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## REPORT TO PLANNING COMMISSION

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### CITY OF ARNOLD

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**APPLICATION #:** 2019-08

**APPLICATION NAME:** Application to Amend Municipal Code Chapter 405  
(Zoning) - Lodging Establishments

**APPLICANT:** City of Arnold

**REQUEST:** A City-initiated request to amend Chapter 405, Zoning, of the Code of Ordinances to modify definitions and regulations related to lodging establishments, including but, but not limited to hotels and motels.

**MEETING DATE:** April 9, 2019

**REPORT DATE:** April 2, 2019

**CASE MANAGER:** David B. Bookless, AICP

**RECOMMENDATION:** **APPROVAL**





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### BACKGROUND

The City's Zoning Ordinance (Ord. No. 14.2) was adopted by the City Council on June 30, 1977. A number of amendments have been approved since that time with the most recent being on February 21, 2019. Even the best ordinances become out of date. Periodic revision is essential if the ordinances are to establish and maintain a rational land use pattern. Changes, however, should not be made in an arbitrary manner. Significant updates to the Zoning and Subdivision Ordinances are best undertaken following an update of the Comprehensive Plan. The rationale for this approach is that the Ordinances are the implementation tools of the Plan and should reflect its goals and policies. Nevertheless, clarification of information contained in the Zoning Ordinance may be appropriate at any time. Occasionally, unforeseen issues may need to be addressed on an ad hoc basis.

A major update to the Comprehensive Plan should occur in the next 1-2 years, followed by related updates to the Zoning and Subdivision Ordinances. However, the purpose of this request is to manage a critical issue facing the City that needs immediate attention.

### DISCUSSION/ANALYSIS

The Zoning Ordinance defines a hotel as "A building in which lodging is provided to the public usually on a transient basis." It defines a motel (Motor Hotel) as "A roadside hotel for motorists." There is no specific discussion of how long a member of the public can stay at a hotel or a motorist at a motel. While the Zoning Ordinance states that hotels and motels are neither dwellings nor residences, it does not speak to specific length of time guests can stay at such establishments. Additionally, there is no discussion of "extended stay" versus shorter-term establishments. This is critical, because some of the City's hotels/motels are effectively being operated as residential apartments. From a zoning perspective, the use of hotels/motels this way is inconsistent with both the Comprehensive Plan and the Zoning Ordinance. Additionally, there are Building and Fire Codes-related health and safety concerns as these structures were not constructed for residential purposes and the individual units (i.e. rooms) don't get inspected at change of occupancy the way legal residences do.

Under the current ordinance, hotels are a by-right use in the "C-2" and "C-3" Commercial Districts, and a conditional use in the "R-6" Residence District. While Site Plan approval may be necessary, as a use, a new hotel does not need Planning Commission and Council authorization regardless of whether it is an overnight or extended stay operation. And, as discussed above, because of the current language in the Zoning Ordinance, some hotels are functioning as apartments.

At its January 10, 2019 work session, the City Council recognized these shortcomings and directed Staff to revisit definitions and regulations related to hotels, motels, and other lodging establishments, and return to Council with proposed changes. To this end, Staff will be presenting Council with revisions to multiple sections of the City's Code of Ordinances. While this report, like the Planning Commission's purview, is limited to proposed changes to the Zoning Ordinance, proposed revisions to other chapters of the Code of Ordinances will be presented to the Commission to provide context.

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### DISCUSSION/ANALYSIS — CONTINUED

The State of Missouri refers to hotels, motels, and similar establishments collectively as “lodging establishments”, and a primary revision to Arnold’s codes reflects a change to this standard terminology. Additional, definitions are included for consistency with State statute and for clarification with other sections of the City’s codes.

The other primary change included is the establishment of “Extended Stay Lodging Establishment” as a conditional use in the “C-3” Commercial District subject to a number of minimum standards being met. (Note: Conditional uses in the “C-3” may potentially be permitted in the “C-4” Planned Commercial District if so approved). As proposed by Staff, the conditional use and minimum standards are as follows:

*Extended Stay Lodging Establishment, including accessory dining rooms, lounges, meeting rooms and retail shops, provided that:*

- i. There shall be a minimum lot area of two and one-half (2½) acres;*
- ii. The maximum area developed with buildings, off-street parking and loading areas and recreational facilities shall not exceed sixty percent (60%) of the lot area; and*
- iii. There shall be a minimum of fifty (50) foot green space adjacent on interior lot lines to property in any “R” District or occupied by dwelling units or mobile home parks which green space shall be bermed and landscaped so as to afford a visual screen between the hotel/motel development and the lot line.*

The acreage minimum helps assure the property is large enough to accommodate the structure and parking, while providing for adequate green space, buffering, and screening to minimize substantial adverse impacts on adjacent uses and the community at large. Under these stipulations, an extended stay lodging establishment could not simply consist of a building surrounded by a parking lot, i.e. it would need to include a particular amount of landscaped areas and screening between it and adjacent residential development.

Staff proposed these additional requirements for extended stay facilities only, but should the Commission or Council think it is warranted, the requirements could be applied to all lodging establishments as well.

Presently, there is only one lodging establishment (hotel) in Arnold that is equipped and operates as an extended stay facility. That hotel, WoodSpring Suites, would not meet the acreage or lot coverage requirements nor would it have a Conditional Use Permit in place. As the property is not adjacent to any residential zoning district the additional buffering requirements wouldn’t apply. However, as the facility pre-dates any changes to the Zoning Ordinance, it would be permitted to continue operation as a nonconforming use and nonconforming structure. It would therefore be subject to the restrictions on such nonconformities contained in the Zoning Ordinance, including a prohibition on its expanding or intensified, a stipulation that should cease operation for more than sixty (60) days for any



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reason other than government action impedes access to the lands, the nonconforming status is lost and the use could not return, and should the property be destroyed or damaged to an extent of more than fifty percent (50%) of the replacement cost at time of destruction', the use could not return. Likewise, were the Commission and Council to apply these standards to all lodging establishments, such restrictions would apply as well.

