

ORDINANCE NO. 5595

FINAL

**ORDINANCE TO ADD TITLE V, CHAPTER 40 OF THE CITY OF MEMPHIS,  
CODE OF ORDINANCE TO CREATE THE MEMPHIS TOURISM  
IMPROVEMENT DISTRICT**

**WHEREAS**, pursuant to Article 40 Section 353 of the Memphis City Charter the City Council shall have the power to pass, for the government of the City, any ordinance not in conflict with the constitution or laws of the United States or of the State of Tennessee; and

**WHEREAS**, the City Council has the power to pass any ordinance regulating the assessment, levy and collection of all City taxes not inconsistent with the provisions of the Constitution and laws of the United States and of the State of Tennessee; and

**WHEREAS**, the City Council finds that this ordinance is not inconsistent with the provisions of the Constitution and laws of the United States and of the State of Tennessee; and

**WHEREAS**, the tourism industry plays a vital role in the City's economic well-being, provides jobs for residents, and contributes to City revenue via sales and hotel /motel occupancy taxes; and

**WHEREAS**, the City Council recognizes the importance of investments in tourism marketing; and

**WHEREAS**, the Metropolitan Memphis Hotel and Lodging Association is supportive of the establishment of a Tourism Improvement District;

**NOW THEREFORE**,

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, that Title V, Chapter 40 is hereby added to the City of Memphis Code of Ordinances, to read as follows:

Section 5-40-1. Short Title.

This Chapter shall be known as the "Memphis Tourism Improvement District."

Section 5-40-2. Definitions.

For the purposes of this chapter, the following terms shall have the special meanings respectively ascribed to them below.

*Assessment* means a special assessment levied on hotels in the district.

*Bureau* means the Memphis Convention and Visitors Bureau, a nonprofit corporation.

*District* means the Memphis Tourism Improvement District created pursuant to this chapter. The boundaries of the district shall be the boundaries of the City of Memphis.

*Hotel* means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration. Hotel does not include those hotels that are within a Tourism Surcharge District described in Ordinance No. 5583 existing on July 1, 2015.

*Transient* means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodation in a hotel for a period of less than 30 continuous days.

*Room night* means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel for a period of twenty-four hours or less.

#### Section 5-40-3. Purpose.

The purpose of this chapter is to establish a tourism improvement district for the City that will generate funds dedicated to destination marketing. The district is intended to provide supplemental funding for marketing programs above and beyond that currently provided. District funds shall supplement existing hotel / motel occupancy tax funds dedicated to the bureau for marketing, advertising and promotion of the hospitality industry.

#### Section 5-40-4. Creation.

There is hereby established the Memphis Tourism Improvement District, effective January 1, 2016.

#### Section 5-40-5. Funding.

The district shall impose an assessment of \$2.00 per paid occupied room night on hotels in the City. The following room nights shall not be subject to the assessment:

A. Those wherein the person has maintained occupancy for 30 continuous days. When a person has maintained occupancy for 30 continuous days, that person shall receive from the operator a refund or credit for the assessment previously collected from or charged to him or her, and the operator shall receive credit for the amount of such assessment is previously paid or reported to the City.

B. Those for which the person is not charged, commonly known as complimentary or comp rooms.

#### Section 5-40-6. Programs.

The district funds shall be used to generate awareness of and increase visitation to the City. The programs will be designed to increase hotel room sales for the benefit of the assessed hotels. Non-assessed hotels will not be included in any district-funded programs. Programs may include:

- A. Marketing and advertising, including Internet, television, radio, and print;
- B. Promotions, such as package deals and contests;
- C. Sales efforts, including industry conferences, fam tours, and group sales efforts;
- D. Research on the tourism market and industry;
- E. Branding efforts;
- F. Support of special events which attract out of town visitors;
- G. Related administrative expenses; and
- H. Other programs designed to increase overnight stays at hotels.

#### Section 5-40-7. Collection.

- A. The assessment shall be remitted to the City treasurer, and the City treasurer is charged with the duty of collection thereof. Such assessment shall be remitted to the City treasurer not later than the twentieth day of each month for the preceding month. The assessment is the responsibility of each hotel; however, hotel may choose to pass the assessment on to the transient. If a hotel chooses to pass the assessment on to the transient, it must be disclosed in advance as the "Memphis TID assessment."
- B. For the purpose of compensating the City in accounting for and remitting the assessment to the Bureau, the City shall be allowed to retain one percent of the amount collected.

#### Section 5-40-8. Penalties and Interest.

Assessments not remitted to the City treasurer on or before the due dates shall be delinquent. A hotel shall be liable for interest on such delinquent assessments from the due date at the rate of ten percent per annum, and, in addition, a penalty of one percent for each month or fraction thereof such assessments are delinquent. Such interest and penalty shall become a part of the assessment herein required to be remitted. Each occurrence of willful failure or refusal of a hotel to remit the assessment is declared to be unlawful and shall be punishable by a fine of \$200.00. In addition, it is unlawful for any hotel to knowingly file a false assessment return, and a violation shall be punishable by a fine of not more than \$200.00.

#### Section 5-40-9. Management.

- A. Funds collected by the City, minus the one percent administration allowance, shall be remitted to the bureau within thirty days of receipt.
- B. The bureau shall be responsible for managing district funds and programs in accordance with this ordinance. The bureau shall not be considered a public entity for any purpose, nor shall its board members be considered public officials for any purpose. The bureau shall enter into a contract with the City regarding the management and use of funds.
- C. The bureau shall provide an annual report to the City. The annual report shall be submitted each year no later than ninety days after the anniversary of the assessment start date. The annual report shall include:
  - a. A summary of the activities provided in the previous year;
  - b. A summary of the expenditures from the previous year;
  - c. The amount of any revenue to be carried over from any prior year(s);
  - d. A list of the directors and officers of the bureau; and
  - e. A list of accomplishments attributable to the district.

#### Section 5-40-10. Severability.

If any portion, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this chapter without it, then the remaining portions, clauses, and phrases shall not be affected but shall remain in full force and effect.

#### Section 5-40-11. Term.

The district hereby created shall have a ten-year term, from January 1, 2016 through December 31, 2025. Prior to the expiration of the term, the City Council may adopt a new ordinance to renew the district with the support of the Metropolitan Memphis Hotel and Lodging Association.

#### Section 5-40-12. Termination.

Objection petitions may be submitted once per year in the month of December. If an objection petition is received from businesses which pay more than fifty percent (50%) of the assessment, the City Council shall hold a hearing on district termination. Objection petitions must be signed by the business owner or their authorized representative, and dated within thirty (30) days of their submission to the City. A public hearing will be held on the objection petitions within thirty (30) days of the City's receipt of the objection petitions.

---

Myron Lowery, Chairman

Memphis City Council

ATTEST:

\_\_\_\_\_  
Comptroller

THE FOREGOING ORDINANCE

# 5595 PASSED

1st Reading 8-4-15

2nd Reading 8-18-15

3rd Reading 9-1-15

Approved: *Myron Lowery*  
Chairman of Council

Date Signed: 9/15/2015

Approved: *[Signature]*  
Mayor, City of Memphis

Date Signed: 9/17/15

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

*Valerie C. Snipes*  
Comptroller