

AG E N D A
CITY OF AZTEC
CITY COMMISSION MEETING
November 26, 2019
201 W. Chaco, City Hall
6:00 p.m.

I. CALL TO ORDER

II. INVOCATION AND PLEDGE OF ALLEGIANCE

United States Pledge of Allegiance

New Mexico Pledge of Allegiance

I Salute the Flag of the State of New Mexico and the Zia Symbol of Perfect Friendship among United Cultures

III. ROLL CALL

IV. APPROVAL OF AGENDA ITEMS

V. CONSENT AGENDA

- A. Commission Workshop Meeting Minutes November 12, 2019
- B. Commission Meeting Minutes November 12, 2019
- C. Intergovernmental Agreement with San Juan County for Detention Center Services, Amendment Eleven

Items placed on the Consent Agenda will be voted on with one motion. If any item proposed does not meet the approval of all Commissioners, a Commissioner may request that the item be heard under "items from Consent Agenda"

VI. ITEMS REMOVED FROM CONSENT AGENDA

VII. PRESENTATIONS

VIII. CITIZENS INPUT (3 Minutes Maximum)

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 72 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410.

IX. BUSINESS ITEMS

- A. Final Adoption of Ordinance 2019-496 Amending Section 1-12 Mandatory Penalty and Fees
- B. Intent to Adopt Ordinance 2019-497 Amending Chapter 27, Article II Lodgers Tax

X. QUASI JUDICIAL HEARINGS (LAND USE)

XI. COMMISSIONER, CITY MANAGER, DEPARTMENT REPORTS

XII. CLOSED SESSION

Closed Session Pursuant to State Law; Section 10-15-1(H - 8) Discussion of the purchase, acquisition or disposal of real property or water rights

XIII. ADJOURNMENT

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 72 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410.

1 CITY OF AZTEC
2 WORKSHOP MEETING MINUTES
3 November 12, 2019
4

5 **I. CALL TO ORDER**
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7 Mayor Snover called the Workshop to order at 5:15 pm at the Aztec City
8 Commission Room, City Hall, 201 W. Chaco, Aztec, NM.
9

10 MEMBERS PRESENT: Mayor Victor Snover; Mayor Pro-Tem Fry;
11 Commissioner Sherri Sipe; Commissioner,
12 Mark Lewis; Commissioner Randall
13

14 MEMBERS ABSENT: None
15

16 OTHERS PRESENT: City Manager Steve Mueller; Finance Director
17 Kathy Lamb; City Attorney Tyson Gobble;
18 Electric Director Ken George; Utility Director
19 Delain George; Project Manager Ed Kotyk; City
20 Clerk Karla Saylor; see attached sign in sheet
21

22 **A. Aztec Utilities – Technology Evolution**
23

- 24 • The Mayor opened the workshop and turned it over to Utility Director Delain
25 George
- 26 • Delain presented a look at the City utilities over the last 20 years to present
- 27 • 1999 first partnered with ITRON and used handheld device to read meters; 2001
28 decided to invest in new technology; Today we use a fixed network solution for
29 small municipalities, it is a Tantalus system. Tantalus partners with ITRON
- 30 • The power point presentation is available in the clerks office

31 **II. ADJOURMENT**
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33 Moved by Mayor Snover to adjourn the meeting at 6:00 p.m.
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Mayor, Victor C. Snover

ATTEST:

Karla Sayler, City Clerk

MINUTES PREPARED BY:

Sherlynn Morgan, Administrative Assistant

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CITY OF AZTEC
COMMISSION MEETING MINUTES
November 12, 2019

I. CALL TO ORDER

Mayor Victor Snover called the Meeting to order at 6:01 pm at the Aztec City Commission Room, City Hall, 201 W. Chaco, Aztec, NM.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

- A. Invocation (led by Commissioner Randall)
- B. United States Pledge of Allegiance (led by Mayor Snover)
- C. New Mexico pledge of Allegiance (led by Mayor Snover)

III. ROLL CALL

Members Present: Mayor Victor Snover; Mayor Pro-Tem Fry;
Commissioner Sipe; Commissioner Austin Randall;
Commissioner Mark Lewis

Members Absent: None

Others Present: City Manager Steve Mueller; City Attorney Tyson Gobble;
Project Manager Ed Kotyk; City Clerk Karla Sayler (see
attendance sheet)

IV. APPROVAL OF AGENDA ITEMS

MOVED by Commissioner Randall to approve the agenda as given; SECONDED
by Commissioner Lewis

All voted Aye: Motion passed five to zero

V. CONSENT AGENDA

- A. Commission Workshop Meeting Minutes October 22, 2019
- B. Commission Meeting Minutes October 22, 2019
- C. Resolution 2019-1161 To Place Question on a Ballot of Election for Sunday
Sales of Alcoholic Beverages
- D. TUNet Network Systems Agreement Between City of Aztec and Tantalus
- E. OG 19-06 Significant Maintenance for Gas Well Swires #1
- F. OG 19-07 Significant Maintenance for Gas Well Brungton Gas Com C #3
- G. Community Development Document Destruction
- H. Resolution 2019-1162 Authorizing Closing of Time Certificates of Deposit for
City of Aztec

- 47 I. Resolution 2019-1163 Authorizing Opening of Time Certificate of Deposit for
48 City of Aztec
49 J. State Grants in Aide Agreement for Library
50 K. Resolution 2019-1164 Authorizing the Certification of the City of Aztec 2019
51 Capital Asset Inventory

52
53 MOVED by Commissioner Sipe to Approve the Consent Agenda as given
54 SECONDED by Commissioner Randall

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56 All voted Aye: Motion passed five to zero

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58 **VI. ITEMS REMOVED FROM CONSENT AGENDA**

59
60 NONE

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62 **VII. PRESENTATIONS**

63
64 Aztec Spirit Award: Steven Saavedra presented an award to 705 Apache whose
65 owner is Michael Atkinson. He explained that Michael has worked very hard getting
66 property cleaned up and help beautify the neighborhood.

67
68 He presented the award to Optic Eye care, he mentioned that they have done a
69 tremendous job fixing it up.

70
71 San Juan Mountain Chapter of the American Truck Historical Society (ATHS):
72 City Manager Steve Mueller mentioned that Bev and Harold Pepin were unable to
73 attend the meeting tonight so he told them that he would speak on their behalf. The
74 truck show presented an award to the City for their appreciation with the help for the
75 Truck Show event.

76
77 **VIII. CITIZENS INPUT (3 Minutes Maximum)**

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79 Smart Meters: Nolan Rhodes shared information concerning the Smart Meters.
80 He feels they are unhealthy because people are being bathed in unwanted radio waves
81 and he feels like it will go against privacy.

82
83 **IXf. BUSINESS ITEMS**

- 84
85 A. Final Adoption of Ordinance 2019-495 An Ordinance Granting a Franchise to
86 Comcast Cablevision of New Mexico / Pennsylvania, Inc. to Operate and
87 Maintain a cable system in the City of Aztec, New Mexico

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89 City Manager Steve Mueller mentioned that this is the final adoption. We have
90 not had any comments.

