# CITY of ALBUQUERQUE

## TWENTY-THIRD COUNCIL

COUNCIL BILL NO. C/S O-18-21 ENACTMENT NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SPONSORED BY: Diane G. Gibson

ORDINANCE

AMENDING THE UNIFORM HOUSING CODE, SECTIONS 14-3-1-1 THROUGH 14-3-5-99 ROA 1994, RELATING TO MINIMUM DWELLING SAFETY AND SANITATION STANDARDS, IDENTIFICATION OF HAZARDOUS DWELLING CONDITIONS, NUISANCE ABATEMENT, ADMINISTRATION AND ENFORCEMENT.

Section 1. FINDINGS.

1. The “Uniform Housing Code” provides minimum standards to safeguard public welfare by regulating the occupancy and maintenance of all buildings and structures within the City of Albuquerque;
2. The “Uniform Housing Code” requires periodic updates to conform to new conditions and updated building safety standards;
3. The Council created the Vacant and Abandoned Houses Task Force in September 2017, to explore options and make recommendations for addressing vacant and abandoned houses within the City of Albuquerque;
4. The Vacant and Abandoned Houses Task Force recommended a revision and update of the “Uniform Housing Code”;
5. The City of Albuquerque expended $1,636,362 in GF from FY 14 through FY 18 in demolitions, board-ups and clean-ups of vacant, abandoned or substandard properties;
6. Recovered costs and fees provide funding for rehabilitation and nuisance abatement of vacant, abandoned or substandard properties;
7. The Council is amending the “Uniform Housing Code” in response to the changing needs of the City of Albuquerque and pursuant to the recommendations of the Vacant and Abandoned Houses Task Force.

Section 2. Sections 14-3-1-1 through 14-3-5-99 ROA 1994 are amended as follows:

“PART 1: GENERAL PROVISIONS

§ 14-3-1-1 SHORT TITLE.

This article shall be known as the "Uniform Housing Code," may be cited as such, and will be referred to herein as "this code."

§ 14-3-1-2 PURPOSE.

The purpose of this code is to provide minimum standards to safeguard life or limb, health, property [, safety] and public welfare by regulating and controlling the occupancy level and maintenance of all [ ~~residential]~~ buildings and structures within this jurisdiction.

§ 14-3-1-3 SCOPE.

(A) Application.

(1)     The provisions of this code shall apply to all buildings or portions thereof used [,] [~~or designed to be used~~] [designed ] or intended to be used for human habitation. [~~Such o]~~ [O]ccupancies in existing buildings may be continued as provided in Section[ ~~104(d)~~][102.3] of the Uniform Administrative Code, except such structures as are found to be substandard as defined in this code[.]

(2) Where any building or portion thereof is used or intended to be used as a combination [multi-family dwelling] [~~apartment house]~~-hotel, the provisions of this code shall apply to the separate portions as if they were separate buildings.

[ ~~(3) Every rooming house shall comply with all the requirements of this code for dwellings.]~~

(B) Alteration. Existing buildings which are altered, enlarged or repaired shall be made to conform to this code insofar as the new work is concerned and in accordance with Section [~~104(a) and (b)~~] [102.3] of the Uniform Administrative Code.

(C) Relocation*.*  Residential buildings or structures moved into or within this jurisdiction shall comply with the requirements of this code and Section [~~104(f)]~~ [102.5] of the Uniform Administrative Code.

§ 14-3-1-4 DEFINITIONS.

For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the masculine. All citations and references to other codes, ordinances, statutes or regulations thereto shall be construed to include any amendments or modifications thereof.

[ABANDONED PROPERTY. Any vacant building or a building where its principal use has ceased and which no longer has any function or use and which may have its doors and windows boarded up and may be frequented by persons who are not legal occupants of such structure and absence of owner or responsible party is not known. For those and other reasons this property may have a substantial adverse effect on its immediate neighborhood.]

[AGENT. An entity or a person who is authorized by the owner of a residential property to act for him or her in their place. An agent may be named as the Responsible Party.]

~~[APARTMENT HOUSE. An apartment house is any building or portion thereof which contains [three] [3] or more dwelling units.]~~

APPROVED. Approved, as to materials, types of construction, equipment and systems, refers to approval by the Building Official as the result of investigation and tests conducted by him, or by reason of accepted principles or tests by recognized authorities or scientific organizations.

[BUILDING CODE.] The City’s currently adopted version of the New Mexico Commercial Building and Residential Building Code.]

[BUILDING OFFICIAL. The authorized City of Albuquerque employee directed to enforce all the provisions of the City of Albuquerque’s Uniform Administrative Code (UAC) and Technical Codes as outlined in section 105 in the UAC.]

CHIEF ADMINISTRATIVE OFFICER [~~or~~] [(CAO)]. The Chief Administrative Officer of the City.

[CITY (THE). The City of Albuquerque.]

DEPARTMENT. [~~The department is the~~] [The Planning] Department, [~~of Human Services]~~ [Safe City Strike Force (SCSF)] or [~~the]~~ [any] Department that may be subsequently charged with the responsibility of the enforcement of this code.

DIRECTOR. [~~The Director is the~~] [The] legally designated head of the Department, [~~of Human Services,]~~ or any ~~the~~ Department that may be subsequently charged with the responsibility of the enforcement of this code.

DWELLING. [~~A dwelling is any~~] [A] building or portion thereof which contains not more than [~~two~~] [2] dwelling units. [This term includes any structure being used for human habitation no matter the intended use of the structure at the time of its design and construction.]

DWELLING UNIT. [~~A dwelling unit is any~~ ~~building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this code, for not more than one~~ f~~amily~~] [One or more connected rooms and a kitchen designed for and occupied by no more than one family for living and sleeping purposes, permanently installed on a permanent foundation and meeting the requirements of this code and the respective sections of the Uniform Administrative Code, as of the date of the unit's construction. This term includes any structure being used as a dwelling unit, as defined herein, for human habitation.]

EFFICIENCY DWELLING UNIT. [~~Efficiency dwelling unit is a~~] [A] dwelling unit containing only [~~one~~] [1] habitable room and meeting the requirements of ~~[§ 14-3-1-1(D)~~] [§ 14-3-2-1(D)].

HABITABLE SPACE (ROOM). [~~Habitable space is a~~] [A] space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

[~~HEALTH OFFICER. Health Officer is the legally designated head of the Environmental Health Department of this jurisdiction or his designated representative.~~]

HOTEL. [~~A hotel is any~~] [Any] building containing [~~six~~] [6] or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

HOT WATER. [~~Hot water is hot~~] [Hot] water supplied to plumbing fixtures at a temperature of not less than 110° F.

[HOUSEHOLD. All the individuals who occupy a dwelling unit. A household includes the related family members and all the unrelated individuals, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a dwelling unit, or a group of unrelated people sharing a dwelling unit such as partners or rommmates, is also counted as a household.]

[IMMINENT HAZARD. A situation that demands unusual or immediate action and which requires the Department to circumvent usual procedures and warrant requirements in order to protect a person’s health, safety, and life from harm.]

[IN PERSONAM. Any civil or administrative action taken against a person, corporation, trust, or similar entity.]

[IN REM. Any civil or administrative action taken against real or tangible property.]

INSPECTOR. [~~The inspector is the]~~ [Any] employee [of Planning tasked with the enforcement of this code] [~~Housing Inspector]~~ or any subsequent~~ly~~ position, including [SCSF employees] [~~Albuquerque Code Enforcement~~,] charged with the responsibility of making inspections to enforce the provisions of the Housing Code adopted by this jurisdiction.

[LAND BANK. A public or a nonprofit entity specializing in the acquisition of vacant or abandoned properties, with the intention of repurposing these properties to stabilize a neighborhood in accordance with community goals.]

[LOCAL PROPERTY MANAGEMENT COMPANY. A company and/ or an appointed individual that is either based in or maintains an office in the State of New Mexico.]

~~[ MAYOR. The Mayor or their designated representative.]~~

MECHANICAL CODE. [~~Mechanical code is the~~ ~~Uniform Mechanical Code promulgated jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, as adopted by this jurisdiction.]~~ [ The City’s currently adopted versionof the New Mexico Mechanical Code as outlined in the Uniform Administrative Code (UAC).]

MOTEL[/HOTEL]. [~~A motel shall mean~~] [A] hotel as defined in this code.

[MULTI-FAMILY DWELLING. A building, located on a single lot, containing 3 or more dwelling units, each of which is designed for or occupied by one family only, with separate housekeeping and cooking facilities for each.]

NUISANCE. The following shall be defined as nuisances:

(1) Any public [or attractive] nuisance known at common law or in equity jurisprudence.

(2) Any [public or] attractive nuisance which may prove detrimental to [the public] [~~children~~] whether in a building, on the premises of a building, or upon an unoccupied lot [,] [~~.This includes any:~~,] including, but not limited to:

(a) abandoned wells, shafts, basements or excavations;

(b) abandoned refrigerators[/freezers];

(c) structurally unsound fences or structures;

(d) lumber, trash, debris or weeds;

(e) abandoned or partially destroyed vehicles;

             [~~(f)     pooled oil accumulation;~~

~~(g)     ponds or pools of stagnant water;~~

~~(h)     all diseased animals running at large;~~

~~(i)     carcasses of animals not buried or destroyed within 24 hours after death;~~

~~(j)     exposed accumulation of decayed or unwholesome food or vegetable matter;~~

~~(k)     accumulations of manure, refuse or other debris; and~~

~~(l)     privy vaults and garbage cans which are not rodent free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul or disagreeable odors.~~

~~(3)     Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.]~~

~~(4)~~

~~(5)~~

(~~6~~)

(~~7~~)

(~~8)~~

(~~9~~)]

[ (3) ] Overcrowding a room with occupants.

