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1 SECTION 1. The “Business Registration Ordinance,” ROA 1994, Chapter 13,
2 Article 1, Sections 1-10 and Section 99 are repealed in their entirety and the
3 following is enacted in its place:

4 ["ARTICLE 1: BUSINESS LICENSE ORDINANCE
5 § 13-1-1 SHORT TITLE.

6 This article may be cited as the "Business License Ordinance."

7 § 13-1-2 DEFINITIONS.

8 For the purpose of this article, the following definitions shall apply unless the
9 context clearly indicates or requires a different meaning.

10 INITIAL LICENSE DURATION ADJUSTMENT PERIOD. A 12-month period of
11 time during which the City of Albuquerque may prorate the business license
12 fee by monthly increments for the purpose of developing a staggered system
13 of business licensing.

14 MAYOR. The Mayor or his designated representative.

15 PERSON. Any individual, estate, trust, receiver, cooperative association,
16 club, corporation, company, firm, partnership, joint venture, syndicate, or
17 other entity engaging in a business, profession, occupation, trade, pursuit, or
18 activity within the City of Albuquerque. For the purposes of this ordinance, the
19 term person does not include governmental entities.

20 PLACE OF BUSINESS. The premises, whether it be a personal residence,
21 main business location, or an outlet, branch, or other location thereof,
22 temporary or otherwise, to which the public is expressly or impliedly invited
23 for the purpose of transacting business. In the event there is no such location,
24 but the business is transacted at the location of the buyer, then the general
25 sales area shall be considered a "Place of Business". Unless a construction
26 contractor has at least one permanent location within the City of Albuquerque,
27 "Place of Business" includes each construction site located within the City of
28 Albuquerque.

29 § 13-1-3 BUSINESS LICENSE REQUIRED

30 (A) Beginning on July 1, 2025, all persons are required to obtain a
31 Business License in order to operate a Place of Business within the City's
32 municipal boundaries.

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1 (B) A separate license must be obtained for each branch establishment
2 or separate Place of Business. Each license granted under this article shall
3 authorize only the person obtaining the license to practice, transact, or carry
4 on the business or service licensed under this article and shall authorize that
5 person to conduct business only at the location or Place of Business
6 designated in the license.

7 § 13-1-4 BUSINESS LICENSE FEE.

8 (A) Each Place of Business located in the City shall pay an annual
9 Business License Fee imposed on the following schedule pursuant to Section
10 3-38-1 NMSA 1978 as it now exists or is amended:

- 11 (1) Fees beginning on July 1, 2025 shall be \$50 per license;
- 12 (2) Fees beginning on July 1, 2026 shall be \$75 per license;
- 13 (3) Fees beginning on July 1, 2027 shall be \$100 per license;
- 14 (4) Fees beginning on July 1, 2028 and every year after may be

15 increased by an amount of 5% greater than the previous fiscal year. This fee
16 shall be conspicuously located on the Planning Department’s website.

17 (B) The City may prorate the business license fee by monthly
18 increments during the initial license duration adjustment period.

19 (C) After the initial license duration adjustment period, renewals of
20 Business Licenses shall be for a full 12-month period. Other than during the
21 initial license duration adjustment period, the Business License Fee shall not
22 be prorated for business conducted for a portion of the year.

23 (D) The Business License Fee can be increased by the administration to
24 cover increased regulatory costs for administering the Business License
25 program in an amount that does not exceed 5% within any fiscal year.

26 § 13-1-5 EXEMPTION.

27 No Business License shall be required for any business explicitly exempted
28 by law. No Business License Fee shall be imposed on any sanctioned and
29 registered athletic official who officiates for any association or organization
30 that regulates any public-school activity and whose rules and regulations are
31 approved by the State Board of Education.

32 § 13-1-6 BUSINESS LICENSE APPLICATION.