91

92 MOVED by Commissioner Sipe to Approve Ordinance 2019-495 An Ordinance
93 Granting a Franchise to Comcast Cablevision of New Mexico / Pennsylvania Inc.
94 to Operate and Maintain a cable system in the City of Aztec, New Mexico
95 SECONDED by Mayor Pro-Tem Fry
96

97 A Roll Call was taken; All voted Aye: Motion passed five to zero
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99 **X. QUASI JUDICIAL HEARINGS (Land Use)**

100 NONE
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102

103 **XI. COMMISSIONER, CITY MANAGER, DEPARTMENT REPORTS**

104
105 City Manager Steve Mueller recognized the Veterans who work for the City. He
106 mentioned that the Thanksgiving potluck will be on the 21st and the Christmas Party will
107 be on December 20th. He mentioned that ECHO food drive will wrap up tomorrow.
108

109 City Attorney Tyson Gobble introduced himself and thanked staff for being so
110 helpful during the transition.
111

112 Commissioner Sipe mentioned she attended the Veterans Parade and she
113 recognized all Veterans. She has EDAB, MPO coming up. We will have a workshop
114 with George Sharp next week.
115

116 Commissioner Lewis mentioned he also attended the Veterans Parade and the
117 ROTC did a great job. He has water commission tomorrow.
118

119 Mayor Pro-Tem Fry mentioned she attended the energy transition act meeting.
120 There are lots of questions about how the money will be dispersed.
121

122 Mayor Snover thanked everyone for the well wishes for Veterans Day. He
123 mentioned that he was proud of the JROTC.
124

125 Senior Center Director Cindy Iacovetto thanked everyone for the support with the
126 Thanksgiving dinner.
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129 **XII. ADJOURNMENT**

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131 Mayor Snover moved to adjourn the meeting at 6:27 pm SECONDED by
132 Commissioner Sipe
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Mayor, Victor Snover

ATTEST:

Karla Sayler, City Clerk

MINUTES PREPARED BY:

Sherlynn Morgan, Administrative Assistant

DRAFT

Staff Summary Report

MEETING DATE:	NOVEMBER 26, 2019
AGENDA ITEM:	V. CONSENT AGENDA (C)
AGENDA TITLE:	Intergovernmental Agreement with San Juan County for Detention Center Services, Amendment Eleven

ACTION REQUESTED BY:	City Manager
ACTION REQUESTED:	Approve the Intergovernmental Agreement with San Juan County for Detention Center Services, Amendment Eleven
SUMMARY BY:	Sherlynn Morgan

PROJECT DESCRIPTION / FACTS

All provisions from the 2007 agreement remain in effect.

The County has submitted an Eleventh Amendment to the Detention Center Services Agreement executed in 2007.

The agreement provides that an annual adjustment to the per diem rate may occur. This amendment reduces the per diem rate from \$86.45 to \$85.62, applicable from July 1, 2020 through June 30, 2021.

PROCUREMENT

N/A

FISCAL IMPACTS

The FY21 Budget will be prepared based on the rate included in this amendment.

SUPPORT DOCUMENTS:	Intergovernmental Agreement with San Juan County for Detention Center Services, Amendment Eleven
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DEPARTMENT'S RECOMMENDED MOTION:	Move to Approve Amendment Eleven to the Intergovernmental Agreement with San Juan County for Detention Center Services.
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**ELEVENTH AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT
DETENTION CENTER SERVICES**

THIS ELEVENTH AMENDMENT to the Intergovernmental Agreement for Detention Center Services by and between San Juan County, New Mexico, hereinafter referred to as "The County", and the City of Aztec, New Mexico, hereinafter referred to as "the City."

WHEREAS, the Intergovernmental Agreement for Detention Center Services made and entered into the 17th day of July, 2007, requires that the County provide to the City, on or before October 15th of each year, the *per diem* rate for the County Detention Center to be effective July 1 of the succeeding calendar year; and

WHEREAS, the Tenth Amendment to the Intergovernmental established the *per diem* rate at \$86.45.

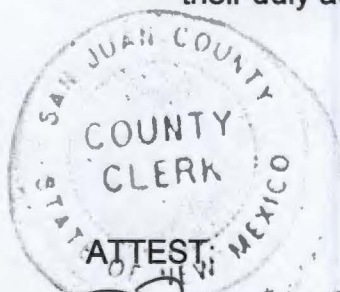
NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Paragraph D. of the July 17, 2007, Intergovernmental Agreement for Detention Center Services shall be amended to read as follows:

The parties agree that the City Prisoner Day rate shall be \$85.62, applicable from July 1, 2020, through June 30, 2021.

2. All other provisions of the Agreement including prior amendments other than those establishing the per diem rate shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals by their duly authorized officers, agents or representatives.



Tanya Shelby
Tanya Shelby, County Clerk

**BOARD OF COUNTY COMMISSIONERS OF
SAN JUAN COUNTY, NEW MEXICO**

By: Jack L. Fortner
Jack L. Fortner, Chairman

Date: 11.12.19

APPROVED AS TO FORM:

Jason P. Saury
San Juan County Attorney

CITY OF AZTEC, NEW MEXICO

ATTEST:

Karla Sayler, City Clerk

By: _____
Victor Snover, Mayor

Date: _____

APPROVED AS TO FORM:

Aztec City Attorney

FY 2021 ADULT DETENTION CENTER PER DIEM (Effective July 1, 2020)

Actual Year End Cost	FY2018-2019	FY 2017-2018	FY 2016-2017	FY 2015-2016	FY 2014-2015
Actual Operating Expenses	\$ 15,638,295.00	15,968,137.00	13,828,334.00	14,210,292.37	13,410,727.00
COLA, Merit and Added Overtime (FY20 cost increase)	\$ 224,134.00	308,126.00	-	-	117,481.00
Inmate Medical Cost Increase	\$ -	-	1,730,077.00	-	-
Supporting Department Cost	\$ 1,355,842.00	1,336,755.00	1,488,724.53	1,373,069.67	2,129,205.00
Debt Service	\$ 1,957,500.00	1,334,800.00	1,201,427.78	1,451,125.00	1,477,213.00
TOTAL ADULT DETENTION CENTER COST	\$ 19,175,771.00	18,947,818.00	18,248,563.31	17,034,487.04	17,134,626.00

TOTAL NUMBER OF BED DAYS	FY2018-2019	FY 2017-2018	FY 2016-2017	FY 2015-2016	FY 2014-2015
Aztec	1,232	1,499	1,260	994	1,575
Bloomfield	598	1,015	1,200	1,396	1,370
Farmington	18,331	17,698	16,198	25,763	27,247
San Juan County	158,349	158,161	169,605	184,954	207,118
Out of County	806	914	1,047	960	452
Out of State	1,270	1,075	1,043	1,001	533
Probation (State)	39,491	33,919	27,343	28,804	23,232
Parole (State)	3,626	4,740	3,890	4,517	1,285
Immigration	64	20	27	23	22
US Marshal/ICE	168	132	138	177	177
Transport Agencies	40	10	8	32	52
Total Number of Bed Days	223,975	219,183	221,759	248,621	263,063
Average Daily Population	614	601	608	681	721
Per Diem Rate:					
(Total cost divided by total number of bed days)	\$85.62	\$86.45	\$82.29	\$68.52	\$65.14

