

1 WHEREAS, currently, there is no limitation on an owner or manager's
2 acceptance of application fees from multiple potential tenants, without regard
3 to the number of vacant units available; and

4 WHEREAS, additional monthly pet fees can add hundreds or even thousands
5 to the cost of renting each year; and

6 WHEREAS, while rental insurance generally covers the property of a renter
7 and not the unit itself, some landlords require a tenant to provide proof of rental
8 insurance as a condition of the lease, causing the tenant to incur additional
9 monthly expenses; and

10 WHEREAS, the Council finds that, to protect the public health, safety, and
11 general welfare of Albuquerque, it is in the public interest to address local
12 issues of unfair, deceptive, and deceptive practices in the provision of rental
13 housing in the City; and

14 WHEREAS, the Council seeks to enact a new Ordinance protecting tenants
15 and applicants for a residential rental unit from excessive and unreasonable
16 fees;

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

19 SECTION 1. A new Article 14 in Chapter 11 of the Revised Ordinances of
20 Albuquerque 1994 is hereby adopted as follows:

21 "[§ 11-14-1 SHORT TITLE.

22 This Ordinance shall be known and cited as the "Residential Tenant
23 Protection Ordinance."

24 § 11-14-2. INTENT AND PURPOSE.

25 The purpose of this Article is to protect the public health, safety, and
26 general welfare of Albuquerque and address local issues of unfair, deceptive,
27 and deceptive practices in the provision of rental housing in the City, by
28 enacting a new Ordinance protecting tenants and applicants for a residential
29 rental unit from excessive and unreasonable fees.

30 § 11-14-3. DEFINITIONS.

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

1 A. DEPOSIT. A deposit is an amount of currency or instrument
2 delivered by a resident or potential resident to an owner, broker, agent,
3 property manager or property management company of a rental unit as a
4 pledge to abide by terms and conditions of a rental agreement. A deposit
5 shall be refundable pursuant to state law;

6 B. APPLICATION FEE. Any sum, other than a deposit, that a landlord
7 requires an applicant to pay prior to entering into a lease agreement. This
8 does not include Tenancy Fees.

9 C. TENANCY FEE. Any sum, other than a deposit or rent, that a landlord
10 requires a tenant for a residential rental unit to pay to the landlord.

11 D. LANDLORD. An owner, broker, agent, property manager or property
12 management company that offers one or more residential units for rent.

13 § 11-14-4. EARLY DISCLOSURE OF TENANCY REQUIREMENTS

14 A landlord must make the following written disclosures to potential
15 applicants for a unit before the applicant applies to rent a unit, either in the
16 advertisement for the unit or any other written communication, including
17 electronic:

18 A. Information that could appear on a background check that would
19 disqualify an applicant for approval, if any;

20 B. The minimum credit score required for approval, if any;

21 C. Minimum income requirements, if any, subject to the provisions of the
22 City of Albuquerque Human Rights Ordinance, ROA 1994, § 11-3-1, et seq.
23 which provides that if an applicant receives a housing voucher, only the
24 portion of rent that the tenant is personally responsible for paying may be
25 used to calculate a minimum income requirement; and

26 D. A list of all Application Fees charged by the landlord and all Tenancy
27 Fees provided for in the lease agreement. A Tenant shall not be subject to
28 Application Fees or Tenancy Fees not included in the written disclosure
29 required by this Section.

30 § 11-14-5. FEES

31 Application Fees and Tenancy Fees charged by landlords to tenants must
32 be reasonable.

1 A. An Application Fee or Tenancy Fee is reasonable when it is no greater
2 than a landlord's actual cost paid to a third party associated with the action or
3 process for which the fee is imposed.

4 B. A Tenancy Fee for late payments is reasonable when it does not exceed
5 the amount described in the New Mexico Owner-Resident Relations Act.

6 C. A Tenancy Fee for a returned check is reasonable when it does not
7 exceed the landlord's actual cost paid to their financial institution.

8 D. In no event shall an Application Fee exceed the landlord's actual cost,
9 per application. A landlord shall process applications in the order they were
10 received and shall process no more than 10 applications for each rental unit at
11 a time. If none of the 10 applicants qualifies to rent the unit, the landlord may
12 process up to 10 new applications. Application fees shall be held by the
13 landlord until the application is processed or until any tenant's application for
14 the unit is approved, whichever occurs first. If an application is not processed
15 and the unit is rented to another tenant, the application fee must be refunded
16 to the applicant within 15 days.

17 E. In the event that a Landlord rejects an Application without providing a
18 reason in writing, the Landlord shall refund the Application Fee collected.

19 F. A landlord may not charge a fee on the basis that the tenant intends to
20 keep a pet. A landlord may require an additional pet deposit if permitted by
21 state law, and for leases less than one year, may charge monthly pet rent not
22 to exceed \$15 a month, regardless of the number of pets.

23 G. A landlord may not charge any other fee, other than the late fees and
24 attorney's fees described in the New Mexico Owner-Resident Relations Act.

25 H. At the time any fee is charged, the landlord must provide to the tenant
26 the invoice or other documentation evidencing the cost for which the fee was
27 imposed.

28 § 11-14-6. PAYMENT OF RENT

29 A. A landlord shall not refuse to accept payment of rent on the basis
30 that the payment is made by cash, personal check or money order, nor shall
31 any residential lease prohibit a tenant from paying rent by cash, personal
32 check or money order.

1 **B. A landlord shall not charge a fee for payment of rent on the basis**
2 **that the payment is made by cash, personal check, money order, or via an on-**
3 **line payment portal, nor shall any residential lease provide for such a fee.**

4 **§ 11-14-7. RENTER’S INSURANCE**

5 **A landlord shall not require a tenant to obtain any insurance as a condition**
6 **of renting a residential unit.]”**

7 **SECTION 2. SEVERABILITY CLAUSE.**

8 **If any section, paragraph, sentence, clause, word or phrase of this**
9 **Ordinance is for any reason held to be invalid or unenforceable by any court**
10 **of competent jurisdiction, such decision shall not affect the validity of the**
11 **remaining provisions of this Ordinance. The Council hereby declares that it**
12 **would have passed this Ordinance and each section, paragraph, sentence,**
13 **clause, word or phrase thereof irrespective of any provision being declared**
14 **unconstitutional or otherwise invalid.**

15 **SECTION 3. COMPILATION.**

16 **Section 1 of this Ordinance shall amend, be incorporated in, and made part**
17 **of the Revised Ordinances of Albuquerque, New Mexico, 1994.**

18 **SECTION 4. EFFECTIVE DATE.**

19 **This Ordinance shall take effect five days after publication by title and**
20 **general summary.**

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