

**IN THE CITY OF ALBUQUERQUE
INTRAGOVERNMENTAL CONFERENCE COMMITTEE**

MAYOR TIM KELLER,
in his official capacity,

Petitioner,

v.

Case Number: 01-2025

ALBUQUERQUE CITY COUNCIL,

Respondent.

**ALBUQUERQUE CITY COUNCIL'S RESPONSE
OPPOSING PETITIONER'S STATEMENT OF ISSUES**

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INTRODUCTION

The Albuquerque City Council passed a resolution in 2016 setting the minimum number of firefighters Albuquerque Fire and Rescue (AFR) must have on any given vehicle. The Mayor approved of those minimums. But now that the Council has adopted an amendment, R-25-122, adding one additional minimum—that at least two paramedics be on AFR’s medical rescue vehicles—the Mayor decries the entire resolution as an encroachment on his executive power.

The Mayor is wrong for three primary reasons. First, his position ignores that the Council has the broad power to legislate for the City’s welfare, and that welfare is no doubt impacted by the level of care AFR can provide. Second, the Council has consistently legislated in areas concerning staffing in the executive branch, something that has been accepted as a matter of practice and practical governance for decades. Third, the Council’s resolution in no way interferes with the Mayor and AFR chief’s ability to set qualifications, hire, promote, reprimand, fire, or otherwise make staffing determinations within the executive branch. And should AFR wish to change any firefighter minimum in the resolution, it may do so through collective bargaining, just as the Council has required for similar labor changes since 1971.

There are also procedural faults with the Mayor’s challenge. The Mayor’s primary tool for addressing legislation that he believes infringes on the executive’s exclusive powers is his veto. The Mayor chose not to veto R-25-122. Under the City’s charter, the resolution was approved as a matter of law following action by the Council and inaction by the Mayor. Moreover, the Mayor challenges aspects of the resolution that have been in place for nearly a decade and provides no support to demonstrate he has the ability to do so.¹

¹The Mayor also failed to properly serve the Council, opting for sliding a copy of the statement of issues under the City Council office door, rather than follow any traditional form of service recognized under New Mexico law. *See* Rule 1-004(E)(3), (H)(1)(e), (2) NMRA.

The Council shares the Mayor’s desire to “improve service for the City,” and has done so through its power to legislate for the general welfare. After hearing nearly three hours of testimony from current AFR captains, retired captains, firefighter paramedics, and union members, as well as the AFR chief, the Council voted to adopt R-25-122 to ensure the City’s welfare was best served. Invalidating that resolution would improperly diminish the Council’s powers under the City Charter, call into question decades of past and recent legislation, and give the Mayor an exaggerated role in determining public health and safety policy. The Committee should find in favor of the Council.

SUMMARY OF FACTS

Aspects of R-25-122 that the Mayor takes issue with were originally passed in 2016. *See* R-2016-039, attached as **Exhibit 1**. The resolution was passed with broad support. The Mayor, the AFR Chief, and the firefighter’s union all approved of setting minimum firefighter levels. *See* Albuquerque City Council Hearing, May 2, 2016, at 2:29:00, 2:35:05, 2:35:40.² According to the fire chief, those minimums reflected “the number of people [AFR] should have on shift at a time” while providing flexibility for future needs. *Id.* at 2:35:40. The measure came “at the heels” of AFR receiving an excellent “Class 1 rating” for its fire suppression capabilities. *Id.* at 2:29:00–2:30:05. The minimums enacted by the City Council would help maintain that score and ensure safer fire control and lower insurance costs for the community. *Id.* at 2:39:00–2:40:00; R-2016-039, **Ex. 1**, at 1 (providing the Council’s reason for passing the resolution). While Albuquerque’s Chief Administrative Officer noted his belief that “staffing issues” may be within the executive branch’s purview, he conceded that “the best interest of the community is within the purview of

²https://cabq.granicus.com/player/clip/151?view_id=2&redirect=true (last visited April 16, 2025).

the Council” and that the resolution could fall under that power, and he supported the resolution. *See* Albuquerque City Council Hearing, May 2, 2016, at 2:34:30–2:35:00. The Council considered setting paramedic minimums in 2016, but they were left out of the final resolution because of then-existing bargaining terms between AFR and the union, and the practice at the time was to maintain two paramedics on each fire rescue vehicle. *Id.* at 2:30:25–2:30:55.

Then, starting in 2021, the current AFR Chief sought to make “the largest operational change to AFR in forty years” by reducing the number of paramedics on fire rescue vehicles to a single individual. *See* City Council Hearing, Mar. 3, 2025, at 3:00:00.³ Current fire captains, paramedics, and retired firefighters in conjunction with the union argued at a hearing before the Council to amend R-2016-039 to maintain the “gold standard” of care by requiring two paramedics per rescue. *Id.* 3:01:25–3:08:49. The Council heard testimony about the public safety benefits, such as two paramedics’ ability to cross-check medication, care for patients, and support firefighters in the event of an injury. *Id.* 3:02:00–3:03:00. Even AFR’s current medical director recognized that two paramedics is “the way it has been” and “nice to have.” *Id.* at 3:54:00–3:54:10. In response to the AFR Chief’s proposed plan, paramedics had begun to drop their licensing to avoid the consequences of diminished levels of care. *Id.* at 4:24:05–2:24:38. City Councilors noted several adverse safety effects to the community with AFR’s proposed plan and voted to pass R-25-122 to require a minimum of two paramedics on each fire rescue. *See, e.g., id.* at 5:17:50 (recognizing research studies indicating “survival rates are improved when two paramedics are present on a scene”). Similar to the Chief Executive Officer in 2016, the City Attorney recognized that the resolution could be “within the Council’s right to regulate safety.” *Id.* 3:47:05–40. The Mayor

³https://cabq.granicus.com/player/clip/506?view_id=2&redirect=true (last visited April 16, 2025).

failed to act on the resolution, and as a result it went into effect on March 21, 2025. *See* R-2025-011, attached as **Exhibit 2**.

