

Chapter 5 Amend.
Hotel/Motel
5/23/23
8/07/23 DM

BILL NO. 23-076

ORDINANCE NO. 19480

AN ORDINANCE AMENDING ARTICLE 3 OF CHAPTER 5 OF THE CITY CODE BY ENACTING NEW SECTIONS TO ADD REQUIREMENTS FOR EXTENDED STAY HOTELS.

WHEREAS, the City of Independence may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, adherence to lodging industry best practices provides for a positive visitor experience for Independence tourists; and

WHEREAS, it is necessary to enact regulations for several businesses in order to prevent such businesses from becoming detrimental to the health, comfort, safety and welfare of the inhabitants of the City and the persons patronizing such businesses; and

WHEREAS, the City seeks to encourage hotel operators and law enforcement agencies to collaborate to ensure the public safety in and around hotels;

WHEREAS, buildings for transient lodging are not designed, operated, or appropriate for permanent residency and do not contain the amenities to support permanent residency; and

WHEREAS, the Council finds it necessary to enact regulations to ensure that the existing and future hotels operate consistently with the City's zoning regulations and building codes and maintain the transient nature of the business; and

WHEREAS, state law requires lodging establishments to comply with local ordinances, regulations and codes including local ordinance that are more stringent than those set forth in state law (Section 315.033 RSMo); and

WHEREAS, not only are hotel owners and operators obligated by state law to follow local ordinances, the guests of such establishments are required to abide by local laws or be subject to ejection from the hotel (Section 315.075(5) RSMo); and

WHEREAS, additional procedures and regulations are necessary to monitor and ensure the compliance by the establishment and guests with applicable law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That Article 3 of Chapter 5 of the "Code of the City of Independence, Missouri" is hereby amended as follows:

ARTICLE 3. HOTELS, MOTELS, LODGING, AND BOARDING HOUSES AND PRIVATE CLUBS

SEC. 5.03.001. DEFINITIONS. In this Article:

EXTENDED STAY means any tenant or occupant who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of sixteen consecutive calendar days or more, counting portions of calendar days as full days.

HOTEL means any structure or any portion of any structure that is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes, but is not limited to, any hotel, inn, bed and breakfast, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location.

OCCUPANCY means the use or possession or the right to the use or possession of any room or rooms or portion thereof in any hotel for dwelling, lodging or sleeping purposes.

OPERATOR means the person who is the proprietor of a hotel. Where the operator performs functions through a managing agent of any type other than an employee the managing agent shall also be deemed an operator for the purposes of this Article and shall have the same duties and liabilities as the principal. Compliance with the provisions of this Article by either the principal or the managing agent shall be compliance by both.

PERSON means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

RENT means the consideration charged for the occupancy of space in a hotel.

TENANT means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement. **OCCUPANT can be used interchangeably with TENANT.**

TRANSIENT means any tenant who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such tenant so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Article may be considered.

RECORD means all electronic, typewritten, or handwritten information about a tenant.

REGISTER means a machine in which electronic or typewritten records are kept or a document or set of documents in which handwritten or typewritten records are kept.

SEC. 5.03.002. ARTICLE 1 APPLIES. The following special provisions for applicants or holders of licenses for Hotels, Motels, Lodging and Boarding Houses and Private Clubs shall not be construed as the only requirements of such persons under this Chapter. Rather, Article 1 of this Chapter shall be applied

here in its entirety except where specific provisions of this Article override the general provisions of Article 1.

SEC. 5.03.003. TAX IMPOSED -GROSS DAILY RENT. There is hereby levied a tax of six and one-half percent (6.5%) of the gross daily rent due from or paid by transient guests of all hotels in addition to the fees charged for occupation licenses required for the operation of all hotels as set forth in Article 1 of this Chapter. The Director of Finance shall be responsible for the administration and levy of this tax.

