

**3-18-5. Dangerous buildings or debris; removal; notice; right of municipality to remove; lien.**

- A. Whenever any building or structure is ruined, damaged and dilapidated, or any premise is covered with ruins, rubbish, wreckage or debris, the governing body of a municipality may by resolution find that the ruined, damaged and dilapidated building, structure or premise is a menace to the public comfort, health, peace or safety and require the removal from the municipality of the building, structure, ruins, rubbish, wreckage or debris.
- B. A copy of the resolution shall be served on the owner, occupant or agent in charge of the building, structure or premise. If the owner, as shown by the real estate records of the county clerk, occupant or agent in charge of the building, structure or premise cannot be served within the municipality, a copy of the resolution shall be posted on the building, structure or premise and a copy of the resolution shall be published one time.
- C. Within ten days of the receipt of a copy of the resolution or of the posting and publishing of a copy of the resolution, the owner, occupant or agent in charge of the building, structure or premise shall commence removing the building, structure, ruin, rubbish, wreckage or debris, or file a written objection with the municipal clerk asking for a hearing before the governing body of the municipality.
- D. If a written objection is filed as required in this section, the governing body shall:
  - (1) fix a date for a hearing on its resolution and the objection;
  - (2) consider all evidence for and against the removal resolution at the hearing; and
  - (3) determine if its resolution should be enforced or rescinded.
- E. Any person aggrieved by the determination of the governing body may appeal to the district court by:
  - (1) giving notice of appeal to the governing body within five days after the determination made by the governing body; and
  - (2) filing a petition in the district court within twenty days after the determination made by the governing body. The district court shall hear the matter de novo and enter judgment in accordance with its findings.
- F. If the owner, occupant or agent in charge of the building, structure or premise fails to commence removing the building, structure, ruins, rubbish, wreckage or debris:
  - (1) within ten days of being served a copy of the resolution or of the posting and publishing of the resolution; or
  - (2) within five days of the determination by the governing body that the resolution shall be enforced; or
  - (3) after the district court enters judgment sustaining the determination of the governing body, the municipality may remove the building, structure, ruins, rubbish, wreckage or debris at the cost and expense of the owner. The reasonable cost of the removal shall constitute a lien against the building, structure, ruin, rubbish, wreckage or debris so removed and against the lot or parcel of land from

which it was removed. The lien shall be foreclosed in the manner provided in Sections 3-36-1 through [3-36-6](#) NMSA 1978.

- G. The municipality may pay for the costs of removal of any condemned building, structure, wreckage, rubbish or debris by granting to the person removing such materials, the legal title to all salvageable materials in lieu of all other compensation.
- H. Any person or firm removing any condemned building, structure, wreckage, rubbish or debris shall leave the premises from which the material has been removed in a clean, level and safe condition, suitable for further occupancy or construction and with all excavations filled.

**History:** 1953 Comp., § 14-17-4, enacted by Laws 1965, ch. 300; 1967, ch. 123, § 1; 1977, ch. 126, § 1.

#### ANNOTATIONS

**Cross references.** — For procedures governing administrative appeals to the district court, *see* Rule [1-074](#) NMRA. For scope of review of the district court, *see* *Zamora v. Vill. of Ruidoso Downs*, [1995-NMSC-072](#), [120 N.M. 778](#), [907 P.2d 182](#) (1995).

**Purpose of section.** — Section [3-18-5](#) NMSA 1978 deals with blighted or hazardous property and gives the owner the first opportunity to address any problems. *Henderson v. City of Tucumcari*, [2005-NMCA-077](#), [137 N.M. 709](#), [114 P.3d 389](#), cert. denied, 2005-NMCERT-006, 137 N.M. 766, 115 P.3d 229.

**Application of time limits.** — Where plaintiff's lawsuit is one of negligence, which is not the subject of this section, the time deadlines in this section are inapplicable. *Henderson v. City of Tucumcari*, [2005-NMCA-077](#), [137 N.M. 709](#), [114 P.3d 389](#), cert. denied, 2005-NMCERT-006, 137 N.M. 766, 115 P.3d 229.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Residential building: validity and construction of statute or ordinance providing for repair or destruction of residential building by public authorities at owner's expense, 43 A.L.R.3d 916.