



Legislation Text

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CITY of ALBUQUERQUE
TWENTY SIXTH COUNCIL

COUNCIL BILL NO. O-24-60 ENACTMENT NO. _____

SPONSORED BY: Brook Bassan, by request

ORDINANCE

Repealing And Replacing The Business Registration Ordinance To Allow For Business Licensing
(Bassan, by request)

WHEREAS, the Business Registration Ordinance requires all businesses in City Limits to register with the City of Albuquerque and pay an annual fee \$35 as authorized by NMSA 1978 SECTION 3-38-3, but such a fee is insufficient to cover the administrative costs of the Business Registration Ordinance; and

WHEREAS, the Business Registration Ordinance provided an ineffective and inadequate method for regulating improper or noncompliant business activity due to a statutory limit of penalties for non-registration to a \$10 late fee with no additional methods for ensuring compliance to protect the health, safety, and welfare of the public or to ensure a level playing field for compliant businesses to compete with illegal operators; and

WHEREAS, the Business License Ordinance streamlines the application process for businesses in the City of Albuquerque; and

WHEREAS, the Business License Ordinance provides for effective and adequate measures to encourage businesses to obtain a license including civil fines for noncompliance; and

WHEREAS, the Business License Ordinance will allow the City of Albuquerque to regulate businesses within its jurisdiction and such regulation is conducive to the promotion of the health and general welfare of the community.

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

SECTION 1. The "Business Registration Ordinance," ROA 1994, Chapter 13, Article 1, Sections 1-10 and Section 99 are repealed in their entirety and the following is enacted in its place:

["ARTICLE 1: BUSINESS LICENSE ORDINANCE

§ 13-1-1 SHORT TITLE.

This article may be cited as the "Business License Ordinance."

§ 13-1-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

INITIAL LICENSE DURATION ADJUSTMENT PERIOD. A 12-month period of time during which the City of Albuquerque may prorate the business license fee by monthly increments for the purpose of developing a staggered system of business licensing.

MAYOR. The Mayor or his designated representative.

PERSON. Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity engaging in a business, profession, occupation, trade, pursuit, or activity within the City of Albuquerque. For the purposes of this ordinance, the term person does not include governmental entities.

PLACE OF BUSINESS. The premises, whether it be a personal residence, main business location, or an outlet, branch, or other location thereof, temporary or otherwise, to which the public is expressly or impliedly invited for the purpose of transacting business. In the event there is no such location, but the business is transacted at the location of the buyer, then the general sales area shall be considered a "Place of Business". Unless a construction contractor has at least one permanent location within the City of Albuquerque, "Place of Business" includes each construction site located within the City of Albuquerque.

§ 13-1-3 BUSINESS LICENSE REQUIRED

(A) Beginning on July 1, 2025, all persons are required to obtain a Business License in order to operate a Place of Business within the City's municipal boundaries.

(B) A separate license must be obtained for each branch establishment or separate Place of Business. Each license granted under this article shall authorize only the person obtaining the license to practice, transact, or carry on the business or service licensed under this article and shall authorize that person to conduct business only at the location or Place of Business designated in the license.

§ 13-1-4 BUSINESS LICENSE FEE.

(A) Each Place of Business located in the City shall pay an annual Business License Fee imposed on the following schedule pursuant to Section 3-38-1 NMSA 1978 as it now exists or is amended:

(1) Fees beginning on July 1, 2025 shall be \$50 per license;

(2) Fees beginning on July 1, 2026 shall be \$75 per license;

(3) Fees beginning on July 1, 2027 shall be \$100 per license;

(4) Fees beginning on July 1, 2028 and every year after may be increased by an amount of 5% greater than the previous fiscal year. This fee shall be conspicuously located on the Planning Department's website.

(B) The City may prorate the business license fee by monthly increments during the initial license duration adjustment period.

(C) After the initial license duration adjustment period, renewals of Business Licenses shall be for a full 12-month period. Other than during the initial license duration adjustment period, the Business License Fee shall not be prorated for business conducted for a portion of the year.

(D) The Business License Fee can be increased by the administration to cover increased regulatory costs for administering the Business License program in an amount that does not exceed 5% within any fiscal year.

§ 13-1-5 EXEMPTION.

No Business License shall be required for any business explicitly exempted by law. No Business License Fee shall be imposed on any sanctioned and registered athletic official who officiates for any association or organization that regulates any public-school activity and whose rules and regulations are approved by the State Board of Education.

§ 13-1-6 BUSINESS LICENSE APPLICATION.

(A) The All persons proposing to engage in business within the municipal limits of the City shall apply for a Business License for each proposed Place of Business.

(B) The City may charge an application fee for all person applying for a Business License.

(C) Any person applying for a Business License shall include in the application a current Taxpayer Identification Number and current dated evidence of the registration certificate for such current Taxpayer Identification Number as issued by the New Mexico Taxation and Revenue Department and any other information required by the City.

(D) Applicants have an affirmative duty to ensure that their application is complete and that they may engage in business at the proposed Place of Business, including

ensuring compliance with relevant zoning codes.

§ 13-1-7 PLACE OF BUSINESS; LICENSE NONTRANSFERABLE.

(A) A licensee shall conduct business only at the address shown on the Business License.

Each additional Place of Business shall require a separate Business License.

(B) All licenses issued under this article shall be nontransferable to another person or Place of Business.

(C) No licensee shall in any manner advertise its services as endorsed or bonded by the City.

§ 13-1-8 BUSINESS LICENSES TO BE DISPLAYED; EXHIBITION UPON DEMAND.

