

ORDINANCE

AN ORDINANCE OF THE CITY OF MANITOU SPRINGS, COLORADO, AMENDING SECTIONS 18.60.010, 18.08.050, AND 18.08.060 OF THE MANITOU SPRINGS MUNICIPAL CODE AND ADDING A NEW CHAPTER 18.86 CONCERNING LONG-TERM OCCUPANCY LODGING IN HOTELS AND MOTELS WITHIN THE DOWNTOWN AND COMMERCIAL ZONE DISTRICTS AND REPEALING SECTION 1.01.020 AND CHAPTER 5.06 OF THE MANITOU SPRINGS MUNICIPAL CODE.

WHEREAS, a variety of lodging types are available in the City, including residential dwellings, hotels, motels, bed and breakfasts, and vacation rentals;

WHEREAS, different types of lodging are suitable for different areas in the City; in particular, some areas in the City are more suited to short-term stay lodging and other areas are more suited to longer-term stay lodging, and the City's conditional use review process is particularly well-suited for making such determinations;

WHEREAS, the City Council finds that the provision of long-term lodging in hotels and motels that is used in a manner similar to a residence in the commercial and downtown zone districts should not be a use permitted by right, and instead should be reviewed on a case-by-case basis as a conditional use to determine whether it is compatible with the neighborhood and adjacent land uses and meets other conditional use criteria;

WHEREAS, the City Council therefore desires to clarify that hotels or motels providing long-term lodging options in the commercial and downtown zone districts are conditional uses;

WHEREAS, in the interest of the health, safety and welfare of the City's residents and the visiting public, the City Council desires to allow hotels and motels to offer long-term occupancies within the City's commercial zone district, provided that such establishments meet the standard conditional use criteria set forth in the Manitou Springs Municipal Code and the additional criteria specific to long-term housing set forth in this Ordinance;

WHEREAS, the City desires to repeal Section 1.01.020 of the Manitou Springs Municipal Code because the Section no longer accurately reflects the secondary codes adopted by the City and reference to the currently adopted secondary codes can be located in other Code sections; and

WHEREAS, the City desires to repeal Chapter 5.06 of the Manitou Springs Municipal Code because the Chapter is not being utilized and the requirements of this Ordinance implement the spirit of that Chapter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:

Section 1: Section 18.60.010 of the Manitou Springs Municipal Code is hereby amended by the revision and addition of the following terms, which shall appear alphabetically in the existing text of this section:

18.60.010 Definitions.

“Abandon” means the cessation of an activity, including the use of property for a particular purpose.

“Efficient Dwelling Unit” means a unit containing only one habitable room that meets space and facility requirements of the International Building Code, 2009 ed., as may be amended, or the requirements of any building code subsequently adopted by the City.

"Hotel" means a permanent building or group of buildings containing sleeping rooms, with the majority of such rooms accessed from an interior hallway. A hotel may offer short-term occupancy, long-term occupancy, or a combination of both, subject to the provisions of this Code.

“Lavatory” means a room containing a sink and a toilet.

"Motel" means a permanent building or group of buildings containing sleeping rooms, with the majority of such rooms accessed from an exterior entryway (generally facing a parking lot or street). A motel may offer short-term occupancy, long-term occupancy, or a combination of both, subject to the provisions of this Code.

"Occupancy, long-term" means the occupancy or right of occupancy lasting more than thirty (30) days in any sixty (60) day period.

"Occupancy, short-term" means the occupancy or right of occupancy lasting for thirty (30) days or less in any sixty (60) day period.

“Water closet” means room containing a toilet.

Section 2: Section 18.08.050(B) Permitted Uses in the Downtown Zone of the Manitou Springs Municipal Code is hereby amended as follows:

(6.5) Bed and Breakfast

(24) Hotel that does not offer long-term occupancy lodging.

Section 3: Section 18.08.050(B)(40) Permitted Uses in the Downtown Zone of the Manitou Springs Municipal Code is hereby amended as follows:

Residential above the first floor, or on the ground floor if the residential use is at the rear of the commercial space and above the one hundred-year

flood elevation. Long-term occupancy lodging in hotels and motels shall not be considered a residential use permitted under this Subsection.

Section 4: Section 18.08.060(B)(9) Permitted Uses in the Commercial Zone of the Manitou Springs Municipal Code is hereby amended to read as follows:

Motel that does not offer long-term occupancy lodging.

