whether vacant or inhabited abutting any sidewalks or driveways, if they are part of the sidewalk to keep same free and clear of all snow and ice, provided however, that such snow and ice shall not be placed in the gutter or street.

('74 Code, § 6-15-24) (Ord. 4-1992)

☐ § 9-8-25 NOTICE TO CUT AND REMOVE.

If the provisions of this article regarding removal of weeds or litter are not complied with, the Mayor or his authorized representative shall notify the owner of any occupied or unoccupied lot

or tract of land to comply with the provisions of this article. The notification to the owner of any such lot or tract of land shall be in writing. In the event such owner of such lot or tract of land cannot be determined or the owner shall be a nonresident of the city, such notice may be served by posting a copy of the written notice upon the premises.

('74 Code, § 6-15-25) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

§ 9-8-26 WHEN CITY TO REMOVE.

In those cases where the owner of any occupied or unoccupied lot or tract of land is a nonresident of the city or cannot be determined and compliance with the provisions set forth in the notice has not occurred within ten days, the Mayor shall cause such weeds or litter to be cut and the cuttings or any accumulation of weeds or litter removed. If the owner of any such lot or tracts of land is notified in writing as provided and fails to comply with the provisions of this article within ten days, the Mayor may cause such weeds or litter to be cut and the cuttings or any accumulation of weeds or litter removed. In any event, should it appear to be a matter of public necessity for health or safety reasons, the Mayor may give notice that the weeds or litter must be cut or removed immediately in which event should there be noncompliance the Mayor is authorized to cause such weeds or litter to be cut and the cuttings or any accumulation of weeds or litter removed immediately. The actual cost of the cutting or removal of weeds or litter plus any other penalties or costs allowed by law in connection therewith, under any of the circumstances herein set out, shall become a lien upon the property from which such weeds or litter were removed in the manner prescribed by law.

('74 Code, § 6-15-26) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

§ 9-8-27 METHOD OF REMOVAL.

The approved methods of controlling weeds shall be mowing, cutting, digging, or other methods designed to remove the weeds but not disturb other vegetation or unnecessarily disturb the soil. The scraping and tillage of lots and tracts of land is prohibited unless permission of the Mayor is first obtained; except, that scraping and tillage as part of normal construction activities or as ground preparation for agriculture or landscaping activities shall be allowed. The Mayor shall allow scraping and tillage of lots or tracts of land when this will not detract from or violate the clear intent and purpose of this article.

('74 Code, § 6-15-27) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

§ 9-8-28 APPEAL PROCEDURE ADMINISTRATIVE HEARING.

The owner may appeal the determination of the need for weed or litter removal to the City Hearing Officer by filing an appeal within seven calendar days of the date of service of the notice to remove. Such request shall be made in writing and filed in the Office of the City Clerk. The appeal shall identify the property and state the grounds for appeal together with all material facts in support thereof. A filing fee of \$50 shall accompany each appeal application. When a hearing is requested the Hearing Officer shall send written notice by certified mail, return receipt requested, to the owner of the time and place of the hearing. At the hearing the owner shall have the right to present evidence as to the alleged facts upon which the Mayor based the determination of the need for weed or litter removal and any other facts which may aid the Hearing Officer in determining whether this article has been violated. The Hearing Officer shall, following the hearing, issue a written decision. If the decision is that this article has been violated, the decision shall set forth the time within which removal shall be completed by the owner. This decision shall be served in the same manner as the Notice to Remove.

('74 Code, § 6-15-28) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992)

§ 9-8-29 JUDICIAL REVIEW.

The exclusive remedy for parties dissatisfied with the action of the City Hearing Officer shall be the filing of a petition for a writ of certiorari with the State District Court. The petition for

review shall be limited to the record made at the administrative hearing held pursuant to this article.

('74 Code, § 6-15-29) (Ord. 4-1992)

§ 9-8-30 REMOVAL UPON DEFAULT OF OWNER.

After said hearing if removal has not been commenced or prosecuted to completion with due diligence as required by the written hearing decision, the Mayor shall commence removal upon the premises as set forth in § 9-8-26.

('74 Code, § 6-15-30) (Ord. 4-1992)

§ 9-8-31 ILLEGAL COMMERCIAL HANDBILLS PREVENTION.

(A) The Mayor shall create and maintain a 24-hour seven-day per week hotline and website for individuals to report commercial handbills in public places.

(B) The Mayor shall implement a public outreach program to educate the public about the penalties for illegally posting commercial handbills in public places.

(C) The Mayor shall initiate a kiosk program to prevent the illegal distribution of commercial handbills. The city kiosk program shall permit kiosks on public rights-of-ways and city owned property where deemed appropriate by the Mayor in exchange for a reasonable fee.

(Ord. 25-2005)

§ 9-8-32 SMOKING TOBACCO PRODUCT LITTER.

No person shall dispose of any portion of a smoking tobacco product except in public receptacles or in appropriate private receptacles. Any smoking tobacco product previously lit shall be extinguished prior to disposal.

(Ord. 41-2006)

§ 9-8-99 PENALTY.

(A) Any person who violates any of the provisions of this article, excluding § 9-8-32, shall be deemed guilty of a petty misdemeanor and, upon conviction thereof, shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances to include a minimum fine of \$150. Any person deemed guilty of a subsequent violation shall be subject to a minimum fine of \$300 and then \$500 for each violation thereafter. Community service may be imposed in lieu of or in addition to any such fine. Every violation shall be a separate misdemeanor.

(B) Any person who violates the provisions of § 9-8-32 regarding smoking tobacco product litter shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances to include a minimum fine of \$250. Any person deemed guilty of a subsequent violation of § 9-8-32 shall be subject to a minimum fine of \$500 for each violation thereafter.

('74 Code, § 6-15-31) (Ord. 89-1967; Am. Ord. 32-1976; Am. Ord. 4-1992; Am. Ord. 52-2003; Am. Ord. 25-2005; Am. Ord. 41-2006)

ARTICLE 1: UNIFORM ADMINISTRATIVE CODE
AND TECHNICAL CODES

Section

- 14-1-1 Intent
- 14-1-2 Uniform administrative code adopted
- 14-1-3 Technical codes adopted
- 14-1-4 Amendments to uniform codes
- 14-1-5 Availability of uniform construction codes
- 14-1-6 Building safety division — jurisdiction
- 14-1-7 Fire marshal — jurisdiction; application of fire code
- 14-1-8 Conflict of codes

- 14-1-99 Penalty

Cross-reference:

Fire Code, see Ch. 14, Art. 2

§ 14-1-1 INTENT.

It is the intent of this article that the city shall recover from fees derived from Building and Safety 100% of the full cost, including indirect charges, of code enforcement activities. It shall be the responsibility of the Mayor to review the Building and Safety income at yearly intervals and to recommend to the Council the need to increase or decrease fees according to the result of this review.

('74 Code, § 7-28-1) (Ord. 2014-018)

§ 14-1-2 UNIFORM ADMINISTRATIVE CODE ADOPTED.

The Uniform Administrative Code is hereby adopted and shall serve as the administrative, organizational and enforcement rules and regulations for the adopted technical codes within the city.

('74 Code, § 7-28-2) (Ord. 2014-018)

§ 14-1-3 TECHNICAL CODES ADOPTED.

For the purpose of prescribing minimum standards regulating construction and maintenance of buildings and structures, including all building service equipment and installations within the city, the following codes are adopted:

(A) The New Mexico Building Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(B) The 2009 New Mexico Commercial Building Code as adopted by the Construction Industries Division of the State of New Mexico, including Appendix Chapters E and I, but not including Appendix Chapters A, B, C, D, F, G, H, J, and K with an effective date of January 1, 2011;

(C) The 2009 New Mexico Residential Building Code as adopted by the Construction Industries Division of the State of New Mexico, including Appendix Chapters G, H, J, K and M, but not including Appendix Chapters A, B, C, D, E, F, I, L, N, O, P, and Q with an effective date of January 1, 2011;

(D) The 2009 New Mexico Earthen Building Materials Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(E) The 2009 New Mexico Historic Earthen Building Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(F) The 2009 New Mexico Existing Building Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(G) The 2009 New Mexico Non-Load Bearing Baled Straw Construction Building Standards as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(H) The 2009 International Code Council Performance Code for Building and Facilities, including all Appendix Chapters, as published by the International Code;

(I) The 1997 Uniform Code for the Abatement of Dangerous Buildings as published (previously) by the International Conference of Building Officials;

(J) The 2009 New Mexico Mechanical Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of January 1, 2011;

(K) The 2009 New Mexico Plumbing Code as adopted by the Construction Industries Division of the State of New Mexico including Appendix Chapters A, B, D, E, F, I, and L with an effective date of January 1, 2011;

(L) The 2009 New Mexico Swimming Pool, Spa and Hot Tub Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of November 1, 2011;

(M) The 2009 New Mexico Solar Energy Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of November 1, 2011;

(N) The 2009 New Mexico Energy Conservation Code;

(O) The 2014 New Mexico Electrical Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of August 1, 2014;

(P) The 2012 New Mexico Electrical Safety Code as adopted by the Construction Industries Division of the State of New Mexico with an effective date of August 1, 2014;

(Q) Errata sheets to the adopted portions of the Codes promulgated by the International Code Council, International Association of Plumbing and Mechanical Officials and National Electrical Code;

(R) The City of Albuquerque amendments to the New Mexico Codes referred to herein are available at the City Clerk's office and are hereby adopted and together with the Codes in divisions (A) through (Q) of this section that shall be known as the Uniform Construction Codes of the city. From the date on which this article takes effect they shall be controlling within the municipal boundaries of the city.

('74 Code, § 7-28-3) (Ord. 2014-018) Penalty, see § 11-1-99

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EXHIBIT A

**CITY OF ALBUQUERQUE AMENDMENTS
TO THE NEW MEXICO BUILDING CODE,
AS ADOPTED BY THE CONSTRUCTION INDUSTRIES DIVISION
OF THE STATE OF NEW MEXICO
WITH AN EFFECTIVE DATE OF
October 1, 2011**

- The 1997 Uniform Code for the Abatement of Dangerous Buildings as published (previously) by the International Conference of Building Officials;
- The 2009 New Mexico Mechanical Code;
- The 2009 New Mexico Plumbing Code; including Appendix Chapters A, B, D, E, F, I, and L;
- The 2006 New Mexico Swimming Pool, Spa and Hot Tub Code (Phase 3);
- The 2006 New Mexico Solar Energy Code (Phase 3);
- The 2009 New Mexico Energy Conservation Code;
- The 2009 New Mexico Commercial Building Code including Appendix Chapters E and I, but not including Appendix Chapters A, B, C, D, F, G, H, J, and K;
- The 2009 New Mexico Residential Building Code including Appendix Chapters G, H, J, K, and M, but not including Appendix Chapters A, B, C, D, E, F, I, L, N, O, P, and Q;
- The 2009 New Mexico Earthen Building Materials Code;
- The New Mexico Historic Earthen Building Code;
- The 2009 New Mexico Existing Building Code;
- The 2009 New Mexico Non-Load Bearing Baled Straw Construction Building Standards;
- The 2009 International Code Council Performance Code for Building and Facilities, including all Appendix Chapters as published by the International Code Council;
- The 2008 New Mexico Electrical Code;
- The 2008 New Mexico Electrical Safety Code;
- Errata sheets to the adopted portions of Codes promulgated by the International Code Council, International Association of Plumbing and Mechanical Officials and National Electrical Code;

ARE AS FOLLOWS:

Title 14, Chapter 5 of the New Mexico Building Code has been deleted and replaced with Chapter 1, on the following pages. Sections from various other parts of the Technical Codes have been amended, added, or deleted. These changes are noted on the pages following the Administrative Chapter No. 1.

**UNIFORM ADMINISTRATIVE CODE
CHAPTER I
Part I
TITLE, SCOPE AND GENERAL**

SECTION 101 -- TITLE, PURPOSE AND SCOPE

101.1. Title These regulations shall be known as the "Uniform Administrative Code of the City of Albuquerque," may be cited as such and will be referred to herein as "this Code."

101.2. Purpose The purpose of this Code is to provide for the administration and enforcement of the Technical Codes adopted by this jurisdiction.

101.3 Scope The provisions of this Chapter shall serve as the administrative, organizational and enforcement rules and regulations for the Technical Codes which regulate the site preparation and construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures and building service equipment within this jurisdiction.

SECTION 102 -- APPLICATION TO EXISTING BUILDINGS AND BUILDING SERVICE EQUIPMENT

102.1 General. Buildings, structures and their building service equipment to which additions, alterations or repairs are made shall comply with the 2009 New Mexico Existing Building Code.

102.2 Existing Installations. Building service equipment lawfully in existence at the time of the adoption of the Technical Codes may have their use, maintenance, or repair continued if the use, maintenance, or repair is in accordance with the original design and no hazard to life, health or property has been created by such building service equipment.

