

Legal Notice
Request for Applications

Applications are being requested by the Town of Silver City, New Mexico, at **City Hall, Purchasing Department, 101 West Broadway, Silver City, New Mexico.**

Applications will be accepted to provide the following services, on the dates and times reflected below:

**Community Promotions
(Lodgers' Tax Promotions)**

Closing: June 15, 2018 @ 11:00 am

Closing: December 3, 2018 @ 11:00 am

Further details regarding this application may be obtained at the Purchasing Department of the Town of Silver City, by calling (575) 534-6352 or on the Town of Silver City's website at www.townofsilvercity.org.

Until the final approval of the applications by the Town of Silver City Lodger's Tax Advisory Board, said Town reserves the right to reject any and/or all applications, to waive technicalities, to re-advertise, to proceed or otherwise when the best interest of the Town will be realized hereby.

Town of Silver City
By: Erika Martinez
Purchasing Agent

Publish: Silver City Daily Press Dates: May 25, 2018

Publish: Silver City Sun News Dates: May 30, 2018

- Tear sheet and notarized affidavit must be sent with all invoices.

**TOWN OF SILVER CITY
COMMUNITY PROMOTIONS
LODGER'S TAX PROPOSAL APPLICATION**

Non-Profit Organization Name:

Address:

Requester:

Organization Contact/Title:

Phone:

Email:

Title of Event:

Date(s) of Event:

Event/Organization Website:

Event/Organization Social Media Channels:

Total cost of Event:

Total marketing budget:

Event Amount Requested (**Maximum request \$5,000 per event.**) The event date [time frame] must be at least 30 days apart from another event by the same organization seeking funding for said event:

Federal Tax ID/Social Security Number:

(Please include a completed and signed W-9 and non-profit certificate)

Signature of Authorized Official: _____ Date: _____

**TOWN OF SILVER CITY
COMMUNITY PROMOTIONS
LODGER'S TAX PROPOSAL APPLICATION**

Please present responses to each point by including headings.

I. Brief Project Narrative

- Provide a description of your event in 500 words or less. Consider including the following important point(s):

How does the proposal meet the Town of Silver City Lodger's Tax objective(s):

- Attract visitors from out of the local area and/or encourage those who come here to extend their stay? and/or
- Encourage participants to spend their recreational and vacation dollars in Silver City?

II. Overview

- Mission of event/organization
- Organization's main activities
- Organization's main income sources
- Length of time organization or event has been in existence
- Is this planned to be an annual event or activity?
- Will your event bring in outside vendors? If so, identify vendors and anticipated numbers and demographics. (from more than 50 miles from Silver City)
- Will your event bring in outside participants? If so, identify participants and anticipated numbers and demographics (from more than 50 miles from Silver City)
- How will it enrich the lives of residents of Silver City?
- Marketing partners? (Do you have sponsors that help with marketing? Who are they and what are their roles?)
- Anticipated number of lodging room nights needed for this event and method of determining this figure

III. Marketing Plan

- Describe your marketing goals
- How do you plan to achieve these goals (describe your planned marketing initiatives in detail)
- Describe your target markets, including demographic and geographic information
- Explain how the proposed project supports these goals and promotes Silver City
- Describe your organization's desired measurements and results, and how your organization will measure results
- Provide a detailed advertising budget, which may include anticipated Lodger's Tax monies (refer to Appendix A for potentially allowable expenses).

IV: Previous Lodger's Tax Funding and Historical Information

- If your organization received Lodger's Tax monies in the past, give details on how the monies were spent as well as sources and amounts of other funds utilized for advertising
- Describe your target markets
- List your objectives, whether achieved and how this was measured
- Provide examples of your previous advertising initiatives, identifying where and when they appeared and any metrics you may have concerning those metrics. (If you engaged in print publications, do not include entire publication, but the parts that pertain to your specific event marketing.)

- History of attendance and lodging room night use attributable to this event and methods used to verify this figure

V. Completed W-9

VI. Inclusion of non-profit organization certification

***Applications are due by the following dates and times:**

June 15, 2018 @ 11:00 a.m.

December 3, 2018 @ 11:00 a.m.