While the changes discussed above primarily affect any new lodging establishments, the changes being proposed for other sections of the City's Code of Ordinances may impact existing lodging establishments, particularly if they are operating in such a manner as to create a public nuisance that are injurious to the health and welfare of the inhabitants of the City or prejudicial to the morals thereof. Such conditions have, on occasion, resulted in the City expending a disproportionate percentage of its police service on certain lodging establishments. While not discussed in this report, these changes are attached to this report for reference.

#### FINDINGS AND RECOMMENDATION

#### **SUCH AMENDMENT IS REQUIRED BY PUBLIC NECESSITY AND CONVENIENCE AND GENERAL WELFARE**

The Community Development Director finds that the text amendments contained within application 2019-08 are warranted by the public necessity and convenience to provide clarification in the enforcement of the Zoning Ordinance.

The Community Development Director finds that the text amendments contained within application 2019-08 are warranted by the need to promote and protect the general welfare by protecting the economic and tax base of the City, preserving and enhancing the values of property owners and users, promoting the orderly and harmonious development and redevelopment of the City, preserving and promoting the character and stability of the City and its various residential and commercial neighborhoods, improving the appearance of the City, and promoting the best use and development of commercial land in accordance with the Comprehensive Plan.

#### **RECOMMENDATION**

The Director of Community Development finds that the proposed text amendments meet or exceed review criteria and further advances the intent of Chapter 405. Based on this finding the Director of Community Development requests favorable consideration of the draft amendments.

A handwritten signature in black ink that reads "David B. Bookless".

David B. Bookless, AICP  
Community Development Director



# ATTACHMENTS



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BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI, AMENDING CHAPTER 405 OF THE ARNOLD CODE OF ORDINANCES CREATING DEFINITIONS FOR LODGING ESTABLISHMENTS AND EXTENDED STAY LODGING ESTABLISHMENTS AND PROVIDING REGULATIONS THEREFOR.

WHEREAS, the City Council of the City of Arnold desires to amend Chapter 405 of the Arnold Code of Ordinances.

WHEREAS, the proper public hearings have been held, pursuant to City Ordinance and the laws of the state of Missouri.

WHEREAS, the Planning Commission has submitted its report and recommendation to the City Council on the proposed amendments to Chapter 405 of the Arnold Code of Ordinances; and

WHEREAS, the City Council voted to amend Chapter 405 of the Arnold Code of Ordinances.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI, AS FOLLOWS:

**SECTION 1.** Section 405.060 of the Arnold Code of Ordinances is hereby amended by deleting the definitions of "Hotel" and "Hotel, Motor (Motel)."

**SECTION 2.** Section 405.060 of the Arnold Code of Ordinances is further amended by adding or amending the following definitions:

**"DWELLING**

Any building, or portion thereof, used exclusively for human habitation, except lodging establishments, or house trailers.

**EXTENDED STAY LODGING ESTABLISHMENT**

A Lodging Establishment where any of the guest rooms are rented to Longer-term Guests. It is the intent of this ordinance that Extended Stay Lodging Establishments shall only be permitted uses or permitted uses with conditional use permits in those districts where this Chapter specifically lists "Extended Stay Lodging Establishment" as a permitted use or permitted use with a conditional use permit. In those districts where this Chapter only states that "Lodging Establishments" are permitted uses or permitted uses with a conditional use permit, Extended Stay Lodging Establishments are not permitted."

**GUEST ROOM**

Any room or unit in a Lodging Establishment where sleeping accommodations are regularly furnished to the public.



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### **LODGING ESTABLISHMENT**

Any building, group of buildings, structure, facility, place, or places of business where five (5) or more guest rooms are provided, which is owned, maintained, or operated by any person and which is kept, used, maintained, advertised or held out to the public for hire and which can be construed to be a hotel, motel, motor hotel, inn, tourist court, resort, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as Lodging Establishments.

### **LODGING (BOARDING) HOUSE**

A building with not more than five (5) guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to overnight guests and which is actually occupied by the proprietor of such establishment as his/her residence, exclusive of nursing homes, dormitories or group living facilities licensed or regulated by agencies of the State.

### **LONGER-TERM GUEST**

Any person occupying a guest room or combination of guest rooms in a lodging establishment under any concession, permit, right of access, license, rental or other agreement for living and sleeping purposes for a period (a) in excess of (i) twenty-eight (28) consecutive days; or (ii) twenty-eight (28) nonconsecutive days within any ninety-day period; and (b) not exceeding one hundred eighty-three (183) days or six (6) months, whichever is less. For the purposes of this definition, if there are multiple individuals in a party occupying a guest room in a lodging establishment for the periods stated above, each member of the party shall be considered a longer-term guest regardless of which member or members of the party are registered as renting the guest room(s).

### **RESIDENCE**

Any building which is designed or used exclusively for residential purposes, except lodging establishments and house trailers.

### **TOURIST HOME**

A building with not more than five (5) guest rooms where lodging is provided for compensation pursuant to previous arrangement, and which is actually occupied by the proprietor of such establishment as his/her residence."

