

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 ~~45~~ 25 IN CHAPTER 9 ROA 1994, TO BE KNOWN
3 AS THE DISTRESSED LODGING PROPERTY HOTEL/MOTEL
4 ACCOUNTABILITY ORDINANCE AND AMENDING THE LODGERS' TAX
5 ORDINANCE.

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

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

10 § 9-25-1 SHORT TITLE.

11 This article may be referred to as the Distressed Lodging Property Ordinance
12 ~~Hotel/Motel Accountability Ordinance.~~

13 § 9-25-2 PURPOSE.

14 This ordinance establishes enhanced operational requirements for lodging
15 ~~establishments that have been found in violation of any City ordinance on~~
16 ~~three or more occasions within any twelve-month period to reduce criminal~~
17 ~~activity and ensure public safety.~~

18 § 9-25-3 DEFINITIONS.

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

21 GUEST. Any individual aged 18 or older who ~~occupies~~ is the registered
22 ~~occupant of a hotel or motel room~~ lodging establishment for an overnight
23 stay.

24 ~~HOTEL OR MOTEL. Any commercial establishment providing short-term~~
25 ~~lodging accommodations for a fee.~~

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

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

6 § 9-25-4 APPLICABILITY.

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

- 8 i. Failed to make lodgers tax and/or hospitality fee payments to the
9 City for 3 consecutive months pursuant to §4-4, the Lodgers' Tax
10 Ordinance.
- 11 ii. Has been found in violation of any City ordinance on three or more
12 separate occasions within a twelve-month period.
- 13 iii. Has been found in violation of the Nuisance Abatement Ordinance,
14 §11-1-1-1 et seq. on one or more occasions in the previous twelve
15 months.

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

20 § 9-25-5 ENHANCED OPERATIONAL REQUIREMENTS.

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

23 (A)Guest Identification:

- 24 i. A valid, government-issued photo identification (ID) must be
25 presented by all guests upon check-in.
- 26 ii. If payment is with a debit or credit card, the following information
27 shall be retained for 45 days:
 - 28 a) The name on the card; and
 - 29 b) The card brand; and
 - 30 c) The last four digits of the card.
- 31 iii. A copy of the guest's photo ID must be retained for a minimum of 45
32 days and made available to the City upon request in accordance with
33 applicable laws.

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- 1 iv. If a guest will be parking a vehicle on the property during any portion
- 2 of their stay, the guest must provide the make, model, and license
- 3 plate number(s) for any such vehicle(s).
- 4 v. A record of the license plate number of all guests' vehicles must be
- 5 retained for a minimum of 45 days and made available to the City
- 6 upon request in accordance with applicable laws.

7 **(B) Guest Logbook:**

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

16 **~~(C) Lodgers' Tax:~~**

- 17 ~~i. Provide the City with documentation on the first of each month~~
- 18 ~~regarding the amount of Lodgers' Tax collected by the establishment~~
- 19 ~~and proof of remittance to the City.~~

20 **§ 9-25-6 PENALTY.**

21 Noncompliance of this section shall constitute a separate violation for each

22 and every day or portion thereof that the violation is continued, committed or

23 permitted.

24 (A) The Mayor or their designee may impose a civil fine of \$500 per day for

25 each violation of this ordinance. This fine may be assessed as a lien against

26 the property involved, or a personal obligation of the property owner.

27 (1) A civil fine assessed pursuant to this ordinance may be appealed to an

28 independent hearing officer pursuant to the procedures established in the IHO

29 Ordinance, Sections 2-7-8-1 to -10.

30 (2) Notice of such civil fine shall be mailed by certified mail, return receipt

31 requested, to the owner(s) of the real property.

- 32 i. The mailing of the notice shall be deemed sufficient if mailed to the
- 33 owner(s) of the real property at the address(es) shown on the records

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1 of the Bernalillo County Clerk and/or the Bernalillo County Assessor's
2 Office.

- 3 ii. The notice shall state:
- 4 a. The property is in violation of this ordinance;
 - 5 b. The conditions, actions, or deficiencies that resulted in such
6 violation(s);
 - 7 c. A civil penalty has been assessed against the owner(s) of the
8 property and specify the amount of the civil penalty;
 - 9 d. The civil penalty must be paid within thirty (30) days from the
10 date of the notice;
 - 11 e. That a lien will be filed against the property for the amount of
12 the civil penalty plus the cost of fees associated with filing a
13 lien with Bernalillo County if the civil penalty is not timely paid;
14 and
 - 15 f. That the civil penalty can be appealed pursuant to the
16 procedures established in the IHO Ordinance, Sections 2-7-8-1
17 to -10.

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

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

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

26 (2) Assess a civil fine.

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

29 **SECTION 2. LODGERS' TAX.**

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

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

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

7 All delinquent occupancy taxes and penalty shall constitute a lien in favor of
8 the city on the personal and real property of the vendor providing the lodging,
9 [and on the real property where the lodging is provided.] This lien [shall run
10 with the land, and] may be enforced as provided in Sections 3-36-1 through 3-
11 36-7 NMSA 1978 or through any other provisions provided by law.

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

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

20 SECTION ~~2~~ 3. SEVERABILITY. If any section, paragraph, sentence, clause,
21 word or phrase of this Ordinance is for any reason held to be invalid or
22 unenforceable by any court of competent jurisdiction, such decision shall not
23 affect the validity of the remaining provisions of this Ordinance. The hereby
24 declares that it would have passed this Ordinance and each section,
25 paragraph, sentence, clause, word or phrase thereof irrespective of any
26 provision being declared unconstitutional or otherwise invalid.

27 SECTION ~~3~~ 4. COMPILATION. Section '1' of this Ordinance amends, is
28 incorporated in, and is to be complied as part of the Revised Ordinances of
29 Albuquerque, New Mexico, 1994.

30 SECTION ~~4~~ 5. EFFECTIVE DATE. This ordinance shall take effect five days
31 after publication by title and summary.