

**AMENDING ORDINANCE 2021-3
TAOS COUNTY LODGER'S TAX ORDINANCE**

WHEREAS, the New Mexico Lodgers' Tax Act provides that counties may adopt a lodgers' tax ordinance; and

WHEREAS, Taos County has previously adopted Ordinance 1994-2 (adopted February 8, 1994) which established the Taos County lodgers' tax; and

WHEREAS, Taos County has previously adopted Ordinances 1994-6 (adopted June 14, 1994) and Ordinance 1995-8 (adopted June 27, 1995), both amending certain provisions of the Taos County Lodgers' Tax Act; and

WHEREAS, the 1996 New Mexico Legislature enacted several changes to the New Mexico Lodgers' Tax Act which affect the County's ordinance, resulting in the County repealing and replacing its Lodger's Tax Ordinance in 1996 with the adoption of Taos County Ordinance 1996-7; and

WHEREAS, the Taos County Lodger's Tax Ordinance was further amended in 2021, with the adoption of Ordinance 2021-3 to address the widespread practice of renting dwellings for periods shorter than thirty days. Taos County Ordinance 2021-3 repealed and replaced Ordinance 1996-7 in its entirety; and

WHEREAS, while tourism remains a key economic driver of our local economy, it continues to produce adverse effects to include a volatile seasonal economy, workforce challenges, stress on community infrastructure, and escalating housing costs due to short term rentals; and

WHEREAS, it is necessary to amend the Lodger's Tax Ordinance 2021-3 to allow for the reasonable allocation of resources to support our local communities to offset the adverse effects of tourism on our residents, in a manner consistent with state law.

NOW THEREFORE BE IT ORDAINED, by the Governing Body of Taos County, the Taos County Board of County Commissioners, meeting in regular session, that:

- A. Taos County Ordinance 2021-3 is hereby repealed in its entirety and replaced with this ordinance as of the effective date of this ordinance.
- B. The Taos County Lodgers Tax Ordinance is amended as follows:
 1. **Short Title.** Pursuant to the authority granted to the County pursuant to Section 3-38-13 NMSA 1978 (as amended), the Taos County Board of Commissioners hereby adopts the following as the "Taos County Lodgers' Tax Act". This Ordinance shall be known as, and may be cited as, the "Taos County Lodgers' Tax Act."
 2. **State Law Incorporated.** The terms and definitions of the New Mexico Lodgers' Tax Act, Section 3-38-13 through 3-38-25 NMSA 1978 (as amended) are hereby adopted and incorporated by reference herein.

3. **Definitions.**

- a. "Lodgers' Tax Manager " means an employee of the County assigned by the County Manger and provided the resources and staff necessary to administer the Lodgers' Tax within Taos County.
 - b. "Lodging Registration Certificate" means the certificate issued by the Office of the Taos Clerk, upon application and payment thereof, to a Vendor.
 - c. "Taxable premises" means a hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guest house, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin or other premises used for lodging; in addition to the definition under state law, any lodging including all hotel(s), motel(s), bed and breakfast establishment(s), short term rental units, boarding and/or rooming units and any other room or portion of a premises rented out by a Vendor for less than thirty (30) days.
4. **Imposition of Tax.** There is hereby imposed an occupancy tax of five percent (5%) of gross taxable rent on lodging paid to, or compensation received by, vendors for their taxable premises, beginning on the 8th day of April, 2022.

5. **Licensing.**

- a. No Vendor shall engage in the business of lodging who has not obtained a Lodging Registration Certificate as provided in this Act.
 - b. Each applicant for a Lodging Registration Certificate shall submit an application, to the Lodger's Tax Manager, stating:
 - 1) The name, mailing address and telephone number(s) of the applicant, and the trade names, if different from the name of the applicant, under which the applicant proposes to engage in lodging;
 - 2) A description of the applicant's lodgings, including their physical location and the number of rooms located at that location;
 - 3) The applicant's New Mexico Taxation & Revenue Department Identification Number (i.e., CRS number);
 - 4) If the applicant claims that his/her lodging activity is exempt from the tax under this Ordinance, a detailed explanation of the basis of the applicant's claim of exemption.
 - c. The Lodger's Tax Manager shall review each application and shall, within ten (10) business days of receipt thereof, issue the Lodging Registration Certificate if the applicant is or will be a vendor as defined in this Ordinance and the applicant has complied with the requirements of this Ordinance;
6. **Exemptions.** The occupancy tax shall not apply if a vendee;