[ (4)] Insufficient ventilation or illumination.

[ (5) ] Inadequate or unsanitary sewage or plumbing facilities.

[ (6) ] Any violation of the housing standards and licensing requirements set forth in this code.

~~[(8)     Any violation of Chapter 6, Article 6, Part 1.]~~

~~[(9)     Any violation of Chapter 8, Article 5, Part 2.]~~

[OWNER. Any person who alone, jointly or severally with others, has legal title to any premises, or dwelling units, with or without accompanying actual possession thereof.]

[PROPERTY MANAGER. A broker, as defined by the NM State Real Estate Commission, or an agent or employee of the property owner who, for a fee, salary, commission or other valuable consideration, is engaged in managing property for others. A residential property manager is, by virtue of a written agency agreement, an agent of the owner(s) of the property for the purpose of performing the obligations of the owner(s) under the Uniform Owner-Resident Relations Act and/or under the rental or lease agreement.]

RELOCATION AGENCY. [Includes] [~~Those~~] [those] employees of the Department of Family and Community Services or persons under contract with the Department of Family and Community Services responsible for implementing the provisions of Ordinance 21-2007 (§ 14-3-5-16 ROA 1994).

RELOCATION COSTS. The expenses reasonably incurred by a resident displaced from a residential building pursuant to action of the City of Albuquerque. Relocation costs shall be [up to $2,000 per household.] [~~unless the resident can demonstrate special circumstances that make the relocation cost a greater amount. If special circumstances are demonstrated, relocation costs may include the actual cost of physically moving to a residential building approved by the relocation agency (the "replacement unit"); costs of moving to a location outside of the immediate area; any security/damage deposit required by the replacement unit owner which exceed the amount of the security/ damage deposit recovered from the owner of the building the resident is moving from; utility deposits and hook up cost and the rent for the first month; costs of moving back to the residential building originally vacated after housing code compliance; and any other reasonable relocation costs.~~]

RENTAL AGREEMENT. Any written or oral agreement allowing occupancy of all or a portion of a residential building by a resident.

[RENTAL PROPERTY. A structure or part of a structure used as a home, residence or sleeping unit by a single person or household; or any grounds or other facilities or area promised for the use of a residential tenant and includes, but without limitation, apartment units, boarding houses, rooming houses, mobile home spaces, and single and 2-family dwellings. The person or houseold has a rental agreement with the owner of the property. This definition shall not apply to short-term/vacation rentals of 29 days or less, hotels/motels, campgrounds, and bed & breakfasts.]

RESIDENT. One or more people entitled under a rental agreement to occupy all or a portion of a residential building to the exclusion of others and who actually reside(s) at such location.

RESIDENTIAL BUILDING. [~~A residential building is a~~] [A] building or portion thereof designed or [being] used for human habitation.

[RESPONSIBLE PARTY. The property owner or person or entity who has the authority from the owner or through a legal proceeding to make decisions concerning the property, can make required expenditures pertaining to the property and take legal responsibility for that property, including but not limited to accepting legal service on behalf of the owner .]

[~~ROOMING HOUSE. [Rooming house is any] [Any] building or portion thereof, containing not more than [five] [5] guest rooms, which are used by not more than [five] [5] guests where rent is paid in money, goods, labor or otherwise. A rooming house shall comply with all the requirements for this code for dwellings~~.]

[SECURED. Is a structure that is protected against unlawful entry by means of locked doors and windows or the boarding of openings.]

[SERIOUS VIOLATION. A violation of a State of New Mexico law or this code or other applicable code(s) that poses an imminent threat to the health and safety of the dwelling occupant, occupants in surrounding structures nearby or passerby. ]

[SHORT-TERM/VACATION RENTAL. With the exception of hotels and motels, campgrounds, bed & breakfasts, the rental of real property for a period of 30 days or less. ]

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.] [~~Anything constructed or erected above ground level that 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.]

[SUBSTANDARD DWELLING. Any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following conditions [set forth in §§ 14-3-4-2, et seq.] to an extent that endangers the life, limb, health, property, safety or public welfare or the occupants thereof.]

[SUBSTANTIAL STEP. An affirmative action, as determined by an inspector or administrative court official, on the part of the property owner or responsible party to remedy a serious violation, but not limited to, physical improvements and/or repairs to the property, and/or securing the property against trespassers. ]

SUPERFICIAL FLOOR AREA. [~~Superficial floor area is the~~] [The] floor area that is obviously or apparently used for habitable space.

UNIFORM ADMINISTRATIVE CODE. [~~The Uniform Administrative Code, adopted in § 14-1-2, is the code promulgated by the International Conference of Building Officials as adopted and amended by the State of New Mexico and the City of Albuquerque to provide for the administration and enforcement of the adopted and amended Uniform Construction Codes (Technical Codes), adopted in § 14-1-3, within the boundaries of the city.]~~ [The provisions or code adopted by the City of Albuquerque that 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 and interpreted and enforced by the Building Official.]

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.

PART 2: SPACE AND OCCUPANCY STANDARDS

§ 14-3-2-1  ROOM DIMENSIONS.

     (A)     Ceiling Heights.

          (1)     Habitable space shall have a ceiling height of not less than 7 feet 6 inches except as otherwise permitted in §§ 14-3-2-1 et seq.  Kitchens, halls, bathrooms and toilet compartments shall have a ceiling height of not less than 7 feet measured to the lowest part of the ceiling.  Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members.  Where exposed beam ceiling members are spaced at 48 inches on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the members is not less than 7 feet above the floor.

          (2)     If any room in the building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof.  No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.

          (3)     If any room has a furred ceiling, the prescribed ceiling height is required in [~~two-thirds~~] [2/3] the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet.

     (B)     Floor Space*.*

          (1)     Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

          (2)     In every dwelling unit of [~~two~~] [2]or more rooms, every room occupied for sleeping purposes by [~~one~~] [1] occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than [~~one~~] [1] occupant shall contain at least 45 square feet of floor space for each occupant thereof.

     (C)     Width*.*

          (1)     No habitable room other than a kitchen shall be less than 7 feet in any dimension.

          (2)     Each [~~water closet]~~ [toilet compartment] stool shall be located in a clear space not less than [thirty] [(30)] inches in width and clear space in front of the [toilet compartment] [~~water closet]~~ stool of not less than [twenty-four] [(24)] inches shall be provided.

     (D)     Exception*.*  Nothing in §§ 14-3-2-1 et seq. shall prohibit the use of an efficiency living unit within [~~an apartment house]~~ [a multi-family dwelling] meeting the following requirements:

          (1)     The unit shall have a living room of not less than [two hundred and twenty] [(220)] square feet of superficial floor area.  An additional [one hundred] [(100)] square feet of superficial floor area shall be provided for each occupant of such unit in excess of [~~two~~] [2 occupants].

          (2)     The unit shall be provided with a separate closet.

          (3)     The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front.  Light and ventilation conforming to this code shall be provided.

          (4)     The unit shall be provided with separate bathroom containing a [toilet compartment] [~~water closet~~], lavatory and bathtub or shower.

§ 14-3-2-2  LIGHT AND VENTILATION.

     (A)     Natural Light and Ventilation.

          (1)     All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural light by means of exterior glazed openings with an area not less than [~~one tenth~~] [1/10] of the floor area of such rooms with a minimum of [ten] [(10)] square feet.  All bathrooms, [~~water closet~~] [toilet compartment] [~~compartments~~], laundry rooms and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than 1/20 of the floor area of such rooms with a minimum of 1½ square feet.

          (2)     All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural ventilation by means of openable exterior openings with an area of not less than 1/20 of the floor area of such rooms with a minimum of 5 square feet.

     (B)     Origin of Light and Ventilation*.*

          (1)     Required exterior openings for natural light and ventilation shall open directly onto a street [,] [~~or~~] public alley[,] [~~or~~] a [~~court~~] [yard or a courtyard] located on the same lot as the building.

          (2)     Exception.

               (a)     Required windows may open into a roofed porch where the porch:

                    1.     Abuts a street, [public alley,] [a] yard, or [a courtyard];

                    2.     Has a ceiling height of not less than 7 feet; and

                    3.     Has the longer side at least [sixty-five] [(65)] percent open and unobstructed.

               [~~(b)     A required window in a service room may open into a vent shaft which is open and unobstructed to the sky and not less than 4 feet in least dimension.  No vent shaft shall extend through more than two stories. ]~~

          (3)     For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when [1/2] [~~one half~~] of the area of the common wall is open and unobstructed and provides an opening of not less than [~~one tenth~~] [1/10] of the floor area of the interior room or [twenty-five] [(25)] square feet, whichever is greater.

     (C)     Mechanical Ventilation*.*  In lieu of required exterior openings for natural ventilation, a mechanical ventilation system may be provided in all guest rooms, dormitories, habitable rooms and public corridors.  In bathrooms, [~~water closet compartments~~] [toilet compartment], laundry rooms and similar rooms a mechanical ventilation system connected directly to the outside shall be provided.

~~[  (D)~~*~~Hallways.~~*~~All public hallways, stairs and other exitways shall be illuminated at any time the building is occupied with light having intensity of not less than 1 foot candle at floor level.  Exit signs where required must be in accordance with Section 3314 of the Building Code (adopted in § 14-1-3).~~

~~('74 Code, § 7-24-5B)  (Ord. 34-1986)]~~

§ 14-3-2-3  SANITATION.

     (A)     Dwelling Units*.*  Every dwelling unit shall be provided with a bathroom equipped with facilities consisting of a [toilet compartment] [~~water closet~~], lavatory and either a bathtub or shower.

