**CITY OF TRUTH OR CONSEQUENCES**
**LODGERS TAX ADVISORY**
**BOARD MONDAY, JUNE 15, 2026**

**AGENDA**

**SPECIAL MEETING**

Special meeting of the Lodgers Tax Advisory Board of the City of Truth or Consequences, New Mexico to be held on Monday, June 15, 2026 at 12:00 p.m. in the City Commission Chambers, 405 W. 3rd St, Truth or Consequences, NM 87901.

**CALL TO ORDER**

**ROLL CALL:**

Jake Foerstner, Chairman
Gina Kelley, Vice-Chairman
Linda DeMarino, Member
Victoria Sena, Member
Jessica MacKenzie, Member

1. **APPROVAL OF AGENDA**

2. **APPROVAL OF MINUTES:**
   a. Regular Meeting Minutes of May 26, 2026.

3. **COMMENTS FROM THE PUBLIC (3 minute rule applies)**

4. **NEW BUSINESS:**
   a. Discussion/Action: Lodgers Tax Guidelines

5. **COMMENTS FROM THE BOARD**

6. **COMMENTS FROM STAFF**

7. **ADJOURNMENT**

**CITY OF TRUTH OR CONSEQUENCES**
**LODGERS TAX ADVISORY BOARD**
**MINUTES**
**TUESDAY, MAY 26, 2026**

**REGULAR MEETING**

Regular meeting of the Lodgers Tax Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Tuesday, May 26, 2026 at 12:00 pm.

**CALL TO ORDER:**

The meeting was called to order by Chairman Jake Foerstner.

**ROLL CALL:**

Jake Foerstner, Chairman
Gina Kelley, Vice-Chairman
Linda DeMarino, Member Absent
Victoria Sena, Member
Jessica MacKenzie, Absent

**ALSO PRESENT:**

Katy Martinez, Deputy City Clerk
Angela Torres, City Clerk

1. **APPROVAL OF AGENDA:**

**Vice-Chairman Kelley made a motion to approve the agenda.**
**Member Sena seconded the motion.**
**Motion carried unanimously.**

2. **APPROVAL OF MINUTES:** Regular Meeting of January, 26 2026.

**Vice-Chairman Kelley made a motion to approve the minutes.**
**Member Sena seconded the motion.**
**Motion carried unanimously.**

3. **COMMENTS FROM THE PUBLIC:**

Michael Eatough Board of Directors Sierra County Historical Society: I wanted to give you guys an update on Geronimo Springs Museum Mural. Particularly the comments that people have made. We get a large number of people that come in because of the mural. I have talked to a lot of tourists that come in and the overwhelming statement was "I wish we had known there was this much to do in T or C and we would have stayed longer". That is the revealing thing I want to make sure that keeps going on. If we can bring people in just with that mural and stay a few more extra days. There were a couple of people that came from Riverbend. Others from Blackstone and other places here in town. They were amazed at what they can do in town outside of the hot springs. The murals are starting to be a really big draw for them. According to John Johanic the number one brochure that is asked for is the mural one. I want to thank you for the opportunity to put that mural up and we really believe that the results are going to be fantastic. I believe we have covered all the bases that you wanted us to do. We are still working on the Facebook page trying to get Facebook to eliminate the old page but we have all our ducks in a row on that. We believe that will happen pretty soon. It will won't be the Sierra County Historical Society Geronimo Springs Museum it will be back to the Geronimo Springs Museum. That should get rid of some of the confusion. Thank you guys for what you do.

Vice-Chairman Kelley: Does anybody at the museum compile all the statistics from your sign in page?

Michael Eatough Board of Directors Sierra County Historical Society: That's going to be next. We did add a line to our sign-in sheet asking if people stayed in a hotel or things of that nature. We had it in there asking if they stayed the night but we learned from the Rock Club if you say "did you spend the night" they just say yes. We want to make sure that they answer the question if they stayed overnight at a lodging establishment.

Vice-Chairman Kelley: It would be good to compile those on a monthly basis that way when you do your Subrecipient Grant Report you will have that.

Member Sena: I did help them create an Instagram page.

Destiny Mitchell Fiesta Representative: Fiesta was really good I will have an actual final report for you guys. I gave you a quarterly one in April, and I will give you another one in June. I also wanted to thank you guys for letting us run with the treasure hunt for the Chamber of Commerce. We didn't expect it to be found so soon. I think we are going to try and make it a little bit harder in the future but we want to keep going with it. We think the business really got a boost out of it and the community really came together. We will probably come back to you guys in July for some more request on that. Another thing I wanted to report on is the concert we just had last weekend, it come out of nowhere it fell out of Ruidoso. They want to start a

music series here and I know we are doing Levett and we are doing Dancing in the Street Lights. They reached out to me and asked if we would be interested in letting them do something like that at Ralph Edwards Park. I wanted to get your guys' feedback as to what did you see online? What did you see at the park? There is always the negative and the positive. There was some negative about the type of music.

Member Sena: I am pro live music all the time. No matter what it is. I go to concerts that I may not like the music but I still enjoy being there. I'm not a death metal person but I go to those concerts. I think any live music is good. You're not going to please everyone. Just like food. You can have a bunch of food trucks and you're not going to please everyone.

Chairman Foerstner: I'm pro live music. I'm pro def metal music. I have a business a block away that is supposed to be quit and we didn't hear anything.

Destiny Mitchell: I'm glad to hear that. That was one of my concerns.

Chairman Foerstner: What ever was going on yesterday was much louder. That was something else.

Destiny Mitchell: It was a Memorial Day celebration. They had big speakers.

Chairman Foerstner: They had the speakers pointing towards us. I think pointing them out the other way is better.

Vice-Chairman Kelley: They Levett concerts are going to be pointing them away from your business.

Chairman Foerstner: Like the Def Metal concert they just did if you point them that way its fine.

Member Sena: For the treasure hunt I know there is business that are not happy that they were not included. I think personally you should open it up and let people pay to be a part of it. For me we killed it all those days that we were a part of it. I would gladly pay $100 just to be on the map again.

Destiny Mitchell: We have already had an initial discussion. They first on was a trail. We found that the model would work we just needed to put a little more extra work into it to make it a little bit more coherent. That is where we are going to go with it we are going to open it to everybody. That's how we are going to get our prize money. If I got 10 business for $100 it's a $1000 now for the turtle so we have the prize money covered and we get people into the business. One of the feed backs that we got from hunter was that they loved doing the puzzles. They loved going into the Bank of the Southwest or going into Rio Bravo and having to figure out the puzzle of who painted this picture that kind of stuff. It was great for getting new people into

our business and getting our businesses to be part of. We are looking forward to expanding it. I wanted to do it again in July, but Chelsea is out of town until August or September.

Vice-Chairman Kelley: I wouldn't do it when its hot.

Destiny Mitchell: We also thought about doing a mini one where we hid it during art hop. We have some ideas coming up.

**4. NEW BUSINESS:**

a. **Discussion/Update:** New Mexico Square and Round Dance Association. Joseph Solis

Destiny Mitchell: They had the 4-day event, it was very well attended. The only thing they requested was the reimbursement of the rental fees.

b. **Discussion/Action:** Geronimo Trail Scenic Byway Website Hosting and Maintenance. Gina Kelley

Gina Kelley: We are asking for $600 to pay for the website hosting and maintenance.

Member Sena made a motion to approve the amount of $600 to Geronimo Trail Scenic Byway Website Hosting and Maintenance.
Chairman Foerstner seconded the motion.
Motion carried unanimously.

c. **Discussion/Action:** MainStreet**-** Truth or Consequences Desert Ultra. Becca Eza

Becca Eza: I am coming to you guys for a request for funding for the next Desert Ultra. This will be our 6th year putting on the event. I think it's the 4th year that we have come to ask for lodger's tax funding to help with it. We have grown in little bits every year that we put this on. Last year was our biggest by a good bit. We are hoping to continue to grow. Our request this year is pretty similar to what we have asked for in the past year. This year we are not asking for funding for print ads in Ultra Running Magazine that was about $1,8000 that you guys gave us last year. We decided that was not worth the return on investment for that at this point in the race. Maybe a few years down the road if we get really big. We are not asking for that instead we slightly increased our social media promotion. We think that will be more effective in doing some targeted ads, especially within the region. The plan is to start slowly with some national ads and as we get closer to the race target the region where

people can make last-minute plans to come here. The other change is that we are not asking for funding for advertising at Fort Bliss last year I was not able to get in touch with the people there to do that. We are still going to advertise at Hollman Airforce Base and hopefully this year get that in earlier. I think I told you guys in my report for last years that we had some issues with graphic design being done in a timely manner which we will address this year as well but by the time we got the ads to Hollman it was right before the government shut down and that not when service members are looking to spend money entering a race. The other things are what we asked for the last couple of years as well.

Chairman Foerstner: The shirts are promotional? You give those away?

Becca Eza: Yes. When you enter the race, you get a shirt. I do have a question. When I came to give the report Chairman Foerstner you suggested 2 things that we should have when people register because we are able to add a couple of questions to the registration. We do the post-race survey and last year we got about a third of the runners to answer it. You had 2 suggestions and I know one of them was how did you find out about the race. I didn't write the other one down though.

Chairman Foerstener: I don't remember.

Becca Eza: I can get the minutes from that meeting. The registration form itself is just basic demographics that they collect. Where are you from, age, that kind of thing. In our post-race survey we tailor that and ask a lot of specific things. I don't want to make the registration that complicated but adding a couple of simple things is possible.