	Rate	% Change	CLASS "A" Counties	
			County	Per Diem
FY 17 Rate	\$ 65.14		Bernalillo County	\$115.19
FY 18 Rate	\$ 68.52	5.19%	Dona Ana County	\$101.14
FY 19 Rate	\$ 82.29	20.10%	Sandoval County	\$95.00
FY 20 Rate	\$ 86.45	5.05%	San Juan County	\$86.45
FY 21 Rate	\$ 85.62	-0.96%	Santa Fe County	\$95.00
			Average Per Diem	\$98.56

Projected 2020-2021 Cost Based on FY 19 Bed Days			
	FY 19 Bed Nights	FY 21 Per Diem Rate	Est. Cost
Aztec	1,232	\$85.62	\$ 105,479
Bloomfield	598	\$85.62	\$ 51,198
Farmington	18,331	\$85.62	\$ 1,569,421
County**	158,349	\$85.62	\$ 13,557,157

Transfer Analysis - FY21 Per Diem Rate

Corrections

Department	Transfer	Total Costs FY19	Transfer Percentage
County Treasurer	\$ 12,019.81	618,502.00	1.94%
Commission	11,637.54	332,501.00	3.50%
Finance	75,247.64	1,156,107.00	6.51%
Central Purchasing	13,963.91	401,777.00	3.48%
Human Resources	19,377.03	565,671.00	3.43%
Information Systems	120,070.82	1,059,834.00	11.33%
Community Development	-	432,555.00	0.00%
Legal	45,860.24	626,506.00	7.32%
County Executive Office	48,357.15	655,246.00	7.38%
Emergency Management	4,275.05	395,117.00	1.08%
Parks and Facilities	267,216.78	3,762,732.00	7.10%
Public Works	64,531.59	5,246,471.00	1.23%
Risk Management	581,437.60	2,985,609.00	19.47%
General Government	91,847.26	2,360,837.00	3.89%
Total	\$ 1,355,842.42	20,599,465.00	6.58%

Debt Service - FY2019 (Refunding of 2005 bonds)

Adult Facility

Bond Issue	Principal	Interest	Total
GRT Refunding Revenue Bond 2015A	\$ 1,340,000.00	617,500.00	1,957,500.00

Staff Summary Report

MEETING DATE: November 26, 2019
AGENDA ITEM: IX. BUSINESS ITEM (A)
AGENDA TITLE: Final Adoption of Ordinance 2019-496 Amending Section 1-12 Mandatory Penalty and Fees

ACTION REQUESTED BY: City Staff
ACTION REQUESTED: Approve Final Adoption of Ordinance 2019-496 Amending Section 1-12 Mandatory Penalty and Fees
SUMMARY BY: City Staff

PROJECT DESCRIPTION / FACTS

The Aztec Police Department has implemented a new system for issuing traffic violations electronically. Due to how the data must be entered, several codes cited in Section 1-12 for traffic violations need to be corrected to allow for multiple offenses.

The changes to Section 1-12 do not affect the fines for traffic violations.

Since the Intent to Approve of the ordinance on October, 22, 2019, it was discovered that the fine of \$602 for 12-1/24-25.A.6 3rd Offense within an Active School Zone exceeds the limit of \$500 allowed for Municipal Courts per State Statute. As such, that fine has been reduced down to \$500 for the final adoption.

No other comments have been received regarding this ordinance.

PROCUREMENT

N/a

FISCAL IMPACTS

N/a

SUPPORT DOCUMENTS: Ordinance 2019-496

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve Final Adoption of Ordinance 2019-496 Amending Section 1-12 Mandatory Penalty and Fees

**City of Aztec
Ordinance 2019-496**

Amending Section 1-12 Mandatory Penalty and Fees

WHEREAS: The Aztec Police Department and Municipal Courts have reviewed and determined that citing for traffic repeat traffic offenses requires an update to conform to the electronic citations system.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Aztec, New Mexico that Ordinance 2019-496 amends Section 1-12 in general to be adopted as attached.

PASSED, APPROVED, SIGNED AND ADOPTED THIS 26th day of November, 2019.

By the Aztec City Commission, City of Aztec, New Mexico

Mayor Victor C. Snover

ATTEST:

Karla Sayler, City Clerk CMC

APPROVE AS TO FORM:

City Attorney

Advertised Date of Final Adoption: _____

Effective Date of Ordinance: _____

GENERAL PROVISIONS

Sec. 1-12. Mandatory Penalty and Fees; Disposition and Use of Fees.

1. Mandatory Penalty. Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, the maximum penalty for violation of any municipal ordinance shall be as follows:

- (1) Except for those violations of ordinances described in subsections 1-2 and 1-3 of this section, a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days or both;
- (2) For violations of an ordinance prohibiting driving a motor vehicle while under the influence of intoxicating liquor or drugs, a fine of not more than nine hundred and ninety-nine dollars (\$999.00) or imprisonment for not more than one hundred seventy-nine (179) days or both; and
- (3) For violations of a industrial user waste-water pretreatment ordinance as required by the United States Environmental Protection Agency, a fine of not more than nine hundred and ninety-nine dollars (\$999.00) a day for each violation.
(Code 2007, 1-12-1)

2. Specific Penalty Schedule. A fine and fee schedule for specific penalties.

(1) *Traffic and Offenses.* In reference to Chapter 12 and 24.

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
12-1/66-3-1	Vehicle Subject To Registration	No	\$56	\$29	\$85
12-1/66-3-4.A	Register and Certificate of Title	No	\$56	\$29	\$85
12-1/66-3-6	Temporary Permit Required	No	\$56	\$29	\$85
12-1/66-3-13	Registration Required	No	\$56	\$29	\$85
12-1/66-3-17	License Tag Expired	No	\$56	\$29	\$85
12-1/66-3-17.A	Registration Renewals/Sticker Only	No	\$56	\$29	\$85
12-1/66-3-17.B	Replacement of Plate	No	\$56	\$29	\$85
12-1/66-3-17.C	Owner Shall Apply & Obtain Replacement Plate	No	\$56	\$29	\$85
12-1/66-3-18	Display of Registration Plates	No	\$56	\$29	\$85
12-1/66-3-19	Renewal of Registration	No	\$56	\$29	\$85
12-1/66-3-23	Registration Address Change	No	\$56	\$29	\$85
12-1/66-3-104	Use Registration Wrong Vehicle	No	\$106	\$29	\$135
12-1/66-3-105 (IPMC 107.6)	Transfer of Ownership	No	\$56	\$29	\$85
12-1/66-3-301	Registration By Non-residents	No	\$56	\$29	\$85
12-1/66-3-401	Operate Vehicle with Special Plate	No	\$56	\$29	\$85