     (B)     Kitchen*.*  Each dwelling unit shall be provided with a kitchen.  Every kitchen shall be provided with a kitchen sink.  Wooden sinks or sinks of similarly absorbent material shall not be permitted.

     (C)     Fixtures*.*

          (1)     All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system.  All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation.

          (2)     All plumbing fixtures shall be of an approved glazed earthenware type or of a similarly nonabsorbent material.

     (D)     [Toilet Compartment] [~~Water Closet Compartments~~].  [A Toilet Compartment] [~~Water closet compartments~~] in [a] dwelling~~[s]~~ shall be finished with approved nonabsorbent materials.  Bathroom floor surface[s] shall be maintained so as to be reasonably impervious to water.

     (E)     Bathroom or Shower Accessories.  All accessories such as grab bars, towel bars, paper dispensers and soap dishes and the like, provided on or within walls, shall be installed and sealed to protect structural elements from moisture.

     (F)     Showers*.*  Showers in all occupancies shall be finished to a height of not less than 70 inches above the drain inlet.  Materials other than structural elements used in such walls shall be of a type which is not adversely affected by moisture.

     (G)     Room Separations.  Every [toilet compartment] [~~water closet~~], bathtub or shower required by this code shall be installed in a room which will afford privacy to the occupant.  A room in which a [toilet compartment] [~~water closet~~] is located shall be separated from food preparation or storage rooms by a tight[-]fitting door.

     (H)     Installation and Maintenance.  All sanitary facilities shall be installed and maintained in a safe and sanitary condition and in accordance with all applicable laws.

PART 3: GENERAL REQUIREMENTS

§ 14-3-3-1  STRUCTURAL REQUIREMENTS.

     (A)     General*.*  Buildings or structures may be of any type of construction permitted by the Building Code.  Roofs, floors, walls, foundations and all other structural components of buildings shall be capable of resisting any and all forces and loads to which they may be subjected.  All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as specified in the appropriate sections of the Building Code.  Buildings of every permitted type of construction shall comply with the applicable requirements of the Building Code [as determined by the Chief Building Official.]

(B) Shelter. Every building shall be weather protected so as to provide shelter for the occupants against the elements and to exclude dampness.

(C) Protection of Materials. All wood shall be protected against termite damage and decay as provided in the Building Code.

§ 14-3-3-2 MECHANICAL REQUIREMENTS.

(A) Heating and Ventilation.

(1) Heating.

(a) Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of [~~70]~~ [68]° F. at a point [of] 3 feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with [~~Chapter 37 of the Building Code and the Mechanical Code (adopted in § 14-1-3) and all other applicable laws.]~~ [The City’s currently adopted New Mexico Mechanical Code as adopted in the UAC]

(b) [~~Unvented fuel-burning heaters shall not be permitted.  All heating devices or appliances shall be of an approved type.] [~~Unvented fuel-burning heaters shall not be permitted.  All heating devices or appliances shall be of an approved type. Ovens, stoves or ranges, or other cooking appliances shall not be used for the purpose of heating any portion of a dwelling. Approved portable space heaters may only be used as the sole source of heating on a temporary basis when the permanent heating system is being repaired or replaced.]

(2) Electrical Equipment.

(a) All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type.

(b) Every habitable room shall contain at least [~~two~~] [2] supplied electric convenience outlets or [~~one~~] [1] such convenience outlet and [~~one~~] [1] supplied electric light fixture. Every [toilet compartment] [~~water closet compartment~~], bathroom, laundry room, furnace room and public hallway shall contain at least [~~one~~] [1] supplied electric light fixture.

(3) Ventilation. Ventilation for rooms and areas and for approved fuel-burning appliances shall be provided as required in the Mechanical Code and in this code. Where mechanical ventilation is provided in lieu of the natural ventilation required by § 14-3-2-2(C), such mechanical ventilating system shall be maintained in operation during the occupancy of any building or portion thereof.

§ 14-3-3-3 EXITS.

~~[ (A) General.~~ ]

~~[ (1) ]~~ [(A)] Every dwelling unit or guest room shall have access directly to the outside or to a public corridor.

  [(2)     ~~All buildings or portions thereof shall be provided with exits, exitways and appurtenances as required by Chapter 33 of the Building Code adopted in § 14-1-3.]~~

[ (B) ] Every sleeping room below the fourth story shall have at least [~~one~~] [1] operable window or exterior door approved for emergency escape or rescue. The units shall be operable from the inside to provide a full clear opening without the use of separate tools.

[(C)] All escape or rescue windows from sleeping rooms shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimension shall be [twenty-four] [(24)] inches. The minimum net clear opening width dimension shall be [twenty] [(20)] inches. Where windows are provided as a means of egress or rescue they shall have a finished sill height not more than [forty-four] [(44)] inches above the floor.

~~[§ 14-3-3-4 FIRE PROTECTION.~~

~~All buildings or portions thereof shall be provided with the degree of fire-resistive construction as required by the Building Code for the appropriate occupancy, type of construction and location on property; and shall be provided with the appropriate fire-extinguishing systems or equipment required by the chief of the fire department or his deputy.]~~

PART 4: SUBSTANDARD BUILDINGS

§ 14-3-4-1 SUBSTANDARD BUILDING [~~DEFINED~~].

~~[ Any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions [set forth in §§ 14-3-4-2 et seq.] to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and declared a SUBSTANDARD BUILDING.]~~

[(A) No person shall occupy and no owner or operator of a dwelling or dwelling unit shall give consent to any person to occupy any dwelling, dwelling unit or structure that is not maintained in a safe and sanitary manner. Safe and sanitary means a condition free of visible dirt, debris, clutter, rubbish, trash, human or animal waste and free from other substances, contaminants, materials, or environmental conditions harmful to human health.

[(B) Emergency abatement.

(1) Notwithstanding any other provision in this code if, in the opinion of the inspector, the conditions at a property constitute an imminent hazard, the inspector may order immediate abatement of the hazard without notice. Such abatement of an imminent hazard shall be limited to the minimum work necessary to remove the hazard, and may include disconnection of utilities, securing of the structures or emergency cleaning of the property to abate any violations found.

(2) The city shall pay the cost and expense of such abatement from any appropriation made available for that purpose.

(3) A lien shall be recorded with the Bernalillo County Clerk’s Office for all the costs incurred by the City as a result of abating the property.

(4) Whenever the inspector finds that any structure contains an imminent hazard or health hazard, the inspector may declare such structure unfit for human occupancy and order it to be vacated or to remain vacant. A structure declared unfit for occupancy and ordered vacated or to remain vacant under the provisions of this section shall not be leased, rented or occupied, until it has been inspected and deemed fit for occupancy by the city. The city shall reinspect, for the purpose of re-occupancy, within three (3) business days of the receipt of a written request by the owner, their agent or responsible party.]

§ 14-3-4-2 INADEQUATE SANITATION. [Includes but is not limited to the following:] [~~INADEQUATE SANITATION shall include but not be limited to the following:~~]

(A) Lack of, or not properly operative [toilet compartment] [~~water closet~~], lavatory, bathtub or shower in a dwelling unit.

(B) Lack of, or not properly operative toilet compartments, lavatories and bathtubs or showers in a motel[/hotel/bed&breakfast].

(C) Lack of, or not properly operative kitchen sink.

(D) Lack of hot and cold running water to plumbing fixtures in a motel[/hotel/bed&breakfast].

(E) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.

(F) Lack of, [or not properly operative] adequate heating facilities.

(G) Lack of, or improper operation of required ventilating equipment.

(H) Lack of minimum amounts of natural light and ventilation required by this code.

(I) [Lack of required room and space dimensions as defined by this code.] [~~Room and space dimensions less than required by this code.~~]

(J) Lack of required electrical lighting.

(K) [Lack of adequate weather protection that results in dampness] [Dampness] of habitable rooms ~~[because of faulty weather protection].~~

(L) [Lack of adequate maintenance or the presence of general] ~~[General]~~ dilapidation [~~or inadequate maintenance~~].

(M) Lack of connection to required sewage disposal system [or approved septic system].

[ ~~(N)~~ ~~Infestation of insects, vermin or rodents as set forth in Chapter 9, Article 7 of this code.]~~

[(N) Lack of 1 or more of the following services; electrical, gas, water, sewer connection by an utility company or approved septic system.]

§ 14-3-4-3 STRUCTURAL HAZARDS. [~~STRUCTURAL HAZARDS shall include~~] [Includes any structure determined to be a hazard by the Building Official.] [~~but not be limited to the following:~~

~~(A) Deteriorated or inadequate foundations.~~

~~(B) Defective or deteriorated flooring or floor supports.~~

~~(C) Flooring or floor supports of insufficient size to carry imposed loads with safety.~~

~~(D) Members of walls, partitions or other vertical supports that spilt, lean, list or buckle.~~

~~(E) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.~~

~~(F) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle.~~

~~(G) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.~~

~~(H) Fireplaces or chimneys which list, bulge or settle.~~

~~(I) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.~~

~~(J) Every inside and outside stair, every porch, and every appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon.~~

~~(K) Every interior wall and ceiling is free of holes and large cracks. Every interior wall and ceiling is free of loose plaster and other structural material, the collapse of which might constitute an accident hazard. Plaster, paint, and all other surface materials are of such character as to be easily cleanable and are reasonably smooth, clean, and tight.]~~

§ 14-3-4-4 NUISANCE. [Includes:]

[~~A NUISANCE shall include:]~~

~~[ (A) Unlicensed vacant buildings;~~

~~(B) Buildings that have broken windows or doors constituting hazardous conditions and inviting trespassers or malicious mischief;~~

~~(C) Buildings that are boarded up, partially destroyed, not properly secured or partially constructed or incomplete after the building permit authorizing its construction has expired;~~

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

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

[(A) Unsecured doorways or window openings or holes in the exterior of the building or structure that permit entry of unauthorized persons and without a legal responsible party immediately available to take position of or secure the structure.

