

CITY of ALBUQUERQUE

TWENTY FIFTH COUNCIL

COUNCIL BILL NO. O-22-16 ENACTMENT NO. _____

SPONSORED BY: Pat Davis, Brook Bassan

1 **ORDINANCE**

2 **AMENDING THE ALBUQUERQUE HUMAN RIGHTS ORDINANCE TO**
3 **PROHIBIT DISCRIMINATION BASED ON SOURCE OF INCOME; MAKING AN**
4 **APPROPRIATION FOR A STUDY AND TO DEVELOP AND DISTRIBUTE**
5 **EDUCATIONAL MATERIALS.**

6 **WHEREAS, “Source of income discrimination” refers to the practice of**
7 **refusing to rent to a housing applicant because of that person’s lawful form of**
8 **income; and**

9 **WHEREAS, A growing number of states and localities have enacted laws,**
10 **known as “source of income protection laws” that prohibit discrimination**
11 **based on lawful income sources such as social security, pension, alimony,**
12 **child support, foster care subsidies, housing vouchers, and others; and**

13 **WHEREAS, The New Mexico Human Rights Act, NMSA 1978, Chapter 28,**
14 **Article 1, prohibits housing discrimination based on race, religion, color,**
15 **national origin, ancestry, sex, sexual orientation, gender identity, pregnancy,**
16 **childbirth or condition related to pregnancy or childbirth, spousal affiliation or**
17 **physical or mental handicap; and**

18 **WHEREAS, The City of Albuquerque Human Rights Ordinance, Chapter 28,**
19 **Article 4 ROA 1994, likewise prohibits discriminatory practices in housing; and**

20 **WHEREAS, These protections for applicants seeking housing do not**
21 **currently extend to prohibit discrimination related to applicants’ legal sources**
22 **of income; and**

23 **WHEREAS, Implementing amendments to the Human Rights Ordinance**
24 **that prohibit owners from discriminating against tenants based on lawful**
25 **sources of income will promote a general welfare of the City and its residents;**
26 **and**

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1 WHEREAS, The availability of safe and affordable housing is an essential
2 component of individual and community well-being; and
3 WHEREAS, Because applicants for housing are regularly asked to disclose
4 their source of income in consideration of their ability to meet income
5 requirements, this prohibition would also ensure that applicants with
6 supplemental income are not denied access to housing opportunities; and
7 WHEREAS, The City of Albuquerque is currently facing a housing crisis
8 and participants of the Section 8 Housing Choice Voucher program are
9 routinely unable to find housing despite eligibility for the program, and;
10 WHEREAS, Prohibiting source of income discrimination will help expand
11 the housing choices available to voucher holders and increase equitable
12 access to housing opportunities for renters in our City.
13 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
14 **ALBUQUERQUE:**
15 **SECTION 1. Section 11-3-3, the “Definitions” Section of the Human Rights**
16 **Ordinance, is hereby amended as follows:**
17 **“§ 11-3-3 DEFINITIONS.**
18 For the purpose of this article, the following definitions shall apply
19 unless the context clearly indicates or requires a different meaning.
20 **BOARD. The Human Rights Board.**
21 **COMMERCIAL SPACE. Any space in a building, structure, or portion**
22 **thereof, which is used or occupied or intended to be occupied for the**
23 **manufacture, sale, resale, processing, reprocessing, displaying, storing,**
24 **handling, garaging, or distribution of personal property; and any space which**
25 **is used or occupied as a separate business or professional unit or office in**
26 **any building, structure, or portion thereof.**
27 **CULTURAL HEADDRESS. Includes, but is not limited to, burkas,**
28 **hijabs, head wraps, head scarves, or other headdresses used as part of an**
29 **individual's personal cultural or religious beliefs.**
30 **EMPLOYEE. Any person in the employ of an employer.**
31 **EMPLOYER. Any person employing one or more persons acting for**
32 **an employer.**

1 EMPLOYMENT AGENCY. Any person regularly undertaking with or
2 without compensation to procure opportunities to work or to procure, recruit,
3 or refer employees.

4 HOUSING ACCOMMODATION. Any building or portion of a building
5 which is constructed or to be constructed, which is used or intended for use
6 as the residence or sleeping place of any individual.

7 LABOR ORGANIZATION. Any organization which exists for the
8 purpose in whole or in part of collective bargaining or of dealing with
9 employers concerning grievances, terms or conditions of employment or of
10 other mutual aid or protection in connection with employment.

11 MINIMUM INCOME REQUIREMENT. A requirement set by an owner
12 relating to the amount of income a prospective tenant must receive in a
13 prescribed period of time and used to determine the prospective tenant's
14 ability to pay rent.]

15 PERSON. One or more individuals, a partnership, association,
16 company, organization, corporation, joint venture, legal representative,
17 trustee, receiver, cooperative, or the city and any governmental unit created
18 and/or sponsored by the city. Where any reference to the masculine is
19 present, he or she, her or him, his or her or person (as in chairperson vs.
20 chairman) should be in its place.

