

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: November 22, 2022

TOPIC: **Introduction of an Ordinance:** Add Chapter 230, Transient Housing, to the City Code

Charter Amendment	_____
Code Amendment	_____
Ordinance	<u> X </u>
Resolution	_____
Other	_____

MOTION: I hereby move that the Mayor and City Council introduce an ordinance to add Chapter 230, Transient Housing, to the Code of the City of Hagerstown. This added chapter will:

1. Establish a licensing program for transient housing facilities which includes hotels, motels, inns, bed & breakfast structures and short-term rentals;
2. Enact license fees for transient housing facilities based on tier level for hotels and license fees for bed & breakfasts and short-term rentals;
3. Create a tier structure related to calls for service ratio for hotels;
4. Establish inspection requirements for transient housing facilities;
5. Require training for transient housing owners, managers, and staff on human trafficking activities, human trafficking victims and overdose response program;
6. Create transient housing facility guest register requirements pertaining to transient visitors letting any transient housing unit;
7. Enact premises requirements prohibiting hourly rates and letting transient housing units for illegal purposes;
8. Provide processes to deny, suspend or revoke transient housing facility applications and licenses.

DATE OF INTRODUCTION:	11/22/2022
DATE OF PASSAGE:	12/20/2022
EFFECTIVE DATE:	1/20/2023

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE
OF THE CITY OF HAGERSTOWN, BY
ADDING CHAPTER 230 THEREOF, ENTITLED
*TRANSIENT HOUSING***

RECITALS

WHEREAS, by virtue of State Law and the City Charter, the City of Hagerstown has the authority to regulate and require inspections of buildings within the City; and

WHEREAS, the Mayor and Council have a responsibility to maintain a safe, clean environment within the City; and

WHEREAS, the Mayor and Council recognize that clean, well-built, crime-free transient housing facilities, such as hotels, motels, bed and breakfasts, and short-term rentals play a significant role and are part of the foundation upon which healthy communities are built; and

WHEREAS, the Mayor and Council desire to protect and promote the public health, safety and welfare of the citizens and transient visitors of Hagerstown, to establish rights and obligations of the owner/manager and the transient visitors in the use of transient housing facilities, and to encourage all parties to maintain and improve the quality of transient housing facilities within the community; and

WHEREAS, the Mayor and Council desire to assure compliance with all laws, ordinances and regulations applicable to transient housing licenses and facilities in the City of Hagerstown and to promote and assure safety, health and habitability in the conditions of said transient housing facilities in the City, to prevent deterioration of transient housing facilities in the City, to support property values, and to encourage responsible management and use of transient housing facilities through licensing and inspection; and

WHEREAS, the Mayor and Council desire to protect, preserve, and promote the health, safety and welfare of the citizens and transient visitors of Hagerstown by the reduction, control and prevention of criminal and nuisance activities in transient housing facilities, through education and the implementation and enforcement of reasonable licensing provisions; and

WHEREAS, the Mayor and Council further recognize that periodic inspections of transient housing facilities are essential to the accomplishment of these purposes.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. The Code of the City of Hagerstown is hereby amended by enacting Chapter 230, to read as follows:

(See Attached)

3. This amendment to the Code of the City of Hagerstown shall become effective immediately upon the effective date of this Enacting Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler
City Clerk

Emily N. Keller
Mayor

Date of Introduction: 11/22/2022
Date of Passage: 12/20/2022
Effective Date: 1/20/2023

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEY

Chapter 230

TRANSIENT HOUSING

§ 230-1. Purpose.

- A. The Mayor and Council recognize that clean, well-built, crime-free transient housing facilities, such as hotels, motels, bed and breakfasts, and short-term rentals play a significant role and are part of the foundation upon which healthy communities are built. This chapter promotes and advances the City's vision and commitment to transient housing throughout the City. The purpose of this chapter is to protect and promote the public health, safety and welfare of the citizens and transient visitors of Hagerstown, to establish rights and obligations of the owner/manager and the transient visitors in the use of transient housing facilities, and to encourage all parties to maintain and improve the quality of transient housing facilities within the community.
- B. An additional purpose of this chapter is to assure compliance with all laws, ordinances and regulations applicable to transient housing licenses and facilities in the City of Hagerstown and to promote and assure safety, health and habitability in the conditions of said transient housing facilities in the City, to prevent deterioration of transient housing facilities in the City, to support property values, and to encourage responsible management and use of transient housing facilities through licensing and inspection.
- C. It is also the purpose of this chapter to protect, preserve, and promote the health, safety and welfare of the citizens of Hagerstown by the reduction, control and prevention of criminal and nuisance activities in transient housing facilities, through education and the implementation and enforcement of reasonable licensing provisions.
- D. The Mayor and Council further recognize that periodic inspections of transient housing facilities are essential to the accomplishment of these purposes.