102.3 Existing Occupancy. Buildings in existence at the time of the adoption of the Building Code may have their existing use or occupancy continued if such use or occupancy was legal at the time of the adoption of the Building Code, provided such continued use is not dangerous to life, health, and safety.

A change in the use or occupancy of any existing building or structure shall comply with the provisions of The 2009 New Mexico Existing Building Code.

102.4 Maintenance. Buildings, structures and building service equipment, existing and new, and parts thereof shall be maintained in a safe and sanitary condition. Devices or safeguards which are required by the Technical Codes shall be maintained in conformance with the technical code under which installed. Yards that are necessary for allowable area increases per the Building Code, shall be maintained open and unobstructed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and their building service equipment. To determine compliance with this section, the Building Official may cause any structure to be re-inspected.

Building materials, construction trash and other debris shall be kept within the confines of the construction site and maintained in such a manner that it will not be blown to adjacent properties by the wind.

102.5 Moved Buildings. Buildings, structures and their building service equipment moved into or within this jurisdiction shall comply with the provisions of the Technical Codes for new buildings or structures and their building service equipment.

102.6 Temporary Structures. Temporary structures such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around and in conjunction with construction work may be erected by special permit from the Building Official for a limited period of time. Buildings or structures erected under a special permit need not comply with the type of construction or fire-resistive time periods required by the Building Code. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

102.7 Historic Buildings. Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building, structure, or its building service shall comply with The 2009 New Mexico Existing Building Code.

SECTION 103 -- CONFLICTING PROVISIONS

When conflicting provisions or requirements occur between this Code and any other codes or laws, the most restrictive shall govern.

Where conflicts occur between the Technical Codes, those provisions providing the greater safety to life shall govern. In other conflicts, where sanitation, life safety, or fire safety are not involved, the most restrictive provisions shall govern.

Exception: Where a conflict occurs between the Building Code and the Mechanical or Plumbing Codes the Building Code shall govern. The 2009 International Mechanical Code and 2009 International Plumbing Code, both published by the International Code Council may be used as reference documents to help resolve such conflicts.

Where in any specific case different sections within any of the Technical Codes specify different materials, methods of construction, or other requirements, the most restrictive shall govern. When there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

When conflicts occur between any specific provision of this Code and any administrative provisions in any Technical Code which is then applicable within this jurisdiction, those provisions becoming the law last in time shall prevail.

SECTION 104 -- MODIFICATIONS

Wherever there are practical difficulties involved in carrying out the provisions of this Code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of Building Safety;

104.1 Alternative Materials Design And Methods Of Construction And Equipment. The provisions of this Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability and safety;

104.2 Research Reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Code, shall consist of valid research reports from approved sources;

104.3 Tests. Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such test shall be retained by the Building Official for the period for retention of public records;

SECTION 105 -- POWERS AND DUTIES OF BUILDING OFFICIAL

105.1 General. The Building Official is hereby authorized and directed to enforce all the provisions of this Code and the referenced Technical Codes. For such purposes, the Building Official shall have the powers of a law enforcement officer.

The Building Official shall have the power to render interpretations of this Code and the referenced Technical Codes, and to adopt and enforce rules and regulations supplemental to this Code as may be deemed necessary to clarify the application of the provisions of this Code. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Code.

105.2 Deputies. In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint a Chief Plans Examiner, a Chief Building Inspector, a Chief Electrical Inspector, a Chief Mechanical Inspector, a Chief Plumbing Inspector, and other related technical officers and inspectors and other employees as shall be authorized from time to time to carry out the functions of the Building Safety Division.

105.3 Report and Records. The Building Official shall keep a permanent, accurate account of all fees and other moneys collected and received under this Code, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate.

105.4 Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe as defined in this Code, the Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this Code; provided that if such building or premises be occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If entry is refused, the Building Official shall proceed to obtain a search warrant by filing a complaint made before the Metropolitan Court or District Court upon oath or affirmation. The complaint shall:

- (1) set forth the particular building, premises or portion thereof sought to be inspected,
- (2) state that the owner or occupant of the building, premises, or portion thereof, has refused entry,
- (3) state that inspection of the building, premises, or portion thereof is necessary to determine whether it complies with the requirement of this Code,
- (4) set forth the particular provisions of this Code sought to be enforced,
- (5) set forth any other reason necessitating the inspection, including knowledge or belief that a particular condition exists in the building, premises or portion thereof which constitutes a violation of this Code,
- (6) state that the Building Official or his representative is authorized by the City to make the inspection.

Each inspector shall be furnished with an identification card signed by the Building Official and Chief Administrative Officer indicating his authority and must present same to the Metropolitan Court or District Court for the purpose of this section and to other persons, when requested to do so during the performance of his duty. "Authorized Representative" shall include the officers named in Section 105.1 and 105.2 of this Code.

No owner or occupant or any other person having charge, care, or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Building Official or his authorized representative for the purpose of inspection and examination pursuant to this Code. Any person violating this subsection shall be guilty of a misdemeanor.

105.5 Stop Orders. When work is being done contrary to the provisions of this Code, the Technical Codes, or other pertinent laws or ordinances implemented through the enforcement of this Code, the Building Official may order the work stopped by notice in writing served on persons engaged in the doing or causing such work to be done, and such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.

105.6 Occupancy Violations. When a building or structure or building service equipment therein regulated by this Code and the Technical Codes is being used contrary to the provisions of such codes, the Building Official may order such use discontinued by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Building Official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of such codes.

105.7 Authority to Disconnect Utilities. The Building Official or the Building Official's authorized representative shall have the authority to disconnect a utility service or energy supplied to the building, structure or building service equipment therein regulated by this Code or the Technical Codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter.

105.8 Authority to Condemn Building Service Equipment. When the Building Official ascertains that building service equipment regulated in the Technical Codes has become hazardous to life, health, property, or becomes unsanitary, he shall order in writing that such equipment either be removed or restored to a safe or sanitary condition as appropriate. The written notice itself shall fix a time limit for compliance with such order. Defective building service equipment shall not be maintained after receiving such notice.

When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefore shall be given within 24 hours to the serving utility, the owner and occupant of such building, structure or premises.

When any building service equipment is maintained in violation of a notice issued pursuant to the provisions of this section, the Building Official shall institute any appropriate action to prevent, restrain, correct or abate the violation.

105.9 Connection after Order to Disconnect. Persons shall not make connections from any energy, fuel or power supply nor supply energy or fuel to building service equipment which has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Official authorizes the reconnection and use of such equipment.

105.10 Liability. The Building Official, or his authorized representative charged with the enforcement of this Code and the Technical Codes, acting in good faith and without malice in the discharge of his duties, shall not thereby render himself personally liable for any damage that may accrue to persons or property as a result of any approval, act or by reason of any act or omission in the discharge of his duties. A suit brought against the Building Official or employee because of such approval, act or omission performed by him in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this Code or enforced by the code enforcement agency shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting there from shall be assumed by this jurisdiction.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling a building, structure or building service equipment therein for damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this Code or any permits or certificates issued under this Code.

105.11 Cooperation of Other Officials and Officers. The Building Official may request, and shall receive the assistance and cooperation of other officials of this jurisdiction so far as is required in the discharge of the duties required by this Code or other pertinent laws or ordinances.

SECTION 106 -- UNSAFE BUILDINGS, STRUCTURES, OR BUILDING SERVICE EQUIPMENT

106.1 Inadequate Structure and Egress. Buildings or structures regulated by this Code and the Technical Codes which are structurally inadequate or have inadequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are for the purpose of this section, unsafe buildings.

106.2 Unsafe Service Equipment. Building service equipment regulated by such codes, which constitute a fire, electrical, health hazard, unsanitary condition, or is otherwise dangerous to human life, is for the purpose of this section, unsafe. Any use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use.

106.3 Attachments to Buildings. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby designated as unsafe building appendages.

106.4 Abatement. Unsafe buildings, structures or appendages and building service equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the 1997 Uniform Code for the Abatement of Dangerous Buildings or such alternate adopted by this jurisdiction. As an alternative, the Building Official or other employee or official of this jurisdiction as designated by the governing body may institute any other appropriate action to prevent, restrain, correct or abate the violation.

SECTION 107 -- BOARD OF APPEALS

107.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretations of the Technical Codes, there shall be and is hereby created a Board of Appeals consisting of nine (9) members who are qualified by experience and training to pass upon matters pertaining to building construction and building service equipment and who are not employees of the jurisdiction. The Building Official shall be an ex officio member but shall have no vote upon any matter before the board. The Board of Appeals shall be appointed by the mayor with the advice and consent of the city council and shall hold office at his pleasure.

The Board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

107.2 Applications. Application for an appeal shall be made in writing to the Chief Building Official and shall include a fee of one-hundred dollars (\$100.00) made payable to the Building Safety Division, City of Albuquerque. The application fee will be retained by the City of Albuquerque regardless of the outcome of the appeal. The applicant shall pay for all tests, calculations, samples, and/or supporting information requested by any member of the Board of Appeals or the Chief Building Official. The applicant shall also pay for the recording fees and photocopies.

107.3 Qualifications. Both regular and alternate members of the Board of Appeals shall be qualified by education, training and experience to pass upon matters pertaining to building design and construction, including appliances, equipment, facilities, systems, and conditions.

Alternate members of the Board of Appeals shall serve in the absence of the principal members and insofar as possible the alternate member shall be of the same classification as the regular members they replace. The mayor shall appoint all members and alternate members for a three (3) year term.

Each member of the Board shall have had at least seven (7) years experience in his profession and be a resident of or have his principal place of business in the City of Albuquerque. The members and alternates shall have the following classifications:

1. A REGISTERED ARCHITECT in active practice.
2. A REGISTERED PROFESSIONAL ENGINEER whose field of active practice is Mechanical Design.
3. A REGISTERED PROFESSIONAL ENGINEER whose field of active practice is Structural or Civil Design.
4. A REGISTERED PROFESSIONAL ENGINEER whose field of active practice is Electrical Design.
5. A LICENSED GENERAL CONTRACTOR whose field of active practice is General Building Contracting.
6. A LICENSED GENERAL CONTRACTOR whose field is Building Contracting specializing in single-family residences.
7. A LICENSED MECHANICAL CONTRACTOR whose field is Mechanical Contracting.
8. A LICENSED ELECTRICAL CONTRACTOR whose field is Electrical Contracting.
9. A LICENSED PLUMBING CONTRACTOR whose field is Plumbing Contracting.



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▪ SECTION 115 UNSAFE BUILDINGS AND EQUIPMENT

115.1 Conditions.

115.2 Record.

115.3 Notice.

115.4 Method of service.

115.5 Restoration.

115.1 Conditions.

115.2 Record.

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115.4 Method of service.

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SECTION 115 UNSAFE BUILDINGS AND EQUIPMENT

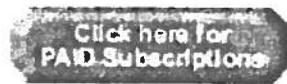
115.1 Conditions. Buildings, structures or equipment that are or hereafter become unsafe, shall be taken down, removed or made safe as the code official deems necessary and as provided for in this code.

115.2 Record. The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

115.3 Notice. If an unsafe condition is found, the *code official* shall serve on the owner, agent, or person in control of the structure a written notice that describes the condition deemed unsafe and specifies the required *repairs* or improvements to be made to abate the unsafe condition, or that requires the unsafe building to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the *code official* acceptance or rejection of the terms of the order.

115.4 Method of service. Such notice shall be deemed properly served if a copy thereof is delivered to the owner personally; sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

115.5 Restoration. The building or equipment determined to be unsafe by the *code official* is permitted to be restored to a safe condition. To the extent that *repairs, alterations, or additions* are made or a *change of occupancy* occurs during the restoration of the building, such *repairs, alterations, additions, or change of occupancy* shall comply with the requirements of this code.



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▪ SECTION 116 EMERGENCY MEASURES

- 116.1 Imminent danger.
- 116.2 Temporary safeguards.
- 116.3 Closing streets.
- 116.4 Emergency repairs.
- 116.5 Costs of emergency repairs.
- 116.6 Hearing.

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SECTION 116 EMERGENCY MEASURES

116.1 Imminent danger. When, in the opinion of the *code official*, there is imminent danger of failure or collapse of a building that endangers life, or when any building or part of a building has fallen and life is endangered by the occupation of the building, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, or operation of defective or *dangerous* equipment, the *code official* is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the *Code Official*." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required *repairs*, removing the hazardous condition, or of demolishing the same.

116.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is imminent danger due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

116.3 Closing streets. When necessary for public safety, the *code official* shall temporarily close structures and close or order the authority having jurisdiction to close sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being utilized.

