ORDINANCE NO. 2013- 17

AN ORDINANCE REPEALING SECTION 48-89 OF THE CODE OF ORDINANCES, CITY OF CARLSBAD, NEW MEXICO REGARDING THE ADMINISTRATION OF LODGER'S TAX MONIES AND REPLACING IT WITH THE LODGERS' TAX ADVISORY BOARD.

WHEREAS, pursuant to the Lodgers' Tax Act, NMSA 1978, Sections 3-38-13, et seq. and the City of Carlsbad's Lodger's Tax Ordinance, Sections 48-76 through 48-90 of the Carlsbad City Code, the City imposes, collects and expends an occupancy tax on lodging; and

WHEREAS, NMSA 1978, Sec. 3-38-22 (1996) requires a municipality that imposes an occupancy tax pursuant to the Lodgers' Tax Act to appoint a five-member advisory board to advise the municipality's governing body on the expenditure of those funds; and

WHEREAS, the City wishes to update the existing requirements Section 48-89 regarding the board to reflect changes in state law.

NOW THEREFORE, be it ordained by the Governing Body of the City of Carlsbad, County of Eddy, State of New Mexico, as follows:

Section 48-89 of the Code of Ordinances, City of Carlsbad, New Mexico is hereby repealed and replaced with the following provisions:

1. **Creation.** There is hereby created a board to be known as the City of Carlsbad Lodgers' Tax Advisory Board.

2. **Appointment of Members.**

A. The board shall consist of five (5) members. The members shall be appointed by the mayor, with the consent and approval of the city council. The board shall consist of:

1. Two (2) members who are owners or operators of lodgings subject to the occupancy tax within the municipality;
2. Two (2) members who are owners or operators of industries located within the municipality that primarily provide services or products to tourists; and
3. One (1) member who is a resident of the municipality and represents the general public.

The board shall serve without compensation. The board shall annually elect one of its members as Chairperson and one as Vice-Chairperson.

B. The mayor, the city administrator, and the director of finance shall be ex-officio members of the board. Additionally, the mayor may appoint, with the consent and approval of the city council, one council member as an ex-officio member of the board. The mayor may appoint, with the approval of council, a council member to act as the mayor's designee in the mayor's

capacity as an ex-officio member of the board. Ex officio members shall have no vote in any of the proceedings.

3. **Term of Office.** The term of office for the members shall be four (4) years beginning on July 1st of the year of appointment and ending four (4) years later. All appointments to vacancies on the board shall be for the unexpired term of the member leaving the board.

4. **Meetings.** The board shall meet once a month and at such other times as may seem to it to be fit and proper.

5. **Removal of Board Member.** Any board member who shall, by his or her conduct, be subject to removal for cause shall be entitled to a hearing before the city council and is entitled to representation at such hearing and shall be removed if a majority of all members of the city council find that cause exists for removal of such member.

6. **Duties.** The board shall advise the city council on the expenditure of funds authorized by the Lodgers' Tax Act for advertising, publicizing and promoting tourist attractions and facilities in the City of Carlsbad. The board shall submit to the mayor and council recommendations for the expenditures of funds authorized pursuant to the Lodgers' Tax Act for advertising, publicizing and promoting tourist-related attractions, facilities and events in the City of Carlsbad.

7. **Secretary.** The city clerk shall be the secretary of the board and shall faithfully keep the minutes of the meetings of the board and all other correspondence of the board but shall have no vote in any of the proceedings.

INTRODUCED, PASSED, ADOPTED AND APPROVED this 11 day of June, 2013.

/s/ Dale Janway
DALE JANWAY, MAYOR

ATTEST:

/s/ Annette Barrick
CITY CLERK