§ 230-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BED AND BREAKFAST

Shall have the definition as set forth in the Land Management Ordinance, Chapter 140 of the Code.

CALLS FOR SERVICE (CFS)

Includes but is not limited to any and all calls to emergency services, (police, fire, CRS, and code administration) that result in an emergency services employee being dispatched or directed to the transient housing facility. This shall include any calls for service within the surrounding neighborhood that, through information or

investigation, can be attributed or traced to the transient housing facility. Calls for service include any self-initiated activity or investigation based on the observation(s) of an emergency services employee that result in a written report. Multiple calls regarding the same event shall be treated as a single call for service for purposes of calculating the CFS room ratio.

CALLS FOR SERVICE ROOM RATIO

The number of calls for service divided by the total number of transient housing units in a transient housing facility during the time period of November 16 of the previous calendar year to November 15 of the current calendar year.

CITY

The City of Hagerstown, Maryland.

CODE

The Code of the City of Hagerstown, as from time to time amended.

CODE ADMINISTRATION

The Code Administration Division of the Planning and Code Administration Department.

CODE OFFICIAL

Any official who is charged with the administration and enforcement of the Code, or any duly authorized representative.

COMMUNITY RESCUE

The Community Rescue Services or CRS

DEPARTMENT

The Planning and Code Administration Department of the City of Hagerstown.

DRUG RELATED CRIMES

Includes but not limited to the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, furnishing, administering, giving away, providing a place to use, or fortification of a place involving any illegal or controlled dangerous substance, narcotic, or drug paraphernalia.

EMERGENCY SERVICES EMPLOYEE

Any dispatched official, employee or volunteer from HPD, HFD, CRS, or the Code Department.

EXCESSIVE USE OF CITY SERVICES ORDINANCE

The Excessive Use of City Services Ordinance, as set forth in Chapter 95 of the Code.

HFD

The Hagerstown Fire Department.

HOTEL

Any hotel, motel, or inn in the City having one or more room where transient guests visitors are lodged for pay. This includes any transient housing facility collecting Washington County hotel rental tax in the City.

HPD

The Hagerstown Police Department.

MANAGER

Any person who manages the business operations of any transient housing facility on behalf of or under the direction of an owner and has a supervisory role or duties at the transient housing facility.

OWNER

Any person, partnership, association, company, corporation, trust or other entity having a legal or equitable interest in or control of a transient housing facility.

"Owner" shall also mean any person who, alone, jointly or severally, shall have the charge, care or control of any premises as executor, administrator, trustee or guardian of the estate of the owner. "Owner" shall also mean any person having any interest in a partnership, association, company, corporation, trust or other entity which owns or has any ownership interest or control of a premises. Any person, firm, partnership, association, company, corporation, trust or other entity whose name appears on the deed or property tax bill for the premises shall be deemed to be the owner of the premises.

PERSON

An individual, corporation, business trust, estate trust, partnership, or any other group acting as a unit.

PROSTITUTION RELATED CRIMES

Includes but is not limited to prostitution and those crimes that involve prostitution or are related to prostitution, such as pimping, pandering, solicitation, assignation, or sex trafficking of adults or minors, in violation of city, state or federal laws.

PROPERTY MAINTENANCE CODE

The Property Maintenance Code, as set forth in Attachment 3 of Chapter 64 of the Code, as from time to time amended.

PREMISES

Any single parcel or lot of real property in the City, including the land and all improvements or structures, upon which a transient housing unit is located.

SHORT-TERM RENTAL

A residential rental unit or room of a dwelling unit for a fee for less than 30 consecutive days through online sites such as Airbnb, Flipkey, Home Away and Vacation Rental By Owner (VRBO).