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
12-1/66-3-701	Bicycles; Effect of Regulations	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-3-702	Traffic Laws Apply To Persons Riding Bicycles	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-3-703	Riding On Bicycles	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-3-704	Clinging To Vehicles	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-3-705	Riding On Roadways and Bicycle Paths	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-3-706	Carrying Articles On Bicycle	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-3-707	Lamps and Other Equipment On Bicycles	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-3-801	Equipment Violation	No	\$46	\$29	\$75
12-1/66-3-802	When Lighted Lamps Required	No	\$46	\$29	\$75
12-1/66-3-804	Headlamps Required (# Required)	No	\$46	\$29	\$75
12-1/66-3-805	Tail Lamps Required (LP Lamp)	No	\$46	\$29	\$75
12-1/66-3-806	Motor Vehicle To Be Equipped with Reflectors	No	\$46	\$29	\$75
12-1/66-3-807	Stop Lamps & Turns Signals	No	\$46	\$29	\$75
12-1/66-3-810	Color of Lamps - Front/Side/Rear/License	No	\$46	\$29	\$75
12-1/66-3-813	Lamps/Reflectors On Trailers	No	\$46	\$29	\$75
12-1/66-3-824	Lamp/Flag Projecting Load	No	\$46	\$29	\$75
12-1/663-825	Lamps On Parked Vehicles	No	\$46	\$29	\$75
12-1/66-3-827	Stop Lamps / Auxiliary Lamp	No	\$46	\$29	\$75
12-1/66-3-828	Signal Lamps & Devices (Brake Lamps White)	No	\$46	\$29	\$75
12-1/66-3-829	Additional Lighting Equipment	No	\$46	\$29	\$75
12-1/66-3-831	Multiple-Beam Equipment (Dimming)	No	\$46	\$29	\$75
12-1/66-3-834	Number of Driver Lamps Required	No	\$46	\$29	\$75
12-1/66-3-835	Spec Restrict On Lamps (Driving Lights)	No	\$46	\$29	\$75
12-1/66-3-840	Brakes	No	\$46	\$29	\$75
12-1/66-3-841	Improper Height / Handle Bar Mc	No	\$46	\$29	\$75
12-1/66-3-842	M/C Maneuverability	No	\$46	\$29	\$75
12-1/66-3-843	Horns and Warning Devices	No	\$46	\$29	\$75
12-1/66-3-844	Mufflers	No	\$46	\$29	\$75
12-1/66-3-845	Mirrors	No	\$46	\$29	\$75

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
12-1/66-3-846	Obstructed Windshield	No	\$46	\$29	\$75
12-1/66-3-846.1	Tinting on Windshields and Windows	Yes	\$46	\$29	\$75
12-1/66-3-847	Restrictions As To Tire Equipment	No	\$46	\$29	\$75
12-1/66-3-852	Stop Vehicle Interfere with Traffic	No	\$46	\$29	\$75
12-1/66-3-874	Safety Belts Required In Vehicles	No	\$46	\$29	\$75
12-1/66-3-887	Slow-Moving Vehicle Identification	No	\$46	\$29	\$75
12-1/66-3-901	Unsafe Condition – Vehicle	No	\$106	\$29	\$135
12-1/66-3-1003	Off Hwy Motor Vehicle Registration	No	\$56	\$29	\$85
12-1/66-3-1011	Operation On Streets or Highways	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-3-1012	Movement of off-Highway Vehicles Adjacent To Highway	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-3-1101	Mopeds: Standard, Operator Requirement	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-4-3	Use of Temporary Permits	No	\$56	\$29	\$85
12-1/66-5-2	Drivers Must Be Licensed	No	\$56	\$29	\$85
12-1/66-5-5	Person Not To Be Licensed	No	\$56	\$29	\$85
12-1/66-5-7	Driver's License Class / Exam	No	\$56	\$29	\$85
12-1/66-5-8	Instruction Permit / Temp License	No	\$56	\$29	\$85
12-1/66-5-9	Appl For License / Temp License	No	\$56	\$29	\$85
12-1/66-5-14	No Motorcycle Endorsement	No	\$56	\$29	\$85
12-1/66-5-16	Driver's License Carried/Exhibited On Demand	No	\$56	\$29	\$85
12-1/66-5-18	Altered / Forged / Fictitious License	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-5-19	Restricted Licenses	No	\$56	\$29	\$85
12-1/66-5-20	Duplicate Licenses	No	\$56	\$29	\$85
12-1/66-5-21	Expiration of License	No	\$56	\$29	\$85
12-1/66-5-22	Driver's License Address Change	No	\$56	\$29	\$85
12-1/66-5-34	No Operation Under Forged License On Suspension	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-5-37.A	Unlawful Use of License	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-5-38	False Affidavit Perjury	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-5-39	Driver's License Suspended/Revoked	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-5-40	Permit Minor To Drive	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-5-41	Permit Unauthorized Person To Drive	Yes	Set at Hearing	\$29	Set at Hearing

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
12-1/66-5-59	Commercial Driver's License Required	No	\$56	\$29	\$85
12-1/66-5-205	Vehicle Must Have Insurance	No	\$306	\$29	\$335
12-1/66-5-205.1	Uninsured Motorist/Req Following Accident	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-5-230	Surrender of License and Registration	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-5-231	Forged Evidence of Insurance	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-5-409	Unlawful Use of Identification Card	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-4	Obedience To Police Officers	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-6	Authorized Emergency Vehicles	No	\$56	\$29	\$85
12-1/66-7-7	Traffic Laws Apply To Riding/Driving/Animals	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-104	Obedience Traffic Devices (Cover All)	No	\$66	\$29	\$95
12-1/66-7-105	Traffic Control Signal Legend (Lights)	No	\$66	\$29	\$95
12-1/66-7-106	Pedestrian Control Signal	No	\$46	\$29	\$75
12-1/66-7-108	Display Unauthorized Sign	No	\$46	\$29	\$75
12-1/66-7-109	Interfere with Traffic Dev	No	\$66	\$29	\$95
12-1/66-7-201	Duty Accident - Death or Injury	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-202	Accident Involving Damage Vehicle	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-203	Duty To Give Information / Render Aid	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-204	Duty Upon Striking Unattended Vehicle	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-205	Duty Upon Striking Fixtures/Other Objects	No	Set at Hearing	\$29	Set at Hearing
12-1/66-7-206	Immediate Notice of Accident	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-207	Written Reports On Accident	No	\$66	\$29	\$95
12-1/66-7-208	Driver Unable To Report	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-210	False Report	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-301.A.1	Speeding School Zone	No	\$106	\$29	\$135
12-1/66-7-301.A.2	Speeding 1 To 15 Mph Over	No	\$66	\$29	\$95
12-1/66-7-301.A.3	Speeding 16 To 25 Mph Over	No	\$81	\$29	\$110
12-1/66-7-301.A.4	Speeding 26 Mph and Up	No	\$126	\$29	\$155
12-1/66-7-301.B.1	Speeding Basic Rule	No	\$66	\$29	\$95
12-1/66-7-303.1	Construction Zone	No	\$71	\$29	\$100