21 PHYSICALLY HANDICAPPED. Any person who, because of accident,
22 illness, congenital condition or other condition of health, experiences any
23 impairment in sight, hearing, touch, taste, smell, motor skills or appearance.

24 PUBLIC ACCOMMODATION. Any establishment that provides or
25 offers its services, facilities, accommodations or goods to the public, but does
26 not include a bona fide private club or other place or establishment which is
27 by its nature and use distinctly private.

28 RACE. Includes, but is not limited to, traits historically and
29 commonly associated with race or ethnicity, including hair types, hair texture,
30 volume of hair, length of hair, protective hairstyles, or cultural headdresses.

31 RACE RELATED HAIRSTYLE. Includes, but is not limited to, those
32 hairstyles necessitated by, or resulting from, the characteristics of a hair

1 texture associated with race, such as braids, locs, afros, tight coils or curls,
2 bantu knots, and twists.

3 REAL PROPERTY. Lands, leaseholds and tenements.

4 [SOURCE OF INCOME. Any lawful and verifiable source of money
5 and program requirements of such funding, paid directly to or on behalf of a
6 renter or buyer of housing, including, but not limited to:

7 (1) Income from a lawful profession, occupation, or job;

8 (2) Income derived from social security or any form of
9 federal, state, or local public assistance or housing assistance, including a
10 housing choice voucher issued pursuant to Section 8 of the United States
11 Housing Act of 1937, or any other form of housing assistance payment or
12 credit, whether or not such income or credit is paid or attributed directly to a
13 landlord and even if such income includes additional federal, state, or local
14 requirements including but not limited to required inspections and contracting
15 with the agency administering the public assistance program; or

16 (3) A gift, inheritance, pension, annuity, alimony, child
17 support, foster care subsidies, or any other consideration or benefit.]

18 UNLAWFUL DISCRIMINATORY PRACTICE. Those unlawful practices
19 and acts as specified in § 11-3-7.”

20 SECTION 2. Section 11-3-7, the “Unlawful Discriminatory Practice” Section
21 of the Human Rights Ordinance, is hereby amended as follows:

22 “§ 11-3-7 UNLAWFUL DISCRIMINATORY PRACTICE.

23 It is unlawful discriminatory practice and a violation of this article
24 for:

25 (A) An employer, unless based on a bona fide occupational
26 qualification, to refuse to hire, to discharge, to promote or demote or to
27 discriminate in compensation or terms and conditions of employment, against
28 any person otherwise qualified, because of race, color, religion, sex, national
29 origin or ancestry, age, race related hairstyle, the use of a cultural headdress,
30 or physical handicap.

31 (B) A labor organization to exclude an individual or to expel or
32 otherwise discriminate against any of its members or against any employer or
33 employee because of race, color, religion, sex, national origin or ancestry,

1 age, race related hairstyle, the use of a cultural headdress, or physical
2 handicap.

3 (C) Any employer, labor organization, or any other person to
4 refuse to admit or employ any individual in any program established to
5 provide an apprenticeship or other training or retraining because of race,
6 color, religion, sex, national origin or ancestry, age, race related hairstyle, the
7 use of a cultural headdress, or physical handicap.

8 (D) Any employer, labor organization, or any other person to print
9 or circulate or cause to be printed or circulated any statement, advertisement,
10 or publication or to use any form of application for employment or
11 membership, or to make any inquiry regarding prospective employment or
12 membership which expresses, directly or indirectly, any limitation,
13 specification, or discrimination as to race, color, religion, sex, national origin
14 or ancestry, age, race related hairstyle, the use of a cultural headdress, or
15 physical handicap, unless based on a bona fide occupational qualification.

16 (E) An employment agency to refuse to list and properly classify
17 for employment or to refer an individual for employment in a known available
18 job for which the individual is otherwise qualified because of race, religion,
19 color, national origin, ancestry, age, sex, race related hairstyle, the use of a
20 cultural headdress, or any physical or mental handicap unless based on a
21 bona fide occupational qualification; or to comply with a request from an
22 employer for referral of applicants for employment if the request indicates
23 either directly or indirectly that the employer discriminates in employment on
24 the basis of race, religion, color, national origin, ancestry, sex, race related
25 hairstyle, the use of a cultural headdress, or physical or mental handicap
26 unless based on a bona fide occupational qualification.

27 (F) Any person who provides any public accommodation to make
28 a distinction, directly or indirectly, in offering or refusing to offer its services,
29 facilities, accommodations or goods to any individual because of race, color,
30 religion, sex, race related hairstyle, the use of a cultural headdress, national
31 origin or ancestry, or physical handicap.