Despite the broad support before the Council to set minimum firefighter levels for AFR, and testimony concerning its impact on public health and safety, the Mayor contends the Council was without power to pass the resolution. His position ignores the rationale underlying R-25-112, and the applicable law, as explained below.

ARGUMENT

The Committee is empowered to resolve “disputes over the respective duties and obligations of the legislative and executive branches of city government” ROA 1994, § 2-16-1(C). But there is no established standard for reviewing separation of powers questions at the city level. Albuquerque’s charter has no express separation of powers provision, unlike the state constitution. *See* N.M. Const. art. III, § 1. “[S]uch constitutional provisions apply to state offices only, and not to municipal offices.” *State ex rel. Chapman v. Truder*, 1930-NMSC-049, ¶ 6–9, 35 N.M. 49. More broadly, the traditional notion of separation of powers “does not apply to the distribution of power within local governments.” *Bd. of Cnty. Comm’rs v. Padilla*, 1990-NMCA-125, ¶ 10, 111 N.M. 278. This is true for several reasons: the harm of consolidating power within one branch is “diminished” by state-level controls, and official functions of local governments “frequently overlap.” *Id.*; *City Council v. Eppihimer*, 835 A.2d 883, 893 (Pa. Cmmw. Ct. 2003) (collecting cases); *La Guardia v. Smith*, 41 N.E.2d 153, 155–56 (N.Y. 1942) (same, and noting no intention to keep the mayor and council “in a constant state of isolated independence”); *cf. State ex rel. Clark v. Johnson*, 1995-NMSC-048, ¶ 31, 120 N.M. 562 (recognizing at the *state level* that “the accumulation of too much power in one governmental entity presents a threat to liberty”). Myriad courts have reaffirmed the basic principle that “the separation of powers doctrine has

diminished vitality at the lower levels of government because there must necessarily be an overlapping of functions in responsible officials lest the cost of government become too burdensome to bear.” *Hubby v. Carpenter*, 350 S.E.2d 706, 709–11 (W. Va. 1986) (collecting cases) (internal quotation marks and citation omitted).

In multiple instances the City Charter expressly recognizes an overlap between the Council and the Mayor. It provides the Council and Mayor identical duties to “faithfully execute and comply with the laws.” City Charter art. IV, § 10(h); City Charter art. V, § 4(l). This contrasts with federal and state government where execution of the laws is the exclusive responsibility of the chief executive. *See, e.g.*, U.S. Const. art. II, § 3 (the President “shall take Care that the Laws be faithfully executed”); N.M. Const. art. V, § 4 (“The supreme executive power of the state shall be vested in the governor, who shall take care that the laws be faithfully executed.”); N.M. Const. art. III, § 1 (devoting an entire article of the constitution exclusively to the “distribution of powers,” dividing powers “into three distinct departments,” and providing unequivocally that “no person or collection of persons charged with the exercise of powers properly belonging to one of these departments, shall exercise any powers properly belonging to either of the others, except as in this constitution otherwise expressly directed or permitted”). Both branches of Albuquerque’s government are responsible for preserving and protecting the labor merit system. City Charter art. IV, § 10(e); City Charter art. V, § 4(c). And the Charter anticipates and accommodates disputes regarding each branch’s respective powers by providing a means for resolution before this Committee. City Charter art. XIX.

When assessing separation of powers questions, the Committee should recognize the distinction between city governance and other larger governmental bodies, and the overlap

between executive and legislative functions at the municipal level. With that reality, the City Charter and historical practice requires finding that the Council has not exceeded its powers here.

I
THE COUNCIL HAS THE POWER TO PASS
LEGISLATION IMPACTING EXECUTIVE STAFFING

When it impacts issues of public welfare, the Council may legislate on matters involving staffing in the executive branch—a practice that the Mayor has approved of as recently as April 4, 2025. The City Charter calls for “maximum local self government” by requiring a “liberal construction” of the powers it grants. City Charter art. I. To that end the charter gives the Council broad power to legislate for “the welfare of the people of the city,” while not “perform[ing] executive functions” not assigned to the Council. City Charter art. IV, § 8. “Executive functions” is nowhere defined and is roughly confined to administrative functions and executing the law. City Charter art. V, § 3. The proper function of a city’s fire emergency response is undoubtedly a matter of general welfare. The Council heard hours of testimony that reducing the number of paramedics on a fire rescue vehicle would be the “largest change in forty years,” would “diminish” AFR’s ability to provide emergency care, and that paramedics were giving up their licenses as a result of the fire chief’s proposed change to single paramedics on rescue vehicles. *See* City Council Hearing, Mar. 3, 2025, at 3:00:00, 4:24:00. The Council sought to remedy those issues through R-25-122.

Moreover, historical legislation shows that the executive branch has accepted the Council’s power to address staffing issues at a policy level for decades. The Mayor cites one such piece of legislation approvingly: the Emergency Medical Services Ordinance, ROA 1994, §§ 9-4-4-1 to -99, which was passed in 1989. As the Mayor says, in enacting that ordinance the “Council has properly executed its legislative power in the arena of public safety.” Statement, at 10. That ordinance set heightened standards of care to supplement state-agency *regulations* governing

emergency medical services that were not “sufficient for the requisite standard of care in the city.” ROA 1994, § 9-4-4-4(E). And it went further than R-25-122 in addressing issues related to staffing. In addition to dictating standards of care, the ordinance expressly creates new positions within the executive branch, such as a medical director and medical control board. ROA 1994, §§ 9-4-4-5 to -6. The ordinance also dictates how those offices function, including by imposing eleven non-exhaustive job duties for the medical director, and step-by-step directions on patient care during ambulance calls. ROA 1994, § 9-4-4-10.