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
12-1/66-7-303.A.4	Construction Zone with Sign	No	\$126	\$29	\$155
12-1/66-7-303.D	Restricted Speed Zone	No	\$66	\$29	\$95
12-1/66-7-305	Minimum Speed	No	\$56	\$29	\$85
12-1/66-7-308	Improper Lane - Wrong Side	No	\$66	\$29	\$95
12-1/66-7-309	Improper Pass - Opposite Direct	No	\$56	\$29	\$85
12-1/66-7-310	Improper Pass - Overtake - Left	No	\$56	\$29	\$85
12-1/66-7-311	Improper Pass - On Right	No	\$56	\$29	\$85
12-1/66-7-312	Limitations On Overtaking On The Left	No	\$56	\$29	\$85
12-1/66-7-313	Further Limit On Driver/Left of Center of Roadway	No	\$56	\$29	\$85
12-1/66-7-314	Hazardous Vehicles Movement/Escort	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-7-315	No Passing Zone	No	\$56	\$29	\$85
12-1/66-7-316	One Way Roadway	No	\$66	\$29	\$95
12-1/66-7-317	Driving On Roadways Laned For Traffic	No	\$76	\$29	\$105
12-1/66-7-318	Following Too Closely	No	\$76	\$29	\$105
12-1/66-7-319	Driving On Divided Highway		\$76	\$29	\$105
12-1/66-7-320	Restricted Access Violation	No	\$56	\$29	\$85
12-1/66-7-321	Controlled Access Violation	No	\$56	\$29	\$85
12-1/66-7-322	Required Position/ Method Turning	No	\$56	\$29	\$85
12-1/66-7-323	Turn On Curve or Crest	No	\$56	\$29	\$85
12-1/66-7-324	Starting Parked Vehicle	No	\$56	\$29	\$85
12-1/66-7-325	Turn Movement & Required Signals	No	\$56	\$29	\$85
12-1/66-7-326	Signals By Hand / Arm or Signal Device	No	\$56	\$29	\$85
12-1/66-7-327	Method of Giving Hand / Arm Signals	No	\$56	\$29	\$85
12-1/66-7-328	Fail Yield / Approach Enter	No	\$56	\$29	\$85
12-1/66-7-329	Fail Yield / Turn Left	No	\$56	\$29	\$85
12-1/66-7-330	Vehicles Entering Stop or Yield Intersection	No	\$56	\$29	\$85
12-1/66-7-331	Fail Yield / Enter Private Drive	No	\$56	\$29	\$85
12-1/66-7-332	Operation of Vehicle On Approach of Emergency Vehicle	No	\$106	\$29	\$135
12-1/66-7-332.1	Approach of Oncoming Vehicle: Yield Right of Way	No	\$56	\$29	\$85
12-1/66-7-333	Pedestrian - Violation	No	\$56	\$29	\$85
12-1/66-7-334	Pedestrian – Right-of-Way	No	\$56	\$29	\$85

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
12-1/66-7-335	Cross - Other Than Crosswalks	No	\$56	\$29	\$85
12-1/66-7-336	School Crossings	No	\$66	\$29	\$95
12-1/66-7-337	Drivers To Exercise Due Care	No	\$56	\$29	\$85
12-1/66-7-339	Pedestrian On Roadways	No	\$56	\$29	\$85
12-1/66-7-340	Pedestrians Solicit Rides/Bus in Roadway	No	\$56	\$29	\$85
12-1/66-7-345	Fail Stop - Stop / Yield Sign	No	\$66	\$29	\$95
12-1/66-7-346	Fail Stop - Alley / Private Drive	No	\$56	\$29	\$85
12-1/66-7-347	Passing School Bus	No	\$106	\$29	\$135
12-1/66-7-349	Stop / Stand / Park Districts	No	\$46	\$29	\$75
12-1/66-7-350	Remove Illegally Stopped Vehicle	No	\$46	\$29	\$75
12-1/66-7-351	Stop / Stand / Parking Prohibited	No	\$35	-	\$35
12-1/66-7-352	Additional Parking Regulations	No	\$35	-	\$35
12-1/66-7-352.5	Unauthorized Use: Penalty (Handicap Parking)	No	\$105	-	\$105
12-1/66-7-353	Unattended Motor Vehicle	No	\$56	\$29	\$85
12-1/66-7-354	Limitation On Backing	No	\$56	\$29	\$85
12-1/66-7-355	Improper Riding - Motorcycles	No	\$56	\$29	\$85
12-1/66-7-356	Helmets Required	No	\$46	\$29	\$75
12-1/66-7-357	Obstructing Drivers View / Mech	No	\$56	\$29	\$85
12-1/66-7-360	Coasting Prohibited	Yes	\$56	\$29	\$85
12-1/66-7-361	Following Fire Apparatus	No	\$56	\$29	\$85
12-1/66-7-362	Crossing Fire Hose	No	\$56	\$29	\$85
12-1/66-7-363	Animals On Highway	No	\$101	\$29	\$130
12-1/66-7-364	Put Glass, Etc On Highway	No	\$106	\$29	\$135
12-1/66-7-366	Occupy Moving House Trailer	No	\$56	\$29	\$85
12-1/66-7-367	Improper Opening of Doors	No	\$46	\$29	\$75
12-1/66-7-369.A.1	Child Restraint Device Required 1st offense	No	\$66	\$29	\$95
12-1/66-7-369.A.2	Child Restraint Device Required 2nd offense	No	\$76	\$29	\$105
12-1/66-7-369.A.3	Child Restraint Device Required 3rd offense	No	\$86	\$29	\$115
12-1/66-7-372	Mandatory Seatbelts Law	No	\$56	\$29	\$85
12-1/66-7-374	Texting While Driving	No	\$66	\$29	\$95
12-1/66-7-401	Weight & Size Limitations	No	\$46	\$29	\$75
12-1/66-7-402	Width of Vehicles	No	\$46	\$29	\$75

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
12-1/66-7-403	Projecting Loads / Passing Vehicle	No	\$46	\$29	\$75
12-1/66-7-404	Height & Length - Vehicles	No	\$46	\$29	\$75
12-1/66-7-405	Minimum Vehicle Size	No	\$46	\$29	\$75
12-1/66-7-406	Special Load Limitations	No	\$46	\$29	\$75
12-1/66-7-407	Improper Load	No	\$46	\$29	\$75
12-1/66-7-408	Trailers & Towed Vehicles	No	\$46	\$29	\$75
12-1/66-7-413.A	Overload Permit	No	\$46	\$29	\$75
12-1/66-7-416.B	Liability For Damage	No	\$106	\$29	\$135
12-1/66-8-2	Improper Use of Registration	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-8-10	Duplicate or Replacement Registration Plate	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-8-102	DWI	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-8-102.D	DWI Aggravated	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-8-113	Reckless Driving	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-8-114	Careless Driving	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-8-115	Racing on Highways	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-8-120	Parties to a Crime	Yes	Set at Hearing	\$29	Set at Hearing
12-1/66-8-121	Offenses Person Owning/Controlling Vehicle	No	\$66	\$29	\$95
12-1/66-8-138	Open Container In Vehicle	No	\$106	\$29	\$135
12-1/24-25	Use of a Handheld Mobile Communication Device while Operating a Motor Vehicle				
12-1/24-25.A.1	1 st Offense	No	\$76	\$29	\$105
12-1/24-25.A.2	2 nd Offense	No	\$151	\$29	\$180
12-1/24-25.A.2	3 rd Offense	No	\$301	\$29	\$330
12-1/24-25	Fines are doubled for violation in an Active School Zone				
12-1/24-25.A.4	1 st Offense	No	\$152	\$29	\$181
12-1/24-25.A.5	2 nd Offense	No	\$302	\$29	\$331
12-1/24-25.A.6	3 rd Offense	No	\$500	\$29	\$529
12-2	Aiding An Illegal Activity	Yes	Set at Hearing	\$29	Set at Hearing
12-3	Concealing	Yes	Set at Hearing	\$29	Set at Hearing