### **SECTION 3.**

The following sections of the Arnold Code of Ordinances are amended by replacing the words "hotel" and "hotels" with "Lodging Establishment" and "Lodging Establishments":

- Section 405.290(A)(2)(g)
- Section 405.290(A)(5)(g)
- Section 405.320(A)(1)(i)
- Section 405.330(A)(1)(k)





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**SECTION 4.** The following sections of the Arnold Code of Ordinances are amended by replacing the words "Hotels, motels" with "Lodging Establishments":

- Section 405.310(A)(5)(n)
- Section 405.320(A)(7)(g)
- Section 405.330(A)(7)(u)

**SECTION 5.** Section 405.330(A)(2) of the Arnold Code of Ordinances is amended by adding the following as subsection (aa):

"aa. Extended Stay Lodging Establishment, including accessory dining rooms, lounges, meeting rooms and retail shops, provided that:

- i. There shall be a minimum lot area of two and one-half (2½) acres;
- ii. The maximum area developed with buildings, off-street parking and loading areas and recreational facilities shall not exceed sixty percent (60%) of the lot area; and
- iii. There shall be a minimum of fifty (50) foot green space adjacent on interior lot lines to property in any "R" District or occupied by dwelling units or mobile home parks which green space shall be bermed and landscaped so as to afford a visual screen between the lodging establishment development and the lot line."

**SECTION 6.** This ordinance shall be in full force and effect from and after its passage and approval.

READ TWO TIMES, PASSED AND APPROVED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
Presiding Officer of the Council

\_\_\_\_\_  
Mayor Ron Counts

ATTEST:

\_\_\_\_\_  
City Clerk Tammi Casey

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney Robert Sweeney

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BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI,  
AMENDING CHAPTER 605 OF THE ARNOLD CODE OF ORDINANCES WITH REGARD  
TO DEFINITIONS AND REGULATIONS FOR GENERAL OPERATION OF LODGING  
ESTABLISHMENTS.

WHEREAS, lodging establishments, unless properly regulated, can become and create public nuisances; and

WHEREAS, municipalities are charged with and responsible for suppressing all nuisances which are, or may be, injurious to the health and welfare of the inhabitants of the City or prejudicial to the morals thereof; and

WHEREAS, the City of Arnold has experienced and documented conditions at certain lodging establishments that have created nuisances and/or prejudiced the morals of the community; and

WHEREAS, the City has, on occasion, expended a disproportionate percentage of its police service on certain lodging establishments; and

WHEREAS, the City Council of the City of Arnold desires to amend Chapter 605 of the Arnold Code of Ordinances.

WHEREAS, the proper public hearings have been held, pursuant to City Ordinance and the laws of the state of Missouri; and

WHEREAS, the City Council voted to amend Chapter 605 of the Arnold Code of Ordinances.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI, AS FOLLOWS:

**SECTION 1.** That Section 605 of the Arnold Code of Ordinances is hereby amended by the addition thereto of Section 605.380., entitled "Lodging Establishment Business Licensing and License Tax Reporting and Collection", to be read in its entirety as follows:

**"Section 605.380. Lodging Establishment Business Licensing and Transient Guest (Hotel/Motel) Tax Reporting and Collection**

- A. This Section specifically applies to the business license and taxes for lodging establishments ("lodging establishment license"). The provisions of this Section are in addition to, not in lieu of, other provisions of this Chapter or the code of ordinances. In the case of an inconsistency in this Chapter or code of ordinances, the specific shall control.
- B. No person shall operate a lodging establishment who does not possess a lodging establishment license from the City to operate such lodging establishment. Only a person who complies with the provisions of this Section shall be entitled to receive and retain such a lodging establishment license. The Collector shall approve a lodging establishment license application if:

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2019-08 TEXT AMENDMENT



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1. The applicant is not delinquent in payment of business license fees for the prior year at the time of application;
  2. The applicant is not delinquent in payment of lodging establishment transient guest taxes at the time of application;
  3. The applicant has no other outstanding fines, fees, taxes, or money due the City at the time of application;
  4. The applicant demonstrates that it has a valid license required by the State of Missouri pursuant to Sections 315.005 to 315.065, RSMo.; and
  5. No other grounds to deny such lodging establishment license exist under the law.
- C. The application for a lodging establishment license shall be made by the owner of the business seeking to operate a lodging establishment and shall state the identity of the owner and the location of its business and shall include such other information as is required by the Collector, including evidence that the owner has the right to occupy the premises where the proposed lodging establishment is to be located.
- D. A lodging establishment license shall be issued for one (1) year and shall be effective from September first (1<sup>st</sup>), or such later date that it may be issued during the year, until August thirty-first (31<sup>st</sup>) of such year, subject to revocation as provided herein.
- E. Every licensee shall, by the fifteenth (15th) day of the month following the conclusion of each calendar month, file with the Collector a completed transient guest tax return in such form as may be prescribed by the Collector. The completed return shall state the sum of all fees and charges for sleeping rooms during the period covered by the return, and the licensee shall in the license return calculate the amount of transient guest tax due for the prior month plus any delinquent penalties and interest. The return shall be signed by the licensee or a duly authorized officer or agent of the licensee and by any person who shall prepare such return.
- F. The lodging establishment transient guest tax due for each calendar month shall be paid by the fifteenth (15th) day of the month following the end of each such calendar month based upon the calculation set forth in Subsection (E) above.
- G. Any lodging establishment transient guest tax due pursuant to the provisions of this Section shall be delinquent if not paid by the date such payment is due, and shall be subject to the provisions of this Chapter relating to delinquent taxes.
- H. Definitions. As used in this Section, the following terms shall have these prescribed meanings:

### CALL FOR SERVICE

- 1) Any report to the Arnold Police Department from or concerning a lodging establishment in connection with an incident occurring at that lodging establishment;  
or

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- 2) Any on-view incident observed by Police concerning a lodging establishment, which report or on- view incident is responded to by a Police Officer.