The Council’s practice of creating executive branch offices and detailing job duties and qualifications continues today, even as recently as last month. On March 17, 2025, the Council passed a resolution aimed at enhancing habitability standards for property rentals. *See* R-25-120, attached as **Exhibit 3**. Part of that resolution requires the executive to employ a full-time enforcement officer who must “specialize in housing codes and be dedicated to addressing tenant complaints” related to rentals. *Id.* In addition to setting the officer’s qualifications, the resolution mandates multiple job duties, ranging from managing tenant complaints to training other enforcement officers. *Id.* Under the resolution, the City must account for the full-time enforcement officer in its budget. *Id.* The Mayor signed this resolution into law on April 3, 2025, and in doing so, commented as follows:

By adding *more Code Enforcement staff* and providing an easier way to report unresolved issues, renters will be able to get the help they need and hold their property managers accountable and live in safe, healthy homes.

Mayor Signs City Council Resolution Enhancing Enforcement of Rental Unit Habitability Standards, City of Albuquerque, April 3, 2025, attached as **Exhibit 4** (emphasis added).

The Council’s history of legislating the executive branch’s structure and staffing, and the Mayor’s acceptance of it, distinguishes cases involving state-level government relied on by the Mayor. Consider *State ex rel. Coll v. Carruthers*, where the *state* legislature passed an

appropriation bill prohibiting the district attorney from spending \$4,000 on parking spaces, out of an overall budget of \$4,500,000. 1988-NMSC-057, ¶¶ 2, 10-11, 107 N.M. 439. Relying on the state constitution’s separation of powers provision, the Supreme Court upheld the Governor’s line-item veto, finding that the legislature “should have limited itself to addressing matters of significant financial impact,” rather than “miniscule, inconsequential executive management decisions.” *Id.* ¶ 11.

Setting aside the fact that R-25-122 does not reach into minuscule, inconsequential decision making (such as hiring procedures, duties, etc.), the same principle in *Carruthers* simply does not apply to municipalities, where, as shown above, the governing body is frequently involved in promulgating detailed legislation for the city. *See, e.g., Aguilar v. City Comm’rs of Hobbs*, 1997-NMCA-045, ¶ 9, 123 N.M. 333 (finding no separation of powers violation when an ordinance detailed how a retiring municipal judge must select a temporary judge from a list provided by the city commission). If it were otherwise, then “many forms of local governments . . . would be unconstitutional.” *Eppihimer*, 835 A.2d at 894 (upholding a city charter that “deviate[d] from the customary practice of providing supervisors with authority to hire and fire employees they supervise”).

The resolution in this case is a continuation of the Council’s exercise of its general welfare power as applied to the executive branch’s administration. It comes on the heels of similar legislation that dictates the executive branch’s structure and management, which has historically been accepted as within the Council’s power under the charter. R-25-122 does not violate separation of powers under the City Charter. While the Council does recognize that there may be a line beyond which it has no power to dictate miniscule, day-to-day functions of the executive branch, R-25-122 has not crossed it.

II
THE RESOLUTION DOES NOT INTERFERE WITH
THE EXECUTIVE’S ADMINISTRATIVE DUTIES, THE
MERITS ORDINANCE, OR THE LABOR MANAGEMENT ORDINANCE

The Mayor suggests that R-25-122 prevents him and AFR’s chief from exercising their right to control staffing within the fire department. While those positions carry a right to “determine staffing requirements,” ROA 1994, § 3-1-2; ROA 1994, §3-2-5, the right is not boundless. The Council’s historical legislation demonstrates the need to run local governments with greater detail than state governments; even the ordinances that convey a right to determine staffing set guidelines the executive branch must follow. The Merits System Ordinance, for example, details vacation and sick leave accrual, resignation and layoff procedures, and restricts how employees may be disciplined for misconduct. *See* ROA 1994, §§ 3-1-13 to -19, 23.

R-25-122 merely presents a similar guideline for the executive’s exercise of its staffing right. The resolution sets a floor—a minimum number of employees. It does not restrict the executive branch’s ability to set qualifications, select the individuals it wishes to hire, promote, or reprimand. The resolution also provides substantial breathing room to meet AFR’s particular needs. The firefighter minimums may be altered in the case of “exigencies or emergencies, as determined by the Chief,” and the minimums may be permanently modified through amendment (without the Council’s involvement) through collective bargaining. In other words, the executive still has broad leeway to “determine staffing requirements” within the general structure provided by the resolution. The Mayor’s argument that the resolution prevents “meaningful executive discretion to decide the best arrangement of personnel on fire and rescue apparatus” is simply incorrect. Statement, at 9. If it were true that “Council has ‘paralyzed’ AFR from ‘effective management,’” *id.* at 10, then the fire department would not have been able to function for the last

decade, since the original staffing resolution was passed in 2016. There is no evidence of that being the case for the last nine years.

Were this Committee to find that the executive had unrestricted staffing power, it would undermine the current balance of powers under the City Charter. It would call into question established ordinances like the Merits System Ordinance, and subject even recent legislation to challenges.⁴ The recently passed housing enforcement officer resolution is one example. Despite the Mayor's approval of that resolution, a subsequent administration (or even this Mayor if he changes his mind) could claim it infringes on the right to determine staffing requirements since it adds code enforcement staff to the executive branch. The Council would have its power to legislate for "the welfare of the people of the city" diminished and the executive would be permitted to ignore its duty to faithfully execute the law based on differing administrative whims. *See* City Charter, art. IV, § 8; City Charter, art. V, § 4.

