

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. O-24-42 ENACTMENT NO. _____

SPONSORED BY: Joaquín Baca

1

ORDINANCE

2

RENAISSANCE AND PROGRESS FOR DOWNTOWN ALBUQUERQUE:

3

ADOPTING THE “DOWNTOWN VACANT BUILDINGS AND PROPERTIES

4

ORDINANCE” AS A NEW ARTICLE IN CHAPTER 14 OF THE REVISED

5

ORDINANCES OF ALBUQUERQUE 1994 TO ACTIVATE VACANT BUILDINGS

6

TO BENEFIT ECONOMIC DEVELOPMENT IN THE DOWNTOWN CENTER BY

7

REQUIRING REGISTRATION AND FEES; AND AMENDING ROA 1994 SECTION

8

14-3-5-14 OF THE UNIFORM HOUSING CODE “VACANT BUILDING

9

MAINTENANCE” TO ADD A CROSS REFERENCE TO THE DOWNTOWN

10

VACANT BUILDINGS AND PROPERTIES ORDINANCE; AND ADOPTING THE

11

“DOWNTOWN DILAPIDATION ORDINANCE” AS A NEW ARTICLE IN CHAPTER

12

14 OF THE REVISED ORDINANCES OF ALBUQUERQUE 1994 TO PROVIDE

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MINIMUM AESTHETIC STANDARDS THAT PRESERVE STRUCTURES AND

14

ENCOURAGE A FLOURISHING STREETScape; AND AMENDING ROA 1994

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SECTION 14-20-4 OF THE “DILAPIDATED COMMERCIAL BUILDINGS AND

16

PROPERTIES ORDINANCE” TO ADD A CROSS REFERENCE TO THE

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DOWNTOWN DILAPIDATION ORDINANCE; AND ADOPTING THE “NO

18

OBSTRUCTION ZONE ORDINANCE” AS A NEW SECTION IN CHAPTER 8,

19

ARTICLE, 2, PART 7 OF THE REVISED ORDINANCES OF ALBUQUERQUE TO

20

PROMOTE A SAFE AND ACCESSIBLE WALKABLE ENVIRONMENT

21

DOWNTOWN BY PROHIBITING THE MISUSE OF SIDEWALKS IN PEDESTRIAN-

22

FOCUSED AREAS; AND AMENDING THE TRAFFIC CODE, ROA 1994

23

CHAPTER 8, ARTICLE 1, PART 3, TO ALLOW CITYWIDE AUTOMATED

24

PARKING ENFORCEMENT

25

WHEREAS, vacant buildings and properties are a public nuisance and a

26

major cause and source of blight in both residential and nonresidential areas

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1 of the City, especially when the owner of the property fails to actively maintain
2 and manage the building; and

3 WHEREAS, vacant buildings and properties as a public nuisance tend to
4 hasten further vacancies, abandonment, and dilapidation in the area if left
5 unchecked by the City; and

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

11 WHEREAS, vacant buildings and properties can also be a private nuisance
12 to neighboring property owners who have their buildings maintained and
13 occupied, and can decrease the retail value and overall property values in the
14 community; and

15 WHEREAS, monitoring and enforcing existing zoning rules against vacant
16 buildings and properties presents several challenges including limited
17 enforcement options and resource constraints; and

18 WHEREAS, establishing a Vacant Buildings and Properties Ordinance will
19 help both property owners and City zoning enforcement identify specific
20 requirements for remediation and work together toward such remediation for
21 the betterment of the community; and

22 WHEREAS, initiating this project within the Downtown Center will help limit
23 the impact on City resources and help identify challenges or restraints to
24 enforcement that may be mitigated before establishing any City-wide
25 requirements; and

26 WHEREAS, the Downtown Center is bounded on the south side by Coal
27 Ave. and Slate St. to the north, generally Broadway Blvd. on the east side and
28 generally 8th St. on the west side, with extensions of the boundary varying
29 around the whole Center; and

30 WHEREAS, the economic vitality of a region's downtown is increasingly
31 important to the health of the surrounding community, as well as to the
32 region's successful competition with other urban markets; and

1 WHEREAS, the Downtown Center is characterized by a hub for commercial
2 activity supported by high-density housing, but includes a plethora of land
3 uses, including retail, multi-family housing, entertainment, education,
4 government offices and any use that contributes to a highly active street life;
5 and

6 WHEREAS, the Downtown Center is meant to have the highest level of
7 intensity for land use and with a vacancy rate of approximately 12.8 percent
8 for retail, 23 percent for office and over 30 percent of the land being used as
9 parking, over half of Downtown is far from achieving the vision set out by the
10 Albuquerque/Bernalillo County Comprehensive Plan; and

11 WHEREAS, most of the Downtown Center is considered a Main Street
12 Corridor, which is characterized by lively, highly walkable streets lined with
13 local-serving businesses, modeled after the American tradition of Main Street
14 as a place for working; and

15 WHEREAS, Downtown Albuquerque has many strengths and opportunities
16 that are presently limited in part by vacant buildings and properties, and the
17 Downtown Center is an appropriate area within which to initiate the provisions
18 of this Ordinance; and

19 WHEREAS, affected Downtown property owners will be advised of this
20 Vacancy Ordinance to ensure they have adequate time to prepare for the
21 Vacancy Registration period; and

22 WHEREAS, Downtown Albuquerque plays a key role in the overall vitality
23 of the city and serves as a central gathering place, acting as a hub for
24 commerce, culture, and civic life, making its health and vibrancy essential to
25 the broader economic and social well-being of Albuquerque; and

26 WHEREAS, blighted and dilapidated buildings within the Downtown area
27 have contributed to unsafe and unsightly conditions, detracting from the
28 aesthetic appeal and economic potential of Downtown; and

