

## ORDINANCE NO. 583

### AN ORDINANCE OF THE CITY OF LOVINGTON, NEW MEXICO AMENDING TITLE 3, CHAPTER 13.16 – LODGERS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LOVINGTON, NEW MEXICO THAT TITLE 3, CHAPTER 13.16 OF THE LOVINGTON MUNICIPAL CODE BE AND HEREBY IS AMENDED

#### **3.16.030 Definitions.**

As used in this chapter:

"Lodgings" means the rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodgings.

"Rent" means the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax authorized in the Lodgers' Tax Act.

"Taxable premises" means a hotel, motel, inn, ~~or bed and breakfast~~ recreational vehicle park or other premises used for lodging that is not the vendee's household or primary residence.

"Temporary lodging" means lodging for the purpose of housing a vendee within proximity of the vendee's employment or job location.

"Tourist" means a person who travels for the purpose of business, pleasure or culture to a municipality or county imposing an occupancy tax.

"Tourist-related events" means events that are planned for, promoted to and attended by tourists.

"Tourist-related facilities and attractions" means facilities and attractions that are intended to be used by or visited by tourists.

"Tourist-related transportation systems" means transportation systems that provide transportation for tourists to and from tourist-related facilities and attractions and tourist-related events.

"Vendor" means a person or the persons agent furnishing lodgings in the exercise of the taxable service of lodging.

#### **3.16.060 Exemptions.**

The occupancy tax shall not apply:

- A. If a vendee:
  - 1. Has been a permanent resident of the taxable premises for a period of at least thirty consecutive days, **unless those premises are temporary lodging**; or
  - 2. Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty consecutive days, **unless those premises are temporary lodging**;
- B. If the rent paid by the vendee is less than two dollars a day;
- C. To lodging accommodations at religious, charitable, educational or philanthropic institutions, including without limitation such accommodations at summer camps operated by institutions;
- D. To clinics, hospitals or other medical facilities;
- E. To privately-owned and operated convalescent homes, or homes for the aged, infirm, indigent, or chronically ill;
- ~~F. If the taxable premises does not have at least three rooms or three other units of accommodation for lodging. (Ord. 461 (part), 2005)~~ **To lodging accommodations at institutions of the federal government, the state or any political subdivision thereof**

**3.16.150 Use of lodger's tax monies.**

- A. The municipality may use the proceeds of the tax to defray the cost of:
  - 1. Collecting and otherwise administering the tax;
  - 2. Establishing an operating, constructing, purchasing, otherwise acquiring, reconstructing, extending, bettering, or otherwise improving fairgrounds, exposition buildings, field houses, auditoriums, welcome centers, tourist information centers, museums, performing arts facilities, in operation prior to January 1, 1989, convention halls or other convention facilities of the municipality, of the county within which the municipality is located or of the county and acquiring improvements incidental thereto;
  - 3. Equipping and furnishing such facilities, as specified in this section of the municipality or county;
  - 4. Acquiring a suitable site, grounds or other real property or any interest therein for such facilities of the municipality or county;

5. The principal of and interest on any prior redemption premiums due in connection with and any other charges pertaining to revenue bonds authorized by Section 3-38-23 or Section 3-38-24 NMSA 1978;
  6. Advertising, publicizing and promoting such facilities of the municipality or county and tourist facilities or attractions within the area; except that a municipality located in a Class A county or a Class A county imposing an occupancy tax of more than two percent shall use not less than one-half of the proceeds derived from the tax for the purposes of this subsection; provided that this use of the proceeds of the occupancy tax shall not affect the payment of principal and interest on outstanding bonds issued prior to July 1, 1977 pursuant to Section 3-38-23 or 3-38-24 NMSA 1978, which shall be made in accordance with the retirement schedules of the bonds established at the time of issuance. The amount of expenditures required by this subsection shall be reduced each year, if necessary, to make required payments of principal and interest of all outstanding bonds issued prior to July 1, 1977;
  7. Any combination of the foregoing purposes or transactions stated in this section. (Ord. 461 (part), 2005)
- B. The following portions of the proceeds from the occupancy tax that are collected based on the first thirty days a vendee rents lodging or lodgings in taxable premises shall be used only for advertising, publicizing and promoting tourist-related facilities and attractions and tourist-related events:
1. The first 3 percent, no less than one half shall be used for those purposes.
  2. The tax in excess of 3 percent, no less than one fourth shall be used for those purposes.
  3. The proceeds from the occupancy tax that are collected based on the first thirty days a vendee rents lodging or lodgings in taxable premises in excess of the amount required to be used for advertising, publicizing and promoting tourist-related facilities and attractions and tourist-related events may be used for any purpose authorized in Section 3-38-21 NMSA 1978.
- C. The proceeds from the occupancy tax that are required to be used to advertise, publicize and promote tourist-related facilities and attractions and tourist-related events shall be used within two years of the close of the fiscal year in which they were collected and shall not be accumulated beyond that date or used for any other purpose.
- D. Proceeds from the occupancy tax that are collected based on the thirty-first and subsequent days a vendee rents lodging or lodgings in taxable premises for any municipal purpose to include:

1. Maintenance of City facilities
2. Operating cost of City facilities
3. Construction of City facilities
4. Maintenance and construction of roadways and pedestrian improvements
5. Providing police and fire protection for the municipality
6. Providing funding for community economic development
7. Providing funding for arts, culture, and historical facilities and operations

**3.16.170 Repealer and Effective Date.**

All ordinances and parts of ordinances in conflict with the provisions of this chapter are repealed. **The effective date of the changes contained herein is July 1, 2020.**

**PASSED, ADOPTED, AND APPROVED THIS 25<sup>TH</sup> DAY of MAY, 2020.**

ATTEST:

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DAVID TRUJILLO, MAYOR

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SHANNON LESTER, CITY CLERK