Even if R-25-122 presented some conflict with earlier legislation permitting the Mayor to control staffing requirements, the resolution would control, rather than be superseded as the Mayor suggests. In the analogous context of conflicting statutes, "where a statute addresses a subject in general terms and another statute addresses the same subject in a more detailed manner, the latter will control to the extent they conflict." *See State v. Saltwater*, 2024-NMCA-018, ¶ 5, 542 P.3d 783. The Mayor asserts that the resolution is somehow inferior to ordinances, but his own cases fail to support that contention. In *West Old Town Neighborhood Ass'n v. City of Albuquerque*, the Court of Appeals recognized a resolution that "seeks to accomplish" the same thing as an ordinance

⁴It also could call into question the executive and legislative branches' practice of setting pay for bargaining unit employees through legislative appropriations, as is done, for example, in the collective bargaining agreement between the City and the firefighter union. *See* The City of Albuquerque and Local 624 AFSCME, Council 18, AFL-CIO, section 2.1, attached in part as **Exhibit 5**.

and is “passed with all the formalities of an ordinance . . . thereby becomes a legislative act, and it is not important whether it be called ordinance or resolution.” 1996-NMCA-107, ¶ 12, 122 N.M. 495. Unlike ordinances, which prescribe binding directives to the city, a resolution, “generally speaking, is simply an expression of opinion or mind or policy concerning some particular item of business coming within the legislative body’s official cognizance, ordinarily ministerial in character and relating to the administrative business of the municipality.” *Dugger v. City of Santa Fe*, 1992-NMCA-022, ¶ 27, 114 N.M. 47. For example, in *Dugger* the resolution “merely set[] out policies, guidelines and factors,” utilizing permissive language that the City “*should*” undertake particular tasks. *Id.* ¶ 28.

R-25-122 is intended to bind the city to further public safety—it is not an aspirational statement of policy. In contrast to the resolution in *Dugger*, R-25-122 utilizes the imperative “will” when requiring the City to continue with minimum firefighter staffing. The resolution was passed after extensive public comment and a hearing, just as any ordinance would be. *See* City Charter art. XI, § 2 (“If a majority of a legal quorum of the Councillors [sic] present at a Council meeting vote in favor of adopting the ordinance or resolution, it is adopted.”). R-25-122 is not inferior to other ordinances addressing similar topics, even if the Committee were to accept that there is some conflict. *See Old Town*, 1996-NMCA-107, ¶ 13 (emphasizing the “basic tenet of judicial review [would be violated] by exalting form over substance”).

III

THE MAYOR CANNOT CHALLENGE THE RESOLUTION’S BARGAINING MANDATE, WHICH THE COUNCIL HAD THE AUTHORITY TO PASS

The Mayor presents only a short, conclusory argument that the bargaining mandate in R-25-122 violates the City Charter and separation of powers. But even if that argument had been fleshed out, it would fail. The resolution states, “That in the event of staffing modifications

recommended by the Chief, the City of Albuquerque and Albuquerque Area Fire Fighters IAFF Local 244 must meet and confer prior to amending.” R-2025-011, **Ex. 2**, at 3. The Council indisputably has the authority to legislate the circumstances in which the City must engage in collective bargaining—it has done so since 1971. The City of Albuquerque Labor-Management Relations Ordinance requires the City to bargain with “any employee organization recognized as the exclusive representative for a unit” on issues including “hours, salary, wages, working conditions and other terms and conditions of employment” ROA 1994, § 3-2-8. The Mayor has not, and cannot, assert that he has exclusive power to determine when the City must bargain with employees. Expanding the list of issues subject to collective bargaining—issues originally prescribed by the Council—is a further exercise of the Council’s power to legislate for the general welfare under the City Charter. Furthermore, the bargaining mandate provides the executive a meaningful opportunity to engage in amending minimum staffing in AFR through negotiations with the firefighter union, something that the Council has determined is desirable as a matter of public policy. *See* ROA 1994, § 3-2-2 (“[I]t is the public policy of the city . . . [t]o allow the city employees to organize and bargain collectively with the city government.”)

The Mayor’s challenge calls into question a law that has been in effect for nearly a decade. The bargaining mandate in R-25-122 is unchanged from the resolution passed in 2016. *See* R-2016-039, **Ex. 1**, at 3. One word being added to a different section of the resolution in 2025—paramedic—should not give the Mayor license to challenge the entire resolution, especially when that resolution was adopted with the executive branch’s approval. *See id.* at 4; Albuquerque City Council Hearing, May 2, 2016, at 2:35:05–2:35:10. Permitting such a challenge would result in excessive turbulence when administrations change—suddenly any resolution could be challenged, no matter how long it has been in place. And it would encourage the Mayor to engage in

gamesmanship, for example by permitting legislation to pass, rather than exercise his veto power. If the Mayor had vetoed R-25-122, the one-word *amendment* would not take effect, but the bargaining mandate would have been left intact. This Committee should not permit the Mayor to challenge an unaltered portion of the resolution that was passed by the Council and signed by his predecessor simply because a different portion of the resolution was amended.

IV

THE MAYOR WAIVED A SEPARATION OF POWERS CHALLENGE BY FAILING TO EXERCISE HIS VETO POWER

The veto power is the primary tool the executive has when he believes the legislative branch has overstepped. Failing to exercise that power represents a waiver. This is because, in Albuquerque, by failing to act on legislation, “it shall nevertheless be in full force and effect as if the Mayor had approved the same,” which happened with R-25-122. City Charter, art. XI, § 3. The Mayor actively chose not to veto the resolution, despite having been advised by the city attorney that there may be a separation of powers concern—although, at the Council hearing on the resolution the City Attorney acknowledged “there is an argument here that this is within Council’s right to regulate safety.” *See* City Council Hearing, Mar. 3, 2025, at 3:47:03-3:47:12. Having failed to act, the resolution was approved as a matter of law, and the Mayor should not be permitted to claim that a resolution he could have prevented from going into effect infringes on his exclusive powers. Finding otherwise would permit a mayor to allow any law he disagrees with to become effective, and then choose what position to take on it after the fact depending on whether the mayor favors its impact.

CONCLUSION

For the reasons above, the Albuquerque City Council asks that the Committee determine that R-25-122 was properly passed under the Council's power to legislate for the general welfare, and it should thus find that the resolution is valid and enforceable.

