

ORDINANCE 20-05**AN ORDINANCE OF THE CITY OF ROSWELL AMENDING CHAPTER 23 OF
THE ROSWELL CITY CODE RELATING TO LODGER'S TAX**

WHEREAS, the City of Roswell is permitted to impose a tax on persons using commercial lodging accommodations pursuant to NMSA 1978, §§ 3-38-13 to -34;

WHEREAS, the New Mexico Legislature recently amended that state statute in the 2019 and 2020 legislative sessions; and

WHEREAS, the City of Roswell desires to update its ordinance to conform to the new provisions of the state statute.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL AS THE GOVERNING BODY OF THE CITY OF ROSWELL, NEW MEXICO, that:

SECTION 1. Roswell City Code Section 23-2 shall be amended to read:

Sec.23-2. - 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:

City manager includes the city manager and any other representative designated by the city manager.

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/rooms or other units of accommodation in, at or upon taxable premises.

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

Occupancy tax means the tax on lodging authorized by this article.

Person means a corporation, firm, other body corporate, partnership, association or individual, including, but not limited to, an executor, administrator, trustee receiver or other representative appointed according to law and acting in a representative capacity, excepting therefrom the United States of America, the state, their agencies, departments or instrumentalities or a political subdivision of the state.

Rent means the consideration received by a vendor whether in money credits, property or other consideration valued in money for lodgings subject to occupancy tax authorized by this article.

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

Temporary lodging means lodgings for the purpose of housing a vendee within proximity of the vendee's employment or job location;

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 visitors.

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 for a consideration in the exercise of the taxable service to lodging.

Vendor means a person or the person's agent furnishing lodgings for a consideration in the exercise of the taxable service of lodging.

SECTION 2. Roswell City Code Section 23-4 shall be amended to read:

Sec. 23-4. - 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, unless those premises are temporary lodging; 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, unless those premises are temporary lodging.

(2) If the rent paid by a 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; or

(6) To privately-owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill.

SECTION 3. Roswell City Code Section 23-9 shall be amended to read:

Sec. 23-6. - Reporting and collection.

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

(b) The tax shall be collected from vendees in accordance with this article 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 city for the tax provided in this article on the rent paid for lodging.

(d) Each vendor shall make a report by the twenty-fifth day of each month, on forms provided by the City Manager, of the receipts for lodging paid to him in the preceding calendar month and shall remit therewith payment of the amounts due to the city. If the twenty-fifth falls on a Saturday, Sunday or legal holiday the report is due the next business day. The postmark on the envelope determines if a report is filed on time. The report shall include sufficient information to enable the city to audit the report, including the amount of tax deriving from the thirty-first and subsequent days a vendee rents lodgings in taxable premises, and shall be subscribed by the vendor or his duly authorized agent or attorney.

(e) The reports of individual vendors, required by subsection (d), are confidential and not subject to public inspection.

(f) The city will select for annual random audit 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. Copies of audit completed shall be filed annually with the local government division of the department of finance and administration.

SECTION 4. Roswell City Code Section 23-9 shall be amended to read:

Sec. 23-9. - Administration.

(a) Duties assigned to the city manager by this article may be delegated from time to time in whole or in part by the city manager as may be useful.

(b) All receipts of the tax levied hereunder, including penalties and interest on delinquent payments, accrued or accruing shall be deposited in a separate account designated as the "Lodger's Tax Ordinance Fund." Any disbursements from said fund shall be made in accordance with law.

(c) Proceeds from the occupancy tax that are collected based on the thirty-first and subsequent days a vendee rents lodgings in taxable premises may be applied by the city to any of the following uses:

(1) Construction, maintenance and renovation of City owned tourist attractions and related facilities, including sports tourism;

(2) Financial support for public safety and community development efforts; and

(3) City support for economic development related projects.

SECTION 5. All ordinances or parts of ordinances in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

SECTION 6. If any section, paragraph, clause or provisions of this ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any other part of this ordinance.

