

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. C/S O-25-75 ENACTMENT NO. _____

SPONSORED BY: Brook Bassan, by request

1 **ORDINANCE**

2 **ADOPTING A NEW ARTICLE 25 IN CHAPTER 9 ROA 1994, TO BE KNOWN AS**
3 **THE DISTRESSED LODGING PROPERTY ORDINANCE AND AMENDING THE**
4 **LODGERS' TAX ORDINANCE.**

5 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
6 **ALBUQUERQUE:**

7 **SECTION 1. Chapter 9 Article 25 of the City Code of Ordinances is created**
8 **as follows:**

9 **§ 9-25-1 SHORT TITLE. This article may be referred to as the Distressed**
10 **Lodging Property Ordinance.**

11 **§ 9-25-2 PURPOSE. This Ordinance establishes enhanced operational**
12 **requirements for lodging establishments.**

13 **§ 9-25-3 DEFINITIONS. For the purpose of this article, the following definitions**
14 **shall apply unless the context clearly indicates or requires a different**
15 **meaning.**

16 **GUEST. Any individual aged 18 or older who is the registered occupant of a**
17 **lodging establishment for an overnight stay.**

18 **LODGING ESTABLISHMENT. Any lodging facility, including a hotel, motel, bed**
19 **and breakfast, inn, extended stay property, short term rental, or other similar**
20 **place, that offers temporary overnight accommodations to the public for a fee.**

21 **COMPLIANCE PERIOD. A period of twelve months in which the property must**
22 **adhere to all additional regulations outlined in this Ordinance.**

23 **§ 9-25-4 APPLICABILITY.**

24 **(A) This Ordinance applies to any lodging establishment that has:**

25 **i. Failed to make lodgers tax and/or hospitality fee payments to the**
26 **City for 3 consecutive months pursuant to § 4-4, the Lodgers' Tax Ordinance.**

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1 ii. Has been found in violation of any City Ordinance on three or more
2 separate occasions within a twelve-month period.

3 iii. Has been found in violation of the Nuisance Abatement Ordinance, §
4 11-1-1-1 et seq. on one or more occasions in the previous twelve months.

5 (B) In the instance that a lodging establishment is subject to the enhanced
6 operational requirements in § 9-25-5 changes ownership, all new owners and
7 operators of the property will remain subject to the requirements until the
8 Compliance Period has ended.

9 § 9-25-5 ENHANCED OPERATIONAL REQUIREMENTS. Lodging
10 establishments subject to this Ordinance shall comply with the following
11 regulations during the Compliance Period:

12 (A) Guest Identification:

13 i. If payment is with a debit or credit card, the following information
14 shall be retained for 45 days:

15 a) The name on the card; and

16 b) The card brand; and

17 c) The last four digits of the card.

18 ii. A copy of the guest's photo ID if available, or if not available then a
19 clear, discernable, color still image of the guest that clearly depicts a full-face
20 view of the person must be retained for a minimum of 45 days and made
21 available to the City upon request in accordance with applicable laws.

22 iii. If a guest will be parking a vehicle on the property during any portion
23 of their stay, the guest must provide the make, model, and license plate
24 number(s) for any such vehicle(s).

25 iv. A record of the license plate number of all guests' vehicles must be
26 retained for a minimum of 45 days and made available to the City upon request
27 in accordance with applicable laws.

28 (B) Guest Logbook:

29 i. Maintain a secure, digital or physical logbook of all guest check-ins,
30 including the name, address if available, phone number if available, and
31 license plate(s) of all vehicles for the guest if available, along with the room
32 number and duration of stay. Records must be retained for a minimum of 45
33 days.

1 ii. In the event that a logbook is obtained by the City, the contents of
2 such shall be exempt from the Inspection of Public Records Act (IPRA) and
3 shall only be reviewed by City Departments enforcing this Ordinance.

4 § 9-25-6 PENALTY. Noncompliance of this section shall constitute a separate
5 violation for each and every day or portion thereof that the violation is
6 continued, committed or permitted.

7 (A) The Mayor or their designee may impose a civil fine of \$500 per day for
8 each violation of this Ordinance. This fine may be assessed as a lien against
9 the property involved, or a personal obligation of the property owner.

