

ORDINANCE NO. 92-01

AN ORDINANCE OF THE CITY OF WEST MIAMI, FLORIDA, AMENDING CHAPTER 9 BY ADDING ARTICLE V HOTEL AND MOTEL LICENSING AND REGULATIONS, AND SUBSECTIONS THERETO; PROVIDING FOR DEFINITIONS, LICENSES, FEES, AND REGULATIONS RELATING TO HOTEL AND MOTEL ESTABLISHMENTS; PROVIDING SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR PENALTY; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission finds that operations of hotel and motel establishments within the City has caused and is causing extraordinary police enforcement activities relating to such establishments by reason of crimes, disturbances, complaints and public nuisances which have occurred in and upon the premises of said establishments;

WHEREAS, the City Commission has determined by reason thereof that there exists a need for regulatory licensing of hotel and motel establishments within the City to safeguard and protect the public health, safety and general welfare.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WEST MIAMI, FLORIDA:

Section 1. Chapter 9 of the West Miami Code be and is hereby amended by adding Article V. Hotel and Motel Licensing and Regulations and subparagraphs thereof, as follows:

ARTICLE V. Hotel and Motel Licensing and Regulations

Sec. 9-126. Definitions. As used in this ordinance;

1. Operator means the owner, licensee, proprietor, lessee, manager, assistant manager or appointed agent of a hotel or motel establishment.

2. Hotel is any unit, dwelling, building, or group of buildings within a single complex of buildings, which is kept, used, maintained, or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants, and which is recognized as a hotel by the public or by the industry.

3. Motel is any unit, dwelling, building, or group of buildings within a single complex of buildings, which is kept, used, maintained, or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants which offer rental units with an exit to the outside of each rental unit, daily or weekly rates, off-street parking for each unit, a central office on the property with specified hours of operation, a bathroom or connecting bathroom for each rental unit which is recognized as a motel in the community in which it is situated or by the industry.

4. License division or license department means the City Clerk or designee of the City of West Miami, Florida, which is responsible for issuing licenses and collecting license fees.

Sec. 9-127. Duties of Police Department. The police department shall carry out all of the provisions of this ordinance

and all other laws relating to the inspection or regulation of hotel and motel establishments, for the purpose of safeguarding the public health, safety and welfare. The police department shall be responsible for ascertaining that no hotel or motel licensed by the City, engage in any misleading advertising or unethical practices.

Sec. 9-128. Inspection of premises. The police department or its designee, may inspect each hotel or motel establishment and for that purpose the police department or its designee shall have the right of entry and access to such establishments at any reasonable time.

Sec. 9-129. Maintenance of guest register. It is the duty of each operator of a hotel or motel establishment renting to transit guests, to maintain at all times a register, signed by each guest who occupy rental units within the establishment, showing the name, permanent address, times and dates on each occupancy by such guest of any rental unit, and the rates charged for their occupancy. The register shall be maintained in chronological order and available for inspection by the police department or its designee at any time. Operators need not make available registers which are more than two (2) years old. Each operator shall maintain at all times, a current copy of this ordinance in the office of the establishment, which shall be made available to the public upon request.

Sec. 9-130. Conduct on premises; refusal of service. The operator of a public hotel or motel establishment may refuse accommodations to any person whose conduct on the premises of the

establishment displays intoxication, profanity, lewdness, or brawling; who indulges in language or conduct such as to disturb the peace or comfort of other guests; who engage in illegal or disorderly conduct; who illegally possesses or deals in control substance as defined in Chapter 893, Florida Statutes; or whose conduct constitutes a nuisance.

Sec. 9-131. Disorderly conduct on the premises of an establishment; detention; arrest; immunity from liability. A law enforcement officer may arrest, either on or off the premises of the hotel or motel establishment and without a warrant, any person the officer has probable cause to believe the person was engaging in disorderly conduct in violation of Section 877.03, Florida Statutes, on the premises of the licensed hotel or motel establishment and in the course of such violation, created a threat to life or safety of the person or others. A law enforcement officer who makes an arrest under the foregoing subsection, is not civilly or criminally liable for false arrest or false imprisonment or both. A person who resists reasonable efforts of a law enforcement officer to detain or arrest that person in accordance with this section, shall upon conviction be fined not more than \$500.00 or be imprisoned for not more than 60 days or shall be both fined and imprisoned in the discretion of the court.

