

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHULA VISTA MUNICIPAL CODE CHAPTER 5.39,
HOTELS/MOTELS, REGARDING GUEST ROOM
INSPECTIONS FOR EQUIPMENT AND AMENITY MINIMUM
REQUIREMENTS FOR HOTEL/MOTEL OPERATING
PERMITS

WHEREAS, Chapter 5.39 of the Municipal Code sets forth the requirements for operating a hotel/motel within the City of Chula Vista; and

WHEREAS, the City Council is interested in facilitating the ability to meet the inspection requirements established in Chapter 5.39 of the Municipal Code which currently state that biennial motels/hotel inspections will be performed by an environmental health specialist registered with the California Department of Health Services; and

WHEREAS, the regional availability for environmental health specialists is limited and difficult to solicit different pricing making the requirement overly onerous to the hotel/motel industry; and

WHEREAS, the City of Chula Vista performs annual public health inspections that comply with Chapter 5.39 of the Municipal Code health requirements; and

WHEREAS hotel/motel establishments must also meet extensive equipment and amenity requirements as specified in Chapter 15.20.080 of the Municipal Code; and

WHEREAS hotel/motel establishments must meet these requirements on an annual basis; and

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Chula Vista does hereby amend Chapter 5.39.050 G to modify the biennial inspections performed by environmental health specialists to annual inspections by the City of Chula Vista Development Services Director or his/her designee.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I.

**Chapter 5.39
HOTELS/MOTELS**

Sections:

- 5.39.020 Severability.**
- 5.39.030 Definitions.**
- 5.39.040 Permit to operate – Application deadline and fee.**
- 5.39.050 Permit to operate – Application required – Contents.**
- 5.39.060 Permit to operate – Grounds for denial.**
- 5.39.070 Permit to operate – Denial – Appeal hearing.**
- 5.39.080 Permit to operate – Display.**
- 5.39.090 Permit to operate – Nontransferability.**
- 5.39.100 Permit to operate – Report of changes to the application.**
- 5.39.110 Permit to operate – Revocation.**
- 5.39.120 Notice of hearing.**
- 5.39.130 Notice of revocation of permit to operate.**
- 5.39.140 Notice of revocation of permit to operate – Removal or tampering with posted notice.**
- 5.39.150 Permit to operate – Surrender following revocation.**
- 5.39.160 Permit to operate – Reissue after revocation.**
- 5.39.170 Violation – Penalty.**

5.39.020 Severability.

It is declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this chapter are severable, and if any phrase, clause, sentence, paragraph or section of this chapter shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this chapter. (Ord. 3041 § 2, 2006).

5.39.030 Definitions.

For the purpose of this chapter, unless otherwise expressly stated, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. “Calls for service” includes but is not limited to any and all calls to emergency services, (police, fire, medical) that result in a representative being dispatched or directed to the hotel/motel. This shall include any calls for service within the surrounding neighborhood that, through information or investigation, can be traced to the hotel/motel staff and/or registered guest(s) and/or visitor(s). Calls for service includes any self initiated activity and/or investigation based on the observation(s) of an emergency services representative.
- B. “Drug-related arrests” include, but are not limited to, those that involve the manufacture, cultivation, importation into the State, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, any controlled drug, narcotic or drug paraphernalia.
- C. “Guest” shall mean any person that occupies a guestroom.
- D. “Guestroom” shall mean a sleeping room in a hotel/motel designed and intended to be used as lodging as documented by the City Building Official or his designee.
- E. “Guestroom minimum requirements” shall mean those requirements as set forth in Chapter 15.20 CVMC.
- F. “Hotel/motel” means any building or group of buildings or facility, containing six or more guestrooms, which is occupied or intended or designed for occupancy by guests for lodging or sleeping purposes and is held out as such to the public. “Hotel/motel” does not mean any hospital, convalescent home or sanitarium.
- G. “Hotel/motel operation” means the occupancy of any guestroom or use of any hotel/motel facility regardless of compensation or remuneration.
- H. “Kitchen” shall mean a discrete area completely separate from the bathroom and toilet room, containing a sink, refrigerator, and cooking appliance.
- I. “Manager” means any person who, in connection with the activities of a hotel/motel, manages the business’s operations, including but not limited to the collection of rental charges, issuing of keys, direction of maintenance personnel, assigning of rooms to guests, and handling

guest affairs and overseeing security. The term shall also include resident manager and assistant manager.