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1 (A) The All persons proposing to engage in business within the
2 municipal limits of the City shall apply for a Business License for each
3 proposed Place of Business.
4 (B) The City may charge an application fee for all person applying for a
5 Business License.
6 (C) Any person applying for a Business License shall include in the
7 application a current Taxpayer Identification Number and current dated
8 evidence of the registration certificate for such current Taxpayer Identification
9 Number as issued by the New Mexico Taxation and Revenue Department and
10 any other information required by the City.
11 (D) Applicants have an affirmative duty to ensure that their application is
12 complete and that they may engage in business at the proposed Place of
13 Business, including ensuring compliance with relevant zoning codes.
14 **§ 13-1-7 PLACE OF BUSINESS; LICENSE NONTRANSFERABLE.**
15 (A) A licensee shall conduct business only at the address shown on the
16 Business License. Each additional Place of Business shall require a separate
17 Business License.
18 (B) All licenses issued under this article shall be nontransferable to
19 another person or Place of Business.
20 (C) No licensee shall in any manner advertise its services as endorsed
21 or bonded by the City.
22 **§ 13-1-8 BUSINESS LICENSES TO BE DISPLAYED; EXHIBITION UPON**
23 **DEMAND.**
24 Every person having a license under the provisions of this article and
25 engaging in business at a fixed Place of Business shall keep such license
26 posted and exhibited, while in force, in some conspicuous part of such Place
27 of Business. Every person having such a license and not having a fixed Place
28 of Business shall carry such license with them at all times while engaging in
29 business for which the license was granted. Every person having a license
30 under the provisions of this article shall produce and exhibit such license
31 when applying for a renewal thereof, and whenever requested to do so by any
32 City official authorized to issue, inspect, or collect licenses.

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1 § 13-1-9 BUSINESS LICENSE RENEWAL.
2 Within 10 days prior to the expiration of the Business License, any person
3 operating a Place of Business in the City shall apply to renew the Business
4 License and shall pay an annual Business License.
5 § 13-1-10 BUSINESS LICENSE LATE FEE.
6 The City may impose a late fee in the amount of \$10.00 per calendar day upon
7 each delinquent license fee in the event a new business does not pay the
8 license fee before it commences business or in the event the annual renewal
9 fee is not paid prior to expiration.
10 § 13-1-11 FEES NONREFUNDABLE.
11 All established fees charged and collected by the City pursuant to this article
12 shall be nonrefundable unless otherwise specified.
13 § 13-1-12 ZONING REVIEW.
14 (A) After any person has submitted a business license application or
15 application for renewal, the Zoning Enforcement Officer shall review the
16 applicable zoning regulations of the activity proposed to be conducted at the
17 given address and determine whether the activity complies with the
18 requirements of the Integrated Development Ordinance. The Zoning
19 Enforcement Officer may request additional information or documentation as
20 necessary to make a determination. The Zoning Enforcement Officer shall
21 issue a written determination, which shall be provided to the applicant.
22 (B) The Zoning Enforcement Officer's determination does not constitute
23 a waiver of any requirement or provision contained in any law.
24 § 13-1-13 NOTICE OF TERMINATION OF BUSINESS REQUIRED.
25 The holder of a Business License shall notify the City, in writing, of the
26 termination of business, occupational, or professional activity at the Place of
27 Business either before the termination date or within fifteen (15) calendar days
28 thereafter. Any person who fails to provide notice of termination of business
29 shall be deemed as engaging in business and subject to enforcement for
30 failing to renew the business license and any associated late fees.
31 § 13-1-14 REVOCATION.

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1 (A) Any Business License issued under this article may be revoked at
2 any time by action of the Mayor if the business or service conducted under
3 such license is being or has been conducted in violation of any local, state, or
4 federal regulation or law. Revocation of the Business License shall be for a
5 period of up to 180 days from the date of revocation.

6 (B) If the 180-day revocation period is ongoing when a Business License
7 expires, the remainder of the 180-day revocation period shall be applied to the
8 following year's Business License for that Place of Business.

9 § 13-1-15 ENFORCEMENT AND PENALTY.

10 (A) It shall be unlawful for any person to engage in business in the City
11 of Albuquerque without first obtaining a business license. Any violation of the
12 Business License Ordinance shall constitute a separate violation for each and
13 every day or portion thereof that the violation is continued, committed or
14 permitted.

15 (B) The Mayor may, for any violation of this article, take one or more of
16 the following actions:

- 17 (1) Revoke the Business License;
- 18 (2) Prevent the person from engaging in business at the Place of
19 Business until the Business License is obtained;
- 20 (3) Withhold the issuance of any City permits or inspections until
21 a valid Business License is obtained;
- 22 (4) Prevent the occupancy of the building, structure, or land on
23 which the business is located; or
- 24 (5) Assess a civil fine.

25 (C) In addition to the remedies provided above, this article may be
26 enforced by the City by suit in district court.

27 § 13-1-16. CIVIL FINE.

28 (A) The Mayor may impose a civil fine of \$100 per day for the failure to
29 comply with the Business License Ordinance.