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
12-21	Assault	Yes	Set at Hearing	\$29	Set at Hearing
12-22	Battery	Yes	Set at Hearing	\$29	Set at Hearing
12-23	Libel	Yes	Set at Hearing	\$29	Set at Hearing
12-41	Criminal Damage To Property	Yes	Set at Hearing	\$29	Set at Hearing
12-42	Destructing/Defacing of Property	Yes	Set at Hearing	\$29	Set at Hearing
12-43	Tamper with Utilities	Yes	Set at Hearing	\$29	Set at Hearing
12-61	Petty Larceny	Yes	Set at Hearing	\$29	Set at Hearing
12-62	Shoplifting	Yes	Set at Hearing	\$29	Set at Hearing
12-63	Falsely Receive Services	Yes	Set at Hearing	\$29	Set at Hearing
12-64	Fraud	Yes	Set at Hearing	\$29	Set at Hearing
12-65	Receiving Stolen Property	Yes	Set at Hearing	\$29	Set at Hearing
12-81	Worthless Check – Notice	Yes	Set at Hearing	\$29	Set at Hearing
12-82	Worthless Check – Purpose	Yes	Set at Hearing	\$29	Set at Hearing
12-83	Worthless Check – Exception	Yes	Set at Hearing	\$29	Set at Hearing
12-84	Unlawful To Issue Worthless Check	Yes	Set at Hearing	\$29	Set at Hearing
12-85	Intent To Defraud - Worthless Check	Yes	Set at Hearing	\$29	Set at Hearing
12-101	Criminal Trespass	Yes	Set at Hearing	\$29	Set at Hearing
12-102	Wrongful Entry Public Facility	Yes	Set at Hearing	\$29	Set at Hearing
12-103	Wrongful Use of Public Property	Yes	Set at Hearing	\$29	Set at Hearing
12-104	Simple Trespassing	Yes	Set at Hearing	\$29	Set at Hearing
12-105	Idling, Loitering or Prowling	Yes	Set at Hearing	\$29	Set at Hearing
12-121	Disorderly Conduct	Yes	Set at Hearing	\$29	Set at Hearing
12-122	Unlawful Assembly	Yes	Set at Hearing	\$29	Set at Hearing
12-123	Disturbing The Peace	Yes	Set at Hearing	\$29	Set at Hearing
12-124	Obstructing Movement	Yes	Set at Hearing	\$29	Set at Hearing

Citing	Title	Appearance Required	Fine Amount	Court Costs	Total Fine
12-125	Unreasonable Noise	Yes	Set at Hearing	\$29	Set at Hearing
12-127	Disorderly House	Yes	Set at Hearing	\$29	Set at Hearing
12-141	Removal of Barricades	Yes	Set at Hearing	\$29	Set at Hearing
12-142	Open Container	Yes	Set at Hearing	\$29	Set at Hearing
12-161	Unlawful Use of Deadly Weapon	Yes	Set at Hearing	\$29	Set at Hearing
12-162	Negligent Use of a Deadly Weapon	Yes	Set at Hearing	\$29	Set at Hearing
12-163	Unlawful Propulsion of Missiles	Yes	Set at Hearing	\$29	Set at Hearing
12-164	Unlawful Possession of Weapons	Yes	Set at Hearing	\$29	Set at Hearing
12-165	Firing of Rifle or Pistol	Yes	Set at Hearing	\$29	Set at Hearing
12-181	Curfew of Minors	Yes	Set at Hearing	\$29	Set at Hearing
12-182	Drinking in Public	Yes	Set at Hearing	\$29	Set at Hearing
12-183	Unlawful Possession of Marijuana	Yes	Set at Hearing	\$29	Set at Hearing
12-184	Obscenity	Yes	Set at Hearing	\$29	Set at Hearing
12-185	Prostitution	Yes	Set at Hearing	\$29	Set at Hearing
12-186	Patronizing Prostitutes	Yes	Set at Hearing	\$29	Set at Hearing
12-187	Indecent Exposure	Yes	Set at Hearing	\$29	Set at Hearing
12-188	Unlawful Possession of Drug Paraphernalia	Yes	Set at Hearing	\$29	Set at Hearing
12-206	Impersonating Public Officer	Yes	Set at Hearing	\$29	Set at Hearing
12-207	False Reports of Crimes	Yes	Set at Hearing	\$29	Set at Hearing
12-208	Resisting or Obstructing an Officer	Yes	Set at Hearing	\$29	Set at Hearing
12-209	Escape from Custody	Yes	Set at Hearing	\$29	Set at Hearing
12-210	False Alarms	Yes	Set at Hearing	\$29	Set at Hearing

(Ord. 2019-493, eff. 2019-Sept-15; Ord. 2018-485, eff. 2019-Jan-13; Ord. 2018-479, eff. 2018-Jul-18; Ord. 2014-440, eff. 2015-Jan-21; Ord. 2013-428, eff. 2013-Aug-22)

Staff Summary Report

MEETING DATE: November 26, 2019
AGENDA ITEM: IX. BUSINESS (B)
AGENDA TITLE: Intent to Adopt Ordinance 2019-497 Amending Chapter 27, Article II Lodgers Tax

ACTION REQUESTED BY: Finance Department
ACTION REQUESTED: Approve Intent to Adopt Ordinance 2019-497 Amending Chapter 27, Article II Lodgers Tax
SUMMARY BY: Kathy Lamb

PROJECT DESCRIPTION / FACTS

The 2019 Legislature amended NMSA 3-38-16 which is specific to exemptions from the occupancy tax (lodgers' tax). The legislature removed the exemption defining the minimum number of rooms available for lodging as a result of the popularity of short term rentals in primarily residential properties.

The change in the statute is effective January 1, 2020. Utilizing the various short term rental sites, properties within the City of Aztec municipal boundary will be advised of their requirements under state statute and city code.