29 WHEREAS, these conditions of blight and urban decay can exacerbate
30 issues of crime, homelessness, and public safety, adversely affecting the
31 quality of life for residents, visitors, and business owners; and

1 WHEREAS, the persistence of these problems can create a depressed
2 environment that undermines efforts for economic revitalization, innovation,
3 and job creation in the downtown area; and

4 WHEREAS, the existing City ordinance governing commercial dilapidated
5 and neglected properties does not adequately addresses the specific
6 conditions affecting Downtown Albuquerque, where high concentrations of
7 residential, non residential, and mixed-use deteriorating buildings hinder the
8 district's potential for economic recovery and vibrancy; the establishment of
9 an ordinance that focuses on Downtown will provide the necessary tools to
10 address these localized issues, promote rehabilitation, and stimulate growth
11 by encouraging property owners to take proactive steps toward maintaining
12 their properties in good condition; and

13 WHEREAS, the Albuquerque/Bernalillo County Comprehensive Plan
14 envisions Downtown as a regional center with the highest employment and
15 commercial uses, offering a high-quality environment for pedestrians through
16 a series of goals, policies, and actions; and

17 WHEREAS, Action 5.7.2.15 calls for removing obstacles to private
18 investment (e.g., obsolete platting, deteriorating building conditions,
19 vacancies, outdated land uses, and high-crime areas) through regulatory
20 changes and partnerships; and

21 WHEREAS, Policy 7.3.2, *Community Character*, encourages design
22 strategies that recognize and embrace the unique characteristics of
23 communities, making them safe, attractive, and distinct; and

24 WHEREAS, a core principle of safety, Crime Prevention Through
25 Environmental Design (CPTED), emphasizes that well-maintained properties
26 encourage activity and foster the perception of surveillance and safety; and

27 WHEREAS, addressing these conditions is essential for fostering a
28 renewed sense of civic pride, economic opportunity, and overall prosperity in
29 Downtown Albuquerque; and

30 WHEREAS, ensuring that sidewalks remain unobstructed and accessible to
31 all pedestrians, including individuals with disabilities, is essential for
32 promoting a walkable and inclusive downtown environment; and

1 WHEREAS, maintaining safe, clear pedestrian pathways enhances public
2 safety, reduces the risk of accidents, and encourages greater foot traffic,
3 which is vital to the vitality and economic sustainability of downtown
4 businesses; and

5 WHEREAS, preserving the accessibility and safety of sidewalks fosters a
6 vibrant downtown district, supporting local commerce, tourism, and the
7 overall economic growth of the area; and

8 WHEREAS, under Policy 5.1.1 Desired Growth, subsection a) states,
9 “Create walkable places that provide opportunities to live, work, learn, shop
10 and play;” and

11 WHEREAS, under Policy 5.1.9 Main Streets, sub policy a) states “Prioritize
12 street and walkway improvements, such as street trees, landscaping, lighting,
13 wayfinding, and wide sidewalks, to create safe and comfortable pedestrian
14 improvements;” and

15 WHEREAS, allowing for automated parking enforcement both Downtown
16 and throughout the City will allow for increased coverage and continuous
17 monitoring while ensuring consistency and objectivity when issuing parking
18 citations; and

19 WHEREAS, this bill approaches many large and challenging conversations
20 that have existed in the context for Downtown and is introduced along with a
21 Central Avenue Improvement project between 1st - 8th Streets that looks to
22 create a safer environment for cyclists, drivers, pedestrians, business owners
23 and visitors to Albuquerque’s Downtown.

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

26 SECTION 1. A new Article 24 is hereby created in Chapter 14 of the Revised
27 Ordinances of Albuquerque, 1994, as follows:

28 § 14-24-1 SHORT TITLE.

29 This Chapter 14, Article 24 shall be known and cited as the “Downtown
30 Vacant Buildings and Properties Ordinance.”

31 § 14-24-2 INTENT AND PURPOSES.

32 The intent of this Ordinance is to further revitalization efforts in the
33 Downtown area by activating vacant buildings by encouraging property

owners to make robust efforts to make productive use of their properties and preventing such structures from being a public or private nuisance or otherwise contributing to blight and negatively impacting surrounding property values and redevelopment or economic development efforts.

§ 14-24-3 DEFINITIONS.

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

DOWNTOWN CENTER. The area identified in the Albuquerque & Bernalillo County Comprehensive Plan, Chapter 5 Land Use.

FISCAL YEAR. The City of Albuquerque's fiscal year is from July 1st - June 30th.

OWNERS GROUP. Means for each owner of a property, with respect to each separate floor, unit or space, the owner, any current or former co-owner, and any related person or affiliate of the owner or any current or former co-owner.

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

SQFT BASE COST. The amount of gross floor area (GFA) that meets the vacant building or property definition for properties and buildings that are four stories or less. For buildings that are 5 stories or more, the GFA shall only be applicable to the ground floor.

VACANT BUILDING OR PROPERTY. Any building or property which no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building or structure as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupant(s), or tenant(s), or otherwise claiming possession through the owner, on a permanent, non-transient basis.

YEARS VACANT. The number of years a building or property has had more than six months of vacancy in a fiscal year. This number resets after a property is considered occupied for a fiscal year.

§ 14-24-4 APPLICABILITY.

1 The provisions of this Ordinance apply only to buildings and properties
2 within the Downtown Center as defined in the Comprehensive Plan, Chapter 5
3 Land Use.

4 § 14-24-5 REGISTRY.

5 (A) All Responsible Parties must register their vacant buildings and
6 properties within the Downtown Center. Responsible Parties are required to
7 register their vacant building or property by December 31st of each year.