Dated: April 16, 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on April 16, 2025, this document was filed with the Committee via email to the City Clerk and was served to petitioner via email to counsel.

By: /s/ Justin Miller

CITY of ALBUQUERQUE

TWENTY-SECOND COUNCIL

COUNCIL BILL NO. R-16-41 ENACTMENT NO. R-2016-039

SPONSORED BY: Isaac Benton and Dan Lewis

1 RESOLUTION

2 ESTABLISHING MINIMUM STAFFING REQUIREMENTS FOR ALBUQUERQUE
3 FIRE DEPARTMENT ENGINE APPARATUS, RESCUE APPARATUS, LADDER
4 APPARATUS, HAZARDOUS MATERIALS SQUADS, HEAVY TECHNICAL
5 RESCUE SQUADS, QUALITY ASSURANCE UNITS, BATTALION COMMANDER
6 UNITS AND SUPPORT DIVISIONS.

7 WHEREAS, the Albuquerque Fire Department has a proud tradition of
8 providing excellent emergency response services to the citizens and visitors
9 of the City of Albuquerque; and

10 WHEREAS, the City of Albuquerque recognizes that firefighting and
11 emergency medical response are inherently dangerous with calls for fire
12 suppression and emergency medical responses increasing annually; and

13 WHEREAS, the Albuquerque Fire Department has earned a Class 1 rating
14 by the Insurance Services Office (ISO). The ISO Class 1 rating is the highest
15 rating possible and has been achieved by less than 100 fire departments
16 nationwide; and

17 WHEREAS, receiving the ISO Class 1 rating is a reflection of the
18 Albuquerque Fire Department's resource capacity and capability to respond to
19 emergencies; and

20 WHEREAS, evaluation by the Insurance Services Office is extremely
21 comprehensive. Programs and resources including fire prevention and
22 investigation, training, dispatch, water supply system capabilities, staffing
23 levels, equipment, and resource deployment capabilities are each reviewed.
24 An ISO Class 1 rating indicates that the risk and cost of property loss due to
25 fire in our community is significantly reduced through both fire prevention and
26 emergency response efforts when a fire does occur. Achieving an ISO Class 1

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1 rating is a tremendous accomplishment that benefits the entire business and
2 residential community; and

3 WHEREAS, the Albuquerque Fire Department has accomplished the ISO
4 Class 1 rating, in part, by staffing rank specific sworn personnel
5 (“firefighters”) to all Engine apparatus with a minimum of four (4) firefighters,
6 Rescue apparatus with a minimum of two (2) firefighters, Ladder apparatus
7 with a minimum of three (3) firefighters, Hazardous Materials Squad apparatus
8 with a minimum of two (2) firefighters, Heavy Technical Rescue Squads with a
9 minimum of four (4) firefighters, Quality Assurance Units with one (1)
10 firefighter, Battalion Commander Units with one (1) firefighter; and

11 WHEREAS, the practice of staffing Albuquerque Fire Department
12 apparatus, as stated above, strives to meet the intent of the accepted fire
13 service industry standards; as adopted by the National Fire Protection
14 Association including: 1710 - STANDARD FOR THE ORGANIZATION AND
15 DEPLOYMENT OF FIRE SUPPRESSION OPERATIONS, EMERGENCY MEDICAL
16 OPERATIONS, AND SPECIAL OPERATIONS TO THE PUBLIC BY CAREER
17 FIRE DEPARTMENTS; Occupational Safety & Health Administration, 29CFR
18 1910.134(g)(4), “2-In/2-Out Rule”; the International Association of Fire Chiefs,
19 and the International Association of Fire Fighters, National Institute of
20 Standards and Technology (NIST) – Report on Residential Fire ground Field
21 Experiments (2010) and NIST - Report on EMS Field Experiments (2010); and

22 WHEREAS, the City Council, Mayor, Fire Chief, and members of the
23 Albuquerque Area Fire Fighters, IAFF Local 244, recognize that the standards
24 and best practices of fire suppression and emergency medical service (EMS)
25 responses are ever evolving, and that the Albuquerque Fire Department shall
26 continually monitor trends in Fire/EMS operations to expand Fire/EMS
27 services; and

28 WHEREAS, the City of Albuquerque is committed to support our
29 firefighter’s efforts to provide our citizens and visitors with the best possible
30 service in the most efficient and effective manner, and to provide our
31 firefighters with a reasonable level of safety while performing their assigned
32 duties.

1 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
2 ALBUQUERQUE:

3 Section 1. That, with the exception of temporary exigencies or
4 emergencies, as determined by the Chief, the City of Albuquerque will
5 continue the policy and practice of staffing rank specific firefighters to all
6 Engine apparatus with a minimum of four (4) firefighters, Rescue apparatus
7 with a minimum of two (2) firefighters, Ladder apparatus with a minimum of
8 three (3) firefighters, Hazardous Materials Squads with a minimum of two (2)
9 firefighters, Heavy Technical Rescue Squads with a minimum of four (4)
10 firefighters, Quality Assurance Units with one (1) firefighter, and Battalion
11 Commander Units with one (1) firefighter.

12 Section 2. The City of Albuquerque will continue to staff firefighters in the
13 Fire Marshal's Office, Arson Investigation Division, Communications and
14 Dispatch Division, Emergency Medical Services (EMS) Division, and Training
15 Division with adequate staffing levels.

16 Section 3. That as the size of the City and call volume for the Fire
17 Department increases thereafter the City of Albuquerque shall increase the
18 number of apparatus with categorical staffing levels maintained, increase
19 firefighter staffing levels of the Fire Marshal's Office, Arson Investigation
20 Division, Communications and Dispatch Division, Emergency Medical
21 Services (EMS) Division, and Training Division.

22 Section 4. That in the event of staffing modifications recommended by the
23 Chief, the City of Albuquerque and Albuquerque Area Fire Fighters, IAFF Local
24 244, must meet and confer prior to amending the staffing levels stated in this
25 Resolution.

