

CITY of ALBUQUERQUE

TWENTY-FIFTH COUNCIL

COUNCIL BILL NO. O-22-43 ENACTMENT NO. _____

SPONSORED BY: Louie Sanchez and Trudy Jones

ORDINANCE

Adopting A New Article In Chapter 9 Of The Revised Ordinances Of Albuquerque 1994, "Health, Safety And Sanitation," To Be Known As The "Safe Outdoor Space Operator's Permit,"
Establishing A Permit And Permitting Fee (Sanchez, Jones)

ADOPTING A NEW ARTICLE IN CHAPTER 9 OF THE REVISED ORDINANCES OF ALBUQUERQUE 1994, "HEALTH, SAFETY AND SANITATION," TO BE KNOWN AS THE "SAFE OUTDOOR SPACE OPERATOR'S PERMIT," ESTABLISHING A PERMIT AND PERMITTING FEE.

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

SECTION 1. A new Article 24 in Chapter 9 of the Revised Ordinances of Albuquerque 1994 is hereby adopted as follows:

“§ 9-24-1 SHORT TITLE.

This Article, ROA 1994, §§ 9-24-1, et seq., shall be known and cited as the "Safe Outdoor Space Operator's Permit Ordinance."

§ 9-24-2 APPLICABILITY.

This Article applies to the permitting and operation of Safe Outdoor Spaces as defined by subsection 9-24-4, Definitions.

§ 9-24-3 INTENT AND PURPOSES.

This Article, ROA 1994, §§ 9-24-1, et seq., establishes minimum operational standards and a system of operational permitting for Safe Outdoor Spaces (SOS) in order to promote sanitation and the health, safety, and general welfare of Safe Outdoor Space occupants and the broader community.

§ 9-24-4 DEFINITIONS.

SAFE OUTDOOR SPACE ("SOS"): Per the Integrated Development Ordinance, a Safe

Outdoor Space is a lot, or a portion of a lot, developed to provide designated spaces for occupancy by tents, recreational vehicles, and/or light vehicles. Designated spaces are provided to occupants at no charge. A safe outdoor space offers social services and support facilities.

SAFE OUTDOOR SPACE OPERATOR (an “Operator”): The owner or party otherwise responsible for a Safe Outdoor Space operation.

§ 9-24-5 SAFE OUTDOOR SPACE OPERATOR’S PERMITS.

A. Permit Required. No person shall operate any safe outdoor space without first obtaining, and maintaining, a safe outdoor space operator’s permit pursuant to this section. In addition to any other necessary information, a prospective operator shall submit the following for each SOS operator’s permit application:

1. A statement describing the operator’s experience working with people experiencing homelessness and/or managing organizations that work with people experiencing homelessness;
2. The physical address of the safe outdoor space;
3. The name, phone number, email, and address of the operator or its agent(s) who will be available twenty-four hours per day, seven days a week to respond to complaints regarding the operation or occupancy of the safe outdoor space;
4. Written consent to complete a background check on the primary Operator. Persons with criminal records will be denied a safe outdoor space operators permit only to the extent authorized by the New Mexico Criminal Offender Employment Act, NMSA 1978 § 28-2-1 et. seq.;
5. An operations plan that, at a minimum, addresses the following:
 - a. The type and frequency of on-site resources and services to support the occupants of the safe outdoor space, including food services and/or resources as well as mental and physical health services;
 - b. The process for checking in and registering tenants;
 - c. Site security and tenant safety;
 - d. Fire safety and fire evacuation;
 - e. Whether the site will be accessible to the general public, other than its tenants, and under what circumstances and during what hours;
 - f. A code of conduct for the occupants and tenants that, at a minimum address violent behavior, weapons, drugs and alcohol, and whether progressive warnings will be utilized before removal;
 - g. A property maintenance plan describing how the site will be maintained,

including a plan to keep the site clean and free of weeds, debris, or other waste;

- h. A pet policy that, to the extent pets are allowed, includes provisions to help ensure humane and sanitary conditions for pets;
- i. A policy to assist any person staying at a Safe Outdoor Space to obtain a government-issued identification card;
- j. A wastewater and sanitation plan;
- k. A decommissioning plan describing the process and timeline for termination of the use and closure of the site and describing how the site will be returned to the previous condition or better;
- l. Evidence of ownership or evidence of consent by the owner for the proposed use of the property;
- m. A list of the data that will be collected and reported on the site that includes, but is not limited to:

- 1. The number of individuals who receive a risk assessment using the Vulnerability Index-Service Prioritization Decision Assistance Tool (VI SPDAT).**
- 2. The number of tenants who are served per quarter.**
- 3. The number of tenants who are exited from the program, including the reason for the departure.**
- 4. The number of tenants who are employed, and whether employment is full-time or part-time.**

B. Permit Duration; Inspection. A safe outdoor space operator's permit is valid for 12 consecutive months unless sooner terminated by the operator, or canceled by the City. The materials required pursuant to subparagraph 'A' must be resubmitted at the time of each requested renewal.

C. Permit Fee. The City shall collect a safe outdoor space operator's permit fee of \$100.00 for each initial permit, and \$50.00 for the renewals thereafter. Revenue generated will be used only to administer, manage, and enforce this section. Safe outdoor space operator's permit are non-transferable, and remain valid only so long as the person(s) or entities listed on the operator's permit continue to manage and oversee the safe outdoor space.

§ 9-24-6 SAFE OUTDOOR SPACE OPERATING REQUIREMENTS.

- A. Each operator shall engage in a Good Neighbor Program with neighbors within**

100 feet of the property.

B. Each operator shall maintain an up-to-date registry of the current and past tenants of the safe outdoor space, together with an approved visitor registry identifying each non-tenant who accesses the site.

C. Each operator shall inspect the right-of-way and public spaces adjacent to or surrounding the safe outdoor space daily for the unlawful use or occupancy by non-tenants of the safe outdoor space, and shall immediately report any such instances to the City using the 311 Citizens Contact Center.

D. Each operator shall contract with an appropriate non-profit organization to provide street outreach in areas adjacent to the SOS.

E. During the first 6-months of operation, each operator shall offer to meet with the property owners within 660 feet of the safe outdoor space at least once per month to review operations and progress of the site, and to address questions, concerns, and ideas from the public. Following the first 6-months of operation, each operator shall offer these meetings on at least a quarterly basis.

F. Each operator must establish quiet hours for residents between the hours of 10:00 pm and 7:00 am.

G. Safe Outdoor Space Operators shall not permit persons with a felony assault/battery conviction to stay in a Safe Outdoor Space. Any background checks conducted by the Operator shall be done at no expense to the potential resident. Potential residents shall be permitted to reside at the Safe Outdoor Space while a background investigation is pending.

§ 9-24-7 ENFORCEMENT AND PENALTIES.

The City shall give warning to any operator who is determined to be non-compliant with any section of this ordinance, or with the policies submitted with its safe outdoor space operator's permit application. If the operator does not come into compliance after two warnings, the City shall revoke the operator's permit. Upon revocation, the operator shall immediately commence with its decommissioning plan, and complete its decommissioning within 60 days of the revocation."

SECTION 2. COMPLIANCE BY EXISTING SAFE OUTDOOR SPACE OPERATORS. Each Operator of any safe outdoor space already in existence upon the effective date of this ordinance must come into compliance within thirty days of the Effective Date.

SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 4. COMPILATION. SECTION 1 of this Ordinance shall amend, be incorporated in, and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994 as a new Article 24 to be added to Chapter 9, and titled “Safe Outdoor Space Operators Permit Ordinance.”

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect sixty days after publication by title and general summary.

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