

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, 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. 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.

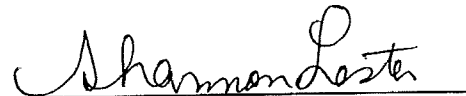
PASSED, ADOPTED, AND APPROVED THIS 8TH DAY of JUNE, 2020.

City of Lovington
New Mexico



DAVID TRUJILLO, MAYOR

ATTEST:



SHANNON LESTER, CITY CLERK



City Manager
JAMES WILLIAMS

City Attorney
PATRICK McMahan

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Lovington, New Mexico
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Phone (575) 396-2884

June 17, 2020

Lovington Inn
1600 W Ave D
Lovington NM 88260

To Whom It May It Concern:

On March 4, 2020, Governor [Michelle Lujan Grisham](#) signed House Bill 117 (found on [nmlegis.gov](#)) that amended the "Lodger's Tax Act" Specifically:

- Redefines taxable premise to be hotels, motels "or other premises used for lodging that is not the vendee's household or primary residence." This redefinition serves to maintain and expand the types of premises subject to the Lodger's Tax. Also defines "temporary lodging" to mean lodging for the purpose of housing a vendee near to a job location;
- Allows electing local governments to collect the Lodgers' Tax after thirty days, if the premises rented are not the vendee's household or primary residence.
- Removes the automatic exemption for rental for over 30 consecutive days, or when evidenced by a written lease.

This law takes effect July 1, 2020.

Therefore, we have included with this notice a copy of the City of Lovington's (City) "Tax Report Form" that you will need to complete and submit monthly to the City on, or before the 25th of the following month with your Lodgers Tax payment.

This Act also mandates the City of Lovington to perform annual audits of the local lodging establishments. We anticipate conducting some random audits for the quarter of July 1, 2020 through September 30, 2020 during the month of December 2020.

You have received this letter, because you operate a qualifying Lodging Establishment and the audits taking place are to verify the gross rents, the lodger's tax payable and the lodger's tax paid to the City of Lovington. If you are randomly selected for an audit you will be receiving an additional letter. Please don't hesitate to contact me if you have any questions.

Sincerely,

Gary Lee Chapman, Finance Director
575-396-2884
PO POX 1269
Lovington, NM 88260



LOVINGTON CITY COMMISSION

Mayor
DAVID TRUJILLO

Mayor Pro-Tem
BERNARD BUTCHER

Commissioners
DAVID SCOTT BOLDT
SCOTTY GANDY
PAUL CAMPOS