

CITY OF ALBUQUERQUE
TWENTY SIXTH COUNCIL

COUNCIL BILL NO. O-25-72 ENACTMENT NO. O. 2025. 015

SPONSORED BY: Joaquín Baca, by request

1 ORDINANCE

2 AMENDING ROA 1994, SECTIONS 2-7-8-3, 2-7-8-7, 2-7-8-8, AND 2-7-8-9 OF THE
3 INDEPENDENT HEARING OFFICE TO CLARIFY THE PROCEDURE FOR
4 APPEALS.

5 **WHEREAS, the current City Ordinance governing the conduct of the**
6 **Independent Hearing Office includes typographical errors; and**

7 **WHEREAS, amending the ordinance will align with the Independent**
8 **Hearing Office's best practices; and**

9 **WHEREAS, the amendments to this Ordinance provide clarity to the public**
0 **regarding their rights and the obligations of the Independent Hearing Office in**
1 **response to requests for hearing and notices of appeals.**

2 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
3 ALBUQUERQUE:

4 SECTION 1. Section 2-7-8-3, of the IHO Ordinance is amended as follows:

5 § 2-7-8-3 CITY CLERK; POWERS AND DUTIES.

6 (A) The City Clerk shall:

- 7 (1) Adopt and promulgate rules pertaining to administrative hearings;
8 (2) Adopt and promulgate a hearing officer code of conduct;
9 (3) Oversee the Independent Hearing Office;

0 (4) Assign and distribute the work of the Independent Hearing Office
1 after considering the knowledge and experience of particular hearing officers,
2 efficiency in the hearing process and potential conflicts of interest; and

- 3 **(5) Reject appeals where the Independent Hearing Office or a board**
4 **staffed by the Independent Hearing Office lacks jurisdiction over the appeal or**
5 **hearings.**

1 (B) The City Clerk may:

2 (1) Promulgate rules setting fees for filing of appeals or requests for
3 hearings under City ordinances or as otherwise provided by law;

4 (2) Allow the parties to settle matters prior to a hearing on the merits;
5 and

6 (3) Work with City departments, boards, or other governmental entities
7 to conduct hearings on their behalf pursuant to their procedures as provided
8 for by a memorandum of understanding.

9 SECTION 2. Section 2-7-8-7, of the IHO Ordinance is amended as follows:

10 § 2-7-8-7 REQUEST FOR HEARING AND NOTICE OF SETTING.

11 (A) A party seeking a hearing or appeal in accordance with this Ordinance
12 shall file a request for a hearing or a notice of appeal with the City Clerk. The
13 party requesting the hearing or appeal shall provide the City Clerk with their
14 mailing address, telephone number, and, if available, an e-mail address.

15 (B) The request for hearing or notice of appeal shall be written and:

16 (i) identify the parties; identify the action being challenged; state the
17 remedy the person is seeking; and be signed under oath or affirmation
18 attesting to the truth of the information contained therein; and

19 (ii) the document citing the basis for the appeal shall be attached, such
20 as the citation.

21 (C) The request for hearing or notice of appeal shall be filed within 15 days
22 of receipt of the notice advising a person of their right to a hearing or appeal.

23 (D) A request for hearing or notice of appeal is not valid until received by
24 the City Clerk and any filing fee required by the Rules promulgated pursuant
25 to this Ordinance has been paid.

26 (E) Upon receipt of the request for hearing or notice of appeal, the City
27 Clerk shall designate a hearing officer and schedule the time and place for the
28 hearing. The City Clerk shall serve on the parties the notice of hearing and
29 underlying request for hearing or notice of appeal. Service of process of
30 notice shall be set by rules promulgated by the City Clerk.

31 SECTION 3. Section 2-7-8-8, of the IHO Ordinance is amended as follows:

32 § 2-7-8-8 DISQUALIFICATION.