32 (G) Any person to:

1 (1) Refuse to sell, rent, assign, lease or sublease, or offer
2 for sale, rental, lease or sublease, or assignment, any housing
3 accommodation, commercial space or real property to any individual, or
4 [discriminate against any person in the terms, conditions, or privileges of the
5 sale, rental, lease or sublease, or assignment of any housing accommodation,
6 commercial space, or real property, or] to refuse to negotiate for the sale,
7 rental, lease, assignment or sublease of any housing accommodation,
8 commercial space or real property, or in the provision of facilities or services
9 in connection therewith, because of race, color, religion, sex, race related
10 hairstyle, the use of a cultural headdress, national origin or ancestry, [source
11 of income or the requirements of any program providing the source of
12 income,] or physical handicap.

13 (2) Print, circulate, display or mail, or cause to be printed,
14 circulated, displayed or mailed, any statement, advertisement, publication or
15 sign or use any form of application for the purchase, rental, lease, assignment
16 or sublease of any housing accommodation, commercial space or real
17 property, or to make any record or inquiry regarding the prospective
18 purchase, rental, lease, assignment or sublease of any housing
19 accommodation, commercial space or real property which expresses any
20 preference, limitation or discrimination as to race, color, religion, sex, race
21 related hairstyle, the use of a cultural headdress, national origin or ancestry,
22 [source of income,] or physical handicap.

23 [(3) Represent to any person, because of race, color,
24 religion, sex, race related hairstyle, the use of a cultural headdress, national
25 origin or ancestry, source of income or because of the requirements of any
26 program providing the source of income, or physical handicap, that any
27 dwelling is not available for inspection, sale, or rental when the dwelling is
28 available;

29 (4) In determining whether the prospective tenant meets
30 minimum income requirements, exclude from the calculation any lawful and
31 verifiable source of income received by the applicant; or

32 (5) Impose additional requirements on a tenant or a
33 prospective tenant whose rent is to be subsidized by a third party not imposed

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1 on other tenants, such as, but not limited to, additional security deposits or
2 requirements to maintain renter’s insurance; provided that nothing in this
3 section shall be construed as a prohibition against a property owner or
4 manager conducting an income or credit inquiry on a prospective tenant.]

5 (H) Any person to whom application is made for financial
6 assistance for the acquisition, construction, rehabilitation, repair or
7 maintenance of any housing accommodation, commercial space or real
8 property, to:

9 (1) Consider race, color, religion, sex, race related hairstyle,
10 the use of a cultural headdress, national origin or ancestry or physical
11 handicap in the granting, withholding, extending, modifying or renewing, or in
12 the fixing of the rates, terms, conditions or provisions of any financial
13 assistance, or in the extension of services in connection with the request for
14 financial assistance; and

15 (2) Use any form of application for financial assistance or to
16 make any record or inquiry in connection with applications for financial
17 assistance which expresses, directly or indirectly, any limitation, specification
18 or discrimination as to race, color, religion, sex, race related hairstyle, the use
19 of a cultural headdress, national origin or ancestry or physical handicap.

20 (I) Any person or employer to:

21 (1) Aid, abet, incite, compel or coerce the doing of any
22 unlawful discriminatory practice or to attempt to do so.

23 (2) Engage in any form of threats, reprisals or
24 discrimination against any person who has opposed unlawful discriminatory
25 practices or has filed a complaint, testified or participated in any proceeding
26 under this article.

27 (3) Willfully obstruct or prevent any person from complying
28 with the provisions of this article or to resist, prevent, impede or interface with
29 the Board or any of its members, staff or representatives in the performance of
30 their duties under this article.”

31 SECTION 3. SEVERABILITY. If any section, paragraph, sentence,
32 clause, word or phrase of this Ordinance is for any reason held to be invalid or
33 unenforceable by any court of competent jurisdiction, such decision shall not

1 affect the validity of the remaining provisions of this Ordinance. The Council
2 hereby declares that it would have passed this Ordinance and each section,
3 paragraph, sentence, clause, word or phrase thereof irrespective of any
4 provision being declared unconstitutional or otherwise invalid.

5 SECTION 4. COMPILATION. Sections 1 and 2 of this Ordinance shall
6 amend, be incorporated in and complied as part of the Revised Ordinances of
7 Albuquerque, New Mexico, 1994.

8 SECTION 5. EFFECTIVE DATE. This ordinance will become effective
9 five days after publication by title and general summary.

10 SECTION 6.

- 11 1. It is the intent of the Council to complete a study and develop a process
12 geared at establishing a landlord incentive program aimed at encouraging
13 acceptance of housing vouchers, assisting to bring properties into
14 compliance with housing standards, and other incentives as may be
15 appropriate at the completion of a study and development process. Upon
16 completion, the study and its recommendations shall be submitted as an
17 Other Communication to the Council for its receipt.
- 18 2. The Administration is directed to develop educational materials for
19 residents and landlords and distribute this information.

20 SECTION 7. The following appropriation is made from available fund
21 balance program from Fiscal Year 2022:

22	GENERAL FUND – 110	
23	Council Services	
24	Landlord Incentive Program Development	
25	& Housing Discrimination Study	150,000
26	Legal Department	
27	Develop and distribute educational materials	50,000

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