Sec. 9-132. License required: Licenses; annual renewals.

a. No hotel and motel business establishment shall engage in the business of rental of hotel and motel rooms and facilities without first filing application, initial or renewal, with the City Clerk of the City of West Miami and obtaining a license from the City to engage in such business.

b. Such license may not be transferred from one place or one individual to another.

c. The City shall refuse a license or renewal thereof to any establishment that is not constructed, operated and maintained in accordance with applicable Federal, State, County and municipal laws and the rules of the Division of Hotel and Restaurants of the Department of Business Regulations of the State of Florida. The City shall refuse to issue a license or renewal thereof to any establishment and operator of which, within the proceeding five (5) years, has been adjudicated guilty of or has forfeited a bond when charged with, any crime reflecting on professional character, including soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in control substance as defined in Chapter 893, Florida Statutes, whether in this State or any other jurisdiction within the United States, or has had a license denied, revoked, or suspended by any applicable Federal, State, County or municipal agencies.

d. Licenses shall be renewed annually on or before October 1st of each and every year.

e. The requirements for the license herein provided are requirements separate and apart from and in addition to the license requirements for City Occupational License under Section 9-1 of Article I this Chapter. The required license under this ordinance is a regulatory license and not a revenue license.

Sec. 9-133. Application, fees and standards.

a. Any person desiring to operate a hotel or motel shall obtain an initial license or renew a previously issued and unrevoked license and shall submit an application along with a non-refundable processing fee of \$250.00 annually to the licensing division in the form prescribed by the licensing division. The application and all supporting documents shall be retained by the licensing division. All application shall include: (1) name of establishment; (2) if establishment is a corporation, the name, date and State under whose laws such corporation was organized, and if a foreign (out-of-state) corporation, whether such corporation is authorized to do business in the State of Florida, the fictitious name under which the corporation may be doing business, the name of the principal officers, directors, resident agent and local representatives, and their business addresses; (3) if the establishment is a partnership, the partnership name under which the partnership may be doing business, the name, business address of each partner; (4) if the establishment is a sole proprietorship, the name under which the sole proprietorship may be doing business, the name, business address of the natural person who owns, controls or directs the sole proprietorship; (5) the signature of the president or vice-president of the applicant corporation or the signature of a partner of the applicant partnership, or the signature of the nature person who owns, controls or directs the applicant sole proprietorship; and (6) number of rental units in each establishment; and (7) date of proposed commencement of operation, if initial application; and

(8) such other information or data that the City Manager or Chief of Police may consider appropriate for his background investigation.

b. Standards for issuance of license. The City Manager or designee, shall approve the application for issuance or renewal of a license hereunder where he or his designee finds:

1. That the application has been fully completed and submitted; and

2. The initial or renewal application fee has been paid; and

3. The applicant has been subject to a complete background investigation by the Chief of Police or his designee, and has been found to be of good moral character, or that applicant, if a corporation, does not have an officer or director, who is or was an officer, director, partner or sole proprietor of a hotel or motel establishment which has a currently suspended license or has had a license revoked by action of the City Manager or his designee of the City of West Miami as of the date of the application; and

4. That the applicant, if a partnership, does not have a partner who is or was an officer, director, partner or sole proprietor of a hotel or motel establishment which has a currently suspended license or has had a license revoked by action of the City Manager or his designee of the City of West Miami within five (5) years of the date of the application; and

5. That the applicant, if a sole proprietorship, does not have a sole proprietor who is or was an officer, director, partner or sole proprietor of a hotel or motel establishment which has a currently suspended license or has had its license revoked by the City Manager or his designee of the City of West Miami within five (5) years of the date of application; and

6. That the license of the applicant is not currently under suspension; and

7. That the applicant has all licenses in good standing with the State of Florida, County of Dade and City of West Miami.

