ORDINANCE NO.: 5614

ORDINANCE TO AMEND ORDINANCE NO. 5595 - TITLE V, CHAPTER 40 OF THE MEMPHIS MUNICIPAL CODE TO REVISE THE DEFINITIONS OF "HOTEL" AND "TRANSIENT" AND SECTION 5-40-5 Funding

WHEREAS, in accordance with applicable state law, Ordinance No. 5595 (the "Ordinance") was adopted, as revised, by the Council of the City of Memphis (the "City Council") on September 1, 2015 for the express purpose of establishing a "Memphis Tourism Improvement District" for the City of Memphis; and

WHEREAS, pursuant to the Ordinance, the City currently imposes on each Hotel (as defined in Ordinance), an assessment in the amount of $2.00 per paid occupied room night on hotels located in the City, which is occupied by a transient (as defined in the Ordinance), subject to certain limitations; and

WHEREAS, on December 1, 2015, pursuant to proper notice and Section 7-32-105 of the Tennessee Code Annotated, a public hearing was held for the discussion of the Ordinance and the hearing of objections, with certain objections being expressed by small hotel owners through its legal counsel; and

WHEREAS, by mutual agreement of the stakeholders, and the concurrence of the City Council, it is determined that it is appropriate and in the best interests of the citizens of Memphis that the definition of Hotels in the Ordinance be amended to exclude hotels within the City that have 45 or fewer rooms and a maximum charge of $35 or less per paid occupied room night, thereby allowing this category of hotels to be exempt from the application of the special assessment imposed by the Ordinance; and

WHEREAS, by amendment of the Tennessee General Assembly to Section 67-6-205 (c)(1), effective July 1, 2015, the definition of transient was revised to state in pertinent part, that the tax does not apply to "rooms, lodgings or accommodations supplied to the same person for a period of ninety (90) continuous days or more".

NOW THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Title V, Chapter 40, Ordinance No. 5595, codified as Section 5-20-2 Definitions is hereby amended to read as follows:

> *"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

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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. Further, Hotel does not include those hotels that meet, at all times, both (i) 45 and fewer rooms and (ii) a maximum charge of $35 or less per paid occupied room night.

"Transient" means any natural person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodation in a hotel for a period of less than ninety (90) continuous days.

Section 5-40-5. Funding. Shall be deleted in its entirety and restated as follows:

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 any natural person has maintained occupancy for ninety (90) continuous days. When a natural person has maintained occupancy for ninety (90) continuous days, that natural 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 as previously paid or reported to the City; and

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

The effective date of this Amended Ordinance shall be June 1, 2016.

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THE FOREGOING AMENDED ORDINANCE

5614 PASSED

1st Reading 3-15-2016

2nd Reading 4-05-2016

3rd Reading 5-03-2016

Approved _____
Chairman of Council

Date Signed: 17 MAY 2016

Approved _____
Mayor, City of Memphis

Date Signed: 5/18/16

_____
_____, Chairman
Memphis City Council

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. Swipes
Comptroller