

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. O-21-75

ENACTMENT NO. 0-2021-022

SPONSORED BY: Diane G. Gibson

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ORDINANCE

AMENDING SECTION(S) 4-4-9 and 4-4-14 OF THE CITY OF ALBUQUERQUE
LODGERS' TAX ORDINANCE.

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

SECTION 1. Section 4-4-9, COLLECTION OF THE TAXES; REPORTING
CHANGE IN OWNERSHIP, is amended as follows:

(A) Every vendor providing lodgings within this city shall collect the
occupancy tax thereon on behalf of the city and shall act as a trustee therefor.

(B) The occupancy tax shall be collected from vendees in accordance with
this section and shall be charged separately from the rent fixed by the vendor
for the lodgings.

(C) On and after June 1, 1969, each vendor shall be liable to the city for
the tax provided herein on the rent paid for lodging.

(D) (1) Each vendor shall make a report by the 25th day of each month
on forms provided by the Mayor of the receipts for lodging paid to him in the
preceding calendar month and shall remit therewith payment of the total amount
of the occupancy tax due to the city. The report shall include sufficient
information to enable the city to audit the report and shall be verified on oath by
the vendor. Each vendor shall make the required report for each reporting
period whether or not any tax is due. If no gross taxable rent has been collected
for that reporting period, such information shall be reported. Occupancy taxes
not paid and posted to the city's Lodgers Subsidiary Ledger Vendors' Account
by the 25th of the month as provided herein shall be considered delinquent.

(2) If the 25th day of the month falls on a weekend or holiday, the
return shall be due on the next business day.

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1 (E) The Mayor shall select for annual random audits one or more vendors
2 to verify the amount of gross rent subject to the occupancy tax and to ensure
3 that the full amount of occupancy tax on that rent is collected. Copies of audits
4 completed shall be filed with the State of New Mexico local government division
5 of the Department of Finance and Administration.

6 (F) Failure to notify the Mayor within 30 working days of a change of
7 ownership on a taxable premises shall subject vendor to a \$500 penalty.

8 (G) A nonrefundable hearing fee of \$50.00 shall accompany each appeal
9 to the City Hearing Officer filed pursuant to §§ 4-4-6 or 4-4-9 ROA 1994.

10 SECTION 2. Section 4-4-14, MARKETPLACE PROVIDER RESPONSIBILITIES,
11 is amended as follows:

12 (A) Marketplace providers shall be responsible for collecting all
13 applicable occupancy taxes and remitting the same to the City. The marketplace
14 provider shall be considered an agent of the vendor for purposes of occupancy
15 tax collections and remittance responsibilities as set forth in this ordinance;

16 (B) *Safe Harbor*. A marketplace provider operating exclusively on the
17 internet, who operates in compliance with subsection (A) above, shall be
18 presumed to be in compliance with this ordinance, except that the marketplace
19 provider remains responsible for compliance with the administrative penalty
20 provision in § 4-4-99 of this ordinance.

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


28 SECTION 4. COMPILATION. This ordinance shall be incorporated in and
29 compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

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

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1 PASSED AND ADOPTED THIS 8th DAY OF September, 2021
2 BY A VOTE OF: 8 FOR 0 AGAINST.

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5 Excused: Harris

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8 Cynthia D. Borrego, President
9 City Council

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13 APPROVED THIS 21 DAY OF September, 2021

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18 Bill No. O-21-75

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23 Timothy M. Keller, Mayor
24 City of Albuquerque

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27 ATTEST:

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30 Ethan Watson, City Clerk

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