

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. C/S O-24-5 ENACTMENT NO. D. 2024. 010

SPONSORED BY: Tammy Fiebelkorn, Nichole Rogers and 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 **PHYSICAL OR MENTAL DISABILITY.** A physical or mental impairment that
4 substantially limits one or more of a person’s major life activities. A person is
5 also considered to have a mental or physical disability if the person has a
6 record of a physical or mental disability or is regarded as having a physical or
7 mental disability.

8 2. Add the following definitions to § 11-3-3 in appropriate alphabetical
9 order:

10 **SEX.** A person's categorization as male, female or intersex based on biology,
11 physiology and physical characteristics.

12 **GENDER.** An individual or societal expectation or perception of a person as
13 masculine or feminine based on appearance, behavior or physical
14 characteristics.

15 **GENDER IDENTITY.** A person's self-perception, based on the person's
16 appearance, behavior or physical characteristics, that the person exhibits
17 more masculinity or femininity or the absence of masculinity or femininity
18 whether or not it matches the person's gender or sex assigned at birth.

19 **SEXUAL ORIENTATION.** A person's physical, romantic or emotional attraction
20 to persons of the same or a different gender or the absence of any such
21 attraction.

22 **PREGNANCY.** The condition of being pregnant, including the state of carrying
23 a developing embryo or fetus within the body, beginning from conception
24 through childbirth.

25 **CHILDBIRTH OR CONDITION RELATED TO CHILDBIRTH OR PREGNANCY.**
26 The act or process of giving birth to a child, including labor and delivery. Any
27 medical condition or complication that arises during pregnancy, childbirth, or
28 the postpartum period, or is exacerbated by pregnancy or childbirth.

29 **PUBLIC CONTRACTOR.** A person, company, or organization who receives
30 public funds as a result of contracting with a governmental entity.

31 **SECTION 2.** Amend § 11-3-2, § 11-3-5, § 11-3-7, and § 11-3-12 as follows:

32 **§ 11-3-2 DECLARATION OF POLICY.**

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1 Pursuant to Article VIII of The Albuquerque City Charter, in order to assure
2 the public safety, public health and general welfare, to:

3 (A) Preserve, protect, and promote human rights and human dignity;

4 (B) Promote and encourage the recognition and exercise of human
5 responsibility;

6 (C) Protect and promote equality of access to public goods and services;
7 and

8 (D) Prohibit discrimination on the basis of race, color, religion, sex,
9 national origin or ancestry, age, physical or mental disability, pregnancy,
10 childbirth or condition related to childbirth or pregnancy, sexual orientation,
11 gender, or gender identity, or source of income, including, but not limited to
12 the following area:

13 (1) In places of public accommodations;

14 (2) In housing accommodations; and

15 (3) In commercial space.

16 § 11-3-5 POWERS AND DUTIES.

17 The Board shall:

18 (A) Set such rules and regulations as are necessary for the operation of the
19 Board.

20 (B) Conduct public hearings upon the request of the City Council or Mayor
21 upon such matters as the City Council or Mayor may from time to time direct.

22 (C) Receive complaints alleging an unlawful discriminatory practice as
23 defined in this article. The staff director (as described in § 11-3-9(A)) of the
24 Human Rights Board shall advise the complainant of the resources available
25 to the complainant for resolution of his or her problem including but not
26 limited to the State Human Rights Commission, the Federal Equal Employment
27 Opportunity Commission, the Albuquerque Municipal Courts and such other
28 agencies and entities as may be available. In addition, the staff director shall
29 be responsible for:

30 (1) Following the progress of the individual complaints to ensure that
31 the agency to whom the complainant was referred acts on the referral;

32 (2) Observing complaints for trends that may indicate a need for
33 changes in policies, ordinances or other practices; and

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1 (3) Making recommendations to the Human Rights Board that it
2 consider holding public hearings under this article.

3 (D) Not receive a complaint, where a similar complaint, based on the same
4 facts, has been filed by the complainant with another agency.

5 (E) Use its best efforts to:

6 (1) Promote mutual trust, understanding and respect among the citizens
7 of the Albuquerque community and between the citizens and their
8 governmental agencies.

9 (2) Endeavor that all citizens may enjoy their rights and pursue their
10 opportunities on an equal basis without discrimination as to race, color,
11 religion, sex, national origin or ancestry, age, physical or mental disability,
12 pregnancy, childbirth or condition related to childbirth or pregnancy, sexual
13 orientation, gender, or gender identity.