8 (B) To ensure compliance with this Ordinance, the Mayor or their desinee
9 shall conduct an annual survey of all buildings and properties within the
10 Downtown Center to determine if the buildings and properties are vacant or
11 occupied. The annual survey shall include all buildings and properties and
12 shall be conducted simultaneously with the annual survey required in the
13 Downtown Dilapidation Ordinance, ROA 1994, Sections 14-25-1, et. seq.

14 (C) The Mayor or their designee can require proof of occupancy to
15 determine if the building or property was occupied for at least six months of
16 the fiscal year.

17 (1) Proof of occupancy may include, but is not limited to: a bona fide
18 lease, utility records, mail, property inspections, etc.

19 (D) The application for a vacancy registration shall be made on a form
20 provided by Albuquerque Code Enforcement and verified by the owner. The
21 application shall disclose all measures to be taken to ensure that the vacant
22 building will be kept weather tight and secure from trespassers, safe for entry
23 by police officers and firefighters in times of emergency, and together with its
24 premises, free from nuisance and in good order. The Downtown Vacancy
25 Registration form shall include and be updated with the following information:

26 (1) Name, address, telephone number, and email of the property owner
27 and Responsible Party, if applicable.

28 (2) Name, address, telephone number, and email of a local agent for the
29 owner, if the owner is not a resident of Bernalillo County;

30 (3) Name, local address and telephone number, and email of a property
31 manager, if any;

32 (4) Street address, parcel number and legal description of the property;

(5) Any known fines and/or liabilities being assessed against the property.

(6) A 24-hours emergency telephone number where the owner, agent, or property manager or Responsible Party can be reached.

(7) A floor plan of the building with a visual representation of how the different floors, spaces, or units are occupied, if applicable, along with the area of each floor, space or, unit.

(E) At the time of registration, the Responsible Party shall arrange for inspection of the vacant building or property by Albuquerque Code Enforcement or their representative. If the Responsible Party fails or refuses to consent to and arrange for an inspection, Albuquerque Code Enforcement may obtain a search warrant from a court of competent jurisdiction to authorize inspection of the vacant building or property, if it is deemed necessary for public health and safety. If a Responsible Party fails or refuses to consent to and arrange for an inspection, their building or property shall be deemed vacant and assessed the maximum registration fee from the table in Section 14-24-6, regardless of the actual SQFT of the building or property.

§ 14-24-6 REGISTRATION FEE.

The registration fee for vacant properties within the Downtown Center shall be assessed using area and time. The City shall use the equation and table below to determine vacancy registration fees:

$$(\text{Years Vacant}) * (\text{SQFT base cost}) = \text{Vacancy Registration Fee}$$

Square feet	SQFT Base Cost
< 1,000 sqft	\$1,000.00
1,000 - 5,000 sqft	\$2,000.00
5,000 – 10,000 sqft	\$3,000.00
10,000 – 15,000 sqft	\$4,000.00
> 15,000 sqft	\$5,000.00

§ 14-24-7 EXEMPTIONS FOR CERTAIN BUILDINGS AND PROPERTIES.

(A) Buildings or properties which are owned by a government entity or where a government nexus is established are exempt from the requirements of this Ordinance.

1 (B) The Downtown Vacant Property Registration Fee does not apply in the
2 following circumstances, as determined by the Mayor or their designee:

3 (1) A City of Albuquerque active building permit shows the property or
4 structure undergoing construction, rehabilitation or renovation that is
5 proceeding without unreasonable delay caused by the owner or property
6 manager. The Responsible Party shall provide a written plan for how the active
7 building permit is working to achieve occupancy on the property. The written
8 plan shall include, but is not limited to, a reasonable timeline, description of
9 necessary improvements, milestones for completion, and anticipated
10 occupancy date;

11 (2) The building or property was purchased through a foreclosure action
12 and have not exhausted the statutory redemption period;

13 (3) The building or property is physically secured and the subject of a
14 probate action for a period not longer than one year, or other litigation in
15 which ownership is contest;

16 (4) Disaster Period. A one-year exemption period shall apply following
17 the date that a building or property was severely damaged and made
18 uninhabitable or unusable due to fire, natural disaster, or other catastrophic
19 event.

20 (5) If a building or property does not meet the above criteria and still
21 achieves the intent and purpose of this Article 14-24, the Mayor or their
22 designee may grant the Responsible Property a special exemption with
23 adequate justification.

24 § 14-24-8 ENFORCEMENT AND PENALTIES.

25 (A) If the Responsible Party fails to register their vacant building or
26 property within 20 days after an initial written notice from the City, the
27 Responsible Party is subject to:

28 (1) The penalty provisions set forth in § 1-1-99 of this code of
29 ordinances; each day of violation is considered a separate offense; and

30 (2) Instead of or in addition to the penalty provision set forth in § 1-1-
31 99, the city, acting through the City Attorney, is hereby authorized to file an
32 action in a court of competent jurisdiction as a means of compelling

1 compliance with this article, including compliance with those sections cross
2 referenced within the Zoning Code, to:

3 (i) Enjoin any person from violating or threatening to violate the
4 terms, conditions and restrictions of this article;

5 (ii) Collect civil assessments against the property of \$500 per day for
6 every day the property remains or remained in violation of this section after
7 the expiration of the compliance period or any extensions granted by the City
8 identified in the written notice(s) sent by the City; and

9 (iii) Recover damages from the owner of a building or property in an
10 amount of money adequate for the city to undertake any construction
11 remediation, cleanup, or other activity necessary to bring about compliance
12 with this article.