Vice-Chairman Kelley made a motion to approve the amount of $5,650.00 to MainStreet for Truth or Consequences Desert Ultra.
Member Sena seconded the motion.
Motion carried unanimously.

d. **Discussion/Update:** Artist of Sierra County Studio Tour 2025. Stacy Blum-Hay

Christine Auten: We did well. We didn't feel like it was as many people as the previous year there was a downturn with tourism at the time in November it was being felt across the board. However when I looked at the sign-in sheet and did a full analytics we had 350 individual visitors which is very good for a self-guided tour. We know that not everybody signs in. We had of course the most visitors from T or C, Elephant Butte, Albuquerque and Lac Cruces. We had some really good analytics on our website we have some really good SEO and some good analytics on our socials. What I really want to get into is what we learned and what we need to improve. We had some challenges last year with needing more staff and needing more people to help us with it. Also, our social media manager has

ties to activist groups working for Palestine and so when she posed an event for her parents she got banned from Facebook and so all of our social media had to run through other people. It happened a month before the tour, so we were scrambling. We didn't do so well on social media marketing as we had hoped. We did good it's just our campaigns were as fully realized as we hoped they would be. This year we want to make a few changes. We know that we need to market way more outside of Sierra County and we did papering, we did flyers. We went all over the region doing that kind of promoting but we need a little be more social media and a little bit more creativity and more videos pre-event. We make a lot of videos during the event, but we need to do more prevent videos. We need to up our game in social media marketing because that's really where people find out about these things. We also need to get on more event calendars which is challenging with the timeline that we can't really start to pay for that stuff until July. We need to plan a little better as far as putting that in the previous year's request. We also learned that the impact of the tour has been more than we expected it to be as far as the artist community here and it galvanized the artist together in ways that they didn't realize they had a group. They didn't realize they had so many of them together. The way we know that is because we thought maybe we wouldn't do it this year and then realized that we had a big back lash from artist saying that we needed to do it. We were thinking of taking a year off mostly because mine, Stacy and Dianas involvement hasn't been as much. We all have other things we are working on but we are going to pull through and find other people to help us and keep doing it.

e. **Discussion/Action:** Sierra County Arts Council- Artist of Sierra County Tour 2026. Stacy Blum-Hay

Christine Auten: As last year's application we need to host the website. The website is a really good Cleary house for us for all the artists. Each artis has their own page. They can send that out for themselves when they start to promote the event themselves. They can link a page that has their name and the URL. We really want to keep the website as robust as possible. Hosting fees are always going to be part of that. The next one is online ads and event calendars im dropping this down to $500 because we didn't use the $800 last year. It turned out that it was too difficult to wrangle who has a calendar and who doesn't have a calendar. That leads us to someone down here at the bottom. We need to have someone who is a promotions and marketing lead. We need to bring someone on who is specifically only doing that.

Vice-Chairman Kelley: Lodgers Tax can't pay for that.

Christine Auten: They can't pay for a person? Ok, we can strike that part, but we do know we need it. Maybe we can shift some money back to social media and online ads. We can take the 2 at the bottom off. I can't pay for personal even if it's a marketing person?

Vice-Chairman Kelley: No

Christien Auten: Ok. That was specifically what we really needed. But we can pull that together. That was for a person for 6 months to seek out promotional opportunities and specifically apply for what we needed to be applied for. They wouldn't be doing any other parts of the tour. That's the problem is that when it falls on other people who are also doing other parts of the tour things get lost and we don't get to do it as thoroughly as we would like to promote the event. It's just opportunities that we are missing as far as outside of Sierra County promotions and that is something we were trying to figure out how to do better at. Obviously personal is where you do better at that kind of thing. Print marketing is exactly the same almost to the dollar, rounded up a little bit from what we paid last year, which was $800. Art poster design this is something we are kind of looking at as far as paying some local artist to design different art inspired posters that we send out instead of just our one poster have different local artists design them and have the credit on the poster so when we send them to Santa Fe and Albuquerque we have a little more touch stone into the artist that we are actually featuring. Website management that again is making sure our SEO is up to date and the listings are up to date. It's a simply request this year.

Chairman Foerstener: Are you able to make that up on your own to still hire those people.

Christien Auten: We will figure it out. We get a little support from the Arts Council, and we will be able to do that we will just have to spread it out, maybe not just one person but several people who can volunteer their time. We just need someone who can stay on it and coordinate those efforts, and you know with any kind of social media marketing there is a coordination aspect to it that has to be followed up on and that's what we are lacking. Diana can normally do that. That's Chaychi productions. She has been doing that for us for 2 years. She has got another job now and so she is still involved but her involvement will go back to just design and creation of materials at this point and not necessarily managing that stuff. It will be tough, but we will figure it out. Maybe we can up online ads and listings to $1,000 and take off the last 2 requests.

Member Sena made a motion to approve the amended amount of $4,500 to Sierra County Arts Council- Artist of Sierra County Tour 2026.
Vice-Chairman Kelley seconded the motion.
Motion carried unanimously.

f. **Discussion/Action:** Sierra County Arts Council- Promoting T or C as an Art Destination. Pat Swan

Pat Swan: Are format is pretty similar to last year. We did add in some advertising in some magazines. Bluehost is our website hosting and domain registration. Constant Contact obviously we send those out regularly. Ready web service is our contract with Ruana who updates our website and the second Ready web services is the website redesign part 2. Last year we were approved for $3,000 and we would like to ask for another $3,000 to totally revamp our website. We have met with an agency that Ruana recommended called Raven Rock and have a proposal from her to revamp our website. Our website is hanging on by a thread right now. We have no SEO we can't tell who sees our website, videos can no longer be updated, plug in conflict and the video player crashes. We would like to really have a nice website and think that would really promote the arts in town if we did a big campaign to get that website out there and get people looking at it. We are asking for another $3,000 and if that is granted we would sign a contract with our agency pay her the $3,000 from this and in the next fiscal year pay her the second $3,000 to revamp our website.

Vice-Chairman Kelley: You would have to pay her and have the check cleared by this Friday to use the money from this year.

Pat Swan: Right.

Vice-Chairman Kelley: Have you spent it?

Pat Swan: Not yet.

Vice-Chairman Kelley: Are you going to by Friday?

Pat Swan: We are going to try. We are going to try and be creative on that. We have Tv video editing. We always need someone to edit our art talks and our performances so we can put those videos online and use them in other places that's the same as last year. Meta social media campaigns I left it the same as last year even though we didn't really use last years. We don't really have a social media expert on our board or on any of out committees so we are working on that. U-Printing the first one there is the new murals brochure and its 11x17 multifold that will fit into an envelope. As Mike mentioned earlier John Johank had taken that project on and we have 106 murals past and present in this town. We can't wait to see that brochure. That $1,700 is an estimate from his printer.

Member Sena: How many brochures does that get you.

Pat Swan: whatever we printed last year. I don't have that number but it would the same.

Vice-Chairman Kelley: I think its 5,000.

Pat Swan: I can check on that. But I'm sure we would have ordered the same as what we did last year. The second U-Printing is the galleries brochure. We did bump that up a little bit last year we had $800. We bumped it up to $1000 just because of printing and shipping cost are rising always. The Southwest Contemporary is the New Mexico Field guide ad that is a full page ad at $2,100. Various vendors that's flyers and posters to market our events that's $500. Andrew Hersey photographer we did talk to him and see if he would be our on call photographer and he is thrilled with that idea. He did the photos for our gala, the tango and violin. He loves being on call. He loves having us as a client so we would like to put him on a retainer and give him a monthly fee.

Member Sena: Can we do that?

Deputy Clerk Martinez: No because they have to show what work was done on their reimbursements.

Pat Swan: Ok well we would like to have him as out photographer for the year so that $1,800 would cover what ever events he did.

Chairman Forestner: I though you said you can't pay for people?

Clerk Torres: You can pay for the service of it.

Pat Swan: Last year Linda had us add $900 in for a photographer and we spent that $900 so that why we wanted to bump it up and just have him do all of our events so that we have good photos of everything.

Vice-Chairman Kelley: Just call it a photographer.

Pat Swan: We will take off the monthly retainer fee and just have photos off all events $1,800 for the year. The next one is a half page ad in the November or December issue of New Mexico magazine. I have been subscribing to that since I lived in San Francisco it's a great magazine and its so focused on northern New Mexico that I would really like us to put an ad in there and focus on either the Studio Tour or Second Saturday Art Hop something that tells people there is something going on down here also. I have talked to them about that and then I put in $300 for a graphic designer to design that ad. The last one Pasa Tiempo an ad in the July addition to promote the arts in T or C as well as Olen West who has an opening at Rio Bravo the week of art hop. Olen has as big following in Santa Fe so Richard from Rio Bravo called and said why don't you guys run an ad and they will out our ads right next to each other and we can promote T or C and he will promote Rio Bravo and Olen West. We like that idea and he has a designer that is doing it. He is going to put in a photo of a different gallery that is a different type of work just so they see a contrast that there is more than just Olen's work. With the design and the ad is $1,000.

Chairman Foerstener: This isn't for one particular project sounds like your looking for us to fund your operations for the arts council for the whole year.

Pat Swan: Our operations are way more than this but these are things that would be covered by lodgers' tax that are advertising away from our county.

Chairman Foerstner: You keep mentioning last years so we did this last year where you lumped it all together in one big ask. This is how we use to do it and we stopped and we started doing it by each project that way you can track it and show what each project did. When we did this last year I don't remember if we did a large portion like this. This is about 20% of our whole budget. Did you have a report showing what this produced with heads on beds? This a very large ask to show us what kind of heads on beds and it's all over the place so it almost seems impossible. If you did a 90 day report on this when would we get that and what would it even report on? It doesn't seem like something you can even show us how many heads in beds you put in with this much money.

Member Sena: The theater had the same thing. They didn't have a set event that they were working on.

Christien Auten: In that case what would like murals, brochures and galleries be?

Chairman Foerstner: Those were always asked individually. Each one is a different.

Vice-Chairman Kelley: That's how we did it last year.

Chairman Foerstner: Is that how we did it? What did we award?

Vice-Chairman Kelley: I believe $10,000

Chairman Foerstner: We are adding $7,000 on top of that. How did the report go? I don't think there was even a report so $10,000 and we got no report we don't know what heads in beds was and now your asking for $17,000 and it's 20% of our whole budget so I'm just wondering how you are going to track all this stuff. It seems like a lot is for operations I know it's not all of it but it's a lot.

Clerk Torres: Did you guys give a reimbursement on that?

Pat Swan: Not yet.

Clerk Torres: It's easier to keep track if we do it on a case-by-case basis.

Chairman Foerstner: It should be individual projects instead of all together.

Pat Swan: I mean art hop is a monthly event I don't know how you can monitor that monthly.

Vice-Chairman Kelley: It's an ad campaign.

Christine Auten: The arts council promotes dozens of events through out the year. Some of them overlap. Do you want us to come every month and ask for each specific event? Some times we combine ads and list all the events for the month. It seems to make more sense to call it a yearly campaign and this is what we are promoting as a tourist destination we promote these events.

Chairman Foerstner: It makes it a little more difficult when we don't see the return of investment.

Christine Auten: We need to work on the reporting. We can break this up however you guys would like if you want to go back and break it up. This is just based on what we where advised last year and this is what we did.

Pat Swan: Ads in the magazines are a general ad not for one specific event.

Christien Auten: Yes, so I'm not sure how to divide it up.

Chairman Foerstner: I think where I'm confused is you're not doing multiple events you just promoting.

Christine Auten: Yes, it's promoting everything is multiple event promotion.

Member Sena: If we do approve the full amount how are you going to do your 90-day report?

Christien Auten: I don't know how to do brochures reports.

Pat Swan: We can provide the stats of the other projects. The Southwest Contemporary is an ad that we do every year. Next year we would like to change that ad up a little bit I think it's been the same for a while. We wanted to put advertising up in the northern part of the state to help bring people down because that's going to be who drives down here and see the hot springs and see the art.

