

**ORDINACE #2023-12**

**CITY OF BELEN STATE OF NEW MEXICO ORDINANCE #2022-04  
AN ORDINANCE AMENDING ORDINANCE #2020-03 ENTITLED VACANT OR  
FORECLOSED STRUCTURE and REGISTRATION FEE**

**Chapter 15.14 - VACANT OR FORECLOSED STRUCTURE REGISTRATION**

**15.14.010 - Short title.**

This chapter shall be known and cited as the City of Belen Vacant or Foreclosed Structure Registration Ordinance.

**15.14.020 - Purpose.**

The purpose of this Ordinance is to establish a vacant property registration program and to further regulate the maintenance of properties which are in the foreclosure process, abandoned or vacant. This Ordinance is intended to reduce and prevent neighborhood blight, to avoid the creation and continuance of public nuisances, to ameliorate conditions that threaten the public health, safety and welfare, to promote neighborhood stability and occupancy by preserving the condition and appearance of residential properties and the worth and activity of commercial and industrial properties, and to maintain property values and assessments. It is intent of the City's mayor and Council that this ordinance should not be construed to offend the City of Belen's citizens' reasonable effort to lease or renovate or develop their properties as defined herein under.

Nothing in this Ordinance shall be construed to waive, relieve or otherwise excuse an owner of property from compliance with all applicable codes, ordinances, statutes or laws and the owner shall at all times remain responsible and liable therefore. Nothing in this Ordinance shall be construed to prevent the enforcement of other provisions of the City of Belen ordinances; and nothing in this Ordinance shall be construed to relieve an owner or interested party from duties imposed pursuant to any ordinances or statutes of the City of Belen, and the State of New Mexico.

**15.14.030 - Definitions.**

For purposes of this chapter, the following words and phrases are defined as follows:

"Abandoned" means a structure that is unoccupied as the result of the relinquishment of possession or control by an owner or other person with the right of possession or control of the structure, a mortgagor or the mortgagor's assigns whether or not the mortgagor or mortgagor's assigns have relinquished equity and title. A structure may be deemed abandoned when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was abandoned, including, but not limited to, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers, mail, past due utility notices, or other means of notice by publication, the accumulation of junk, litter, trash, or debris, absence of windows or window treatments, absence of furnishings and personal items, statements of neighbors, delivery agents or similarly situated persons that the property is abandoned.

"Commercial" means a structure that is generally used for conducting business and/or is situated in an area zoned for commercial purposes and uses.

"Foreclosed structure" means a residential or commercial structure on property for which any mortgage or tax foreclosure with respect to such property has been initiated. Foreclosure is a legal process that allows lenders or lien holders to recover the amount owed on a defaulted loan or lien by taking ownership of and selling the mortgaged or lien recorded property.

Ordinance 1012-06: Property Maintenance Code: "IPMC" means the current edition of the International Property Maintenance Code, as published by the International Code Council, as it exists at the time of the adoption of this chapter or as it may be amended in the future by the International Code Council.

"Ordinance 2012-2" means appendix A, rate and fee table.

"Owner" means any owner by way of a fee interest, any lien interest claimant, any holder of an ownership interest by order of a court of competent jurisdiction or any mortgage property servicing group being compensated to manage the property, any real estate management person or entity being compensated to manage the property or any current claimant in litigation over the property.

"Planning and zoning" means the department or division of the city of Belen charged with matters pertaining to planning and zoning for the city of Belen. The code enforcement officer shall include in the file, pertaining to any property, a written record of any information received from any source pertaining to the history, problems, status or impact on the community of Belen of the status of any property.

"Property" means any real property that is covered by the provisions of this Ordinance.

"Residential" means a structure that is generally used to live in and is situated in an area zoned for residential purposes and uses.