1 PASSED AND ADOPTED THIS 2nd DAY OF May, 2016
2 BY A VOTE OF: 8 FOR 1 AGAINST.

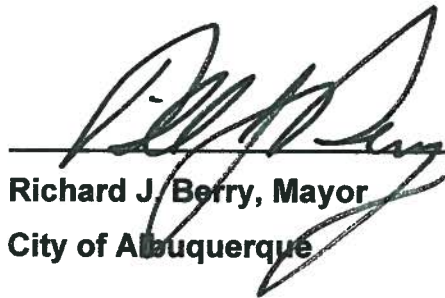
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5 Against: Jones

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9 Dan Lewis, President
10 City Council

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14 APPROVED THIS 18th DAY OF May, 2016

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18 Bill No. R-16-41

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22 Richard J. Berry, Mayor
23 City of Albuquerque
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26 ATTEST:

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28 
29 Natalie Y. Howard, City Clerk

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. R-25-122 ENACTMENT NO. R. 2025. 011

SPONSORED BY: Dan Lewis, Joaquín Baca

1 RESOLUTION

2 ESTABLISHING MINIMUM STAFFING REQUIREMENTS FOR ALBUQUERQUE
3 FIRE RESCUE, RESCUE APPARATUS.

4 WHEREAS, Albuquerque Fire Rescue has a proud tradition of providing
5 excellent emergency response services to the citizens and visitors of the City
6 of Albuquerque; and

7 WHEREAS, Albuquerque Fire Rescue operates a triaged response that
8 prioritizes paramedics for emergency medical calls rather than non-patient
9 related emergencies; and

10 WHEREAS, prompt and coordinated care is essential for maximizing
11 positive patient outcomes in medical emergencies, especially heart attacks,
12 trauma-related incidents requiring immediate transport, and multi-casualty
13 accidents; and

14 WHEREAS, two paramedic Rescue apparatus provide a higher standard of
15 care, particularly in complex medical emergencies, by reducing treatment
16 delays, improving patient monitoring, and enhancing on-scene decision
17 making; and

18 WHEREAS, two paramedics working in tandem and responding on the
19 same apparatus provide increased crew cohesion, checks and balances for
20 complex EMS protocol interpretation, leading to increased positive patient
21 outcomes and ultimately saving lives; and

22 WHEREAS, Albuquerque Fire Rescue's two paramedic Rescue apparatus
23 system offers beneficial professional mentorship and peer support to
24 paramedics new and old; and

25 WHEREAS, to ensure full staffing of the two-paramedic Rescue apparatus
26 system, the City must take proactive steps and train its own paramedics by

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1 working with our education partners to bring back our own training program;
2 and

3 WHEREAS, the City of Albuquerque has repeatedly fought trends to
4 diminish and dilute service delivery to constituents; and

5 WHEREAS, the City of Albuquerque has a responsibility to prioritize public
6 health and safety by ensuring its emergency medical services are equipped to
7 effectively respond to life-threatening situations, and deploying two
8 paramedics on rescues significantly improves service delivery and patient
9 care outcomes; and

10 WHEREAS, the City of Albuquerque is committed to supporting the efforts
11 of our firefighters to provide our citizens and visitors with the best possible
12 service in the most efficient and effective manner, and to provide our
13 firefighters with a reasonable level of safety while performing their assigned
14 duties.

15 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
16 ALBUQUERQUE:

17 Section 1. That, with the exception of temporary exigencies or
18 emergencies, as determined by the Chief, the City of Albuquerque will
19 continue the policy and practice of staffing rank-specific firefighters to all
20 Engine apparatus with a minimum of four (4) firefighters, Rescue apparatus
21 with a minimum of two (2) paramedic firefighters, Ladder apparatus with a
22 minimum of three (3) firefighters, Hazardous Materials Squads with a minimum
23 of two (2) firefighters, Heavy Technical Rescue Squads with a minimum of four
24 (4) firefighters, Quality Assurance Units with one firefighter, and Battalion
25 Commander Units with one (1) firefighter.

26 Section 2. The City of Albuquerque will continue to staff firefighters in the
27 Fire Marshal's Office, Arson Investigation Division, Communications and
28 Dispatch Division, and Training Division with adequate staffing levels.

29 Section 3. That as the size of the City and call volume for Albuquerque Fire
30 Rescue increases thereafter, the City of Albuquerque shall increase the
31 number of apparatus with categorical staffing levels maintained, and increase
32 firefighter staffing levels of the Fire Marshal's Office, Arson Investigation
33 Division, Communications and Dispatch Division, and Training Division.

1 Section 4. That in the event of staffing modifications recommended by the
2 Chief, the City of Albuquerque and Albuquerque Area Fire Fighters IAFF Local
3 244 must meet and confer prior to amending.

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1 PASSED AND ADOPTED THIS 3rd DAY OF March, 2025
2 BY A VOTE OF: 7 FOR 2 AGAINST.

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4 For: Baca, Champine, Grout, Lewis, Peña, Rogers, Sanchez
5 Against: Bassan, Fiebelkorn
6

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10 Brook Bassan, President
11 City Council
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15 APPROVED THIS _____ DAY OF _____, 2025
16

17
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19 Bill No. R-25-122
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22 _____
23 Timothy M. Keller, Mayor
24 City of Albuquerque
25

26 ATTEST:
27

28 _____
29 Ethan Watson, City Clerk
30



City of Albuquerque

Office of the City Clerk

Timothy M. Keller, Mayor

Ethan Watson, City Clerk

Interoffice Memorandum

March 21, 2025

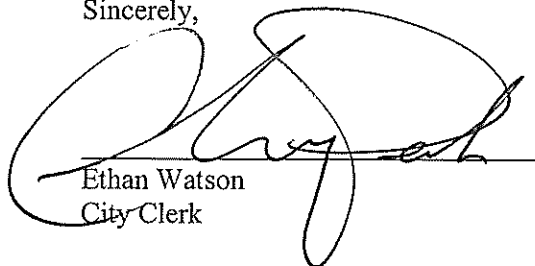
To: CITY COUNCIL

From: Ashley Santistevan, Records Center Manager

Subject: BILL NO. R-25-122; ENACTMENT NO. R-2025-011

I hereby certify that on March 21, 2025, the Office of the City Clerk received Bill R-25-122 as signed by the president of the City Council, Brook Bassan. Enactment No. R-2025-122 was passed at the March 3, 2025 City Council meeting. Mayor Keller did not sign the approved Resolution within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Resolution is in full effect without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. R-25-122.