13 (3) In addition to judicial remedies, any expenditure by the city to bring
14 the building or property into compliance, or any damages or assessments are
15 recoverable through the imposition of a municipal lien on the parcel under
16 NMSA 1978, §§ 3-36-1 to 3-36-5. To the extent that monetary penalties are
17 recovered as a result of enforcement under this section, any funds so
18 recovered shall be used exclusively for the purpose of funding enforcement
19 activities under this section. Should the building or property owner fail to
20 make reasonable efforts to satisfy and discharge the lien on the building or
21 property within one year of assessment, the City Attorney is authorized to file
22 suit to force the satisfaction of the lien in any way authorized by law.

23 § 14-24-9 PRIVATE CAUSE OF ACTION RELATED TO VACANT BUILDINGS
24 AND PROPERTIES.

25 An owner of property within the boundaries of the Downtown Center may
26 bring a civil action in a court of competent jurisdiction against another
27 property owner within the boundaries of the Downtown Center for violations of
28 the provisions of this Ordinance. Upon prevailing, the property owner
29 complaining of a violation shall be entitled to recover the actual damage
30 established by the complaining property owner, including, but not limited to,
31 the decrease in value of property and rental value amounts, security costs
32 required to protect personal property and personnel incurred because of the

1 nuisance created by the vacant property, and any other appropriate legal or
2 equitable relief.

3 § 14-24-10 APPEAL.

4 (A) General.

5 (1) Form of appeal.

6 (a) Any person entitled to appeal under this code may do so by filing
7 at the Office of the City Clerk a written appeal containing:

8 1. The names of all appellants participating in the appeal.

9 2. A brief statement setting forth the legal interest of each of the
10 appellants in the building or the land involved in the appeal.

11 3. A brief statement in ordinary and concise language of that
12 specific order or action protested along with a copy of the order, notice, or
13 action together with any material facts claimed to support the contentions of
14 the appellant.

15 4. A brief statement in ordinary and concise language of the relief
16 sought and the reasons why it is claimed the protested order or action should
17 be reversed, modified or otherwise set aside.

18 5. The signatures of all parties named as appellants and their
19 official mailing addresses.

20 6. The verification, by declaration under penalty of perjury, of at
21 least one appellant as to the truth of the matters stated in the appeal.

22 (b) The appeal shall be filed prior to the effective date of the order.

23 (2) Processing of appeal. Upon receipt of any appeal filed pursuant to
24 this section, the City Clerk or their staff shall file and stamp the appeal then
25 deliver by mail or electronic means a copy of it to the party responsible for
26 issuing the order, notice, or action under appeal as well as a copy to the Office
27 of the City Attorney.

28 (3) Scheduling and noticing appeal for hearing. The Office of
29 Administrative Hearings shall schedule the hearing pursuant to the provisions
30 of the IHO Ordinance, ROA 1994, Chapter 2, Article 7, Part 8.

31 (B) Effect of failure to appeal. Failure of any person to file an appeal in
32 accordance with the provisions herein shall constitute a waiver of his or her

1 right to an administrative hearing and adjudication of the notice and order or
2 to any portion thereof.

3 (C) Scope of hearing appeal. Only those matters or issues specifically
4 raised by the appellant shall be considered in the hearing of the appeal.

5 (D) Staying of order under appeal. Enforcement of any notice and order
6 of the City issued under this code shall be stayed during the pendency of an
7 appeal therefrom which is properly and timely filed.

8 § 14-24-11 PROCEDURES FOR CONDUCT OF HEARING APPEALS.

9 Procedures regarding the hearing shall be the procedures outlined in the
10 IHO Ordinance, Chapter 2, Article 7, Part 8 of the Revised Ordinances of
11 Albuquerque 1994.

12 SECTION 2. The Uniform Housing Code, ROA 1994, Section 14-3-5-14 is
13 hereby amended as follows:

14 § 14-3-5-14 VACANT BUILDING MAINTENANCE.

15 (A) The owner of a vacant building shall apply to the Albuquerque Code
16 Enforcement for and obtain a vacant building maintenance license 15 days
17 prior to vacating the premises. The vacant building maintenance license shall
18 be renewed annually. The owner shall pay an annual fee to renew the vacant
19 building maintenance license. Albuquerque Code Enforcement shall establish
20 the amount of the fee by regulation. [Buildings or properties located within the
21 Downtown Center (as identified by the 2024 Albuquerque Bernalillo County
22 Comprehensive Plan, Chapter 5 Land Use), shall also be subject to the
23 Downtown Vacancy Ordinance, ROA 1994, Sections 14-24-1 et. seq.]

24 SECTION 3. A new Article 25 is hereby created in Chapter 14 of the Revised
25 Ordinances of Albuquerque, 1994, as follows:

26 § 14-25-1 SHORT TITLE.

27 This shall be known and cited as the "Downtown Dilapidation Ordinance"

28 § 14-25-2 INTENT AND PURPOSES.

29 The intent of this Ordinance is to provide minimum aesthetic standards
30 and maintenance standards for dilapidated structures and properties, to
31 prevent such structures and properties from contributing to blight and
32 negatively impacting surrounding property values and redevelopment or
33 economic development efforts within the Downtown Center.

1 § 14-25-3 DEFINITIONS.