Chairman Foerstner: We just didn't see any ads or anything from last year. You guys didn't come show us the ads what it brought it?

Pat Swan: We only ran an ad in the field guide. It was my personal idea to do the New Mexico Magazine and Richard came up to us for the Pasa Tiempo which we are doing that ad even if we don't get approved for it because we think it's a good idea. We love Olen and we know he has a big following and we want T or C to be represented and they are going to place the ads together.

Vice-Chairman Kelley: The New Mexico Field Guide ad when is that going to come up? That doesn't come up till fall right?

Pat Swan: When is it due? I believe that's for the current one which we just those field guides in Rececca said they are at the post office. Did you get any today?

Member Sena: The report for last allocation would need to include the marketing events that where done for the year.

Christine Auten: We wouldn't have the website due yet.

Member Sena: I think there are all really good things to promote our town. I think it's just the following through with the full process.

Pat Swan: I'm sorry about that I know that the expenses are due on the 29th. I didn't realize I had to do a report.

Member Sena: That will be for every single event that you guys do.

Chairman Foerstner: We just want to make sure we are putting this money towards putting heads on beds. The bigger the chunk and no follow through at all is getting back to how it use to be done with all these big asks and no accountability for the money.

Pat Swan: I will account for all this money if approved.

Chairman Foerstener: By showing its putting head on beds.

Pat Swan: Yes.

Member Sena: I'm good with it. I think the reports are good because we like to hear it. Im a busy person and I'm involved in a lot of things but I don't see all of it so when we are approving stuff I like to hear how successful people where. We do help promote these events as well. We definitely like to hear follow ups on them. Even after an event come in and give us an update.

Deputy Clerk Martinez: They are suppose to be giving a report every 90 days.

Pat Swan: I'm happy to come to every meeting and give you an update on where we are at and what we have spent.

Member Sena: If we did a particle today like brochures I think are important because everyone comes in looking for those. If you can in July would you still have time to get some of these done.

Pat Swan: Well, the video editing that's per event. The Field Guide that's already printed for this year and that would be for next years Field Guide and the Hersey Photography that's

per event. The big asks are the New Mexico Magazine and Pasa Tiempo that come to almost $4,000.

Member Sena: When are those due by?

Pat Swan: The Pasa Tiempo is due June 8th that's next week and the New Mexico Magazine would be due later on the summer.

Clerk Torres: This won't even be approved until after July 1st. So, you can't use any funding until after that because this is for the next fiscal year.

Pat Swan: Ok so that Pasa Tiempo ad we can take off because we are going to run that ourselves whether is got approved or not.

Vice-Chairman Kelley: You don't pay for it until the ad comes out right you don't pay for it in advance?

Pat Swan: I don't know the payment but it would probably be next month we would have to pay for it because the ad will come out in July. We will absorb that one.

Vice-Chairman Kelley: As far as the New Mexico Magazine and Southwest Contemporary those you can ask for later closer to the dates that your actually do them because those are not for a while.

Christien Auten: If we are doing partial we need to look at the brochures specifically and the website.

Vice-Chairman Kelley: Are you doing Constant Contact? I have never seen anything from Constant Contact.

Pat Swan: That's the emails that come out about every event that's happening.

Vice-Chairman Kelley: The ones that Rebecca sends out?

Pat Swan: Yes.

Vice-Chairman Kelley: But your not using Constant Contact.

Pat Swan: Yes, we are. I do want to develop a header and a footer for that so it gives the Arts Council more recognition.

Member Sena: So, it would be the brochures, Blue Host, Constant Contact and the next 2 as well?

Pat Swan: The first Ready Web services is the on going website update putting events on it, changing pictures whatever needs to be done. The second one is the redesign.

Vice-Chairman Kelley: Most of the is stuff you can get July 1st. I would say everything but the New Mexico Field Guide and the New Mexico Magazine because those are postponed because that when you do the ad.

Chairman Foerstner: Why are we holding off on the New Mexico Magazine because they didn't do that last year? Why do we need to hold off and make them come back for that. I just want to make sure whatever they paid for last year we got some proof you did it and it's affective. Sounds like you just did the Southwest Contemporary ad.

Pat Swan: Yes, we didn't spend all the money we asked for last year.

Chairman Foerstner: New Mexico Magazine is a whole new ad I don't see why making you come back and separate it out. I just want to make sure I get a report from whatever you spent last year.

Member Sena made a motion to approve the amended amount of $16,049.00 Sierra County Arts Council- Promoting T or C as an Art
Vice-Chairman Kelley seconded the motion.
Motion carried unanimously.

g. **Discussion/Action:** Veterans Memorial Park and Museum- Billboard Contract.

Wendy Barnes: This is the annual contract. We went and worked with Lamar to change the contract date so they fall within the fiscal year as the city. We got it done so the amount is just a little bit different from last year. The new billboard is up, it's nice and we have received a lot of positive comments.

Chairman Foerstner: So, this contract will fall in with the fiscal year?

Wendy Barnes: Yes. It's a little bit more but because now we go from July to June.

Chairman Foerstner: One application this year for this contract? Did you bring us a shot of the new one.

Wendy Barnes: Yes, and I put a picture on the back of the application.

Chairman Foerstner: This is for the rental correct you already come to us for the redesign?

Wendy Barnes: Yes

Vice-Chairman Kelley made a motion to approve the amount of $4,489.32 to Veterans Memorial Park and Museum for the Billboard Contract of Fy 26/27.
Member Sena seconded the motion.

Motion carried unanimously.

5. **WORKSHOP**

    a. Lodgers Tax Guidelines.

Clerk Torres: In your packet you have a Lodgers Tax operating handbook. What our City Manager is he entered all of our state statue plus the language you guys had from your operating procedures for lodger's tax reimbursements. We wanted you guys to look these over and see if you have any changes. We will come back at the next meeting so you can give a recommendation on it. I did want to add we have been using this logo for the Lodgers Tax reimbursements. The City Manager has asked that we add "paid for in part by The City of T or C Lodgers Tax" he said that needed to be included on it.

Vice-Chairman Kelley: I'm going to oppose that.

Clerk Torres: That was the direction that we were given.

Vice-Chairman Kelley: Nobody cares who paid for something. It distracts from the messaging of the ad. I will voice my opinion with him. Nobody does that anymore.

Chairman Foerstener: We kind of fought to get rid of that especially because it doesn't make sense on certain things. On certain promotional items you just can't do it. That's why we came up with the brand to make it more unified and attractive without having to have that print on there.

Clerk Torres: He was telling me I can't remember what section but he was saying that state statue says it has to have that. I'm not really sure on that one. I know if you go to the second to last page it does have the logo and branding requirements on there if you guys look that over and see if you want to add it. My idea was to include the page with the logo into the guidelines just so people won't get confused. So, if you decide you want to have this or if you want to have it without the language.

Vice-Chairman Kelley: In the section it says where the logo is not or where additional sponsorship acknowledgement is appropriate the following shall be used. That I get.

Chairman Foerstener: So, its saying when we can't use the logo we need to use that language?

Clerk Torres: Yes. I didn't want to include a copy of the logo because I know there has been conversation and confusion of our City Seal and the branding logo for Lodgers Tax. I think if

we have it included then we can let people know what they need to us for lodgers' tax and the other has to do with our government. I thought it would be helpful if we did include it but its up to you guys.

Vice-Chairman Kelley: That's a good idea. This looks really nice.

**6. COMMENTS FROM THE BOARD:**

There were no comments from the board at this time.

**7. COMMENTS FROM THE STAFF:**

There were no comments from the staff at this time.

**8. ADJOURNMENT:**

There being no further business, Chairman Foerstner adjourned the meeting.

PASSED AND APPROVED this 15th day of June 2026.

_____

Jake Foerstner, Chairman

# LODGERS' TAX
# OPERATING HANDBOOK

## CITY OF TRUTH OR CONSEQUENCES

July 1, 2026

## Chapter 1

Section 3-38-13 - Short Title

### Statutory Text

3-38-13. SHORT TITLE. --Sections 3-38-13 through 3-38-25 NMSA 1978 may be cited as the "Lodgers' Tax Act".

### Truth or Consequences City Code

Sec. 7-196. - Title of article.
This article shall be known as and may be cited as "The Lodgers' Tax Ordinance."

(Ord. No. 442, § 1, 8-12-96)

Sec. 7-197. - Purpose of article.

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 17 of this article.

(Ord. No. 442, § 2, 8-12-96)

Sec. 7-206. - Reserved.

Editor's note - Ord. No. 444, § 2, adopted March 10, 1997, repealed the provisions of former § 7-206, which pertained to criminal penalties, as derived from Ord. No. 442, § 11, adopted August 12, 1996.

## Chapter 2

Section 3-38-14 - Definitions

### Statutory Text

As used in the Lodgers' Tax Act [3-38-13 to 3-38-25 NMSA 1978]:

A. "gross taxable rent" means the total amount of rent paid for lodging, not including the state gross receipts tax or local sales taxes;

B. "lodging" means the transaction of furnishing rooms or other accommodations by a vendor to a vendee who for rent uses, possesses or has the right to use or possess the rooms or other units of accommodations in or at a taxable premises;

C. "lodgings" means the rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodging;

D. "occupancy tax" means the tax on lodging authorized by the Lodgers' Tax Act;

E. "person" means a corporation, firm, other body corporate, partnership, association or individual. "Person" includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity. "Person" 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;

F. "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;

G. "taxable premises" means a hotel, motel or other premises used for lodging that is not the vendee's household or primary residence;

H. "temporary lodging" means lodgings for the purpose of housing a vendee within proximity of the vendee's employment or job location;

I. "tourist" means a person who travels for the purpose of business, pleasure or culture to a municipality or county imposing an occupancy tax;

J. "tourist-related events" means events that are planned for, promoted to and attended by tourists;

K. "tourist-related facilities and attractions" means facilities and attractions that are intended to be used by or visited by tourists;

## Truth or Consequences City Code

Sec. 7-198. - Definitions.
As used in this article:

Board means 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 means the City Clerk of Truth or Consequences, New Mexico;

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

Lodging means 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 other units of accommodation in or at a taxable premises.

Lodgings means the rooms or other accommodations furnished by a vendor to a vendee by the taxable service of lodgings.

Occupancy tax means the tax on lodging, authorized by the Lodgers' Tax Act.

Person means a corporation, firm, other body corporate, partnership, association, or individual. Person 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, the state government, or any political subdivision of the state.

Rent means the consideration received by a vendor in money, credits, property, or other consideration valued in money for lodgings subject to any occupancy tax authorized in the Lodgers' Tax Act.