(B) A building or structure has been found, upon reinspection, to be vacant and unsecured, and either:

1. The inspector has issued at least 1 previous notice and order to secure within the preceding twelve (12) months, or more than 3 notice and orders to secure over any time frame; or

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

(C) Any property or condition meeting definition of a nuisance as described under § 14-3-1-4 of this code.]

§ 14-3-4-5 HAZARDOUS WIRING. [~~HAZARDOUS WIRING shall include~~] [Includes] all wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

[All dwellings and dwelling units shall be provided with electrical service. Electrical facilities connected to or in any building or structure are to be maintained hazard-free and in a state of good repair. The electrical system shall be free from such hazards as bare wiring; overloaded circuits or services; equipment not properly grounded; over-fused circuits; misuse of wiring, including the use of extension cords in lieu of permanent wiring; non-approved wiring; and wiring exposed to moisture or extreme heat. Broken, loose, frayed, inoperable, defective or missing portions of the electrical service, lines, switches, outlets, fixtures and fixture coverings shall be repaired or replaced.]

§ 14-3-4-6 HAZARDOUS PLUMBING. [Includes]

[~~HAZARDOUS PLUMBING~~ ~~shall include]~~ [any plumbing that does not conform to all applicable laws] [~~all plumbing except that which conformed with all applicable laws~~] in effect at the time of installation and which has been maintained in good condition and which is free of cross-connections and siphonage between fixtures.

[(A) All dwellings and dwelling units shall be provided with water service. Water facilities connected to or in any building or structure are to be maintained hazard-free and in a state of good repair. The water system shall be free from such hazards with the connections free from leaks, blockages, or other defects. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation.

(B) [All plumbing shall be connected to an approved sewer or septic system and maintained and be in accordance with all applicable laws and codes at the time of installation]

§ 14-3-4-7 HAZARDOUS MECHANICAL EQUIPMENT. [Includes]

[~~HAZARDOUS MECHANICAL EQUIPMENTshall include~~] [any mechanical equipment that does not conform to all applicable laws and codes] [~~all mechanical equipment, including vents, except that which conformed with all applicable laws~~] in effect at the time of installation and which has been maintained in a good and safe condition.

[All dwellings and dwelling units that use gas shall be provided with gas service. Gas facilities connected to or in any building or structure are to be maintained hazard-free and in a state of good repair. All heating facilities shall be free from health hazards associated with ventilation, mounting, and gas connections and other defects. Unvented fuel-burning heaters must be of a listed and approved type and are prohibited as the sole source of heating. Ovens, stoves or ranges, or other cooking appliances shall not be used for the purpose of heating any portion of a dwelling. Listed, approved portable space heaters may only be used as the sole source of heating on a temporary basis when the permanent heating system is being repaired or replaced*.*]

§ 14-3-4-8 [INADAQUATE] [~~FAULTY]~~ WEATHER PROTECTION. [Includes]

[~~FAULTY WEATHER PROTECTION shall include]~~ but ~~[not be~~] [is not] limited to the following:

(A) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows, doors and basement hatchways.

(B) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(C) Broken, rotted, split or buckled exterior wall coverings or roof coverings.

~~[§ 14-3-4-9 FIRE HAZARD.~~

~~A FIRE HAZARD shall include any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the Chief of the Fire Department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.]~~

~~[§ 14-3-4-10 FAULTY MATERIALS OF CONSTRUCTION.]~~

[§ 14-3-4-9 INADEQUATE MATERIALS OF CONSTRUCTION. ~~[shall include~~] [Include] all materials of construction except those which are specifically allowed or approved by this code and the Building Code, and which have been adequately maintained in good and safe condition.

~~[§ 14-3-4-11~~] [§ 14-3-4-10] INADEQUATE MAINTENANCE. [~~INADEQUATE MAINTENANCE~~ ~~shall include any building or portion thereof which is determined to be an unsafe building in accordance with Section 203 of the Uniform Administrative Code. ]~~[Includes any building or portion thereof which is determined to be an unsafe building in accordance with§ 106 of the UAC or due to an accumulation of trash, litter, weed and illegal dumping .]

~~[§ 14-3-4-12]~~ [§ 14-3-4-11] INADEQUATE EXITS. [Includes]

(A) [~~INADEQUATE EXITS shall include~~] all buildings or portions thereof not provided with adequate exit facilities as required by this code except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(B) When an unsafe condition exists through lack of [exits], [the blocking of required exits] or improper location of exits, additional exits may be required to be installed.

~~[§ 14-3-4-13 INADEQUATE FIRE-PROTECTION OR FIREFIGHTING EQUIPMENT.~~

~~INADEQUATE FIRE-PROTECTION or FIREFIGHTING EQUIPMENT shall include all buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code and the Chief of the Fire Department, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.]~~

PART 5: ADMINISTRATION AND ENFORCEMENT

§ 14-3-5-1 ENFORCEMENT.

The [~~Mayor~~] [Department] is hereby authorized and directed to enforce all of the provisions of this code. For such purposes, [the Department] shall have all the powers specified herein.

~~[§ 14-3-5-2 HOUSING ADVISORY AND APPEALS COMMITTEE.~~

~~(A) In order to provide for final interpretation of the provisions of this code and to hear appeals provided for herein, there is hereby established a Housing Advisory and Appeals Committee consisting of seven members.~~

~~(B) In addition, the Committee shall act as an advisory body to the Department of Human Services in the administration and enforcement of this code and shall perform such other functions that may be provided for elsewhere.~~

~~(C) (1) The Committee shall consist of one representative from the Departments of Finance and Management, Planning, and Legal, as well as two representatives appointed by the Mayor, from recognized neighborhood associations, a representative from the building industry and a representative from the Mayor's office.~~

~~(2) Each respective department head shall appoint a representative and an alternate, to sit on this Committee. The CAO shall appoint the representative and alternate from the Mayor's office and the Mayor shall appoint two representatives and alternates from recognized neighborhood associations to represent neighborhood interests. The Mayor shall appoint a representative and alternate from the building industry.~~

~~(3) The alternate shall sit on the Committee in the absence of the designated representative.~~

~~(4) The Committee shall select a Chairperson and Vice-Chairperson and may adopt reasonable rules, regulations, and procedures for conducting its business and appeals not otherwise provided for. Appeals to the Committee shall be processed in accordance with the provisions contained in § 14-3-5-4. The Department shall provide the necessary staffing for the Committee. Sections 2-6-1-1 et seq. shall not be applicable to this Committee.]~~

[§ 14-3-5-2 ADMINISTRATIVE HEARING PROCEDURE.

1. The City shall designate a Hearing Officer to provide for final interpretation of the provisions of this code and to hear appeals provided for herein.
2. The Hearing Officer shall meet the qualifications set forth in City Ordinance § 2-7-8-3, or any subsequent City ordinance which generally sets forth the standard qualifications for administrative hearing officers or administrative law judges.

[§ 14-3-5-3] NOTICES AND ORDERS OF [~~MAYOR~~][THE DEPARTMENT].

(A) General.

(1) Commencement of Proceedings. Whenever the [Department] [~~Mayor~~] has inspected or caused to be inspected any building and has found and determined that such building is a substandard building, he shall commence proceedings to cause the repair, rehabilitation, vacation, demolition or securing of the building.

(2) Notice and Order. The [~~Mayor~~][Department] shall issue a notice and order directed to the owner of the building, their agent and/or responsible party and where appropriate to the occupant of the building, as indicated by the county assessor's and the Department’s records. [The effective date of the order shall be eight (8) days from the date of the notice.] The notice and order shall contain:

(a) The street address and a legal description sufficient for identification of the premises upon which the building is located.

(b) A statement that the [~~Mayor~~] [Department] has found the building to be substandard with a brief and concise description of the conditions found to render the building dangerous under the provisions of this code.

(c) A statement of the action required to be taken as determined by the Mayor.

1. If the [~~Mayor~~] [Department] has determined that the building or structure must be repaired, the order shall provide that all required permits be secured therefor and the work physically commenced within such time, not to exceed 30 days from the [effective] date of the order, and completed within such time as the [~~Mayor~~] [Department] shall determine is reasonable under all the circumstances.

2. If the [~~Mayor~~] [Department] has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the [effective] date of the order as determined by the [~~Mayor~~] [Department] to be reasonable.

3. If the [~~Mayor~~] [Department] has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the [~~Mayor~~] [Department] shall determine reasonable, not to exceed 30 days from the [effective] date of the order; that all required permits be secured therefor within 60 days from the date of the order, and that the demolition be completed within such time as the [~~Mayor~~] [Department] shall determine is reasonable. Failure to comply with the order to demolish the building or structure within such time as the [~~Mayor~~] [Department] shall determine reasonable, not to exceed 30 days from the [effective] date of the order, will result in a Resolution of Condemnation being presented to the City Council on a specified date pursuant to [~~Section~~] [§] 3-18-5 NMSA 1978.

4. If the [~~Mayor~~] [Department] has determined that the building or structure is a nuisance or an attractive nuisance; the order shall require the nuisance to be abated within such time the [~~Mayor~~] [Department] shall determine to be reasonable, not to exceed 30 days from the [effective] date of the order; where there has been a failure to comply with such order the [Department] [~~Mayor~~] shall proceed to obtain an appropriate court order to abate such nuisance. Any such abatement of the nuisance shall be accomplished and the cost thereof paid and recovered in the manner provided by § 14-3-5-6.