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

4 ***DILAPIDATED BUILDING OR PROPERTY.*** Any building or property which
5 exhibits one or more characteristic of dilapidation, including but not limited to:

6 (1) Overgrowth of fugitive plant materials including grasses or
7 invasive trees; or landscaping that is otherwise non-compliant with the
8 requirements of the zoning code, § 14-16-3-10(D)(3) and the Albuquerque
9 Weed and Anti-Litter Ordinance, §§ 9-8-1 et seq. ROA 1994;

10 (2) Unsecure, loose, or broken building façades, treatments, fixtures,
11 signs (including freestanding signs) or other façade features affecting the
12 façade or sign area;

13 (3) Peeling or flaking paint, and any other significant deterioration of
14 building surface treatments affecting the façade;

15 (4) Broken or uncovered glass within any window or door;

16 (5) Unsecured, loose, or broken features affecting any sign (including
17 freestanding signs);

18 (6) Broken windows or building entrances, or any other characteristics
19 demonstrating a lack of security or access control to the property, building or
20 buildings at the site;

21 (7) Unabated vandalism or graffiti;

22 (8) Outdoor lighting that is no longer compliant with the minimum
23 requirements of the zoning code;

24 (9) Broken pavement, interior sidewalks or pedestrian connections;
25 unsealed cracks exceeding two feet in length and one inch in width, or
26 potholes exceeding one square foot in area within off-street parking areas; or

27 (10) Unabated trespass, or police calls for service that are unrelated to
28 any lawful use or business establishment at the location.

29 ***DOWNTOWN CENTER.*** The area identified in the 2024 Albuquerque Bernalillo
30 County Comprehensive Plan, Chapter 5 Land Use.

31 ***FAÇADE.*** As defined by § 14-16-7 “Definitions, Acronyms, and Abbreviations”
32 of the Integrated Development Ordinance (“IDO”), and includes a front facade,
33 side facade, and street-facing facade.

1 **RESPONSIBLE PARTY.** The owner(s) of any building or property, or the
2 owner's designee, or any other party responsible for such building or property
3 by way of management, agency, or otherwise.

4 **§14-25-4 DILAPIDATED BUILDINGS PROHIBITED.**

5 No Responsible Party shall permit any building or property to become or
6 remain a dilapidated building or property with the area of the city covered by
7 this article.

8 **§ 14-25-5 COMPLIANCE AND REMEDIATION.**

9 (A) *Focus.* The Mayor, or the Mayor's designee, shall conduct an annual
10 survey to identify dilapidated buildings or properties within the Downtown
11 Center and perform inspections to itemize the conditions that constitute a
12 dilapidated building or property as proscribed by this Ordinance. The annual
13 survey shall include all buildings and properties and shall be conducted
14 simultaneously with the annual survey required in the Downtown Vacancy
15 Ordinance, ROA 1994, Sections 14-24-1, et. seq.

16 (B) *Remediation.* The Mayor, or the Mayor's designee, shall issue a written
17 notice of violation to the Responsible Party. The Responsible Party shall
18 remediate or abate the conditions identified in the written notice within 60
19 days (such 60-day period hereafter shall be referred to as "compliance
20 period"). This compliance period may be reduced or eliminated by the Mayor,
21 or the Mayor's designee should it appear to be a matter of public necessity for
22 health and safety reasons, and the Mayor, or the Mayor's designee is
23 authorized to take immediate action to abate such reasons.

24 (C) If it is not possible, or if the Responsible Party declines or is
25 unsuccessful in fully remediating or abating the conditions creating a
26 dilapidated building or property within the compliance period set forth above,
27 the Responsible Party shall:

28 (1) Register the building or property with the Mayor, or the Mayor's
29 designee through forms provided by the Mayor, or the Mayor's designee
30 within 20 days of expiration of the compliance period. The registration form
31 shall at a minimum require a description of the location and address of the
32 building, and the name, street address and telephone number of the
33 Responsible Party. The Mayor, or the Mayor's designee shall collect a

1 registration fee of \$500 for each initial registration, but the Mayor, or their
2 Designee, may reduce or waive this fee if it is determined that substantial
3 efforts have been made to bring the property into compliance; and

4 (2) Provide a written plan for how the property will be brought into
5 compliance with this article within a 90 day period, or longer if deemed
6 appropriate by the Mayor or their designee. The Mayor, or the Mayor's
7 designee shall make property owners aware of incentives and fee reductions
8 (e.g., impact fee waivers for redevelopment, improvement programs) that are
9 enabled in Metropolitan Redevelopment Areas under the Metropolitan
10 Redevelopment Act, if applicable.

11 (D) The Mayor, or the Mayor's designee shall reinitiate the process
12 prescribed by this section as necessary at any time or move directly to the
13 enforcement and penalties procedures described in § 14-25-6, or otherwise
14 take enforcement action as authorized by any section of the Zoning Code.

15 § 14-25-6 ENFORCEMENT AND PENALTIES.

16 (A) If the building or property is not successfully remediated or made
17 compliant pursuant to the process set forth in § 14-25-5 above, the
18 Responsible Party is subject to:

19 (1) The penalty provisions set forth in § 1-1-99 of this code of
20 ordinances; each day of violation is considered a separate offense; and

21 (2) Instead of or in addition to the penalty provision set forth in § 1-1-
22 99, the city, acting through the City Attorney, is hereby authorized to file an
23 action in a court of competent jurisdiction as a means of compelling
24 compliance with this article, including compliance with those sections cross
25 referenced within the Zoning Code, to:

26 (a) Enjoin any person from violating or threatening to violate the
27 terms, conditions and restrictions of this article;

28 (b) Collect civil assessments against the property of \$500 per day for
29 every day the property remains or remained in violation of this section after
30 the expiration of the compliance period or any extensions granted by the City
31 identified in the written notice(s) sent by the City; and

32 (c) Recover damages from the owner of a building or property in an
33 amount of money adequate for the city to undertake any construction

1 remediation, cleanup, or other activity necessary to bring about compliance
2 with this article.

