

# CITY of ALBUQUERQUE

## TWENTY-SIXTH COUNCIL

COUNCIL BILL NO. O-24-5 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Tammy Fiebelkorn, Nichole Rogers, Joaquín Baca, by request

1                               **ORDINANCE**

2                               **AMENDING §11-3 THE HUMAN RIGHTS ORDINANCE**

3               **WHEREAS, the City of Albuquerque Human Rights Ordinance (HRO)**  
4               **prohibits discrimination on the basis of race, color, religion, sex, national**  
5               **origin or ancestry, age, physical handicap, or source of income; and**

6               **WHEREAS, incorporating new definitions and accurate language into the**  
7               **HRO is crucial to clarifying the scope and applicability of protections,**  
8               **providing clear guidance for citizens, businesses, and organizations to**  
9               **promote compliance and understanding; and**

10               **WHEREAS, there is a need to address gaps in the current HRO, recognizing**  
11               **that adding new definitions and using accurate language will enhance the**  
12               **ordinance’s effectiveness in protecting the rights of all residents; and**

13               **WHEREAS, updating the City of Albuquerque’s HRO will help to align the**  
14               **city’s policies with state policies, helping to ensure consistency and**  
15               **coherence that safeguards the rights and liberties of individuals within**  
16               **Albuquerque; and**

17               **WHEREAS, an updated human rights ordinance will serve as a testament to**  
18               **the city’s commitment to creating an environment that actively opposes**  
19               **discrimination, promoting the principles of equality, justice, and human**  
20               **dignity for all residents.**

21               **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**  
22               **ALBUQUERQUE:**

23               **§11-3 THE HUMAN RIGHTS ORDINANCE is amended as described in Sections**  
24               **1 through 3 below.**

25               **SECTION 1. TERMINOLOGY**

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- 1 1. In §11-3-3 replace the definition “PHYSICALLY HANDICAPPED” with  
2 “PHYSICAL OR MENTAL DISABILITY” as follows:  
3 ~~[PHYSICALLY HANDICAPPED. Any person who, because of accident, illness,~~  
4 ~~congenital condition or other condition of health, experiences any impairment~~  
5 ~~in sight, hearing, touch, taste, smell, motor skills or appearance.]~~  
6 [PHYSICAL OR MENTAL DISABILITY. A physical or mental impairment that  
7 substantially limits one or more of a person's major life activities. A person is  
8 also considered to have a mental or physical disability if the person has a  
9 record of a physical or mental disability or is regarded as having a physical or  
10 mental disability.]
- 11 2. Add the following definitions to §11-3-3 in appropriate alphabetical order:  
12 [SEX. A person's categorization as male, female or intersex based on biology,  
13 physiology and physical characteristics.  
14 GENDER. An individual or societal expectation or perception of a person as  
15 masculine or feminine based on appearance, behavior or physical  
16 characteristics.  
17 GENDER IDENTITY. A person's self-perception, based on the person's  
18 appearance, behavior or physical characteristics, that the person exhibits  
19 more masculinity or femininity or the absence of masculinity or femininity  
20 whether or not it matches the person's gender or sex assigned at birth.  
21 SEXUAL ORIENTATION. A person's physical, romantic or emotional attraction  
22 to persons of the same or a different gender or the absence of any such  
23 attraction  
24 PREGNANCY. The condition of being pregnant, including the state of carrying  
25 a developing embryo or fetus within the body, beginning from conception  
26 through childbirth.  
27 CHILDBIRTH OR CONDITION RELATED TO CHILDBIRTH OR PREGNANCY.  
28 The act or process of giving birth to a child, including labor and delivery. Any  
29 medical condition or complication that arises during pregnancy, childbirth, or  
30 the postpartum period, or is exacerbated by pregnancy or childbirth.  
31 SEX ASSIGNED AT BIRTH. The classification of an individual as male, female,  
32 or intersex based on physical characteristics typically associated with  
33 biological sex observed at the time of birth, including but not limited to

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1 genitalia, chromosomes, and reproductive anatomy, as recorded on the  
2 individual's birth certificate or other official documentation at birth.  
3 PUBLIC CONTRACTOR. A person, company, or organization who receives  
4 public funds as a result of contracting with a governmental entity.

5 SECTION 2. UPDATED SECTIONS

- 6 1. Replace all instances in the HRO of “physical handicap” and/or “physical  
7 or mental handicap” with “physical or mental disability”.
- 8 2. Add “[sex assigned at birth, pregnancy, childbirth or condition related to  
9 childbirth or pregnancy, sexual orientation, gender, and gender identity”  
10 after all instances of “physical handicap” in the following sections:
- 11 a. §11-3-2(D)
  - 12 b. §11-3-5(E)(2)
  - 13 c. §11-3-7(A)
  - 14 d. §11-3-7(B)
  - 15 e. §11-3-7(C)
  - 16 f. §11-3-7(D)
  - 17 g. Both occurrences within §11-3-7(E)
  - 18 h. §11-3-7(G)(1)
  - 19 i. §11-3-7(H)(1)
  - 20 j. §11-3-7(H)(2)
  - 21 k. §11-3-7(F)
  - 22 l. §11-3-7(F)
  - 23 m. §11-3-12(A)

- 24 3. Add a new subsection (A) in §11-3-7 as follows. Renumber subsequent  
25 sections as necessary.
- 26 [a governmental entity or a public contractor to refuse or otherwise limit or put  
27 conditions on services to a person because of race, age, religion, color,  
28 national origin, ancestry, sex, sexual orientation, gender, gender identity,  
29 pregnancy, childbirth or condition related to pregnancy or childbirth, physical  
30 or mental disability, serious medical condition or spousal affiliation.]