Section 5: A new Chapter 18.86 entitled “Long-term Occupancy Lodging” is hereby added to Title 18 of the Manitou Springs Municipal Code, and shall provide as follows:

Chapter 18.86 – LONG-TERM OCCUPANCY LODGING

18.86.010 - Intent and Purpose.

The intent and purpose of this Chapter is to protect the health, safety and welfare of the general public, including the residents of hotels and motels in the City. The long-term habitation in facilities not designed for long-term residential living is unhealthy and unsafe due to numerous hazards such as lack of adequate cooking, food-storage and sanitary facilities, lack of adequate lighting, living and storage space, and lack of ventilation. In addition, the intent and purpose of this Chapter is to protect and improve the aesthetics of the City, and to maintain the predominantly commercial character of the City’s commercial and downtown zone districts, which are not designed or planned for residential uses.

18.86.020 – Duration Determination.

The duration of occupancy shall be calculated based upon the number of nights of occupancy of an individual in the establishment as a whole, not the number of nights of occupancy of a single room. The purpose of this calculation is to prohibit the avoidance of an occupancy being determined to be long-term by moving from one room to another, while remaining at the establishment for a period of longer than thirty (30) days.

18.86.030 – Notice Requirement.

Whenever notice and a public hearing is required under this Chapter, “notice” shall mean posting notice of the time, place and purpose of the hearing at the proposed location of licensed facility a minimum of 10 days and a maximum of 20 days prior to the hearing, and publication of the time, place and purpose of the hearing on the City’s website in the same time period.

18.86.040 - Minimum Standards.

In addition to complying with all laws, and all other requirements of this Code, including building and fire regulations, every long-term occupancy unit shall meet, at a minimum, the following standards:

1. No more than 20% of actual room rental days in an establishment may be used for long-term occupancy lodging during the year.

2. It shall be unlawful for a hotel, motel owner, operator, manager or person in charge of a hotel or motel to permit occupancy at the hotel or motel for more than thirty (30) days within any sixty (60) day period unless otherwise meeting the provisions of this Chapter or except in circumstances where there is a written contract between the hotel and (a) a governmental, charitable or insurance agency to house families in crisis, (b) a relocation service as part of a business relocation, or (c) a specific business entity for a business purpose which requires extended temporary occupancy. For both subsections (b) and (c) of this subsection 2, the occupancy shall not exceed a period of 180 days in any 365 day period.

3. The units available for long-term occupancy shall be designated for such use on a building floor plan, and no other rooms may be offered or used for long-term occupancy without a full review as set forth in this Chapter.

4. A list of occupants of each unit shall be maintained by the owner of the hotel or motel.

5. Every unit used for long-term occupancy shall meet the following requirements:

a. The standards for an Efficiency Dwelling Unit.

1. The cooking appliance required as a component of an Efficiency Dwelling Unit shall mean a built-in cook-top or stove unit. Hot plates, griddles, microwaves or similar devices shall not be considered cooking appliances for the purpose of this Chapter.

2. Two sinks must be located within the unit. One for use in conjunction with cooking and one for use in conjunction with the lavatory.

b. Compliance with this Code including without limitation any applicable building and fire codes adopted by the City.

c. Off-street parking that meets the standards set forth in Section 18.36.010 for multi-family attached dwellings. Parking on-site must meet current criteria for number of spaces required. There shall not be creation or expansion of non-conforming parking lots created by changing from short term rental to long term occupancy; all parking spaces must be accounted for on-site.

- d. Every room licensed for long-term occupancy shall prominently display on the inside of the main entrance door of the room a statement that such room is licensed for long-term use pursuant to this Chapter.
- e. No personal items may be stored outdoors, on porches or balconies, or in common areas of the hotel or motel. All personal items shall be stored in the long-term occupancy room or other indoor area specifically designated for storage.
- f. For monitoring purposes, long-term lodging room usage shall be reported to the City monthly at the same time the establishment reports lodging tax information.

18.86.050 - Approval procedure.

A. Application. At the time an application is filed, the applicant shall provide the application fee set by the City Council by separate resolution and all information required on the application form approved by the City Administrator or his designee, which shall include without limitation:

- 1. A floor plan of the entire establishment within which long-term occupancy lodging is sought designating the specific units to be used for long-term occupancy lodging;
- 2. A detailed floor plan of the long-term occupancy units showing the location of all the required facilities set forth in Section 18.86.040;
- 3. Square footage calculations for the floor and windows of each long-term occupancy unit; and
- 4. A parking plan showing that the parking requirements set forth in this Chapter will be met.