NMSA 3-38-15 defines the eligible uses of lodgers' tax which includes a determination if the municipality is located in a class A county or not; the current definition in City Code Chapter 27-417.4 was not updated when San Juan County obtained a class A designation. This section of city code has been re-worded to refer back to statute for the formula to be used in the use of tax proceeds for advertising, publicizing & promotion.

PROCUREMENT

N/A

FISCAL IMPACTS

A review of Airbnb indicates there are 5 to 10 locations within the municipal limits which may be subject to lodgers tax after January 1, 2020.

SUPPORT DOCUMENTS: Ordinance 2019-497 Amending Chapter 27, Article II Lodgers Tax

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve Intent to Adopt Ordinance 2019-497 Amending Chapter 27, Article II Lodgers Tax

**City of Aztec
Ordinance 2019-497**

Amending Chapter 27, Article II Lodgers' Tax

WHEREAS: The State of New Mexico has changed its Statute regarding Lodgers Tax; and

WHEREAS: The City of Aztec will adopt the Lodgers' Tax code as set forth in the State of New Mexico State Statutes; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Aztec, New Mexico that Ordinance 2019-497 Amending Chapter 27, Article II Lodgers' Tax as attached.

PASSED, APPROVED, SIGNED AND ADOPTED THIS _____ day of _____ 2020
by the Aztec City Commission, City of Aztec, New Mexico.

Mayor Victor C. Snover

ATTEST:

Karla Sayler, City Clerk CMC

APPROVE AS TO FORM:

City Attorney

Advertised Date of Final Adoption: _____

Effective Date of Ordinance: _____

ARTICLE II. LODGERS' TAX

Sec. 27-401. Title.

This article shall be known as and may be cited as the "*Lodgers' Tax Ordinance*."

(Code 2007, 27-401)

Sec. 27-402. Purpose.

The purpose of this article is to impose a tax which will be borne by persons using commercial lodging accommodations which tax will provide revenues for the purpose of advertising, publicizing and promoting tourist-related attractions, facilities and events, and acquiring, establishing and operating tourist-related facilities, attractions or transportation systems, as ~~authorized in Section 27-417 of this article established in New Mexico State Statute §3-38-15 through 3-38-24.~~

(Code 2007, 27-402)

Sec. 27-403. Definitions.

As used in this article:

Board

The advisory board established herein to make recommendations to the governing body, keep minutes of its proceedings and submit its recommendations, correspondence and other pertinent documents to the governing body.

City clerk

The city clerk of Aztec, New Mexico.

City Manager

The City Manager of Aztec, New Mexico or another designee or department official as the city manager may deem necessary.

Gross taxable rent

The total amount of rent paid for lodging, not including the state gross receipts tax or local sales taxes.

Lodging

The transaction of furnishing rooms or other accommodations by a vendor to a vendee who, for a rent, uses, possesses or has the right to use or possess any room or rooms or other units of accommodations in or at a taxable premises.

Lodgings

The rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodgings.

Occupancy tax

The tax on lodging authorized by the Lodgers' Tax Act.

Person

A corporation, firm, other body corporate, partnership, association or individual; personally includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity, but does not include the United States of America, the State of New Mexico, any corporation, department, instrumentality or agency of the federal government or the state government, or any political subdivision of the state.

Rent

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

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 for lodging.

Tourist

A person who travels for the purpose of business, pleasure or culture to a municipality or county imposing an occupancy tax.

Tourist-related events

Events that are planned for, promoted to and attended by tourists.

Tourist-related facilities and attractions

Facilities and attractions that are intended to be used by or visited by tourists.

Tourist-related transportation systems

Transportation systems that provide transportation for tourists to and from tourist-related facilities, attractions and events.

Vendee

A natural person to whom lodgings are furnished in the exercise of the taxable service of lodging.

Vendor

A person or his agent furnishing lodgings in the exercise of the taxable service of lodging.
(Code 2007, 27-403)

Sec. 27-404. Imposition of Tax.

There is hereby imposed an occupancy tax of five (5) percent of gross taxable rent for lodging within the municipality paid to vendors.
(Code 2007, 27-404)

Sec. 27-405. Licensing.

1. No vendor shall engage in the business of providing lodging in the city who has first not obtained a license as provided in this section.

2. Applicants for a vendor's license shall submit an application to the city **clerk manager** stating:
 - (1) The name of the vendor, including identification of any person, as defined in this article, who owns or operates or both owns and operates a place of lodging and the name or trade names under which the vendor proposes to do business and the post office address thereof;
 - (2) A description of the facilities, including the number of rooms and the usual schedule of rates therefore;
 - (3) A description of facilities provided by vendor or others to users of the lodgings such as restaurant, bar, cleaning, laundry, courtesy car, or others, and a statement identifying the license issued, to whom issued, the authority issuing, and the period for which issued. If applicable, also the identification number provided by the **bureau of revenue taxation and revenue department** of the state of **New Mexico**;
 - (4) The nature of the business of the vendor and to what extent, if any, his business is exempt from the lodgers' tax; and
 - (5) Other information reasonably necessary to effect a determination of eligibility for such license.
3. The city **clerk manager** shall review all applications for license within ten (10) days of receipt thereof, and grant the license in due course if the applicant is doing business subject to the lodgers' tax.
4. An applicant who is dissatisfied with the decision of the city **clerk manager** may appeal the decision to the governing body by written notice to the city **clerk manager** of such appeal to be made within fifteen (15) days of the date of the decision of the city **clerk manager** on the application. The matter shall be referred to the governing body for hearing at regular or special meeting in the usual course of business. The decision of the governing body made thereof shall be expressed in writing and be communicated in the same manner as the decision of the city **clerk manager** is transmitted. The action of the governing body shall be deemed final.
5. If the governing body finds for the applicant, the city **clerk manager** shall issue the appropriate license or other notice conforming to the decision made by the governing body.
(Code 2007, 27-405)

Sec. 27-406. Exemptions.

The occupancy tax shall not apply:

1. If a vendee:
 - (1) Has been a permanent resident of the taxable premises for a period of at least thirty (30) consecutive days; or

- (2) Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty (30) consecutive days;
2. If the rent paid by the vendee is less than two dollars (\$2.00) a day;
3. If lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;
4. If lodging accommodations at religious, charitable, educational or philanthropic institutions, including without limitation such accommodations at summer camps operated by such institutions;
5. If clinics, hospitals or other medical facilities;
6. If privately owned and operated convalescent homes, or homes for the aged, infirm, indigent or chronically ill; ~~or.~~
- ~~7. If the taxable premises does not have at least three (3) rooms or three (3) other units of accommodation for lodging.~~
(Code 2007, 27-406)

Sec. 27-407. Collection of Tax and Reporting Procedures.

1. Every vendor providing lodgings shall collect the tax thereon on behalf of the municipality and shall act as a trustee therefore.
2. The tax shall be collected from vendees and shall be charged separately from the rent fixed by the vendor for the lodgings.
3. Each vendor licensed under this article shall be liable to the city for the tax provided herein on the rent paid for lodging at his respective place of business.
4. Each vendor shall make a report by the twenty-fifth day of each month, on forms provided by the city ~~clerk~~ **manager**, of the receipts for lodging in the preceding calendar month, and shall submit the proceeds of the lodgers' tax to the municipality and include sufficient information to enable the municipality to audit the reports and shall be verified on oath by the vendor.
(Code 2007, 27-407)

Sec. 27-408. Duties of Vendor.