3 (B) In addition to judicial remedies, any expenditure by the city to bring
4 the building or property into compliance, or any damages or assessments are
5 recoverable through the imposition of a municipal lien on the parcel under
6 NMSA 1978, §§ 3-36-1 to 3-36-5. To the extent that monetary penalties are
7 recovered as a result of enforcement under this section, any funds so
8 recovered shall be used exclusively for the purpose of funding enforcement
9 activities under this section. Should the building or property owner fail to
10 make reasonable efforts to satisfy and discharge the lien on the building or
11 property within one year of assessment, the City Attorney is authorized to file
12 suit to force the satisfaction of the lien in any way authorized by law.

13 § 14-25-7 EXEMPTIONS.

14 Buildings or properties which are owned by a government entity or where a
15 government nexus is established are exempt from the requirements of this
16 Ordinance.

17 § 14-25-8 APPEAL.

18 (A) General.

19 (1) Form of appeal.

20 (a) Any person entitled to appeal under this code may do so by filing
21 at the Office of the City Clerk a written appeal containing:

- 22 1. The names of all appellants participating in the appeal.
- 23 2. A brief statement setting forth the legal interest of each of the
24 appellants in the building or the land involved in the appeal.
- 25 3. A brief statement in ordinary and concise language of that
26 specific order or action protested along with a copy of the order, notice, or
27 action together with any material facts claimed to support the contentions of
28 the appellant.
- 29 4. A brief statement in ordinary and concise language of the relief
30 sought and the reasons why it is claimed the protested order or action should
31 be reversed, modified or otherwise set aside.

32 5. The signatures of all parties named as appellants and their
33 official mailing addresses.

1 6. The verification, by declaration under penalty of perjury, of at
2 least one appellant as to the truth of the matters stated in the appeal.

3 (b) The appeal shall be filed prior to the effective date of the order.

4 (2) Processing of appeal. Upon receipt of any appeal filed pursuant to
5 this section, the City Clerk or their staff shall file and stamp the appeal then
6 deliver by mail or electronic means a copy of it to the party responsible for
7 issuing the order, notice, or action under appeal as well as a copy to the Office
8 of the City Attorney.

9 (3) Scheduling and noticing appeal for hearing. The Office of
10 Administrative Hearings shall schedule the hearing pursuant to the provisions
11 of the IHO Ordinance, ROA 1994, Chapter 2, Article 7, Part 8.

12 (B) Effect of failure to appeal. Failure of any person to file an appeal in
13 accordance with the provisions herein shall constitute a waiver of his or her
14 right to an administrative hearing and adjudication of the notice and order or
15 to any portion thereof.

16 (C) Scope of hearing appeal. Only those matters or issues specifically
17 raised by the appellant shall be considered in the hearing of the appeal.

18 (D) Staying of order under appeal. Enforcement of any notice and order
19 of the City issued under this code shall be stayed during the pendency of an
20 appeal therefrom which is properly and timely filed.

21 **§ 14-25-9 PROCEDURES FOR CONDUCT OF HEARING APPEALS.**

22 Procedures regarding the hearing shall be the procedures outlined in the
23 IHO Ordinance, ROA 1994, Chapter 2, Article 7, Part 8.

24 **SECTION 4. ROA 1994, Section 14-20-4, of the “Dilapidated Commercial**
25 **Buildings and Properties Ordinance” is amended as follows:**

26 **§ 14-20-4 DILAPIDATED COMMERCIAL BUILDINGS PROHIBITED.**

27 No Responsible Party shall permit any building or property to become or
28 remain a dilapidated commercial building or property within the area of the city
29 covered by this article.

30 [This article does not apply to buildings or properties located within the
31 Downtown Center (as identified by the 2024 Albuquerque Bernalillo County
32 Comprehensive Plan, Chapter 5 Land Use), which shall be subject to the
33 Downtown Dilapidation Ordinance, ROA 1994, Sections 14-25-1 et. seq.]

1 SECTION 5. A new Article 14 is hereby created in Chapter 8, Part 7 of the
2 Revised Ordinances of Albuquerque, 1994, as follows:

3 § 8-2-7-14 NO OBSTRUCTION ZONES.

4 (A) SHORT TITLE. This § 8-2-7-14 shall be known and cited as the “No
5 Obstruction Zone Ordinance.”

6 (B) INTENT AND PURPOSE. The intent of this Ordinance is to promote the
7 safe and enjoyable use of pedestrian pathways by regulating sidewalks and
8 footpaths in areas of the City that have been designated as current or desired,
9 pedestrian friendly land use patterns and right-of-way design as defined by
10 the Albuquerque/Bernalillo County Comprehensive Plan’s Centers and
11 Corridors (i.e. Downtown, Urban Centers, Activity Centers, Premium Transit
12 Corridors & Main Street Corridors).

13 (C) DEFINITIONS.

14 (1) *Downtown Center*. The area identified in the 2024 Albuquerque
15 Bernalillo County Comprehensive Plan, Chapter 5 Land Use.

16 (2) *Lawful Pedestrian Use*. The permissible actions and behaviors of
17 individuals walking in public spaces, such as sidewalks or crosswalks, in
18 accordance with local laws and regulations, as long as actions and behaviors
19 do not obstruct other persons or violate specific rules as described by this
20 code.

21 (3) *Obstruction*. An obstruction is anything that blocks, impedes, or
22 hinders the free movement or access of people or objects in a space, reducing
23 functionality, safety, or accessibility of an area.

24 (D) APPLICABILITY. No Obstruction Zones apply to all sidewalks and
25 pedestrian footpaths within the Downtown Center delineated by signs, curb
26 paint, or other measures of visual notification.

27 (E) WRONGFUL USE OF SIDEWALKS IN NO OBSTRUCTION ZONES.

