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1 WHEREAS, the combination of lower earnings and higher costs of housing  
2 and living in Albuquerque means that many Albuquerque workers do not earn  
3 sufficient wages to support themselves and their families; and

4 WHEREAS, as a result of lower wages and higher housing costs, low-  
5 income workers in Albuquerque must spend a disproportionate percentage of  
6 their income sheltering themselves and their families; for example, FMR for a  
7 two-bedroom housing unit exceeds 30% of the combined gross income of two  
8 full-time minimum wage workers at the prevailing state minimum wage of  
9 \$12/hour; and

10 WHEREAS, the Albuquerque Region Housing Needs Assessment (Root  
11 Policy Research, 2024) found that over half (52%) of all renters in Albuquerque  
12 are cost burdened because they pay more than 30% of their income on  
13 housing, and significant subsidies are needed to make housing affordable; and

14 WHEREAS, low wages coupled with high housing costs reduce the ability  
15 of low- and moderate-income residents to access affordable housing, and as a  
16 result, the City has had to invest significant tax dollars to support affordable  
17 housing and rental assistance; and

18 WHEREAS, the community bears additional costs of low wages in the form  
19 of increased demand for taxpayer-funded social services including homeless  
20 shelters, meal programs, summer and after-school programs, and healthcare  
21 for the uninsured; and

22 WHEREAS, according to the United States Census Bureau, as of 2024,  
23 14.7% of Albuquerque residents live below the poverty level; and

24 WHEREAS, the public welfare, health, safety, and prosperity of  
25 Albuquerque require wages and benefits sufficient to ensure a decent and  
26 healthy life for workers and their families.

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

30 SECTION 1. The Albuquerque Minimum Wage Ordinance, ROA 1994  
31 Chapter 13, Article 12, is amended as follows:

32 § 13-12-1 SHORT TITLE.

33 This article may be cited as "The Albuquerque Minimum Wage Ordinance."

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1 § 13-12-2 DEFINITIONS.

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

4 CITY. The City of Albuquerque.

5 EMPLOYEE. Any person who performs work for an employer for monetary  
6 compensation for at least two hours in a given week within the municipal  
7 limits of the city. EMPLOYEE shall include persons who perform work for an  
8 employer on a full-time, part-time, seasonal, or temporary basis. EMPLOYEE  
9 shall not include any person who is excluded from the definition of employee  
10 under NMSA §§ 50-4-21(c)(3)-(5), (7) of the New Mexico Minimum Wage Act,  
11 except that persons employed by the City of Albuquerque are employees.  
12 EMPLOYEE shall not include interns working for an employer for academic  
13 credit in connection with a course of study at an accredited school, college or  
14 university or employees working for an accredited school, college or  
15 university pursuant to a work-study program while attending that school,  
16 college or university. EMPLOYEE shall not include any person who has  
17 received a certificate from the state labor commissioner pursuant to § 50-4-23  
18 NMSA 1978 or § 50-4-21(c)(12) NMSA 1978.

19 EMPLOYER. Any person, partnership, association, corporation, business  
20 trust, legal representative, or any other entity, or group of persons or entities,  
21 including corporate officers or executives, who is required to have a business  
22 license or business registration from the City of Albuquerque and who directly  
23 or indirectly or through an agent or any other person including, but not limited  
24 to, through a subsidiary or through the services of a temporary services  
25 agency, a staffing agency, a building services contractor, or any similar entity,  
26 employs or exercises control over the wages, hours or working conditions of  
27 any employee. EMPLOYER shall include the City of Albuquerque.

28 [ALBUQUERQUE] MINIMUM WAGE, [ALBUQUERQUE] MINIMUM WAGE  
29 RATE. The minimum hourly rates of monetary compensation for work as  
30 specified in this article [or the State of New Mexico Minimum Wage Rate,  
31 whichever is greater].

32 TIP. A sum presented by a customer as a gift or gratuity in recognition of  
33 some service performed for the customer. TIP shall include only tips actually

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1 received by an employee as money belonging to him or her. Where employees  
2 practice tip pooling or splitting, as where wait staff give a portion of their tips  
3 to bus persons, both the actual amounts retained by the waiters or waitresses  
4 and those given the bus persons shall be considered TIPS of the individual  
5 employee who retains them. A compulsory charge for service imposed on a  
6 customer by an employer's establishment shall not be considered a TIP unless  
7 it is distributed by the employer to its employees.