"Vacant" means a structure that is not lawfully occupied or that otherwise qualifies as "Abandoned" under this Section. Multi-family residential structures shall be considered vacant when substantially all of the dwelling units are not lawfully occupied or that otherwise qualifies as "Abandoned" under this Section. Commercial structures shall be considered vacant when all commercial activity has ceased at the site or that otherwise qualifies as "Abandoned" under this Section. Multi-tenant commercial structures shall be considered vacant when substantially all the units are not lawfully occupied or engaging in commercial activity, or that otherwise qualifies as "Abandoned" under this Section. Industrial structures shall be considered vacant when all industrial or manufacturing activity has ceased at the site or that otherwise qualifies as "Abandoned" under this Section. Multi-tenant industrial structures shall be considered vacant when substantially all the units are not lawfully occupied or engaging in industrial or manufacturing activity such as pending development plan or subdivision applications, or that otherwise qualifies as "Abandoned" under this Section. In determining whether a structure is vacant, it is also relevant to consider, among other factors, the percentage of the overall square footage of the building or floor not in use to the occupied space; the condition and value of any items in the structure and the presence of rental or for sale signs on the property. A property that is temporarily unoccupied and is in the process of being lawfully renovated under proper and unexpired permits shall not be considered vacant. A property that is listed for sale with a licensed realtor under a fully executed listing agreement shall not be considered vacant for the first eight months of the listing agreement under which the property was first listed for sale. Upon a subsequent re-listing with the same or a different licensed realtor for the

same property, such property shall not be considered vacant for the next eight month. However, such property shall be considered vacant for purposes of this section upon the expiration of the second eight-month period for which it is second listed for sale or upon the second subsequent re-listing with the same or a different licensed realtor. Unoccupied property listed as "For Sale by Owner" shall be considered vacant for purposes of this Section.

#### **15.14.040 - Vacant or foreclosed structure registration.**

A. The current owner of a "vacant", or foreclosed structure, shall register the property containing that structure, provide the information required herein below in subsection B. and pay the filing registration fee prescribed in section 15.14.040. E of this chapter. Failure to take any of these steps shall empower the city of Belen to record a lien as to the property and to foreclose any such lien in accordance with provisions applicable to such liens. The City of Belen shall not be required to provide any notice prior to the filing of such a lien.

B. The property shall be registered in accordance with the provisions of this chapter by completing and filing a form provided by the City of Belen Community Preservation Department which shall include the following information:

1. A description of the premises including either a street address or a legal description.
2. The names and addresses of any and all owners known to the party completing the form.
3. The names and address of any lien interest holders, known to the party completing the form, including but not limited to the property manager's information.
4. A telephone number for the individual completing the form, or, in the case of an entity, the name of a local contact person or property manager and a telephone number for that local contact person or property manager.
5. The applicable filing fee as provided in section 15.14.040. F. of this chapter. An equivalent fee shall be due and payable on each year of the anniversary of the initial filing for such period as the property's status is vacant or foreclosed.
6. If the building is expected to be demolished, a demolition plan stating the proposed time frame for demolition and if an assessment or consideration has been made that the building or structure is of historical or cultural significance.
7. If the building is to be returned to appropriate occupancy or use, a detailed rehabilitation plan shall not exceed three hundred sixty-five (365) days, unless the code enforcement officer grants an extension upon the filing of a request by the party registering the property detailing the facts justifying the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation or building codes and must be secured in accordance with chapter 15.10. Code enforcement personnel will conduct an inspection of progress towards the rehabilitation plan every 3 months until the rehabilitation is complete. Failure to complete the rehabilitation plan within three hundred sixty-five days (365), plus any extensions granted, will result in a penalty as provided by Ordinance 2012-02: Appendix A: Rate and Fee Table which penalty shall be retroactively applied to the date when the City received the initial registration for the vacant or foreclosed building.

C. The filing party shall comply with all applicable laws and codes as per Chapter 15.10. Ordinance 2012-06 (Property Maintenance Code: IPMC), current building codes, fire codes, sanitary codes and local ordinances and regulations concerning safety and maintenance. The owner shall notify the code enforcement personnel of any changes in information supplied as part of the vacant or foreclosed structure registration within thirty (30) days of any such change. If the plan or timetable for the vacant foreclosed structure is revised in any way, the revisions must be submitted in writing to and

approved by the code enforcement personnel involved and/or their designees.

D. Failure of the owner to maintain the property, as set forth in B. and C. above, that requires the city of Belen to take any remedial action shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties and foreclosure of lien provided for under this chapter. At the time of any change in ownership, the new owners shall file a new registration within thirty (30) days of transfer of any ownership in the property. The owner must notify any new property owners of the rehabilitation plan in place and include completion of the rehabilitation plan as a condition of the purchase of the property. The new owners shall comply with any existing approved plan until any revised plan meets the approval of code enforcement personnel and/or their designee.

E. Fees. The amount of any fees due under the provisions of this chapter shall be as provided by Ordinance 2012-02 (Appendix A, Rate and Fee Table) which may be modified from time to time.

1. Any fees which are required or due pursuant to the provisions of this chapter shall be paid at the time of filing of the registration document provided by the City of Belen Community Preservation Department.

