

CITY OF ENGLEWOOD

IN

MONTGOMERY COUNTY, OHIO

ORDINANCE NO: 16-01

Passed: January 26, 2016

**AN ORDINANCE: ENACTING NEW CHAPTER 858 OF THE
ENGLEWOOD CODIFIED ORDINANCES,
ENTITLED "HOTEL/MOTEL OPERATIONS"**

WHEREAS, there is a need to establish a Chapter in the Englewood Codified Ordinances for the purpose of regulating hotels and motels operating in the City of Englewood; and

WHEREAS, City Council is aware of problem hotels and motels operating in the City of Englewood, as well as the widespread, negative impact of repeated patterns of criminal nuisance activity surrounding their operations. Currently, Chapter 1454 regulates Nuisance Abatement; however, that Chapter does not provide sufficient remedies to address the specific problem of hotels/motels, nor does it provide a prophylactic mechanism to address hotel/motel problems before the start to negatively impact the city and its residents; and

WHEREAS, proposed Chapter 858 will establish licensing requirements and regulations for hotels and motels operating in the City of Englewood, providing comprehensive regulations for all hotel and motel owners or operators and will require the licensing and permit the inspection of hotels and motels operating on private property by certain designated city departments. The code will regulate how they operate and streamline the application and licensing process and establish a hearing and appeal process; and

WHEREAS, Chapter 858 culminates the city's comprehensive review of studies and legislation enacted by other municipalities with similar issues, discussions with concerned citizens, as well as many internal meetings. Throughout this process, the City has attempted to devise clear and fair regulations that support public health and safety, as well as economic growth and the vitality of our city; and

WHEREAS, the application of certain provisions of this code will be suspended temporarily for the following purposes: Sections 858.02 and 858.03 will be suspended until July 1, 2016, to allow time for the identification and pre-designation of all hotels and motels currently in good standing with the State of Ohio, Department of Commerce, Division of State Fire Marshal; and

WHEREAS, this Ordinance establishes language and authorizes the enactment of Chapter 858 of the Englewood City Code for the above-described purposes; and

WHEREAS, the City can and does exercise all powers of local self-government.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ENGLEWOOD, MONTGOMERY COUNTY, OHIO, AS FOLLOWS:

SECTION I. That new Englewood City Code Chapter 858 entitled "HOTEL/MOTEL OPERATIONS" be and hereby is enacted as follows:

CHAPTER 858 – HOTEL/MOTEL OPERATIONS

858.01 DEFINITIONS.

As used in this Chapter:

- (a) "Hotel/motel" means any structure consisting of one or more buildings, with more than five sleeping rooms, that is kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered for pay to guests, including, but not limited to, such a structure denoted as a hotel, motel, motor hotel, lodge, motor lodge, bed and breakfast, or inn.
- (b) "Hotel/motel operation" means the occupancy of any guestroom or use of any hotel/motel facility.
- (c) "Guest" means any person that occupies a guestroom.
- (d) "Guestroom" means a room offered to the public for a fee that contains, at a minimum, provisions for sleeping.
- (e) "Owner" means a corporation, firm, partnership, association, organization and any other group acting as a unit, or a person who has legal title to any structure or premises with or without accompanying actual possession thereof, and shall include the duly authorized agent or attorney, a purchaser, devisee, fiduciary and any person having a vested or contingent interest in the premises in question.
- (f) "Operator" means any person who works at a hotel/motel in a capacity to facilitate the offering of guestrooms to guests, including, but not limited to, front desk workers.
- (g) "Manager" means the general manager, shift manager, or any person in any supervisory position at the hotel/motel.
- (h) "Employee" means any person who earns qualifying wages, commissions or other type of compensation from the hotel/motel.
- (i) "Calls for service" means any and all calls, including but not limited to those to law enforcement or the fire department that result in a request that a representative be dispatched or directed to the hotel/motel, when those responses:

- (1) **Allege evidence of criminal activity;**
- (2) **Result in an arrest, charge or citation; or**
- (3) **Find an imminent threat to safety of persons or property.**

(j) "Calls for service ratio" means the number of calls for service divided by the number of rooms in service at the hotel/motel.