J. "Operator" means any person who is the proprietor of any hotel/motel, whether in the capacity of owner, lessee, receiver, sublessee, franchisee, mortgagee in possession, manager or agent of any of the aforementioned, who offers and accepts payment for rooms, guestrooms, sleeping accommodations, or board and lodging, and retains the right of access to, and control of, the dwelling unit.

K. "Owner" shall mean any person, firm, association, partnership, or corporation, which is the record owner of real property as listed on the last equalized assessment roll as maintained by the San Diego County Assessor. It shall also mean any part owner, joint owner, or lessor of the whole or part of the land or buildings situated thereon.

L. "Person" shall mean any natural person, firm, partnership, corporation, receiver, trustee, estate trust, business trust, organization, or association.

M. "Prostitution-related arrests" include, but are not limited to, those that involve prostitution or prostitution-related crimes such as pimping or pandering, in violation of Section 647(b), 315, 316, 653.22, and 653.23 of the California Penal Code.

N. "Toilet room" means a room that can be made private by locking a door that contains a toilet and shall comply in all ways with the California Building Codes in effect upon its construction. Toilet rooms may also contain lavatories, bathtubs or showers. (Ord. 3041 § 2, 2006).

5.39.040 Permit to operate – Application deadline and fee.

The annual permit to operate shall be applied for to the City Manager, or his designee, on a yearly basis by the operator of each hotel/motel. The deadline for submitting the application shall be November 1st, or, if this date falls on a Saturday or Sunday, on the next business day of the City of Chula Vista. The application shall be submitted with a processing fee, as identified in the City's master fee schedule. The permit shall be issued or denied within 60 days. The first operating permit will be required as of January 1, 2008, and on a yearly basis thereafter.

In the event that a new hotel/motel operator applies for a permit during the year prior to November 1st, the permit will be issued or denied within 60 days. Any subsequent permit may

be applied for on November 1st of the following year and issued or denied within 60 days. (Ord. 3041 § 2, 2006).

5.39.050 Permit to operate – Application required – Contents.

All persons applying to the City Manager, or his designee, for a permit to operate a hotel/motel shall file with the City Chief of Police, or his designee, a sworn application with processing fee therefor on forms provided by the City and containing information as follows:

- A. Business license in accordance with Chapter 5.13 CVMC, Rental Businesses.
- B. The name of the applicant and trade name, if any, of the business; the name of the corporation and the name and address of its agent for service.
- C. The business name, address, and phone number of the hotel/motel, and the emergency contact phone information for the hotel/motel.
- D. The number of toilets in the hotel/motel.
- E. The number of kitchens in the hotel/motel.
- F. Proof of liability insurance, if applicable, including the carrier, policy number, agent's name, address and phone number or a statement of self-insurance.
- G. ~~Biennial inspection report (issued every other year, beginning in 2012), on the form(s) provided by the City, by an environmental health specialist registered with the California Department of Health Services, certifying that the facility is in compliance with California public health requirements. Consent to an annual inspection by the Development Services Director or his/her designee that the facility meets the guest room minimum requirements as defined in CVMC 15.20.080.~~
- H. Transient occupancy tax bond if required by the City Finance Director. See Chapter 3.40 CVMC.

Any material misrepresentation in the application for the permit to operate a hotel/motel or a failure to provide the required information shall be grounds for denial. (Ord. 3215 § 1, 2011; Ord. 3041 § 2, 2006).

5.39.060 Permit to operate – Grounds for denial.

The permit to operate may be denied for any of the following reasons:

A. The applicant is unable to establish a degree of financial responsibility required by Chapter 3.40 CVMC, Transient Occupancy Tax, or has an outstanding debt to the City incurred under CVMC 3.40.090.

B. The hotel/motel property has an unabated notice of violation, in excess of 30 days, of the City Municipal Code that cites violations of the state of California housing law.

C. Such other relevant facts as the Chief of Police, or his designee, may discover or deem advisable or necessary in the course of the review of the application, such as:

1. Drug-related arrests;
2. Prostitution-related arrests;
3. Calls for service.

D. Noncompliance with federal, State, and City Municipal Codes. (Ord. 3041 § 2, 2006).

5.39.070 Permit to operate – Denial – Appeal hearing.

Whenever the City denies a permit to operate for a hotel/motel, as provided in this chapter, the owner or operator of said hotel/motel shall have a right to a hearing to appeal the denial in accordance with Chapter 1.40 CVMC. (Ord. 3041 § 2, 2006).

5.39.080 Permit to operate – Display.

The operator shall display the permit to operate in an open and conspicuous place on the premises. (Ord. 3041 § 2, 2006).