TRANSIENT HOUSING FACILITY

- A. A structure containing one or more transient housing units.
- B. As used in this Chapter, transient housing facility shall not include any rental facility, as that term is defined in Chapter 197 of the Code.
- C. Transient Housing Facilities shall include hotels, motels, inns, bed and breakfasts, and short-term rentals.

TRANSIENT HOUSING UNIT

Any single room or suite located in the City and which is intended for temporary living and sleeping purposes (typically less than 30 days, but in no case more than 182 days) where transient visitors are lodged for pay.

TRANSIENT LODGING

Lodging for a period typically less than 30 days, but in no case more than 182 days.

TRANSIENT VISITOR

A person who purchases lodging, with or without meals, for a period typically less than 30 days, but in no case more than 182 days.

§ 230-3. Transient housing license required.

It shall be unlawful for the owner(s) of any transient housing facility to permit occupancy of any transient housing unit by a transient visitor unless said unit is currently licensed by the City and said license has not been denied, revoked or suspended.

§ 230-4. Application; license fee.

In addition to the inspection requirements of § 230-6 of this chapter, an applicant for a transient housing license shall provide the following information for each transient housing facility on the appropriate application form provided by the Department:

- A. The address of the transient housing facility.
- B. The number of transient housing units contained in the transient housing facility.
- C. The name, street address and telephone number and e-mail of all owners of the transient housing facility.
- D. If the owner of the transient housing facility is not an individual, the applicant shall provide the owner's name, street address and telephone number and the resident agent's name and address.
- E. The name, street address and telephone number of a designated contact person for the owner(s).

- F. Except for Tier 1 transient housing facilities, a payment of a nonrefundable annual license fee of:
- (1) Five hundred dollars for a transient housing facility;
 - (2) One hundred dollars for each bed and breakfast, plus ten dollars for each transient housing unit in said bed and breakfast; or
 - (3) Seventy-five dollars per short-term rental.
- G. Transfer of license
- (1) If an applicant for or the holder of a license transfers ownership or is no longer an agent for the licensed transient housing facility, the applicant or licensee must notify the Department within sixty (60) days of the change. The Department may reject an application or suspend or revoke a license if the applicant or licensee does not notify the Department as required by this subsection.
 - (2) Any person or entity who takes over the operation of a licensed transient housing facility may transfer the license for the unexpired portion of the term for which it was issued by applying to the Department. Applications made within thirty (30) days after taking over operation are not subject to a transfer fee. Applications made thirty (30) to sixty (60) days after transfer shall require a transfer fee of \$50.00 per license. Transfer notifications associated with the annual application renewal between January 1 and February 28 are not subject to a transfer fee. Nothing in this section affects the validity of any sale, transfer, or disposition in any interest in real estate.
 - (3) Failure to notify the Department of a transfer within sixty (60) days requires a new transient license application and license fee.
- H. Payment for said license shall be due in full from the owner within ninety (90) days from the application mailing by the Department. Failure to remit payment in full may result in collection pursuant to Article III, Tax Liens, § 223-11 of the City Code, or by other civil proceeding.
- I. The applicant shall certify in writing that all of the requirements of this Chapter are being met.

§ 230-5. Classification of transient housing facilities by CFS ratio:

- A. A hotel transient housing facility shall be classified in accordance to the following tier system:

- a. **Tier 1.** Less than or equal to 0.95 CFS/room/year and currently no HFD life safety violations at the time of application; or
 - b. **Tier 2.** Greater than 0.95 CFS/room/year and/or not fully-sprinklered with fire alarm protection and/or current HFD life safety violations at the time of application.
- B. Prior to a transient housing facility license application, the Department shall notify each owner, in writing by personal service, certified mail, or another method reasonably calculated to provide actual notice, of the CFS room ratio and the tier classification of the transient housing facility for the ensuing license year. The Department shall determine the calls for service (CFS) room ratio of the transient housing facility during the time period set forth in this chapter, or during actual operations if less than twelve months during the time period set forth in this chapter.
- C. A transient housing facility that is not fully sprinklered and/or is found to have any life safety violations by HFD shall be designated a Tier 2 transient housing facility. Any other transient housing facility that has not previously operated in the City shall be presumed to be a Tier 1 transient housing facility until the next January 1st registration period or until such time as the Department re-classifies it.
- D. The City may monitor the CFS room ratio for each transient housing facility on an ongoing basis. The City may change the status of any transient housing facility during a license year upon notice in writing to the operator, by personal service, certified mail, or another method that provides confirmation of delivery, that the CFS room ratio of such transient housing facility has changed proportionately such that the CFS room ratio, if annualized, would fall within a different tier level. This notice shall include:
 - a. The tier designation assigned to the transient housing facility;
 - b. As allowed by law, data specifying the types of CFS identified as having occurred on the property during the period reviewed, including the incident numbers assigned to such CFS, and the date and time of each call to allow the owner to understand the basis of the designation;
 - c. The requirement of a mandatory inspection to be conducted by Code Administration if the change is to a Tier 2 transient housing facility; and
 - d. The opportunity and procedures by which the owner or manager may challenge the data provided to the owner or manager pursuant to this subsection upon which the designation is based.