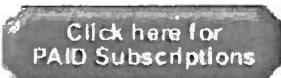
116.4 Emergency repairs. For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

116.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

116.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

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▪ SECTION 117 DEMOLITION

- 117.1 General.
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- 117.1 General.
- 117.2 Notices and orders.
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SECTION 117 DEMOLITION

117.1 General. The *code official* shall order the owner of any premises upon which is located any structure that in the *code official's* judgment is so old, dilapidated, or has become so out of *repair* as to be *dangerous*, unsafe, insanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to *repair* the structure, to demolish and remove such structure; or if such structure is capable of being made safe by *repairs*, to *repair* and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

117.2 Notices and orders. All notices and orders shall comply with Section 113.

117.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

117.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

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④
 § 14-16-3-2 SHOPPING CENTER REGULATIONS.

This section controls the development of shopping center sites.

(A) *General.*

(1) No structure shall be erected on a shopping center site except in conformance with a duly approved site development plan. Once approved, such a plan or subsequent amended plan is binding on the entire area of the original site development plan. Sales of all or part of the premises do not alter the effect of the plan. Platting of lots or creation of smaller premises do not alter the effect of the plan. Subsequent to execution of the site development plan, use of the site entirely for manufacturing, assembling, treating, repairing, rebuilding, wholesaling, and warehousing for a period of over one year does change the status of the site as a shopping center and suspends the legal effect of the site development plan for so long as the uses remain.

(2) The rights and duties of the city and of the applicant which result from the approval of an application under this section run with the land and are binding upon successors in interest of the applicant. When an application is approved, a copy of the approved Site Development Plan and Landscaping Plan or record of exemption shall be kept in the office of the Planning Director. A building permit for a shopping center site shall be issued only upon presentation of working plans and specifications drawn in close conformity with an approved Site Development Plan.

(3) The Planning Director shall designate shopping center sites on the official zone map by the symbol "SC."

(4) The Planning Commission may modify the boundaries of or eliminate an existing Shopping Center designation for any site, upon application by the property owner, if the Planning Commission finds no public benefit in continued application of the shopping center regulations because most of the site has been allowed to develop without the guidance of a site development plan.

(B) *Shopping Center Requirements.* The following regulations apply to an application for a building permit for construction on a shopping center site, except applications covering on-site parking expansion:

(1) An applicant shall submit a Site Development Plan and Landscaping Plan for the shopping center site.

(2) (a) Access to the shopping center site is limited to approaches designed according to accepted traffic engineering practice, so laid out as to be an integral part of the parking area and loading facilities.

(b) Pickup points shall be so designed that vehicles do not create congestion on an abutting public way. No loading and unloading is to be conducted on a public way.

(3) Landscaping of shopping center sites must comply with the regulations of § 14-16-3-10 of this Zoning Code. The Planning Commission may require additional buffer landscaping if it finds it necessary due to demonstrably unusual circumstances.

(4) Free-standing signs on shopping center sites shall be limited to one on-premise sign per 300 feet of street frontage on arterial and collector streets. Maximum signable area shall be 150 square feet per sign face and maximum sign height shall be 26 feet. Off-premise signs shall not be permitted on shopping center sites.

(5) Upon approval, the applicant is responsible for payment of the cost for the necessary traffic control devices and channelization to shelter vehicular turning movements into the shopping center or shopping center site, channelization to be designed according to accepted advanced geometric design technique. These responsibilities must be outlined and agreed upon between the applicant and the city at the time of approval of the Site Development Plan.

(6) The site division regulations established in § 14-16-3-2(D)(3) ROA 1994, apply to all retail facilities with over 90,001 aggregate square feet of gross leasable space.

(C) *Procedure.*

(1) Approval and revision of plans is the same procedure as for SU-1 plans.

(2) The Planning Commission may review the plan and progress of development at least every four years until it is fully implemented to determine if it should be amended.

(D) *Large Retail Facility Regulations.*(1) *Applicability.*

(a) Provisions of this section and § 14-8-2-7, Responsibilities of Applicants and Developers, shall apply to the following, as determined by the Environmental Planning Commission (EPC):

1. New construction of a large retail facility;

2. Change of use from a non- large retail facility to a large retail facility as defined in § 14-16-1-5;

3. Building expansion of more than 50% of the existing square footage.

(b) Building expansion of 10% to 50% of the existing square footage of an existing large retail facility shall be subject to the following requirements:

1. Pre-application discussion with the Planning Review Team (PRT).

2. Compliance with the large retail facilities design regulations as determined by the EPC. The EPC before issuing final design regulations shall request input from neighborhood associations with boundaries that are within 200 feet of the proposed project.

(c) Building expansion up to 10% of the existing square footage and building renovation of an existing large retail facility shall comply with the design regulations in this section to the extent possible as determined by the Planning Director.

(2) *Location and Access of Large Retail Facility.* The following regulations manage the location and design of large retail facilities. These regulations are necessary for the proper functioning and enjoyment of the community. They protect the quality of life within surrounding residential areas, support efficient traffic flows, and provide consistent regulations for such facilities. Large retail facilities shall be located to secure adequate street capacity to transport pedestrians and vehicles to and from large retail facilities, and discourage traffic from cutting through residential neighborhoods. The regulations result in efficient and safe access for both vehicles and pedestrians from roadways in the Metropolitan Transportation Plan to neighborhoods in the vicinity of large retail facilities. The Planning Director, after initial review of a large retail facilities proposal, may require the site to comply with the next level of large retail facilities regulations.

(a) Large retail facilities containing 75,000 to 90,000 sq. ft. net leasable area are:

1. Permitted in C-2, C-3, M-1, M-2, IP, SU-1 and the SU-2 Zones for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and

2. Permitted in C-1 zones if the project site or site plan reviewed for subdivision is greater than seven acres.

3. Required to be located adjacent to and have primary and full access to a street designated as at least a collector in the Mid-Region Council of Governments' Metropolitan Transportation Plan and having at least two through traffic lanes.

(b) Large retail facilities containing 90,001 to 124,999 sq. ft. net leasable area are:

1. Permitted in C-2, C-3, M-1, M-2, and IP zones and SU-1 and SU-2 zones for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and

2. Required to be located adjacent to and have primary and full access to a street designated as at least a collector in the Mid-Region Council of Governments' Metropolitan Transportation Plan and having at least four through traffic lanes.

(c) Large retail facilities containing 125,000 square feet or greater of net leasable area are:

1. Permitted in the C-2, C-3, M-1, M-2, IP, SU-1 and SU-2 for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and

2. Required to be located within 700 feet of the intersection of two roadways, both of which are designated as at least a collector street in the Mid-Region Council of Governments' Metropolitan Transportation Plan and shall have full access to these roadways. One of the adjacent roadways shall have at least four through traffic lanes and the other adjacent roadway shall have at least six through traffic lanes or is designated a limited access principal arterial in the Mid-Region Council of Governments' Metropolitan Transportation Plan and have a minimum of four lanes.

3. If an arterial or collector street has yet to be built to its full cross-section and does not have the required number of lanes, the large retail facility may have access onto the roadway if the roadway is identified on the Metropolitan Transportation Plan as having the required number of lanes at full build-out.

4. If access control policies prohibit access onto one of the adjacent roadways, a local road may be used as access if it has direct access to at least two roadways that are identified on the Long Metropolitan Transportation Plan, does not pass directly through a residential subdivision and at least one of the intersections is signalized.

5. If access to a location fulfills the criteria of this section but control policies outside the city jurisdiction prohibit access onto one of the adjacent arterial or collector streets, the remaining arterial or collector street may serve as the sole access if it has direct access to two intersections with an arterial and the intersections are signalized.

6. If warrants are met, the intersection of the primary driveway and the arterial street shall be signalized, unless prohibited by the City Traffic Engineer for safety reasons, at the expense of the applicant. The applicant may place the name of the development on the mast-arm of the signal.

(3) *Site division.* These regulations create block sizes for large retail facility that are walkable and support land use changes over time. The site plans for subdivision in Phase One and the Final Phase, if proposed, shall subdivide or plan the site as follows:

(a) The entire site shall be planned or platted into maximum 360 foot by 360 foot blocks except as provided in Items (c) and (d) of this division (D)(3).

(b) Primary and secondary driveways (or platted roadways) that separate the blocks shall be between 60 feet and 85 feet wide and shall include the following:

1. Two ten-foot travel lanes;
2. Two parallel or angle parking rows or a combination of such on both sides of the driveway rights of way are permitted but not required;
3. Two six-foot landscaped buffers with shade trees spaced approximately 30 feet on center;
4. Two eight-foot pedestrian walkways constructed of material other than asphalt;
5. Pedestrian scale lighting that provides at least an illumination of 1.2 to 2.5 foot candles or the equivalent foot lamberts; and
6. Standup curb.

(c) One block can be expanded to approximately 790 feet by 360 feet if a main structure (including retail suite liners) covers more than 80% of the gross square footage of a block.

(d) If the site dimensions result in irregular block sizes, blocks of different dimensions are allowed provided:

1. The block sizes achieve the intent of this section;
2. Approval is granted by the EPC;
3. The narrow side of the block abuts the adjacent street that provides the primary access; and

4. The center of the long side has a major entrance, including a forecourt.

(4) *Development Phasing and Mixed-Use Component.* The large retail facility regulations address the build-out of a large site over time in order to guide the transition from more vehicle-oriented "big box" type retail development with large surface parking fields to finer-scaled, pedestrian oriented, mixed-use development, replacing surface parking with some parking structures, producing a village center that is integrated into the surrounding neighborhoods. This transition reflects actual trends in development and creates a better, more marketable, and higher use development.

(a) Site development plans for Phase One shall be submitted to the EPC for approval. If future and/or final phases are proposed on the site, site development plans containing a level of detail appropriate for the phasing of the development shall also be submitted to the EPC for approval.

(b) *Mixed Use Component.* Mixed use development is strongly encouraged in both Phase One and the Final Phase of the site plans for all large retail facilities.

(5) *Site Design.* These regulations are intended to create pedestrian connections throughout the site by linking structures, make pedestrian connections to external neighborhoods and other uses, and to provide landscaping compatible with the site's scale for pedestrian shade and aesthetic beauty. The regulations will result in an active pedestrian street life, replace large off-street parking fields with parking structures and transit options, conserve energy and water, and meet the goals of the Albuquerque/ Bernalillo County Comprehensive Plan and the Planned Growth Strategy. The following subsections (a) through (n) apply to all large retail facility sites:

(a) *Context:* The design of structures shall be sensitive to and complement the aesthetically desirable context of the built environment, e.g., massing, height, materials, articulation, colors, and proportional relationships.

(b) *Off-Street Parking Standards:*

1. If a structure or structures, including retail suite liners, occupies more than 80% of a planned or platted block, the off street parking shall be placed on another block.

2. Parking shall be distributed on the site to minimize visual impact from the adjoining street. Parking shall be placed on at least two sides of a building and shall not dominate the building or street frontage. Parking areas may front onto roadways identified as limited access in the Mid-Region Council of Governments' Metropolitan Transportation Plan, provided that they are adequately screened with landscape walls and plantings. If a project has multiple phases the final phase site plan, if proposed, shall show the elimination of surface parking areas but may include parking structures.

3. If the site is planned into 360 foot by 360 foot lots as called for in these regulations, parking requirements may be met by spaces located on a block immediately adjacent to the structure creating the parking demand.

4. Every third double row of parking shall have a minimum ten foot wide continuous walkway dividing that row. The walkway shall be either patterned or color material other than asphalt and may be at-grade. The walkway shall be shaded by means of trees, a trellis or similar structure, or a combination thereof. Tree wells, planters or supports for shading devices may encroach on the walkway up to three feet. In no case shall the walkway be diminished to less than five feet width at any point.

5. Parking requirements for a large retail facility with a mixed use component may use "best practice" standards for shared parking such as *Driving Urban Environments: Smart Growth Parking Best Practices*, a publication of the Governor's Office of Smart Growth, State of Maryland. Refer to § 14-16-3-1 for shared parking requirements.

(c) *On-Street Parking Standards:*

1. Arterial or collector roadways abutting a large retail facility with a posted speed limit of 35 miles or less per hour shall have on-street parking utilizing a parking/queuing lane under the following standards and if approved by the Traffic Engineer:

- a. On-street parking may use the existing adjacent outside lanes on an arterial or collector.
- b. The parking/queuing lane may be provided by moving the curb lines within the property line and dedicating the parking/queuing lane to the city. The existing through lanes shall not be used as the parking/queuing lane unless a traffic analysis indicates that this will not result in unacceptable degradation of traffic flow, though existing can be restriped in a narrower configuration to provide space for the parking/queuing lane.
- c. The parking/queuing lane has a maximum width of 16'.
- d. Curb extensions/bump-outs shall be constructed at the ends of each block and shall include landscaping to be maintained by the property owner pursuant to a maintenance agreement with the city.
- e. Street trees shall be planted pursuant to the Street Tree Ordinance, Chapter 6, Article 6, ROA 1994.

2. The regulations for parking credits and reductions set forth in § 14-16-3-1(E)(6) shall apply to this subsection except that 100% of the on-street parking shall be credited towards the project's parking requirements.