1 (A) Excusal for cause. Hearing officers are required to disclose on the
2 record to the parties any matter that could be considered a conflict of interest
3 with the hearing officer's duty to render fair and impartial decisions. Once
4 such a disclosure has been made, a party to that proceeding may, but are not
5 obligated to, waive such a potential or apparent conflict. If the parties do not
6 waive the potential or apparent conflict, the hearing officer shall recuse
7 themselves unless the hearing officer rules that the conflict will not prevent a fair
8 hearing. If the hearing officer recuses themselves, the City Clerk shall select an
9 alternate hearing officer and deliver a notice of alternate assignment and
10 resetting to the parties in accordance with ROA 1994, § 2-7-8-7(E).

11 (B) Peremptory excusal. No hearing officer in any proceeding pursuant to
12 this ordinance may be peremptorily excused, except in the case of a personnel
13 hearing or as otherwise permitted by applicable law.

14 (i) Each party may peremptorily excuse one personnel hearing officer
15 within ten days after receiving notice of a personnel hearing by filing a
16 peremptory excusal with the IHO. The party requesting the excusal shall serve
17 notice of the peremptory excusal on all other parties. Upon receiving a
18 peremptory excusal, the IHO shall select an alternate hearing officer, deliver a
19 notice of alternate assignment, reset the personnel hearing, and serve notice
20 to all parties in accordance with ROA 1994, § 2-7-8-7(E). Except for non-
21 substantive communication regarding scheduling or procedure, a party shall
22 not excuse a hearing officer after the personnel hearing has begun or after the
23 personnel hearing officer has performed any discretionary act in the matter.

24 SECTION 4. Section 2-7-8-9, of the IHO Ordinance is amended as follows:
25 § 2-7-8-9 HEARING.

26 (A) Applicability of rules of civil procedure and rules of evidence. In the
27 absence of a specific provision of applicable law governing an action, the
28 hearing officer may look to the New Mexico Rules of Civil Procedure, NMRA 1-
29 001 et seq., and the New Mexico Rules of Evidence, NMRA 11-101 et seq., for
30 guidance. No provision of the rules of civil procedure shall be construed to
31 extend or otherwise modify the authority and jurisdiction of the IHO.

32 (B) Procedural rules. The City Clerk shall promulgate procedural rules for
33 hearings pursuant to this Ordinance.

1 (C) Final decision. The hearing officer shall issue a final written decision
2 within 30 days of the hearing, unless the City Clerk or hearing officer provides
3 additional notice of when a final written decision will be issued. Failure to
4 issue a written decision will not result in a default judgment to either party.

5 (D) Record proper. The record in an administrative hearing shall include, at
6 a minimum:

7 (1) The notices, pleadings, motions and intermediate rulings;

8 (2) The documentary evidence offered and admitted;

9 (3) A final written decision; and

10 (4) The recording or transcript of the hearing.

11 (E) Transcript. Administrative hearings shall be electronically recorded. A
12 party may arrange for a stenographic recording of the hearing at their own
13 expense.

14 (F) Appeals. An appeal may be taken from any final order issued by the
15 hearing officer by filing a petition for a writ of certiorari to the District Court of
16 the Second Judicial District within 30 days.

17 SECTION 5. SEVERABILITY CLAUSE. If any section, paragraph, word or
18 phrase of this Ordinance is for any reason held to be invalid, or unenforceable
19 by any court of competent jurisdiction, such decision shall not affect the
20 validity of the remaining provisions of this Ordinance. The Council 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 6. COMPILATION. SECTIONS 1, 2, 3, and 4 of this Ordinance shall
25 amend, be incorporated in, and compiled as part of the Revised Ordinances of
26 Albuquerque, New Mexico, 1994.

27 SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect five (5) days
28 after publication by title and general summary.