(k) "Director" means the City Manager or the Director's authorized designee.

858.02 PERMIT REQUIRED.

- (a) No person shall engage in, conduct, or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises in the city of Englewood, the operation of a hotel/motel without obtaining a permit in accordance with this Chapter.
- (b) An application for a new permit may be submitted at any time to the Director. If the application is approved and a permit is issued, the permit shall take effect on the day of issuance, and shall expire on December 31st of the year in which it was issued.
- (c) A permit to operate a hotel/motel shall be renewed by the applicant at the end of each calendar year. The deadline for submitting an application for renewal shall be the first Monday of November of the year in which the permit is set to expire. Failure to renew shall result in expiration on December 31st. If a permit is successfully renewed, it shall be in effect for one calendar year, beginning on January 1st and expiring on December 31st of the same year.

858.03 APPLICATION FOR HOTEL/MOTEL PERMIT, NEW AND RENEWAL.

- (a) An application for a new permit, and/or for renewal of a permit, shall be made to the Director, upon approved forms, for a permit fee of one hundred dollars (\$100.00).
- (b) The application for a permit to operate a hotel/motel shall contain the following information:
 - (1) Name of the applicant, including mailing address, telephone number, and email address. If the applicant is a corporation, firm, partnership, association, organization or other group acting as a unit the applicant shall provide the name of the entity set forth exactly as shown on its articles of incorporation or organization, mailing address, telephone number, and email address of an individual who is the statutory agent, president, or managing individual, the state in which the company is incorporated or registered, and the entity or corporation number;
 - (2) Name of the hotel/motel, including address, telephone number, and email address;

(3) The legal owner or owners of the property, including mailing address, telephone number, and email address. If the property owner is a corporation, firm, partnership, association, organization or other group acting as a unit, the applicant shall provide the name of the entity set forth exactly as shown on its articles of incorporation or organization, as well as the mailing address, telephone number, and email address of an individual who is the statutory agent, president, or managing individual, the state in which the company is incorporated or registered, and the entity or corporation number;

(4) If an owner of the property has executed a land contract, lease agreement, management agreement, or any other agreement separating the owner from control over the property and/or the hotel/motel, the applicant shall include a copy of said agreement along with the application;

(5) The names and addresses of any other hotel/motels located in City of Englewood that the applicant or property owner has any interest in, including, but not limited to, ownership, licensure, or management;

(6) Name of the hotel/motel operator, including mailing address, telephone number, and email address;

(7) The number of guestrooms in service in the hotel/motel; and

(8) A letter of good standing from the City of Englewood Income Tax Division.

(c) The applicant must notify the Director of any change in information contained in the permit application within ten (10) days of the change.

(d) Any change in ownership of the hotel/motel, the building, or the business, change in operator, or change in name of the hotel/motel, shall void the current permit and shall require submission of a new application and the issuance of a new permit.

858.04 GROUNDS FOR DENIAL.

(a) The Director shall issue a new permit, or grant the renewal of an existing permit, except as provided in divisions (b) or (c) of this Section.

(b) The Director shall deny any application for a new permit, or renewal of permit, if any of the following are shown to have occurred at the hotel/motel property:

(1) The applicant makes a material misrepresentation of fact on the application;

(2) Any owner, applicant, operator, or manager of the hotel/motel is shown to have been convicted of the act of prostitution or soliciting for prostitution, or an act that would constitute a violation of the Ohio Revised Code Chapters 2925 or 3719, on the premises of the hotel/motel in question, or any

hotel/motel in which that individual has any interest in, including, but not limited to, ownership, licensure, or management;

(3) The applicant or owner of the hotel/motel does not have a valid State of Ohio license as defined in Ohio Revised Code Section 3731.03; and/or

(4) The property on which the hotel/motel is located is not in good standing with the City of Englewood Income Tax Division.