30 (B) General. Whenever the Mayor imposes a civil fine for violations of
31 the Business License Ordinance, the Mayor shall issue a notice of civil fine

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1 directed to the person engaging in business. The notice of civil fine shall
2 contain:
3 (1) Sufficient information for identification of the Place of
4 Business where the violation occurred.
5 (2) A statement that the Mayor has found the person to be in
6 violation of the Business License Ordinance.
7 (3) A description of the activity conducted by the person
8 engaging in business without a business license as required by the Business
9 License Ordinance.
10 (4) The amount of the fine assessed.
11 (5) A statement that the fine must be paid in full within 15 days of
12 the date of the notice.
13 (6) Instructions for paying the fine; and
14 (7) A statement advising that the person engaging in business
15 without a license may appeal from the notice of civil fine. The request for
16 appeal and the hearing shall comply with the procedures outlined in the IHO
17 Ordinance.
18 (C) Method of service.
19 (1) Service of the notice of civil fine shall be made upon all
20 persons entitled thereto either personally or by mailing a copy of such notice
21 of civil fine by certified mail, postage prepaid, return receipt requested, to
22 each such person, or identified agent at their address as shown on the
23 records of the Bernalillo County Assessor or as known to the Mayor. If no
24 address of any such person so appears or is known to the Mayor, then a copy
25 of the notice of civil fine shall be so mailed, addressed to such person, at the
26 address of the Place of Business involved in the proceedings and posted
27 thereon.
28 (2) The failure of any such person to receive such notice shall not
29 affect the validity of any proceedings taken under this section. Service by
30 certified mail in the manner herein provided shall be effective on the date of
31 mailing.
32 § 13-1-17. APPEALS.

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1 (A) The person engaged in business may appeal a civil fine or
2 revocation issued pursuant to this article. The request for appeal and the
3 hearing shall comply with the procedures outlined in the Independent Office of
4 Hearings Ordinance, ROA 1994, §§ 2-7-8-1 to 2-7-8-9.

5 (B) If the Mayor has revoked a Business License issued under this
6 article due to the business or service being or having been conducted in
7 violation of any local, state, or federal regulation or law and the Hearing
8 Officer determines that such a violation of law is or has occurred, the Hearing
9 Officer shall uphold the Mayor’s decision to revoke the Business License and
10 order the business or service to be closed for the 180-day revocation period.
11 § 13-1-18. LIENS.

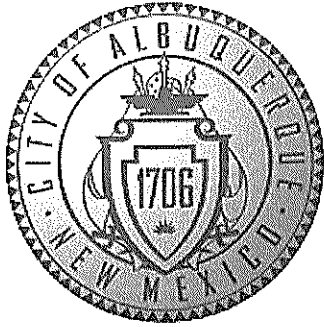
12 Failure to pay, appeal, or prevail at an administrative hearing will allow the
13 City to place a lien on the real property where the business is located or any
14 other asset owned by the property owner or business owner. In addition, the
15 Business License Fee or civil fines may be collected through any avenue
16 provided by law.”]

17 SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause, word
18 or phrase of this Ordinance is for any reason held to be invalid or
19 unenforceable by any court of competent jurisdiction, such decision shall not
20 affect the validity of the remaining provisions of this Ordinance. The hereby
21 declares that it would have passed this Ordinance and each section,
22 paragraph, sentence, clause, word or phrase thereof irrespective of any
23 provision being declared unconstitutional or otherwise invalid.

24 SECTION 3. COMPILATION. Section ‘1’ of this Ordinance amends, is
25 incorporated in, and is to be compiled as part of the Revised Ordinances of
26 Albuquerque, New Mexico, 1994.

27 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect January 1, 2025.

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Mayor Timothy M. Keller

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Office of the Mayor

INTER-OFFICE MEMORANDUM

October 10, 2024

TO: Dan Lewis, President, City Council

FROM: Timothy M. Keller, Mayor




SUBJECT: Repealing and Replacing the Business Registration Ordinance with the Business License Ordinance

The enclosed document serves as a formal request to repeal and replace the City of Albuquerque's existing Business Registration Ordinance with a Business License Ordinance. New Mexico statutes authorize local governments to enact either a business registration system or a business license system. The City of Albuquerque currently simply requires businesses to register their existence rather than requiring them to obtain a license to conduct business. Although the business registration process does yield a few benefits to the City by providing the opportunity for a zone check to ensure that the activity is allowed at the business location and the ability to collect statistical data on the type of businesses in the City, those benefits have proven to be substantially outweighed by the costs of not having a regulatory tool, i.e., a business licensing system, in place to ensure a level playing field for businesses that operate above board. As a result, when businesses operate in violation of local, state, and federal laws, the City has no leverage to require them to comply with the law or lose their license to operate within the City. Replacement of the business registration system with a business licensing system will allow the City to continue to conduct a zone check and gather statistical information; and take a giant step forward to protect legitimate businesses from unfair competition while better ensuring the health, safety and welfare of the public.