Every person having a license under the provisions of this article and engaging in business at a fixed Place of Business shall keep such license posted and exhibited, while in force, in some conspicuous part of such Place of Business. Every person having such a license and not having a fixed Place of Business shall carry such license with them at all times while engaging in business for which the license was granted. Every person having a license under the provisions of this article shall produce and exhibit such license when applying for a renewal thereof, and whenever requested to do so by any City official authorized to issue, inspect, or collect licenses.

§ 13-1-9 BUSINESS LICENSE RENEWAL.

Within 10 days prior to the expiration of the Business License, any person operating a Place of Business in the City shall apply to renew the Business License and shall pay an annual Business License.

§ 13-1-10 BUSINESS LICENSE LATE FEE.

The City may impose a late fee in the amount of \$10.00 per calendar day upon each delinquent license fee in the event a new business does not pay the license fee before it commences business or in the event the annual renewal fee is not paid prior to expiration.

§ 13-1-11 FEES NONREFUNDABLE.

All established fees charged and collected by the City pursuant to this article shall be nonrefundable unless otherwise specified.

§ 13-1-12 ZONING REVIEW.

(A) After any person has submitted a business license application or application for renewal, the Zoning Enforcement Officer shall review the applicable zoning regulations of the activity proposed to be conducted at the given address and determine whether the activity complies with the requirements of the Integrated Development Ordinance. The Zoning Enforcement Officer may

request additional information or documentation as necessary to make a determination. The Zoning Enforcement Officer shall issue a written determination, which shall be provided to the applicant.

(B) The Zoning Enforcement Officer's determination does not constitute a waiver of any requirement or provision contained in any law.

§ 13-1-13 NOTICE OF TERMINATION OF BUSINESS REQUIRED.

The holder of a Business License shall notify the City, in writing, of the termination of business, occupational, or professional activity at the Place of Business either before the termination date or within fifteen (15) calendar days thereafter. Any person who fails to provide notice of termination of business shall be deemed as engaging in business and subject to enforcement for failing to renew the business license and any associated late fees.

§ 13-1-14 REVOCATION.

(A) Any Business License issued under this article may be revoked at any time by action of the Mayor if the business or service conducted under such license is being or has been conducted in violation of any local, state, or federal regulation or law. Revocation of the Business License shall be for a period of up to 180 days from the date of revocation.

(B) If the 180-day revocation period is ongoing when a Business License expires, the remainder of the 180-day revocation period shall be applied to the following year's Business License for that Place of Business.

§ 13-1-15 ENFORCEMENT AND PENALTY.

(A) It shall be unlawful for any person to engage in business in the City of Albuquerque without first obtaining a business license. Any violation of the Business License Ordinance shall constitute a separate violation for each and every day or portion thereof that the violation is continued, committed or permitted.

(B) The Mayor may, for any violation of this article, take one or more of the following actions:

(1) Revoke the Business License;

(2) Prevent the person from engaging in business at the Place of Business until the Business License is obtained;

(3) Withhold the issuance of any City permits or inspections until a valid Business License is obtained;

(4) Prevent the occupancy of the building, structure, or land on which the business is

located; or

(5) Assess a civil fine.

(C) In addition to the remedies provided above, this article may be enforced by the City by suit in district court.

§ 13-1-16. CIVIL FINE.

(A) The Mayor may impose a civil fine of \$100 per day for the failure to comply with the Business License Ordinance.

(B) General. Whenever the Mayor imposes a civil fine for violations of the Business License Ordinance, the Mayor shall issue a notice of civil fine directed to the person engaging in business. The notice of civil fine shall contain:

(1) Sufficient information for identification of the Place of Business where the violation occurred.

(2) A statement that the Mayor has found the person to be in violation of the Business License Ordinance.

(3) A description of the activity conducted by the person engaging in business without a business license as required by the Business License Ordinance.

(4) The amount of the fine assessed.

(5) A statement that the fine must be paid in full within 15 days of the date of the notice.

(6) Instructions for paying the fine; and

(7) A statement advising that the person engaging in business without a license may appeal from the notice of civil fine. The request for appeal and the hearing shall comply with the procedures outlined in the IHO Ordinance.

(C) Method of service.

(1) Service of the notice of civil fine shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice of civil fine by certified mail, postage prepaid, return receipt requested, to each such person, or identified agent at their address as shown on the records of the Bernalillo County Assessor or as known to the Mayor. If no address of any such person so appears or is known to the Mayor, then a copy of the notice of civil fine shall be so mailed, addressed to such person, at the address of the Place of Business involved in the proceedings and posted thereon.

(2) The failure of any such person to receive such notice shall not affect the validity

of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

§ 13-1-17. APPEALS.

(A) The person engaged in business may appeal a civil fine or revocation issued pursuant to this article. The request for appeal and the hearing shall comply with the procedures outlined in the Independent Office of Hearings Ordinance, ROA 1994, §§ 2-7-8-1 to 2-7-8-9.

(B) If the Mayor has revoked a Business License issued under this article due to the business or service being or having been conducted in violation of any local, state, or federal regulation or law and the Hearing Officer determines that such a violation of law is or has occurred, the Hearing Officer shall uphold the Mayor's decision to revoke the Business License and order the business or service to be closed for the 180-day revocation period.

§ 13-1-18. LIENS.

Failure to pay, appeal, or prevail at an administrative hearing will allow the City to place a lien on the real property where the business is located or any other asset owned by the property owner or business owner. In addition, the Business License Fee or civil fines may be collected through any avenue provided by law.”]

SECTION 2. SEVERABILITY. 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 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 3. COMPILATION. Section ‘1’ of this Ordinance amends, is incorporated in, and is to be compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect January 1, 2025.