SEC. 5.03.004. REPORTING AND REMITTING RENTAL TAX. Each operator shall on or before the twentieth (20th) day of the month following the close of each month make a return to the Director of Finance on forms provided of total rents charged and the amount of tax collected for transient occupancy. At the time the return is filed, the full amount of the tax collected shall be remitted to the Director of Finance. The Director of Finance may establish shorter reporting periods for any license holder that has established a record of being delinquent in reporting and/or remitting taxes accruing hereunder. The Director of Finance may also establish shorter or longer reporting periods for any license holder to insure the efficient and effective collection of the tax.

SEC. 5.03.005. PENALTIES AND INTEREST. A. Any operator who fails to remit any tax imposed by this Article within the time required shall pay a penalty of one percent (1%) and interest of two percent (2%) per month, not to exceed twenty-five percent (25%) per annum, of the amount of the tax in addition to the amount of the tax.

B. Every penalty imposed and such interest as accrues under the provisions of this Section shall become a part of the tax herein required to be paid. Any penalty may for good cause be waived provided that a report thereof be made to the City Council.

C. Any unpaid taxes shall be considered delinquent thirty (30) days after the last day of each quarter.

D. Staff will recommend to the Business License Manager the revocation of the motel/hotel's business license if the motel/hotel operator fails to pay their Transient Guest Tax within thirty (30) days past the due date.

E. The Business License Manager will not reinstate a motel/hotel's business license until they are current in their tax payments, penalties and interest or have a signed payment agreement with the Finance Department.

SEC. 5.03.006. FAILURE TO COLLECT AND REPORT TAX-DETERMINATION OF TAX BY DIRECTOR OF FINANCE. If any operator shall fail or refuse to collect any tax or to submit within the time provided in this Article any report and/or remittance of any tax or any portion thereof required, the Director of Finance shall proceed to obtain facts and information on which to base an estimate of the tax due. As soon as the Director of Finance procures such facts and information upon which to base such an estimate or assessment against the operator of all tax, interest and penalties provided for by this Article, the Director of Finance shall give notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator at the business address.

SEC. 5.03.007. RIGHT TO HEARING.

Such operator may within ten (10) days after the serving or mailing of any notice make application in writing to the Director of Finance for a hearing on the amount assessed as transient guest tax. If such application for a hearing is not made within the time prescribed, the tax, interest and penalties, shall

become final and conclusive and immediately due and payable by such operator. If an application is received for a hearing, the time and place of such hearing shall be fixed within five days of receipt of the request. The notice for request of a hearing should show cause why the amount, specifying tax, interest and penalties should not be fixed as specified in the assessment. After such hearing, the Director of Finance shall determine the proper tax to be remitted and shall thereafter give written notice to the operator of such determination and the amount of such tax, interest and penalties.

SEC. 5.03.008. RETENTION OF RECORDS FOR TAXING PURPOSES.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Article to keep and preserve for a period of three years all records which may be necessary to determine the amount of such taxes as may have accrued to the City and for the collection or payment of which such operator is responsible. The Director of Finance shall have the right to inspect such records at all reasonable times, but shall hold the same in confidence and utilize the same only for the purposes of this Article.

SEC. 5.03.009. REFUNDS -OVERPAYMENT OF TAXES.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously collected or received by the City under this Article, it may be refunded as provided in Subsections B and C of this Section. A claim in writing must be presented stating, under penalty of perjury, the specific grounds upon which the claim is founded. The claim shall be on forms provided by the Director of Finance.

B. An operator may claim a refund or take as a credit against taxes to be remitted the amount previously overpaid, paid more than once or paid after being erroneously collected or received when it is established in a manner prescribed that the tax was paid on rent charged a person who was not a transient. However, neither a refund nor a credit shall be allowed unless the amount of the tax to be refunded or credited if collected from a tenant or other person has either been refunded to such person or credited to rent subsequently payable by such person to the operator.

C. No refund shall be paid under the provisions of this Section unless the claimant establishes a right thereto by written records showing entitlement.