Taxable premises means a hotel, apartment, apartment hotel, apartment house, lodge, lodginghouse, roominghouse, 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 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, attractions and events;

Vendee means a natural person to whom lodgings are furnished in the exercise of the taxable service of lodging; and

Vendor means a person furnishing lodgings in the exercise of the taxable service of lodging.

(Ord. No. 442, § 3, 8-12-96)

## Chapter 3

Section 3-38-15 - Authorization of Tax; Limitations on Use of Proceeds

### Statutory Text

3-38-15. AUTHORIZATION OF TAX--LIMITATIONS ON USE OF PROCEEDS.--

A. A municipality may impose by ordinance an occupancy tax for revenues on lodging within the municipality, and the board of county commissioners of a county may impose by ordinance an occupancy tax for revenues on lodging within that part of the county outside of the incorporated limits of a municipality.

B. The occupancy tax shall not exceed five percent of the gross taxable rent.

C. Every vendor who is furnishing any lodgings within a municipality or county is exercising a taxable privilege.

D. The following portions of the proceeds from the occupancy tax that are collected based on the first thirty days a vendee rents lodgings in taxable premises shall be used only for advertising, publicizing and promoting tourist-related facilities and attractions and tourist-related events:

(1) if the municipality or county imposes an occupancy tax of no more than two percent, not less than one-fourth of the proceeds shall be used for those purposes;

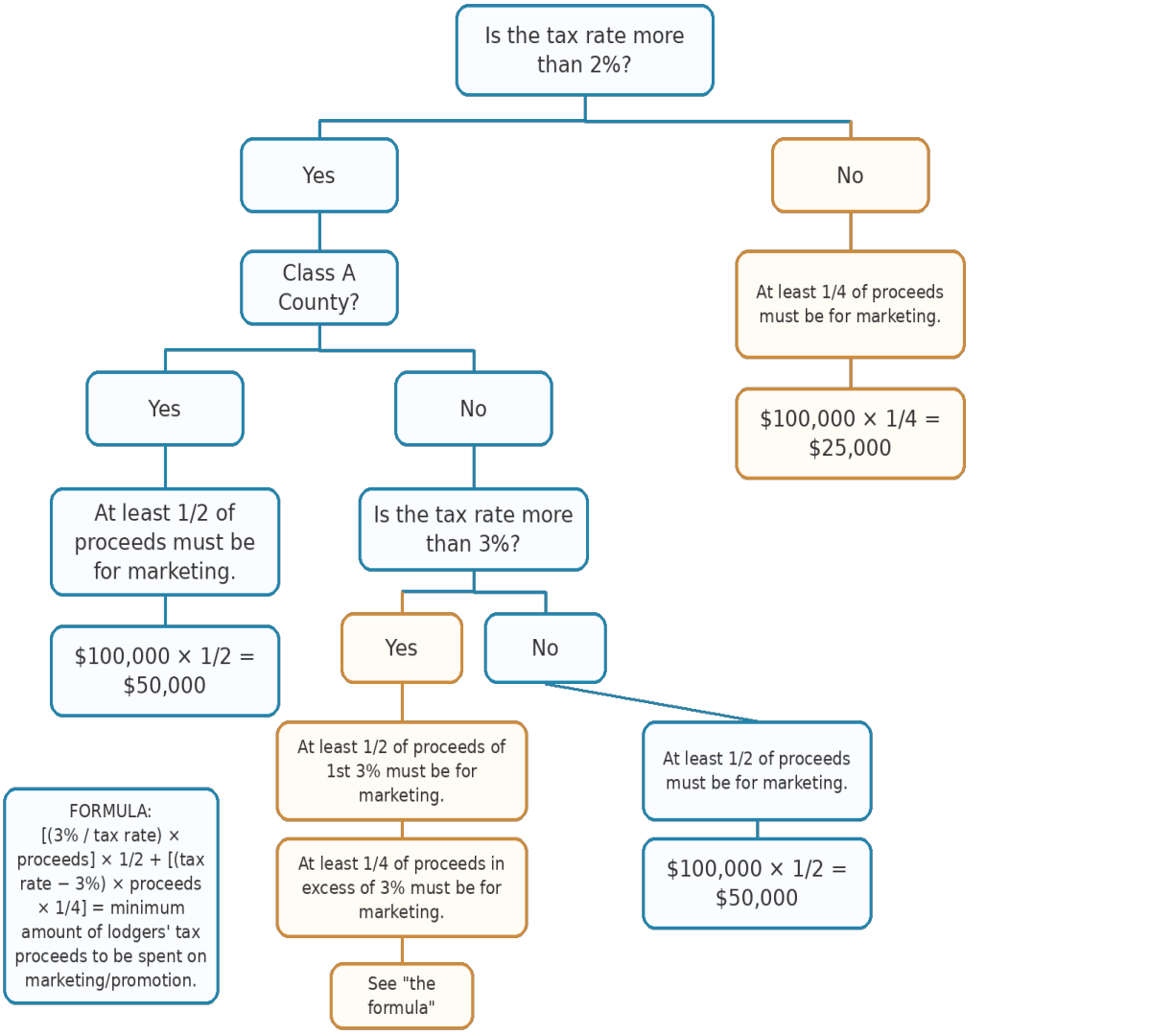
(2) if the occupancy tax imposed is more than two percent and the municipality is not located in a class A county or the county is not a class A county, not less than one-half of the proceeds from the first three percent of the occupancy tax and not less than one-fourth of the proceeds from the occupancy tax in excess of three percent shall be used for those purposes; and

(3) if the occupancy tax imposed is more than two percent and the municipality is located in a class A county or the county is a class A county, not less than one-half of the proceeds from the occupancy tax shall be used for those purposes.

E. The proceeds from the occupancy tax that are collected based on the first thirty days a vendee rents 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.

F. 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.

## Figure 2. Lodgers' Tax Restriction Rate Formula and Flowchart




After calculating the absolute minimum amount of lodgers' tax proceeds that must be spent on marketing and promotion, it is important to note that spending as much lodgers' tax funding as possible on marketing and promotion is generally the strongest tool to grow tourism, increase visitation, increase visitor spending, and support jobs.

## Truth or Consequences City Code

Sec. 7-199. - Imposition of tax.

There is hereby imposed an occupancy tax of five percent of gross taxable rent for lodging within the municipality paid to vendors.

(Ord. No. 442, § 4, 8-12-96)

## Chapter 4

Section 3-38-16 - Exemptions

### Statutory Text

3-38-16. 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 a vendee is less than two dollars ($2.00) a day;

C. to lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

D. to lodging accommodations at religious, charitable, educational or philanthropic institutions, including accommodations at summer camps operated by such institutions;

E. to clinics, hospitals or other medical facilities; or

F. to privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill.

### Truth or Consequences City Code

Sec. 7-201. - Exemptions.

The occupancy tax shall not apply:

(1) If a vendee:

a. Has been a permanent resident of the taxable premises for a period of at least 30 consecutive days; or

b. Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least 30 consecutive days;

(2) If the rent paid by the vendee is less than $2.00 a day;

(3) To lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

(4) To lodging accommodations at religious, charitable, educational or philanthropic institutions, including without limitation such accommodations at summer camps operated by such institutions;

(5) To clinics, hospitals or other medical facilities;

(6) To 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 rooms or three other units of accommodation for lodging.

(Ord. No. 442, § 6, 8-12-96; Ord. No. 720, § 1, 11-17-21)

## Chapter 5

Section 3-38-17 - Collection of Taxes

### Statutory Text

3-38-17. COLLECTION OF TAXES.--

A. Every vendor providing lodgings in a municipality or county imposing an occupancy tax shall collect the proceeds thereof on behalf of the municipality or county and shall act as a trustee therefor.

B. The tax shall be collected from vendees in accordance with the ordinance imposing the tax and shall be charged separately from the rent fixed by the vendor for the lodgings.

### Truth or Consequences City Code

Sec. 7-200. - Licensing.

(a) No vendor shall engage in the business of providing lodging in the Municipality of Truth or Consequences who has first not obtained a license as provided in this section.

(b) Applicants for a vendor's license shall submit an application to the City Clerk 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 therefor;

(3) A description of other 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 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;

(5) Other information reasonably necessary to effect a determination of eligibility for such license.

(c) The City Clerk shall review applications for license within ten days of receipt thereof, and grant the license in due course if the applicant is doing business subject to the lodgers' tax.

(d) An applicant who is dissatisfied with the decision of the City Clerk may appeal the decision to the governing body by written notice to the City Clerk of such appeal to be made within 15 days of the date of the decision of the City Clerk on the application. The matter shall be referred to the governing body for hearing at a 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 is transmitted. The action of the governing body shall be deemed final.

(e) If the governing body finds for the applicant, the City Clerk shall issue the appropriate license or other notice conforming to the decision made by the governing body.

(Ord. No. 442, § 5, 8-12-96)

Sec. 7-202. - Collection of the tax and reporting procedures.

(a) Every vendor providing lodgings shall collect the tax thereon on behalf of the Municipality and shall act as a trustee therefor.

(b) The tax shall be collected from vendees and shall be charged separately from the rent fixed by the vendor for the lodgings.

(c) Each vendor licensed under this article shall be liable to the Municipality of Truth or Consequences tax provided herein on the rent paid for lodging at his respective place of business.

(d) Each vendor shall make a report by the twenty-fifth day of each month, on forms provided by the City Clerk, 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.

(e) For transactions where a vendor uses a marketplace provider to facilitate the sale of lodgings, the City may use a "marketplace provider" as follows:

(1) Definition: A marketplace provider means any person who facilitates a retail sale by a vendor by listing or advertising for sale or furnishing by the vendor, in any manner, rooms, lodging, or other accommodations through agreements or arrangements with 3rd parties.

(2) Marketplace providers shall be responsible for collecting all applicable lodgers taxes and remitting the same to the City. The marketplace provider shall be considered an agent of the vendor for purposes of lodgers tax collections and remittance responsibilities as set forth in this section.

(3) A marketplace provider operating exclusively on the internet, who operates in compliance with subsection (2) above, shall be presumed to be in compliance with this section, except that the marketplace provider remains responsible for compliance with the administrative penalty provisions described in this section.

(Ord. No. 442, § 7, 8-12-96; Ord. No. 741, § 1, 10-26-22)

## Chapter 6

Section 3-38-17.1 - Audit of Vendors

### Statutory Text

3-38-17.1. AUDIT OF VENDORS.--

The governing body of any municipality or county collecting over two hundred fifty thousand dollars ($250,000) in occupancy tax proceeds shall select for annual random audits one 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 that rent is collected. The governing body of any municipality or county collecting less than two hundred fifty thousand dollars ($250,000) in receipts, per annum, of occupancy tax proceeds shall conduct random audits to verify full payment of occupancy tax receipts. Copies of audits completed shall be filed annually with the local government division of the department of finance and administration.