5.39.090 Permit to operate – Nontransferability.

Each permit to operate issued pursuant to CVMC 5.39.030 through 5.39.170 shall be separate and distinct from all others and shall not be transferable from the person, firm or corporation to whom issued to any other person, firm or corporation.

When a change of operator occurs at an existing hotel/motel, the new operator shall apply for a permit to operate within 10 business days of opening of escrow. If the prior operator's permit to operate for the hotel/motel was denied or revoked, a provisional permit to operate may be issued with special conditions designated by the Chief of Police or his designee. (Ord. 3041 § 2, 2006).

5.39.100 Permit to operate – Report of changes to the application.

Whenever an owner sells or transfers title to, or assigns the lease of or subleases, a hotel/motel, then the owner shall notify the City Manager in writing within five business days of such transfer.

Every operator of a hotel/motel shall report any change in the information required by CVMC 5.39.030 through 5.39.170, including but not limited to any change in the manager(s) and operator(s) and/or owner(s) as defined in CVMC 5.39.030(I), (J) and (K) to the Chief of Police in writing within five business days after the change has occurred. A change in the information on the application is subject to review by the Chief of Police and may be grounds for suspension or revocation of the permit to operate. (Ord. 3041 § 2, 2006).

5.39.110 Permit to operate – Revocation.

The annual permit to operate shall be subject to revocation by the City Manager, or his designee, and/or Chief of Police, or his designee, upon good cause shown that the operation of the hotel/motel is such that it is or has negatively impacted the health, safety and/or welfare of its guests or the residents or businesses of the neighboring community by any of the following:

- A. Noncompliance with federal, State, and City Municipal Codes;
- B. Drug-related arrests;
- C. Prostitution-related arrests;
- D. Calls for service;

E. Any other conditions, problems, issues, concerns or facts that are deemed relevant.

In processing a revocation the Chief of Police, or his designee, shall prepare an investigation report that details the circumstances that have led to the revocation. It may include any or all of the following that are applicable:

1. Frequency or occurrence of violation(s), arrest(s), or call(s) for service;
2. Seriousness of the violation(s), arrest(s), or call(s) for service in relation to its threat or impact upon public health, safety or welfare;
3. History of the violation(s), arrest(s), or call(s) for service;
4. Good faith efforts taken by the responsible party to correct, reduce and/or alleviate violation(s), arrest(s), or call(s) for service;
5. Any activity, action or effort taken by the responsible party to obstruct or interfere with correction of the problem;
6. The impact of the violation(s), arrest(s), or call(s) for service on the surrounding property and community;
7. The financial impact to the City. (Ord. 3041 § 2, 2006).

5.39.120 Notice of hearing.

Upon good cause shown in the revocation investigation report issued by the Chief of Police, or his designee, the City Manager, or his designee, shall issue a notice of hearing for revocation of permit to operate in accordance with CVMC 1.40.030 and shall schedule a hearing before the hearing examiner in accordance with CVMC 1.40.020(B). (Ord. 3041 § 2, 2006).

5.39.130 Notice of revocation of permit to operate.

Upon confirmation and final decision issued by the hearing examiner, the Chief of Police or his designee shall, in addition to the requirements of CVMC 1.40.020(H), post a copy or copies of the notice of revocation of permit to operate at the hotel/motel. (Ord. 3041 § 2, 2006).

5.39.140 Notice of revocation of permit to operate – Removal or tampering with posted notice.

A posted notice of revocation of permit to operate may only be removed by an authorized City official. Any removal, covering, defacing, altering or tampering by unauthorized person(s) may be prosecuted as a misdemeanor. (Ord. 3041 § 2, 2006).

5.39.150 Permit to operate – Surrender following revocation.

Whenever a permit to operate has been revoked by the City, the operator of the hotel/motel for which such permit was issued shall surrender such permit to the City forthwith. The hotel/motel operation shall cease within 72 hours of the posting of the notice of revocation of permit to operate in accordance with CVMC 5.39.140. (Ord. 3041 § 2, 2006).

5.39.160 Permit to operate – Reissue after revocation.

A conditional permit to operate that is revoked shall not be reissued for a period of three years from the date of such revocation. (Ord. 3041 § 2, 2006).

5.39.170 Violation – Penalty.

It is unlawful to operate a hotel/motel without a valid permit to operate or to fail to comply with any of the requirements established by this chapter. Violations of this section shall be subject to enforcement by any and all remedies listed in CVMC Title 1, including a fine of up to \$1,000 and/or six months in the county jail. (Ord. 3041 § 2, 2006).

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Roxana Kennedy
Chief of Police

Glen R. Googins
City Attorney