Vendor shall maintain adequate records of facilities subject to the tax and of proceeds received for the use thereof. Such records shall be maintained in the city and shall be open to the inspection of the municipality during reasonable hours and shall be retained for three (3) years.
(Code 2007, 27-408)

Sec. 27-409. Enforcement.

1. An action to enforce the Lodgers' Tax Act may be brought by:

- (1) The attorney general or the district attorney in the county of jurisdiction; or
- (2) A vendor who is collecting the proceeds of an occupancy tax in the county of jurisdiction.
2. A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the provisions of the Lodgers' Tax Act.
3. The court shall award costs and reasonable attorneys' fees to the prevailing party in a court action to enforce the provisions of the Lodgers' Tax Act.
(Code 2007, 27-409)

Sec. 27-410. Failure to Make Return; Computation; Civil Penalty and Notice; Collection of Delinquencies; Occupancy Tax is a Lien.

1. Every vendor is liable for the payment of the proceeds of any occupancy tax that the vendor failed to remit to the municipality, whether due to his failure to collect the tax or otherwise. He shall be liable for the tax plus a civil penalty equal to the greater of ten (10) percent of the amount not remitted or one hundred dollars (\$100.00). The city ~~clerk~~ manager shall give the delinquent vendor written notice of the delinquency, which notice shall be mailed to the vendor's local address.
2. If payments are not received within fifteen (15) days of the mailing of the notice, the municipality may bring an action in law or equity in the 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 (1) percent a month. If the city attempts collection through an attorney or the city attorney for any purpose with regard to this article, the vendor shall be liable to the municipality for all costs, fees paid to the attorney or city attorney, and all other expenses incurred in connection therewith.
3. The occupancy tax imposed by a municipality constitutes a lien in favor of the municipality upon the personal and real property of the vendor providing lodgings. The lien may be enforced as provided in NMSA 1978, ~~ffi~~ § 3-36-1 through 3-36-7. Priority of the lien shall be determined from the date of filing.
4. Under process or order of court, no person shall sell the property of a vendor without first ascertaining from the city clerk or treasurer the amount of any occupancy tax due the municipality. Any occupancy tax due the municipality shall be paid from the proceeds of the sale before payment is made to any judgment creditor or any other person with a claim on the proceeds of the sale.
(Code 2007, 27-410)

Sec. 27-411. Criminal Penalties.

Any person who violates the provisions of this article for a failure to pay the tax, to remit proceeds thereof to the municipality, to properly account for any lodging and tax proceeds pertaining thereto, or for violating the confidentiality provisions of section ~~27-485~~ 27-415 shall be guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed ninety (90) days, or both.
(Code 2007, 27-411)

Sec. 27-412. Refunds and Credits.

If any person believes he has made payment of any lodgers' tax in excess of that for which he was liable, he may claim a refund thereof by directing to the city **clerk manager**, no later than ninety (90) days from the date payment was made, a written claim for refund. Every claim for refund shall state the nature of the person's complaint and the affirmative relief requested. The city **clerk manager** shall allow the claim in whole or in part or may deny it. Refunds of tax and interest erroneously paid and amounting to one hundred dollars (\$100.00) or more may be made only with the approval of the governing body.

(Code 2007, 27-412)

Sec. 27-413. Vendor Audits.

1. Options.

(1) Option A, for municipalities that collect more than two hundred fifty thousand dollars (\$250,000.00) per year in occupancy tax: The governing body shall select for annual random audit(s) one (1) or more vendors to verify the amount of gross rent subject to the occupancy tax and to ensure that the full amount of occupancy tax on the rent is collected from each vendor thus audited.

(2) Option B, for municipalities collecting less than two hundred fifty thousand dollars (\$250,000.00) per year in occupancy tax: The governing body shall conduct random audits to verify full payment of occupancy tax receipts.

2. Number to audit. The governing body shall determine each year the number of vendors within the municipality to audit.

3. Administration. The audit(s) may be performed by the city **clerk manager** or by any other designee of the governing body. A copy of the audit(s) shall be filed annually with the local government division of the department of finance and administration.

(Code 2007, 27-413)

Sec. 27-414. Financial Reporting.

1. The governing body shall furnish to the advisory board that portion of any proposed budget, report or audit filed or received by the governing body pursuant to either NMSA 1978 Chapter 6, Article 6 or the Audit Act that relates to expenditure of occupancy tax funds within ten (10) days of the filing or receipt of such proposed budget, report or audit by the governing body.

2. The governing body shall report to the local government division of the department of finance and administration on a quarterly basis any expenditure of occupancy tax funds pursuant to NMSA 1978 §§ 3-38-15 and 3-38-21 and shall furnish a copy of this report to the advisory board when it is filed with the division.

(Code 2007, 27-414)

Sec. 27-415. Confidentiality of Return and Audit.

It is unlawful for any employee of the city to reveal to any individual other than another employee of the city any information contained in the return or audit of any taxpayer, including vendors subject to the Lodgers' Tax Act, except to a court of competent jurisdiction in response to an order thereof in an action relating to taxes to which the city is a party, and in which information sought is material to the inquiry, to the taxpayer himself or to his authorized representative; and in such manner, for statistical purposes, the information revealed is not identified as applicable to any individual taxpayer.

(Code 2007, 27-415)

Sec. 27-416. Administration of Lodgers' Tax Monies Collected.

The governing body shall, through the advice of the Lodgers' Tax Advisory Board, administer the lodgers' tax monies collected.

(Code 2007, 27-416)

Sec. 27-417. Eligible Uses of Lodgers' Tax Proceeds.

The municipality may use the proceeds from the tax to defray the costs of:

1. Collecting and otherwise administering the tax, including the performance of audits required by the Lodgers' Tax Act pursuant to guidelines issued by the department of finance and administration;
2. Establishing, operating, purchasing, constructing, otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist-related facilities, attractions or transportation systems of the municipality, the county in which the municipality is located or the county;
3. The principal of and interest on any prior redemption premiums due in connection with and any other charges pertaining to revenue bonds authorized by NMSA 1978 § 3-38-23 or § 3-38-24;
4. Advertising, publicizing and promoting tourist-related attractions, facilities and events of the municipality or county and tourist facilities or attractions within the area ~~(at least one-half (1/2) of the first three (3) percent collected must be used for this purpose, and twenty-five (25) percent of that amount over three (3) percent collected must be used for this purpose) as defined by NMSA 1978 § 3-38-15.D.~~ All such dedicated funds collected for this purpose after January 1, 1996, shall be so spent within two (2) years of collection;
5. Providing police and fire protection and sanitation service for tourist-related events, facilities and attractions located in the municipality; or
6. Any combination of the foregoing purposes or transactions stated in this section, but for no other municipal purpose.

(Code 2007, 27-417)