TRUTH OR CONSEQUENCES NEW MEXICO

City of Truth or Consequences
Lodgers' Tax
Funding Guidelines

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Overview of Lodgers' Tax

- **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.

- **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.

Overview of Lodgers' Tax
Eligible Uses

- **Sec. 7-212. Eligible uses of lodgers' 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.

Overview of Lodgers' Tax

Eligibility

Lodgers' Tax recipients are required to be nonprofits.

- A current certificate of this status must be submitted with the lodgers' tax application.
- Subsequent changes in status must be reported to the Lodgers Tax Advisory Board.

Lodgers' Tax Application

- Applications are examined carefully as there are usually more requests for funds than are available.

- The application process normally starts in March or April by publishing notices that the City is accepting applications.

    - City Website
    - Local Newspapers

- Applications must be completely filled out and signed.

- A certificate or an online screenshot of nonprofit status must be submitted with the grant application for both the Internal Revenue Service (IRS) and the Office of the Secretary of State (SOS).

- ***Application must have all of the above to be eligible for consideration.***

- The Lodger's Tax Advisory Board (LTAB) reviews the applications and makes recommendations to the City Commission.
- The City Commission reviews the applications and allocates the funds at a regular City Commission meeting. The City Commission may alter and/or adjust any LTAB recommendation.

    - Applicants are invited to this meeting.
    - It is recommended that recipients wait for the commission approval prior to implementing their projects.

Organization ______________________________

Reviewer _________________________________

Date _______________

Lodgers' Tax Rubric

	Definitely 4	Likely 3	Not Likely 2	Definitely Not 1	Total
The appropriate market is identified for event/project.					
It is the appropriate media for the market.					
It will bring out-of-town visitors that will stay overnight.					
The marketing is unique, not duplicating other efforts.					
The ROI is measurable and commensurate to the marketing costs.					
					Total Points

17-20 - Good application- No changes required

14-16 - Fair application- Funding with recommendations

13 or lower - Refine application and resubmit

Lodgers’ Tax Agreement

- Lodgers’ Tax contracts between the City and Contractor are for Advertising & Promotion.
- Section 2 of the Contract requires contractors to:

  “Advertise, publicize and promote the City and its facilities as a tourism attraction. Such publicizing and promoting shall include but not be limited to the advertising of the Fairgrounds, Civic Center, Museums, Convention Center and other City and area resources and attractions.”
- The purpose of the Tax is to bring **OVERNIGHT** visitors to the City.
- Local advertising should be minimized as the purpose of lodgers’ tax is to put “heads in beds”.
- Promotion and advertising shall be adhered to per the approved application submitted by the Contractor and attached as ‘Exhibit A’ to the Grant Agreement.
- ‘Exhibit A’ shall be known as the ‘Scope of Work’ which represents the approved manner that the allocated funds can be spent.
- The contractor shall designate a representative and an alternate to serve as the point of contact and authorized representative to spend funds.
  - The representative may be called upon to attend Lodgers’ Tax meetings or meet with city staff to answer questions regarding their activities and/or submittals.

Payment Reimbursements

- Print media, television ads, billboards, radio ads, and online ads of the Contractor which are paid for from Lodgers' Tax monies shall include the following:
    - All recipients of lodgers' tax funds must list the City of T or C as a contributor on all advertisements and printed materials by using the adopted T or C brand logo. Logos and the guide for usage will be provided at the time of award notification.
    - Radio ads shall include the radio advertisement script and proof of performance via a report generated by the radio station.
    - Social media and web site banner ads are eligible expenses and do not require branding.
- Please contact the City Clerk's office, torcclerk@torcnm.org for City Brand logo.
- Exceptions may be made in regards to exclusion of City Brand Logo on small promotional items i.e. small pens or small key rings.
- Websites – costs related to design and maintenance are eligible costs.
- Facebook and other Social Media – advertisements are allowable expenses.
- The City determines which expenditures are allowable and are in compliance with the purpose of this contract. (Sec. 4 a)
- If determined to be an eligible purchase, the City will pay the Contractor for reimbursement. (Sec. 4 b)
- Rejected payments can be submitted to the Lodgers Tax Board for consideration and recommendation for submission to the City Commission.

