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1 dollars in reported consumer losses nationwide, with older adults suffering a
2 disproportionate share of those losses; and

3 WHEREAS, federal law enforcement and financial regulators have reported
4 that criminals increasingly direct victims to transmit funds through virtual
5 currency kiosks as a preferred payment method because transactions are fast,
6 difficult to interrupt in real time, and irreversible once completed; and

7 WHEREAS, investigations and enforcement actions by state attorneys
8 general have found that virtual currency kiosks are routinely used to facilitate
9 impersonation scams, coercive payment schemes, and other deceptive
10 practices that cause significant consumer harm; and

11 WHEREAS, as a home rule municipality, the City of Albuquerque
12 possesses the power to provide for the safety, health, and welfare of the
13 municipality and its inhabitants; and

14 WHEREAS, the City Council finds that prohibiting Virtual Currency ATMs
15 within the City is a reasonable measure to reduce opportunities for fraud,
16 exploitation, and financial harm while preserving the ability of residents to
17 engage in lawful Virtual Currency transfers by other means; and

18 WHEREAS, the City of Albuquerque desires to protect itself and its
19 inhabitants from the kind of criminal enterprises facilitated and enabled by
20 Virtual Currency ATMs.

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

23 SECTION 1. A new Article 22 of Chapter 13, being §§ 13-22-1 to -99, is
24 hereby created in the Revised Ordinances of Albuquerque, 1994, as follows
25 § 13-22-1. SHORT TITLE.

26 This Chapter shall be known and cited as the “Virtual Currency Ordinance.”
27 § 13-22-2. SCOPE AND PURPOSE, AUTHORITY.

28 (A) *Scope and Purpose.* Virtual Currency ATMs are frequently used by
29 criminals to manipulate, intimidate, or deceive victims into converting fiat
30 currency into Virtual Currency through transactions that are rapid, difficult to
31 reverse, and often impossible to recover once completed. Virtual Currency
32 Kiosks facilitate fraud schemes that disproportionately affect older adults and
33 other vulnerable populations, resulting in substantial financial losses.

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1 This Ordinance prohibits the installation, operation, hosting, facilitation,
2 and use of Virtual Currency ATMs within the City of Albuquerque in order to
3 protect its inhabitants from fraud, financial exploitation, and other criminal
4 activity and to preserve public health, safety, peace, welfare and preserve
5 order.

6 (B) *Authority.* This Ordinance is a proper exercise of municipal legislative
7 powers pursuant to Article X, Section 6 of the New Mexico Constitution, NMSA
8 1978, Sections 3-17-1 to -7; and NMSA 1978, Sections 3-18-1 to -32.

9 § 13-22-3. DEFINITIONS.

10 VIRTUAL CURRENCY. A digital representation of value used as a medium
11 of exchange, a unit of account, or a store of value, but does not have legal
12 tender status as recognized by the United States Government, including but
13 not limited to Bitcoin, Bitcoin Cash, Dash, Litecoin, Ripple, ZCash, Ethereum,
14 and other blockchain-based tokens.

15 VIRTUAL CURRENCY AUTOMATIC TELLER MACHINE or VIRTUAL
16 CURRENCY ATM. Any self-service kiosk, machine, device, automated teller
17 machine, electronic terminal, or similar apparatus located in an area
18 accessible to the general public that enables users to buy, sell, exchange or
19 transfer, send, receive, or otherwise transact in Virtual Currency for cash,
20 debit card, credit card, electronic payment, or other monetary value or other
21 Virtual Currency.

22 CASHIER-FACILITATED VIRTUAL CURRENCY TRANSACTION. A
23 transaction involving the purchase, sale, exchange, transfer, or transmission
24 of Virtual Currency in which payment is collected in person by a cashier, clerk,
25 employee, agent, intermediary, retailer, or process acting on behalf of a Virtual
26 Currency provider, regardless of whether the transaction is initiated though a
27 kiosk, mobile application, website, point-of-sale system, or other electronic
28 platform.