14 § 11-3-7 UNLAWFUL DISCRIMINATORY PRACTICE. It is unlawful
15 discriminatory practice and a violation of this article for:

16 (A) An employer, unless based on a bona fide occupational qualification, to
17 refuse to hire, to discharge, to promote or demote or to discriminate in
18 compensation or terms and conditions of employment, against any person
19 otherwise qualified, because of race, color, religion, sex, national origin or
20 ancestry, age, race related hairstyle, the use of a cultural headdress, physical
21 or mental disability, pregnancy, childbirth or condition related to childbirth or
22 pregnancy, sexual orientation, gender, or gender identity.

23 (B) A labor organization to exclude an individual or to expel or otherwise
24 discriminate against any of its members or against any employer or employee
25 because of race, color, religion, sex, national origin or ancestry, age, race
26 related hairstyle, the use of a cultural headdress, physical or mental disability,
27 pregnancy, childbirth or condition related to childbirth or pregnancy, sexual
28 orientation, gender, or gender identity.

29 (C) Any employer, labor organization, or any other person to refuse to
30 admit or employ any individual in any program established to provide an
31 apprenticeship or other training or retraining because of race, color, religion,
32 sex, national origin or ancestry, age, race related hairstyle, the use of a
33 cultural headdress, physical or mental disability, pregnancy, childbirth or

1 condition related to childbirth or pregnancy, sexual orientation, gender, or
2 gender identity.

3 (D) Any employer, labor organization, or any other person to print or
4 circulate or cause to be printed or circulated any statement, advertisement, or
5 publication or to use any form of application for employment or membership,
6 or to make any inquiry regarding prospective employment or membership
7 which expresses, directly or indirectly, any limitation, specification, or
8 discrimination as to race, color, religion, sex, national origin or ancestry, age,
9 race related hairstyle, the use of a cultural headdress, physical or mental
10 disability, pregnancy, childbirth or condition related to childbirth or
11 pregnancy, sexual orientation, gender, or gender identity unless based on a
12 bona fide occupational qualification.

13 (E) An employment agency to refuse to list and properly classify for
14 employment or to refer an individual for employment in a known available job
15 for which the individual is otherwise qualified because of race, religion, color,
16 national origin, ancestry, age, sex, race related hairstyle, the use of a cultural
17 headdress, or any physical or mental disability, pregnancy, childbirth or
18 condition related to childbirth or pregnancy, sexual orientation, gender, or
19 gender identity unless based on a bona fide occupational qualification; or to
20 comply with a request from an employer for referral of applicants for
21 employment if the request indicates either directly or indirectly that the
22 employer discriminates in employment on the basis of race, religion, color,
23 national origin, ancestry, sex, race related hairstyle, the use of a cultural
24 headdress, or physical or mental disability, pregnancy, childbirth or condition
25 related to childbirth or pregnancy, sexual orientation, gender, or gender
26 identity unless based on a bona fide occupational qualification.

27 (F) Any person who provides any public accommodation to make a
28 distinction, directly or indirectly, in offering or refusing to offer its services,
29 facilities, accommodations or goods to any individual because of race, color,
30 religion, sex, race related hairstyle, the use of a cultural headdress, national
31 origin or ancestry, physical or mental disability, pregnancy, childbirth or
32 condition related to childbirth or pregnancy, sexual orientation, gender, or
33 gender identity.

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1 (G) Any person to:

2 (1) Refuse to sell, rent, assign, lease or sublease, or offer for sale, rental,
3 lease or sublease, or assignment, any housing accommodation, commercial
4 space or real property to any individual, or discriminate against any person in
5 the terms, conditions, or privileges of the sale, rental, lease or sublease, or
6 assignment of any housing accommodation, commercial space, or real
7 property, or to refuse to negotiate for the sale, rental, lease, assignment or
8 sublease of any housing accommodation, commercial space or real property,
9 or in the provision of facilities or services in connection therewith, because of
10 race, color, religion, sex, race related hairstyle, the use of a cultural
11 headdress, national origin or ancestry, source of income or the requirements
12 of any program providing the source of income, physical or mental disability,
13 pregnancy, childbirth or condition related to childbirth or pregnancy, sexual
14 orientation, gender, or gender identity.

15 (2) Print, circulate, display or mail, or cause to be printed, circulated,
16 displayed or mailed, any statement, advertisement, publication or sign or use
17 any form of application for the purchase, rental, lease, assignment or sublease
18 of any housing accommodation, commercial space or real property, or to
19 make any record or inquiry regarding the prospective purchase, rental, lease,
20 assignment or sublease of any housing accommodation, commercial space or
21 real property which expresses any preference, limitation or discrimination as
22 to race, color, religion, sex, race related hairstyle, the use of a cultural
23 headdress, national origin or ancestry, source of income, physical or mental
24 disability, pregnancy, childbirth or condition related to childbirth or
25 pregnancy, sexual orientation, gender, or gender identity.