Payment Reimbursement Requirements

- All invoices must be presented to the City Manager's Office for review and approval within 90 days of the event or project implementation.
- All funds must be spent and invoices turned into the City Manager's Office **no later than the last business day in May unless prior written approval from the City Manager's office has been obtained.**
- Invoices submitted after that date **WILL NOT BE PAID** and will be the responsibility of the Contractor.
- For advertisements and/or publications, provide an electronic or printed tear sheet. A **tear sheet** is a page cut or torn from a publication to prove to the client that the advertisement was published.
- Invoices, checks, and form amounts **that do not match, must include an explanation.** I.e. invoice is for $525 and the allocation is $500. The organization then pays $25, an explanation must be included on the reimbursement form)
- Reimbursements can be submitted as frequent as needed.

Eligible Costs

- **Media placement:** cost of insertion of ads in media including print, electronic, web/Internet and outdoor; rental of billboard, website development & hosting, information applied to Kiosks, and other automated forms of advertising.
- **Printing:** cost of printing and distribution of promotional materials including media packets, promotional brochures, posters, etc. Reprints shall meet current criteria. In the event that ad sales have been made on any brochures, vacation guides and similar publications, the City requires reporting of revenue generated in ad sales and cost of printing, the difference is eligible for reimbursement.
- **Registration fees and booth rental:** costs for conferences where representation by the Organization is clearly a part of the marketing plan.
- **Video:** Production of a community, partnership, or statewide promotional video/CD-ROM/DVD that is part of the organization's marketing effort for use in various broadcast media. **Produced videos on flash drives, dvd, cd-rom etc. cannot be offered for sale.**
- **Mailing lists:** Cost for purchase of targeted marketing mailing lists.
- **New Mexico Tourism Department (NMTD) Sales & Media Outreach Missions, Trade Shows:** Costs for NMTD sponsored registration and booth space through the NMTD's tourism promotion programs when space is available and NMTD opens participation.
- **Production costs:** Costs of producing an advertisement, brochure, internet data and graphics, website development (including hosting), typesetting, photography, rendered art, purchase of trade show booth.
- **Fulfillment costs:** Shipping as it applies to fulfilling requests for visitor information.
- **Public Relations:** Public relation services related to tourism promotion.
- **Promotional Items: T-shirts,** Key rings, pins, calendars, litter bags, posters, and similar items. We encourage the use of promotional items for marking to be used minimally.

• Ineligible Costs

- **Commissions:** Advertising agency commissions
- **Fulfillment costs:** Envelopes and supplies
- **Communications:** Telephone expenses
- **Travel Expenses:** Any expenses related to travel including lodging, meals, airfare, and gas. An exception may be made for the cost of gas incurred while distributing printed materials outside of Sierra County.
- **Administration:** Salaries, over-run, overhead, entertainment, meals, beverages, supplies, taxes and other categories, not specifically allowed in eligible costs.
- **Items for sale:** Promotional items produced for sale such as Videos/CD's/DVD's, brochures, t-shirts, posters, calendars, etc.
- **Equipment:** Any purchase of equipment and/or furnishings.

Lodgers' Tax
Recommended Expenditures Chart

Brochures, Visitor Guides	Brochures & Visitor Guides should be distributed in locations with high visitor foot traffic.	Reaches both potential visitors planning trips,and current visitors looking for things to do.	Receipt, sample brochure or visitor guide.
Distribution of Visitor Guides and Brochures	Contracting with companies such as Fun & Games and Certified Folder will ensure that your brochures or visitor guide will be distributed statewide to State and local visitor centers and/or hotels and attractions with high visitor foot traffic.	Reaches both potential visitors planning trips,and current visitors looking for things to do.	Receipt or copy of paid invoice.
Posters/Flyers	Distribute widely throughout Sierra County & at all visitor centers in the SW NM Region	Not as effective in attracting out of town visitors	Copy of receipt for production & poster/flyer
Digital Radio (ex: Spotify, Pandora, I Heart online)	Ads can target specific demographics, zip codes	Customizable engagement; you pay for a specific number of engagements based upon if the ad is opened by users)	Receipt, link to ad proof
Video Production	The production of a video for digital ad campaign	Video engaages people in the experience of your destination/event.	Receipt from company, link to final product, written consent for us to use your video in marketing T or C
Print Ad Design	Graphic Design and layout of an ad	Higher quality visual images/info	Receipt & copy of ad artwork
Giveaways	Space permitting, please include the T or C authorized brand or City logo	Destination/event promotion	Receipt for production, sample item

