

Chapter 15.40 - **STRUCTURE NUISANCE ORDINANCE**

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15.40.010 - Title.

This chapter enacted pursuant to Section 3-17-1 (NMSA 1978 Comp. as amended) is called and may be cited as the city of Belen Structure Nuisance Ordinance for the city of Belen, New Mexico.

(Ord. 2002-10 § 1.1, 2002)

15.40.020 - Purpose.

The purpose of this chapter is to promote, as a matter of public policy, the preservation, protection and enhancement of those buildings, properties, structures, sites and incidental appurtenances used for development purposes in areas within the city of Belen, in the interest of prosperity, civic pride and general welfare of the city of Belen and nearby communities and to prevent blight by:

1. Providing a mechanism to preserve, protect, enhance, and perpetuate those structures, properties, sites, buildings and incidental appurtenances in areas within the city limits;
2. Fostering civic pride and respect in the community's future;
3. Maintaining and improving property values;
4. Protecting and enhancing the community's attraction to tourists and visitors;
5. Promoting such structures, property sites, buildings and incidental appurtenances for the general welfare of the community;
6. Fostering and encouraging preservation, restoration, and rehabilitation of structures, properties, buildings, sites and incidental appurtenances thereby preventing blight.

(Ord. 2002-10 § 1.2, 2002)

15.40.030 - Definitions.

Unless specifically defined below, words or phrases in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

1. Alteration: Any act or process that changes one or more of the exterior features of a structure through the erection, construction, reconstruction, paint or painting a part thereof.
2. City council: The governing body of the city of Belen.
3. ~~Code enforcement~~Property enhancement, preservation or beautification director: The city ~~building inspector~~director of the city of Belen's code enforcement department.

or his/her designee.

- 4. Building: Any building, site, structure or property used for purposes within the city limits as set forth in this chapter.
- 5. Owner of record: The person, corporation, or other legal entity listed as owner on the records of the County of Valencia Deeds.
- 6. Repair: An applied coating of paint or stain to the exterior of a structure, or upkeep of any stucco, sheetrock, wood exterior, stone, rock, or other exterior covering of a building, site, property or structure.
- 7. "Shall" is mandatory and "may" is permissive.
- 8. Structure, site, building, property or incidental appurtenances: Anything already constructed, or to be constructed or erected, which requires permanent or temporary location on or in the ground, including, without limiting the generality of the foregoing, buildings, fences, gazebos, signs, radio and television antennae, including supporting towers, and any other structure or building or activity.

9. Nuisance:

- a. Any structure, property, building, site, or incidental appurtenance, which is not properly maintained. A properly maintained structure meets the following standards shall apply applicable to the front and in the case of corner structures, the side facing the avenue also. Alley exposures shall be exempt.
 - i. Generally, the appearance and condition of the building or structure shall be maintained to present a safe and attractive streetscape to a passerby.
 - ii. A maximum of Not more than ten percent of exterior facade may exhibit peeling paint, damaged stucco, or other deteriorated exterior visible surfaces.
 - iii. In the case of boarded-up windows and/or doors, in all cases the plywood or other covering shall be cut to precisely fit inside the entire window frame and not merely tacked over the approximate location of the wall opening. The covering shall be painted a dark ashen gray or black to simulate a typical exterior window color or by some other color in keeping with the building facade.

These standards shall apply to the front and in the case of corner structures, the side facing the avenue also. Alley exposures shall be exempt.

The remainder of the building surface shall present a neat, attractive, well maintained appearance, and present a base color and complimentary trim color in addition to the color of the window-covering(s).

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iv-y. The roof shall be maintained such that roof leaks do not threaten interior electrical components, interior contents, or create damp interior conditions as to promote mold, mildew, nor threaten adjacent structures, to include the host structure itself.

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[and/or](#)

[v.b.](#) A building, property, site, structure or incidental appurtenance that because of its state of disrepair is such that could reasonably cause injury, damage, harm or inconvenience to a considerable portion of the community in the use and enjoyment of surrounding property, materially interfering with the proper use or comfort and enjoyment of surrounding property, taking into consideration the nature and use of the properties in the area and the character of the community in which they are situated, which condition would be substantially offensive and annoying to persons of ordinary sensibilities, tastes, and habits living in the community; and [or](#)

[b.c.](#) Any structure, property, building, site or incidental appurtenance to exist, which, because of the condition of the exterior, invites vandalism, graffiti, damage to the building, unlawful entry by persons not otherwise authorized to be present in said area, affects the overall structural maintenance of the structure, property, building and site, in such a manner as to allow rodents or other vermin to infest the area, or which in any manner affects the public's health or safety, in general, or as regards the immediate property owner or adjoining property owners.

- 10. City: City means the city of Belen, New Mexico.
- 11. City manager: The term "city manager" means the city manager of Belen, New Mexico.
- 12. [Building inspector](#) [Code enforcement personnel](#): The [building official](#) [personnel](#) authorized to enforce the provisions of the Building Code and administer and enforce this chapter.