(c) The Director may deny any application for a new permit, or renewal of permit, if any of the following are shown to have occurred at the hotel/motel property:

(1) The hotel/motel has outstanding orders from the Englewood Fire Chief that have not been corrected;

(2) There has been a pattern of felony drug related activity as defined in Ohio Revised Code Section 2923.01;

(3) There has been a pattern of prostitution related activity or evidence of human trafficking as defined in Ohio Revised Code Section 2923.31;

(4) There has been a pattern of gang related activity as defined in Ohio Revised Code Section 2923.41;

(5) The annual calls for service ratio for the hotel/motel is equal to or greater than 1.2 per room during the past 12 month period;

(6) The hotel/motel has a documented history of repeated offenses of violence as defined in Ohio Revised Code Section 2901.01;

(7) The owner, applicant, operator, or manager has not made a good faith effort to correct violations of Sections 858.04 and 858.09 of this Chapter, or has obstructed or interfered with correction of the violations;

(8) Any owner, applicant, operator, or manager of the hotel/motel is shown to have engaged in the act of prostitution or soliciting for prostitution, or an act that would constitute a violation of the Ohio Revised Code Chapters 2925 or 3719, on the hotel/motel premises in question, or any hotel/motel in which that individual has any interest in, including, but not limited to, ownership, licensure, or management;

(9) The applicant or any owner of the hotel/motel has hindered or prevented any inspection of the hotel/motel authorized by Chapter 1454 of the Englewood Codified Ordinances or is otherwise the subject of a violation of Chapter 1454.

(d) Evidence of conduct under divisions (b) and (c) of this Section need only be that of de facto violation of law. Evidence of conviction is not a prerequisite for denial unless specifically indicated.

858.05 OBJECTION, REVOCATION AND SUSPENSION OF HOTEL/MOTEL PERMIT.

(a) The Director may object to a new permit application or a renewal application if it is determined that activities set forth in divisions (b) or (c) of Section 858.04 are shown to have occurred at the hotel/motel.

(b) At any time during the calendar year, the Director may revoke and/or suspend a hotel/motel permit if it is determined that activities set forth in divisions (b) or (c) of Section 858.04 are shown to have occurred at the hotel/motel.

858.06 APPEALS, HEARING, AND REMEDY PROCESS.

(a) Any person aggrieved by a decision of the Director with respect to denying the issuance or renewal of a permit, or revoking or suspending a permit, may appeal from such order to the Englewood Hotel/Motel License Appeals Board, which shall be comprised of same members as the Property Maintenance Hearing Board established in Section 1453.18 ("Board"). All appeals shall be perfected in the following manner:

(1) The appellant must file a written notice of appeal with the Board, on a form approved by the Board, within ten (10) days after receipt by him/her of the decision from which he/she appeals. The notice of appeal must have the name of the appellant and the address to which a copy of the final decision should be delivered. Appeals should be addressed to the City of Property Maintenance Hearing Board, c/o Clerk of Council, 333 W. National Road, Englewood, Ohio 45322.

(2) The appellant must deposit with the Board a fee of two hundred fifty dollars (\$250.00), which sum shall be nonrefundable. Otherwise, the deposit shall be forfeited and placed into the general fund of the city.

(3) Within five (5) days after receipt by the Board of the notice of appeal, the Board shall cause a true copy of the notice of appeal to be docketed with the Chairperson of the Board.

(4) Within thirty (30) days after receipt by the Board Chairperson of the notice of appeal the Chairperson shall cause a meeting of the Board to be convened for the purpose of reviewing the decision being appealed. The Board may, or may not at its discretion, request additional evidence to be presented. The appellant and his/her designated counsel if applicable will be provided with at least fourteen (14) days' prior, written notice of the date, time, and location of the hearing, which notice shall be served personally, by posting on the hotel/motel premises, by nationally recognized overnight mail carrier, or by certified mail to the address indicated in the notice of appeal. At the hearing the appellant shall be provided the opportunity to be heard in his/her defense either in person or by counsel and is allowed to produce witnesses and testify on his/her own behalf. A stenographic record of the hearing may be taken upon request. The hearing may be adjourned from time to time. For purposes of this Section, the Board may administer oaths, take testimony, subpoena witnesses, and compel the

production of books, papers, records and documents deemed pertinent to the subject of the appeal. The Board may affirm, reverse, or revise the decision being appealed in a written order. The Board shall serve a copy of its order to the appellant personally, by posting on the hotel/motel premises, by nationally recognized overnight mail carrier, or by certified mail to the address indicated in the notice of appeal within ten (10) days after the Board's hearing.