### Truth or Consequences City Code

Sec. 7-203. - Duties of the 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 Truth or Consequences, New Mexico, and shall be open to the inspection of the Municipality during reasonable hours and shall be retained for three years.

(Ord. No. 442, § 8, 8-12-96)

Sec. 7-207. - 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, no later than 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 shall allow the claim in whole or in part or may deny it. Refunds of tax and interest erroneously paid and amounting to $100.00 or more may be made only with the approval of the Governing Body.

(Ord. No. 442, § 12, 8-12-96)

Sec. 7-208. - Vendor audits.

The Governing Body shall conduct random audits to verify full payment of occupancy tax receipts.

(a) The Governing Body shall determine each year the number of vendors within the Municipality to audit.

(b) The audit(s) may be performed by the City Clerk 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.

(Ord. No. 442, § 13, 8-12-96)

Sec. 7-210. - Confidentiality of return and audit.

It is unlawful for any employee of the Municipality of Truth or Consequences to reveal to any individual other than another employee of the Municipality of Truth or Consequences 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 Municipality of Truth or Consequences 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.

(Ord. No. 442, § 15, 8-12-96)

## Chapter 7

Section 3-38-17.2 - Financial Reporting

### Statutory Text

3-38-17.2. FINANCIAL REPORTING.--

A. The governing body of any municipality or county imposing and collecting an occupancy tax 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 Chapter 6, Article 6 NMSA 1978 or the Audit Act [12-6-1 to 12-6-14 NMSA 1978] that relates to the expenditure of occupancy tax funds within ten days of the filing or receipt of such proposed budget, report or audit by the local governing body.

B. The governing body of any municipality or county imposing and collecting an occupancy tax 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 Sections 3-38-15 and 3-38-21 NMSA 1978 and shall furnish a copy of this report to the advisory board when it is filed with the division.

### Truth or Consequences City Code

Sec. 7-203. - Duties of the 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 Truth or Consequences, New Mexico, and shall be open to the inspection of the Municipality during reasonable hours and shall be retained for three years.
(Ord. No. 442, § 8, 8-12-96)

Sec. 7-209. - Financial reporting.

(a) 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 Chapter 6, Article 6 NMSA 1978 or the Audit Act that relates to expenditure of occupancy tax funds within ten days of the filing or receipt of such proposed budget, report or audit by the Governing Body.

(b) 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 sections 3-38-15 and 3-38-21 NMSA 1978 and shall furnish a copy of this report to the Advisory Board when it is filed with the Division.

(Ord. No. 442, § 14, 8-12-96)

## Chapter 8

Section 3-38-17.3 - Enforcement

**Statutory Text**

3-38-17.3. ENFORCEMENT.--
A. An action to enforce the Lodgers' Tax Act [3-38-13 to 3-38-25 NMSA 1978] 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.
B. 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.
C. 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.

### Truth or Consequences City Code

Sec. 7-204. - Enforcement.
(a) 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.

(b) 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.

(c) 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.

(Ord. No. 442, § 9, 8-12-96)

## Chapter 9

Section 3-38-18 - Collection of Delinquencies

### Statutory Text

3-38-18. COLLECTION OF DELINQUENCIES.--

A. The governing body of the municipality or county shall, by ordinance, provide that a vendor is liable for the payment of the proceeds of any occupancy tax that the vendor failed to remit to the municipality or county, due to the vendor's failure to collect the tax or otherwise, and shall provide for a civil penalty for any such failure in an amount equal to the greater of ten percent of the amount that was not duly remitted to the municipality or county or one hundred dollars ($100).

B. The municipality or county 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 of not exceeding one percent a month, the costs of collection and reasonable attorneys' fees incurred in connection therewith.

### Truth or Consequences City Code

Sec. 7-205. - Failure to make return; computation, criminal and civil penalties; notice; collection of delinquencies; occupancy tax is a lien.

(a) Every vendor providing lodging within the City shall be required to pay the proceeds of the requisite occupancy tax and to account properly for any lodging and tax proceeds pertaining thereto. Any vendor who violates this section shall be subject to the penalties described in Chapter 1, Article I, § 1-10 of this Code.

(b) In addition to the criminal penalties referred to in § 7-205(a) above, every vendor is civilly liable for the payment of proceeds of any occupancy tax that the vendor failed to remit to the City, whether due to its failure to collect the tax or otherwise. The vendor shall be liable for the tax, plus a civil penalty equal to the greater of ten percent of the amount not remitted, or $100.00. The City Clerk shall give the delinquent vendor written notice of the delinquency, which notice shall be mailed to the vendor's local address.

(c) If payments are not received within 15 days of the mailing of the notice, the City 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 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 City for all costs, fees paid to the attorney or City Attorney, and all other expenses incurred in connection therewith.

(d) The occupancy tax imposed by the City constitutes a lien in favor of the City upon the personal and real property of the vendor providing lodgings. The lien may be enforced as provided in NMSA §§ 3-36-1 through 3-36-7 (1978). Priority of the lien shall be determined from the date of filing.

(e) Under process or order of court, no person, or entity, shall sell the property of a vendor without first ascertaining from the City Clerk, or City Treasurer, the amount of any occupancy tax due the City. Any occupancy tax due the City shall be paid from the proceeds of such a sale before payment is made to the judgment creditor, or any other person or entity with a claim on the proceeds of the sale.

(Ord. No. 442, § 10, 8-12-96; Ord. No. 569, 4-10-07)

## Chapter 10

Section 3-38-18.1 - Lien for Occupancy Tax; Payment; Certificate of Liens

**Statutory Text**

3-38-18.1. LIEN FOR OCCUPANCY TAX--PAYMENT--CERTIFICATE OF LIENS.--

A. The occupancy tax imposed by a municipality or county constitutes a lien in favor of that municipality or county upon the personal and real property of the vendor providing lodgings in that municipality or county. The lien may be enforced as provided in Sections 3-36-1 through 3-36-7 NMSA 1978. Priority of the lien shall be determined from the date of filing.

B. Under process or order of court, no person shall sell the property of any vendor without first ascertaining from the clerk or treasurer of the municipality or county in which the vendor is located the amount of any occupancy tax due the municipality or county. Any occupancy tax due the municipality or county shall be paid from the proceeds of the sale before payment is made to the judgment creditor or any other person with a claim on the sale proceeds.

C. The clerk or treasurer of the municipality or county shall furnish to any person applying for such a certificate a certificate showing the amount of all liens in the records of the municipality or county against any vendor pursuant to Chapter 3, Article 38 NMSA 1978.

### Truth or Consequences City Code

Sec. 7-205. - Failure to make return; computation, criminal and civil penalties; notice; collection of delinquencies; occupancy tax is a lien.

(a) Every vendor providing lodging within the City shall be required to pay the proceeds of the requisite occupancy tax and to account properly for any lodging and tax proceeds pertaining thereto. Any vendor who violates this section shall be subject to the penalties described in Chapter 1, Article I, § 1-10 of this Code.

(b) In addition to the criminal penalties referred to in § 7-205(a) above, every vendor is civilly liable for the payment of proceeds of any occupancy tax that the vendor failed to remit to the City, whether due to its failure to collect the tax or otherwise. The vendor shall be liable for the tax, plus a civil penalty equal to the greater of ten percent of the amount not remitted, or $100.00. The City Clerk shall give the delinquent vendor written notice of the delinquency, which notice shall be mailed to the vendor's local address.

(c) If payments are not received within 15 days of the mailing of the notice, the City 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 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 City for all costs, fees paid to the attorney or City Attorney, and all other expenses incurred in connection therewith.

(d) The occupancy tax imposed by the City constitutes a lien in favor of the City upon the personal and real property of the vendor providing lodgings. The lien may be enforced as provided in NMSA §§ 3-36-1 through 3-36-7 (1978). Priority of the lien shall be determined from the date of filing.

(e) Under process or order of court, no person, or entity, shall sell the property of a vendor without first ascertaining from the City Clerk, or City Treasurer, the amount of any occupancy tax due the City. Any

occupancy tax due the City shall be paid from the proceeds of such a sale before payment is made to the judgment creditor, or any other person or entity with a claim on the proceeds of the sale.

(Ord. No. 442, § 10, 8-12-96; Ord. No. 569, 4-10-07)

## Chapter 11

Section 3-38-19 - Penalties

### Statutory Text

3-38-19. PENALTIES.--

The governing body of the municipality or county shall, by ordinance, provide for penalties by creating a misdemeanor and imposing a fine of not more than five hundred dollars ($500) or imprisonment for not more than ninety days or both for a violation by any person of the provisions of the occupancy tax ordinance for a failure to pay the tax, to remit the proceeds thereof to the municipality or county or to account properly for any lodging and the tax proceeds pertaining thereto.

## Chapter 12

Section 3-38-20 - Ordinance Requirements

### Statutory Text

3-38-20. ORDINANCE REQUIREMENTS.--

The ordinance imposing an occupancy tax or any ordinance amendatory thereof or supplemental thereto, except as limited by or otherwise provided in the Lodgers' Tax Act [3-38-13 to 3-38-25 NMSA 1978], shall:

A. provide a procedure for licensing each vendor and for refusing a vendor a license after an opportunity has been given to the vendor of a public hearing thereon by the governing body of the municipality or county, as the case may be;

B. state the rate or other amount of the occupancy tax; the times, place and method for the payment of the occupancy tax proceeds to the municipality or county; the accounts and other records to be maintained in connection with the occupancy tax; a procedure for making refunds and resolving disputes relating to the occupancy tax, including exemptions pertaining thereto; the procedure for preservation and destruction of records and their inspection and investigation; vendor audit requirements; applicable civil and criminal penalties; and a procedure of liens, distraint and sales to satisfy such liens; and

C. provide other rights, privileges, powers, immunities and other details relating to any such vendor licenses, the collection of the occupancy tax and the remittance of the proceeds thereof to the municipality or county.

## Chapter 13

Section 3-38-21 - Eligible Uses of Tax Proceeds

### Statutory Text

3-38-21. ELIGIBLE USES OF TAX PROCEEDS.--

A. Subject to the limitations contained in Section 3-38-15 NMSA 1978, a municipality or county imposing an occupancy tax may use the proceeds from the occupancy tax that are collected based on the first thirty days a vendee rents lodgings in taxable premises to defray costs of:

(1) collecting and otherwise administering the occupancy tax, including the performance of audits required by the Lodgers' Tax Act [3-38-13 to 3-38-25 NMSA 1978] 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 and attractions or tourist-related 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 Section 3-38-23 or 3-38-24 NMSA 1978;

(4) advertising, publicizing and promoting tourist-related attractions, facilities and events of the municipality or county and tourist-related facilities, attractions and events within the area;

(5) providing police and fire protection and sanitation service for tourist-related facilities, attractions and events located in the respective municipality or county;

(6) providing a required minimum revenue guarantee for air service to the municipality or county to increase the ability of tourists to easily access the municipality's or county's tourist-related facilities, attractions and events; or

(7) any combination of the foregoing purposes or transactions stated in this section, but for no other municipal or county purpose.