8 **TIPPED EMPLOYEE.** Any employee engaged in an occupation in which he or  
9 she customarily and regularly receives tips from customers.

10 **TIPPED MINIMUM WAGE.** The minimum cash wage that a tipped employee  
11 must receive from his or her employer, as provided under § 13-12-3(A).

12 **§ 13-12-3 MINIMUM WAGE.**

13 (A) Minimum wage payment required. Except as provided herein, employers  
14 shall pay all employees no less than the [Albuquerque] minimum wage for  
15 each hour worked within the municipal limits of the city. Tips or commissions  
16 received and retained by a tipped employee may be counted as wages and  
17 credited towards partial satisfaction of the [Albuquerque] minimum wage.

18 Provided, however, that the cash wage paid to a tipped employee by his or her  
19 employer shall be no less than the tipped minimum wage, which, beginning  
20 ~~[January 1, 2013, shall be 45% of the minimum wage, and beginning January 1,~~  
21 2014] [January 1, 2027] and each year thereafter, shall be 60% of the  
22 [Albuquerque] minimum wage. An employer may credit tips as part of the  
23 wages of a tipped employee only if the employer informs the tipped employee  
24 in advance in writing, pays the tipped employee a cash wage equal to or  
25 greater than the tipped minimum wage, and is able to establish by the tipped  
26 employee's declaration for Federal Insurance Contributions Act (FICA)  
27 purposes or by its records of charged tips that the total of the tips received by  
28 the tipped employee and the cash wages paid by the employer is equal to or  
29 greater than the [Albuquerque] minimum wage. The tips received by a tipped  
30 employee become the property of the tipped employee and may not be shared  
31 with the employer. This subsection shall not be construed to prohibit the  
32 pooling of tips among employees who customarily and regularly receive tips.

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1 (B) Minimum wage rate. ~~[Beginning January 1, 2007, the minimum wage for~~  
2 ~~employees shall be an hourly rate of \$6.75. Beginning January 1, 2008, the~~  
3 ~~minimum wage for employees shall be an hourly rate of \$7.15. Beginning~~  
4 ~~January 1, 2009, the minimum wage for employees shall be an hourly rate of~~  
5 ~~\$7.50. Beginning January 1, 2013, the minimum wage for employees shall be~~  
6 ~~an hourly rate of \$8.50.]~~ [Beginning January 1, 2027, the Albuquerque  
7 minimum wage for employees shall be an hourly rate of \$15.00.] For  
8 employers who provide healthcare and/or childcare benefits to an employee  
9 during any pay period for which the employer pays an amount for those  
10 healthcare benefits equal to or in excess of an annualized cost of \$2,500.00,  
11 beginning ~~[January 1, 2007, the minimum wage for that employee shall be an~~  
12 ~~hourly rate of \$5.75, in addition to the healthcare benefits and/or childcare~~  
13 ~~benefits, beginning January 1, 2008, the minimum wage for that employee~~  
14 ~~shall be an hourly rate of \$6.15, in addition to the healthcare and/or childcare~~  
15 ~~benefits, beginning January 1, 2009, the minimum wage for that employee~~  
16 ~~shall be an hourly rate of \$6.50, in addition to the healthcare and/or childcare~~  
17 ~~benefits, and beginning January 1, 2013]~~ [January 1, 2027] and each year  
18 thereafter, the minimum wage for that employee shall be an hourly rate of  
19 \$1.00 less than the current [Albuquerque] minimum wage otherwise applicable  
20 to employees who do not receive such benefits.

21 (C) Annual cost of living adjustment.

22 ~~[(1)]~~ Beginning on January 1, ~~[2014]~~ [2028] and annually on each  
23 January 1 thereafter, the [Albuquerque] minimum wage shall be adjusted  
24 based on ~~[the increase, if any, in the cost of living, and rounded to the~~  
25 ~~nearest multiple of five cents.]~~ [the average of the annual increase of the  
26 following two factors, and rounded to the nearest multiple of five cents,  
27 except that the minimum wage shall never decrease:

28 (a) The ~~[increase in the]~~ cost of living ~~[shall be calculated based on~~  
29 ~~the percentage increase, if any,]~~ as of August of the immediately preceding  
30 year over the level as of August of the previous year of the Consumer Price  
31 Index (All Urban Wage Earners and Clerical Workers, U.S. City Average for  
32 All Items) or its successor index as published by the U.S. Department of  
33 Labor or its successor agency~~[, and]~~

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1                    [(b) Fair Market Rent for a two-bedroom housing unit in Albuquerque,  
2                    New Mexico, as published annually by the United States Department of  
3                    Housing and Urban Development (HUD)].