(d) Statements advising:

1. That any person having any title or legal interest in the building may appeal from the notice and order or any action of the [Department] [~~Mayor~~], excluding demolition, to the [Office of Administrative Hearings] [~~Housing Advisory and Appeals Committee]~~, provided the appeal is made in writing as provided in this code, and filed with the [Office of the Administrative Hearings within seven (7) days of Service of notice and order, and that failure to timely appeal the notice and order shall result in the order becoming effective]; [~~Mayor prior to the effective date of the order~~;]

2. That in the case of demolition the appeal procedure shall be as set forth in Section 3-18-5 NMSA 1978.

(3) Method of Service in Cases Other than Demolition.

(a) Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person [and owner, responsible party or identified agent] at his address as it appears on the last assessment roll of the county or as known to the [Department] [~~Mayor~~]. If no address of any such person so appears or is known to the [Department] [~~Mayor~~], then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings and posted thereon.

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

(4) Proof of Service. Proof of service of the notice and order shall be certified to by a written affidavit executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order retained by the [~~Mayor~~] [Department].

(B) Recordation of Notice and Order.

(1) If compliance [~~is not had~~] with the order [is not achieved] within the time specified therein, and no appeal has been properly and timely filed, the [~~Mayor~~] [Department] shall file in the office of the County Clerk a certificate describing the property [, an assessment of any costs, fees, and fines claimed by the City against the property related to enforcement of this code,] and certifying:

(a) ~~[That the~~] [The] building is a substandard building; and

(b) [~~That the~~] [The] owner [, their agent and/or responsible party] has been so notified.

(2) Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a substandard building on the property described in the certificate, the [~~Mayor~~] [Department] shall file a new certificate with the County Clerk certifying that the building has been demolished or all required corrections have been made so that the building is no longer substandard, whichever is appropriate.

(C) Repair, Vacation, Securing or Demolition.

(1) Standards to be Followed. The following standards shall be followed by the [Department] [~~Mayor~~] (and by the [~~Housing Advisory and Appeals Committee~~] [Office of Administrative Hearings] if an appeal is taken) in ordering the repair, vacation, demolition or securing of any substandard building or structure:

(a) If any building is declared a substandard building under this code it shall either be repaired in accordance with the current Building and Housing Codes or shall be demolished at the option of the building owner.

(b) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, [health,] property or safety of the public or of the occupants, it shall be ordered to be vacated [through the posting of a Notice [and Order] to Vacate].

(2) (~~c)~~ If the building or structure is open and determined to be an attractive nuisance and/or nuisance, a court order to secure the building or structure will be obtained as provided herein.

(D) Notice [and Order] to Vacate.

(1) Posting. Every notice to vacate shall, in addition to being served, be posted at or upon each exit of the building, and shall be in substantially the following form:

DO NOT ENTER

SUBSTANDARD BUILDING

UNSAFE TO OCCUPY

[NO PERSON SHALL RESIDE IN THIS STRUCTURE OR PROPERTY. NO PERSON SHALL OCCUPY THIS STRUCTURE OR PROPERTY PAST DAYLIGHT HOURS. ONLY PERSONS AUTHORIZED BY THE CITY OR THE OWNER MAY OCCUPY THIS PROPERTY DURING DAYLIGHT HOURS FOR PURPOSE OF REPAIRING, SECURING OR CLEANING THIS PROPERTY.]

It is a misdemeanor to occupy this building, or to remove or deface this notice.

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(2) Compliance. Whenever such notice is posted, the [~~Mayor~~] [Department] shall include a notification thereof in the notice and order issued [~~by him]~~ reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to secure, repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and a Certificate of Compliance filed with the [C][~~c~~]ounty [C][~~c~~]lerk. Any person violating this division (D)(2) shall be guilty of a misdemeanor.

§ 14-3-5-4 APPEAL.

(A) General.

(1) Form of Appeal.

(a) Any person entitled to appeal under this code may do so by filing at the [~~office of the Mayor~~] [Office of the City Clerk] a written appeal containing:

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

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

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

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

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

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

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

(2) Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, ~~[the Mayor shall present it at the next regular or special meeting of the Committee]~~ [the City Clerk or ~~her~~ their staff shall file and stamp the appeal then deliver by mail or electronic means a copy of it to the party responsible for issuing the order, notice, or action under appeal as well as a copy to the Office of the City Attorney].

(3) Scheduling and Noticing Appeal for Hearing. ~~[As soon as practicable after receiving the written appeal, the Committee shall fix a date, time and place for the hearing of the appeal by the board. Such date shall be not less than ten days nor more than 60 days from the date the appeal was filed with the Mayor.]~~ [The Office of Administrative Hearings shall schedule the hearing to a date and time not to exceed fifteen (15) business days from the date of the filing of the appeal.] Written notice of the time and place of the hearing shall be given at least ten [(10) business] days prior to the date of the hearing to each appellant either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

(4) Appeal of Council Action. Any person aggrieved by the finding of the City Council that a building, structure or premise is so ruined, damaged and dilapidated that it is such a menace to the public comfort, health, peace or safety so as to require the removal from the municipality of the building, structure, ruins, rubbish, wreckage or debris, may file a written objection with the City Clerk within ten [(10)] days of the receipt of a copy of the Resolution of Condemnation, asking for a hearing before the City Council. After receiving a valid written objection the City Council shall hold a hearing as provided for in [~~Section~~] [§] 3-18-5, NMSA 1978.

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

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

(D) Staying of Order Under Appeal. Enforcement of any notice and order of the [~~Mayor~~] [Department] issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

§ 14-3-5-5 PROCEDURES FOR CONDUCT OF HEARING APPEALS.

(A) Form of Notice of Hearing. The notice to appellant shall be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before the ~~[Housing Advisory and Appeals Committee]~~ [City of Albuquerque Office of Administrative Hearings] at [\_\_\_\_\_\_\_\_\_\_\_\_] on the [\_\_\_\_] day of [\_\_\_\_\_\_\_] , 20 , at the hour of [\_\_\_\_\_\_\_] , upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by legal counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you."

(B) Conduct of Hearings.

(1) Disclosure. The [~~Committee~~] [Hearing Officer] may require that the parties provide, prior to the hearing, a written statement of all issues to be addressed, a list of proposed witnesses, a brief statement of the nature of each witness' testimony, and copies of all documentary evidence to be introduced, which material shall be available for inspection and copying by all parties.

(2) Evidence.

(a) The ~~[Committee]~~ [Hearing Officer] shall afford all parties an opportunity to present oral or documentary evidence and argument on all issues involved, except that irrelevant, immaterial and unduly repetitious evidence shall be excluded. ~~[It is the policy of the Committee that testimony and information presented during the hearing must have a direct and substantial bearing on the case at hand.]~~

(b) The [~~Committee~~] [Hearing Officer] may impose reasonable limits on the number of witnesses heard and on the nature and length of the testimony or questioning.

(c) Hearsay testimony is admissible subject to the other limitations on admissibility contained in these rules.

(d) The [~~Committee~~] [Hearing Officer] shall base its decision on [substantial] evidence ~~[of a type commonly relied upon by reasonably prudent men in the conduct of their affairs]~~. The decision must be supported by at least some evidence which is admissible in a court of law.

(3) Hearing Procedure.

(a) The ~~[Chairperson of the Committee]~~ [Hearing Officer] shall [preside over the hearing. The hearing shall be recorded by an audio recording device. The Hearing Officer shall swear in all witnesses who are anticipated to testify. The Hearing Officer may ask for opening and closing statements from the parties. The Appellant shall proceed first with its case in chief, followed by the City-Appellee unless otherwise ordered by the Hearing Officer. Rebuttal testimony may be entertained by the Hearing Officer.] ~~[-act as the presiding officer at the hearing unless he or she is unavailable or wishes to delegate this duty, in which case, the Committee members shall select a presiding officer. The presiding officer shall:~~

~~1. Determine the admissibility of evidence and testimony;~~

~~2. Make rulings on procedural issues; and~~

~~3. Be responsible for the Committee's written ruling in each case.~~

~~(b) Should an action of the presiding officer be challenged by another Committee member, and should the presiding officer disagree with the challenge, the issue will be decided by a majority vote of the Committee.~~

~~(c) Any interested parties shall be allowed to attend the hearing.~~

~~(d) The Committee can recognize any agreements on facts and issues between the parties or decide that certain facts are not in dispute in order to define the issues to be heard.~~

~~(e) The Committee may request the clarification of a complaint prior to a hearing; request that certain facts be examined initially in order to determine whether such facts exist as will support the allegations to be heard or make any other rulings, procedural, limiting, dispositive, or otherwise, which are in accordance with the law as applied to the facts at issue.~~

~~(f) In the absence of the Committee's decision to proceed in a different manner, notice of which shall be given to the parties at least three days in advance of the hearing, the sequence of the hearing shall be as follows:~~

~~1. Opening statement of issues. The appellant and then the Mayor will present statements of issues involved in the case and outline the case which will be presented.~~

~~2. Appellant's presentation of its case. The appellant will first present its case to the Committee unless the parties agree otherwise. Witnesses for the appellant will be called, sworn in, and questioned on their involvement in, or knowledge of the case. Following each witness' testimony, the Mayor will have the opportunity to cross-examine the witness. Committee members will then have the opportunity to question the witness on matters related to his/her testimony. Follow-up or redirect questioning will be allowed at the discretion of the presiding officer. This procedure will be followed for each of the Appellant's respective witnesses.~~

~~3. Presentation of the Mayor's case. This presentation shall follow the same format as presentation of the appellant's case.~~

~~4. Rebuttal testimony. Following presentations of the Appellant's and Mayor's positions, rebuttal testimony will be allowed at the discretion of the presiding officer. Such testimony should be brief and specifically address the issues brought forth in the previous presentations.~~

~~5. Closing statements. At the conclusion of the case presentations and rebuttal testimony, the parties will each make his or her closing statements. The closing statements should briefly review the issues presented and the desired outcome. The appellant will then have the opportunity to make a final statement, which shall be limited to issues brought forth in the Mayor's closing statement.]~~

(4) Decision. All decisions of the ~~[Committee]~~ [Hearing Officer] shall be ~~[by majority vote]~~ [in writing, mailed or delivered by electronic means to all the parties to the appeal, and made within ten (10) days of the close of the hearing unless otherwise so stipulated to by the parties. The Hearing Officer may affirm the decision of the City, reverse the decision of the City, or modify the decision of the City in a manner which is not arbitrary, capricious, contrary to law, or unsupported by substantial evidence].