(d) *Signage.*

1. Signage shall comply with the shopping center regulations for signage, § 14-16-3-2 (B).
2. All signage shall be designed to be consistent with and complement the materials, color and architectural style of the building(s).
3. All free-standing signs shall be monument style.
4. The maximum height of any monument sign shall be 15 feet.
5. Building-mounted signage that faces residential zoning shall not be illuminated.
6. Building-mounted signs shall consist of individual channel letters. Illuminated plastic panel signs are prohibited.

(e) Drive-up windows must be located on or adjacent to the side or rear walls of service or retail structures and the window shall not face a public right of way.

(f) *Petroleum Products Retail Facility.*

1. Facilities shall be located at a street or driveway intersection.
2. The frontage of the principal structure shall face and line the two streets and follow the set-back and glazing standards for retail suite liner.
3. Fuel pumps, service facilities, ATMs, storage areas, and repair bays are to be screened from the major street by the principal structure.
4. If the structure between the street and the fueling island is not at least the length of the canopy that is over the fueling island, or if there is no service facility structure, the perimeter of the facility shall be screened by either a landscaped berm three feet in height or a wall at least three feet in height.

(g) *Truck Bays.*

1. Truck bays adjacent to residential lots must be separated from the adjacent lot by a minimum of 40 feet. A minimum 15 foot wide landscape buffer and a six-foot high solid masonry wall shall be provided along the property line. The landscape buffer shall contain evergreen trees or trellises with climbing vines to provide year round screening and buffering from noise. Dock and truck well facilities must also be screened with a masonry wall that extends vertically eight feet above the finish floor level and horizontally 100 feet from the face of the dock. Screen walls shall be designed to blend with the architecture of the building.

Trucks may not be moved or left idling between the hours of 10:00 p.m. and 6:30 a.m. if the truck bays are located within 300 feet of a residential structure unless negotiated with adjacent property owners and approved by the EPC.

2. Truck bays not adjacent to residential lots must be screened with a masonry wall extending vertically eight feet above the finish floor level and horizontally 100 feet from the face of the dock to screen the truck. Screen walls shall be designed to blend with the architecture of the building.

(h) *Landscaping*. The following landscaping requirements shall apply:

1. Landscaped traffic circles are encouraged at the intersection of interior driveways or platted streets.

2. One shade tree is required per eight parking spaces. Shade trees may be located at the center of a group of four to eight parking spaces, clustered in parking row end caps, or located along internal pedestrian ways. Shade trees lining a pedestrian way internal to a parking area may count as a canopy tree of a parking space. Trees in landscape buffer areas shall not count as parking space trees.

3. Shade trees along pedestrian walkways shall be spaced approximately 25 feet on center.

4. Water conservation techniques shall be utilized where possible and as approved by the City Hydrologist or City Engineer. Such techniques may include water harvesting and permeable paving. Water from roof runoff should be directed or stored and used to assist all trees and landscaping. Parking spaces that meet infiltration basins or vegetated storm water controls should be bordered by permeable paving. Grasses and other ground vegetation should be near edges to help filter and slow runoff as it enters the site.

(i) *Pedestrian walkways*. Internal pedestrian walkways shall be planned and organized to accommodate the inter-related movement of vehicles, bicycles, and pedestrians safely and conveniently, both within the proposed development and to and from the street, transit stops, and the surrounding areas. Pedestrian walkways shall contribute to the attractiveness of the development and shall be a minimum of eight feet in width and constructed of materials other than asphalt. Pedestrian walkways along internal driveways or streets internal to the site shall also be lined with shade trees and pedestrian scale lighting. Pedestrian crosswalks shall be constructed of patterned concrete or a material other than asphalt and may be at grade.

(j) A pedestrian plaza or plazas shall be required of all large retail facility development as follows:

1. Large retail facility sites that include a main structure less than 125,000 square feet in size shall provide public space pursuant to § 14-16-3-18(C)(4) of the Zoning Code.

2. Large retail facility sites that include a main structure 125,000 square feet or greater shall provide pedestrian plaza space in the amount of 400 square feet for every 20,000 square feet of building space. A minimum of 50% of the required public space shall be provided in the form of aggregate space that encourages its use and that serves as the focal point for the development. The aggregate space required shall:

a. Be linked to the main entrance of the principal structure and the public sidewalk or internal driveway;

b. Include adequate seating areas. Benches, steps, and planter ledges can be counted for seating space;

c. Have a portion (generally at least 40%) of the square footage of the plaza area landscaped with plant materials, including trees;

d. Be designed for security and be visible from the public right of way as much as possible;

e. Have pedestrian scale lighting and pedestrian amenities such as trash receptacles, kiosks, etc.

(k) *Lighting.*

1. Ornamental poles and luminaries, a maximum of 16 feet in height, shall be used as pedestrian scale lighting.

2. The maximum height of a light pole, other than those along pedestrian walkways, shall be 20 feet, measured from the finished grade to the top of the pole.

3. All on-site lighting fixtures shall be fully shielded to prevent fugitive light from encroaching into adjacent properties and/or right-of-way.

(l) *Outdoor Storage.* Outdoor storage as part of a mixed use development or within a C-1 or C-2 zoned site is not allowed. Outdoor uses such as retail display shall not interfere with pedestrian movement. Where the zoning permits and where outdoor storage is proposed, it shall be screened with the same materials as the building.

(m) *Transit stops.* If transit stops exist or are planned adjacent to a large retail facility, they shall include a covered shelter with seating provided at the developer's expense. Either the interior of the structures shall be lighted or the area surrounding the structures shall be lighted to the same standards as pedestrian walkways. If the transit stop is within the public right-of-way, the city shall assume ownership of the shelter and responsibility for maintenance.

(n) *Storm Water Facilities and Structures.* The following regulations apply to site hydrology:

1. Impervious surfaces shall be limited by installing permeable paving surfaces, such as bricks and concrete lattice or such devices that are approved by the City Hydrologist, where possible.

2. Where possible, transport runoff to basins by using channels with landscaped pervious surfaces. Landscaped strips may be converted into vegetative storm-water canals but must be shallow to avoid defensive fencing.

3. Ponds, retention and detention areas shall be shallow to prevent the need for defensive/security fencing yet have the capacity to manage storm waters in a 100 year event.

4. Trees, shrubs, and groundcover shall be included in storm water basins.

5. Bare patches shall be re-vegetated as soon as possible to avoid erosion, according to a landscaping and maintenance plan.

(o) Energy efficient techniques shall be utilized to reduce energy and water consumption where possible and as approved by the City Hydrologist or City Engineer.

(6) *Main Structure Design.* The following subsections (a) through (d) apply to main structures:

(a) *Setback.*

1. Main structures shall be screened from the adjacent street by means of smaller buildings, retail suite liners, or 20 foot wide landscape buffers with a double row of trees.

2. Where the front facade of a retail suite liner is adjacent to a street, the maximum front setback shall be ten feet for private drives and 25 feet for public roadways.

3. Main structures abutting residentially zoned land shall be set back from the property line at least 60 feet.

(b) *Articulation.*

1. Facades that contain a primary customer entrance and facades adjacent to a public street or plaza or an internal driveway shall contain retail suite liners, display windows, or a recessed patio at a minimum depth of 20 feet, or a combination of all three, along 50% of the length of the façade. Where patios are provided, at least one of the recessed walls shall contain a window for ease of surveillance and the patio shall contain shading and seating. Where retail suite liners are provided, they shall be accessible to the public from the outside.

2. Every 30,000 gross square feet of structure shall be designed to appear as a minimum of one distinct building mass with different expressions. The varied building masses shall have a change in visible roof plane or parapet height. Massing and articulation are required to be developed so that no more than 100 feet of a wall may occur without an offset vertically of at least 24 inches.

3. For the retail suite liner, the vertical offset shall be a visible change (minimum 6 inches), a change in material may be used for articulation at the same interval and the visible change in roof plane or parapet height shall be a minimum of 18 inches.

4. Facades adjacent to a public right-of-way or internal driveway and facades that contain a primary customer entrance shall contain features that provide shade along at least 40% of the length of the façade for the benefit of pedestrians.

(c) *Materials.*

1. Engineered wood panels, cyclone, chain-link, and razor-wire fencing are prohibited.
2. Design of the external walls and the principal entrance must include three of the below listed options:

- a. Multiple finishes (i.e. stone and stucco);
- b. Projecting cornices and brackets;
- c. Projecting and exposed lintels;
- d. Pitched roof forms;
- e. Planters or wing-walls that incorporate landscaped areas and can be used for sitting;
- f. Slate or tile work and molding integrated into the building;
- g. Transoms;
- h. Trellises;
- i. Wall accenting (shading, engraved patterns, etc.);
- j. Any other treatment that meets the approval of the EPC.

(d) *Landscaping.*

1. The buffer for main structures across the street from residentially-zoned land shall be at least 23 feet wide and include two rows of street trees. The trees shall be located pursuant to the guidelines set forth in *Crime Prevention Through Environmental Design Recommendations*. The landscaping of the berm shall provide year-round screening.

2. The public sidewalk adjacent to the main structure may be located within the berm and between the rows of trees. The sidewalk must be a minimum of seven feet behind the curb.

(7) *Mixed-Use Component.* The following subsections (a) through (g) apply to Mixed Use Development:

(a) *Uses and building forms.* The mixed use component may include a mix of the following building forms and uses:

1. Apartments or condominiums.
2. Apartments or condominiums over storefronts.
3. Courtyard housing.
4. Live-work.
5. Townhouses.
6. Lofts.
7. Lofts over flex.
8. Senior housing.
9. Mixed income housing including a minimum of 20% affordable at 80% or less of Area Median Income (AMI) for fee simple unit and 60% or less of AMI for rental units. If rental units are multiple sizes, only a maximum of 50% of the rental units set aside for 60% or less of AMI shall be the size of the smallest size category of rental unit in the project.
10. Office building.

- 11. Office over storefronts.
- 12. Civic, cultural, and community buildings.
- 13. Parking structures with commercial or housing liners.
- 14. Schools, both traditional and technical vocational.

(b) *Density.*

- 1. Minimum density: 12 dwelling units per acre.
- 2. Minimum FAR: .30.
- 3. Maximum density: As determined by the EPC.

(c) *Building Heights.* Heights within the mixed use portion of the large retail facility site may vary depending on location. Structures adjacent to residentially zoned parcels shall be subject to the height requirements of the O-1 Zone and shall not exceed 26 feet in height within 85 feet of a lot zoned specifically for houses. The heights of buildings along the central driveway or street and adjacent to a major arterial or freeway may exceed four stories so long as the average building height of all structures in the mixed use site does not exceed the maximum of four stories and no individual structure exceeds a height of seven stories.

(d) *Building Setbacks.*

Primary Building	Mixed Use Component
(1) Street-Facing Setback with Ground-Floor Storefront	
a. On Private Drive	10 foot minimum
b. On Public Street	15 foot maximum
(2) Street-Facing Setback without Ground-Floor Storefronts	
a. On Private Drive	10 foot minimum
b. On Public Street	15 maximum
Interior Side Setback (from property line)	Attached or 5' maximum
Interior Side-Side Separation (btw. Adjacent buildings)	Attached or 10' maximum
Interior Rear Setback (from property line)	5' from alley ROW; 20' if no alley (e.g. parking lot)
Interior Rear-Rear Separation] (btw. Adjacent buildings)	30' minimum.
	20' minimum

Interior Side-Rear Separation - (btw. Adjacent buildings)	
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Note 1: Features that may encroach into a pedestrian way up to the maximum specified: eaves (4' max.), awnings (8' max.), and minor ornamental features (2' max). Over pedestrian ways, projections must be more than 8 feet above finished grade.

Note 2: Features that may encroach into setbacks facing driveways or streets (but not driveway or street right-of-ways), up to the maximum specified: arcades & trellises (to driveway or street r.o.w.), porches & stoops (8' max.), eaves (4' max.), awnings (8' max.), and minor ornamental features.

(e) *Street Frontage.* All street frontages in the mixed-use component shall be:

1. Lined by buildings with windows and primary entries, not garage doors; parking areas shall be located to the rear or side of the building.
2. Building facades shall occupy at least 50% of the street frontage.

(f) *Articulation.* Mixed-use structures shall have a change in visible roof plane or parapet height for every 50 feet in length, however each distinct roof length does not have to equal 50 feet in length. Massing and articulation are required to be developed so that no more than 50 feet of wall may occur within a six foot minimum change in the visible vertical offset, or at the same interval a change in material may be used for articulation and the visible change in roof plane or parapet height shall be a minimum of 18 feet.

(g) *Entrances and Glazing.* Each ground floor use shall have one entrance minimum for each 50' or less of building frontage length.