Applicants must provide one application per event

Applicants must provide 1 original application and 6 identical copies of each application

***Applications are to be delivered via hand delivery, common carrier, or express carrier as follows:**

Erika Martinez, Purchasing Agent

Town of Silver City

101 W. Broadway

P.O. Box 1188

Silver City, NM 88062

APPENDIX A

FUNDING GUIDELINES: ALLOWABLE AND NON-ALLOWABLE EXPENSES

Allowable Expenses*

All creatives and advertising initiatives need to be pre-approved prior to ad placement/development by Town of Silver City appointed marketing representative. *These categories of expenditures may be covered by Lodger's Tax appropriations. Proper inclusion of Silver City branding is required where applicable:

- Security (not Town of Silver City Police)
- Port-a-Potties
- Traditional Advertising: Mediums must serve at least part of their audience that is more than 50 miles away from Silver City.
 - Newspaper
 - Magazine
 - Television
 - Radio
 - Direct Mail
 - OOH (out-of-home) Signage-billboard, transit cards (advertisements on vehicles)
- Digital/Internet Advertising:
 - Website
 - Digital ads--Google / Search Engine Marketing [SEM], social media channel advertising [Facebook, Instagram, other social media platform advertising], and other similar online delivery of advertising messages
 - Email marketing
- Graphic Design / Creative Development costs: This can include the cost to develop the advertising message whether it be in print or digital form, including video creation utilized in advertising campaigns
- Public Relations: Marketing functions that entail evaluating public attributes, identifies areas within the organization the public may be interested in, and executes a program of action to earn public understanding and acceptance of an event to grow its success of greater number of visitors. (specific additional approval required)
- Ad Agency Fees: As part of a valid advertising expense associated with the implementation of a marketing plan (such as placement costs, creative development costs, and implementation costs), this is an allowable cost with approval. A recommendation could include requiring specific approval of ad agency. (specific additional approval required)

Non-Allowable Expenses*

- Police Security (Town of Silver City Police)
- Salaries
- Contractors/Labor Fees
- Accountants
- Scholarships

*Prior approval will be required if you have an expense that is not listed or is a unique expense.

APPENDIX B
LODGERS' TAX ORDINANCE

• **Sec. 44-110. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the advisory board established in this article to:

- (1) Make recommendations to the governing body;
- (2) Keep minutes of its proceedings; and
- (3) Submit its recommendations, correspondence and other pertinent documentation to the governing body.

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 rent uses, possesses or has the right to use or possess the rooms or other units of accommodations in or at a taxable premise. The term "lodging" means the room or other accommodation furnished by a vendor to a vendee by a taxable service of lodgings.

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

Persons means a corporation, firm or other body corporate, partnership, association or individual. The term "person" includes an executor, administrator, trustee, receiver or other designated representative appointed according to law and acting in a representative capacity, but does not include the United States of America, the state, any corporation, department, instrumentality or agency of the federal government or 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 an occupancy tax authorized in the Lodgers' Tax Act.

Taxable premises means a hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guesthouse, 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 system means transportation systems that provide transportation for tourists to and from tourist-related facilities, attractions and events.

Town clerk means the clerk of the Town of Silver City, New Mexico.

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

Vendor means a person or agent furnishing lodgings in the exercise of the taxable services of lodging.

(Code 1979, § 27-103; Code 2005, § 110.082; Ord. No. 961, § 3, 8-12-1996)

State Law reference— Similar provisions, NMSA 1978, § 3-38-14.

- **Sec. 44-111. - Title.**

This article shall be known as and cited as the "Lodger's Tax Ordinance."
(Code 1979, § 27-101; Code 2005, § 110.080; Ord. No. 961, § 1, 8-12-1996)

- **Sec. 44-112. - Purpose.**

The purpose of this article is to impose a tax which will be borne by persons using commercial lodging accommodations which tax will provide revenues for the purpose of advertising, publicizing and promoting tourist-related attractions, facilities and events, and acquiring, establishing and operating tourist-related facilities, attractions or transportation systems, as authorized in section 44-126.
(Code 1979, § 27-102; Code 2005, § 110.081; Ord. No. 961, § 2, 8-12-1996)

- **Sec. 44-113. - Imposed.**

There is hereby imposed an occupancy tax of five percent of gross taxable rent for lodging within the municipality paid to vendors.
(Code 1979, § 27-104; Code 2005, § 110.083; Ord. No. 961, § 4, 8-12-1996)

State Law reference— Tax authorized, NMSA 1978, § 3-38-15.

- **Sec. 44-114. - License. Modified**

(a) *Required.* No vendor shall engage in the business of providing lodging in the town who has first not obtained a license as provided in this section.