SEC. 5.03.010. ACTIONS TO COLLECT TAXES OWED TO THE CITY. Any tax required to be paid by any operator under the provisions of this Article shall be deemed a debt owed by such operator to the City. Any person owing money to the City under the provisions of this Article shall be liable to an action brought in the name of the City for the recovery of such amount.

SEC. 5.03.011. UNLAWFUL ACTS -HOTEL OPERATOR. It shall be unlawful for any operator to fail or refuse to register a hotel or to submit any tax return or other financial records or to refuse to permit any necessary inspection of hotel records by the Director of Finance or to willfully render a false or fraudulent tax return or claim as required by this Article.

SEC.5.03.012.HOTEL REGISTER REQUIRED. Every Operator of a Hotel, as defined by this Chapter, shall keep a register in which the following information shall be entered legibly, either in electronic, ink, or typewritten form, prior to the room being furnished or rented to a tenant: (a) the true name and residence address for the tenant, and (b) the make, type and license number of any vehicle under the control of the tenant, if the vehicle will be parked on Hotel premises. The Register shall also show the day, month, and year when such information was entered, the day, month and year of tenant check-in, and

the room or rooms to be occupied by such persons. It shall be unlawful for any Operator to refuse or neglect to comply with the requirements of this Chapter.

SEC.5.03.13.IDENTIFICATION REQUIRED.

(a)The Operator shall require identification to be presented upon registration sufficient to confirm the identity of the tenant in the following instances: i) when a tenant obtains a right to Occupancy by paying for the room entirely in cash; ii) when a tenant has not made a prior reservation and obtains a right to Occupancy on a “walk-in” basis; and iii) when, at the time of tenant registration, the Operator does not have in its possession all of the Register information required by Sec.5.03.012(a).

(b)At the time of check in, the Operator shall record in the Register the type of identification presented, the number and expiration date of the identification presented, and the information required by Sec.5.03.012. The Operator may comply with this Section by copying and or scanning a Government issued pictured identification and recording the information in the Register.

(c) A major credit/debit card must be presented upon registration in order to reserve a room unless, at the time of tenant registration, the Operator has in its possession a major credit/debit card number from the tenant or the entity responsible for the cost of the room. This provision does not prohibit Hotels from accepting alternative methods of payment upon check out.

SEC.5.03.014.RETENTION OF REGISTER.

(a)The Operator shall keep the Register on the Hotel premises in the Tenant reception, Tenant check-in area, or in an adjacent office. The Register shall be maintained at that location on the Hotel premises for a period of three (3) years from the date of the last entry in the Register.

(b)No person shall alter, deface, or erase the Register so as to make the information recorded in it illegible or unintelligible, or hinder, obstruct, or interfere with any inspection of the Register under this Chapter.

SEC.5.03.015.REGISTER – FORMAT.

Any Register maintained in the form of a book shall be permanently bound, each page shall be sequentially numbered and the book shall be the minimum size of eight by ten inches. No page shall be removed from the book. A Register may be maintained electronically, but the electronic Register must be printable.

SEC.5.03.016.FALSE INFORMATION PROHIBITED.

It is unlawful for any tenant to use or allow the use of any name other than his or her true name in so registering.

SEC.5.03.017.FREQUENCY OF RENTAL.

The Operator shall not rent any room more than two times during any 24-hour period, beginning at 12:00 noon and ending at 12:00 noon the following day.

SEC.5.03.018.POSTING REGULATIONS.

Every Operator shall maintain a copy of these City Code provisions on the premises. Every Operator shall post in a conspicuous place on the Hotel premises, within reasonable view of any person who wishes to become tenant of the Hotel, a notice reading "City of Independence Code Regulations on hotel occupancy are available upon request."

SEC.5.03.019.EXTENDED STAYS - OCCUPANCY STANDARDS.

A. Each hotel, motel or lodging place shall only rent to and allow occupancy by transient guests, unless an existing hotel, motel or lodging place has a current special land use permit which expressly allows for stays longer than fifteen (15) days. No person may be an occupant or tenant in the facility for more than sixty (60) days in any six-month period. The owner shall develop and implement procedures to prevent stays for a longer period of time which shall be subject to review by the City.

