



# City of Albuquerque

## Office of the City Clerk

Timothy M. Keller, Mayor

Ethan Watson, City Clerk

### Interoffice Memorandum

June 17, 2022

To: CITY COUNCIL

From: Camille Cordova, Assistant City Clerk *cc*

Subject: BILL NO. O-22-21; ENACTMENT NO. O-2022-021

I hereby certify that on June 17, 2022, the Office of the City Clerk received Bill No. O-22-21 as signed by the president of the City Council, Isaac Benton. Enactment No. O-2022-021 was passed at the May 16, 2022 City Council meeting. Mayor Keller did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect beginning June 24, 2022 without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. O-22-21.

Sincerely,

Ethan Watson  
City Clerk

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**CITY OF ALBUQUERQUE  
CITY COUNCIL**

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**INTEROFFICE MEMORANDUM**

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

**FROM:** Chris Melendrez, Director of Council Services  5/23/22

**SUBJECT:** Transmittal of Legislation

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Transmitted herewith is Bill No. O-22-21 Ratifying The Levy Of A Business Improvement Benefit Fee Upon Lodging Businesses Within The Albuquerque Tourism Marketing District (Benton, Bassan), which was passed at the Council meeting of May 16, 2022, by a vote of 9 FOR AND 0 AGAINST.

In accordance with the provisions of the City Charter, your action is respectfully requested.



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1 improvement benefit fees will not be collected on: stays of more than thirty  
2 (30) consecutive days; stays pursuant to a written agreement for at least thirty  
3 (30) consecutive days; stays by any person to whom rent is charged at the  
4 rate of \$2.00 per day or less; stays at institutions of the federal government,  
5 the state or any political subdivisions thereof; stays at religious, charitable,  
6 educational, or philanthropic institutions, including without limitation stays at  
7 summer camps operated by such institutions; stays at clinics, hospitals, or  
8 other medical facilities; stays at privately-operated convalescent homes or  
9 homes for the aged, infirm, indigent, or chronically ill; stays at any short term  
10 rental unit; and stays pursuant to contracts executed prior to July 1, 2022.

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

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

24 a. Original Delinquency: Lodging businesses shall make a return  
25 by the 25<sup>th</sup> of each month on forms provided by the City for lodging paid to the  
26 lodging business in the preceding calendar month and shall remit therewith to  
27 the City payment of the business improvement fee then. The report shall  
28 include sufficient information to enable the City to audit the report. If the 25<sup>th</sup>  
29 day of the month falls on a weekend or holiday, the return shall be due on the  
30 next business day. If any lodging business makes a return without paying the  
31 business improvement benefit fee then due, the lodging business shall be  
32 liable for the business improvement benefit fee and a penalty equal to ten  
33 percent (10%) thereof or \$100, whichever is greater. After receiving such

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1 return, the City shall give the delinquent lodging business written notice of the  
2 business improvement benefit fee and penalty.

3 b. Neglect or Refusal to Make Return: If any lodging business  
4 neglects or refuses to make a return and pay the business improvement  
5 benefit fee, the Mayor shall make an estimate based upon an examination of  
6 the lodging business' books and records or upon any information in its  
7 possession, or that may come into its possession, of the amount of gross  
8 room rental revenue of the delinquent lodging business for the period in  
9 respect to which the lodging business has failed to make a return, and upon  
10 the basis of said estimated amount shall compute and assess the business  
11 improvement benefit fee payable by the delinquent lodging business, adding  
12 to this amount a penalty equal to ten percent (10%) thereof or \$100, whichever  
13 is greater. Promptly thereafter, the City shall give the delinquent lodging  
14 business written notice of the estimated business improvement benefit fee  
15 and penalty.

16 c. Continued Delinquency: If payment is not made by the lodging  
17 business within fifteen (15) days of the date of the notice that the business  
18 improvement benefit fee is delinquent, the Mayor may bring an action in law or  
19 equity in the district court for the collection of any amounts due, including  
20 without limitation penalties thereon, interest on the unpaid principal at a rate  
21 of not exceeding one percent (1%) a month, the costs of collection and  
22 reasonable attorneys' fees incurred in connection therewith.

23 d. Continuous Surety Bond: A Continuous Surety Bond naming  
24 the City as the beneficiary in the amount of \$3,000 plus \$60 per room or  
25 individual sleeping accommodation available for use by the public shall be  
26 posted and filed with the City Clerk upon a lodging business' failure to remit  
27 business improvement benefit fees for two (2) consecutive months. If payment  
28 or posting Continuous Surety Bond is not made by the lodging business  
29 within fifteen (15) days of the date of notice that the business improvement  
30 benefit fee is delinquent, the Mayor may bring an action in law or equity in the  
31 district court for the collection of any amount due, including without limitation  
32 penalties thereon, interest on the unpaid principal at a rate not exceeding one  
33 percent (1%) a month, the costs of collection and reasonable attorneys' fees

1 incurred in connection therewith. Continuous Surety Bond shall remain in  
2 force three (3) years from the date of issuance per arrear incident applicable.  
3 Continuous Surety Bond may be augmented or applied to any succeeding  
4 arrear business improvement benefit fee due the City of Albuquerque.

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

11 5. The businesses to be assessed a business improvement benefit fee  
12 for the ATMD are all lodging businesses, existing and in the future, available  
13 for public occupancy within the boundaries of the commercial areas of the  
14 City of Albuquerque, as shown on the map attached hereto and incorporated  
15 by reference as "Exhibit B" of this Ordinance. "Lodging business" means: a  
16 hotel, apartment, apartment hotel, apartment house, lodge, lodging house,  
17 rooming house, motor hotel, guest house, bed and breakfast, guest ranch,  
18 ranch resort, mobile home, motor court, auto court, trailer court, trailer camp,  
19 tourist camp, cabin or other premises used for lodging.

20 6. The ATMD business improvement benefit fee shall be collected by  
21 the City of Albuquerque monthly, in accordance with Section IV of the District  
22 Plan. The City of Albuquerque shall retain a fee equal to one percent (1%) of  
23 the amount of business improvement benefit fees collected to cover its costs  
24 of collection and administration.

25 7. ATMD business improvement benefit fee funds received by the City  
26 of Albuquerque shall be held in a special account for the benefit of the ATMD  
27 and shall only be used for the purposes set forth in this Ordinance and the  
28 District Plan. The funds shall be distributed to the management committee on  
29 a monthly basis by providing the funds received monthly to the management  
30 committee within thirty (30) days of receipt, less the City of Albuquerque's one  
31 percent (1%) charge for its expense of assessing, collecting, and  
32 administering the ATMD business improvement benefit fee. All investment and

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1 expenditures shall be in accordance with the provisions of the ATMD District  
2 Plan.

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

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

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

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

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1 PASSED AND ADOPTED THIS 16<sup>th</sup> DAY OF May, 2022  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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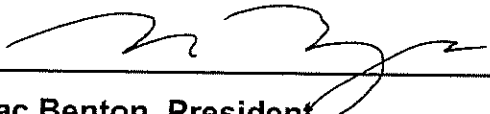
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Isaac Benton, President  
City Council

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APPROVED THIS 31 DAY OF May, 2022

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Bill No. O-22-21

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Timothy M. Keller, Mayor  
City of Albuquerque

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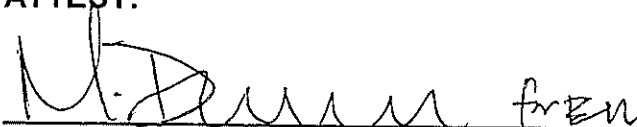
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ATTEST:

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Ethan Watson, City Clerk

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