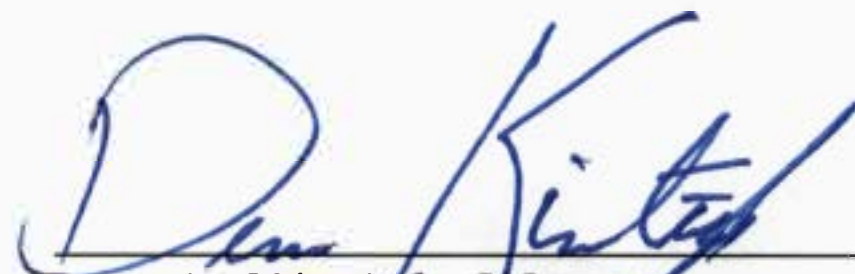
SECTION 7. In accordance with state statute, this ordinance shall be effective after five (5) days following its publication as required by law.

PASSED, ADOPTED, SIGNED and APPROVED this 13th day of August 2020.

CITY SEAL

SEAL

ATTEST


Dennis Kintigh, Mayor


Sharon Coll, City Clerk

ORDINANCE 20-09

AN ORDINANCE AMENDING CHAPTER 21 OF THE ROSWELL CITY CODE
RELATING TO SOLID WASTE COLLECTION AND DISPOSAL

WHEREAS, Chapter 21 of the Roswell City Code regulates the collection and disposal of solid wastes generated within the city; and

WHEREAS, The City Council wishes to hereby amend certain sections of Chapter 21 of the Roswell City Code as further reflected below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL AS THE GOVERNING BODY OF THE CITY OF ROSWELL, NEW MEXICO, that:

SECTION 1. Section 21-2 of the Roswell City Code is hereby amended as follows:

Sec. 21-2. - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Collection means providing a service of gathering solid waste from one or more persons or premises within the city, for transportation to a point of disposal or recycling, or sanitary landfill, except in cases where such service is only incidental to the provision of other goods or services responsible for creation of the solid waste. Collection does not include the disposal of solid waste by the individual or entity that created it.

Disposal facility means the sanitary landfill or site for the disposal of solid wastes.

Incineration means the process of reducing combustible solid wastes to inert residue, in a device or chamber designed for complete combustion.

Motor vehicle is any vehicle which is designed to be self-propelled and travel along the ground and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf carts, recreational vehicles and motor homes.

Person means any person owning, operating or controlling any house, residence, shop, commercial establishment, hotel, restaurant, market, apartment, condominium or tenement house or any other place of business within the city, to include tenants, lessees or occupants.

Premises means business houses, apartment houses, offices, theaters, hotels, residences, commercial establishments of any character, settlements, hospitals, schools, vacant lots and all other places within the corporate limits where solid waste accumulates.

Private property shall mean any real property within the city which is privately owned and

which is not public property, as defined in this section.

Public property shall mean any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel and shall also mean other publicly owned property or facility.

Recycling means the segregation of reusable materials preparatory to industrial processing of such materials, whereby such material is converted into a new product so that the original product is no longer identifiable.

Sanitation officer means the department head of the sanitation department of the city.

Scavenging means the removal of solid waste from a disposal facility.

Solid waste means garbage, rejected or waste food, offal, swill, carrion, ashes, dirt, slop, waste water, trash, rubbish, cast-off items, parts of autos, clothing, mattresses, tires, paper, cartons, salvage or unwholesome materials of any kind or description; except sewage, but including commercial, industrial, institutional and recreational wastes and any article or substance commonly discarded as waste or which, if discarded on the ground, will create or contribute to an unsanitary, offensive or unsightly condition.

SECTION 2. Section 21-11 of the Roswell City Code is hereby amended as follows:

Sec. 21-11. - City's exclusive right to collect solid wastes.

The city and its duly authorized agents, servants or employees reserve the exclusive right to engage in the collection of solid waste within the city. It shall be unlawful for any person to engage in the collection of solid waste within the city, except as permitted by the city pursuant to a duly authorized franchise.

SECTION 3. Section 21-20 of the Roswell City Code is hereby amended as follows:

Sec. 21-20. – Fees.

