

ORDINANCE NO. 5033

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, ADOPTING NEW TITLE 6, CHAPTER 23 OF THE MESA CITY CODE RELATING TO HOTEL REGISTRATION AND RECORDS.**

**WHEREAS**, the City of Mesa is committed to ensuring the public health, safety, prosperity, security, comfort, convenience and general welfare of its residents and the visiting public; and

**WHEREAS**, hotels and motels have presented unique challenges for law enforcement given the transitory nature of the business, which makes some hotels or motels havens for criminal activity; and

**WHEREAS**, a cooperative effort between the City of Mesa and hotel owners, motel owners and/or operators is the strongest tool to eliminating criminal activity and improving the safety of residents and the visiting public,

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA AS FOLLOWS:**

SECTION 1: There is hereby adopted a new Chapter of the Mesa City Code in Title 6, Police Regulations, entitled Chapter 23, Hotel Registration and Records.

SECTION 2: Sections 6-23-1 through 6-23-5, as set forth herein, are hereby adopted.

**Section 6-23-1:**

**Definitions**

In this Chapter the following words and phrases shall have the meanings stated in this Section unless the context otherwise requires:

**HOTEL:** any public or private space or structure, building or part of a building or group of buildings including but not limited to any hotel, inn, hostelry, tourist home, house, motel, rooming house, apartment house, trailer, hostel, youth hostel or other place within the City offering lodging designed for or primarily occupied by transients for a fee, rent or in exchange for any form of consideration including money or any other thing of value. It does not include foster homes, rest homes, sheltered care homes, nursing homes, licensed health care facilities, jails, half-way houses, hospitals, asylums, sanitariums, orphanages, prisons or detention facilities.

**OPERATOR:** Any person, partnership, corporation or association who owns, leases, controls, manages, operates or is employed by a hotel.

**PRE-APPROVED IDENTIFICATION SYSTEM:** A database of information maintained by a hotel's corporate office, such as a gold club membership or frequent stay rewards program,

that requires a registrant to register online and identify him-or herself in exchange for certain benefits or perquisites offered by the hotel.

**REGISTRATION RECORDS:** a register maintained by a hotel containing the name and method of payment of every person who rents, pays a fee, or exchanges anything of value to occupy a room in the hotel, for any period of time. Such register shall include all information required by this Chapter.

**REGISTRANT:** at least one person over the age of eighteen who shall occupy the available lodging at a hotel. In the event of a family or youth group activity requiring the reservation of multiple rooms under one adult name, that adult shall be the registrant for all such rooms.

**RESPONSIBLE PARTY:** Any operator who violates provisions of this Chapter or has control over any operator who violates a provision of this Chapter.

**OCCUPANT:** a person other than the registrant, who occupies, dwells in, controls or takes possession of available lodging at a hotel for any period of time.

**TRANSIENT:** any person who obtains lodging or the use of any lodging on a temporary basis.

#### **Section 6-23-2: REGISTRATION AND RECORDS REQUIREMENTS**

(A) Operators shall require every registrant to provide evidence of identity:

- 1) through a pre-approved identification system; or
- 2) through credit card payment; and/or
- 3) through a government issued identification or other identification, which contains the following information
  - a. Person's full name;
  - b. Person's date of birth or age;
  - c. Person's residence address; and
  - d. Photograph of the person

(B) Operators shall keep a record of all registrants of the hotel which shall include the name and residence or billing address of the registrant, in addition to the following information:

1. The day, month, year and time of arrival of the registrant;
2. The number or location of the room(s) assigned to the registrant;
3. The date that the registrant and occupant(s) are scheduled to depart;
4. The rate charged and amount collected for the lodging; and
5. The method of payment for the lodging.

(C) In addition, if evidence of identity is provided under Section (A)(3) above, and the registrant pays by cash to occupy the room, operators shall take reasonable steps to verify

the identification presented by the registrant and operators shall keep a record of items (A)(3)(b) and (A)(3)(c).

(D) Operators may request that all registrants provide the make, model and license plate number and state of any vehicle parked on hotel premises, and this information, if provided, shall be kept with the registration records of the hotel.

### **Section 6-23-3: MAINTENANCE AND INSPECTION OF RECORDS**

(A) Operators shall keep and maintain all registration records required by this Chapter for a period of 30 calendar days from the date of departure.

(B) No registration record(s) as defined in this Chapter shall be altered, erased or defaced so as to interfere with any inspection of the record. The registration records may be maintained in an electronic format, so long as the records comply with other provisions of this Chapter.

