CITY of ALBUQUERQUE
NINETEENTH COUNCIL

COUNCIL BILL NO. F/S O-11-37 ENACTMENT NO. ______________________

SPONSORED BY: Brad Winter, by request

1 ORDINANCE
2 ADOPTING CHAPTER 9, ARTICLE 18 ROA 1994, REGARDING THE
3 ABATEMENT OF PIGEON NUISANCE; DEFINING A “PIGEON NUISANCE” AS
4 AN EXCESSIVE CONGREGATION OF PIGEONS; MAKING IT A CIVIL
5 VIOLATION TO FEED FERAL PIGEONS; PROHIBITING HARBORAGE AND THE
6 ALLOWANCE OF PIGEON WASTE TO ACCUMULATE; AND AUTHORIZING
7 ABATEMENT AGREEMENTS.
8 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
9 ALBUQUERQUE:
10 SECTION 1. There is hereby created the “Pigeon Nuisance Abatement
11 Ordinance” as follows:
12 “9-18-1 FINDINGS AND INTENT.
13 (A) The Council finds that the urban feral pigeon population is
14 expanding and the droppings associated with large flocks of feral pigeons
15 interfere with use and enjoyment of private and public outdoor facilities,
16 create undesirable conditions and may have an economic impact on the City
17 of Albuquerque.
18 (B) The Council finds that pigeon droppings damage and depreciate
19 property, make walkways unsafe and unsanitary, and potentially represent a
20 public health hazard due to parasites or disease that may be associated with
21 accumulation of pigeon droppings.
22 (C) The Council finds that pigeon waste contributes to the pollution of
23 the Rio Grande because the waste and its bacteria flows into and through the
24 storm drainage system to the river after a precipitation event.
(D) The Council finds that supplemental feeding of pigeons by humans, whether deliberate or through negligence, is a substantial cause of the overpopulation of pigeons in the City of Albuquerque.

(E) The Council finds that providing readily available food sources for pigeons allows their numbers to increase in a manner that negatively impacts safe and comfortable use of commercial and residential areas, and that research has demonstrated that restricting access to food is an important factor in maintaining urban feral pigeon populations at acceptable levels.

(F) It is not the intent of the Council to eradicate the feral pigeon population; this ordinance is intended to address public nuisance associated with large numbers of pigeons.

(G) It is the intent of the Council that the City place an emphasis on disseminating information about, and assisting citizens with, effective measures for preventing and abating pigeon nuisance in a manner that promotes effective management of pigeon populations.

§ 9-18-2 DEFINITIONS. For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABATE. To reduce, stop or prevent a Pigeon Nuisance.

DIRECTOR. The Director of the Department of Environmental Health or the Director's designee.

FEEDING. Providing food to pigeons. Food may include, but is not limited to grain, seed, greens, breadcrumbs and other miscellaneous food scraps, including garbage not properly disposed of or contained.

OWNER. That person holding the legal title to real property as shown by the records of the County Assessor.

PERSON. An individual, partnership, association, syndicate, company, firm, trust, corporation, or any other entity recognized by law.

PIGEON. The common pigeon, Columba livia, also known as the Rock Dove or Rock Pigeon. For the purposes of this ordinance, “pigeon” refers to any wild state (feral) pigeon, and does not include domestic pigeons used for recreation or show.
PIGEON HARBORAGE. Any condition which provides shelter or protection for pigeons; thus, favoring their multiplication and continued inhabitance in, under, outside a structure or premise at a location where there exists a Pigeon Nuisance. Housing or shelter provided for injured or ill pigeons that are being rehabilitated is not considered pigeon harborage.

PIGEON NUISANCE. The excessive congregation of pigeons at a location when such congregation of pigeons results in the accumulation of pigeon droppings or other pigeon related waste. In addition, the accumulation of pigeon excrement, nesting materials, pigeon carcasses and other pigeon related detritus that may be damaging to the property, pose a threat to public health and welfare or contribute to polluted stormwater runoff to the river.

PIGEON-PROOFING. Actions taken to abate a Pigeon Nuisance. The actions may include but are not limited to a) construction to prevent the ingress of pigeons into or under buildings or structures from the exterior; b) steps to prevent the congregation of pigeons in a given location including the addition of spikes or other materials to prevent roosting; c) the removal or covering of sources of food for pigeons.

PROPERTY. Real property including buildings structures and land regardless of use for residential, commercial or other purposes.

RESPONSIBLE PARTY. That person or those persons who hold that legal or equitable interest in real property which empowers them to take appropriate actions to abate a Pigeon Nuisance found to exist on that real property. This may include, but not be limited to, a person with ownership, condominium rights, time-share rights, leasehold rights or an easement, license, contractual right, and any right or obligation to manage or act as agent or trustee for any person holding any of the foregoing. The owner of real property shall be presumed to be the responsible party.