(b) *Application; contents.* Applicants for a vendor's license shall submit an application to the town clerk stating:

- (1) The name of the vendor, including the 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 mailing address thereof;
- (2) A description of the facilities, including the number of rooms and the usual schedule of rates thereof;
- (3) A description of other facilities provided by vendor 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 state taxation and revenue department;
- (4) The nature of the business of the vendor and to what extent, if any, his business is exempt from the lodger's tax; and
- (5) Other information reasonably necessary to effect a determination of eligibility for such license.

(c) *Review.* The town 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 lodger's tax.

(d) *Appeals.* An applicant who is dissatisfied with the decision of the town clerk may appeal the decision to the governing body by written notice to the town clerk of such appeal to be made within 15 days of the date

of the town clerk's decision on the application. The matter shall be referred to the governing body for a 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 town clerk is transmitted. The action of the governing body shall be deemed final.

(e) *Issuance of appropriate license or other notice.* If the governing body finds for the applicant, the town clerk shall issue the appropriate license or other notice conforming to the decision made by the governing body.

(Code 1979, § 27-105; Code 2005, § 110.084; Ord. No. 961, § 5, 8-12-1996)

State Law reference— Mandatory ordinance requirements, NMSA 1978, § 3-38-20.

• **Sec. 44-115. - Exemptions to article.**

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 vendor does not offer at least three rooms within or attached to a taxable premise for lodging or at least three other premises for lodging or a combination of these within the taxing jurisdiction.

(Code 1979, § 27-106; Code 2005, § 110.085; Ord. No. 961, § 6, 8-12-1996)

State Law reference— Similar provisions, NMSA 1978, § 3-38-16.

• **Sec. 44-116. - Collection and reporting procedure.**

(a) Every vendor providing lodgings shall collect the tax thereon on the municipality's behalf and shall act as a trustee thereof.

(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 town for the tax provided in the article on the rent paid for lodging at his respective place of business.

(d) Each vendor shall make a report by the 25th day of each month, on forms provided by the town clerk, of the receipts for lodging in the preceding calendar month, and shall submit the proceeds of the lodger's tax to the municipality and include sufficient information to enable the municipality to audit the reports and shall be verified on oath by the vendor.

(Code 1979, § 27-107; Code 2005, § 110.086; Ord. No. 961, § 7, 8-12-1996)

State Law reference— Similar provisions, NMSA 1978, § 3-38-17.

- **Sec. 44-117. - Duty of vendor to maintain records.**

The vendor shall maintain adequate records of facilities subject to the tax and of proceeds received for the use thereof. Such records shall be maintained in the town and shall be open to the municipality's inspection during reasonable hours and shall be retained for three years.

(Code 1979, § 27-108; Code 2005, § 110.087; Ord. No. 961, § 8, 8-12-1996)

- **Sec. 44-118. - 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 cost and reasonable attorneys' fees to the prevailing party in a court action to ensure the provisions of the Lodgers' Tax Act.

(Code 1979, § 27-109; Code 2005, § 110.088; Ord. No. 961, § 9, 8-12-1996)

State Law reference— Similar provisions, NMSA 1978, § 3-38-17.3.

- **Sec. 44-119. - Failure to make return; computation, civil penalty and notice; collection of delinquencies; occupation tax is a lien.**

(a) Every vendor is liable for the payment of the proceeds of any occupancy tax that the vendor failed to remit to the municipality, whether due to his failure to collect the tax or otherwise. He shall be liable for the tax plus a civil penalty equal to the greater of ten percent of the amount not remitted, or \$100.00. The town clerk shall give the delinquent vendor written notice of the delinquency, which notice shall be mailed to the vendor's local address.

(b) If payments are not received within 15 days of the mailing of the notice, the municipality may bring an action in law or equity in the district court for the collection of any amounts due including, without limitation, penalties thereon, and interest on the unpaid principal at a rate not exceeding one percent a month. If the town attempts collection through an attorney or the town attorney for any purpose with regard to this article, the vendor shall be liable to the municipality for all costs, fees paid to the attorney or town attorney, and all other expenses incurred in connection therewith.

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

(d) Under process or order of court, no person shall sell the property of a vendor without first ascertaining from the town finance director the amount of any occupancy tax due the municipality. Any occupancy tax due the municipality shall be paid from the proceeds of the sale before payment is made to the judgment creditor or any other person with a claim on the proceeds of the sale.