(h) *Materials.* The materials standards for the mixed use component are as follows:

1. Engineered wood panels, cyclone, chain-link, and razor-wire fencing are prohibited.
2. Arcades, awnings, cantilevers, portals and shed roofs may be made of metal, fabric, concrete tile, clay tile, or slate (equivalent synthetic or better).
3. A mixed-use component shall include at least four of the following design features:
 - a. Balconies.
 - b. Projecting cornices and brackets.
 - c. Eaves.
 - d. Exposed lintels.
 - e. Multiple veneers (i.e. stone and stucco).
 - f. Pitched roof forms.
 - g. Planter boxes.
 - h. Slate or tile work and molding integrated into the building.
 - i. Transoms.
 - j. Trellises.
 - k. Wall accenting (shading, engraved patterns, etc.).
 - l. Any other treatment that meets the intent of this section and that receives the approval of the EPC.

(i) *On-Premise Signage.*

1. Appropriate signage includes blade signs, awning signs, and wall-mounted or hanging metal panel signs. Internally illuminated box signs, billboards, roof-mounted, free-standing, any kind of animation, and painted window signs, and signs painted on the exterior walls of buildings are not allowed. No flashing, traveling, animated, or intermittent lighting shall be on or visible from (i.e. through windows) the exterior of any building.
2. Wall signs are permitted within the area between the second story floor line and the first floor ceiling within a horizontal band not to exceed two feet in height. Letters shall not

exceed 18 inches in height or width and three feet in relief. Company logos or names may be placed within this horizontal band or placed or painted within ground floor or second story office windows and shall not be larger than a rectangle of eight square feet. Projecting signs may not be more than 24 inches by 48 inches and a minimum ten feet clear height above the sidewalk and may be hung below the third story level. Signs may not project more than 36 inches perpendicular to the right-of-way beyond the façade. Lettering on awnings is limited to nine inches in height.

→ (8) *Maintenance Agreement for Vacant or Abandoned Site.* Large retail facilities sometimes are vacated due to changing conditions in the retail market. To maintain a quality built environment, large retail facilities shall be maintained during periods of abandonment or vacancies at the same standard as when occupied. The owner of a site shall sign a maintenance agreement with the city that the site will be maintained when vacant to the following minimal standards, among others as deemed appropriate by the Planning Director:

(a) The landscaping shall be watered, pruned and weeded.
(b) The parking areas shall be cleaned of dirt and litter.
(c) The building facades shall be kept in good repair, cracked windows shall be replaced and graffiti removed.

(d) Outdoor security lighting shall be maintained and operated.

(e) Hydrology systems shall be kept in good working order.

('74 Code, § 7-14-40B) (Am. Ord. 23-2007)

§ 11-6-6 PROCEDURES FOR CRIMINAL COMPLAINT.

Proceedings under this article shall be instituted by the City Attorney's or District Attorney's filing of formal criminal complaint in court alleging that specific material as defined herein is obscene by a law enforcement officer or prosecutor, and only after a finding of probable cause by a judge in the course of issuing either a search or arrest warrant regarding the matter.

('74 Code, § 12-9-7) (Ord. 65-1988)

§ 11-6-7 EVIDENCE OF OBSCENITY.

(A) Expert testimony or other ancillary evidence is not required to determine obscenity if the allegedly obscene item has been placed in evidence. The matter itself is the best evidence of what it represents.

(B) The fact that other sexually explicit items are distributed in the local community is not admissible as evidence of the local contemporary community standard unless it is shown that:

(1) Such other item is similar to the item at issue. Similarity shall be measured by the degree of sexual explicitness and type of sexual conduct or activity depicted. It must also be in a similar medium as the item at issue; and

(2) Such other item enjoys a reasonable degree of community acceptance.

('74 Code, § 12-9-8) (Ord. 65-1988)

§ 11-6-8 SEIZURE OF OBSCENE MATERIAL.

There shall be no seizure of obscene material prior to an adversary proceeding on the issue of whether the material is in fact obscene, provided that the material may be seized for the *bona fide* purpose of preserving evidence, if seized pursuant to a warrant issued after a determination of probable cause that the material is obscene, and that following the seizure a prompt judicial determination of the obscenity issue in an adversary proceeding is available at the request of any interested party. A trial on the merits of any alleged violation of § 11-6-5 shall constitute a prompt judicial hearing as required herein. However, on a showing to the trial court that other copies of the specific material are not available for exhibition, the court should permit the seized evidence to be copied where feasible so that exhibition can be continued pending judicial resolution of the obscenity issue in an adversary proceeding. Nothing herein shall be deemed to authorize the seizure of large quantities of allegedly obscene material prior to an adversary hearing unless otherwise authorized by law or a court order.

('74 Code, § 12-9-9) (Ord. 65-1988)

§ 11-6-99 PENALTY.

Any person who violates any of the provisions of this article shall be deemed guilty of misdemeanor, and upon conviction thereof shall be subject to the penalty provisions set forth in § 1-1-99. Each time this article is violated shall be considered a separate offense.

('74 Code, § 12-9-6) (Ord. 65-1988)

ARTICLE 7: GRAFFITI VANDALISM

Section

- 11-7-1 Intent
- 11-7-2 Short title
- 11-7-3 Definitions
- 11-7-4 Office of anti-graffiti coordination
- 11-7-5 Elimination of graffiti

§ 11-7-1 INTENT.

Graffiti is a form of vandalism which injures and stains Albuquerque. It is a public purpose and the intent of §§ 11-7-1 et seq. to eradicate or minimize this visual blight.

('74 Code, § 1-24-1) (Ord. 1-1993)

§ 11-7-2 SHORT TITLE.

Sections 11-7-1 et seq. may be cited as the "Graffiti Vandalism Ordinance."

('74 Code, § 1-24-2) (Ord. 1-1993)

§ 11-7-3 DEFINITIONS.

For the purpose of this §§ 11-7-1 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GRAFFITI. Unauthorized painting, writing or inscription.

PERSON. An individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest or any other legal entity.

('74 Code, § 1-24-3) (Ord. 1-1993)

§ 11-7-4 OFFICE OF ANTI-GRAFFITI COORDINATION.

The Mayor shall create an office of Anti-Graffiti Coordination within the city government. The office's primary charge is graffiti eradication in Albuquerque. The office shall be a centralized source of education, advice and assistance on the removal and avoidance of graffiti as well as the place for the city to collect information on graffiti's occurrence on both public and private property. The office shall study and advise on strategies and programs to eradicate or minimize graffiti, including, but not limited to, licensing to assure responsible retailing of spray paint and markers. The director of the office shall make semi-annual reports to the Mayor and the Council starting on June 1, 1993. The director of the office shall also introduce to the Council by June 1, 1993 amendments to §§ 11-7-1 et seq. which seem appropriate.

('74 Code, § 1-24-4) (Ord. 1-1993)

§ 11-7-5 ELIMINATION OF GRAFFITI.

(A) Whenever the city becomes aware of the existence of graffiti on any real property, including structures, within the city and visible from the public right-of-way or city-owned land, the office of Anti-Graffiti Coordination shall give or cause to be given notice that the graffiti should be removed or effectively obscured within 16 days of notice being conveyed by the city, removal being either by the person in charge of the property or by the city or the city's agent. A reasonable, good faith effort shall be made to deliver the notice to the owner or person in charge of the property. The owner or person in charge of the property may cause the graffiti to be removed or completely obliterated; if this is that person's intent they should so advise the office of Anti-Graffiti Coordination within ten days from the time the notice is delivered if the property owner/agent will remove the graffiti within the time specified. Within a similar period, the owner/agent may advise the office that the marking identified was authorized by the owner or person in charge of the property and thus is not graffiti as herein defined; the city will then not authorize removal.

(B) The director of the office of Anti-Graffiti Coordination shall implement a program of graffiti removal.

(1) If the owner or person in control of the property does not notify the office of Anti-Graffiti Coordination that they will remove the graffiti or alternatively that it is not graffiti because the installation was authorized as provided in division (A) of this section, it will be deemed to be consent to the city's entering on the property and removing or completely obliterating the graffiti; any color used shall be similar to that of the structure affected.

(2) The office of Anti-Graffiti Coordination is authorized to use city employees, contractors, volunteers, and prisoners who have been duly made available for such graffiti removal work.

(C) The office of Anti-Graffiti Coordination is authorized to assure that all graffiti on city-owned property is eliminated within 24 hours of discovery or report.

(D) The office of Anti-Graffiti Coordination shall ensure coordination and set standards for all graffiti removal work performed by the city or its agents.

(E) The Mayor may create reasonable rules and regulations to govern and guide the office and otherwise implement §§ 11-7-1 et seq.

1 rules and regulations for the adopted technical codes within the City of
2 Albuquerque, New Mexico.

3 Section 3. ADOPTION OF THE TECHNICAL CODES OF THE CITY OF
4 ALBUQUERQUE. For the purpose of prescribing minimum standards
5 regulating construction and maintenance of buildings and structures,
6 including all building service equipment, and installations within the City of
7 Albuquerque, New Mexico, the following codes are hereby adopted:

8 (A) The New Mexico Building Code as adopted by the Construction
9 Industries Division of the State of New Mexico with an effective date of
10 January 1, 2011;

11 (B) The 2009 New Mexico Commercial Building Code as adopted by the
12 Construction Industries Division of the State of New Mexico, including
13 Appendix Chapter E, and I but not including Appendix Chapters A, B, C, D, F,
14 G, H, J, and K with an effective date of January 1, 2011;

15 (C) The 2009 New Mexico Residential Code as adopted by the Construction
16 Industries Division of the State of New Mexico, including Appendix Chapters
17 G, H, J, K and M, but not including Appendix Chapters A, B, C, D, E, F, I, L, N,
18 O, P, and Q with an effective date of January 1, 2011;

19 (D) The 2009 New Mexico Earthen Building Materials Code as adopted by
20 the Construction Industries Division of the State of New Mexico with an
21 effective date of January 1, 2011;

22 (E) The 2009 New Mexico Historic Earthen Building Code as adopted by
23 the Construction Industries Division of the State of New Mexico with an
24 effective date of January 1, 2011;

25 (F) The 2009 New Mexico Existing Building Code as adopted by the
26 Construction Industries Division of the State of New Mexico with an effective
27 date of January 1, 2011;

28 (G) The 2009 New Mexico Non-Load Bearing Baled Straw Construction
29 Building Standards as adopted by the Construction Industries Division of the
30 State of New Mexico with an effective date of January 1, 2011;

31 (H) The 2009 International Code Council Performance Code for Building
32 and Facilities, including all Appendix Chapters, as published by the
33 International Code;

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- 1 (I) The 1997 Uniform Code for the Abatement of Dangerous Buildings as
- 2 published (previously) by the International Conference of Building Officials;
- 3 (J) The 2009 New Mexico Mechanical Code as adopted by the
- 4 Construction Industries Division of the State of New Mexico with an effective
- 5 date of January 1, 2011;
- 6 (K) The 2009 New Mexico Plumbing Code as adopted by the
- 7 Construction Industries Division of the State of New Mexico including
- 8 Appendix Chapters A, B, D, E, F, I, and L with an effective date of January 1,
- 9 2011;
- 10 (L) The 2009 New Mexico Swimming Pool, Spa and Hot Tub Code as
- 11 adopted by the Construction Industries Division of the State of New Mexico
- 12 with an effective date of November 1, 2011;
- 13 (M) The 2009 New Mexico Solar Energy Code as adopted by the
- 14 Construction Industries Division of the State of New Mexico with an effective
- 15 date of November 1, 2011;
- 16 (N) The 2009 New Mexico Energy Conservation Code;
- 17 (O) The 2014 New Mexico Electrical Code as adopted by the
- 18 Construction Industries Division of the State of New Mexico with an effective
- 19 date of August 1, 2014;
- 20 (P) The 2012 New Mexico Electrical Safety Code as adopted by the
- 21 Construction Industries Division of the State of New Mexico with an effective
- 22 date of August 1, 2014;
- 23 (Q) Errata sheets to the adopted portions of the Codes promulgated by
- 24 the International Code Council, International Association of Plumbing and
- 25 Mechanical Officials and National Electrical Code;
- 26 (R) The City of Albuquerque amendments to the New Mexico Codes
- 27 referred to herein are available at the City Clerk's office and are hereby
- 28 adopted and together with the Codes in divisions (A) through (Q) of this
- 29 section that shall be known as the Uniform Construction Codes of the City of
- 30 Albuquerque. From the date on which this ordinance takes effect they shall be
- 31 controlling within the municipal boundaries of the City of Albuquerque, New
- 32 Mexico.

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1 Section 4. AMENDMENTS TO THE UNIFORM CODES OF THE CITY OF
2 ALBUQUERQUE. The Uniform Codes of the City of Albuquerque hereby
3 adopted may be amended or repealed in the same manner as ordinances are
4 amended or repealed.