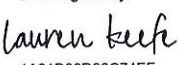
TITLE/SUBJECT OF LITIGATION*** *Same as subject line on last page)*

Approved:

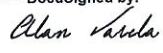
Approved as to Legal Form:


Samantha Sengel, EdD
Chief Administrative Officer

Date

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Date
City Attorney

Recommended:

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Date

Director

Cover Analysis

1. What is it?

This is the Business License Ordinance.

2. What will this piece of legislation do?

This legislation will repeal and replace the City of Albuquerque's business registration system with a business license system.

3. Why is this project needed?

This project is needed to protect legitimate businesses. The City of Albuquerque currently lacks the tools to protect legitimate businesses from unfair competition by businesses that operate in violation of local, state, and federal laws. This legislation will provide the tool, i.e., a business license requirement, that the City needs to protect legitimate businesses and the health, safety and welfare of the public.

4. How much will it cost and what is the funding source?

This legislation is a significant change for the business community and therefore has a delayed effective date of July 1, 2025, to allow time to adjust. The business license fees will be minimal and gradually introduced to reduce the impact of any associated expenses for the business community. This legislation provides the City with the ability to regulate and close illegitimate businesses, and the personnel who will perform the regulatory functions will be funded by the new revenues that will be generated by the license fees.

5. Is there a revenue source associated with this contract? If so, what level of income is projected?

Yes. The Fiscal Impact Analysis is attached.

6. What will happen if the project is not approved?

The business community will not be protected from illegitimate operators because the City will be stuck with a business registration system that does not provide the same regulatory authority as a business licensing system. The only substantive penalty for failing to obtain a business registration is a \$10 late fee. In contrast, the penalties for failing to obtain a business license and to keep it in good standing by not violating local, state or federal laws are substantial, including but not limited to revocation, preventing the business from

operating, withholding the issuance of any City permits or inspections, preventing occupancy of the property, and assessing cumulative late fees and civil fines.

7. Is this service already provided by another entity?

No.

FISCAL IMPACT ANALYSIS

TITLE: Repealing and Replacing the Business Registration Ordinance to allow for Business Licensing. R: FUND: 110 O: DEPT: 4919000

- No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	Fiscal Years			
	2025	2026	2027	Total
Base Salary/Wages	-	467,292	467,292	934,584
Fringe Benefits at	-	307,500	307,500	615,000
Subtotal Personnel	-	774,792	774,792	1,549,584
Operating Expenses	-	25,000	25,000	50,000
Property	-	300,000		300,000
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ 1,099,792	\$ 799,792	\$ 1,899,584
<input type="checkbox"/> Estimated revenues not affected				
<input checked="" type="checkbox"/> Estimated revenue impact				
Revenue from program	0	1,300,750	2,483,250	3,784,000
Amount of Grant	-	-	-	-
City Cash Match	0	0	0	0
City Inkind Match	0	0	0	0
City IDOH	-	-	-	-
Total Revenue	\$ -	\$ 1,300,750	\$ 2,483,250	\$ 3,784,000

These estimates do not include any adjustment for inflation.

* Range if not easily quantifiable.

Number of Positions created 6 3

COMMENTS: Enforcement of this Ordinance will require a Business Operations Supervisor, a Sr Code Compliance Specialist, and 7 Code Compliance Inspectors, 9 vehicles, and computer equipment. The addition of staff will occur incrementally as the program generates additional revenue.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY:

APPROVED:

DocuSigned by: Debbie Dombroski 10/11/2024 | 3:45 PM MDT
 Debbie Dombroski, Fiscal Manager

DocuSigned by: Alan Varela 10/11/2024 | 3:49 PM MDT
 Alan Varela, Director Date

REVIEWED BY:

Signed by: Evelyn L Torres 10/15/2024 | 9:48 AM MDT
 EXECUTIVE BUDGET ANALYST

DocuSigned by: Yohana Sandoval 10/15/2024 | 1:14 AM MDT
 BUDGET OFFICER (date)

Signed by: Christine Palmer 10/15/2024 | 2:24 PM MDT
 CITY ECONOMIST