#### COLLECTOR

The City Clerk of the City of Arnold, Missouri.

#### EXTENDED STAY LODGING ESTABLISHMENT

A lodging establishment where any of the guest rooms are rented to longer-term guests as defined herein.

#### GUEST ROOM

Any room or unit in a lodging establishment where sleeping accommodations are regularly furnished to the public.

#### LODGING ESTABLISHMENT

Any building, group of buildings, structure, facility, place, or places of business where five (5) or more guest rooms are provided, which is owned, maintained, or operated by any person and which is kept, used, maintained, advertised or held out to the public for hire and which can be construed to be a hotel, motel, motor hotel, inn, tourist court, resort, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as Lodging Establishments.

#### LONGER-TERM GUEST

Any person occupying a guest room or combination of guest rooms in a lodging establishment under any concession, permit, right of access, license, rental or other agreement for living and sleeping purposes for a period (a) in excess of (i) twenty-eight (28) consecutive days; or (ii) twenty-eight (28) nonconsecutive days within any ninety-day period; and (b) not exceeding one hundred eighty-three (183) days or six (6) months, whichever is less. For the purposes of this definition, if there are multiple individuals in a party occupying a guest room in a lodging establishment for the periods stated above, each member of the party shall be considered a longer-term guest regardless of which member or members of the party are registered as renting the guest room(s).

#### OPERATOR

Any person on the premises of a lodging establishment who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operations the business. A person may be found to be operating or causing to be operated a lodging establishment regardless of whether the person is an owner, part owner, or licensee of the business.

#### OWNER

The person who owns the business operating a lodging establishment and who is responsible for obtaining a lodging establishment license and a lodging establishment license endorsement from the City for operating the lodging establishment and for paying all lodging establishment license taxes.

#### PERSON

Any individual, partnership, corporation, association, organization, firm, or Federal, State, County, City, Village, or Association.

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### POLICE

Any authorized agent of the Arnold Police Department or other law enforcement agency having jurisdiction.

### RENT OR SUBRENT

The act of permitting a guest room to be occupied for any form of consideration.

#### I. *General Operation.*

1. Lodging establishments must have a representative available on the premises at all times.
2. Lodging establishments must comply with Sections 315.005 to 315.065, RSMo.
3. Lodging establishments shall be kept in a clean and sanitary condition, in good repair, and shall be maintained and operated with strict regard to health and safety of the guest.
4. Except for extended stay lodging establishments which are properly zoned as extended stay lodging establishments under Chapter 405, lodging establishments are prohibited from renting any guest rooms to longer-term guests.
5. No guest room in any extended stay lodging establishment shall be rented to any longer-term guest unless such guest room is equipped with a functioning, permanently installed private bathroom (including a bath or shower) and a permanently installed kitchen (including a sink, refrigerator and cooktop).
6. Occupancy limits for each room within a lodging establishment shall be determined by the Fire Marshall and shall be displayed in each room. Occupancy shall not exceed that fixed by the Fire Marshall at any time.
7. No lodging establishment shall rent a guest room or combination of guest rooms in such lodging establishment for more than 28 consecutive days or 28 non-consecutive days in any three-month period to any person. No extended stay lodging establishment shall rent a guest room or combination of guest rooms in such extended stay lodging establishment for more than six (6) consecutive months or 183 non-consecutive days in any nine-month period to any person. It is the intent of this Section that if a guest room is occupied by a party or group of individuals for either of the maximum time periods allowed by this Section, no guest room in that lodging establishment or extended stay lodging establishment may again be rented to the same party or to any individual or person that was a member of said party within the same time period. Maximum stays at both all lodging establishments may be extended by the Community Development Director based on individual hardship, which may include stays resulting from natural disaster or calamity. The decision of the Community Development Director shall be final.
8. Extended stay lodging establishments shall be subject to all of the other provisions of this Chapter that relate to lodging establishments.

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### J. *Guest Registration.*

#### 1. *Guest register.*

- a. Every operator of any lodging establishment in the City shall keep a register for the registration of all guests. A Law Enforcement Officer in the City may request an operator consent to inspect the record as part of the Department's public safety responsibilities. If such request for inspection is refused, the operator shall secure the guest register in the presence of the Officer in a manner directed by the Officer to ensure that no one can tamper with the guest register and the operator shall maintain the security of the guest register until such time as a subpoena, warrant, or court order has been issued or denied.
  - b. No person shall alter, deface or erase the record so as to make the information recorded in it illegible or unintelligible, or hinder, obstruct or interfere with any inspection of the record under this section.
  - c. Any record maintained in the form of a book shall be permanently bound, each page shall be sequentially numbered and the book shall be the minimum size of eight by ten inches. No page shall be removed from the book. Any record maintained in the form of cards shall be on cards that are the minimum size of two and one-half inches by four inches and numbered consecutively and used in sequence. Any card numbered within the sequence of utilized cards shall be preserved as part of the record even if it is not used for a room rental. The numbers shall be printed or otherwise indelibly affixed to the cards. If maintained electronically, the record shall be printable.
  - d. For the purpose of enforcing this chapter, every operator of a lodging establishment shall record the days and dates each guest room in his or her lodging establishment is rented or occupied. The records of guest room occupation or rental shall be kept by the operator within the City of Arnold and shall always be subject to audit by the Collector or by any person (whether or not an employee of the City) designated by the Collector for that purpose at the discretion of the Collector. The records of guest room occupation or rental required to be maintained by this Section shall be maintained for a period of five (5) complete licensing years.
2. *Guests must register.* No operator of any lodging establishment in the City shall rent or subrent or assign for occupancy any guest room in that lodging establishment to any person until after such person shall have registered his/her name and address in the register herein provided to be kept, and thereafter such register shall be made to show correctly the year, month, day and hour of the arrival of such person at the lodging establishment and the number of the guest room rented or assigned to such guest; and such operator of such lodging establishment shall at the time of the departure of each guest endorse upon such register the date of such departure. No person shall erase or alter any name or address written in such register.