- (a) Every person or entity owning real property within the city shall pay the solid waste collection and disposal fees established and provided for by this chapter, whether or not the solid waste collection and disposal service is used by the owner of such real property within the city.
- (b) Monthly services for solid waste collection and disposal from dwellings and residential premises, and from commercial property, shall be assessed against the owner of the premises, as shown by the real estate records of the county clerk. Minimum charges for such service shall be as set by fee resolution.
- (c) The sanitation department shall not accept special or hazardous waste and may at any time refuse to collect, or refuse to accept for disposal, waste the department determines would be detrimental to operation of the collection system or landfill. Waste deemed unacceptable

1 by the department shall not be presented for disposal or disposed of at the city's landfill
2 unless such determination is amended prior to presentment or disposal.
3

4 (d) There will be fees and charges established from time to time by resolution for the following
5 special types of disposals:
6

7 (1) Disposal of solid waste at the disposal area, for residential user only, on loads
8 consisting of 300 pounds or less.
9

10 (2) Disposal of solid waste at the disposal area, including, but not limited to, compacted
11 loads, roll-offs, yard waste, etc., for all commercial loads and residential loads in excess
12 of 300 pounds.
13

14 (3) Disposal of heavy solid waste, defined as large tree trunks, asphalt roofing shingles,
15 etc. that is not considered clean fill, at the disposal area.
16

17 (4) Disposal of clean fill solid waste, defined as concrete, brick, rock, soil, asphalt, rebar,
18 glass, etc. that meets clean fill standards as approved by the State of New Mexico
19 Environment Department, at the disposal area.
20

21 (5) Disposal of tires for residential users and for all commercial loads, at the disposal area.
22

23 (6) Disposal of E-waste, defined as electronic waste such as but not limited to computer
24 monitors, computer towers, printers, scanners, copy machines, batteries, universal
25 surge protectors, telephones, two way radios, cell phones, radios, VCR and DVD
26 equipment, etc.
27

28 (7) Disposal of refrigerant units, defined as any cooling or heating unit containing
29 refrigerant that requires evacuation by state standards before disposal such as but not
30 limited to refrigerators, freezers, heat pumps, AC units, drinking water coolers, etc., at
31 the disposal area.
32

33 {8} Tickets for special disposals under this Section will contain the customer name, address,
34 date, receipt number, weigh master signature/identification number and materials
35 description, and will be invoiced monthly.
36

37 (e) All solid waste disposal fees shall be automatically adjusted at the beginning of each fiscal
38 year, beginning July 1, 2012, to the nearest 25 cent point of the Consumer Price Index
39 for Urban Wage Earners and Clerical Workers (CPI-W) information obtained from the
40 Bureau of Labor Statistics of the U.S. Department of Labor.
41

42 (f) For the purpose of convenience, the billing and collecting of the charges levied for
43 service under subsections (b) of this section shall be done by the city water department,
44 and all such charges shall be payable at the office of the city water department in the
45 same manner as are other utility services billed and collected by the city water
46 department.

(g) The city may provide and maintain roll-off containers to the public at a rate per pull plus tonnage as weighed at the Roswell Landfill. Bins shall be place for service in a manner and location acceptable to the city. Length of time for use of a city owned roll-off container is 30 calendar days. Additional days will be charged at a rate per day up to 30 additional days. Continued usage of the containers over 60 days requires approval from the sanitation officer or agent. Businesses or individuals must give the solid waste department 24 hours notice when the roll-off containers need to be pulled and the content of the roll-off shall not exceed 40,000 pounds. Damage to the container will be the responsibility of the business or individual using the container and will be billed accordingly.

SECTION 4. All ordinances or parts of ordinances in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

SECTION 5. If any section, paragraph, clause or provisions of this ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any other part of this ordinance.

SECTION 6. This ordinance shall be effective after five (5) days following its publication as required by law.

PASSED, ADOPTED, SIGNED and APPROVED on this 13th day of August 2020.

CITY SEAL

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Dennis Kintigh, Mayor


Sharon Coll, City Clerk