

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. O-21-68 ENACTMENT NO. 0-2021-021

SPONSORED BY: Diane G. Gibson, by request

1 **ORDINANCE**

2 **AMENDING SECTION(S) 4-8-8 and 4-8-13 OF THE CITY OF ALBUQUERQUE**
3 **HOSPITALITY FEE ORDINANCE.**

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

6 **SECTION 1. Section 4-8-8 COLLECTION OF THE FEE; REPORTING CHANGE**
7 **IN OWNERSHIP, is amended as follows:**

8 **(A) Every vendor providing lodgings within this city shall collect the**
9 **hospitality fee thereon on behalf of the city and shall act as a trustee therefor.**

10 **(B) The hospitality fee shall be collected from vendees in accordance with**
11 **this section and shall be charged separately from the rent fixed by the vendor**
12 **for the lodgings.**

13 **(C) After the effective date of this article, each vendor shall be liable to the**
14 **city for the hospitality fee provided herein on the rent paid for lodging.**

15 **(D) (1) Each vendor shall make a report by the 25th day of each month**
16 **on forms provided by the Mayor of the receipts for lodging paid to him in the**
17 **preceding calendar month and shall remit therewith payment of the total amount**
18 **of the hospitality fee due to the city. The report shall include sufficient**
19 **information to enable the city to audit the report and shall be verified on oath by**
20 **the vendor. Each vendor shall make the required report for each reporting**
21 **period whether or not any fee is due. If no lodging rent has been collected for**
22 **that reporting period, such information shall be reported. Any hospitality fee**
23 **not paid and posted to the city's Lodgers Subsidiary Ledger Vendors' Account**
24 **by the 25th of the month as provided herein shall be considered delinquent.**

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

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

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

8 (G) A nonrefundable hearing fee of \$50 shall accompany each appeal to
9 the City Hearing Officer filed pursuant to §§ 4-4-6 or 4-4-9, ROA 1994.

10 SECTION 2. Section 4-8-13, MARKETPLACE PROVIDER RESPONSIBILITIES,
11 is amended as follows:

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

16 (B) Safe Harbor. A marketplace provider operating exclusively on the
17 internet, who operates in compliance with subsection (A) above, shall be
18 presumed to be in compliance with this ordinance, except that the marketplace
19 provider remains responsible for compliance with the administrative penalty
20 provision in § 4-8-99.

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

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

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

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

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Excused: Harris

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Cynthia D. Borrego, President
City Council

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APPROVED THIS 21 DAY OF September, 2021

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Bill No. O-21-68

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Timothy M. Keller, Mayor
City of Albuquerque

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ATTEST:

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Ethan Watson, City Clerk

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