- E. Upon such notice of initial classification or reclassification, the owner or manager may file a request for reconsideration with the Department on or before the twentieth calendar day after the date of notice. The request for reconsideration must show proof to the Department that the Department's determination is erroneous. After receipt of a request for reconsideration, the Department shall consider the information provided and determine the CFS room ratio and classify the transient housing facility as a Tier 1 or Tier 2 transient housing facility within ten calendar days of receipt of the request for reconsideration. The Department shall notify the owner or manager of its determination in writing by personal service, certified mail, or another method that provides confirmation of delivery.
- F. Enforcement of the tier classification or reclassification shall be stayed during the pendency of a request for reconsideration under this section or an appeal under this section.

§ 230-6 Inspections.

- A. In connection with the application requirements contained in § 230-5 of this chapter, each transient housing facility shall be subject to an initial exterior inspection and annually thereafter by the Department and HFD. In addition:
 - 1. The interior of each hotel and bed and breakfast transient housing facility shall be inspected annually by HFD.
 - 2. The interior of all Tier 2 hotel transient housing facilities shall be inspected annually by the Department.
 - a. Tier 1 hotel transient housing facilities shall be exempted from an annual interior inspection by the Department.
 - 3. The interior of each bed and breakfast transient housing units and short-term rental spaces for let shall be inspected triennially by the Department.
- B. All inspections conducted herein shall be conducted by the Department and/or HFD in accordance with Chapters § 64 Building Construction and/or § 98 Fire Prevention of the Code, and shall be performed pursuant to the standards of Chapter 64 and/or Chapter 98, as applicable. The applicant shall make each transient housing unit available for inspection by the Department and/or HFD on the scheduled inspection date. The Department and/or HFD shall provide reasonable advance notice of inspection to the owner or manager, and the owner or manager shall have the right to be present at the inspection.
- C. The owner or manager of the transient housing facility shall have the right to refuse consent to an inspection of the transient housing facility and to deny permission to enter the transient housing facility for said purpose. All

applications and inspection notices shall advise the owner or manager, as the case may be, of his, her or its right to refuse consent and deny entry. In the event of such refusal of consent or denial of entry, the Department shall have the right to seek the issuance of an administrative search warrant under § 104.4 of the Property Maintenance Code in order to conduct the inspection.

- D. In addition to § 104.4.3.a-c of the Property Maintenance Code, probable cause for the issuance of an administrative search warrant under this § 230-6 shall exist if the Code Official demonstrates by specific evidence the violation of any provision of this Chapter 230 of the Code, including but not limited to the refusal of consent to an inspection required by this Chapter and one or more of the following: the passage of time since the last inspection, the nature of the Premises, or the condition of the neighborhood in which the Premises is located.

§ 230-7. Training.

- A. All transient housing facility owners or their managers and all employees of a transient housing facility shall complete training on how to identify human trafficking activities and human trafficking victims. The training shall be approved by the Governor's Office of Crime Prevention, Youth, and Victim Services and the Maryland Department of Labor. Written proof of completion of said training shall be provided with the application for transient housing license.
- B. All transient housing facility owners or their managers, and all employees of a transient housing facility shall complete overdose response program training. The training shall be provided by Washington County Health Department. Written proof of completion of said training shall be provided with the application for transient housing license.

§ 230-8. Guest Register requirements.