26 (3) Represent to any person, because of race, color, religion, sex, race
27 related hairstyle, the use of a cultural headdress, national origin or ancestry,
28 source of income or because of the requirements of any program providing
29 the source of income, physical or mental disability, pregnancy, childbirth or
30 condition related to childbirth or pregnancy, sexual orientation, gender, or
31 gender identity, that any dwelling is not available for inspection, sale, or rental
32 when the dwelling is available.

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1 (4) In determining whether the prospective tenant meets minimum income
2 requirements, exclude from the calculation any lawful and verifiable source of
3 income received by the applicant; or

4 (5) Impose additional requirements on a tenant or a prospective tenant
5 whose rent is to be subsidized by a third party not imposed on other tenants,
6 such as, but not limited to, additional security deposits or requirements to
7 maintain renter's insurance; provided that nothing in this section shall be
8 construed as a prohibition against a property owner or manager conducting
9 an income or credit inquiry on a prospective tenant or from performing other
10 vetting techniques, such as a background or rental history checks, provided
11 these techniques are used for all tenants, regardless of their source of
12 income.

13 (a) Nothing in this legislation shall be construed as requiring a landlord
14 to show preferential treatment to a prospective tenant who has a non-
15 traditional source of income.

16 (b) Nothing in this legislation shall be construed as requiring a landlord
17 to set a rent rate at or under Fair Market Rent as defined by the U.S.
18 Department of Urban Housing and Development.

19 (c) Nothing in this legislation shall be construed to mean a landlord
20 cannot change the terms of a lease after the agreed-upon lease expires.

21 (d) Nothing in this legislation shall be construed to prevent a landlord
22 from evicting a tenant for any lawful reason.

23 (6) In determining whether the prospective tenant meets minimum income
24 requirements, include in the calculation of rent any amounts that will be paid,
25 credited, or attributed by the tenant or on the tenant's behalf from federal,
26 state, or local housing assistance payment programs. In other words, the
27 calculation of minimum income requirements shall be based on the portion of
28 rent that a tenant is personally responsible for paying, not the portion of rent
29 that will be paid by a housing assistance payment program.

30 (H) Any person to whom application is made for financial assistance for the
31 acquisition, construction, rehabilitation, repair or maintenance of any housing
32 accommodation, commercial space or real property, to:

1 (1) Consider race, color, religion, sex, race related hairstyle, the use of a
2 cultural headdress, national origin or ancestry, physical or mental disability,
3 pregnancy, childbirth or condition related to childbirth or pregnancy, sexual
4 orientation, gender, or gender identity in the granting, withholding, extending,
5 modifying or renewing, or in the fixing of the rates, terms, conditions or
6 provisions of any financial assistance, or in the extension of services in
7 connection with the request for financial assistance; and

8 (2) Use any form of application for financial assistance or to make any
9 record or inquiry in connection with applications for financial assistance
10 which expresses, directly or indirectly, any limitation, specification or
11 discrimination as to race, color, religion, sex, race related hairstyle, the use of
12 a cultural headdress, national origin or ancestry, physical or mental disability,
13 pregnancy, childbirth or condition related to childbirth or pregnancy, sexual
14 orientation, gender, or gender identity.

15 (I) Any person or employer to:

16 (1) Aid, abet, incite, compel or coerce the doing of any unlawful
17 discriminatory practice or to attempt to do so.

18 (2) Engage in any form of threats, reprisals or discrimination against
19 any person who has opposed unlawful discriminatory practices or has filed a
20 complaint, testified or participated in any proceeding under this article.

21 (3) Willfully obstruct or prevent any person from complying with the
22 provisions of this article or to resist, prevent, impede or interface with the
23 Board or any of its members, staff or representatives in the performance of
24 their duties under this article.

25 (J) A governmental entity or a public contractor to refuse or otherwise limit
26 or put conditions on services to a person because of race, age, religion, color,
27 national origin, ancestry, sex, sexual orientation, gender, gender identity,
28 pregnancy, childbirth or condition related to pregnancy or childbirth, physical
29 or mental disability.

30 § 11-3-12 EXEMPTIONS.