29 OPERATOR. Any person or entity that owns, controls, manages, installs,
30 leases, supplies, or operates a Virtual Currency ATM or engages in Virtual
31 Currency ATM or cashier-facilitated Virtual Currency transaction.

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1 HOST. Any person or entity that owns, leases, manages, operates,
2 controls, or otherwise permits the use of a physical location where a Virtual
3 Currency ATM is installed or made available to the public.

4 **§ 13-22-4. VIRTUAL CURRENCY ATMS PROHIBITED.**

5 (A) No person or entity shall install, host, allow, operate, facilitate, permit,
6 locate, place, service, lease, advertise, or make available a Virtual Currency
7 ATM within the City of Albuquerque.

8 (B) No person or entity shall conduct, facilitate, host, permit, or offer a
9 Cashier-Facilitated Virtual Currency Transaction within the City of
10 Albuquerque.

11 (C) No property owner, landlord, tenant, retailer, business operator, or Host
12 shall permit a Virtual Currency ATM or Cashier-Facilitated Virtual Currency
13 Transaction to occur on property owned, leased, occupied, or controlled by
14 that person or entity.

15 (D) This prohibition applies regardless of:

16 (1) Whether the Virtual Currency ATM is owned, leased, operated,
17 serviced, or maintained by a third party;

18 (2) Whether the transaction is custodial or non-custodial;

19 (3) Whether the transaction is completed on-site or remotely;

20 (4) Whether the transaction involves Bitcoin, Ethereum, stablecoins, or
21 any other form of Virtual Currency or digital asset.

22 (E) All Virtual Currency ATMs existing within the City of Albuquerque as of
23 the Effective Date of this Ordinance shall cease operation immediately. All
24 Virtual Currency ATMs within the City of Albuquerque shall be removed no
25 later than forty-five (45) days after the Effective Date of this Ordinance.

26 **§ 13-22-5. PERMITTED VIRTUAL CURRENCY TRANSFERS.**

27 Nothing in this Ordinance shall be construed to prohibit or regulate lawful
28 Virtual Currency ownership, possession, mining, software development,
29 blockchain activities, or Virtual Currency transfers that are conducted
30 privately between individuals or through internet-based platforms not
31 involving a Virtual Currency ATM or Cashier-Facilitated Virtual Currency
32 Transaction within the City of Albuquerque.

33 **§ 13-22-99. PENALTY.**

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1 (A) Any person or entity who violates any provision of this Ordinance may
2 be subject to the imposition of the maximum fine or penalty as provided in
3 ROA 1994, Section 1-1-9.

4 (B) Fines or penalties assessed against a person or entity found in
5 violation of any provision of this Ordinance are cumulative and each day that
6 such person or entity violates any provision of this Ordinance constitutes a
7 separate offense.

8 (C) Subject to the procedural safeguards of the Business License
9 Ordinance, the City of Albuquerque may revoke the business license of any
10 person or entity permitting the activity prohibited by this Ordinance.

11 (D) The City may seek injunctive relief in any court of competent
12 jurisdiction to enforce the provisions of this Ordinance and compel removal of
13 any prohibited Virtual Currency ATM.

14 (E) Each prohibited Virtual Currency ATM shall constitute a separate
15 violation.

16 (F) Enforcement actions may be brought against both the Operator and the
17 Host responsible for permitting prohibited activity under this Ordinance.

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

25 SECTION 3. COMPILATION. SECTION 1 of this Ordinance is to be compiled
26 as a new Article 22 in Chapter 13, being §§ §§ 13-22-1 to -99, of the Revised
27 Ordinances of Albuquerque, New Mexico, 1994, titled "Virtual Currency
28 Ordinance."

29 SECTION 4. EFFECTIVE DATE. This Ordinance takes effect five days after
30 publication by title and general summary.

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