Sec. 9-134. License fees. In addition to the application fee, there shall be a regulatory license fee charged to each hotel and motel establishment of Two Dollars (\$2.00) for each occupancy per day or less of each rental unit, payable to the City on or before the 10th day of the following month. There shall be a late fee of Five Percent (5%) if not paid on the due date. In the event any rental unit is rented more than once per day, then and in that event, each change of occupancy shall require an additional \$2.00 per change of occupancy per day. Said license fee may be increased or decreased as determined and established by resolution of the City Commission from time to time. Licenses shall be issued in the name of the hotel or motel establishment meeting the standards and requirements of this ordinance.

Sec. 9-135. Display of license. Any license issued by the City shall be conspicuously displayed in the office or lobby of the licensed establishment.

Sec. 9-136. Revocation or suspension of license; fines, costs, investigation; proceedings and appeals. On its own motion or the written complaint of any person, the Police Department may investigate the action of a hotel or motel establishment licensed under this article and may cause to be conducted a proceeding before the City Manager or his designee of the City of West Miami, to consider and determine whether or not a violation or violations of this Ordinance has occurred. A notice of the time and place of the proceedings shall be delivered or mailed by certified mail to the operator of the subject hotel or motel establishment at its street address in the City of West Miami, where such establishment is operating, at least fifteen (15) days before the commencement of the proceeding. At the proceeding, witnesses shall be sworn and the Rules of Evidence applicable to quasi judicial proceedings shall govern and the operator of said establishment shall be given an opportunity to be heard.

A finding of fact by the City Manager of the City of West Miami, or his designee, that the licensed establishment has violated any provisions of this ordinance or has not complied with any other applicable Federal, State, County or municipal laws or ordinances or any rules and regulations shall be sufficient grounds for the City Manager or his designee, to revoke or suspend the license of the hotel or motel establishment and/or fine the licensee in an amount not more than Five Hundred Dollars (\$500.00)

payable to the City. Such fine shall be in addition to any other penalties that may be imposed. In such event, the City Manager or his designee shall assess the costs of the proceedings against the establishment.

Upon a determination that there has been a violation of Section 9-129 of this ordinance, the City Manager or his designee shall issue a written reprimand and a warning on the first violation, a thirty (30) day suspension of license for the second violation, and revocation of the license for the third violation.

Any decision of the City Manager or his designee shall be final, unless within thirty (30) days an appeal from such findings of fact are made to the City Commission. At its next meeting, the matter shall then be reviewed solely upon the record of the proceedings before the City Manager or his designee.

Any aggrieved person, agent or representative, filing an appeal from the decision of the City Manager or his designee shall pay a fee of Fifty Dollars (\$50.00) and a deposit of Three Hundred Dollars (\$300.00) to cover the cost of transcribing the proceedings to the City Clerk upon filing such appeal. Upon such payment, an appeal shall stay all proceedings in the matter appealed from except if there is a fine imposed, said fine shall be paid to the City Clerk at the time of filing the appeal. In the event the City Commission reverses the decision of the City Manager or his designee, then and in that event said fine shall be refunded.

Section 2. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 3. If any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 4. Any person violating the provisions of this ordinance shall, upon conviction, be fined not more than Five Hundred Dollars (\$500.00) or be imprisoned for not more than sixty (60) days, or shall be both fined and imprisoned, in the discretion of the court. Each day that such violation shall continue shall constitute a separate offense.

Section 5. It is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the West Miami Code; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section, article" or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. This Ordinance shall take effect thirty (30) days from date of passage.

PASSED AND ADOPTED this 8th day of January, 1992.

APPROVED:




MAYOR

ATTEST:



CITY CLERK

Approved as to form and sufficiency


CITY ATTORNEY

Roll Call Vote:

Mayor Reboredo y
Vice Mayor Sosa y
Commissioner Busse Abs
Commissioner Herbert y
Commissioner Trigo y

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