31 Nothing in this article shall:

32 (A) Bar any religious or denominational institution or organization which is
33 operated or supervised or controlled by or is operated in connection with a

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1 religious or denominational organization from limiting admission to or giving
2 preference to persons of the same religion or denomination, or from making
3 selections of buyers, leasees or tenants as are calculated by the organization
4 or denomination to promote the religious or denominational principles for
5 which it is established or maintained unless membership in the religious or
6 denominational organization is restricted on account of race, color, sex,
7 national origin, ancestry, age, physical or mental disability, pregnancy,
8 childbirth or condition related to childbirth or pregnancy, sexual orientation,
9 gender, or gender identity.

10 SECTION 3. EXEMPTIONS.

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

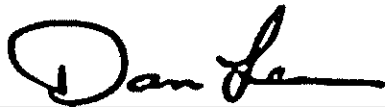
12 (F) Be construed to require a governmental entity or a public contractor to
13 provide services or programs beyond services or programs to the specific
14 populations that the governmental entity or public contractor is tasked with
15 serving.

16 SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
17 clause, word or phrase of this ordinance is for any reason held to be invalid or
18 unenforceable by any court of competent jurisdiction, such decision shall not
19 affect the validity of the remaining provisions of this ordinance. The Council
20 hereby declares that it would have passed this ordinance and each section,
21 paragraph, sentence, clause, word or phrase thereof irrespective of any
22 provision being declared unconstitutional or otherwise invalid.

23 SECTION 5. COMPILATION. Sections 1 through 3 of this ordinance shall be
24 incorporated in and made part of the Revised Ordinances of Albuquerque,
25 New Mexico, 1994.

26 SECTION 6. EFFECTIVE DATE. This ordinance shall take effect five days
27 after publication by title and general summary.

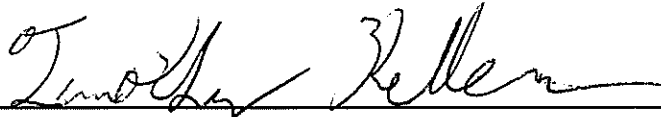
1 PASSED AND ADOPTED THIS 6th DAY OF May, 2024
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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10 Dan Lewis, President
11 City Council

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15 APPROVED THIS 17 DAY OF May, 2024

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20 Bill No. C/S O-24-5

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23 Timothy M. Keller, Mayor
24 City of Albuquerque

25
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27 ATTEST:

28 

29
30 Ethan Watson, City Clerk

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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?

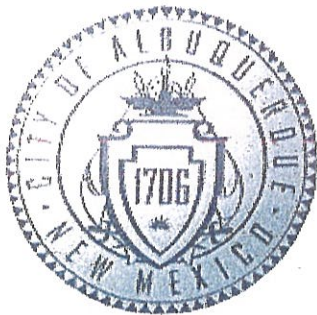
There is no revenue source associated with this legislation.

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.



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

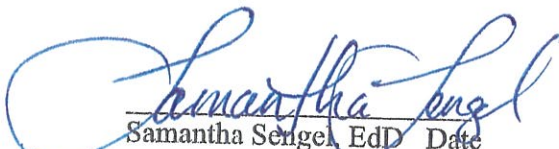
The enclosed ordinance proposes to amend the City of Albuquerque's Human Rights Ordinance to prohibit discrimination against additional classes of persons who are not already protected within the ordinance. This legislation will add or amend definitions for the following:

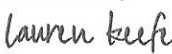
- Physical or Mental Disability
- Sex
- Gender
- Gender Identity
- Sexual Orientation
- Pregnancy
- Childbirth or Condition Related to Childbirth
- Sex Assigned at Birth
- Public Contractor

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
1A21D90D32C74EE...
Lauren Keefe Date
City Attorney

Recommended:

 2/27/2024 | 1:24 PM MST
97DED05D8557486...
Veronica Martinez Date
Director

FISCAL IMPACT ANALYSIS

Title: Update to Human Rights Ordinance

R:
FUND: N/A
O:
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:

	Fiscal Years			
	2024	2025	2026	Total
Base Salary/Wages				-
Fringe Benefits at				-
Subtotal Personnel	-	-	-	-
Operating Expenses				-
Property				-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
<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				
Total Revenue	\$ -	\$ -	\$ -	\$ -

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:

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

APPROVED:

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

REVIEWED BY:

DocuSigned by:
Kevin E. Noel 2/12/2024 | 10:28 AM MST
EXECUTIVE BUDGET ANALYST

DocuSigned by:
Emmanuel Davis 2/12/2024 | 11:28 AM MST
BUDGET OFFICER (date)

DocuSigned by:
Christina Barker 2/12/2024 | 11:38 AM MST
CITY ECONOMIST