4                    [(2)] The adjusted tipped minimum wage shall be calculated based on  
5                    the adjusted [Albuquerque] minimum wage, and rounded to the nearest  
6                    multiple of five cents.

7                    [(3)] The city shall publish the adjusted [Albuquerque] minimum wage  
8                    and the adjusted tipped minimum wage for the forthcoming year on its  
9                    Internet home page by October 15 of each year, and they shall become  
10                   effective on January 1 of the forthcoming year.

11                   § 13-12-4 NOTICE, POSTING AND RECORDS.

12                   (A) Notice to employees. Every employer shall post in a conspicuous place  
13                   at any workplace or job site where any employee works a notice published  
14                   each year by the City Attorney informing employees of the current  
15                   [Albuquerque] minimum wage rates and of their rights under this article. Every  
16                   employer shall post such notices in English and Spanish.

17                   (B) Records. Employers shall maintain payroll records showing the hours  
18                   worked daily by and the wages paid to all employees. Employers shall retain  
19                   payroll records pertaining to employees for a period of three years. When the  
20                   employer uses tips to meet the minimum wage for an employee, the employer  
21                   must have a tip declaration signed by the tipped employee for each pay  
22                   period.

23                   § 13-12-5 IMPLEMENTATION AND ENFORCEMENT.

24                   (A) Implementation and Rulemaking. The city shall implement and enforce  
25                   this article and shall promulgate appropriate guidelines or rules for such  
26                   purposes. Any guidelines or rules promulgated by the city shall have the force  
27                   and effect of law and may be relied on by employers, employees, and other  
28                   parties to determine their rights and responsibilities under this article. Any  
29                   such guidelines or rules shall establish procedures for ensuring fair, efficient  
30                   and cost-effective implementation of this article, including supplementary  
31                   procedures, such as a hotline, for helping to inform employees of their rights  
32                   under this article and for monitoring employer compliance with this article.

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1 (B) Civil enforcement. Any employee receiving less than the wage to which  
2 the employee is entitled under this article may bring a civil action in a court of  
3 competent jurisdiction and, upon prevailing, shall recover the balance of the  
4 wages owed, including interest thereon, and an additional amount equal to  
5 twice the wages owed, and any other appropriate legal or equitable relief. Any  
6 employee who has suffered discrimination in any manner or had adverse  
7 action taken against that employee in retaliation for exercising rights  
8 protected under this article may bring a civil action in a court of competent  
9 jurisdiction and, upon prevailing, shall recover actual damages plus  
10 reinstatement in the case of discharge. In any case where an employee has  
11 been discharged in retaliation for exercising rights under this article, the  
12 period of violation extends from the day of discharge until the day the  
13 employee is reinstated, the day the employee agrees to waive reinstatement  
14 or, in the case of an employee who may not be rehired, from the day of  
15 discharge until the day legal judgment is final. In such case, unpaid wages and  
16 actual damages recovered shall be payable to the individual employee as to  
17 whom the violation occurred. A plaintiff prevailing in an action to enforce this  
18 article shall be entitled to recover his or her costs and expenses of suit and  
19 reasonable attorney's fees.

20 (C) Criminal penalty. Any person who violates this article shall be deemed  
21 guilty of a petty misdemeanor and upon conviction shall be subject to the  
22 criminal penalty provisions set forth in § 1-1-99 of this code of ordinances.  
23 Each separate violation shall constitute a separate offense and each day of  
24 violation shall constitute a separate offense.

25 (D) The City Attorney shall enforce this article.

26 **§ 13-12-6 RELATIONSHIP TO OTHER REQUIREMENTS.**

27 This article provides for payment of minimum wage rates and shall not be  
28 construed to preempt or otherwise limit or affect the applicability of any other  
29 law, regulation, requirement, policy or standard that provides for payment of  
30 higher or supplemental wages, benefits, or protections. Nothing contained in  
31 this article prohibits an employer from paying more than the minimum wage  
32 rates established under this article.

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

8 SECTION 3. COMPILATION. SECTION 1 of this Ordinance amends, is  
9 incorporated in, and is to be compiled as part of the Revised Ordinances of  
10 Albuquerque, New Mexico, 1994.

11 SECTION 4. EFFECTIVE DATE. This Ordinance takes effect 5 days after  
12 publication by title and general summary.

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