B. A municipality or county imposing an occupancy tax 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 for any municipality or county purpose; provided that the use is stated in the ordinance imposing the tax.

C. As used in this section, "minimum revenue guarantee" is the amount of money guaranteed by a municipality or county to be earned by an airline providing air services to and from that municipality or county, which is the difference between the minimum flight charge revenue specified in the contract between the municipality or county and the airline and the amount of actual flight charge revenue received by the airline that is less than that contractual amount.

## Local Meaning for Truth or Consequences

### Best Practices and Recommended Use Categories for Lodgers' Tax Funds

### 1. Marketing, Advertising, and Promotion

### Statutory requirement.

Because Truth or Consequences currently reports a **5% Lodgers' Tax**, this category should be treated as the City's first mandatory spending obligation from the first-thirty-day Lodgers' Tax proceeds. Under current law, when a municipality imposes more than 2%, **not less than one-third of those proceeds** must be used only for **advertising, publicizing, and promoting tourist-related attractions, facilities, and events**. Those required promotional dollars must be used **within two years** of the close of the fiscal year in which they were collected.

Lodgers' Tax funds in this category may be used for tourism promotion efforts such as:

- Advertising campaigns
- Digital marketing
- Website promotion
- Social media promotion
- Visitor guides, maps, and brochures
- Publicizing events, facilities, and attractions
- Destination branding
- Cooperative tourism marketing
- Promotional contracts with tourism organizations
- Targeted campaigns intended to increase overnight stays

**Best practice:**
Each fiscal year, the city should calculate the **minimum promotional amount first**, reserve that amount, and then build the remaining Lodgers' Tax budget around it. The safest and strongest uses in this category are those that clearly target **out-of-town visitors**, encourage **overnight stays**, and can be measured through room night data, attendance, web traffic, event bookings, or other tourism metrics.

## 2. Tourism Facilities and Attractions

After satisfying the required promotional spending, Lodgers' Tax proceeds from the first thirty days may be used to defray costs of establishing, operating, purchasing, constructing, reconstructing, extending, improving, maintaining, equipping, furnishing, or acquiring real property for **tourist-related facilities and attractions** and for **quality-of-life-related facilities**. Current law defines quality-of-life-related facilities as facilities whose primary purpose is providing infrastructure for **parks, zoos, and sport or exercise programs**.

For handbook purposes, examples the city may consider in this category include:

- Visitor centers
- Event centers
- Museums and interpretive spaces
- Tourism-oriented public spaces
- Recreational attractions
- Trailheads and tourism wayfinding improvements
- Sports and tournament facilities
- Golf course improvements tied to visitor play and destination use
- Tennis or pickleball courts used for tournaments or visitor recreation
- Sports fields or competition venues
- Public amenities that are part of the visitor experience

This does **not** mean every recreational expense is automatically eligible; it means those facilities may be appropriate when they are being used to attract or serve visitors rather than merely support ordinary local use.

### Best practice:

Before approving funds in this category, the file should answer three questions:

1. Does the facility help attract visitors?
2. Does it improve the visitor experience or support tourism activity?
3. Can the City explain how the improvement connects to overnight stays, destination use, tournaments, hosted events, or other non-local visits?

## 3. Convention and Event Infrastructure

The Convention Center Financing Act defines a **convention center** to include a **civic center or convention center** with rentable public space intended to increase tourism. T or C's own reporting form separately identifies **Lodgers' Tax** and **Convention** reporting, and the City's budget shows a distinct revenue line for a **1% convention center fee**. That means T or C already has a separate civic/convention-center-related funding source in place in addition to Lodgers' Tax revenues.

For handbook purposes, readers should understand that the City may have **two different but related revenue streams** available for civic or convention-center-related needs:

- **Lodgers' Tax revenues**, where the proposed use fits the Lodgers' Tax Act; and
- The City's separate **1% convention center fee**, which is already implemented and may support authorized civic/convention center purposes in addition to Lodgers' Tax dollars.

Under the Convention Center Financing Act, convention center fee revenues are dedicated to uses such as:

- Land acquisition
- Design
- Construction
- Equipping and furnishing
- Landscaping

- Operation and maintenance
- Bond or debt-related payments
- Limited administration tied to the fee

Those uses are separate from, and may be layered with, eligible Lodgers' Tax uses when a project legitimately serves both purposes.

**Best practice:**
For any civic center or event infrastructure project, the handbook should require staff to identify the funding source **up front**:

- What portion is proposed from Lodgers' Tax?
- What portion is proposed from the 1% convention center fee?
- What legal purpose supports each funding source?
- Is the project tourism-related, convention-related, or both?

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## 4. Tourism-Supporting Events and Activities

Current law allows Lodgers' Tax proceeds to be used for **advertising, publicizing, and promoting tourist-related events**, and also for providing **police, fire protection, and sanitation service** for tourist-related facilities, attractions, and events. The law defines tourist-related events as events that are **planned for, promoted to, and attended by tourists**.

For handbook guidance, this category should include events that are expected to place **"heads in beds"** and increase visitor spending in T or C. Practical examples of event-related items that the board may review include:

- Event marketing and promotion
- Entertainment and performer costs
- Stage rental
- Sound, lighting, and AV support
- Fencing, barricades, and crowd-control setup
- Tent, table, and chair rentals
- Portable restrooms and handwashing stations
- Cleanup and sanitation support
- Event signage and visitor wayfinding
- Security and safety support
- Police overtime or fire safety presence tied to the event
- Event equipment rentals necessary to host the activity

These are best viewed as **screening examples**, not automatic approvals. Each cost should still be tied to an authorized Lodgers' Tax purpose and backed by a clear tourism rationale.

**Best practice:**
Every event funding request should include:

- a description of the event;
- the expected audience;
- whether overnight stays are expected;
- the specific costs requested;
- the tourism reason for each requested cost; and
- a post-event reporting requirement showing results.

The stronger the connection to non-local visitors and lodging activity, the stronger the funding decision.

## 5. Partnerships and Tourism Promotion Organizations

New Mexico law allows a municipality to **contract for the management of programs and activities** funded with occupancy tax revenue. The governing body must require **at least quarterly reports**, the funds must be kept in a **separate account**, and the contractor must maintain complete and accurate financial records. Administrative costs may be charged only when they are incurred **directly for the authorized purpose**.

This category may include partnerships with entities such as:

- Destination marketing organizations
- Chambers of commerce
- Main Street or downtown organizations
- Tourism nonprofits
- Arts or cultural organizations
- Event-management partners
- Regional visitor-promotion partners

**Best practice:**
Any outside organization receiving Lodgers' Tax funds should have a written agreement that clearly states:

- the tourism purpose;
- the deliverables;
- the budget;
- the reporting schedule;
- the recordkeeping requirements; and
- the performance expectations.

The contract should focus on outcomes such as promotion delivered, events hosted, visitors attracted, room nights generated, or other measurable public benefit.

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## 6. Administrative and Program Management Costs

Lodgers' Tax funds may be used for **collecting and otherwise administering** the tax, including required audits and financial reporting. Current law also requires the governing body to provide financial information to the advisory board and to file quarterly expenditure reports with the Department of Finance and Administration.

Examples of appropriate handbook items in this category may include:

- Tax collection oversight
- Audit costs
- Financial tracking
- Required reporting
- Recordkeeping
- Staff time directly tied to Lodgers' Tax program administration
- Support costs directly related to carrying out an authorized Lodgers' Tax purpose

**Best practice:**
Administrative use should remain **reasonable, documented, and directly tied** to the Lodgers' Tax program. The City

should avoid treating Lodgers' Tax as a backdoor source for unrelated general operations. When staff time or support costs are charged, the file should show exactly how that time or expense was connected to an authorized tourism purpose.

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## 7. Public Safety and Service Support for Tourism Activity

Current law expressly allows Lodgers' Tax proceeds to be used for **police and fire protection and sanitation service** for tourist-related facilities, attractions, and events. This is one of the clearest statutory bases for charging tourism-related city service costs to Lodgers' Tax when those costs arise because of tourism activity.

Examples for handbook guidance may include:

- Police overtime for major visitor events
- Fire safety staffing tied to tourism events
- Sanitation and cleanup for visitor events
- Dumpster or solid waste support for tourism-related events
- City service support required because of unusual tourism demand
- Site control, safety, and post-event cleanup tied to a visitor activity

**Best practice:**
The key distinction is whether the cost is **incremental and tourism-driven**. Lodgers' Tax should generally support the extra cost created by a tourism event or attraction, not the ordinary baseline operating costs the City would incur anyway.

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## 8. Cultural, Arts, and Visitor Experience Investments

Cultural and arts-related spending can fit within Lodgers' Tax uses when it falls into one of the authorized categories above — especially when it functions as a **tourist-related facility**, **tourist-related attraction**, or **tourist-related event**. The legal test is not whether something is "arts-related"; the test is whether it is **intended to be used by or visited by tourists** or is **planned for, promoted to, and attended by tourists**.

For handbook purposes, readers may consider examples such as:

- Cultural facilities
- Visitor-facing arts spaces
- Museum or interpretive programming
- Arts festivals
- Heritage and cultural events
- Tourism-oriented public art tied to visitor experience
- Cultural programming marketed to outside visitors
- Nonprofit cultural partnerships that help drive tourism

**Best practice:**
This category is strongest when the City can show that the cultural investment is part of the destination experience of T or C and is expected to bring in outside visitors, encourage overnight stays, or strengthen the community's tourism identity.

Sec. 7-212. - Eligible uses of lodger's tax proceeds.
(a) 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 section 3-38-23 or 3-38-24 NMSA 1978;

(4) advertising, publicizing and promoting tourist-related attractions, facilities and events of the Municipality or county and tourist facilities or attractions within the area;

(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.

(Ord. No. 442, § 17, 8-12-96)

## Chapter 14

Section 3-38-21.1 - Contracting for Services

### Statutory Text

3-38-21.1. CONTRACTING FOR SERVICES.--

A. The governing body of a municipality or county may contract for the management of programs and activities funded with revenue from the tax authorized in Section 3-38-15 NMSA 1978. The governing body shall require periodic reports to the governing body, at least quarterly, listing the expenditures for those periods. Within ten days of receiving the reports, the governing body shall furnish copies of them to the advisory board. Funds provided to the contracting person or governmental agency shall be maintained in a separate account established for that purpose and shall not be commingled with any other money.