28 (1) The use of sidewalks in “no obstruction zones” are reserved exclusively
29 for persons utilizing sidewalks for the purpose, as defined in ROA 1994,
30 Section 6-5-5-4.

31 (2) No person shall obstruct the sidewalk through conduct including, but
32 not limited to:

- 1 (a) Obstructing movement per ROA 1994, Section 12-2-7 by: hindering or
2 molesting persons passing along any street, sidewalk, crosswalk, or other
3 public way; or preventing or attempting to prevent persons from entering or
4 exiting a church or other place of worship, public hall, theater, public building,
5 or other place of public assemblage, or a medical facility by physically
6 detaining a person or by intentionally obstructing, impeding, or hindering a
7 person's entry or exit, which action is without the permission;
- 8 (b) Sleeping, sitting, kneeling, crouching or lying down along or across the
9 sidewalk, in a way that infringes upon lawful pedestrian use, unless due to a
10 medical emergency;
- 11 (c) It shall be unlawful for any person to place articles, goods, wares or
12 items of any sort on a sidewalk or to allow vegetation to grow in such a
13 manner as to obstruct or restrict the free use of the sidewalk or footpath by
14 pedestrians. This section shall include but not be limited to newspaper stands,
15 portable signs, tables, chairs and benches; and
- 16 (d) Forming a cordon or line of persons across the public sidewalk; and
- 17 (e) Carrying banners or signs, upon the sidewalk or footpath which actually
18 causes an obstruction on the sidewalk or footpath; and
- 19 (f) Placing or storing equipment, materials, parcels, containers, packages,
20 bundles or other property upon the sidewalk or footpath which actually
21 causes an obstruction on the sidewalk; and
- 22 (g) Any conduct that deprives pedestrians of the intended use of the
23 sidewalk or footpath; and
- 24 (h) Placing, erecting or maintaining an unpermitted fixed sign upon the
25 sidewalk or footpath; and
- 26 (i) Obstructing, delaying, hindering, blocking, hampering or interfering
27 with pedestrian passage, including passage to or from private property.
- 28 (3) No business shall obstruct the sidewalk, including but not limited to,
29 directing or allowing its patrons to form a line or cordon across the sidewalk
30 for access to their establishment or service.
- 31 (F) EXEMPTIONS. This Ordinance shall not apply to the following:
- 32 (1) Use of street furniture such as permitted benches, tables, chairs, or
33 other permitted items in the sidewalk or footpath;

(2) Any obtrusive use of the sidewalk or footpath by public safety equipment, including but not limited to, street signs, traffic signals, fire hydrants, utility poles and street and sidewalk lighting; and

(3) Any obstructive use of the sidewalk or footpath for purposes of construction, maintenance or repair of the public safety equipment, right-of-way (or equipment therein) or adjoining private property, conducted by or pursuant to a valid building permit issued by the Planning Department.

(4) Permitted Community Events.

(G) PENALTY.

(1) A violation constitutes a civil infraction punishable by a fine of \$100 or completion of four hours of community service.

(2) A violator may elect service to the city as an alternative to payment of fines. A violator who elects the option of service to the city in lieu of payment of a fine does so voluntarily and is entitled to none of the benefits conferred upon city employees, including, without limitation, worker's compensation or the payment of any wages or benefits. The city is not responsible for damages incurred as a result of such service except as otherwise provided by law. The person seeking relief hereunder shall timely request the option of service to the city in lieu of payment of a fine. Services shall be rendered in not less than full hour increments and shall be credited against the fine payable at a rate of \$25 per hour. The Mayor or the Mayor's designee shall establish procedures for administering this paragraph including, but not limited to, the nature of services that may be performed, the timeframe in which a respondent must complete their community service, and consequences for failure to complete community service.

(3) If a violator receives three violations of the *No Obstruction Zone* Ordinance, they are subject to the General penalties provision Section 1-1-99.

SECTION 6. The Traffic Code, ROA 1994, Sections 8-1-3-10, 8-1-3-11, and 8-1-3-99 are hereby amended as follows:

§ 8-1-3-10 CITATION ~~[ON]~~ [OF] A PARKED VEHICLE.

[(A) Affixed Parking Citation.] Whenever a motor vehicle without a driver is found in violation of this code or state law or parked or stopped in violation of any provision of Article 5 of this Chapter 8 of the code of ordinances or state

1 law, the officer, parking enforcement officer, or security officer finding such
2 vehicle shall take its license plate number and any other information which
3 may identify its owner of use, and shall conspicuously affix to such vehicle a
4 parking citation for the driver to answer to the charge alleged within ten days
5 during the hours at the place, or by the method specified in the citation.

6 [(B) Mailed Parking Citation. Automated enforcement technologies may
7 be used by the Albuquerque Police Department, parking enforcement officer
8 or security officer in determining violations of any provision of Article 5 of this
9 Chapter 8 of the code of ordinances. If an officer, parking enforcement officer,
10 or security officer determines through investigation of evidence provided
11 through automated enforcement technologies a motor vehicle to be in
12 violation of any provision of Article 5 of this Chapter 8 of the code of
13 ordinances, and the officer, parking enforcement officer, or security officer
14 through investigation determines that such evidence can be shown to have
15 been collected at the date and time of the violation and show the license plate
16 number or any other information which may identify the violating vehicle's
17 owner of use, the investigating officer may issue a parking citation by United
18 States Postal Service mail to the address of the registered owner of the
19 violating vehicle for the registered owner to answer to the charge alleged
20 within twenty days of issuance of the citation during the hours at the place or
21 by the method specified in the citation. "Issuance of the citation" shall mean
22 the date on which the citation is mailed.]