Lodgers' Tax
Recommended Expenditures Chart

Ad/Promotions Medium	What Is Recommended	Why/Who It Reaches	What To Turn In For Reimbursement
Website Development, maintenance & hosting	A good website that shows off what your destination/event has to offer is very important, as most people today do their travel research online.	Reaches the world	Receipts for development, maintenance & hosting, link to the website.
Social Media	Advertising targeting audiences outside of Sierra County either demographically or by special interest	Largest range, least expensive and most accessible to the audience	Receipts from the individual platforms and the email report that reports the engagement.
Newspaper	Publications outside Sierra County	Reaches people outside Sierra County, tends to reach an older demographic audience	Receipt & tear sheet from publication
Magazine	Demographic specific outside Sierra County based on interest group	Reaches an audience that may already have an interest in destination/event	Receipt & tear sheet from publication
Google	All of the services offered regarding advertising,website boosts etc.	Boosts your website & results in a higher position in google search engine	Reciept from Google
Billboards	Preference given to billboards outside of Sierra County	Exposure to thousands of travelers daily.	Receipt, ad artwork, spec sheet from vendor showing location of billboard
Radio	Promotion outside of Sierra County	Widespread promotion, more effective for rural areas	Receipt, copy of radio ad draft, history of when the ad ran (obtainable from the radio station)
Television	Promotion outside of Sierra County in targeted demographic markets	Reaches varied demographic audience based upon programming choices	Receipt, link to TV ad

Contractor Responsibilities

It is the responsibility of the Contractor:

- To keep a running total of their unused and available Lodgers' Tax award.
- To report all advertising revenues for projects funded in part by lodgers' tax.
- To assign a signatory authority and responsible financial representative.
- To sign all reimbursement forms or requests for payment.
  - Requests must be submitted in writing using the City's form.
- To notify the City their "remit to" address where they want the check sent.

2021-2022 LODGERS' TAX GRANT APPLICATION

PART I: PROJECT INFORMATION

Complete one application for each project or event.

Organization Name	
Project/Event Name	
Event Date(s) and Location (if applicable)	
Event Organizer & Title within Organization (if applicable)	
Phone Number of Organizer	
Email of Organizer	
Organization Address	
Organization's Contact Person (If different than event organizer)	
Contact Phone and Email for Organization's Contact Person	

PART 2: PROJECT COST AND FUNDING REQUEST Lodgers Tax Grant Funding

Amount Requested: **(Must match application page 4)**	
Anticipated Attendance (not including volunteers/staff):	

PART 3: CRITERIA

Was this project/event funded in 2020-2021? Circle one: Yes/No

How many times has your event occurred? List previous events years. If new, indicate "new":

____

1. Define/Describe the overall project/event (what is happening at the event?):

____

____

____

____

2. Who is your target audience for your project/event and advertising (who do you want to attend?)

____

____

____

____

3. Describe the regions/cities in which you plan to market your project/event outside of Truth or Consequences?

____

____

____

____

4. What percentage of your printed materials will be distributed outside of Sierra County and how will they be distributed?

____

____

____

5. Describe your project/event indicators of success and how you plan to gather the information and how you plan to share that assessment with the City (e.g. increased hotel stays, increased attendance, first time attendees):

____

____

____

____

6. How many Facebook followers do you have for this event page or organization page (for a project)? ______________________ Instagram followers? ______________________

7. If applicable, do you plan to sell advertising for this project? If so, how much do you anticipate will be ad revenue will be generated? ______________________________

8. If you are asking for funding for an existing website, be sure to attached analytics from previous year.

PART 4: PLAN FOR GRANT AMOUNT REQUESTED

Fill out this chart with your spending plan and the costs for these items. Note: **The items listed within this budget are the only reimbursable items after funds are awarded.** Modifications to your plan may only take place with regards to variation in dates of publication. Items not listed within the application at the time of approval will not be reimbursed. The Lodgers' Tax Board reserves the right to recommend denying funding of specific items within this budget during their recommendation to City Commission.

Advertising/Promotion Company/Provider	**Type of Ad/Promotion**	**Cost**
TOTAL AMOUNT REQUESTED: Must match page 1.		