B. A person or governmental agency with whom a municipality contracts under this section to conduct an activity authorized by Section 3-38-21 NMSA 1978 shall maintain complete and accurate financial records of each expenditure of the tax revenue made and upon request of the governing body of the municipality or county shall make such records available for inspection.

C. The occupancy tax revenue spent for a purpose authorized by the Lodgers' Tax Act [3-38-13 to 3-38-25 NMSA 1978] may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses and other administrative costs only if those administrative costs are incurred directly for that purpose.

D. A person or governmental agency with whom a local governmental body contracts under this section may subcontract with the approval of the governing body of the municipality or county. A subcontractor shall be subject to the same terms and conditions as the contractor regarding separate financial accounts, periodic reports and inspection of records.

## Chapter 15

Section 3-38-22 - Advisory Boards Created; Duties

### Statutory Text

3-38-22. ADVISORY BOARDS CREATED; DUTIES.--

A. The mayor of every municipality that imposes an occupancy tax pursuant to the Lodgers' Tax Act [3-38-13 to 3-38-25 NMSA 1978] 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 municipality, two members who are owners or operators of industries located within the municipality that primarily provide services or products to tourists and one member who is a resident of the municipality and represents the general public.

B. The chairman of every county commission that imposes 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.

C. Members of the boards created under Subsections A and B of this section shall serve at the pleasure of the respective appointing authorities. The boards shall advise the respective governing bodies 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 and municipalities.

### Truth or Consequences City Code

Sec. 7-211. - Administration of lodgers' tax monies collected.

The governing body or their designee shall administer the lodgers' tax monies collected. The City Commission 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 Municipality, two members who are owners or operators of industries located within the Municipality that primarily provide services or products to tourists and one member who is a resident of the Municipality and represents the general public. The board shall advise the governing body on expenditure of funds authorized under section 7-212 of this article for advertising, publicizing and promoting tourist attractions and facilities in the municipality and surrounding area.

(Ord. No. 442, § 16, 8-12-96; Ord. No. 673, § 1, 7-26-16)

## Chapter 16

Section 3-38-23 - Revenue Bonds

### Statutory Text

3-38-23. REVENUE BONDS.--

A. Revenue bonds may be issued at any time or from time to time by a municipality or county to defray wholly or in part the costs of any one, all or any combination of purposes authorized in Paragraphs (2) through (5) of Subsection A of Section 3-38-21 NMSA 1978.

B. The revenue bonds may be payable from and such payment may be secured by a pledge of and lien on the revenues derived from:

(1) the proceeds of the occupancy tax of the municipality or county after the deduction of those amounts required to be expended pursuant to Subsection D of Section 3-38-15 NMSA 1978 and the administration costs pertaining to the occupancy tax in an amount not to exceed ten percent of the occupancy tax receipts collected by the municipality or county in any fiscal year, excluding from the computation of such costs the administration costs ultimately recovered

from delinquent vendors by civil action as penalties, costs of collection and attorney fees but not as interest on unpaid principal;

(2) the tourist-related facilities and attractions or tourist-related transportation systems to which the bonds pertain, after provision is made for the payment of the operation and maintenance expenses of the tourist-related facilities and attractions or tourist-related transportation systems; or

(3) a combination of such net revenues from both sources designated in Paragraphs (1) and (2) of this subsection.

C. The bonds shall bear interest at a rate as authorized in the Public Securities Act [6-14-1 to 6-14-3 NMSA 1978], and the first interest payment may be for any period authorized in the Public Securities Act.

D. Except as otherwise provided in the Lodgers' Tax Act [3-38-13 to 3-38-25 NMSA 1978], revenue bonds authorized in the Lodgers' Tax Act shall be issued in accordance with the provisions of Sections 3-31-2 through 3-31-6 NMSA 1978.

- Would the pledge constrain future tourism spending flexibility?

## Chapter 17

Section 3-38-24 - Refunding Bonds

### Statutory Text

3-38-24. REFUNDING BONDS.--

A. Any municipality or county having issued revenue bonds as authorized in the Lodgers' Tax Act [3-38-13 to 3-38-25 NMSA 1978] may issue refunding revenue bonds payable from pledged revenues therein authorized for the payment of revenue bonds at the time of the refunding or at the time of the issuance of the bonds being refunded as the governing body of the municipality or county may determine, notwithstanding the revenue sources or the pledge of such revenues or both are thereby modified.

B. Refunding bonds may be issued for the purpose of refinancing, paying and discharging all or any part of such outstanding bonds of any one or more or all outstanding issues:

(1) for the acceleration, deceleration or other modification of the payment of such obligations, including without limitation any capitalization of any interest thereon in arrears or about to become due for any period not exceeding one year from the date of the refunding bonds;

(2) for the purpose of reducing interest costs or effecting other economies;

(3) for the purpose of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds, or to any facilities relating thereto; or

(4) for any combination of the foregoing purposes.

C. The interest on any bond refunded shall not be increased to any rate in excess of the rate authorized in the Public Securities Act [6-14-1 to 6-14-3 NMSA 1978] and shall be paid as authorized in that act.

D. Bonds for refunding any bonds for any other purpose permitted by the Lodgers' Tax Act may be issued separately or issued in combination in one series or more.

E. Except as otherwise provided in the Lodgers' Tax Act, refunding bonds authorized in the Lodgers' Tax Act shall be issued in accordance with the provisions of Sections 3-31-10 and 3-31-11 NMSA 1978.

## Chapter 18

Section 3-38-25 - Maintaining Revenue Dedication

### Statutory Text

3-38-25. MAINTAINING REVENUE DEDICATION.--

If a municipality or county has dedicated any amount of revenue attributable to a tax imposed pursuant to the Lodgers' Tax Act [3-38-13 to 3-38-25 NMSA 1978], the municipality or county shall continue to dedicate the same amount of revenue attributable to the tax until the ordinance dedicating the revenue expires, the term of the dedication expires, the governing body acts to change the dedication or, in the case of bonded indebtedness, the debt is fully discharged or otherwise provided for in full.

# Chapter 19

## Lodgers' Tax Operating Manual

Administrative Procedures for Application, Award, Contracting, Reimbursement, Reporting, and Compliance

### 19.1 Purpose

This Chapter establishes the operating procedures used by the City of Truth or Consequences to administer Lodgers' Tax funds in a consistent, transparent, and legally defensible manner. This Chapter is intended to serve as the working administrative guide for City staff, the Lodgers' Tax Advisory Board, applicants, contractors, and the City Commission.

This operating manual is designed to implement the Lodgers' Tax Act, the City's Lodgers' Tax Ordinance, adopted City policy, and the City's annual or periodic allocation process. It is intended to ensure that all Lodgers' Tax expenditures are reviewed, approved, documented, reimbursed, and reported in a manner consistent with the law and with the tourism purpose of the fund.

### 19.2 Guiding Operating Principle

The primary purpose of Lodgers' Tax funding is to support tourism by attracting visitors to Truth or Consequences, with particular emphasis on overnight visitation. The strongest and most supportable use of Lodgers' Tax dollars is for advertising, publicizing, and promoting tourist-related attractions, facilities, and events, along with other uses specifically authorized by law.

All parties involved in the administration of Lodgers' Tax funds shall evaluate proposed expenditures using the following operating standard:

Would a reasonable reviewer conclude that the proposed use is directly connected to tourism promotion, a tourist-related facility, attraction, event, or another use clearly authorized by law, and not merely a general operating cost of an organization or the City?

### 19.3 Administrative Roles

A. City Commission. The City Commission retains final authority for Lodgers' Tax allocations, contracts, and expenditure approvals as required by law and City policy.

B. Lodgers' Tax Advisory Board. The Lodgers' Tax Advisory Board reviews applications, considers requests, evaluates tourism benefit, and makes recommendations to the City Commission regarding proposed allocations and funding priorities. Applicants should be invited to both the Advisory Board meeting and the Commission meeting where allocations are considered.

C. City Manager. The City Manager's Office shall provide administrative oversight of the Lodgers' Tax program, including review of reimbursement requests, compliance oversight, and coordination with the Clerk's Office and Finance.

D. City Clerk. The City Clerk's Office shall assist with official filing, deadline tracking, forms, records, and processing support, including submission intake and quarterly reporting administration.

E. Finance Staff or Designee. Finance staff or other designated staff shall assist with payment processing, account tracking, reporting, and records review as assigned.

F. Contractor or Funding Recipient. Each funding recipient is responsible for complying with the grant agreement, approved scope of work, reimbursement requirements, deadlines, and recordkeeping obligations.

**19.4 Annual Funding Cycle**

A. Notice of Funding Availability. The annual application cycle should normally begin in March or April, using public notice methods such as the City website and local newspapers.

B. Application Period. Applications shall be accepted during the officially published application window. The City may establish and publish the opening date, submission deadline, required forms, documentation checklist, and any required applicant meeting or orientation.

C. Deadline. Applications for annual funding must be completed and submitted by the published deadline. The deadline is final for annual applications unless the City expressly authorizes a different process. Additional applications may be considered on a case-by-case basis upon request.

D. Review and Recommendation. Applications shall be reviewed for completeness by staff and then forwarded to the Lodgers' Tax Advisory Board for recommendation. After the Board's recommendation, the City Commission shall review applications and determine allocations at a regular Commission meeting.

**19.5 Application Requirements**

To be eligible for consideration, an applicant shall submit a complete application packet. At a minimum, the following items should be required:

1. A fully completed and signed application.

2. Proof of nonprofit status, if required by City policy, including IRS documentation and Office of the Secretary of State documentation or online verification.

3. The applicant's prior year audit report or, if no audit exists, an internal or informal financial statement.

4. A proposed tourism-related scope of work.

5. A proposed budget identifying the intended use of Lodgers' Tax funds.

6. Contact information for the organization's authorized representative.

7. Any additional documentation required by the City.

The City may reject incomplete applications. The handbook should state clearly that an application missing required documentation is not eligible for funding consideration unless the City expressly authorizes a cure period.

**19.6 Application Evaluation Standards**

All applications should be evaluated using both legal eligibility and practical tourism value. At a minimum, the following questions should be considered:

1. Is the request authorized by the Lodgers' Tax Act and City ordinance?

2. Does the request clearly support tourism or visitor activity?

3. Is the request likely to promote overnight stays?

4. Is the request tied to advertising, publicizing, and promoting, or another legally authorized use?

5. Can the tourism benefit be described and documented?

6. Is the budget specific and reasonable?

7. Does the applicant demonstrate the capacity to manage public funds and comply with reimbursement requirements?

8. Does the request align with the City's Lodgers' Tax priorities?

**19.7 Award and Allocation Process**

After reviewing applications, the Lodgers' Tax Advisory Board shall forward recommendations to the City Commission. The City Commission may approve, deny, modify, or condition any recommendation.