23 § 8-1-3-11 FAILURE TO PAY FOR PARKING CITATION.

24 [(A) Affixed Parking Citation.] If the alleged violator does not pay [a
25 ~~citation affixed to such motor vehicle~~] [an affixed parking citation] within a
26 period of ten days, a letter shall be sent to the registered owner of such
27 vehicle setting forth the time of the alleged violation, listing the presumptions
28 provided for in § 8-5-1-39, and informing ~~[him]~~ [the alleged violator] of the
29 violations and warning ~~[him]~~ that a complaint shall be delivered to the
30 Metropolitan Court against the registered owner of such vehicle, if there is no
31 payment of the parking fine within 30 days of the date on which the violation
32 occurred.

1 [(B) Mailed Parking Citation. If the alleged violator does not pay a mailed
2 parking citation within a period of twenty days of issuance of the citation, a
3 letter shall be sent to the registered owner of such vehicle setting forth the
4 time of the alleged violation, listing the presumptions provided for in § 8-5-1-
5 39, and informing them of the violations and warning that a complaint shall be
6 delivered to the Metropolitan Court against the registered owner of such
7 vehicle, if there is no payment of the parking fine within 45 days of the date of
8 issuance of the citation.]

9 § 8-1-3-99 PENALTY.

10 (B)(4) Fines for any [affixed] parking violation, including § 7-5-3 Display and
11 Sale of Motor Vehicles, if not paid within ten days of the occurrence of the
12 violation, shall be two times the amount of the fine, and if not paid within 20
13 days of the occurrence of the violation, shall be three times the amount of the
14 fine, unless the person cited has initiated court proceedings to answer the
15 charges within ten days of the issuance of the citation. [Fines for any mailed
16 parking citation, if not paid within twenty days of the issuance of the citation,
17 shall be two times the amount of the fine, and if not paid within thirty days of
18 the issuance of the violation, shall be three times the amount of the fine,
19 unless the person cited has initiated court proceedings to answer the charges
20 within twenty days of the issuance of the citation.]

21 SECTION 7. IMPLEMENTATION OF NO OBSTRUCTION ZONE. The Mayor or
22 their designee shall prioritize implementation of “No Obstruction Zone” from
23 1st – 8th Streets and Copper - Silver Ave. completely, as the first stage of
24 delineation as detailed in Section (D) of this Ordinance.

25 SECTION 8. DOWNTOWN CENTER VACANCY AND DILAPIDATION
26 REPORT. Per SECTIONS 1 and 3 of this Ordinance, the Mayor, or the Mayor’s
27 designee shall provide an annual report to the City Council at the first City
28 Council meeting in August, via Executive Communication, which shall include,
29 but not limited to:

- 30 (a) a list of all buildings and properties within the Downtown Center;
31 (b) condition of dilapidation and/or vacancy;
32 (c) dilapidation remediation status; and

1 (d) Calculation of Downtown Center vacancy rate based on number of
2 properties and ground floor area.

3 (e) A list of all vacancy registration exemptions and any plans pursuant to
4 14-24-7(B)(1)(a).

5 SECTION 9. DOWNTOWN CENTER ANNUAL SURVEY NOTIFICATION. At
6 least 30 days prior to the annual survey, the Mayor or their designee shall
7 send out notification to all property owners within the Downtown Center,
8 advising them of the upcoming start of the survey. This notification is required
9 to coincide annually with the survey detailed in ROA 1994, Sections 14-24-5(B)
10 and 14-25-5(A).

11 SECTION 10. SEVERABILITY. If any section, paragraph, sentence, clause,
12 word or phrase of this Ordinance is for any reason held to be invalid or
13 unenforceable by any court of competent jurisdiction, such decision shall not
14 affect the validity of the remaining provisions of this Ordinance. The Council
15 hereby declares that it would have passed this Ordinance and each section,
16 paragraph, sentence, clause, word or phrase thereof irrespective of any
17 provision being declared unconstitutional or otherwise invalid.

18 SECTION 11. COMPILATION. SECTION 1 of this Ordinance is to be
19 compiled as a new Article 24 in Chapter 14 of the Revised Ordinances of
20 Albuquerque, New Mexico, 1994, titled "Downtown Vacant Buildings and
21 Properties Ordinance." SECTION 2 of this Ordinance amends, is incorporated
22 in, and is to be compiled as part of the Revised Ordinances of Albuquerque,
23 New Mexico, 1994 in Section 14-3-5-14. SECTION 3 of this Ordinance is to be
24 compiled as a new Article 25 in Chapter 14 of the Revised Ordinances of
25 Albuquerque, New Mexico, 1994, titled "Downtown Dilapidation Ordinance."
26 SECTION 4 of this Ordinance amends, is incorporated in, and is to be
27 compiled as part of the Revised Ordinances of Albuquerque, New Mexico,
28 1994 in Section 14-20-4. SECTION 5 of this Ordinance is to be compiled as a
29 new Article 14 in Chapter 8, Part 7 of the Revised Ordinances of Albuquerque,
30 New Mexico, 1994, titled "No Obstruction Zones." SECTION 6 of this
31 Ordinance amends, is to be incorporated in, and is to be compiled as part of
32 the Revised Ordinances of Albuquerque, New Mexico, 1995 in Sections 8-1-3-
33 10, 8-1-3-11, and 8-1-3-99

1 **SECTION 12. EFFECTIVE DATES. SECTIONS 1 and 2 of this Ordinance**
2 **take effect July 1, 2025 after publication by title and general summary.**
3 **SECTIONS 3, 4, 5, 6, 7, 8, and 9 of this Ordinance take effect five (5) days after**
4 **publication by title and general summary.**

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