

1 more than thirty (30) consecutive days; stays pursuant to a written
2 agreement for at least thirty (30) consecutive days; stays by any
3 person to whom rent is charged at the rate of \$2.00 per day or less;
4 stays at institutions of the federal government, the state or any
5 political subdivisions thereof; stays at religious, charitable,
6 educational, or philanthropic institutions, including without limitation
7 stays at summer camps operated by such institutions; stays at
8 clinics, hospitals, or other medical facilities; stays at privately-
9 operated convalescent homes or homes for the aged, infirm,
10 indigent, or chronically ill; stays at any short term rental unit; and
11 stays pursuant to contracts executed prior to July 1, 2022.

12 3. The City will be responsible for collecting the business improvement
13 benefit fee on a monthly basis (including any delinquencies,
14 penalties, and interest) from each lodging business located within
15 the boundaries of the ATMD. The City shall make all reasonable
16 efforts to collect the business improvement benefit fee from each
17 lodging business.

18 4. Commencing from the last date of publication of this Ordinance, the
19 ATMD shall reimburse the City of Albuquerque for any costs
20 associated with collecting unpaid business improvement benefit
21 fees. If sums in excess of the delinquent ATMD business
22 improvement benefit fees are sought to be recovered in the same
23 collection action by the City, the ATMD shall bear its pro-rata share
24 of such collection costs. Assessed lodging businesses which are
25 delinquent in paying the business improvement benefit fee shall be
26 responsible for paying:

27 a. Original Delinquency: Lodging businesses shall make a return by
28 the 25th of each month on forms provided by the City for lodging
29 paid to the lodging business in the preceding calendar month and
30 shall remit therewith to the City payment of the business
31 improvement fee then. The report shall include sufficient
32 information to enable the City to audit the report. If the 25th day of
33 the month falls on a weekend or holiday, the return shall be due

- 1 on the next business day. If any lodging business makes a return
2 without paying the business improvement benefit fee then due,
3 the lodging business shall be liable for the business improvement
4 benefit fee and a penalty equal to ten percent (10%) thereof or
5 \$100, whichever is greater. After receiving such return, the City
6 shall give the delinquent lodging business written notice of the
7 business improvement benefit fee and penalty.
- 8 b. Neglect or Refusal to Make Return: If any lodging business
9 neglects or refuses to make a return and pay the business
10 improvement benefit fee, the Mayor shall make an estimate based
11 upon an examination of the lodging business' books and records
12 or upon any information in its possession, or that may come into
13 its possession, of the amount of gross room rental revenue of the
14 delinquent lodging business for the period in respect to which the
15 lodging business has failed to make a return, and upon the basis
16 of said estimated amount shall compute and assess the business
17 improvement benefit fee payable by the delinquent lodging
18 business, adding to this amount a penalty equal to ten percent
19 (10%) thereof or \$100, whichever is greater. Promptly thereafter,
20 the City shall give the delinquent lodging business written notice
21 of the estimated business improvement benefit fee and penalty.
- 22 c. Continued Delinquency: If payment is not made by the lodging
23 business within fifteen (15) days of the date of the notice that the
24 business improvement benefit fee is delinquent, the Mayor may
25 bring an action in law or equity in the district court for the
26 collection of any amounts due, including without limitation
27 penalties thereon, interest on the unpaid principal at a rate of not
28 exceeding one percent (1%) a month, the costs of collection and
29 reasonable attorneys' fees incurred in connection therewith.
- 30 d. Continuous Surety Bond: A Continuous Surety Bond naming the
31 City as the beneficiary in the amount of \$3,000 plus \$60 per room
32 or individual sleeping accommodation available for use by the
33 public shall be posted and filed with the City Clerk upon a lodging

1 business' failure to remit business improvement benefit fees for
2 two (2) consecutive months. If payment or posting Continuous
3 Surety Bond is not made by the lodging business within fifteen
4 (15) days of the date of notice that the business improvement
5 benefit fee is delinquent, the Mayor may bring an action in law or
6 equity in the district court for the collection of any amount due,
7 including without limitation penalties thereon, interest on the
8 unpaid principal at a rate not exceeding one percent (1%) a
9 month, the costs of collection and reasonable attorneys' fees
10 incurred in connection therewith. Continuous Surety Bond shall
11 remain in force three (3) years from the date of issuance per
12 arrear incident applicable. Continuous Surety Bond may be
13 augmented or applied to any succeeding arrear business
14 improvement benefit fee due the City of Albuquerque.

15 e. Lodging Business Disputes: A lodging business that disputes the
16 assessment of any business improvement benefit fee or related
17 penalties and interest may, within five (5) working days of the
18 date of the notice from the City that the business improvement
19 benefit fee is delinquent, appeal the Mayor's decision to the City
20 Hearing Officer as set forth in § 4-4-9 of the Municipal Code of the
21 City of Albuquerque.

22 5. The businesses to be assessed a business improvement benefit fee
23 for the ATMD are all lodging businesses, existing and in the future, available
24 for public occupancy within the boundaries of the commercial areas of the
25 City of Albuquerque, as shown on the map attached hereto and incorporated
26 by reference as "Exhibit C" of this Ordinance. "Lodging business" means: a
27 hotel, apartment, apartment hotel, apartment house, lodge, lodging house,
28 rooming house, motor hotel, guest house, bed and breakfast, guest ranch,
29 ranch resort, mobile home, motor court, auto court, trailer court, trailer camp,
30 tourist camp, cabin or other premises used for lodging.

31 6. The ATMD business improvement benefit fee shall be collected by
32 the City of Albuquerque monthly, in accordance with Section IV of the District
33 Plan. The City of Albuquerque shall retain a fee equal to one percent (1%) of

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1 the amount of business improvement benefit fees collected to cover its costs
2 of collection and administration.

3 7. ATMD business improvement benefit fee funds received by the City
4 of Albuquerque shall be held in a special account for the benefit of the ATMD
5 and shall only be used for the purposes set forth in this Ordinance and the
6 District Plan. The funds shall be distributed to the management committee on
7 a monthly basis by providing the funds received monthly to the management
8 committee within thirty (30) days of receipt, less the City of Albuquerque’s one
9 percent (1%) charge for its expense of assessing, collecting, and
10 administering the ATMD business improvement benefit fee. All investment and
11 expenditures shall be in accordance with the provisions of the ATMD District
12 Plan.

13 8. Pursuant to NMSA Section 3-63-11, the City Council has appointed
14 Visit Albuquerque, an existing nonprofit corporation operating within the
15 boundaries of the district, to serve as the management committee for the
16 ATMD. Visit Albuquerque shall be responsible for the operation of the ATMD
17 and the administration and implementation of the District Plan.

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

25 SECTION 3. COMPILATION. Section 1 of this ordinance shall be
26 incorporated in and made part of the Revised Ordinances of Albuquerque,
27 New Mexico, 1994 as a new Article to be added to Chapter 14, and titled
28 “Ratifying the Levy of the Business Improvement Benefit Fee for the
29 Albuquerque Tourism Marketing District.”

30 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days
31 after publication by title and general summary.

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