31 SECTION 3. EXEMPTIONS

32 Add a new subsection (E) to §11-3-12 as follows:

1 [(E) Be construed to require a governmental entity or a public contractor to  
2 provide services or programs beyond services or programs to the specific  
3 populations that the governmental entity or public contractor is tasked with  
4 serving.]

5 SECTION 4. SEVERABILITY CLAUSE.

6 If any section, paragraph, sentence, clause, word or phrase of this ordinance  
7 is for any reason held to be invalid or unenforceable by any court of  
8 competent jurisdiction, such decision shall not affect the validity of the  
9 remaining provisions of this ordinance. The Council hereby declares that it  
10 would have passed this ordinance and each section, paragraph, sentence,  
11 clause, word or phrase thereof irrespective of any provision being declared  
12 unconstitutional or otherwise invalid.

13 SECTION 5. COMPILATION.

14 Sections 1 through 3 of this ordinance shall be incorporated in and made part  
15 of the Revised Ordinances of Albuquerque, New Mexico, 1994.

16 SECTION 6. EFFECTIVE DATE.

17 This ordinance shall take effect five days after publication by title and general  
18 summary.

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# CITY OF ALBUQUERQUE


## Albuquerque, New Mexico

### Office of the Mayor

Mayor Timothy M. Keller

**INTER-OFFICE MEMORANDUM** February 9, 2024

**TO:** Dan Lewis, President, City Council

**FROM:** Timothy M. Keller, Mayor 

**SUBJECT: Update to the Human Rights Ordinance**


The enclosed ordinance proposes to amend the City of Albuquerque's Human Rights Ordinance to prohibit discrimination against additional classes of persons who are not already protected within the ordinance. This legislation will add or amend definitions for the following:

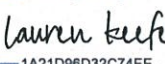
- Physical or Mental Disability
- Sex
- Gender
- Gender Identity
- Sexual Orientation
- Pregnancy
- Childbirth or Condition Related to Childbirth
- Sex Assigned at Birth
- Public Contractor

The legislation will also make clear that government entities or public contractors are permitted to provide services or programs to specific populations that they are tasked with serving,


Approved:

Approved as to Legal Form:

  
Samantha Sengel, EdD Date  
Chief Administrative Officer

DocuSigned by:  
 2/12/2024 | 1:22 PM MST  
1A21D96D32C74EE...  
Lauren Keefe Date  
City Attorney

Recommended:

 2/12/2024 | 1:24 PM MST  
97DED95D8557485...  
Veronica Martinez Date  
Director

## **Cover Analysis**

### **1. What is it?**

This legislation proposes to update the City of Albuquerque's Human Rights Ordinance.

### **2. What will this piece of legislation do?**

This proposed ordinance will protect additional classes of persons. It will also create certain exemptions as consistent with the State of New Mexico's Human Rights Act.

### **3. Why is this project needed?**

This update is necessary to ensure that the City of Albuquerque's Human Rights Ordinance prohibitions of discrimination are extended to a comprehensive class of persons.

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

There is no cost associated with this ordinance.

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

There is no revenue source associated with this legislation.

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

If this legislation is not approved, certain classes of persons will not be lawfully protected against discrimination within Albuquerque.

### **7. Is this service already provided by another entity?**

The State of New Mexico has its own Human Rights Act that offers the same prohibition against discrimination as persons in this ordinance, however only the State of New Mexico can enforce noncompliance. Updating the City's ordinance will allow the City to enforce noncompliance.

**FISCAL IMPACT ANALYSIS**

Title: Update to Human Rights Ordinance

R: O:  
 FUND: N/A  
 DEPT: N/A

- 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:

	2024	Fiscal Years 2025		2026	Total
Base Salary/Wages					-
Fringe Benefits at					-
Subtotal Personnel	-	-	-	-	-
Operating Expenses					-
Property					-
Indirect Costs	-	-	-	-	-
<b>Total Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<input checked="" type="checkbox"/> Estimated revenues not affected					
<input type="checkbox"/> Estimated revenue impact					
Revenue from program					0
Amount of Grant					-
City Cash Match					-
City Inkind Match					-
City IDOH	-	-	-	-	-
<b>Total Revenue</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

These estimates do not include any adjustment for inflation.

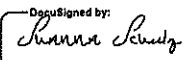
\* Range if not easily quantifiable.

Number of Positions created 0

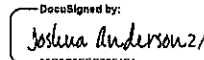
COMMENTS: No fiscal impact.

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

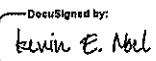
PREPARED BY:

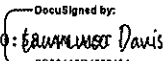
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 2/12/2024 | 1:25 PM MST  
 Shanna Schultz, Policy + Gov't Affairs  
 Administrator (date)

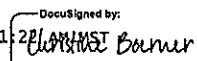
APPROVED:

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 2/9/2024 | 4:13 PM MST  
 Joshua Anderson, Gov't Affairs Manager (date)

REVIEWED BY:

DocuSigned by:  
 2/12/2024 | 10:10 AM MST  
 EXECUTIVE BUDGET ANALYST

DocuSigned by:  
 2/12/2024 | 11:22 AM MST  
 BUDGET OFFICER (date)

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 2/12/2024 | 11:38 AM MST  
 CITY ECONOMIST