~~[(5) Quorum. A majority of the members of the Committee shall constitute a quorum and no business shall be conducted unless there is a quorum present.~~

~~(6) Record. A record of the Committee's proceedings shall be kept in the following manner:~~

~~(a) A full record of the hearing by sound recording or by a qualified court reporter which record shall be retained for at least one year after the final decision is issued;~~

~~(b) All documents or other items considered and received as evidence; and~~

~~(c) Any decision or opinion of the Committee, including findings of fact.]~~

§ 14-3-5-6 ENFORCEMENT OF THE ORDER OF THE [~~MAYOR~~] [DEPARTMENT] OR THE [~~HOUSING ADVISORY AND APPEALS COMMITTEE]~~ [HEARING OFFICER].

(A) Compliance.

(1) General. After any order of the [~~Mayor~~] [Department] or the ~~[Housing Advisory and Appeals Committee]~~ [Hearing Officer] made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor [or a civil penalty of five hundred dollars ($500)].

(2) Failure to Obey Order. If, after any order of the [Department] [~~Mayor~~] or ~~[Housing Advisory and Appeals Committee]~~ [Hearing Officer] made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the [~~Mayor~~] [Department] may:

(a) Cause such person to be prosecuted under division (A)(1) above; or

(b) Institute any appropriate action to abate such nuisance[.][; or

(c) file a motion to show cause before the Office of Administrative Hearings within sixty (60) days. If the Hearing Officer determines that there is good cause, the Hearing Officer shall reconvene the hearing with all parties to the appeal and notice them of the hearing in the manner provided above for administrative hearings. The show cause hearing will be conducted in substantially the same manner as the appeal hearing. If the Hearing Officer determines that there is substantial evidence that the person to whom the order is directed has failed, neglected, or refused to obey such order, then the Hearing Officer shall order that such person must pay a fee not to exceed five hundred dollars ($500.00) plus an additional one hundred dollars ($100) for each month after the date of the original order that such person failed, neglected, refused to obey the order. The total fee shall be paid to the City of Albuquerque in the manner required by the Hearing Officer. If the person fails to pay the total fee in the manner required by the Hearing Officer, then the City may place a lien for the unpaid amount upon the subject property or upon any asset or personal property of the person.]

(3) Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

(a) The [~~Mayor~~] [Department] shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DO NOT ENTER

SUBSTANDARD BUILDING

UNSAFE TO OCCUPY

[NO PERSON SHALL RESIDE IN THIS STRUCTURE OR PROPERTY. NO PERSON SHALL OCCUPY THIS STRUCTURE OR PROPERTY PAST DAYLIGHT HOURS. ONLY PERSONS AUTHORIZED BY THE CITY OR THE OWNER MAY OCCUPY THIS PROPERTY DURING DAYLIGHT HOURS FOR PURPOSE OF REPAIRING, SECURING OR CLEANING THIS PROPERTY.]

It is a misdemeanor to occupy this building, or to remove or deface this notice.

City of Albuquerque

(b) No person shall occupy any building which has been posted as specified in this section [in a manner contrary to the terms of the notice]. [No person shall be on the property without the written permission from the Department or and with the permission on them at all times while on the property. Permission shall only be granted for the reasonable time to remove personal belongings or the correction of violations and on a case by case basis.] No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the [~~Mayor~~] [Department] have been completed and a Certificate of Compliance issued pursuant to the provisions of the Housing Code.

(c) The [~~Mayor~~] [Department] may, in addition to any other remedy herein provided cause the building to be repaired to the extent necessary to correct the conditions which render the building substandard as set forth in the notice and order; or, if the resolution of the City Council requires demolition, to cause the building to be demolished, and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code or in the manner provided in [~~Section~~] [§§] 3-36-1 through 3-36-6 NMSA 1978.

(B) Extension of Time to Perform Work. Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the [~~Mayor~~] [Department] may, at his discretion, grant an extension of time, not to exceed an additional [one hundred twenty] [(120)] days, within which to complete said repair, rehabilitation or demolition, if the [~~Mayor~~] [Department] determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The [Department’s] [~~Mayor's~~] authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect or extend the time to appeal his notice and order.

(C) Interference with Repair or Demolition Work Prohibited. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated, demolished or secured under the provisions of this code, whenever such person is engaged in the work of repairing, vacating and repairing, demolishing or securing any such building pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

§ 14-3-5-7 [~~PERFORMANCE OF WORK OR REPAIR, DEMOLITION, OR SECURING BUILDING.~~] [WORK PERFORMED TO SECURE, REMOVE NUISANCE OR DEMOLISH A BUILDING.]

(A) General.

(1) Procedure. When any work [performed to secure, remove a nuisance or demolish a building] [~~of repair, demolition or securing of building]~~ is to be done pursuant to this code, the [~~Mayor~~] [Department] shall cause the work to be accomplished by city personnel or by private contract under the direction of the [~~Mayor~~] [Department]. Plans and specifications therefor may be prepared by the [Department] [~~Mayor~~], or [it] [~~he~~] may employ such architectural and engineering assistance on a contract basis as [~~he~~] [it] may deem reasonably necessary.

(2) Costs. The cost of such work shall be paid from [City funds] [~~the repair and demolition fund,]~~ and shall be a lien against the property involved, and a personal obligation of the property owner.

§ 14-3-5-8 REQUESTED INSPECTIONS; FEE.

~~[ (A) The city will inspect dwelling units for violations of this code prior to sale or refinancing of same upon request of the buyer or the owner.]~~

(~~B~~) A requested inspection will be made upon payment of a fee of [one hundred and fifty dollars] ~~[$50~~] [($150)] for the first dwelling unit and [one hundred dollars] ~~[$15]~~ [($100)] for each additional unit to offset the city's administrative costs including an inspection, [~~inspection report,]~~ [and] reinspection [~~and issuance of Certification of Compliance with this code]~~.

[ (A) The inspector is authorized to make inspections of property to determine compliance. Interior inspections will be done with approval of the owner, their agent and/or responsible party, occupant or by a court order or as otherwise authorized by law.]

[ (B) Any person who neglects, fails or refuses to correct the violations contained within a notice and order issued pursuant to this code may be assessed a re-inspection fee for inspections that occur after the compliance date specified in the notice, where such re-inspection demonstrates the failure to comply. The fee for these re-inspections shall be set by the Department. Failure to pay re-inspection fees within ten (10) days of assessment is a violation of this section. Re-inspection fees may be collected in any manner as provided by law, including as a lien against the real property where the violation occurred.]

[ (C) A person may appeal the imposition of a re-inspection fee to the code Office of Administrative Hearing.]

§ 14-3-5-9 RIGHT OF ENTRY.

(A) Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the [~~Mayor~~] [Department] has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the [~~Mayor~~] [Department] may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the [~~Mayor~~] [Department] by this code, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner [their agent or responsible party] or other persons having charge or control of the building or premises and request entry. If such entry is refused [or consent cannot be obtained], the [~~Mayor~~] [Department] shall proceed to obtain a search warrant or other appropriate legal authorization by filing a verified petition with the Metropolitan Court or District Court. The petition shall:

(1) Set forth the particular building, premises or portion thereof sought to be inspected;

(2) State that the owner [their agent or responsible party] or occupant of the building, premises or portion thereof, has refused entry, or cannot be located in order to obtain right of entry;

(3) State that inspection of the building, premises or portion thereof is necessary to determine whether it complies with the requirements 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 [~~Mayor~~] [Department] is authorized by the city to make the inspection.

(B) When the [~~Mayor~~] [Department] shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner [, their agent or responsible party] or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the [~~Mayor~~] [Department] for the purpose of inspection and examination pursuant to this code.

§ 14-3-5-10 IDENTIFICATION.

Each inspector shall be furnished with an identification card signed by the [~~Mayor~~] [Department] indicating his authority and must present same to other persons, during the performance of his duty.

§ 14-3-5-11 RESPONSIBILITIES OF OWNERS.

[(A Every owner of a residential property shall identify an agent and/or responsible party for the property, if other than the owner. If the owner does not reside in Bernalillo County, the owner shall identify an agent and/or a responsible party for the property and such agent and/or responsible party must reside in Bernalillo County.  A property manager that has a business location in Bernalillo County may be identified as the agent and/or responsible party for the owner.  In the event that no such person(s) or entity is identified, the Department shall notify the owner of its obligation to identify an agent and/or a responsible party and that failure to identify an agent and/or responsible party within thirty (30) days shall result in enforcement against the owner and property in accordance with Paragraph E, below in this section. ]

[(B)~~][(A)~~] Every owner remains liable for violations of duties imposed upon him by this code even though an obligation is also imposed on the occupants of his building, and even though the owner has, by agreement, imposed on the occupant the duty [~~of furnishing required equipment or ]~~ of complying with this code.