B. Review. After notice and a public hearing, the application shall be reviewed by the Planning Commission, which shall provide a recommendation to the City Council. After notice and a public hearing, the City Council shall determine whether to approve, approve with conditions, or reject the application. The City Council's decision shall be reduced to writing, and a copy provided to the applicant.

C. Approval Criteria.

- 1. Conditional Use Approval. No license shall be issued unless the long-term occupancy is approved for each unit as a conditional use pursuant to the criteria and procedures for conditional uses set forth in Chapter 18.30 of this Code. When considering whether to grant

conditional approval, the requirements of this Chapter shall be considered in addition to the criteria set forth in Chapter 18.30.

2. Minimum Standards. No license shall be issued unless it is found that the minimum standards set forth in Section 18.86.040 will be met prior to use of any unit for long-term occupancy lodging.

D. Authority to Impose Conditions. The City Council shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Chapter and applicable law, including without limitation, limiting the number of units that may be used for long-term occupancy lodging to less than the number of units sought on the application.

18.86.060 – Renewal, termination and abandonment.

A. Issuance of a license to operate units for long-term occupancy shall be for a term of five (5) years. Applications for a license shall be made to the Planning Department on forms provided by the City and subject to any applicable fees. Licenses shall be approved or denied by the Planning Department.

B. Alterations to any unit licensed for long-term occupancy shall automatically extinguish the license for such unit unless the alterations are approved in advance by the City Administrator. If the alterations are so significant as to warrant review by the City Council in the judgment of the City Administrator, the City Administrator may require the licensee to obtain approval under this Chapter for the affected unit(s) as if it were an initial application. For purposes of this Chapter, the term “alterations” means modifications to any of the items included in the plans included with the application that was approved by the City (such as without limitation, modifications to the floor plan, the parking plan, the window(s), or kitchen appliances).

C. An application for renewal of an existing license shall be made to the Planning Department not more than one hundred twenty (120) days and not less than sixty (60) days prior to the date of expiration of the license. The license may be renewed administratively by the Planning Department if no violations of this Chapter or the terms of the license have occurred. The Planning Department may forward the renewal application to the City Council if the Planning Director believes a violation has occurred, in which case the renewal shall be set for a public hearing after proper notice.

D. No long-term occupancy unit approved under the provisions of this Chapter shall be deemed abandoned solely due to the temporary use of the unit for short-term occupancy, which shall be permissible. Use of property for long-term occupancy shall be deemed abandoned under the following conditions:

1. Written notice by the property owner, operator, or its representative that units previously approved for long-term occupancy will no longer be used for long-term occupancy;
2. Cessation of use of the structure in which the long-term occupancy units exist as a hotel, motel, or similar housing facility, for a duration of ninety consecutive (90) days or for ninety (90) days during any one hundred eighty (180) day period.

Once the use of property for long-term occupancy is abandoned, a new application under the provisions of this Chapter shall be required to use property for long-term occupancy.

D. The licensee shall permit the City to inspect its long-term occupancy rooms at any time for compliance with the provisions of this Chapter and other provisions of this Code. The licensee shall maintain records of occupancy for all rooms licensed for long-term occupancy, which shall be made available to the City for City review and inspection at any time.

18.86.070 - Suspension and Revocation.

The City Council may, after notice and hearing, suspend, revoke or refuse to renew a long-term occupancy license, or part thereof, for violations of the terms of such license, or for violations of this Chapter, including without limitation, the use of rooms in the same facility for long-term occupancy not licensed for such use, or the failure to pay lodging tax as required by this Code.

Section 6: Section 1.01.020, Secondary codes adopted by reference, is hereby repealed.

Section 7: Chapter 5.06, Rental Occupancy Licenses, is hereby repealed.

Section 8: If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 9: The repeal or modification of any provision of Manitou Springs Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 10: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 11: This ordinance supersedes Ord. No. 2315.

Section 12: This ordinance shall take effect on July 7, 2016.

Passed on first reading and ordered published this 7th day of June, 2016.

/s/ Donna Kast
City Clerk, Donna Kast

A Public Hearing on this ordinance will be held at the June 21, 2016, City Council meeting. The Council Meeting will be held at 6:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: June 9th, 2016 (in full)
City's Official Website and City Hall

Passed on second reading and ordered published by City Council this 21st day of June, 2016.

/s/ Nicole Nicoletta
Mayor, Nicole Nicoletta

Attest: /s/ Donna Kast
City Clerk, Donna Kast

Ordinance Published: June 23, 2016 (in full)
City's Official Website and City Hall