

1 **City of Belen Ordinance No. _____**

2
3 **AN ORDINANCE ADOPTING PROCEDURES FOR SAFE AND ANONYMOUS**
4 **SURRENDER OF INFANTS.**

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6 **WHEREAS**, the City of Belen is committed to saving the lives of children by providing
7 parents in crisis with a safe and anonymous plan for surrender of infants;

8
9 **WHEREAS**, the State of New Mexico has enacted the Safe Haven for Infants Act which
10 is to promote the safety of infants and to immunize a parent from criminal prosecution for
11 leaving an infant, ninety days of age or less, at a safe haven site pursuant to NMSA § 24-22-1.1,
12 and

13
14 **NOW THEREFORE**, pursuant to NMSA §§ 24-22-1.1 through 24-22-8, the City of
15 Belen adopts the following ordinance for the safety of infants and providing immunity to a
16 parent as well as eliminating unsafe and unlawful surrenders within City of Belen, New Mexico.

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18 **Section 1. Purpose**

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20 The purpose of the Safe Haven for Infants Act is to promote the safety of infants and to
21 immunize a parent from criminal prosecution for leaving an infant, ninety days of age or less, at
22 a safe haven site. This act is not intended to abridge the rights or obligations created by the
23 federal Indian Child Welfare Act of 1978 or the rights of parents.

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25 **Section 2. Definitions.**

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27 The below words and phrases, wherever used in this article, shall be construed as defined
28 in this section unless, clearly from the context, a different meaning is intended. Words used in
29 the present tense include the future tense, words in the plural number include the singular number,
30 and words in the singular number include the plural number.

- 31 A. “fire station” means a fire station that is certified by the state fire marshal’s office;
- 32 B. “hospital” means an acute care general hospital or health care clinic licensed by the state;
- 33 C. “Indian child” or “Native American Child” means an Indian child or Native American Child
34 as defined by the federal Indian Child Welfare Act of 1978;
- 35 D. “infant” means a child no more than ninety days old, as determined within a reasonable
36 degree of medical certainty;
- 37 E. “law enforcement agency” means a law enforcement agency of the City or state or a political
38 subdivision of the state;

39 F. “baby box” or “infant safety device” means a Safe Haven Baby Box that is approved to be
40 utilized for the surrender of an infant, as an alternative to the traditional hand over of an infant
41 at a safe haven site;

42 E. “safe haven site” means a hospital, law enforcement agency or fire station that has staff on
43 site at the time an infant is left at such a site or designated site by the City; and

44 H. “staff” means an employee, contractor, agent or volunteer performing services as required
45 and on behalf of the safe haven site or designated agent/contractor by the City through a lease
46 agreement.

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48 **Section 3. Leaving an infant.**

49 A. A person may leave an infant with the staff of a safe haven site without being subject to
50 criminal prosecution for abandonment if the infant was born within ninety days of being left
51 at the safe haven site, as determined within a reasonable degree of medical certainty, and if
52 the infant is left in a condition that would not constitute abandonment or abuse of a child
53 pursuant to Section 30-6-1 NMSA 1978. A person may also leave an infant in an approved
54 Safe Haven Baby Box if they do not feel comfortable leaving the infant with staff of a safe
55 haven site, pursuant to the same procedures as listed in the previous sentence.

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57 B. A safe haven site may ask the person leaving the infant for the name of the infant’s
58 biological father or biological mother, the infant’s name and the infant’s medical history, but
59 the person leaving the infant is not required to provide that information to the safe haven
60 site.

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62 C. The safe haven site is deemed to have received consent for medical services provided to
63 an infant left at a safe haven site in accordance with the provisions of the Safe Haven for
64 Infants Act or in accordance with procedures developed between the children, youth and
65 families department and the safe haven site.

66 **Section 4. Safe haven site procedures.**

67 A. A safe haven site shall accept an infant who is left at the safe haven site in accordance
68 with the provisions of the Safe Haven for Infants Act.