#### 3. *Registration information required.*

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- a. The operator of any lodging establishment shall keep a register of the names and home or business addresses of all persons to be accommodated at the lodging establishment with the length of stay indicated. At the time of registration, the operator or his or her employee shall verify the identification of the registrant by requesting to see, and copying onto the registration form any of the following: the registrant's valid driver's license, the registrant's valid military identification, or the registrant's valid passport number and country of issuance.
- b. The operator or his or her employee must also include on the registration forms the make, type and license number of the registrant's automobile, trailer or other vehicle, and the State in which such vehicle is registered and the year of registration for any vehicle that is parked on the premises. Lodging establishments that can demonstrate that they take sufficient reasonable steps to control access to and from parking areas on the premises shall not be required to include this information on registration forms. Such sufficient reasonable steps to control access to and from parking areas shall include, but not be limited to, valet parking, automated access gates, and parking attendants.
- c. Pursuant to Sec. 315.069, RSMo, 2000, lodging establishment operators may make certain requirements for providing accommodations.
  - (1) The lodging establishment operator may require a person seeking the use of a room, accommodations, facilities or other privileges of the hotel to demonstrate his or her ability to pay for such use by cash, credit card or approved check. In addition, the lodging establishment operator may require the parent or guardian of a person under the age of eighteen to:
    - i. *Accept in writing the liability for the cost of the room, accommodations, facilities or other privileges of the hotel used by the person, and the cost of any damages to the room, furnishings in the room or other facilities of the hotel caused by the person while using the room, accommodations, facilities or other privileges of the hotel;*
    - ii. *Provide the hotel operator with one of the following:*
      - (a) *The authority to charge the amount due for the cost of the room, accommodations, facilities or other privileges of the hotel used by the person, and the cost of any damages to the room, furnishings in the room or other facilities of the hotel caused by the person while using the room, accommodations, facilities or other privileges of the hotel to a credit card used by a person under the age of eighteen. The granting of such authority shall be deemed a waiver of any defense based upon the age of such person which may be raised by the minor or the person authorizing the use of the credit card; or*

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An amount sufficient to cover the cost of  
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*the room, accommodations, facilities or other privileges of the hotel used by the person, and a reasonable amount as a deposit toward the cost of any damages to the room, furnishings in the room or other facilities of the hotel caused by the person while using the room, accommodations, facilities or other privileges of the hotel. A cash deposit for any damages required by the hotel operator shall be promptly refunded to the extent not used to cover the cost of any such damages as determined by the hotel operator following an inspection of the room, accommodations or facilities of the hotel used by the person at the end of his or her stay.*

4. *Pre-arrival registration.* In the event that the lodging establishment utilizes a pre-arrival registration or approval procedure that obviates the requirement for an arriving guest to go to the front desk and provide information typically required as part of the lodging establishment's customary registration process, the lodging establishment shall not be required to comply with Subdivision (3) of this Subsection; provided however, that the related information of the type specified in Subdivision (3) is recorded subsequent to guest arrival.
  5. *Illegal registration.* No person shall register at any lodging establishment in the City under the name of any other person, or by any assumed, false or fictitious name. No person recording any information required by this Section shall falsely or inaccurately state such information.
- K. *Registration and occupancy shall not establish domicile.* The act of registering as a guest or occupying a guest room in any lodging establishment is by license and is transient in nature. Such registration and occupancy shall not establish domicile or residency by the guest or any occupants of the room(s).
1. The owner or operator of any lodging establishment shall inform all guests, in writing, of this provision during the guest registration process and as part of any published guest rules.
  2. The owner or operator of any lodging establishment operator shall refuse accommodations to or eject persons from the lodging establishment, as permitted in this chapter, when such persons act to violate or indicate their intent to violate this section.
- L. *Hourly Rental Prohibited.*
1. It shall be unlawful for an owner or operator of any lodging establishment to rent or subrent any room for a rate less than which is charged or accepted for one (1) full day's accommodations within any twenty-four (24) hour period.
  2. It shall be unlawful for an owner or operator of any lodging establishment to rent or subrent the same guest room more than two (2) times within any twenty-four (24) hour period.

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- 3. No such owner or operator shall advertise that any guest room is available at any hourly rate or for a period less than twenty-four (24) hours.

*M. Rental To A Minor Prohibited.* It shall be unlawful for an owner or operator of any lodging establishment to rent or subrent any guest room to any individual under the age of eighteen (18) years unless said individual is accompanied by a registered guest who is his or her legal guardian; or when accompanied by an adult over the age of eighteen (18) years who is a registered guest, and who is in possession of expressed written permission of the legal guardian.

*N. Use Of Portable Electrical Or Open-Flame Cooking Devices Prohibited.*

It shall be unlawful for an owner or operator of any lodging establishment or for any registrant or guest of a lodging establishment to use, provide or knowingly allow the use of portable electrical or open-flame cooking devices, including, but not limited to, hot plates, electric skillets and grills, propane and charcoal grills, camping stoves, slow cookers, and any similar cooking devices on the premises of a lodging establishment, except as provided in Subdivision (2) below.