5 Section 5. AVAILABILITY OF THE UNIFORM CONSTRUCTION CODES OF
6 THE CITY OF ALBUQUERQUE. A copy of the Uniform Administrative Code
7 and a copy of the Uniform Construction Codes of the City of Albuquerque as
8 adopted by this ordinance are on file in the Office of the City Clerk of the City
9 of Albuquerque, and are available for inspection by the public during regular
10 business hours. A copy of said codes shall be available to any individual
11 upon request and the payment of a reasonable charge as set by the Chief
12 Administrative Officer, to be not less than the actual cost per copy.

13 Section 6. BUILDING SAFETY DIVISION - JURISDICTION. The Building
14 Safety Division of the Planning Department shall have jurisdiction to
15 administer the Uniform Construction Codes of the City of Albuquerque for
16 construction, alteration, moving, demolition, repair, use and occupancy of
17 buildings, structures and building service equipment.

18 Section 7. FIRE MARSHAL - JURISDICTION; APPLICATION OF FIRE CODE.

19 (A) The Fire Marshal shall have jurisdiction under the Fire Code of the
20 City of Albuquerque to test and inspect fire alarm systems and fire
21 suppression systems, including fire hydrants, fire extinguishers and sprinkler
22 systems installed in construction, alteration, moving, repair, demolition, use
23 and occupancy of buildings, structures and building service equipment. The
24 Fire Marshal shall have jurisdiction under the Fire Code as adopted by the Fire
25 Department of the City of Albuquerque as applicable to construction,
26 alteration, moving, demolition, repair, use and occupancy of buildings,
27 structures and building service equipment.

28 (B) Existing Buildings. The Fire Marshal shall have jurisdiction to
29 administer the Fire Code of the City of Albuquerque as applicable to all
30 existing structures.

31 Section 8. CONFLICT OF CODES. When a conflict exists in specific code
32 requirements between applicable sections of the Uniform Construction Codes

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1 of the City of Albuquerque and the Fire Code of the City of Albuquerque, the
2 Uniform Construction Codes shall prevail.

3 Section 9. PENALTIES. Any person violating any of the provisions of this
4 code or failing or neglecting to comply with any orders issued pursuant to any
5 section thereof shall be deemed guilty of a misdemeanor and such person
6 shall be guilty of a separate offense for each and every day or portion thereof
7 during which any such violation is continued or permitted. Upon conviction of
8 any such violation, such person shall be punished by fine of not more than
9 \$500 or by imprisonment for not more than 90 days, or by both such fine and
10 imprisonment.

11 Section 10. REPEALER. Ordinance No. 2012-020 adopting the Uniform
12 Administrative Code, the Building Code, the Mechanical Code, the Plumbing
13 Code, the Swimming Pool Code, the Solar Energy Code, the Electrical Code,
14 and all amendments thereto, which is compiled as Chapter 14, Article 1 of the
15 Revised Ordinances of Albuquerque, New Mexico, 1994, is hereby repealed;
16 provided, however, that nothing contained in this ordinance shall, in any
17 manner, affect pending actions for violations of Ordinance No. 2012-020 or the
18 Codes incorporated therein as such actions shall be governed by Ordinance
19 No. 2012-020 and the Uniform Administrative and Construction Codes
20 incorporated therein.

21 Section 11. SEVERABILITY CLAUSE. If any section, subsection, sentence,
22 clause, word or phrase of this ordinance is for any reason held to be
23 unconstitutional or otherwise invalid by any court of competent jurisdiction,
24 such decision shall not affect the validity of the remaining portions of this
25 ordinance. The City Council, the Governing Body of the City of Albuquerque,
26 hereby declares that it would have passed this ordinance and each section,
27 subsection, sentence, clause, word, or phrase thereof irrespective of any one
28 or more sections, subsections, sentences, clauses, words, or phrases being
29 declared unconstitutional or otherwise invalid.

30 Section 12. COMPILATION. This ordinance shall be incorporated in and
31 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

32 Section 13. EFFECTIVE DATE. This ordinance shall take effect five days
33 after publication by title and general summary.

1 PASSED AND ADOPTED THIS 3rd DAY OF September 2014
2 BY A VOTE OF: 9 FOR 0 AGAINST.

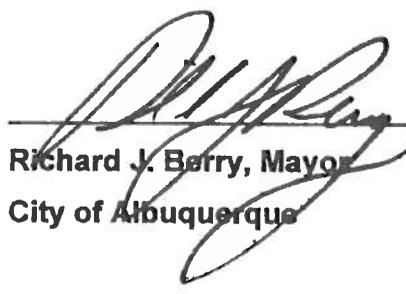
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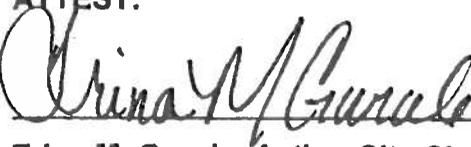
Ken Sanchez, President
City Council

APPROVED THIS 16th DAY OF September, 2014

Bill No. O-14-18



Richard J. Berry, Mayor
City of Albuquerque

ATTEST:


Trina M. Gurule, Acting City Clerk

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- 1 h. all diseased animals running at large;
- 2 i. carcasses of animals not buried or destroyed within 24 hours after
- 3 death;
- 4 j. exposed accumulation of decayed or unwholesome food or
- 5 vegetable matter;
- 6 k. accumulations of manure, refuse or other debris; and
- 7 l. privy vaults and garbage cans which are not rodent free or fly-tight
- 8 or which are so maintained as to constitute a health hazard or to emit foul
- 9 or disagreeable odors.

- 10 (3) Whatever is dangerous to human life or is detrimental to health, as
- 11 determined by the health officer.
- 12 (4) Overcrowding a room with occupants.
- 13 (5) Insufficient ventilation or illumination.
- 14 (6) Inadequate or unsanitary sewage or plumbing facilities.
- 15 (7) Any violation of the housing standards and licensing requirements
- 16 set forth in this code.

- 17 (8) Any violation of Chapter 6, Article 6, Part 1.
- 18 (9) Any violation of Chapter 8, Article 5, Part 2.”

19 Section 2. Section 14-3-1-4, ROA 1994 is amended to include the following

20 definition:

21 “VACANT BUILDING. A dwelling, dwelling unit, efficiency dwelling unit,

22 habitable space, residential building, or structure lacking the continuous

23 habitual presence of human beings who have a legal right to be on the

24 premises for a period of 90 days or longer.”

25 Section 3. Section 14-3-4-4 ROA 1994 is amended to read:

26 “NUISANCE.

27 A NUISANCE shall include:

- 28 (A) unlicensed vacant buildings;
- 29 (B) buildings that have broken windows or doors constituting hazardous
- 30 conditions and inviting trespassers or malicious mischief;
- 31 (C) buildings that are boarded up, partially destroyed, not properly
- 32 secured or partially constructed or incomplete after the building permit
- 33 authorizing its construction has expired;

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1 (D) buildings whose maintenance is so out of harmony and conformity
2 with the maintenance and quality of adjacent or nearby properties as to cause
3 substantial diminution in the enjoyment, use or property value of such
4 adjacent or nearby properties; and

5 (E) buildings in an unsecured state that are not securely fenced or
6 adequately lighted to prevent access to trespassers, criminals or others
7 unauthorized to enter for the purpose of committing a nuisance or unlawful
8 act or that constitutes an attractive nuisance for children .”

9 Section 4. A new section of the Uniform Housing Code is enacted to
10 read:

11 “REPORTING ILLEGAL ACTIVITY-COOPERATION.

12 (A) Albuquerque Code Enforcement shall notify Animal Control upon the
13 discovery of violations of the Albuquerque Animal Services Ordinance.

14 (B) Albuquerque Code Enforcement shall notify the Environmental
15 Health Department upon the discovery of violations of the Noise Control
16 Ordinance.

17 (C) Albuquerque Code Enforcement shall notify the department
18 designated by the Mayor to enforce the Albuquerque Weed and Anti-Litter
19 Ordinance and the Insect and Rodent Control Ordinance upon discovery of
20 violations of those ordinances.

21 (D) Albuquerque Code Enforcement shall notify the Albuquerque Police
22 Department upon discovery of suspected criminal activity.

23 (E) Albuquerque Code Enforcement shall coordinate its activities with
24 the Safe City Strike Force.”

25 Section 5. A new section of the Uniform Housing Code is enacted to read:

26 “(A) The owner of a vacant building shall apply to the Albuquerque Code
27 Enforcement for and obtain a vacant building maintenance license fifteen days
28 prior to vacating the premises. The business maintenance license shall be
29 renewed annually. The owner shall pay an annual fee to renew the business
30 maintenance license. Albuquerque Code Enforcement shall establish the
31 amount of the fee by regulation.

32 (B) Application for a vacant building maintenance license shall be made
33 on a form provided by Albuquerque Code Enforcement and verified by the

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[-Bracketed/Strikethrough Material-] - Deletion

1 owner. The application shall disclose all measures to be taken to ensure that
2 the vacant building will be kept weather tight and secure from trespassers,
3 safe for entry by police officers and firefighters in times of emergency, and,
4 together with its premises, free from nuisance and in good order.

5 (C) At the time of application, the owner shall arrange for inspection of
6 the vacant building by Albuquerque Code Enforcement. If the owner fails or
7 refuses to consent to and arrange for an inspection, Albuquerque Code
8 Enforcement shall first obtain a search warrant from a court of competent
9 jurisdiction to authorize inspection of the vacant building.

10 (D) Albuquerque Code Enforcement shall inspect the vacant building for
11 the purpose of determining the structural integrity of the vacant building; the
12 repairs necessary to ensure its structural integrity; that it will be safe for entry
13 by fire fighters and police officers in time of emergency; and that the vacant
14 building and its contents do not present a hazard to the public during the time
15 that the building remains vacant.

16 (E) Albuquerque Code Enforcement shall issue any orders for work
17 needed to:

18 (1) adequately protect the vacant building from intrusion by
19 trespassers and from deterioration by the weather; and

20 (2) insure that allowing the vacant building to remain will not be
21 detrimental to the public health, safety and welfare, will not unreasonably
22 interfere with the reasonable and lawful use and enjoyment of other premises
23 within the neighborhood, and will not pose any extraordinary hazard to police
24 officers or fire fighters entering the vacant building in times of emergency.

25 (F) Within 45 days of the issuance of any orders, the owner shall bring
26 the vacant building into compliance with any orders that may have been
27 issued as conditions for the issuance of the license.

28 (G) Albuquerque Code Enforcement shall issue a vacant building
29 maintenance license only after inspecting the building and concluding that the
30 building complies with the Uniform Housing Code. The Mayor is authorized to
31 administer and enforce the Uniform Housing Code as provided in Sections 14-
32 3-5-1 et. seq. if the vacant building does not comply with any other provisions

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1 of the Uniform Housing Code. Albuquerque Code Enforcement shall have the
2 authority to inspect the vacant building at any time.

3 (H) The owner shall notify Albuquerque Code Enforcement 15 days
4 before a vacant building becomes inhabited so that Albuquerque Code
5 Enforcement can inspect the vacant building prior to occupancy. ”

6 Section 6. A new section of the Uniform Housing Code is enacted to read:
7 “RESIDENT REPORTS-HOTLINE-WEBSITE-EXCEPTIONS.

8 (A) Albuquerque Code Enforcement shall implement and operate a
9 complaint system that includes a hotline and a website available to City
10 residents to report violations of the Property Maintenance Ordinance.
11 Albuquerque Code Enforcement shall implement an advertising campaign to
12 inform residents of this complaint system.

13 (B) Vacant buildings under the authority or within the control of the
14 Metropolitan Redevelopment Agency are exempt from the business
15 maintenance licensing provisions of the Uniform Housing Code.”

16 Section 7. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
17 clause, word or phrase of this ordinance is for any reason held to be invalid or
18 unenforceable by any court of competent jurisdiction, such decision shall not
19 affect the validity of the remaining provisions of this ordinance. The Council
20 hereby declares that it would have passed this ordinance and each section,
21 paragraph, sentence, clause, word or phrase thereof irrespective of any
22 provision being declared unconstitutional or otherwise invalid.

23 Section 8. COMPILATION. This ordinance shall be incorporated in and
24 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

25 Section 9. EFFECTIVE DATE. This ordinance shall take effect five days
26 after publication by title and general summary.