(Ord. 2002-10 § 1.3, 2002)

15.40.040 - General penalty for violations of chapter; continuing violations.

- A. Whenever in this chapter an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this chapter the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of any such provision or the failure to perform any such act shall be punishable by a fine not to exceed five hundred dollars (\$500.00).
- B. Each day any such violation or failure to perform such act shall continue shall constitute a separate offense and is a separate violation of an ordinance of this city, unless otherwise specifically provided.

(Ord. 2002-10 § 1.4, 2002)

15.40.050 - Prohibited.

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It shall be unlawful for any such person, corporation or entity to cause, permit or maintain a building ~~in need of exterior repair that constitutes a Nuisance~~ as ~~defined above set forth~~.

(Ord. 2002-10 § 1.5, 2002)

15.40.060 - Notice, abatement, and hearing.

- A. The provisions of this section shall be in the alternative to any other provisions of this article.
- B. Whenever a nuisance as defined in this article is found to exist within the city, the city manager or ~~the building inspector~~ code enforcement director shall give written or published notice to the owner, his or her agent, lessee or occupant of the property upon which said nuisance exists or upon the person causing or maintaining the nuisance; provided, however, that failure of the city manager or ~~building inspector~~ code enforcement director to give such notice shall not constitute a defense to any action brought to enforce this action.
- C. Every person, including the owner, his or her agent, tenant, lessee or occupant of the property where such nuisance exists, shall abate any such nuisance by the correction, or removal, of the nuisance within ten (10) days of being given notice as herein above set forth in subsection (B) of this section, or by entering into a written agreement with the city for the correction or removal of the nuisance within said ten (10) day period.
- D. If an agreement is entered into within the ten (10) day period, the time limits of this section shall be stayed.
- E. If the person so cited disagrees with the decision made by the city manager or the ~~building inspector~~ code enforcement director, that person shall have the right to request a hearing before the governing body of the city of Belen within a ten (10) day period after the rendering of a decision in writing by the city manager or the ~~building inspector~~ code enforcement director. If a request for hearing is made within the ten (10) day period, the time limits of this section shall be stayed pending a decision by the governing body of the city of Belen. Said person shall have ten (10) days from the decision by the ~~board~~ governing body, to file with the city manager a written appeal to the governing body of the city of Belen.

(Ord. 2002-10 § 1.6, 2002)

15.40.070 - Contents of notice.

The notice to abate a nuisance issued under the provisions of this article shall contain:

- A. An order to abate the nuisance or to request a hearing before the governing body of the city of Belen within ten (10) days after written or published notice.
- B. The location of the nuisance, if the same is stationary.
- C. A description of what constitutes the nuisance.

- D. A statement of acts necessary to abate the nuisance.
- E. A statement that if the nuisance is not abated as directed and if no request for hearing is made within the prescribed time, the city may abate such nuisance and assess the costs thereof against such person, or take any other action as allowed by this ordinance.

(Ord. 2002-10 § 1.7, 2002)

15.40.080 - Service of notice.

A notice to abate a nuisance issued under the provisions of this article shall be served as any other legal process may be served pursuant to law.

(Ord. 2002-10 § 1.8, 2002)

15.40.090 - Abatement by city.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this article to abate the same, the designated officer of the city may proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

(Ord. 2002-10 § 1.9, 2002)

15.40.100 - City's costs declared lien.

Any and all costs incurred by the city in the abatement of a nuisance under the provisions of this chapter shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.

(Ord. 2002-10 § 1.10, 2002)

15.40.110 - Penalty not exclusive.

- A. The provisions of the penalties in this section shall not be deemed a waiver of the rights of the city to invoke the equity jurisdiction of the district court in compelling abatement of any condition, which constitutes a nuisance under this chapter.
- B. Such action for the abatement of a nuisance shall be governed by the general rules of civil procedure.
- C. A civil action to abate a nuisance of this ordinance may be brought, by verified complaint, in the name of the city, by any public officer or private citizen in the district court against any person who shall create, perform, or maintain a nuisance.

D. When judgment is against the defendant in an action to abate a nuisance of this section, s/heshall be adjudged to pay all court costs and a reasonable fee for the plaintiff's attorney.

(Ord. 2002-10 § 1.11, 2002)

15.40.120 - Effective date.

This chapter shall become effective thirty (30) days after the date of enactment by the governing body of the city of Belen, as to those properties, sites, buildings, structures or incidental appurtenances already in existence at the time of adoption of this chapter, and as to all others who shall construct, or cause to be erected any structure on or in the ground after the enactment of this chapter immediately.

(Ord. 2002-10 § 1.12, 2002)

15.40.130 - Severability.

Should any section, paragraph, clause or provision of this chapter, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this chapter.

(Ord. 2002-10 § 1.13, 2002)

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