

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

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

SPONSORED BY: Brook Bassan, by request

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 of Article 25 of the City Code of Ordinances is created
8 as follows:

9 [§ 9-25-1 SHORT TITLE.]

10 This article may be referred to as the Distressed Lodging Property Ordinance.

11 § 9-25-2 PURPOSE.

12 This ordinance establishes enhanced operational requirements for lodging
13 establishments.

14 § 9-25-3 DEFINITIONS.

15 For the purpose of this article, the following definitions shall apply unless the
16 context clearly indicates or requires a different meaning.

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

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

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

24 § 9-25-4 APPLICABILITY.

25 (A)This ordinance applies to any lodging establishment that has:

[Bracketed/Uncrossed Material] - New
[Bracketed/Strikethrough Material] - Deletion

- i. Failed to make lodgers tax and/or hospitality fee payments to the City for 3 consecutive months pursuant to §4-4, the Lodgers' Tax Ordinance.
- ii. Has been found in violation of any City ordinance on three or more separate occasions within a twelve-month period.
- iii. Has been found in violation of the Nuisance Abatement Ordinance, §11-1-1-1 et seq. on one or more occasions in the previous twelve months.

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

§ 9-25-5 ENHANCED OPERATIONAL REQUIREMENTS.

Lodging establishments subject to this ordinance shall comply with the following regulations during the Compliance Period:

(A) Guest Identification:

- i. A valid, government-issued photo identification (ID) must be presented by all guests upon check-in.
- ii. If payment is with a debit or credit card, the following information shall be retained for 45 days:
 - a) The name on the card; and
 - b) The card brand; and
 - c) The last four digits of the card.
- iii. A copy of the guest's photo ID must be retained for a minimum of 45 days and made available to the City upon request in accordance with applicable laws.
- iv. If a guest will be parking a vehicle on the property during any portion of their stay, the guest must provide the make, model, and license plate number(s) for any such vehicle(s).
- v. A record of the license plate number of all guests' vehicles must be retained for a minimum of 45 days and made available to the City upon request in accordance with applicable laws.

(B) Guest Logbook:

- 1 i. Maintain a secure, digital or physical logbook of all guest check-ins,
2 including the name, address, phone number, and license plate(s) of
3 all vehicles for the guest, along with the room number and duration
4 of stay. Records must be retained for a minimum of 45 days.
- 5 ii. In the event that a logbook is obtained by the City, the contents of
6 such shall be exempt from the Inspection of Public Records Act
7 (IPRA) and shall only be reviewed by City Departments enforcing this
8 ordinance.

9 **§ 9-25-6 PENALTY.**

10 Noncompliance of this section shall constitute a separate violation for each
11 and every day or portion thereof that the violation is continued, committed or
12 permitted.

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

16 (1) A civil fine assessed pursuant to this ordinance may be appealed to an
17 independent hearing officer pursuant to the procedures established in the IHO
18 Ordinance, Sections 2-7-8-1 to -10.

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

- 21 i. The mailing of the notice shall be deemed sufficient if mailed to the
22 owner(s) of the real property at the address(es) shown on the records
23 of the Bernalillo County Clerk and/or the Bernalillo County Assessor's
24 Office.
- 25 ii. The notice shall state:
 - 26 a. The property is in violation of this ordinance;
 - 27 b. The conditions, actions, or deficiencies that resulted in such
28 violation(s);
 - 29 c. A civil penalty has been assessed against the owner(s) of the
30 property and specify the amount of the civil penalty;
 - 31 d. The civil penalty must be paid within thirty (30) days from the
32 date of the notice;

- e. That a lien will be filed against the property for the amount of the civil penalty plus the cost of fees associated with filing a lien with Bernalillo County if the civil penalty is not timely paid; and
- f. That the civil penalty can be appealed pursuant to the procedures established in the IHO Ordinance, Sections 2-7-8-1 to -10.

8 (3) Transfer of property ownership shall not terminate any order issued
9 pursuant to this section. An individual acquiring a property that is or was in
10 violation of this section shall be responsible for compliance with any order or
11 pending enforcement action taken pursuant to this section.

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

14 **(1) Prevent the occupancy of the building, structure, or land on which the**
15 business is located; or

16 (2) Assess a civil fine.

17 (C) In addition to the remedies provided above, this article may be
18 enforced by the City by suit in district court.]

SECTION 2. LODGERS' TAX.

20 Amend §4-4-11 FAILURE TO PAY TAX OR MAKE RETURN; PENALTY;
21 COLLECTION OF DELINQUENCIES; CONTINUOUS SURETY BOND; APPEAL,
22 to add a new subsection (F) as follows:

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

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

29 All delinquent occupancy taxes and penalty shall constitute a lien in favor of
30 the city on the personal and real property of the vendor providing the lodging,
31 and on the real property where the lodging is provided. This lien shall run
32 with the land, and may be enforced as provided in Sections 3-36-1 through 3-
33 36-7 NMSA 1978 or through any other provisions provided by law.

1 (A) Under process or order of the court, no person shall sell the property of
2 any vendor without first ascertaining from the Treasurer of the city the amount
3 of any occupancy tax due to the city. Any occupancy tax due the city shall be
4 paid from the proceeds of the sale before payment is made to the judgment
5 creditor or any other person with a claim on the sale proceeds.

6 (B) The Treasurer of the city shall furnish to any person applying for such a
7 certificate, a certificate showing the amount of all liens in the records of the
8 municipality against any vendor.

9 **SECTION 3. SEVERABILITY.** If any section, paragraph, sentence, clause, word
10 or phrase of this Ordinance is for any reason held to be invalid or
11 unenforceable by any court of competent jurisdiction, such decision shall not
12 affect the validity of the remaining provisions of this Ordinance. The hereby
13 declares that it would have passed this Ordinance and each section,
14 paragraph, sentence, clause, word or phrase thereof irrespective of any
15 provision being declared unconstitutional or otherwise invalid.

16 **SECTION 4. COMPIRATION.** Section '1' of this Ordinance amends, is
17 incorporated in, and is to be complied as part of the Revised Ordinances of
18 Albuquerque, New Mexico, 1994.

19 **SECTION 5. EFFECTIVE DATE.** This ordinance shall take effect five days after
20 publication by title and summary.