1 PASSED AND ADOPTED THIS 5th DAY OF May, 2025
2 BY A VOTE OF: 8 FOR 1 AGAINST.

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4 For: Baca, Bassan, Champine, Fiebelkorn, Grout, Lewis, Peña, Rogers
5 Against: Sanchez
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8 
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10 Brook Bassan, President
11 City Council
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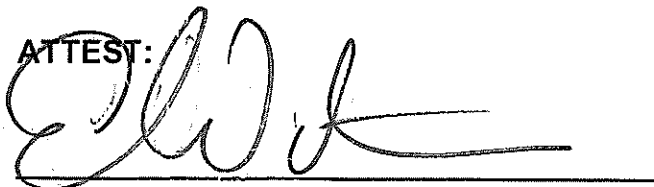
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14 APPROVED THIS 15 DAY OF May, 2025
15
16

17 Bill No. O-25-72

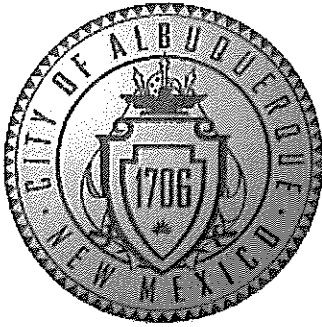
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19 
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21 Timothy M. Keller, Mayor
22 City of Albuquerque
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25
26 ATTEST:

27 
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29 Ethan Watson, City Clerk
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CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

February 2, 2025

TO: Brook Bassan, President, City Council

FROM: Timothy M. Keller, Mayor

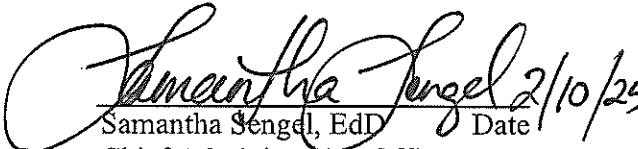


SUBJECT: Amending the Independent Hearing Office Ordinance

The Office of the City Clerk respectfully proposes updates to the IHO Ordinance, which would bring the ordinance into alignment with current practices, provide clarity to the public regarding their rights and obligations related to appeals filed with the IHO, and correct typographical errors in the ordinance.

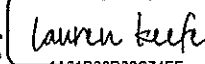
Approved:

Approved as to Legal Form:


Samantha Sengel, EdD
Chief Administrative Officer

Date

DocuSigned by:

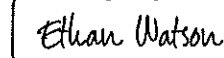

Lauren Keefe
City Attorney

2/10/2025 | 2:14 PM MST

Date

Recommended:

DocuSigned by:


Ethan Watson
City Clerk

2/10/2025 | 9:49 AM MST

Date

Cover Analysis

1. What is it?

Amendments to the Independent Hearing Office Ordinance

2. What will this piece of legislation do?

This legislation will align the ordinance with current office practices. It will clarify the requirements and obligations of the public when they request a hearing with the IHO. It will also correct typographical errors in the ordinance.

3. Why is this project needed?

To ensure the IHO is in alignment with the Ordinance and so the public have a clear understanding of their rights and responsibilities when they file appeals with the IHO.

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

There is no cost resulting from this legislation.

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?

Typographical errors will remain in the ordinance, as well as outdated practices.

7. Is this service already provided by another entity?

No.

FISCAL IMPACT ANALYSIS

TITLE: Amendments to Independent Hearing Office Ordinance

R: O:
FUND: 110

DEPT: City Clerk

- ☒ 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:

	2025	Fiscal Years 2026	2027	Total
Base Salary/Wages				-
Fringe Benefits at				-
Subtotal Personnel	-	-	-	-
Operating Expenses		-		-
Property		-	-	-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
<input 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

COMMENTS: No additional funding is needed.

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

PREPARED BY: Chris Peck

APPROVED:

DocuSigned by:
Rachel Rodarte 2/10/2025 | 9:48 AM MST
FISCAL ANALYST

DocuSigned by:
Ethan Watson 2/10/2025 | 9:49 AM MST
DIRECTOR

REVIEWED BY:

Signed by: Stephen Morales 2/10/2025 | 9:59 AM MST EXECUTIVE BUDGET ANALYST
DocuSigned by: Lauren Davis 2/10/2025 | 10:08 AM MST BUDGET OFFICER
Signed by: Olivia Burner 2/10/2025 | 10:11 AM MST CITY ECONOMIST