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70 B. In conjunction with the children, youth and families department, a safe haven site shall
71 develop procedures for appropriate staff to accept and provide necessary medical services
72 to an infant left at the safe haven site and to the person leaving the infant at the safe haven
73 site, if necessary.

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75 C. Upon receiving an infant who is left at a safe haven site in accordance with the
76 provisions of the Safe Haven for Infants Act, the safe haven site may provide the person
77 leaving the infant with:

78 (1) Information about adoption services, including the availability of private adoption
79 services;

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- 81 (2) Brochures or telephone numbers for agencies that provide adoption services or
82 counseling services; and
- 83 (3) Written information regarding whom to contact at the children, youth and families
84 department if the parent decides to seek reunification with the infant.
- 85
- 86 D. A safe haven site shall ask the person leaving the infant whether the infant has a parent
87 who is either a member of an Indian tribe or is eligible for membership in an Indian tribe,
88 but the person leaving the infant is not required to provide that information to the safe
89 haven site.
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- 91 E. Immediately after receiving an infant in accordance with the provisions of the Safe
92 Haven for Infants Act, a safe haven site shall inform the children, youth and families
93 department that the infant has been left at the safe haven site. The safe haven site shall
94 provide the children, youth and families department with all available information
95 regarding the child and the parents, including the identity of the child and the parents, the
96 location of the parents and the child's medical records.

97 **Section 5. Recognizing Responsibilities of the children, youth and families department**

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- 99 A. The children, youth and families department shall be deemed to have emergency custody of
100 an infant who has been left at a safe haven site according to the provisions of the Safe Haven for
101 Infants Act.
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- 103 B. Upon receiving a report of an infant left at a safe haven site pursuant to the provisions of the
104 Safe Haven for Infants Act, the children, youth and families department shall immediately
105 conduct an investigation, pursuant to the provisions of the Abuse and Neglect Act.
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- 107 C. When an infant is taken into custody by the children, youth and families department, the
108 department shall make reasonable efforts to determine whether the infant is an Indian child. If the
109 infant is an Indian child:
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- 111 (1) The child's tribe shall be notified as required by Section 32A-1-14 NMSA 1978 and the
112 federal Indian Child Welfare Act of 1978; and
- 113 (2) Pre-adoptive placement and adoptive placement of the Indian child shall be in accordance
114 with the provisions of Section 32A-5-5 NMSA 1978 regarding Indian child placement
115 preferences.
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- 117 D. The children, youth and families department shall perform public outreach functions
118 necessary to educate the public about the Safe Haven for Infants Act, including developing
119 literature about that act and distributing it to safe haven sites.
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- 121 E. An infant left at a safe haven site in accordance with the provisions of the Safe Haven for
122 Infants Act shall presumptively be deemed eligible and enrolled for Medicaid benefits and
123 services.
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125 **Section 6. Procedure if reunification is sought**

126 A. A person established as a parent of an infant previously left at a safe haven site shall have
127 standing to participate in all proceedings regarding the child pursuant to the provisions of the
128 Abuse and Neglect Act.

129 B. If a person not previously established as a parent seeks reunification with an infant previously
130 left at a safe haven site and the person’s DNA indicates parentage of the infant, that person shall
131 have standing to participate in all proceedings regarding the infant pursuant to the provisions of
132 the Abuse and Neglect Act.

133 **Section 7. Immunity.**

134 A safe haven site and its staff are immune from criminal liability and civil liability for accepting
135 an infant in compliance with the provisions of the Safe Haven for Infants Act but not for
136 subsequent negligent medical care or treatment of the infant.

137 **Section 8. Miscellaneous**

138 This Ordinance does not affect the rights and duties that matured, penalties that were incurred,
139 or proceedings that were begun before the effective date of this Ordinance.

140 If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the
141 Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by
142 the decision of any court of competent jurisdiction, such decision shall not affect the validity of
143 the remaining portions thereof.

144 **PASSED, ADOPTED AND APPROVED BY GOVERNING BODY OF THE City of**
145 **Belen, NM, and this ___ day of August, 2022.**

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Honorable Robert C. Noblin, Mayor

Attest:

Dorothy Flores, City Clerk/Treasurer