- 1. Kitchens or kitchenettes installed with the approval of the fire district and the City of Arnold and in accordance with applicable building codes; and microwaves and coffee makers that are provided by the owner or operator of the lodging establishment shall be permitted.

*O. Maintenance of Lodging Establishments.*

- 1. All rooms arranged, designed, used or intended to be used to provide living and sleeping for guests in lodging establishments must be maintained to standards set forth in Chapter 500, Existing Residential Structures Code, of the City of Arnold Municipal Code, except that individual rooms may be out-of- order for repair and/or remodeling purposes for no more than ninety (90) days within any twelve (12) month period, provided there is a valid building permit issued in conjunction with such repairs and/or remodel.
- 2. The building and grounds shall at all times be improved, constructed, maintained, and used in strict conformity with the City's Code of Ordinances, including, but not limited to any approved site-specific ordinances, conditional use permits, site plans, landscape plans, lighting plans, and sign packages.

*P. Consumption of Alcoholic Beverages In Public Areas Prohibited.* It shall be unlawful for an owner or operator of any lodging establishment, or for any registrant or guest of a lodging establishment, to consume or knowingly allow the consumption of alcoholic beverages, as defined in Chapter 600, in any parking lot, hallway, or other publicly accessible area associated with the lodging establishment except in restaurants, bars, lounges, banquet rooms, or other areas specifically authorized by a valid liquor license.

*Q. Lodging Establishment Operator May Refuse Accommodations.*

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As permitted pursuant to Sec. 315.067, RSMo. 2000, an operator of a lodging establishment may refuse or deny the use of a guest room, facilities or other privileges of the lodging establishment to any of the following:

- a. An individual who is unwilling or unable to pay for the guest room, facilities, or other privileges of the lodging establishment;
- b. An individual who is visibly intoxicated, under the influence of alcohol or other drug, and/or is disorderly so as to create a public nuisance;

An individual who the lodging establishment operator reasonably believes is seeking to use a guest room, facilities or other privileges of the lodging establishment for an unlawful purpose;

An individual who the lodging establishment operator reasonably believes is bringing in anything which may create an unreasonable danger or risk to other persons, including, but not limited to, explosives or the unlawful use of firearms; or

An individual whose use of the guest room, facilities or other privileges of the lodging establishment would result in a violation of the maximum capacity of such lodging establishment.

A lodging establishment operator who reasonably refuses or denies the use of a guest room, facilities or other privileges of the lodging establishment pursuant to this Section shall not be subject to any civil or criminal action or any fine or other penalty based on such reasonable refusal.

**Q. Lodging Establishment Operator May Eject Person.** Pursuant to Sec. 315.075, RSMo. 2000, an owner or operator of a lodging establishment may eject a person from the lodging establishment and notify the appropriate Police for any of the following reasons:

1. Non-payment of charges incurred by the individual renting, subrenting or leasing a guest room or facility of the lodging establishment when the charges are due and owing;
2. The individual present at the lodging establishment is visibly intoxicated, under the influence of alcohol or other drug and/or is disorderly so as to create a public nuisance;
3. The owner or operator reasonably believes that the individual is using the premises for an unlawful purpose;
4. The owner or operator reasonably believes that the individual has brought something into the lodging establishment which may create an unreasonable danger or risk to other persons, including, but not limited to, unlawful use of firearms or explosives; or
5. The individual is in violation of any Federal, State or local laws or regulations relating to the lodging establishment.

**R. Lodging Establishment License Endorsement Required.**

1. Lodging establishment license endorsement requirement.

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- a. Beginning September 1, 2019, it shall be unlawful for any person to operate a lodging establishment in the City of Arnold without both:
  - (1) A lodging establishment license; and
  - (2) A lodging establishment license endorsement issued pursuant to this Subsection ("Lodging Establishment License Endorsement").
- b. *Initial application.*
  - (1) For all lodging establishments which exist and are currently operating prior to April 1, 2019, those lodging establishments shall apply for a lodging establishment license endorsement by September 1, 2019 and, so long as the lodging establishment is qualified to obtain a lodging establishment license, the City shall issue an initial lodging establishment license endorsement to such lodging establishment.
  - (2) For those lodging establishments which do not exist as of April 1, 2019 or which begin or resume operations after such date, those lodging establishments shall apply for a lodging establishment license endorsement prior to beginning or resuming operations and, so long as the lodging establishment is qualified to obtain a lodging establishment license, the City shall issue an initial lodging establishment license endorsement to such lodging establishment.
- c. *Conditions to deter crime — conditions/requirements.*
  - (1) Once a lodging establishment license endorsement is issued, a lodging establishment must comply with additional conditions designed to deter crime in order to obtain or maintain its lodging establishment license endorsement, which additional conditions are based upon an individual lodging establishment's annual calls for service per guest room for the prior year.
  - (2) The calls for service and crime statistics for each lodging establishment will be compiled for a twelve (12) month period ending December thirty-first (31<sup>st</sup>) of each calendar year by the Arnold Police Department.
  - (3) Each lodging establishment owner will be notified of its annual number of calls for service per guest room for the prior year no later than March thirty-first (31<sup>st</sup>) of each calendar year.
  - (4) The time between April first (1<sup>st</sup>) and August first (1<sup>st</sup>) will allow lodging establishments time to comply with all the conditions of their group level necessary to receive a lodging establishment license endorsement prior to their making application for the issuance/renewal of their lodging establishment license.