(Code 1979, § 27-110; Code 2005, § 110.089; Ord. No. 961, § 10, 8-12-1996)

- **Sec. 44-120. - Criminal penalty.**

Any person who violates the provisions of this article for failure to pay the tax, remit proceeds thereof to the municipality, or properly account for any lodging and tax proceeds pertaining thereto for the violation of the confidentiality provisions of section 44-124 shall be guilty of a municipal offense and upon conviction shall be punished according to general penalty section 1-9.

(Code 1979, § 27-111; Code 2005, § 110.090; Ord. No. 961, § 11, 8-12-1996)

State Law reference— Penalty authorized, NMSA 1978, § 3-38-19.

- **Sec. 44-121. - Refund and credit procedure.**

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 town clerk, no later than 90 days from the date the payment was made, a written claim for the refund. Every claim for refund shall state the nature of the person's complaint and the affirmative relief requested. The town 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 approval of the governing body.

(Code 1979, § 27-112; Code 2005, § 110.091; Ord. No. 961, § 12, 8-12-1996)

- **Sec. 44-122. - Vendor audits.**

(a) The municipality shall conduct random audits to verify full payment of occupancy tax receipts.

(b) The municipality shall determine each year the number of vendors within the municipality to audit.

(c) The audit may be performed by the town clerk or by any other designee of the governing body. A copy of the audit shall be filed annually with the local government division of the department of finance and administration.

(Code 1979, § 27-113; Code 2005, § 110.092; Ord. No. 961, § 13, 8-12-1996)

State Law reference— Audit of vendors, NMSA 1978, § 3-38-17.1.

- **Sec. 44-123. - Reports.**

(a) The finance director shall furnish to the advisory board that portion of any proposed budget, report or audit filed or received by the governing body pursuant to either NMSA 1978, § 6-6-1 et seq. or the Audit Act (NMSA 1978, § 12-6-1 et seq.) 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 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 NMSA 1978, §§ 3-38-15 and 3-38-21, and shall furnish a copy of this report to the advisory board when it is filed with the division.

(Code 1979, § 27-114; Code 2005, § 110.093; Ord. No. 961, § 14, 8-12-1996)

- **Sec. 44-124. - Confidentiality of return and audit.**

It is unlawful for any employee of the town to reveal to any individual other than another employee of the town any information contained in the return or audit of any taxpayer, including vendors subject to the Lodgers' Tax Act (NMSA 1978, § 3-38-13 et seq.), except to a court of competent jurisdiction in response to an order thereof in an action relating to taxes to which the city is a party, and in which information sought is material to the inquiry; to the taxpayer himself or an authorized representative; and in such manner, for statistical purposes, the information revealed is not identified as applicable to any individual taxpayer.

(Code 1979, § 27-115; Code 2005, § 110.094; Ord. No. 961, § 15, 8-12-1996)

- **Sec. 44-125. - Advisory board created; composition; disposition of proceeds.**

(a) The governing body shall administer the lodgers' tax monies collected. The mayor shall appoint, with the advice and consent of council, a five-member advisory board with the following qualifications:

(1) Two members who are owners or operators of lodgings subject to occupancy tax within the municipality;

(2) Two members who are owners or operators of industries located within the municipality that primarily provides services or products to tourists;

(3) One member who is a resident of the municipality and represents the general public.

(b) The terms of the board shall be staggered. All current terms of office shall terminate on December 31, 2012. Thereafter, two members shall be appointed for two year terms, and the remaining three members shall be appointed for three year terms. Thereafter, all appointments shall be for three year terms.

(c) The board shall advise the governing body on the expenditure of funds authorized under section 44-126 for advertising, publicizing and promoting tourist attractions and facilities in the municipality and surrounding areas.

(Code 1979, § 27-116; Code 2005, § 110.095; Ord. No. 961, § 16, 8-12-1996; Ord. No. 1213, 9-11-2012)

- **Sec. 44-126. - Eligible uses of proceeds.**

The governing body 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 (NMSA 1978, § 3-38-13 et seq.) 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;

(3) The principal of and interest on any prior redemption premiums due in connection with any other charges pertaining to revenue bonds authorized by NMSA 1978, §§ 3-38-23, 3-38-24;

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

(5) Providing police and fire protection and sanitation services 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 purposes.

(Code 1979, § 27-117; Code 2005, § 110.096; Ord. No. 961, § 17, 8-12-1996)

- **Secs. 44-127—44-145. - Reserved.**