Sincerely,



Ethan Watson
City Clerk

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. R-25-120 ENACTMENT NO. _____

SPONSORED BY: Tammy Fiebelkorn

- 1 RESOLUTION
- 2 DIRECTING THE CITY ADMINISTRATION TO ENHANCE ENFORCEMENT
- 3 EFFORTS RELATED TO EXISTING RENTAL UNIT HABITABILITY STANDARDS.
- 4 WHEREAS, the health, safety, and well-being of residents are paramount
- 5 concerns for the City of Albuquerque; and
- 6 WHEREAS, everyone deserves a living situation that includes the basic
- 7 functions of a home, including properly functioning electricity, heating,
- 8 cooling, plumbing, water, and doors that lock; and
- 9 WHEREAS, numerous constituents have reported unsafe living conditions
- 10 in rental housing, including lack of properly functioning heating or cooling,
- 11 electrical and plumbing issues, pest infestations, and structural hazards; and
- 12 WHEREAS, at the State level, the New Mexico Uniform Owner-Resident
- 13 Relations Act (UORRA) requires property owners to provide and maintain
- 14 necessary utilities and facilities, make repairs and do whatever is necessary to
- 15 put and keep the premises in a safe condition, and comply with housing
- 16 codes; and
- 17 WHEREAS, UORRA states that property owners shall “maintain in good
- 18 and safe working order and condition electrical, plumbing, sanitary, heating,
- 19 ventilating, air conditioning and other facilities and appliances, including
- 20 elevators, if any, supplied or required to be supplied by him;” and
- 21 WHEREAS, UORRA also requires that property owners complete repairs of
- 22 their rental units within seven days of being notified of a problem; and
- 23 WHEREAS, Albuquerque’s Uniform Housing Code (UHC) likewise requires
- 24 that all residential properties be equipped with essential facilities such as
- 25 kitchens, bathrooms, heating, cooling, and plumbing, and further requires that

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1 these facilities be maintained in a safe, sanitary, and operational condition to
2 protect residents' health and safety; and

3 WHEREAS, property owners bear the ultimate responsibility to maintain
4 their properties in compliance with all applicable standards, and rental units
5 that do not meet habitability requirements can pose a significant risk to both
6 tenants and the general public; and

7 WHEREAS, when a property owner does not complete timely repairs,
8 UORRA allows a tenant to hold their landlord accountable by abating their rent
9 or through the judicial process, which can be timely, expensive, and
10 complicated to navigate; and

11 WHEREAS, rental housing that does not meet habitability requirements
12 disproportionately affects low-income families, seniors, and individuals with
13 disabilities, further exacerbating existing social and economic inequities; and

14 WHEREAS, the City of Albuquerque must ensure that all housing meets
15 minimum health, safety, and building code standards, especially in rental units
16 that house vulnerable populations; and

17 WHEREAS, timely and effective code enforcement is critical to maintaining
18 housing quality, and unresolved complaints related to habitability
19 requirements can lead to increased healthcare costs, displacement, and
20 homelessness, all of which place additional burdens on City resources; and

21 WHEREAS, the current enforcement of existing rental housing codes does
22 not adequately prioritize complaints related to housing that does not meet
23 habitability requirements, leading to delays in addressing serious health and
24 safety violations; and

25 WHEREAS, prioritizing complaints regarding rental units that do not meet
26 habitability requirements will improve the quality of housing, reduce health
27 risks, and ensure a more equitable enforcement of housing standards; and

28 WHEREAS, additional resources and training for the Code Enforcement
29 Division will increase the capacity of staff to handle complex cases, such as
30 those involving large multi-unit properties or absentee landlords.

31 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
32 ALBUQUERQUE:

33 SECTION 1. PRIORITIZATION OF RENTAL HOUSING COMPLAINTS.

1 A. The City Administration shall prioritize providing timely responses to
2 tenant complaints related to rental housing habitability issues.

3 B. To facilitate this prioritization, the Administration shall:

4 1. Establish a full-time, permanent Code Enforcement Officer position
5 within the Planning Department's Code Enforcement Program. This position
6 shall specialize in housing codes and be dedicated to addressing tenant
7 complaints related to rental units that are unsafe and/or do not meet
8 habitability requirements.

9 2. Establish clear criteria for categorizing and addressing complaints
10 based on the severity of potential risks to tenant health, safety, and wellbeing.

11 3. Ensure timely response to complaints, with an emphasis on
12 addressing urgent issues within an accelerated timeline.

13 4. Provide ongoing training to Code Enforcement Officers on
14 identifying and prioritizing health and safety violations in rental units.

15 5. Create and advertise a streamlined process for tenants to file
16 complaints, including the ability to submit complaints online, by phone with a
17 dedicated phone number, or in person.

18 6. Track and report on the progress and outcomes of rental unit
19 complaint investigations, ensuring transparency and accountability in the
20 enforcement process. By the end of each Fiscal Year, the Administration shall
21 submit an Executive Communication to the Council that reports on its
22 compliance with each provision of this Resolution, and provides data on
23 tenant complaints, including but not limited to: the number and types of tenant
24 complaints received, response timelines, investigation procedures, outcomes,
25 and citations issued.