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APPLICATION & STAFF INFORMATION



Supplemental Form (SF)

SUBDIVISION	S	Z	ZONING & PLANNING
<input type="checkbox"/> Major subdivision action			<input type="checkbox"/> Annexation
<input type="checkbox"/> Minor subdivision action			
<input type="checkbox"/> Vacation	V		<input type="checkbox"/> Zone Map Amendment (Establish or Change Zoning, includes Zoning within Sector Development Plans)
<input type="checkbox"/> Variance (Non-Zoning)			
SITE DEVELOPMENT PLAN	P	X	<input type="checkbox"/> Adoption of Rank 2 or 3 Plan or similar Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd. Regulations
<input type="checkbox"/> for Subdivision for Building Permit			
<input type="checkbox"/> Administrative Amendment (AA)			
<input type="checkbox"/> Administrative Approval (DRT, URT, etc.)			
<input type="checkbox"/> IP Master Development Plan	D		<input type="checkbox"/> Street Name Change (Local & Collector)
<input type="checkbox"/> Cert. of Appropriateness (LUCC)			
STORM DRAINAGE (Form D)	L	A	APPEAL / PROTEST of...
<input type="checkbox"/> Storm Drainage Cost Allocation Plan			<input type="checkbox"/> Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): COA PLANNING DEPT. PHONE: 924.3860
 ADDRESS: 600 2ND STREET FAX: 924.3339
 CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: _____
 APPLICANT: COA COUNCIL SERVICES PHONE: 768.3126
 ADDRESS: CITY/COUNTY BUILDING FAX: _____
 CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: _____
 Proprietary interest in site: _____ List all owners: _____

DESCRIPTION OF REQUEST: TO ADD A NEW ARTICLE (14.20) IN CHAPTER 14. ZONING, PLANNING + BUILDING TO BE KNOWN AS THE VACANT

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes. No. COMMERCIAL BUILDINGS ORDINANCE

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. CITY WIDE Block: _____ Unit: _____
 Subdiv/Addn/TBKA: _____
 Existing Zoning: _____ Proposed zoning: _____ MRGCD Map No _____
 Zone Atlas page(s): _____ UPC Code: _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX_Z_, V_, S_, etc.): _____

CASE INFORMATION:

Within city limits? Yes No Within 1000FT of a landfill? _____
 No. of existing lots: _____ No. of proposed lots: _____ Total site area (acres): _____
 LOCATION OF PROPERTY BY STREETS: On or Near: _____
 Between: _____ and _____
 Check if project was previously reviewed by: Sketch Plat/Plan or Pre-application Review Team(PRT) Review Date: _____

SIGNATURE [Signature] DATE 2/25/2016
 (Print Name) KYM E. DICOME Applicant: Agent:

FOR OFFICIAL USE ONLY

Revised: 11/2014

<input type="checkbox"/> INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees
<input type="checkbox"/> All checklists are complete	<u>16 EPC - 40014</u>	<u>Text Amendment</u>		\$ <u>0</u>
<input type="checkbox"/> All fees have been collected	_____	_____	_____	\$ _____
<input type="checkbox"/> All case #s are assigned	_____	_____	_____	\$ _____
<input type="checkbox"/> AGIS copy has been sent	_____	_____	_____	\$ _____
<input type="checkbox"/> Case history #s are listed	_____	_____	_____	\$ _____
<input type="checkbox"/> Site is within 1000ft of a landfill	_____	_____	_____	\$ _____
<input type="checkbox"/> F.H.D.P. density bonus				Total
<input type="checkbox"/> F.H.D.P. fee rebate				\$ <u>0</u>

Hearing date April 14, 2016

2-25-16

Project # 1001620

**CITY OF ALBUQUERQUE
CITY COUNCIL**

INTEROFFICE MEMORANDUM

TO: Suzanne Lubar, Director, Planning Department

FROM: Jon K. Zaman, Director, Council Services

SUBJECT: Bill No. O-16-11

DATE: February 23, 2016

Jon 2/23/16

1001620

The attached ordinance was introduced by the City Council on February 17, 2016. The intent of this ordinance is to regulate vacant commercial buildings. This ordinance would add a registration requirement for vacant commercial buildings that would have a recurring fee associated with it. The ordinance also lists other provisions, such as requiring liability insurance for the building, establishing maintenance and safety standards, and requiring that there be a local agent to receive notices on behalf of non-resident owners.

We request that you submit this ordinance to the Environmental Planning Commission for a hearing as soon as possible.

Please submit the Environmental Planning Commission's comments and recommendations, including the transcript from the meeting, back to the City Council as soon as possible. Thank you.

cc: Russell Brito, Planning Department
Kym Dicome, Planning Department
File O-16-11

Lehner, Catalina L.

**see attachments in Relevant Regulations
in this report*

From: Williams, Brennon
Sent: Wednesday, March 30, 2016 8:40 AM
To: Webb, Andrew; Lynne Andersen; Davis, Pat; Harris, Don; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.
Cc: 'Kevin Yearout'; Schultz, Shanna M.; Lehner, Catalina L.; Dietz, Daniel P.; Whitcomb, Blake; DuBois, John E.; Jacobi, Jenica L
Subject: RE: Response: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process
Attachments: VCBO regs compared.pdf*

All – FYI; after several discussions with different people regarding current city standards related to property maintenance and commercial building requirements, I've compiled a list of the proposed upkeep standards as compared to existing regulations (attached). I've forwarded this information on to the case planner for inclusion with the EPC packet. Please let me know if you have any questions regarding this matter. Thanks. – Brennon

Sincerely,
Brennon Williams
Associate Director
Acting Code Compliance Manager
Planning Department
City of Albuquerque
600 2nd St. NW, Suite 300
Albuquerque, NM 87102
bnwilliams@cabq.gov

From: Webb, Andrew
Sent: Friday, March 11, 2016 12:01 PM
To: Lynne Andersen; Davis, Pat; Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.
Cc: 'Kevin Yearout'; Schultz, Shanna M.
Subject: RE: Response: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Hi, Lynne – of the cities we looked at in depth, Chicago, Fresno and Milwaukee required registration of structures that had been vacant for a set period of time, as noted in the 4th column of the matrix I sent previously.

Thanks,
Andrew

Andrew Webb
Policy Analyst/Planning
Albuquerque City Council
505-768-3161

From: Lynne Andersen [<mailto:Lynne@naiopnm.org>]
Sent: Friday, March 11, 2016 11:43 AM
To: Webb, Andrew; Davis, Pat; Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.
Cc: 'Kevin Yearout'; Schultz, Shanna M.
Subject: Response: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Thanks Andrew...I am talking to all of the cities that you mentioned. I'm doing a search around the country on types of "vacant building" ordinances. The Chicago (Cook County) is considered the most stringent but has gone through some significant changes due to push back from the banks and businesses. However, I have yet to encounter an ordinance that simply requires ANY vacancy to be registered. All seemed to be tied to some sort of structural or other concerns with the actual property. Are there cities that just want every commercial building to register after 3 months of vacancy? The current Cook County one includes both residential and commercial and includes a fee for registering a vacant building (ONLY \$250); and the need for a local legal contact. HOWEVER, the most interesting thing to me was the definition of "Vacant"....see below. It would, in my opinion, eliminate everyone but the really BAD buildings. The full ordinance is at: <http://www.cookcountyil.gov/wp-content/uploads/2014/06/VACANT-BUILDING-ORDINANCE.pdf>

Property means any real, residential, commercial or industrial property, or portion thereof, located within unincorporated Cook County or within the boundaries of a participating municipality, including buildings or structures situated on the property.

Residential property means buildings of three stories or less in height where the whole building or parts thereof are designed or used as residential units or auxiliary uses to a residential unit.

Vacant means a building which is lacking habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business or construction operations or residential occupancy has ceased, or which is substantially devoid of content. In determining whether a building is vacant, it is relevant to consider, among other factors, the percentage of overall square footage of the building or floor to the occupied space, the condition and value of any items in the building and the presence of rental or for sale signs on the property; provided that a residential property shall not be deemed vacant if, a person or entity with an interest in the property proves, by a preponderance of evidence that, it has been used as a residence by a person entitled to possession for a period of at least three months within the previous nine months and a person entitled to possession intends to resume residing at the property; and further provided that multi-family residential property containing ten or more dwelling units shall be considered vacant when ninety percent or more of the dwelling units are unoccupied. A property shall not be considered vacant if there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

Winterize means cleaning all toilets and completely draining all plumbing and heating systems.

From: Webb, Andrew [<mailto:awebb@cabq.gov>]

Sent: Friday, March 11, 2016 11:22 AM

To: Davis, Pat; Lynne Andersen; Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.

Cc: Kevin Yearout; Schultz, Shanna M.

Subject: RE: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Hi, Lynne – thanks for sending your research findings. I believe we gave you a printed copy of some research done by our office, but just in case, I've attached it electronically as well. Of all the cities we looked at with some regulations limiting the length of time non-residential structures could be left boarded up, Tucson's appeared to be the least restrictive.

Thanks,
Andrew

Andrew Webb
Policy Analyst/Planning
Albuquerque City Council
505-768-3161

From: Davis, Pat

Sent: Wednesday, March 09, 2016 3:50 PM

To: Lynne Andersen; Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Foran, Sean M.; Lubar, Suzanne G.; Webb, Andrew

Cc: Kevin Yearout

Subject: RE: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Thanks, Lynne

From: Lynne Andersen [<mailto:Lynne@naiopnm.org>]

Sent: Wednesday, March 09, 2016 11:35 AM

To: Harris, Don; Williams, Brennon; Emillio, Dawn Marie; Davis, Pat; Foran, Sean M.; Lubar, Suzanne G.; Webb, Andrew

Cc: Kevin Yearout

Subject: Results of conversation with Code Enforcement Administrator in Tucson on vacant building process

Importance: High

Guys,

Here is the result of my research on the Tucson vacant building process. I contacted the Code Enforcement Administrator and discussed their ordinance and procedures.

The results of that conversation and some internet research is attached and pasted below.

Lynne Andersen, NAIOP President

345-6976

To: ABQ City Councilors Don Harris and Pat Davis

From: Lynne Andersen, President of NAIOP Commercial Real Estate Development Association

Re: Result of research into Tucson's vacant commercial building process

Tucson "Neighborhood Preservation Ordinance"

Information provided by Mike Wyneaeen, Code Enforcement Administrator for City of Tucson

1. Tucson does not have a "Vacant Building Ordinance" as such according to Mr. Wyneaeen. The only ordinance that addresses vacant buildings is a Neighborhood Preservation Ordinance which includes both residential and commercial buildings. This ordinance only addresses hazardous properties including health & public safety issues such as broken windows, excessive weeds/debris, structural problems, access to vagrants, etc.
2. An inspection is triggered by a police or resident complaint or by an emergency situation such as a fire or car accident involving the building, etc.
3. The inspectors secure the building if necessary and then contact the owners. If the owner cannot be contacted or is unresponsive, then the City hires a contractor to board broken windows, clean any debris and/or weeds, etc. The owner is then billed for the cost. If there is no payment or response, then the City lien's the building.
4. There is no fee or fine other than the lien, and the cost of securing/cleaning the property. The City tried a "Re-inspection Fee" for properties that received continued complaints but most owners would not pay the fee, and, according to Mr. Wyneaeen, it cost twice as much to try and collect the fee.
5. They do have a "Vacant & Neglected Structures Program" that is federally funded by a Community Development Block grant. In this case, owners either voluntarily sign-up or are compelled to do so by a court order. The money is allocated to demolish the building and clean/scrape the site. The City does not acquire the property, and the owner retains title to the scrapped site. This has been successful, but is being phased-out since the funds are being diverted to other projects.

6. Tucson does not have a registry of vacant buildings, and Mr. Wyneaeen did not see the need for one, particularly as it concerned buildings that are maintained. He mentioned that most commercial buildings are occasionally vacant due to market forces, and he did not see the need to track those nor does he have the manpower to do so since that would require a large number of inspectors.

Background Research

Vacant Building Ordinance Research Matrix					
	Definition of "Vacant Structure"	Maintenance Requirements for Vacant Structure	Registration Process of Vacant Structure	Fees associated with Vacant Structure	Other Regulations
Denver, Co. Department who regulates: Neighborhood Inspections Link to code here	<ul style="list-style-type: none"> Structure not occupied for 3 months or Property not lawfully occupied and has been in violation of city/state law on three separate occasions within a 2 year period or Property not lawfully occupied and taxes have been unpaid for 1 year or The property has shown to be a neighborhood nuisance! 	<ul style="list-style-type: none"> Take actions necessary to maintain and preserve the property and to comply with the Code, including the Denver Building, Denver Housing, and Denver Zoning Codes. 	<ul style="list-style-type: none"> Once a violation letter has been sent, the property is added to the Neglected and Derelict Building List (NADB) - Accessible online Property is assessed quarterly (at a minimum) to ensure compliance with all codes and regulations Building is removed from list when it has either 1) completed its remedial plan or 2) been demolished 	<ul style="list-style-type: none"> Yearly fee of \$1,000 if a property is on the NADB list if they don't: <ul style="list-style-type: none"> Submit a remedial plan or meet deadlines in remedial plan Comply with property related codes Pay all other fees and penalties related to NABD ordinance This fee is assessed every 12 months on the anniversary date of the initial assessment Fee is due 30 days after the date of the invoice Fee can be paid in 4 installments of \$250 If the owner fails to register, or comply w/registration requirements, the City can fine the owner \$500 per day Fees will become a lien on the property if not paid within the 30-day time period 	<ul style="list-style-type: none"> A non-resident owner must designate a person 18+ resident of the City of Denver to be the primary contact for notifications, citations, summons, complaints, etc.