[(C)] ~~[(B)~~] Every owner ~~[,or his agent[,]~~ [or responsible party] [~~in addition to being]~~ [shall be] responsible for maintaining [the] [~~his~~] [property] [~~building~~] in a sound structural condition, [~~shall be responsible for keeping that part of the building or premises which he occupies or controls in a~~ ]clean, sanitary and safe [~~condition~~], including the [common areas.] [~~shared or public areas in a building or on the premises containing two or more dwelling units~~.]

[(D) Every owner of a rental property or responsible party shall register the property and pay a one-time twenty-five dollars ($25.00) registration fee. Such registration shall be made on a form provided by the Department and verified by the owner. Any changes to the information listed below will require an updated registration with a twenty-five dollars ($25.00) registration fee. Excluded from this requirement are single-family residences in which the owner permanently resides and rents out less than half of square footage of the residence to no more than two adult tenants who share a single lease. The following information shall be kept current:

(1) Name, address, telephone number and email of the property owner and/or responsible party;

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

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

(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-hrs emergency telephone number where the owner, agent, property manager or responsible party can be reached.]

(E) An owner of a residential rental property who fails to comply with any provision of this subsection is responsible for a civil infraction and shall be assessed a civil penalty of five hundred dollars ($500.00), plus an additional one hundred dollars ($100.00) for each month after the date of the original violation until compliance occurs. The City shall serve notice of any assessed civil penalty upon the owner by mailing such notice to the address of record maintained by the County Clerk or otherwise known to the Department. Any person served with a notice may appeal such notice to the Office of Administrative Hearings in writing within fourteen (14) days pursuant to the procedures contained in § 14-3-5-3.

(F) Notwithstanding subsection (E) of this section, if the owner or responsible party complies within ten (10) days after receiving the complaint that notices the violation, the hearing officer shall not impose a civil penalty unless the City can demonstrate that the person has a history of noncompliance with the registration requirements set forth in this section.

§ 14-3-5-12 SUBSTANDARD BUILDINGS.

All buildings or portions thereof which are determined to be substandard as defined in this code are hereby declared to be nuisances and shall be abated by repair, rehabilitation, demolition, removal or securing all accessible openings and entrances to building in accordance with the procedure as provided herein.

Any building that has been determined to be substandard and which has been abated by securing all accessible openings and entrances shall be repaired, rehabilitated, demolished or removed within [twelve] [(12)] months of being secured. The failure to repair, rehabilitate, demolish or remove such building within [twelve] [(12)] months shall be prima facie evidence that the building is a menace to the public comfort, health, peace or safety and should be condemned. At the first City Council meeting following the [twelve] [(12)] month period the administration [~~shall~~] [may] present the City Council with a Resolution of Condemnation as provided for in [~~Section~~] [§] 3-18-5 NMSA 1978 and proceed with condemnation as provided for under that statute.

§ 14-3-5-13 REPORTING ILLEGAL ACTIVITY; COOPERATION.

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

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

(C) Albuquerque Code Enforcement shall notify the [~~d~~] [D]epartment [of Environmental Health] [~~designated by the Mayor~~] to enforce the [~~Albuquerque Weed and Anti-Litter Ordinance and the]~~ Insect and Rodent Control Ordinance upon discovery of violations of [~~those ordinances~~] [that ordinance].

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

(E) Albuquerque Code Enforcement shall coordinate its activities with the [~~Safe City Strike Force~~] [SCSF].

[(F) Albuquerque Code Enforcement shall notify Albuquerque Fire Rescue upon discovery of potential fire hazards or violations to the Fire Code.]

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

(A) The owner of a vacant building shall apply to the Albuquerque Code Enforcement for and obtain a vacant building maintenance license [fifteen] [(15)] days prior to vacating the premises. The [vacant building maintenance license] [~~business maintenance license~~] shall be renewed annually. The owner shall pay an annual fee to renew the [vacant building maintenance license] [~~business maintenance license~~]. Albuquerque Code Enforcement shall establish the amount of the fee by regulation.

(B) Application for a vacant building maintenance license shall be made on a form provided by Albuquerque Code Enforcement and verified by the owner. The application shall disclose all measures to be taken to ensure that the vacant building will be kept weather tight and secure from trespassers, safe for entry by police officers and firefighters in times of emergency, and, together with its premises, free from nuisance and in good order.

[The registration form shall include and be updated with the following information:

(1) Name, address, telephone number and email of the property owner and/or responsible party;

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

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

(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-hrs emergency telephone number where the owner, agent, property manager or responsible party can be reached. ]

(C) At the time of application, the owner [, his/her agent and/or the responsible party] shall arrange for inspection of the vacant building by Albuquerque Code Enforcement. If the owner fails or refuses to consent to and arrange for an inspection, Albuquerque Code Enforcement [~~shall first]~~ [may] obtain a search warrant from a court of competent jurisdiction to authorize inspection of the vacant building[, if it is deemed necessary for public health and safety].

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

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

(1) Adequately protect the vacant building from intrusion by trespassers and from deterioration by the weather; and

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

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

(G) Albuquerque Code Enforcement shall issue a vacant building maintenance license only after inspecting the building and concluding that the building complies with the Uniform Housing Code. The [~~Mayor~~] [Department] is authorized to administer and enforce the Uniform Housing Code as provided in §§ 14-3-5-1 et seq. if the vacant building does not comply with any other provisions of the Uniform Housing Code. Albuquerque Code Enforcement shall have the authority to inspect the vacant building at any time.

(H) The owner shall notify Albuquerque Code Enforcement [fifteen] [(15)] days before a vacant building becomes inhabited so that Albuquerque Code Enforcement can inspect the vacant building prior to occupancy.

§ 14-3-5-15 RESIDENT REPORTS; HOTLINE; WEBSITE; EXCEPTIONS.

(A) Albuquerque Code Enforcement shall implement and operate a complaint system that includes a hotline and a website available to city residents to report violations of [this Code] [~~the Property Maintenance Ordinance~~]. [~~Albuquerque Code Enforcement shall implement an advertising campaign to inform residents of this complaint system.~~]

(B) Vacant buildings under the authority or within the control of the Metropolitan Redevelopment Agency [or a land bank] are exempt from the business maintenance licensing provisions of the Uniform Housing Code.

§ 14-3-5-16 PAYMENT OF RELOCATION COSTS.

(A) Whenever the [~~Mayor~~] [Department] orders that all or a portion of a residential building be vacated pursuant to this [C] [~~c~~]ode, the owner of such residential building (the "owner") shall pay relocation costs for the residents of such residential building who reside at the residential building when the order to vacate is issued, subject to the provisions of division (F) of this section. This requirement shall be applicable when any condition which is the basis for the order to vacate is within the control of the owner and the owner or his agent [and/or responsible party] knew or should have known of the existence of the conditions that violate applicable codes, statutes, ordinances or regulations prior to the order to vacate. Notice of such conditions by a governmental agency responsible for the enforcement of a building, residential unit, housing or other appropriate code served on the owner or the owner's agent [and/or responsible party] shall be proof that the owner knew of the conditions. Payment of relocation costs shall be made by the owner to the agency designated by the [~~Mayor~~] [City] to administer relocation (the "relocation agency") within [thirty] [(30)] days after the owner's receipt of the relocation cost assessment issued by the relocation agency. Interest shall accrue on any amount unpaid by the owner commencing [thirty] [(30)] days after the date the relocation agency first advances relocation assistance funds to the displaced resident. Interest accrual shall not be stayed during an appeal by the owner, but an owner who is successful on appeal shall not be liable for interest. Owners who, on appeal, are found to not owe relocation costs shall have payments they have made to the relocation agency refunded to them without interest except for any interest actually paid by the owner.

(B) At the time the notice and order to vacate is served on the owner [or their agent and/or responsible party] in addition to other requirements of this [C][~~c~~]ode, notification shall be given to the owner [or their agent and/or responsible party] that the owner may be required to pay the relocation costs of the displaced residents. The owner [or their agent and/or responsible party] shall also be served with a copy of Ordinance 21-2007.

(C) At the time that a notice of an order to vacate is served on the owner of a property [or their agent and/or responsible party] pursuant to § 14-3-5-3 ROA 1994, a notice in substantially the following form shall be served on those residents known by name to the [Department] [~~Mayor~~]. Such notice shall be served by personal service or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested. As to residents unknown by name to the [Department] [~~Mayor~~], service may be accomplished by posting such notice at the main entrances or at some other prominent place on or within the residential building. The notice shall be written in both English and Spanish. The notice shall be provided to the relocation agency on or before the day the notice to the residents is served or posted.

NOTICE TO RESIDENTS

YOU MUST MOVE FROM WHERE YOU ARE LIVING

BECAUSE YOU MUST MOVE YOU MAY BE ENTITLED TO MONEY

The City has found health and/or safety problems with the building where you live. The City has ordered this building to be closed.

City law may allow you to be paid, by your landlord, for the cost of moving and for some of your rent at a new location.

Please contact the City Relocation Agency at the following phone number and address, as soon as possible, for more information on your rights. If you wait more than 60 days you will lose your right to any money.

Phone Number:

Address:

(D) In addition to payment of relocation costs a minimum fixed fee for temporary relocation may be established by regulation. Rental payments shall not be made beyond temporary relocation periods.