- a. has been a permanent resident of taxable premises for a period of at least thirty (30) consecutive calendar days; or
- b. enters into, or has entered into, a written agreement for lodging at the taxable premises for a period of at least thirty (30) consecutive calendar days; or
- c. if the rent, paid by a vendee, is less than two dollars (\$2.00) a day; or
- d. to lodging accommodations at institutions of the federal government, the state, or any political subdivision thereof; or
- e. to lodging accommodations at religious, charitable, educational, or philanthropic institutions, including without limitation such accommodations at summer camps operated by such institutions; or to clinics, hospitals or other medical facilities; or
- f. to lodging privately owned and operated as convalescent homes or homes for the aged, infirm, indigent, or chronically ill.

7. Reporting and Collection of Tax.

- a. Every vendor shall collect the proceeds of the occupancy tax, on behalf of the County, and shall act as a trustee thereof.
 - b. The occupancy tax shall be collected from vendees, in accordance with this Ordinance, and said tax shall be charged separately from the rent, fixed by the vendor, for the lodgings.
 - c. Each vendor shall file a report, to be received by the Lodger's Tax Manager, by the twenty-fifth (25th) day of each calendar month, on forms provided by the Lodger's Tax Manager, of the receipts for lodging received in the preceding calendar month, and shall remit therewith payment of the proceeds of the occupancy tax due the County.
 - d. Each vendor shall maintain adequate records of his/her provision of lodgings and of rent collected or received for the use thereof. Such records, or a true and accurate copy thereof, shall be maintained within the jurisdictional limits of Taos County and shall be open to inspection by the County or its agent during reasonable hours. Such records shall be retained, by the vendor, for a period of not less than seven (7) years.
- 8. Audits.** The County Commission shall annually select, at random, one or more vendors to be audited to verify the amount of gross taxable rent subject to the occupancy tax and to ensure that the full amount of occupancy tax is collected. In addition, the County may conduct an audit of any vendor at any time. A copy of each audit shall be filed annually with the Local Government Division of the New Mexico Department of Finance and Administration.

9. **Lodgers' Tax Advisory Board.** An Advisory Board is hereby authorized and continued, as required by Section 3-38-22 NMSA (1978), for a County Commission imposing a Lodgers' Tax. The Advisory Board was formed and functions and shall continue pursuant to the requirements of Statute as amended.
- a. The Board of Taos County Commissioners, imposing an occupancy tax pursuant to the Lodgers' Tax Act, shall appoint a five-member advisory board that consists of two members who are owners or operators of lodgings subject to the occupancy tax within the unincorporated area of the county, two members who are owners or operators of industries located within the unincorporated area of the county that primarily provide services or products to tourists and one member who is a resident of the unincorporated area of the county who represents the general public. The Lodgers Tax Manager shall be the staff person and ex officio member of the Lodgers Tax Advisory Board.
 - b. Members of the boards created under this section shall serve at the pleasure of the Board of County Commissioners. The advisory board shall advise the Board of County Commissioners on the expenditure of funds authorized by Section 3-38-15 NMSA 1978 for advertising, publicizing and promoting tourist attractions and facilities in the respective counties.
 - c. The advisory board shall submit to the Board of County Commissioners recommendations for the expenditure of funds authorized pursuant to the Lodgers' Tax Act for advertising, publicizing and promoting tourist-related attractions, facilities and events in the respective counties.
10. **Use of Proceeds.** Taos County may use the proceeds from the occupancy tax that are collected based on the thirty-first and subsequent days a vendee rents lodgings in taxable premises as allowed by the New Mexico Lodger's Tax Act and to support economic development, community development and community activities.
11. **Civil Penalties, Liens and Sales by Creditors.**
- a. If, for a given month, any vendor fails to file a monthly report, or fails to pay the occupancy tax then due for that month, he/she shall be liable for the tax due for that month and a penalty equal to ten percent (10%) of the tax due or one hundred dollars (\$100), whichever is greater, and interest, not exceeding one percent (1 %) per month, on all unpaid principal shall be immediately due and payable to the County without further notice from the County.
 - b. Upon failure of a vendor to file a report or to pay tax, the Lodger's Tax Manager shall give the vendor written notice of his/her delinquency and of the penalty and interest provided in this Act. Said notice shall be served personally or by certified mail-return receipt requested. If the report, that is due, is not filed and/or the tax, penalty and interest, that is due, is not paid within fifteen { 15) calendar days of receipt of such notice by the vendor, the Lodger's Tax Manager shall bring an action in New Mexico District Court for the collection of any amounts due, including without limitation, penalties thereon, interest on the unpaid principal at a rate not exceeding one percent (

1 %) a month, and the costs of collection and reasonable attorney's fees incurred in connection therewith.