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- d. *Renewals.* Each lodging establishment shall demonstrate that it has fulfilled the conditions required by August first (1<sup>st</sup>). If the lodging establishment has satisfactorily demonstrated that it has fulfilled the conditions required, then the City shall issue a new lodging establishment license endorsement for such lodging establishment for the next calendar year.
  - e. *Form.* The lodging establishment license endorsement required herein shall be made upon a form prepared by the Arnold Police Department upon application by the licensee. The lodging establishment license endorsement form must be presented to the City Clerk by every lodging establishment licensee, as a condition of eligibility for the renewal of a lodging establishment license.
2. *Annual calls for police service less than or equal to 0.25 calls per guest room (including those lodging establishments with no history of calls per service per guest room for the prior year).* Lodging establishments whose annual calls for service are less than or equal to 0.25 calls per guest room shall be entitled to a lodging establishment endorsement without further condition and shall have the option, but not the requirement, to implement the followings measures:
    - a. At the request of such lodging establishment, the Arnold Police Department will provide the lodging establishment with inspection services and advice concerning crime prevention through environmental design standards.
    - b. At the request of such lodging establishment, the Arnold Police Department will provide training for the lodging establishment staff, in cooperation with management, regarding the recognition of criminal behavior.
    - c. At the request of such lodging establishment, the Arnold Police Department will keep the lodging establishment management apprised of police activity that occurs on the property of the lodging establishment to the extent deemed acceptable by the Arnold Police Department.
  3. *Annual calls for police service greater than 0.25 calls per guest room but less than or equal to 1.00 call per guest room.* Lodging establishments whose annual calls for service are greater than 0.25 calls per guest room but less than or equal to 1.00 call per guest room are required to meet the following additional conditions, designed to deter crime, in order to obtain a lodging establishment license endorsement to operate in the City of Arnold:
    - a. The lodging establishment shall contact the Arnold Police Department to coordinate the following requirements:
      - (1) The Arnold Police Department shall provide training for the lodging establishment staff, in cooperation with management, regarding the recognition of criminal behavior.
      - (2) The Arnold Police Department shall keep the lodging establishment management apprised of police activity that occurs on the property of the lodging establishment to the extent deemed acceptable by the

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- b. The lodging establishment must install and operate a surveillance camera (with recorder) in the lobby and all building entry/exit points accessible to guests for twenty-four (24) hours per day, seven (7) days per week. All surveillance recordings shall be stored and maintained in good viewing order for a minimum of thirty (30) days after recording, and shall be made available upon request by any Law Enforcement Officer in the City. Such recordings shall be date and time stamped.
  - c. The lodging establishment must undergo an Arnold Police Department crime prevention assessment of the lodging establishment to be conducted by the Arnold Police Department Crime Prevention Unit using standards from the crime prevention through environmental design (CPTED) program.
4. *Annual calls for Police service greater than 1.00 call per guest room. Lodging establishments whose annual calls for service are greater than 1.00 call per guest room are required to meet the following additional conditions, designed to deter crime, in order to obtain a lodging establishment license endorsement to operate in the City of Arnold:*
- a. The lodging establishment must conform to the conditions set forth in Section 605.130(R)(3).
  - b. The lodging establishment must provide the Arnold Police Department with the names and dates of birth of the owner, or if the owner is an entity, all officers of the owner, and all employees employed at the lodging establishment to allow for background checks. A processing fee (in an amount required to cover costs) may be required as determined by the Arnold Police Department.
  - c. The lodging establishment must hold semi-annual employee training sessions, assisted by the Arnold Police Department.
  - d. The lodging establishment must provide twenty-four (24) hour front desk personnel.
  - e. The lodging establishment must enforce the following guest rules:
    - (1) No guest room may be used for drunkenness, fighting, or breaches of the peace. No guest room may be used if loud noises come from that guest room. Loud noises are those noises that disturb the tranquility of the neighborhood or those noises that would be disturbing to a reasonable person.
    - (2) All adult guests and visitors must present a government issued photo ID at the front desk immediately upon arrival.
    - (3) Registered guests shall re-check-in every seven (7) calendar days.
    - (4) All guests and visitors must be at least twenty-one (21) years old,

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unless accompanied by a parent or legal guardian.

- (5) Only registered guests are allowed in his/her room between 10:00 P.M. and 6:00 A.M.
  - (6) Guests may not prohibit or impede room entry by the lodging establishment, when such entry is for purposes of inspection, cleaning and/or maintenance.
  - (7) The lodging establishment may visually inspect all guest rooms every 24 hours to ensure the well-being of guests and confirm the condition of the room.
- f. The lodging establishment must post house rules in the lobby and guest rooms and each guest and visitor must sign a copy of the house rules. The operator must notify the guests and visitors that their registration information may be shared with the Arnold Police Department.
  - g. Upon registration, full payment shall be collected for stays of seven (7) days or longer.
  - h. The maximum stay of any longer-term guest shall not exceed two (2) months or sixty (60) calendar days, whichever is less.
  - i. The lodging establishment must thoroughly clean each room, to include the provision of clean bed linens, bathing towels, and bathroom tissue, at least one time per week; and a record of cleanings shall be maintained for at least one (1) year.
  - j. The lodging establishment must maintain a daily key log. Each key that is found to be missing must have its corresponding lock re-keyed prior to the guest room being rented or subrented. Each master key that is found to be missing will require the lodging establishment to re-key all corresponding locks.
  - k. The lodging establishment must issue parking passes to all vehicles to be allowed to park on the premises with each pass marked with the license plate number of the vehicle to which it is issued, the date of issuance, and expiration date. Such passes shall be visibly displayed in the vehicle to which it is issued.
  - l. The lodging establishment must participate in the Arnold Police Department "criminal trespass program". Participation shall mean the lodging establishment shall be registered in the "criminal trespass program".
  - m. The lodging establishment must remove all graffiti and repair all vandalism within seven (7) days of occurrence.
  - n. The lodging establishment must permit an annual inspection by the City of Arnold. All building official inspections are maintained according

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to all applicable building, fire, and safety codes, including tamper-resistant smoke detectors meeting National Fire Protection Agency (NFPA) standards.