26 **SECTION 2. The City Administration is directed to include the permanent,**
27 **recurring, full-time Code Enforcement Officer position required by this**
28 **Resolution in its upcoming FY26 Budget proposal to City Council, designated**
29 **from the Planning Department's Code Enforcement program. Until the Council**
30 **removes the requirement to maintain the permanent, recurring, full-time Code**
31 **Enforcement Officer position established by this Resolution, the City**
32 **Administration shall continue to include this position in all future annual**

Budget proposals to the City Council, designated from the Planning Department's Code Enforcement program.

SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word, or phrase of this Resolution 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 Resolution. The Council hereby declares that it would have passed this Resolution and each section, paragraph, sentence, clause, word, or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

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CITY OF ALBUQUERQUE

City Council

P.O. Box 1293
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Fax: (505) 768-3227
www.cabq.gov/council

President Brook Bassan
District 4

Vice President Klarissa J. Peña
District 3

Isaac Padilla
Council Director

Louie Sanchez
District 1

Joaquín Baca
District 2

Dan Lewis
District 5

Nichole Rogers
District 6

Tammy Fiebelkorn
District 7

Dan Champine
District 8

Renée Grout
District 9

FOR IMMEDIATE RELEASE:

April 3, 2025

Contact:
Tanya Jackson, Policy Analyst
City Council District 7
Desk: 505-768-3189 | Email: tanyaj@cabq.gov

Mayor Signs City Council Resolution Enhancing Enforcement of Rental Unit Habitability Standards

R-25-120, unanimously approved by the Council, improves the safe and healthy living conditions for all Albuquerque residents.

ALBUQUERQUE - Renters in Albuquerque will now have stronger protections against unsafe living conditions thanks to a new law sponsored by City Councilor Tammy Fiebelkorn and signed by Mayor Tim Keller on Thursday. [R-25-120](#), will make it easier for tenants to report problems and get the help they need, as well as add resources for Code Enforcement. The bill passed unanimously at the City Council Meeting on March 17, 2025.

R-25-120 prioritizes tenant complaints regarding unsafe living conditions, such as lack of functioning heating or cooling, electrical and plumbing problems, pest infestations, and structural hazards among others. The resolution acknowledges existing City and State laws, including the New Mexico Uniform Owner-Resident Relations Act (UORRA), and the Albuquerque Uniform Housing Code (UHC), mandate that property owners maintain habitable living conditions. The resolution directs the City to address complaints more consistently, establish accountability, and to track and report results.

"This resolution is a significant step towards ensuring that our residents live in safe and healthy environments," said **Councilor Tammy Fiebelkorn**. "By prioritizing habitability complaints and providing the necessary resources for enforcement, we are addressing systemic issues that disproportionately affect our most vulnerable community members. This is about ensuring basic human rights are met within our city."

"No one should have to live in an unsafe rental," said **Mayor Tim Keller**. "By adding more Code Enforcement staff and providing an easier way to report unresolved issues, renters will be able to get the help they need and hold their property managers accountable and live in safe, healthy homes."

The Albuquerque Planning Department will play a crucial role in implementing these enhanced enforcement measures, including hiring an additional position to handle these cases. The Planning Department's prioritization and timely response to all rental housing complaints related to habitability issues are improved by this resolution.

"We welcome the additional position to help enforce these very important protections," said **Planning Department Director Alan Varela**. "Landlords have a duty to provide decent and functional rentals. We strongly encourage anyone experiencing problems to report them to 311 so we can help resolve the issues."

###

[City Councilor Tammy Fiebelkorn](#) represents District 7, Albuquerque's mid-heights including uptown and parts of the near northeast heights. She was elected to the City Council in December 2021.

THE CITY OF ALBUQUERQUE
and
LOCAL 624 AFSCME, COUNCIL 18, AFL-CIO

Effective July 1, 2023 through June 30, 2026

2. PAY PROVISIONS

2.1 Salary Schedule

2.1.1 For the fiscal year from July 1, 2023 through June 30, 2024, bargaining unit employees' (other than those red-circled) hourly rate of pay will be increased above the amounts in table 2.1.2 by 3.5%, effective on the first full pay period following ratification by the membership, approval by the Mayor, and signature by the parties. For FY25, beginning July 1, 2024, bargaining unit employees' hourly rate of pay will be increased by a minimum of 3.0%, effective on the first full pay period following July 1, 2024, regardless of whether non-economic negotiations remain open. For FY26, beginning July 1, 2025, bargaining unit employees' hourly rate of pay will be as appropriated by the City Council and signed by the Mayor effective on the first full pay period following July 1, 2025, regardless of whether non-economic negotiations remain open.

The Mayor's proposed budget for FY25 will include the minimum 3.0% increase in the hourly rate of pay. It is understood by the parties that: the implementation of any wage and/or benefit increases are subject to City Council budget appropriation; that there shall be no retroactive compensation benefit in this agreement; and the FY25 increase in hourly wages is contingent on the terms of Section 3-2-19 of the City's LMRO and also approval and appropriation in and for the FY25 budget by the City Council and signature by the Mayor.

2.1.2 Employees whose regular work assignments begin during the times designated below are eligible to receive shift differential for regular hours worked or hours on approved leave with pay:

2.1.2.1 Swing Shift (\$.45 per hour) start time between 11:59am and 6:59 pm

2.1.2.2 Graveyard Shift (\$.60 per hour) start time between 7:00pm and 3:59am

2.1.3 An employee called back to work, in addition to his/her normal work schedule, will be guaranteed for each such call-in a minimum of two (2) hours at time and one-half (1 1/2). Call-in time shall commence at the time the employee is contacted and shall include a reasonable amount of time for travel to work. This provision will not apply if the overtime immediately precedes or immediately follows the regular work shift. This benefit may not require that call-in be paid again if additional call-ins occur within the two hours already guaranteed.