1. **Exception: Extended stays by guests may be allowed in certain facilities which have the following physical design features and amenities:**
 - a. **Building. Each facility shall provide a main entrance to a lobby. Entry into any guest suite shall be from an interior hallway. All hallways to guest suites shall be within the interior of the building and shall be climate-controlled. All entrances into the building shall require a valid suite key card to open and shall be equipped with self-closing doors.**
 - b. **Oversized and Suite-Style Accommodations. All guest suites on the property must be set up in a suite configuration with a separate area for food preparation, dining, and other living activities. All suites must be fully furnished with bedding, table and chairs, with all linens provided.**
 - c. **Kitchenette. All guest suites must be adequately equipped for in-suite storage of food and safe preparation of meals and include:**
 - (1) **Separate Sink. Must be located outside of the bathroom and integrated within a countertop having at least 12 square feet of flat surface area;**
 - (2) **Appliances. A separate area within each suite must contain a two-burner cooktop, microwave, and efficiency-sized refrigerator/freezer at least 8 cubic feet in capacity;**
 - (3) **Vent Hood. Must be positioned immediately above the cooktop to vent steam and aromas; and**
 - (4) **Dry Storage. Cabinets must be placed above and below the countertop to provide for at least 25 cubic feet of storage of non-perishable items, separate and apart from the closet.**
2. **No facility, including those meeting the above requirements, may provide for extended stays until express authorization is noted on the facility's annual business license. Further, no such facility shall be used for long stays as a replacement for permanent housing.**

- a. In the City's sole discretion, authorization to provide for extended stays may be denied or withdrawn due to excessive qualifying calls for police service relating to: crimes of violence, unlawful drug activity, prostitution, solicitation, peace disturbances, thefts, vandalism, unlawful weapon offenses, and property crimes. In reaching this determination, the City may consider the ratio of qualifying calls for police service in the preceding twelve (12) month period, as compared to the number of rooms available for occupancy in the facility. In the event the ratio of qualifying calls for police service places the hotel in the top twenty (20%) percent of all hotels in the City; the calls for police service to that hotel will be presumed to be excessive.

B. Occupancy Standards. Owner shall develop and implement procedures to prevent stays for a longer period of time. The following items shall be included as part of the procedure, in addition to the other requirements required under this Chapter.

1. Mandatory Re-Check-In. Registered tenants (including any occupant) desiring to stay at the facility for more than seven (7) days will be required to reregister weekly and be issued new keys. For those hotels expressly allowed to register guests to stay longer than fifteen (15) days, the registered occupants may not remain in the same room for more than eight (8) weeks consecutively and shall be required to change rooms for stays of a longer duration.
 - a. Exception: For those hotels expressly allowed to register guests to stay longer than 15 days, the seven-day mandatory re-check-in and the mandatory room change every eight weeks shall not apply if the hotel is compliant with the following procedures:
 - (1) The hotel shall conduct housekeeping in each room at least once per week (which cannot be declined by the guest). In addition to any normal cleaning which may be required, housekeeping shall conduct an inspection of the room in accordance with a checklist developed and approved by the City. The staff's weekly inspection is intended to observe illegal or inappropriate behavior and safety issues. Staff shall complete the checklist and provide to hotel management. The hotel shall keep the completed checklists and a log showing the cleaning dates of each room; such records shall be kept for a minimum of two years and shall be made available to the City upon request.
 - (2) The hotel shall provide registration records to the City upon request and shall provide access so that the City may conduct periodic inspections of rooms. Such periodic inspections shall be conducted at the cost of the hotel.
 - (3) Registered occupants shall be required to re-check-in every calendar month during a stay of longer duration than 15 days. The registered occupant shall not be required to change rooms but shall be required to interact with hotel staff in the same manner as new guests checking in. The hotel shall ensure that occupancy of the room is consistent with hotel records and in compliance with the occupancy standards set forth in the Municipal Code.