2. Failure to file the registration statement or pay applicable fees shall empower the City of Belen to file a lien on the property in the amount due pursuant to this chapter.

3. The City of Belen shall be further empowered to foreclose any property subject to a lien under this chapter.

4. The City of Belen shall be entitled to release any lien it holds upon payment of good and valuable consideration, in the full amount of the lien, whether such amount is paid by the owner(s) or any other individual or entity.

5. Any fees due shall be paid in full prior to the issuance of any building permits, except in the case of a demolition permit.

6. If a delinquent fee is not paid at the time of the transfer of the property, such failure shall in no way impair the legality and enforcement of the fee and associated lien filing.

7. A vacant unit within a multi-unit structure shall be subject to fees for the square footage of the vacant unit only.

F. Expenses. The owner of a vacant or foreclosed structure will be billed by the City of Belen for any and all reasonable costs incurred by the City for emergency response, boarding and securing, or otherwise mitigating public safety concerns created by the vacant or foreclosed structure. Failure by the owner to pay for billed expenses associated with their vacant or foreclosed structure within ninety (90) days of the date of billing shall empower the City to record a lien as to the property and to foreclose any such lien in accordance with provision applicable to such liens. The City is not required to provide any notice prior to filing of such a lien.

#### **15.14.050 - Inspections.**

A. The City shall be authorized, under the provisions of this ordinance, to inspect any premises in the city for the purpose of enforcing and assuring compliance with the provisions of this chapter subject to the following procedural requirements.

1. Upon the request of the enforcement officer or anyone who is responsible for enforcement of the City, an owner may voluntarily provide access to the City of Belen officials to all interior portions of any property in order to access compliance.

2. Any owner at the time of such request shall be advised of the owner's right to deny access and request procurement by the City of Belen of a search warrant.

3. Should any owner refuse such access, the code enforcement officer shall procure a warrant from a court of competent jurisdiction to grant search warrants.

B. If at the time of the inspection, the inspector deems that the electrical, plumbing or

mechanical systems pose health or safety hazards and require additional inspection by a registered code inspector in that discipline, the owner shall be responsible to obtain and pay for the required inspection

#### **15.14.060 - Yearly reports.**

The Community Preservation Director shall send to the Mayor and City Council a list of all buildings in the City of Belen declared vacant or foreclosed under this chapter annually. Such list shall indicate whether registration of the property pursuant to this chapter has occurred as well as the status of any fees due hereunder.

#### **15.14.070 - Appeals.**

Any person aggrieved by any of the requirements of this ordinance may appeal to the City Manager and/or his/her designee, provided that a written application for appeal is filed with the City Manager and/or his/her designee within twenty (20) days after the day of the decision, notice, or order was dated. An application for appeal shall be based on a claim that the true intent of this chapter has been incorrectly interpreted; the provisions of this chapter do not fully apply, or the requirements of this chapter are satisfied by other means.

All hearings before the City Manager shall be open to the public. The appellant, the appellant's representative, the City's representative and any person whose interests are affected shall be given an opportunity to be heard.

The City Manager shall affirm, modify or reverse the decision of the Community Preservation Director in his/her discretion.

The vacant or foreclosed real property owner shall pay any applicable costs associated with filing any such appeal.

All fees are nonrefundable.

#### **15.14.080 - Penalties.**

Any person violating the registration provisions of this chapter or providing false information in the process of registering the property shall be subject to monetary penalties as provided by Ordinance 2012-02: Appendix A: Rate and Fee Table.

If any section, subsection, clauses, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof. The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this ordinance, as amended.

**Appendix A: Rates and Charges**

**VACANT OR FORECLOSED STRUCTURE REGISTRATION (Chapter 15.14)**

**Fees for registration:**

Registration fee year 1	\$0.50 Per square foot of vacant space
Registration fee subsequent years	\$0.25 Additional per square foot per Year of vacancy

**Penalties for non-compliance**

Failure to comply with Chapter 15.40 Property Maintenance Code: IPMC	\$100.00 per day
Failure to register:	First Offense: Written Warning Second Offense (After 90 days) \$300.00
Filing containing materially false statements	\$500.00
Appeal Fee	\$100.00
Failure to complete Approved Rehabilitation Plan Within 365 days (plus approved extensions if any)	\$100.00 per day



ATTEST:

*Dorothy Flores*  
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Dorothy Flores, City Clerk

*Robert Noblin*  
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Robert Noblin, Mayor