- o. The lodging establishment must follow crime prevention through environmental design (CPTED) standards for landscaping/plant maintenance. These standards will be provided by the Arnold Police Department.
- p. The lodging establishment must install lighting in all common areas with minimum maintained lighting of one and one-half (1.5) foot-candles at ground level.
- q. The lodging establishment must install and operate video monitoring equipment in all parking lots, monitored and recorded at the front desk twenty-four (24) hours per day, seven (7) days per week. All surveillance recordings shall be stored and maintained in good viewing order for a minimum of thirty (30) days after recording, and shall be made available upon request by any Law Enforcement Officer in the City. Such recordings shall be date and time stamped.
- r. The lodging establishment must have a certified law enforcement officer on the premises every day from 6:00 P.M. until 6:00 A.M.
- s. The lodging establishment must submit to scheduled semi-annual audits by the City of Arnold Police Department to verify compliance with the above-referenced conditions.

#### S. *Revocation of Lodging Establishment License.*

1. The Collector may revoke a lodging establishment license as provided in this Section at any time the Collector determines that such lodging establishment is not in compliance with this Chapter. If, at any time, the Collector determines that a lodging establishment is not in compliance with this Chapter of the Arnold Code, the Collector shall notify the owner of the lodging establishment of such alterations or changes as may be deemed necessary to comply therewith and shall state in such notice the amount of time that the owner shall have to bring the lodging establishment into compliance with this Chapter. At the expiration of the period of time allowed by the Collector, the Collector shall review the progress of the owner's attempts to follow this Chapter and may grant additional reasonable periods of time for compliance. If the Collector is not satisfied that the owner has made the lodging establishment compliant with this Chapter, the Collector shall give written notice to the owner stating that the City will consider revocation of the lodging establishment license, setting forth the reasons for the proposed action and fixing the date of a hearing before the City Council. Such public hearing shall be held not less than thirty (30) days from the date of delivery of such notice. The owner shall be entitled to appear with an attorney and may call witnesses as may be desired. If the City Council determines after such hearing that the lodging establishment is not in compliance with the provisions of this Chapter, the City Council may revoke the lodging establishment license. The owner of a lodging establishment may appeal an adverse decision of the City Council.



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in operation during the foregoing process until revocation unless the Collector determines that an imminent health or safety hazard exists.

2. All notices served by the City pursuant to this Section shall be in writing and shall be either delivered to the owner in person or by registered or certified mail.

#### T. *Subsequent Applications for Lodging Establishment License After Revocation — Conditions of Approval.*

1. No subsequent application for a lodging establishment license to operate a lodging establishment on the same property following a period of revocation shall be approved unless:

- a. Sixty (60) days have passed from the date of revocation;
- b. The owner provides the City with a bond in a form acceptable to the City in the amount of one hundred thousand dollars (\$100,000.00) ("bond"); and
- c. The applicant presents a corrective action plan, to the reasonable satisfaction of the Chief of Police and the Collector, to assure that the conditions and causes of the prior revocation have been or will be eliminated. Such corrective action plan must, at a minimum, include the following:
  - (1) All employees of the applicant shall be required to attend a four (4) hour crime prevention training class taught by law enforcement personnel; and
  - (2) The lodging establishment property must pass a full "Crime Prevention Through Environmental Design (CPTED)" inspection by law enforcement personnel demonstrating that the property meets minimum security requirements; and
  - (3) The lodging establishment implements the additional conditions described in Section 605.130(R)(4).

2. The bond referenced in Subsection (T)(1) shall run to the City and shall contain such conditions as are required by the City, including the following:

- a. That the lodging establishment will comply with all of the terms, conditions, provisions, requirements and specifications contained in this Chapter; and
- b. The bond shall be executed by a surety or guaranty company qualified to transact business in the State of Missouri.

U. *Assignment.* A valid lodging establishment license may be transferred to a new owner of the lodging establishment upon notification to the City.

V. *Violations, Enforcement and Penalties.*

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- 1. Remedies cumulative. The remedies provided for herein for failure to comply with this Section shall be cumulative and in addition to any other remedy at law or equity.
2. Continuing annual calls for police service greater than 1.00 call per guest room. It is a violation of this Section if, after imposition of all of the conditions of Section 605.130(R)(4) for a period of one (1) year, the annual calls for service to the lodging establishment continue to be greater than 1.00 per year.
3. Civil infraction. A violation of or failure to comply with this Section is a civil offense and the City may enforce this Section and seek fines and penalties in accordance with the provisions of this Section.
4. Separate offense. Each day upon which a violation of this Section occurs constitutes a separate offense.
5. Nuisance abatement — enforcement by civil action. The City may also seek legal or equitable relief to enjoin any acts or practices and abate any condition which may constitute a nuisance or a violation of this Section.
6. Operating without a lodging establishment license or lodging establishment license endorsement. Any person establishing, conducting, managing or operating a lodging establishment in violation of this Chapter and/or without a lodging establishment license or lodging establishment license endorsement is guilty of a Class B misdemeanor."

SECTION 2. This ordinance shall be in full force and effect from and after its passage and approval.

READ TWO TIMES, PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF MARCH 2019.

Presiding Officer of the Council

Mayor Ron Counts

ATTEST:

City Clerk Tammi Casey

1st reading: \_\_\_\_\_
2nd reading: \_\_\_\_\_

APPROVED AS TO FORM:

City Attorney Robert Sweeney

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