§ 9-18-3 MAKING THE FEEDING OF FERAL PIGEONS A CIVIL VIOLATION; PROVIDING A HEARING.

(A) It is a violation of this Ordinance for any person to intentionally feed feral pigeons on any public or private property within Albuquerque City limits.

(B) It is a violation of this Ordinance for any person to permit or allow the placement or discard of food, food by-products, vegetables, garbage or
animal food of any kind in a manner that such person knows will reasonably
result in the lingering, roosting and/or congregating of feral pigeons.
(C) This prohibition does not extend to domesticated birds used for
show or for racing, or to injured pigeons that are kept at all times in cages or
are prevented from creating Pigeon Nuisance conditions on nearby properties.
(D) This prohibition does not extend to bird seed set out in bird feeders
or otherwise provided to birds other than pigeons, provided that the seed
does not attract significant numbers of pigeons or create conditions that
constitute a Pigeon Nuisance.
(E) Each act in violation of this section shall constitute a public
nuisance and a separate violation. Any person who violates this section shall
be subject to:
(1) The first violation of this section shall result in a written
warning by the Director. This warning will provide the details of the violation
and will specify corrective action.
(2) The second violation and subsequent violations of this section
shall result in a fine not to exceed $50 for each violation or each day of a
continuing violation.
(F) Any person who is fined for violating this section may request a
hearing by making a written request to the Director. Upon receipt of a written
request for a hearing, the Director shall set a date, time and place for the
hearing no more than 60 days from the date of receipt of the request and
provide notice to the requesting party of the date, time and place of the
hearing. The Director may appoint a hearing officer to conduct the hearing
and make recommendation to the Director. The Director may uphold, reduce
or eliminate the fines based on the merits presented in the hearing.
§ 9-18-4 OTHER ACTS PROHIBITED.
(A) No person shall create or foster any condition or allow any condition
to exist or continue which in any way harbors a number of feral pigeons or
results in an infestation of feral pigeons that would constitute a Pigeon
Nuisance, as defined herein.
(B) No person shall allow the accumulation of pigeon excrement, nesting
materials, pigeon carcasses and other pigeon related detritus that would
constitute a Pigeon Nuisance, as defined herein, on property where the person is the owner or occupant.

§ 9-18-5 PROCEDURE FOR THE ABATEMENT OF A PIGEON NUISANCE.

(A) There shall be an investigation of any complaint made to the Director to determine if there is a Pigeon Nuisance. In addition the Director may initiate an investigation to determine if a Pigeon Nuisance exists when there has been no complaint.

(B) The Director shall determine if a Pigeon Nuisance exists.

(C) The Director shall attempt to meet with the property owner and any person on the property who appears to be a responsible party to notify them that a Pigeon Nuisance has been determined to exist. The goal of the meeting shall be to enter into a written Abatement Agreement with the City of Albuquerque wherein the responsible party agrees to take specific steps to pigeon-proof the property.

(D) An Abatement Agreement may provide for the use of any pigeon-proofing method agreed upon by the Director and the responsible party. If pigeon-proofing involves the removal of accumulations of pigeon excrement, nesting materials, pigeon carcasses or other pigeon related detritus, the method selected for such removal shall protect human health and ensure that ground water, surface water and real property are not contaminated by the waste.

(E) If the Director determines that the responsible party is in violation of § 9-18-4 ROA 1994 herein and is unwilling to comply with this Ordinance, or if the responsible party fails to act on or complete the terms and conditions agreed to in an Abatement Agreement by the time set forth in the Agreement, the Director may proceed to seek the penalties provided in § 1-1-99 ROA 1994.

§ 9-18-6 INSPECTION OF BUILDINGS, PREMISES AND VACANT LOTS.

The Director is authorized, by obtaining consent of the owner or occupant, and at reasonable times, to make such inspections of real property as is necessary to investigate and abate a Pigeon Nuisance. For the purpose of making such inspections, the Director is authorized to enter onto premises to examine or survey property only after reasonable notice to the owner and any person occupying the property and with consent. Such entry shall be made in
a manner as to cause the least possible inconvenience to the person in
control. In the event that entry is denied the Director shall obtain a court order
for this purpose from a court of competent jurisdiction.

§ 9-18-7 ADDITIONAL REMEDIES.
Nothing in this Ordinance shall be construed to preclude the City from
seeking any other remedy available in law or equity.”

SECTION 2. 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 3. COMPILATION. This Ordinance shall be incorporated in and
made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect five days
after publication by title and general summary.