(5) A ruling by the Board may be appealed by the appellant to the Montgomery County Common Pleas Court. The appeal must be filed within thirty (30) days of the date of the Board's order.

(b) An action to issue, deny, revoke, suspend or renew a permit may be stayed at the discretion of the Director should the affected party take specific steps to remediate problems outlined in the notice of denial, revocation and suspension that include but are not limited to some or all of the following actions as determined by the Director:

(1) Completion of approved safety and security training, and/or training to identify criminal activity such as human trafficking;

(2) 24-hour presence of special duty uniformed police or qualified security;

(3) Installation of safety and security measures such as fencing, lighting, public space surveillance, etc.;

(4) Voluntary sharing of guest information with law enforcement;

(5) Voluntary participation in right-of-entry programs with law enforcement agencies;

(6) Implementation of minimum age of 21 for check-in for lodging properties;

(7) Requirement of use of valid credit card at check in; and/or

(8) Additional remediation actions as approved by the Director.

(c) All potential remedies outlined in division (b) of this Section must be approved by the Director.

858.07 AUTHORITY TO CONDUCT INSPECTIONS.

(a) Upon display of the proper credentials, the City Manager or any officer or employee of the Englewood Department of Police, Department of Fire, Department of Community and Economic Development, or Department of Health shall be permitted to inspect the hotel/motel premises to ensure compliance with this Chapter.

(b) If the request for inspection described in division (a) of this Section is denied, the City Manager or any officer or employee of the Englewood

Department of Police, Department of Fire, Department of Community and Economic Development, or Department of Health may seek an administrative search warrant from a court of competent jurisdiction authorizing said inspection.

858.08 TRANSFER OF HOTEL/MOTEL PERMIT NOT PERMITTED.

- (a) No permit under this Chapter shall be transferable to another person, corporation, firm, partnership, association, organization or other group acting as a unit.
- (b) No permit under this Chapter shall be transferable to another hotel/motel name or franchise, or hotel/motel location or building.

858.09 HOTEL/MOTEL PERMIT.

- (a) The hotel/motel shall maintain the permit on the premises and shall display it in a prominent area that can be seen from the front desk.

858.10 RULES AND REGULATIONS.

- (a) The Director may promulgate and enforce reasonable rules and regulations to carry out the intent of this Chapter.

858.11 SEVERABILITY.

- (a) In the event any Section or provision of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

858.12 PENALTY.

- (a) Whoever violates Section 858.02(a) of this Chapter shall be guilty of a misdemeanor of the first degree. Anyone who has previously been convicted of or pleaded guilty to an offense under this Section shall be guilty of a misdemeanor of the first degree, and shall serve no less than 30 days in jail.
- (b) Whoever violates Section 858.09(a) of this Chapter shall be guilty of a minor misdemeanor.

SECTION II It is hereby found and determined that all formal actions of this City Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION III That this Ordinance shall be in full force and effect at the earliest date allowed by law.

PASSED THIS 26th DAY OF January, 2016.

Patricia Burnside
PATRICIA BURNSIDE, MAYOR

ATTEST:

Kerry Norman
KERRY NORMAN, CLERK OF COUNCIL

C E R T I F I C A T E

I, Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio, do hereby certify the foregoing is a true and correct copy from the *Record of Proceedings* of said City. WITNESS my signature this 26th day of January, 2016.

Kerry Norman

Kerry Norman, Clerk of Council

CERTIFICATE OF POSTING

I, Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio, do hereby certify publication of the foregoing ORDINANCE was made as designated by Sections 224.01 and 24.02 of the Englewood Code.

Kerry Norman

Kerry Norman, Clerk of Council