(C) The Mesa Police Department is hereby authorized to make inspections of the registration records to determine compliance with the provisions of this Chapter, in connection with any lawful investigation or for any other lawful purpose.

(D) Information contained in the registration records remains the property of the hotel and shall not be subject to public disclosure or considered public record unless such registration records become part of a City record; in such event, such information shall only be disclosed in accordance with public records laws.

(E) It is unlawful for any operator of a hotel to fail to maintain the registration records required by this Chapter or to fail to make the records available to the Mesa Police Department for inspection or investigation or any other law enforcement purpose upon demand.

### **Section 6-23-4: COMMENCEMENT OF AN ENFORCEMENT ACTION; CIVIL VIOLATIONS**

(A) Any police officer or City employee designated by the City Manager is authorized to commence an enforcement action under the provisions of this Chapter by issuing a uniform civil code complaint citation in substantially the form authorized under Title I of the Mesa City Code.

(B) Nothing in this Section shall preclude City employees from seeking voluntary compliance with the provisions of this Chapter, or from enforcing this Chapter through notices of violation, warnings or other informal devices designed to achieve compliance in the most efficient and effective manner under the circumstances.

(C) The responsible party shall, within ten (10) days of the issuance of the citation, either pay the civil sanction and the fees, or appear in person or through an attorney before the Civil Hearing Officer and admit or deny the allegations contained in the citation. If the responsible party pays the civil sanction and the fees, either in person or by mailing

payment to the City, the allegations in the citation shall be deemed admitted and such person shall be deemed responsible for having committed the offense(s) described in the citation. If the responsible party appears and admits the allegations, the Civil Hearing Officer shall enter judgment against the responsible party in the amount of the civil sanction, plus any applicable fees designated in 6-23-5. If the responsible party appears and denies the allegations contained in the citation, the Civil Hearing Officer shall set the matter for hearing.

(D) If a responsible party served with a citation fails to pay the civil sanction and the fees or to appear on or before the time directed to appear or at the time set for hearing by the Civil Hearing Officer, the allegations in the complaint shall be deemed admitted, and the Civil Hearing Officer shall enter a finding of responsible and a judgment for the City and impose a civil sanction plus the applicable fees and charges in accordance with Section 6-23-5 of this Chapter.

(E) All proceedings before the Civil Hearing Officer shall be non-adversarial, informal and without a jury, except that testimony shall be given under oath or affirmation. The technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the allegations in the citation are denied, the City is required to prove violations of this Chapter by a preponderance of the evidence. No prehearing discovery shall be permitted, unless the Hearing Officer determines good cause exists otherwise. The Civil Hearing Officer is authorized to make such orders as may be necessary or appropriate to fairly and efficiently determine the truth and decide the case at hand. An appeal from final judgments of the Civil Hearing Officer may be taken pursuant to the Rules of Procedure for Special Actions of the Arizona Supreme Court, Volume 17B of the Arizona Revised Statutes.

(F) Any judgment issued pursuant to this Article may be collected as any other civil judgment.

#### **6-23-5: CIVIL PENALTIES**

(A) Any operator who is found responsible for a civil violation of this Chapter, whether by admission, default, or after a hearing, shall pay a civil sanction of not less than two hundred fifty dollars (\$250.00) or more than one thousand five hundred dollars (\$1,500.00). A second finding of responsibility for a violation of this Chapter shall result in a civil sanction of not less than two hundred and fifty dollars (\$250.00) or more than two thousand five hundred dollars (\$2,500.00). A third finding of responsibility for a violation of this Chapter shall result in a civil sanction of not less than five hundred dollars (\$500.00) or more than two thousand five hundred dollars (\$2,500.00).

(B) The Hearing Officer may take mitigating factors into consideration such as the size of the hotel to include the number of units and previous calls for police service in determining the amount of the sanction.

(C) The Hearing Officer may grant cost recovery for law enforcement services and/or establish a surcharge.

(D) Each subsequent violation shall be a separate offense, punishable as hereinabove described.

SECTION 3: SEVERABILITY.

If any provision of this ordinance is held to be unenforceable or unconstitutional by a court of competent jurisdiction, the remaining provisions shall remain in effect.

SECTION 4: EFFECTIVE DATE.

This ordinance shall become effective 90 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona this 21<sup>st</sup> day of March, 2011.

APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
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City Clerk