Funding approval should identify the recipient name, approved amount, funding purpose, approved scope of work, funding term, and any special conditions. No award shall be considered final until approved by the City Commission and documented through the City's required agreement process.

**19.8 Grant Agreement Requirements**

Every award should be governed by a written grant agreement or contract that includes, at minimum:

1. The legal name of the contractor or recipient.

2. The approved funding amount.

3. The term of the agreement.

4. The approved scope of work as an exhibit.

5. A statement that Lodgers' Tax funds may be spent only in the approved manner.

6. Reimbursement procedures.

7. Reporting requirements.

8. Record retention requirements.

9. Audit and inspection rights.

10. Deadline requirements.

11. Default and repayment provisions.

12. Signature authority provisions.

Each contractor shall designate a representative and an alternate to serve as the point of contact and authorized representative to spend funds. That representative may be called upon to attend Lodgers' Tax meetings or meet with City staff regarding activities or submittals.

### 19.9 Scope of Work Control

The approved application and budget shall become the controlling Scope of Work for expenditure review. No reimbursement shall be made for costs outside the approved scope of work unless formally amended or otherwise approved by the City.

The purpose of this rule is straightforward: approved funds may only be spent in the manner approved. If an organization wishes to modify its budget categories, media plan, or project scope, it should submit a written request before incurring the cost whenever possible.

### 19.10 Advertising and Promotion Standards

A. Core Tourism Standard. Advertising and promotion funded with Lodgers' Tax should be designed to attract out-of-area visitors to Truth or Consequences and encourage overnight stays.

B. Geographic Targeting. As a matter of City operating policy, the City may require that a substantial majority of paid advertising be directed outside Sierra County unless a different mix is justified in writing and approved. The current clerk process materials reflect a 75 percent outside-Sierra-County expectation for paid advertising.

C. Required Acknowledgment. Where practical and appropriate, advertisements funded in whole or in part with Lodgers' Tax should acknowledge City support. For example, radio ads should include the phrase 'Paid in part by Truth or Consequences Lodgers' Tax.'

D. Documentation. Advertising reimbursements must be supported by documentation showing that the ad actually ran or was produced, such as scripts, tear sheets, screenshots, placement confirmations, invoices, and similar records.

### 19.11 Reimbursement System

A. Reimbursement Method. Lodgers' Tax funding should generally operate on a reimbursement basis unless the City expressly authorizes a different payment structure.

B. City Review. The City determines which expenditures are allowable and whether they are in compliance with the purpose of the contract. If determined to be an eligible purchase, the City will reimburse the contractor.

C. Rejected Requests. Rejected payments may be submitted to the Lodgers' Tax Advisory Board for consideration and recommendation for submission to the City Commission.

D. Standard Rule. No reimbursement shall be made unless the expense is within the approved scope of work, is legally eligible, is properly documented, is timely submitted, and is approved through the City's review process.

### 19.12 Reimbursement Submission Requirements

The handbook should require the following submission standards:

1. All invoices must be presented to the City Manager's Office for review and approval.

2. All funds must be spent and invoices submitted by the published final deadline.

3. Under the current operating practice reflected in the clerk materials, invoices are to be turned in to the City Clerk's Office no later than the last business day in May.

4. Invoices submitted after the deadline will not be paid unless the City formally authorizes an exception.

5. For advertisements or publications, the contractor must provide an electronic or printed tear sheet or similar proof of placement or publication.

6. If invoice amounts, checks, or reimbursement forms do not match, the request must include a written explanation.

7. Requests must be submitted in writing on the City's required form.

**19.13 Examples of Eligible Costs**
Eligible costs may include, when properly approved and documented:

1. Media placement for print, electronic, web, internet, outdoor, kiosk, billboard, and similar advertising.

2. Printing and distribution of promotional materials such as brochures, posters, media packets, and visitor materials.

3. Conference registration fees and booth rental when clearly tied to the organization's tourism marketing plan.

4. Video or digital promotional production that supports tourism marketing and is not produced for sale.

5. Mailing lists for targeted tourism marketing.

6. Sales missions and trade show participation when part of a destination marketing plan.

7. Production costs for ads, brochures, website development, website hosting, photography, rendered art, typesetting, and similar promotional content.

8. Fulfillment shipping costs related to visitor information requests.

9. Public relations services related to tourism promotion.

10. Promotional items, if allowed by City policy and limited appropriately, when used as tourism promotion tools and not for resale.

**19.14 Examples of Ineligible Costs**
Ineligible costs generally include:

1. Advertising agency commissions, unless expressly authorized by law and contract.

2. General office supplies and envelopes.

3. Telephone and general communication expenses not specifically tied to an eligible activity.

4. Salaries, overhead, meals, beverages, taxes, and similar administrative costs unless they are directly authorized and directly incurred for the approved purpose under law.

5. Items produced for sale.

6. Equipment purchases and furnishings, unless specifically allowable under a separate authorized facility or improvement category and approved by the City.

7. Any cost not included in the approved scope of work.

8. Any cost that primarily benefits local operations rather than tourism.

**19.15 Contractor Responsibilities**
Each contractor or recipient shall be responsible for:

1. Keeping a running balance of awarded, spent, and remaining Lodgers' Tax funds.

2. Assigning a signatory authority and responsible financial representative.

3. Signing all reimbursement requests and payment forms.

4. Using the City's required reimbursement forms.

5. Providing the proper remit-to mailing information.

6. Maintaining complete records for all expenditures.

7. Cooperating with City requests for information, clarification, or attendance at meetings.

8. Using funds only for the approved purpose.

9. Returning any disallowed or improperly paid amount if required.

**19.16 Quarterly Work and Spending Reports**
Contractors shall submit quarterly work and spending reports as part of ongoing grant compliance. These reports are used to gauge activity, document progress, and ensure compliance with the grant agreement.

Reports are due by the fifteenth day of the month following the close of each quarter. The quarter schedule should be administered as follows:

1. First quarter: July, August, and September; report due by October 15.

2. Second quarter: October, November, and December; report due by January 15.

3. Third quarter: January, February, and March; report due by April 15.

4. Fourth quarter: April, May, and June; report due by July 15.

Reports may be submitted by email to torcclerk@torcnm.gov. A report must be submitted even if no work has been done, together with an explanation of why work has not begun or why no activity occurred during the reporting period.

Failure to report may affect future grant funding requests, including when there has been no activity. Contractors are expected to submit all required reports by the due date and remain in compliance throughout the funding cycle.

### 19.17 Recordkeeping and Audit Readiness

Every funded organization shall maintain complete records sufficient to demonstrate what was purchased, when it was purchased, how much was paid, how it was paid, how the purchase matched the approved scope of work, and what tourism purpose the expenditure served.

Records should include invoices, receipts, proofs of payment, advertisements, scripts, tear sheets, screenshots, contracts, attendance records, quarterly reports, and any other supporting material relevant to the expenditure.

### 19.18 Appeals and Special Review

If a reimbursement request is denied, the contractor may request further review through the Lodgers' Tax Advisory Board process and, where applicable, City Commission review, consistent with City procedure.

An appeal is not an automatic right to payment. It is a request for reconsideration based on the record, the agreement, and the law.

### 19.19 Year-End Closeout

At the end of each funding cycle, all reimbursement requests must be submitted by the published final deadline, all supporting documentation must be complete, unused balances shall expire unless otherwise authorized by the City, the City shall reconcile payments against awards, and recipients may be required to submit a final report summarizing activities, outcomes, and tourism benefit.

### 19.20 Operating Rule of Construction

This Chapter shall be read in harmony with the Lodgers' Tax Act, the City's Lodgers' Tax Ordinance, the applicable resolution or allocation action of the City Commission, the grant agreement, and all other handbook provisions.

If any provision of this Chapter conflicts with state law, City ordinance, or the executed agreement, the higher authority shall control.

## Chapter 20

# Lodgers' Tax Branding Standards

### 20.1 Purpose

This Chapter establishes the official branding standards for the Truth or Consequences Lodgers' Tax program. The purpose of this section is to ensure that advertising, promotional materials, and other public-facing deliverables funded in whole or in part with Lodgers' Tax dollars carry a consistent visual identity and clear acknowledgment of program support.

### 20.2 Branding Objective

The Lodgers' Tax brand is intended to create a recognizable public connection between funded tourism activities and the City's visitor promotion effort. The brand should be used in a way that supports consistency, professionalism, and public awareness that Lodgers' Tax revenues are being used to promote Truth or Consequences as a tourism destination.

### 20.3 Approved Lodgers' Tax Brand Mark

The official Lodgers' Tax brand mark shall be the logo approved by the City for Lodgers' Tax allocation purposes. The approved logo shall be obtained from the City Clerk's Office and used only in its authorized form.

### 20.4 Required Use of Brand

Print media, television advertisements, billboards, radio advertisements, and online advertisements paid for from Lodgers' Tax monies shall include the approved Lodgers' Tax logo and/or the approved acknowledgment phrase. This requirement applies to contractor advertising and other funded promotional materials unless a specific exception is approved by the City.

### 20.5 Required Acknowledgment Language

Where the logo is not used, or where additional sponsor acknowledgment is appropriate, the following phrase shall be used:

*Paid in part by Truth or Consequences Lodgers' Tax.*

### 20.6 Logo Control and Distribution

The City Clerk's Office shall serve as the official source for the Lodgers' Tax branding logo. Contractors, grant recipients, and funded partners shall request the approved file from the City Clerk's Office and shall not recreate, alter, or substitute unofficial versions of the logo. The branding sheet directs users to the City Clerk's Office at **torcclerk@torcnm.gov** for branding coordination.

### 20.7 Branding Use Standards

The Lodgers' Tax logo shall be used in a clear and professional manner. Unless otherwise approved by the City:

1. the logo shall not be stretched, condensed, distorted, or rearranged;
2. the logo colors and basic design shall not be altered;
3. the logo shall not be placed in a way that makes it unreadable or obscures its appearance;
4. the logo shall be placed where it is reasonably visible to the public in the normal viewing experience of the ad, publication, or promotional piece; and
5. the logo shall be used only in connection with Lodgers' Tax-funded activities, promotions, or acknowledgments.

**20.8 Small-Item Exception**

Exceptions may be made regarding use of the branding logo on small promotional items where size or production limitations make the logo impractical, including items such as small pens or small key rings. Any such exception should be approved in advance by the City and documented in the project file.

**20.9 Administrative Review**

As part of reimbursement review or contract compliance, the City may require a contractor or funding recipient to submit copies, screenshots, proofs, mockups, or samples showing use of the required logo or acknowledgment language before payment is approved.

**20.10 Noncompliance**

Failure to use the required branding, when applicable, may be treated as a contract compliance issue and may affect reimbursement, future funding consideration, or both, unless the City determines that an exception was justified or that the omission was minor and promptly corrected.