- c. The occupancy tax shall constitute a preferred lien, in favor of the County, upon the personal and real property of each vendor. The lien may be enforced as provided in Sections 3-36-1 through 3-36-7 NMSA 1978, as amended. Priority of the lien shall be determined from the date of filing.
 - d. The Lodger's Tax Manager shall furnish a certificate, showing the amount of all liens in the records of the County against a vendor pursuant to Chapter 3, Article 388 NMSA 1978, as amended, to any person requesting such a certificate.
 - e. No person shall sell the property of any vendor under process or order of court without first ascertaining from the Lodger's Tax Manager the amount of any occupancy tax, penalty and/or interest due, the County from the vendor. Any of occupancy tax so due shall be paid from the proceeds of the sales before payment is made to the judgement creditor or any other person with a claim on the sale proceeds.
 - f. All penalties, interests and costs, recovered by the County, shall be deposited to the general fund.
12. **Criminal Penalties.** Any person who violates the provisions of this Ordinance, by failure to file the required monthly report, pay the occupancy tax, and/or remit the proceeds thereof, to the County, or to account properly for any lodging and the tax proceeds pertaining thereto, shall be guilty of a misdemeanor and shall be subject to a fine of not more than Five Hundred dollars (\$500) or imprisonment for not more than ninety (90) days or both. For purposes of this section, each failure to file a monthly report, or to remit the occupancy tax proceeds due for said month, shall constitute a separate violation.

13. **Refund and Credits.**

- a. If any vendor believes that he/she has made payment, of any occupancy tax, in excess of that for which he/she was liable, he/she may claim a refund/credit thereof by delivering, to the Lodger's Tax Manager, not later than ninety (90) calendar days from the date payment was made, a written claim for refund/credit.
- b. Every claim shall state, in specific detail and accompanied by copies of all receipts and/or other written documentation, the nature of the vendor's complaint/overpayment.
- c. The Lodger's Tax Manager shall, based on the written appeal, either allow the claim in whole or in part or may deny it.
- d. Refunds/credit of tax erroneously paid and amounting to One Hundred dollars (\$100) or more shall be subject to prior approval of the County Commission.

14. Appeal To Taos County Board of Commissioners.

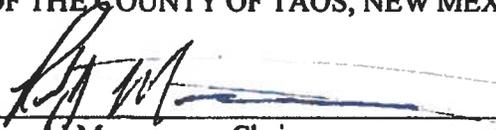
- a. In the event that a vendor is not satisfied with the decision of the Lodger's Tax Manager, he/she may appeal the decision, in writing, to the County Commission.
- b. The written appeal shall be set for hearing, by the County Commission, within forty-five (45) calendar days of receipt by the Lodger's Tax Manager.
- c. The appeal hearing, before the County Commission, shall accord the vendor a full and fair opportunity to present his/her case and present any evidence in favor of their position.
- d. The County Commission shall render a written decision within thirty (30) calendar days after the conclusion of the appeal hearing. Said decision shall be final. An aggrieved vendor may proceed to file an appeal with the Eighth Judicial District Court upon the filing of a bond, with the Court, in an amount equal to the total amount due and payable to the County.

15. **Severability.** If any provision of this Ordinance is held to be unenforceable, by a court of competent jurisdiction, such provision shall be deemed void only to the extent of such unenforceability and shall be deemed separate from, and shall not invalidate, any other provision of this Ordinance.

16. **Recordation & Effective Date.** This Ordinance was recorded in the Office of the Taos County Clerk on the 8 day of August, 2025 in Book No. 1242, Pages 142 through 147. This ordinance shall be effective 30 days from recordation.

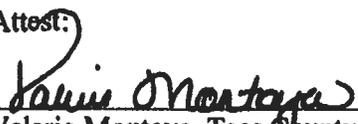
PASSED, APPROVED AND ADOPTED, this 5 day of August, 2025.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF TAOS, NEW MEXICO



Ronald Mascarenas, Chairman

Attest:



Valerie Montoya, Taos County Clerk





Patrick Trujillo, Contract County Attorney