10 (1) A civil fine assessed pursuant to this Ordinance may be appealed to
11 an Independent Hearing Officer pursuant to the procedures established in the
12 IHO Ordinance, Sections 2-7-8-1 to -10.

13 (2) Notice of such civil fine shall be mailed by certified mail, return receipt
14 requested, to the owner(s) of the real property.

15 i. The mailing of the notice shall be deemed sufficient if mailed to the
16 owner(s) of the real property at the address(es) shown on the records of the
17 Bernalillo County Clerk and/or the Bernalillo County Assessor's Office.

18 ii. The notice shall state:

- 19 a. The property is in violation of this Ordinance;
20 b. The conditions, actions, or deficiencies that resulted in such
21 violation(s);
22 c. A civil penalty has been assessed against the owner(s) of the
23 property and specify the amount of the civil penalty;
24 d. The civil penalty must be paid within thirty (30) days from the
25 date of the notice;
26 e. That a lien will be filed against the property for the amount of
27 the civil penalty plus the cost of fees associated with filing a lien with
28 Bernalillo County if the civil penalty is not timely paid; and
29 f. That the civil penalty can be appealed pursuant to the
30 procedures established in the IHO Ordinance, Sections 2-7-8-1 to -10.

31 (3) Transfer of property ownership shall not terminate any order issued
32 pursuant to this section. An individual acquiring a property that is or was in

1 violation of this section shall be responsible for compliance with any order or
2 pending enforcement action taken pursuant to this section.

3 (B) The Mayor or their designee may, for any violation of this article, take
4 one or more of the following actions:

5 (1) Prevent the occupancy of the building, structure, or land on which the
6 business is located; or

7 (2) Assess a civil fine.

8 (C) In addition to the remedies provided above, this article may be enforced
9 by the City by suit in District Court.

10 SECTION 2. LODGERS' TAX. Amend § 4-4-11 FAILURE TO PAY TAX OR
11 MAKE RETURN; PENALTY; COLLECTION OF DELINQUENCIES; CONTINUOUS
12 SURETY BOND; APPEAL, to add a new subsection (F) as follows:

13 (F) In addition to any other penalties provided under this article, if a vendor
14 files a return without remitting the occupancy tax owed, the City may prohibit
15 occupancy of the building, structure, or land where the business operates
16 until the full tax amount is paid.

17 Amend § 4-4-12 LIEN FOR TAX; PAYMENT; CERTIFICATE OF LIENS. as
18 follows:

19 All delinquent occupancy taxes and penalty shall constitute a lien in favor of
20 the City on the personal and real property of the vendor providing the lodging,
21 and on the real property where the lodging is provided. This lien shall run with
22 the land, and may be enforced as provided in Sections 3-36-1 through 3-36-7
23 NMSA 1978 or through any other provisions provided by law.

24 (A) Under process or order of the court, no person shall sell the property of
25 any vendor without first ascertaining from the Treasurer of the City the
26 amount of any occupancy tax due to the City. Any occupancy tax due the City
27 shall be paid from the proceeds of the sale before payment is made to the
28 judgment creditor or any other person with a claim on the sale proceeds.

29 (B) The Treasurer of the City shall furnish to any person applying for such a
30 certificate, a certificate showing the amount of all liens in the records of the
31 municipality against any vendor.

32 SECTION 3. SEVERABILITY. If any section, paragraph, sentence, clause,
33 word or phrase of this Ordinance is for any reason held to be invalid or

1 unenforceable by any court of competent jurisdiction, such decision shall not
2 affect the validity of the remaining provisions of this Ordinance. The Council
3 hereby declares that it would have passed this Ordinance and each section,
4 paragraph, sentence, clause, word or phrase thereof irrespective of any
5 provision being declared unconstitutional or otherwise invalid.

6 **SECTION 4. COMPILATION.** Section ‘1’ of this Ordinance is to be compiled
7 as a new Article 25 in Chapter 9 of the Revised Ordinances of Albuquerque,
8 New Mexico, 1994, titled “The Distressed Lodging Property Ordinance.”
9 Section ‘2’ of this Ordinance amends, is incorporated in, and is to be complied
10 as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

11 **SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect five days
12 after publication by title and summary.

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