

# CITY of ALBUQUERQUE

## TWENTY FIFTH COUNCIL

COUNCIL BILL NO. O-22-2 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Dan Lewis

1                                                  **ORDINANCE**  
2            **UPDATING THE CIVIL EMERGENCY POWERS ORDINANCE RELATING TO**  
3                                                  **PUBLIC HEALTH ORDERS**

4            **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY**  
5 **OF ALBUQUERQUE:**

6            **SECTION 1.** The City’s code of ordinances addressing Civil Emergency  
7 **Powers is amended and the sections are revised as follows:**

8            **“§ 2-9-1-4 MAYORAL PROCLAMATION OF PUBLIC HEALTH EMERGENCY;**  
9 **EMERGENCY [ORDERS ADVISORIES AND RECOMMENDATIONS].**

10            Whenever the Mayor shall, after consultation with the Director of the City  
11 Office of Emergency Management, find that a public health emergency exists  
12 as defined herein ~~[and that invocation of the extraordinary powers conferred~~  
13 ~~herein is necessary to help preserve and maintain the health, safety, and~~  
14 ~~welfare of the general public]~~, he shall forthwith proclaim in writing the  
15 existence of such emergency. Upon such determination the Mayor ~~[is hereby~~  
16 ~~empowered to invoke any or all of the following provisions:~~

17            ~~—(A)— To close any and all streets, alleys and other public ways in the city~~  
18 ~~to the public whenever it is necessary for the preservation of life and public~~  
19 ~~health and safety.~~

20            ~~—(B)— Order retailers to limit the kinds and quantities of medical, health and~~  
21 ~~sanitation items that a business may sell per customer per day.~~

22            ~~—(C)— Order the closing of places of mass assembly, including but not~~  
23 ~~limited to theaters, clubs, or performances intended for a public audience, and~~  
24 ~~athletic venues.~~

25            ~~—(D)— Order the closing of places of institutional childcare or education~~  
26 ~~such as daycares, preschools, and private educational institutions.~~

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1 ~~—(E)— Order that places of private employment take reasonable measures~~  
2 ~~(as determined by each employer) to minimize any exposures to infectious~~  
3 ~~diseases or health risks to employees and customers by, for example, partial~~  
4 ~~or full closures, or authorizing non-essential employees to work from home or~~  
5 ~~take leave, or deploying social distancing protocols.~~

6 ~~—(F)— Cancel city sponsored events and gatherings, cancel or impose~~  
7 ~~limitations or special protocols for the provision of city services and the use~~  
8 ~~of city facilities, and authorize the redistribution or rededication of city~~  
9 ~~resources and budgetary appropriations, not to exceed \$1,000,000 unless~~  
10 ~~otherwise approved by the City Council, as necessary to help address or~~  
11 ~~combat the proclaimed emergency.~~

12 ~~—(G)— Enter any agreements authorizing the use of city owned property by~~  
13 ~~third parties, or agreements for the city's use of non-city owned property,~~  
14 ~~outside of the usual requirements for city real property transactions~~  
15 ~~prescribed by ROA 1994 § 5-2-1 et seq. as necessary to help address or~~  
16 ~~combat the proclaimed emergency.~~

17 ~~—(H)— Issue such other orders as are imminently necessary for the~~  
18 ~~protection of life and property throughout the duration of the emergency,~~  
19 ~~including any provisions above that have not been previously invoked.~~may  
20 issue such public health advisories or recommendations as deemed  
21 appropriate in consultation with City Office of Emergency Management, and  
22 subject to the oversight authority of the City Council as prescribed by Section  
23 2-9-1-6, below.]

24 **§ 2-9-1-5 PUBLICATION OF ORDERS[, ADVISORIES OR**  
25 **RECOMMENDATIONS].**

26 The Mayor shall immediately deliver a copy of the declaration and all  
27 orders[, advisories, or recommendations] issued pursuant to authority  
28 contained in § 2-9-1-3 or § 2-9-1-4 to the Albuquerque Police Department,  
29 Albuquerque Fire and Rescue, all major media outlets serving the city, and the  
30 City Councilors. The Mayor shall also post a copy of such orders[, advisories,  
31 or recommendations] to the city's website, distribute them through the city's  
32 primary social media accounts, and take such additional reasonable measures  
33 necessary to inform impacted persons and businesses of the emergency

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1 declaration and associated emergency orders[, advisories, or  
2 recommendations].

3 § 2-9-1-6 DURATION AND EXTENSION OF EMERGENCY PROCLAMATION[,  
4 ORDERS, ADVISORIES, OR RECOMMENDATIONS].

5 (A) Any emergency proclaimed in accordance with the provisions of §§  
6 2-9-1-1 et seq. shall take effect immediately, and terminate after 48 hours from  
7 the issuance thereof, or may terminate sooner upon the issuance of a  
8 proclamation by the Mayor determining an emergency no longer exists,  
9 whichever occurs first; provided, however, that any emergency proclamation  
10 may be sooner terminated by resolution of the City Council prior to the  
11 termination of 48 hours or may be extended by resolution of the Council as  
12 originally proclaimed or with amendments for any such additional periods of  
13 time as deemed necessary by the City Council up to a maximum of 90 days  
14 per proclamation.

15 (B) Any public health emergency proclaimed in accordance with the  
16 provisions of §§ 2-9-1-1 et seq. shall take effect immediately, and terminate  
17 upon the date set forth by the proclamation, not to exceed 30 days from the  
18 issuance thereof, or may terminate sooner upon the issuance of a  
19 proclamation by the Mayor determining an emergency no longer exists,  
20 whichever occurs first; provided, however, that any emergency proclamation[,  
21 order, advisories, or recommendations] may be sooner terminated or  
22 amended by resolution of the City Council prior to the termination of 30 days  
23 or may be extended by any resolution of the Council as originally proclaimed[,  
24 ordered, advised, or recommended] or with amendments for any such  
25 additional periods of time as deemed necessary by the City Council up to a  
26 maximum of 90 days per proclamation.”

27 SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause,  
28 word or phrase of this Ordinance is for any reason held to be invalid or  
29 unenforceable by any court of competent jurisdiction, such decision shall not  
30 affect the validity of the remaining provisions of this Ordinance. The Council  
31 hereby declares that it would have passed this Ordinance and each section,  
32 paragraph, sentence, clause, word or phrase thereof irrespective of any  
33 provision being declared unconstitutional or otherwise invalid.

1 SECTION 3. COMPILATION. Sections 1 of this Ordinance shall amend, be  
2 incorporated in and compiled as part of the Revised Ordinances of  
3 Albuquerque, New Mexico, 1994.

4 SECTION 4. EFFECTIVE DATE. This ordinance takes effect five days after  
5 publication by title and generally summary.

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