PART 5: FINANCIAL DISCLOSURE CHECKLIST

As per the attached City Ordinance, all applicants for Lodgers' Tax funds must submit the following information. You are only required to submit this information once per fiscal year.

- ❑ IRS and Secretary of State proof of Good Standing
- ❑ Previously submitted

PART 6: ASSURANCES AND CERTIFICATIONS

I/We certify that I/we am/are authorized to act on behalf of the organization making this application and that the statements herein are complete and accurate to the best of my knowledge. If funded, we will keep a clear and accurate accounting of how the funds were used. We will evaluate the use of funds as required and approved by the City of Truth or Consequences and will deliver an evaluation report to the City no more than (60) days after the event or project completion or on or before May 31st, 2022, whichever comes first).

Print your name and title: ____

Signature: ____

Date: ______________________

Lodgers' Tax Grant Report

- Reports are to be submitted within 60 days of the completion of the organization's marketing project or event.
- Reports are used to gauge activity and ensure grant compliance with agreement.
- Upon submission of the Lodgers' Tax Grant Report, the Lodgers' Tax Advisory Board has the right to call the Lodgers' Tax Recipient to a Lodgers' Tax Advisory Board meeting to gather more information.
- The form for the Lodgers' Tax Grant Report may be found on the following page.

- **Failure to report can affect future funding requests, including reports with no activity.**

2021-2022 LODGERS' TAX GRANT REPORT

Organization Name	
Project/Event Name	
Event Date(s) and Location (if applicable)	

1. Describe your project/event indicators of success and how you gathered the information. (e.g. increased hotel stays, increased attendance, first time attendees):

____

____

____

____

2. Did you sell advertising for this project? If so, how much? ______________________________

3. Upon reflection, was there anything you would have done differently in the marketing or would like to do differently in the future?

____

____

____

4. If you utilized Lodgers' Tax for digital marketing, attach a copy of the analytics.

Advertising/Promotion Company/Provider	Type of Ad/Promotion	Cost
TOTAL AMOUNT SUBMITTED FOR REIMBURSEMENT:		

PART 6: ASSURANCES AND CERTIFICATIONS

I certify that I am authorized to act on behalf of the organization making this report and that the statements herein are complete and accurate to the best of my knowledge. We kept a clear and accurate accounting of how the funds were used. We evaluated the use of funds as required and approved by the City of Truth or Consequences and delivered this report to the City no more than (90) days after the event or project completion or on or before May 31st, 2022, whichever comes first).

Print your name and title: ____

Signature: ____

Date: ____________________

Contractor Amendments To Approved Lodgers' Tax Funding Requests

CAN

- Budget Categories*

  Funds may be moved from one category to another category.

- Scope of Work*

*** Must have prior approval from the Lodgers' Tax Advisory Board and/or City Manager's Office.**

CANNOT

- Request an extension of time.
- Request transfer of funds to another organization

Contacts

- Tammy Gardner tgardner@torcnm.org, 894-6673 Ex 320
    - Review payment requests for compliance with agreements and process compliant payments.
    - Submit copies of reports to City Hall.
    - Any other duties requested by the LTAB
- Angela Torres, atorres@torcnm.org, 894-6673 Ext. 302
- Dawn Barclay dbarclay@torcnm.org, 894-6673 Ext. 304
    - Prepare meeting Agendas & Minutes
    - Forwards reports to Lodgers' Tax Advisory Board.
    - Place on the LTAB calendar request for changes to agreement and/or use of funds.

CITY OF TRUTH OR CONSEQUENCES
LODGERS TAX ADVISORY BOARD
MINUTES - DRAFT
TUESDAY, SEPTEMBER 28, 2021

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, September 28, 2021 at 12:00 pm.

CALL TO ORDER

ROLL CALL

Jake Foerstner, Chairman
Gina Kelley, Vice-Chairman
Theresa King, Member - ABSENT
Linda DeMarino, Member

ALSO PRESENT:

Bruce Swingle, City Manager
Tammy Gardner, Executive Assistant
Dawn C. Barclay, Deputy City Clerk

1. **APPROVAL OF AGENDA**

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

2. **APPROVAL OF MINUTES**
    a. Regular Meeting of July 26, 2021.

Vice-Chairman Kelley made a motion to approve the July 26, 2021 minutes. Member DeMarino seconded the motion. Motion carried unanimously.

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

There were no comments from the public.