2. Occupancy Limits. Occupancy limits for each room shall be determined by the Fire Marshal and shall be displayed in each room. No person may occupy a room without being registered with hotel management as an occupant. Occupancy of any room shall not exceed that fixed by the Fire Marshal at any time.
3. Refusal To Register. As permitted by the provisions of Section 315.067, RSMo., 2023, any person in charge of the facility shall refuse or deny the use of a room, accommodations, facilities or other privileges of the hotel to any person or persons exhibiting any of the following:
 - a. An individual who is unwilling or unable to pay for the room, accommodations, facilities, or other privileges of the hotel;
 - b. An individual who reasonably appears to be visibly intoxicated, under the influence of alcohol or other drug, or acts in a disorderly manner so as to be reasonably likely to create a public nuisance;
 - c. An individual the person in charge of the facility has reason to believe or reasonably believes to be seeking to use a room, accommodations, facilities or other privileges of the hotel for an unlawful purpose;
 - d. An individual the person in charge of the facility has reason to believe or reasonably believes to be bringing in anything which may create an unreasonable danger or risk to other persons, including but not limited to explosives or the unlawful use of firearms;
 - e. An individual whose use of the room, accommodations, facilities or other privileges of the hotel would result in a violation of the maximum capacity of such room, accommodation, facility or hotel.
4. Ejection From Facility. As permitted by the provisions of Section 315.075, RSMo., 2023, the person in charge of the facility shall eject a person from the hotel and notify the appropriate local law enforcement authorities for any of the following reasons:
 - a. Non-payment of charges incurred by the individual renting a room, accommodations or facilities of the hotel when the charges are due and owing;
 - b. Any individual renting a room, accommodations or facilities of the hotel who is visibly intoxicated, under the influence of alcohol or other drug or acting in a disorderly manner;
 - c. Any individual the person in charge of the facility has reason to believe or reasonably believes is using the premises for an unlawful purpose;
 - d. An individual the person in charge of the facility has reason to believe or reasonably believes to have brought something into the hotel which may create an unreasonable danger or risk to other persons, including but not limited to unlawful use of firearms or explosives; and


- e. Any individual the person in charge of the facility has reason to believe or reasonably believes to be in violation of any Federal, State or local laws or regulations relating to the hotel.

SEC.5.03.049 020.PENALTY FOR VIOLATION.

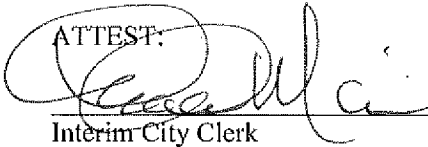
- A. PENALTIES. Any person found guilty of a violation of this chapter of the City Code shall be subject to a fine of up to Five Hundred Dollars (\$500.00) and to incarceration for a term not to exceed six months.
- B. Continuing Violation. Unless otherwise provided, a person, firm, corporation or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

SECTION 3. That all other parts and provisions of the City Code not in conflict herewith shall remain in full force and effect unless previously or subsequently amended or repealed.

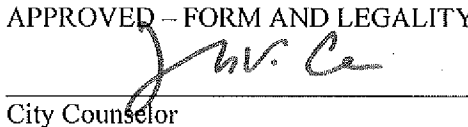
PASSED THIS 5ⁿ DAY OF September, 2023, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.



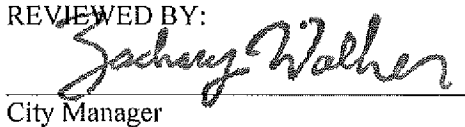
Presiding Officer of the City Council
Of the City of Independence, Missouri

ATTEST:


Interim City Clerk

APPROVED – FORM AND LEGALITY:


City Counselor

REVIEWED BY:


City Manager

NOTE: Text ~~struck through~~ and **bolded** are being removed by this Ordinance and words underscored and **bolded** are being added by this Ordinance.