- A. Any person who owns or operates a transient housing facility shall maintain on the premises a permanent register for each person to whom any transient housing unit is let at a transient housing facility. The register shall contain the following information as to each transient visitor:
 - a. Legal name and permanent address, designating street and number, city, state and country; the manager or agent of a transient housing facility may require any guest to whom a transient housing unit is let to provide evidence of his or her identity and address of residence by producing a valid driver's license; a valid military identification card; a valid passport; or any valid government issued identification card;

- b. Dates of occupancy, indicating check-in time, check-out time, and room number;
 - c. Current license plate or registration number, state of registration, and make and model of any vehicle under control by transient visitor;
 - d. Number of individuals staying in the room; and
 - e. Amount of the bill and method of payment.
- B. Guest register records shall be maintained for a period of two years for each person who lets any transient housing unit.
- C. It shall be unlawful for any person to intentionally or knowingly falsify the information in a transient housing facility guest register. It shall be unlawful for any person to provide false identifying information to a transient housing facility.
- D. A manager, their agent or owner providing false information to City authorities, regarding the identity of and hours of occupancy by any transient visitor, shall be prima facie evidence that the premises was being used for illegal purposes.

§ 230-9. Premises requirements.

- A. No owner, manager or their agent shall allow or permit any hourly charge for any transient housing unit.
- B. No owner, manager or their agent shall allow or permit any transient housing unit to be let more than twice in any twenty-four-hour period commencing at 12:01 a.m.
- C. No owner, manager or their agent shall knowingly let any transient housing unit be used for any illegal purpose such as but not limited to drug related crimes and prostitution related crimes.
- D. For guest complaints, the telephone number and address for the Department shall be posted in a prominent location in all transient housing units and the public reception area, if any.
- E. All transient housing facilities designated Tier 2 are encouraged to have 24-hour, on-site security provided by licensed security officers.

§ 230-10. Issuance of transient housing facility license; renewal.

Upon receipt of a completed application form, documentation of completed training as required per this Chapter, and full payment of the appropriate fee, the Department shall issue a transient housing facility license for the subject transient housing facility within 30 days, unless such license is or has been denied or revoked pursuant to § 230-11 hereof. Said license shall expire on December 31st and shall be renewable annually, with application for said renewal being made at least 30 days prior to the expiration date of the then-current license. A license renewal application shall be on the form provided by the Department.

§ 230-11. Denial; revocation of transient housing facility license.

- A. A transient housing facility license may be denied, suspended or revoked in whole or in part at any time by the Department. Denial, suspension, or revocation of a transient housing facility license shall be in addition to, and not in substitution of, the penalties provided for in § 230-13 of this Chapter.
- B. A transient housing facility application or license may be denied, suspended or revoked by the Department if any taxes or fees identified below are unpaid at the time of application.
 - a. Real property taxes relating to the transient housing facility;
 - b. Personal property taxes relating to the transient housing facility; and
 - c. City-owned utility fees relating to the transient housing facility.

§ 230-12. Severability.

The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid provision or application.

§ 230-13. Violations and penalties.

Any owner violating the requirements of this chapter shall be guilty of a municipal infraction and shall be punished by a fine not exceeding \$1,000. Any such violation shall be cited as a prepayable fine in the amount of \$500. Each day a violation exists shall be considered a separate and distinct violation. In addition, the City may avail itself of all civil remedies, including a petition for injunctive relief from a court of competent jurisdiction.

- A. If the Department suspends a transient housing facility license under the provisions of § 230-11, the subject transient housing facility shall not let additional transient housing unit(s) from the date of the suspension until such time the violation(s) have been abated verified by inspection and the transient housing license has been reinstated. A reinstatement fee of \$500 shall be paid prior to the reissuance of a suspended license for a transient housing facility.

- B. If the Department revokes a transient housing facility license under the provisions of § 230-11, the subject transient housing facility shall be vacated immediately for life safety hazards or within twenty-four (24) hours for non-life safety hazards of the revocation and remain vacant until such time the violation(s) have been abated verified by inspection and the transient housing license has been reinstated. City actions to ensure vacancy may include disconnection of City utilities to the affected transient housing facility. A reinstatement fee of \$1,000 shall be paid prior to the reissuance of a revoked license for a transient housing facility.