4. **OLD BUSINESS:**
    a. **Discussion/Review: Lodgers Tax Award Tracking Sheet from meeting July 26, 2021.**

Tammy Gardner, Executive Assistant asked for clarification as to who would be maintaining the "Lodgers Tax Award Tracking Sheet". Vice-Chairman Kelley confirmed she will be in charge of tracking sheet and its information.

Vice-Chairman Kelley had one change to the tracking sheet. She suggested to add wording to the funds portion that would cover split and partially awarded funds.

The board as a whole noted they liked the option to discus and review the Lodgers Tax Tracking Sheet was part of the agenda and would like to see it continued at this time for all future meetings.

No motion was required.

b. **Discussion/Action: Lodgers Tax Funding Guidelines.**

The board discussed page 21; "Grant Report" and added that upon submission of the Lodgers Tax Advisory Board has the right to request that the recipient attend the Lodgers Tax Advisory Board meeting to address any questions the board may have. The board confirmed that there will be no quarterly reporting. The board moved on to page 9 to discuss the branding logo.

It was clarified that the "Lodgers Tax Funding Guidelines" must still go to the City Commission for approval. City Manager Swingle noted, at this point the board could possible present the guidelines at the next City Commission meeting scheduled for October 13, 2021.

Vice-Chairman Kelley made a motion to approve the "Lodgers Tax Funding Guidelines" with change to page 21 as discussed. Member DeMarino seconded the motion. Motion carried unanimously.

5. **NEW BUSINESS:**
    a. **Discussion/Action: Loaders Tax collections from Short Term Rentals in T or C.**

Vice-Chairman Kelley shared with the board a comment she received. It was brought to her attention the amount of money Truth or Consequences receives from Lodger Tax. This led her to start her own investigation into this claim. She provided documentation which was included in the agenda packet for the board to review. Through Airbnb she found there are 93 rental options; minus 20 that was for Elephant Butte, NM. Her research let her to find that Airbnb sends one lump sum check to City's that have community contracts in place. She did a sample booking and found out when finalizing a booking there is charge called "Occupancy Taxes". When clicked for more information it's listed as Gross Receipts Tax (GRT). Through a local Airbnb customer, Vice-Chairman Kelley's request she ask Airbnb what taxes are they are paying on behalf of their customers? The break down had approximately 9 charges with descriptions some were duplicated. Vice-Chairman Kelly brought up the question that our local short term rental business owners may be thinking they are paying City Lodgers Tax through one of those 9 charges. She wanted to share this information with the City because there might be a significant amount of Lodgers Tax revenue being lost. Vice-Chairman Kelley also made a suggestion that the City contact the City of Ruidoso, NM to gather more information on how to obtain a contract with Airbnb as they currently have one themselves.

No action was taken.

b. Discussion/Action: Lodgers Tax Contract for awarded organizations.

The board confirmed that once the City Commission approves the "Lodgers Tax Funding Guidelines" the "Lodgers Tax Contract" can be updated. Member DeMarino and Tammy Gardner, Executive Assistant will collaborate to red line the "Lodgers Tax Contract". Once completed they will present at the next Lodgers Tax Advisory Board monthly meeting.

No action was taken.

c. Acknowledgement: Theresa King's resignation letter.

The board acknowledged Theresa King's resignation letter.

d. Discussion/Action: Set next meeting date and time.

Geronimo Trail Scenic Byway submitted a fund request to be presented at this meeting. Due to an oversight the fund request was not added to the agenda. It will be presented and discussed at the next scheduled meeting being held on October 26, 2021.

Member DeMarino made a motion to approve to keep the scheduled October 26, 2021 meeting. Vice-Chairman Kelley seconded the motion. Motion carried unanimously.

6. REPORTS FROM THE BOARD

There were no reports from the board.

7. REPORTS FROM STAFF

Tammy reported Sub-recipient and Lodgers Tax funding requests needed some clarification. Vice-Chairman Kelley responded the Sub-recipient are contracts with the City for operation and maintenance. Lodgers Tax funding is used help promote tourism activity.

8. ADJOURNMENT

Chairman Foerstner made a motion to approve the adjournment. Vice-Chairman Kelley seconded the motion. Motion carried unanimously.

PASSED AND APPROVED ON THIS 26th DAY OF OCTOBER 2021.

Jake Foerstner, Chairman
Lodger's Tax Advisory Board