Vacant Building Ordinance Research Matrix					
	Definition of "Vacant Structure"	Maintenance Requirements for Vacant Structure	Registration Process of Vacant Structure	Fees associated with Vacant Structure	Other Regulations
Link to code here		<p>repair or replacement of exterior</p> <ul style="list-style-type: none"> • Take reasonable steps to prevent criminal activity. Steps include monitored security system and frequent physical inspections • Maintain all windows and doors with locks. Replace all broken doors or windows, secure any other openings trespassable • Remove graffiti within 48 hours of notification 	<p>to the City every 6 months to demonstrate how building/grounds will be brought into/kept in compliance.</p>		
TUCSON, AZ Department who regulates: Code enforcement Link to code here	<ul style="list-style-type: none"> • a fire or health hazard because of the accumulation of weeds, debris, or flammable or combustible waste or refuse or • a nuisance or hazard to the public because unsecured doorways or window openings or holes in the exterior of the building or structure permit entry of unauthorized 	<ul style="list-style-type: none"> • Vacant structures may temporarily be secured by boarding up window and door openings. Having boarded window or door openings on a vacant structure for one hundred eighty (180) days or more in any one (1) year period is prohibited. • The owner or responsible party of a vacant building or structure must remove weeds, combustible waste, or refuse from the interior of the building or structure and the surrounding yards. • Secure all doors, windows, and other openings to prevent unauthorized entry. • The owner or responsible party must post both the structure and the exterior premises with signs to provide notice prohibiting entry (i.e., "No Trespassing" signs). 	<ul style="list-style-type: none"> • No registration process defined – Enforcement Dept on 10/9 to investigate further 	<ul style="list-style-type: none"> • The code official shall periodically reinspect a building or structure that was cleaned or secured pursuant to an administrative or judicial order to ensure continued compliance. The code official may assess a reinspection fee for actual costs of each inspection in those instances where the building or structure is again found to be vacant and unsecured or in need of debris or weed removal. 	

¹ **Denver defines a neighborhood nuisance** as: "Neighborhood nuisance means a property that, by reason of inadequate maintenance, dilapidation, obsolescence or other similar reason, is a danger to the public health, safety or welfare; is structurally unsafe or unsanitary; is not provided with adequate safe egress; constitutes a fire hazard; is otherwise dangerous to human life; or in relation to the existing use constitutes a danger to the public health, safety or welfare."

² **Tucson defines a building as a public nuisance if....**

1. The building or structure lacks safe and adequate means of exit in case of fire or panic.

2. The stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1 1/2) times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.

3. The building, structure or any portion thereof has been damaged by fire, earthquake, wind, flood or any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before the damage and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location.

4. The building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:

a. An attractive nuisance to children; or

b. A harbor for trespassers or persons committing unlawful acts.

5. The building, structure, or any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to partially or completely collapse and thereby injure persons or damage property.

6. Any portion of a building or structure, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified in the building code for new buildings of

similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.

7. Any portion of a building or structure that has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. The walls or other vertical structural members of the building or structure list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

9. The building or structure, excluding the foundation, has thirty-three (33) percent or more damage or deterioration to the supporting member or members or structural assembly, or fifty (50) percent damage or deterioration to the nonsupporting members, enclosing or outside walls or coverings.

10. The building or structure is infested by rodents, insects or other noxious pests, rendering it uninhabitable.

11. The building or structure exhibits conditions that present actual or imminent hazards or dangers, or is otherwise unsafe for the purpose for which it is being used.

12. The building or structure, whether or not erected in accordance with all applicable laws, has in any nonsupporting part, member or portion less than fifty (50) percent, or in any supporting part, member or portion less than sixty-six (66) percent of the (a)

strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

13. A dwelling is unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

14. The building or structure, because of obsolescence, dilapidated condition, damage, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause.

15. The building or structure has been found, upon reinspection, to be vacant and unsecured, and either:

a. The code official has issued at least one (1) previous abatement order to secure within the preceding twelve (12) months, or more than three (3) abatement orders to secure over any time frame; or

b. The code official has secured the building or structure on at least one (1) previous occasion within the preceding twelve (12) months, or more than three (3) times over any time frame.

16. A building or structure or portion thereof remains for any period of time on a site after the demolition or destruction of the building or structure; or normal construction of an unfinished or incomplete building or structure has ceased for a period of more than twelve (12) months.

NOTIFICATION & COMMENTS

Parks and Recreation Department - continued from page 7

All Year Long, 25 Cent Night, All Open City Pools

Friday's from 5 p.m. - 8:30 p.m.

Who: Open to the Public.

What: Entry is only 25 cents every Friday Night! Come swim for a fraction of our regular admission! West Mesa will be 50 cents.

Where: All open City of Albuquerque Pools.

Contact Information: Please go to <cabq.gov/aquatics> for specific pool hours or call your nearest pool!

Yoga with a View, Open Space Visitor Center

Sundays from 9 a.m. - 9:30 a.m.

Who: Adults.

What: Begin Sundays with a relaxing outdoor meditation at 8:30 a.m. followed by an invigorating YOGA session at 9 a.m. Your first class is \$5, subsequent classes are \$15 and if you buy in bulk they're even less. Class fees include a donation to the Open Space Alliance.

Where: 6500 Coors Boulevard NW between Montano Road NW and Paseo del Norte NW at the end of Bosque Meadows Road NW. Contact: 505-897-8831.

Weekday Specials, #GolfABQ All Four CABQ Golf Courses

Includes green fee, bucket of balls, hot dog and a drink.

Monday: Los Altos - \$30.

Tuesday: Ladera - \$30.

Wednesday: Arroyo del Oso - \$30.

Thursday: Puerto del Sol - \$20.

Bike Clinic (Open Shop), Esperanza Bicycle Safety Education Center

Tuesday/Wednesday/Thursday from 6 p.m. - 8 p.m. and on Sunday from Noon - 7 p.m.

Who: Youth and Adults.

What: Public access to all of the tools and guidance that you need to maintain your bike! This is a non-RSVP first come first served time for you to learn all of the details about your bike in a friendly and inviting environment.

Where: 5600 Esperanza NW.

Contact Information: <esperanza@cabq.gov>. 505-224-6668.

The City of Albuquerque does not discriminate on the basis of race, color, religion, national origin or ancestry, disability, age, gender, Vietnam Era or disabled veteran status, sexual orientation or medical condition in employment or in the provision of services. If you have a disability and will need special assistance to benefit from any of the meetings, hearings or workshops, etc., appearing in the newsletter contact the office sponsoring the event two weeks prior to the date of the meeting you plan to attend. Whenever possible, TTY phone numbers will be listed. TTY users may call any phone number listed in this publication via Relay New Mexico at 1-800-659-8331.

Planning Department

Submitted by Catalina Lehner

Project #1001620, 16EPC-40014: Proposed New Article 14-20 of ROA 1994.

At its regularly scheduled Public Hearing on April 14, 2016, the Environmental Planning Commission (EPC) will consider a proposed Ordinance to regulate Vacant Commercial Buildings, which would be defined as non-residential structures that have not been lawfully occupied or subject to any construction activity for three consecutive months. The proposed ordinance would apply city wide. The proposed regulations would require that vacant commercial buildings be maintained, monitored and secured. The building owner would be required to register the building and pay an associated fee, within 30 days of it becoming vacant or assuming ownership. Liability insurance would also be required. The proposed bill (O-16-11) can be found by searching for it at <<https://cabq.legistar.com/Legislation.aspx>>.

Please contact Catalina Lehner-AICP, Senior Planner, at 505-924-3935 or <clehner@cabq.gov> for more information. Please submit any comments to her no later than Monday, April 4, 2016.

Planning Department

Submitted by Melissa Perez

Planning Department – Administration Division

Did You Know?

Question: Is there a limit to the number of garage or yard sales my neighbor can hold in the R-1 Zone where I live?

Answer: **Yes.** Garage or yard sales are only allowed once every 12 months at a given home in an R-1 zone. The sale may not exceed three days in length and only typical household goods may be sold. Advertising signs are not permitted on medians or other City property.



Lehner, Catalina L.

From: Dicome, Kym
Sent: Monday, February 29, 2016 8:32 AM
To: Lehner, Catalina L.
Subject: FW: Development Discussion Group Follow-Up

CLL:

Please add to your staff report for the vacant commercial building legislation. See below.

Kym

From: Williams, Brennon
Sent: Sunday, February 28, 2016 12:37 PM
To: Brian Patterson
Cc: Dicome, Kym
Subject: RE: Development Discussion Group Follow-Up

Brian –

Thanks for your email. Sorry it's taken me so long to get back with you on this.

I agree with your suggestion. It seems contrary to the overall intent of the legislation to impact other buildings on an otherwise occupied property. Additionally, similar registration standards outlined in the city's housing code exempt a property if it is being marketed by a licensed NM real estate agent.

I'll pass this along to the planner who'll be presenting this to the EPC and ask that they incorporate these concerns into the staff report.

Let me know if you have any other questions.

Sincerely,

Brennon Williams

Associate Director
Acting Code Compliance Manager
Planning Department
City of Albuquerque
600 2nd St. NW, Suite 300
Albuquerque, NM 87102
bnwilliams@cabq.gov

From: Brian Patterson [<mailto:bpatterson@Titan-Development.com>]
Sent: Friday, February 19, 2016 12:52 PM
To: Perez, Melissa X.; RRB; Dietz, Daniel P.; Fishman; Hugh; Christopher R. Gunning; jdhernandez@tierrawestllc.com; Louise Janney; GMeans; Hilltop Landscaping; JMortensen; Kevin Patton; Garret.Price@PulteGroup.com; Josh Rogers; Peter Steen (Peter.Steen@PulteGroup.com); bstidworthy@bhinc.com; CP; TechNM; PWymer
Cc: Lubar, Suzanne G.; Williams, Brennon; Biazar, Shahab; Clark, Land; Brito, Russell D.; Kurt Browning; Ben Spencer; Lynne Andersen - NAIOP (lynne@naiopnm.org)
Subject: RE: Development Discussion Group Follow-Up

Brennon,

You had indicated yesterday, that one of your main concerns in the proposed ordinance was how the language was written about the building being vacant. You mentioned that if you had a strip mall and one of the stores was vacant, technically after 90 days the entire strip mall could be placed on the city's vacant building list and the entire property could be condemned after one year. Correct? The current language doesn't really say anything (just says vacant). After our discussion earlier and speaking to others in the office, I would suggest adding language to state that the building be 100% vacant. Also, adding language that if the building is on the market and/or is being represented by a Broker, that the building would not fall into this category.

Just some thoughts. Thanks.

Brian Patterson, P.E.
Development Project Manager



(O) 505-998-0163

(M) 505-980-1650

bpatterson@titan-development.com | www.titan-development.com

From: Perez, Melissa X. [<mailto:mperez@cabq.gov>]

Sent: Friday, February 19, 2016 8:52 AM

To: RRB <rrb@tierrawestllc.com>; Dietz, Daniel P. <ddietz@cabq.gov>; Fishman <fishman@consensusplanning.com>; Hugh <hugh@developnm.com>; Christopher R. Gunning <chrisg@dpsdesign.org>; jdhernandez@tierrawestllc.com; Louise Janney <louise@hilltoplandscaping.com>; GMeans <gmeans@highmesacg.com>; Hilltop Landscaping <danny@hilltoplandscaping.com>; JMortensen <jmortensen@highmesacg.com>; Brian Patterson <bpatterson@Titan-Development.com>; Kevin Patton <kevin.patton@pultegroup.com>; Garret.Price@PulteGroup.com; Josh Rogers <jrogers@titan-development.com>; Peter Steen (Peter.Steen@PulteGroup.com) <Peter.Steen@PulteGroup.com>; bstidworthy@bhinc.com; CP <cp@consensusplanning.com>; TechNM <tecnm@yahoo.com>; PWymer <pwymmer@bhinc.com>

Cc: Lubar, Suzanne G. <slubar@cabq.gov>; Williams, Brennon <bnwilliams@cabq.gov>; Biazar, Shahab <sbiazar@cabq.gov>; Clark, Land <lclark@cabq.gov>; Brito, Russell D. <RBrito@cabq.gov>

Subject: Development Discussion Group Follow-Up

Good morning everyone,

As promised at yesterday's Development Discussion, attached is the proposed Vacant Commercial Building Ordinance. In addition, Director Lubar wanted me to let you all know that the Alternative Construction of Sidewalks legislation has been signed and will be delivered to the City Clerk today.

All the best,

MELISSA PEREZ

Public Information Officer

PLANNING DEPARTMENT

Plaza Del Sol Building | 600 2nd Street NW, 3rd Floor | Albuquerque, New Mexico 87102

Office: 505.924.3349 | Cell: 505.235.8073 | Fax: 505.924.3339

mperez@cabq.gov | cabq.gov/planning | [facebook.com/CABQPlanning](https://www.facebook.com/CABQPlanning)