(E) The relocation agency shall determine eligibility for and the amount of relocation benefits. Residents shall not be eligible for relocation costs if they do not make a claim with the relocation agency for relocation costs within 60 calendar days after being served with the notice in division (C). In determining eligibility, the relocation agency shall consider whether:

(1) The residents had a rental agreement at the time the notice was served on the residents;

(2) A court had issued an eviction order to the residents prior to the date the notice was served on the residents;

(3) The residents caused or substantially contributed to the conditions that were the basis of the notice to vacate;

(4) The conditions that were the basis for the notice to vacate were caused by fire, flood or other natural disasters;

(5) The failure to meet the requirements of this [C][~~c~~]ode was due to the willful or negligent acts or omissions of the owner;

(6) The resident was in default for non- payment of rent;

(7) The basis of the notice to vacate is for a condition caused by the resident's or any third party's illegal conduct without the owner's prior knowledge; or

(8) For an owner occupant of a mobile home who is renting a lot or parcel for use as a site for the location of the mobile home, whether the requirement to vacate was caused by actions outside the control of the resident.

(F) After notice to the owner [or their agent and /or responsible party] and a hearing at which the owner shall have an opportunity to appear and present evidence, the [~~Mayor~~] [Department] shall be entitled to place a lien on the property on which the residential building that is the subject of a notice to vacate is located, and to recover costs paid by the relocation agency that are owed but have not been reimbursed by the owner provided the [~~Mayor~~] [Department] proves:

(1) The residents were parties to a rental agreement at the time the notice was served on the residents whose term had not expired;

(2) The residents had not been served with a valid notice of default under the rental agreement which would have entitled the owner to evict the resident;

(3) The residents did not cause or substantially contribute to the conditions that were the basis of the notice to vacate;

(4) The conditions that were the basis for the notice to vacate were not caused by fire, flood or other natural disasters;

(5) The failure to meet the requirements of this [C][~~c~~]ode was due substantially to the willful or grossly negligent acts or omissions of the owner;

(6) The resident was not in default for non-payment of rent;

(7) The basis of the notice to vacate is for a condition that was not caused by the resident's or any third party's illegal conduct without the owner's prior knowledge; and

(8) For an owner occupant of a mobile home who is renting a lot or parcel for use as a site for the location of the mobile home, the requirement to vacate was not caused by actions outside the control of the resident.

(G) The [~~Mayor's office~~] [City] shall, by regulation, establish a procedure for notice and an impartial evidentiary hearing prior to any determination that an owner must repay relocation costs. The owner shall be entitled to appeal the assessment of relocation costs by the relocation agency pursuant to the appeal provisions of this [C][~~c~~]ode. Such appeal shall be filed within 30 calendar days of the owner's receipt of the relocation cost assessment from the relocation agency. The filing of an appeal shall not stay the relocation process.

(H) The [~~Mayor~~] [City] may promulgate regulations governing the administration of this section, including but not limited to eligibility for relocation costs, the amount and method of payment of relocation costs, the criteria replacement units must meet.

(I) No action taken pursuant to this section shall affect the rights of residents and owners in any civil litigation. Nothing is this section shall be construed to change the obligations and rights of owners and residents as required in the Uniform Owner-Resident Relations Act, §§ 47-8-1 et seq. NMSA 1978.

(J) There is created in the City Treasury the "Relocation Assistance Fund" that shall be used solely for the purpose of relocation cost payments, costs of administration and enforcement costs related to relocation costs. All relocation payments received by the relocation agency shall be deposited in the Relocation Assistance Fund. Remaining balances at the end of the fiscal year shall remain in the Relocation Assistance Fund and shall not revert to the general fund.

(K) The relocation agency shall provide assistance in finding alternative housing for residents who are displaced and qualify for relocation assistance under this section.

(L) From the time that the city first notifies an owner of conditions that violate applicable codes, statutes, ordinances or regulations to the time that the relocation assistance payments are paid to eligible residents or the time the conditions cited are corrected, the owner shall not evict, harass or intimidate any resident for the purpose of avoiding or diminishing application of this section. Included in this prohibition is the reduction of services to a resident or materially increasing or changing the obligations of any resident, including but not limited to rent increases, for purposes of attempting to have the resident vacate the residential building.

(M) The city shall be entitled to attorneys' fees and costs arising from any legal action to collect relocation costs assessed to owners.

[§ 14-3-5-17 APPOINTMENT OF TEMPORARY RECEIVER AND RECOVERY COSTS.

In addition to other remedies provided in this Code for the abatement of a substandard property, the inspector is authorized to seek the appointment of a temporary receiver and recover costs associated with such appointment including the filing of liens as provided by law and to seek the appointment of trained security personnel to monitor and surveil the property at the property owner’s expense.]

[§ 14-3-5-18 FEES, FINES AND MONETARY JUDGMENTS.

All fees, fines and monetary judgments obtained through the enforcement of this ordinance shall be placed in a fund specifically created by the City for the purpose of funding residential rehabilitation projects and residential code enforcement efforts in the City.]

§ 14-3-5-98 VIOLATIONS.

It shall be unlawful for any person, firm [, agency] or corporation to [violate this Code or cause or permit the same to be done]. [~~erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.~~ ] The [~~Mayor~~] [Department] may, for any violation of this code, issue a citation in accordance with the provisions of § 1-1-98 and/or take any other legal action at [~~his~~] [its] disposal.

§ 14-3-5-99 PENALTY.

Any person violating any of the provisions of this Housing Code or failing or neglecting to comply with any orders issued pursuant to any section thereof shall be deemed guilty of a misdemeanor and such persons shall be guilty of a separate offense for each and every day or portion thereof during which any such violation is continued or permitted. Upon conviction of any such violations such person shall be subject to the penalty provisions set forth in § 1-1-99 of this [C][~~c~~]ode of ordinances.

[The Department may impose a civil fine, notice of which shall be appealable under the administrative appeal procedures of this ordinance, of two hundred dollars ($200.00) for a first violation of this ordinance, and three hundred dollars ($300.00) for a second violation of this ordinance and a five hundred dollars ($500.00) for a third or subsequent violation of this ordinance. Failure to pay the fine, appeal the fine, or prevail at an administrative hearing challenging the fine shall allow the Department to place a lien upon the subject property or any asset owned by the owner. The Department may also choose to collect on the fine through any other method allowed by law.]

[In addition to any other remedy available at law, remedies available in equity or other remedies as provided for in this Code, the Department may institute the following actions against the owner of any vacant, abandoned or substandard dwelling that is in serious violation of this Code:

1. An In Personam action may be initiated for a continuing violation for which the owner or responsible party takes no substantial step to correct within the six (6) months following receipt of a Notice and Order to correct the violation, unless the Notice and Order is subject to a pending appeal before an administrative agency or court. Notwithstanding any law limiting the form of action for the recovery of penalties by a municipality for the violation of this Code, the Department may recover, in a single action under this section, an amount equal to the penalties imposed against the owner and any costs of remediation lawfully incurred by, or on behalf of, the Department to remedy any violation.
2. A proceeding in equity.
3. A lien may be placed against the assets of an owner of any vacant, abandoned or substandard dwelling that is in serious violation of this Code after a judgment, decree or order is entered by a court of competent jurisdiction or City of Albuquerque Hearing Officer against the owner of the property for an adjudication under either an In Personam action or a proceeding in equity as set forth above. In the case of an owner that is an association or trust, this does not authorize a lien to be placed upon the individual assets of the general partner, trustee, limited partner, shareholder, member or beneficiary of the associate or trust except as otherwise allowed by law. Any lien placed upon any asset pursuant to this ordinance shall be foreclosed upon in the manner prescribed by State law.
4. The City may deny issuing a building or business registration permit to the owner of any vacant, abandoned or substandard dwelling that is in serious violation of this Code when any of the following conditions exist on that dwelling:
5. Liens were placed on the property for serious violations of this Code, State law or other applicable codes, including municipal service liens which exist on account of the actions of the owner, their agent or responsible party; or
6. A serious violation is present and the owner, their agent or responsible party has taken no substantial step to correct the serious violation within six (6) months following the notification of the violation and for which fines, penalties or a judgment to abate or correct were imposed by a court or administrative proceeding or a judgment at law or in equity was imposed by a court or administrative proceeding. No denial shall be permitted if a judgment is subject to a stay or is superseded by order of court.
7. The building or business registration permit denial as above described shall not apply to charges that are under appeal or otherwise contested through a court or administrative process.
8. In issuing a denial of a building or business registration permit, the Department shall indicate the street address where each parcel cited is located as a basis for the denial.
9. The denial shall also state that the applicant, their agent or responsible party may request a letter of compliance from the appropriate agency or Board in the form specified by such entity.
10. All building or business registration permits denied in accordance with this section may be withheld by the Department until an applicant obtains a letter of compliance from the appropriate agency or Board indicating any of the following conditions that are applicable:
    1. The municipal lien(s) have been paid in full or the property owner has agreed to participate in a payment plan to pay off the lien(s) in full;
    2. The property in question is now in compliance with State law, this Code or applicable codes;
    3. The owner of the property or their agent or responsible party has presented and the appropriate entity has accepted a plan to begin remediation of a serious violation of State law, this Code or other applicable codes.
11. If a letter of compliance is not obtained within forty-five (45) days of the denial, the property shall be deemed to be in non-compliance for the purposes of this section. Each agency or Board shall specify the form and the method of verification in which the request for a compliance letter shall be made.
12. The City may deny approval of municipal permits – which includes special exception approval and/or variance relief- if warranted as set forth above.
13. A building or business registration permit may only be denied to an applicant of such permit other than an owner if the applicant is acting under the direction or with the permission of the owner and that owner owns real property that is subject to denial as set forth herein above.
14. Any denial of a building or business registration permit denied by the City may be appealed to the Office of Aministrative Hearings pursuant to § 14-3-5-3 of this Code. ]”

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

Section 4. COMPILATION. Section 2 of this ordinance shall amend, be incorporated in and compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

Section 5. EFFECTIVE DATE. This ordinance shall take effect five (5) days after publication by title and general summary.