



Legislation Text

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AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, TO ADD A NEW TITLE IX ENTITLED HOTELS, AND CHAPTER 1 “QUALITY HOSPITALITY (HOTELS)”, IMPOSING ON HOTEL OWNERS/OPERATORS, CERTAIN FAIR HOTEL CUSTOMER STANDARDS AND WORKER RETENTION REQUIREMENTS UPON TRANSFER OF OWNERSHIP.

WHEREAS, the City is authorized by N.J.S.A. 40:52-1(d) to license and regulate hotels; and

WHEREAS, the City seeks to promote the safe operation of hotels and motels within the community and protect the public through good practices and fair consumer practices; and

WHEREAS, the City believes that workforce stability contributes to promoting high quality and safe hotel operations that benefit the City and its residents; and

WHEREAS, the City seeks to impose worker retention requirements upon the transfer of ownership or operation of all Hotels.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Section 1. The Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, shall be amended to add a new Title IX entitled Hotels and Chapter 1 entitled “Quality Hospitality (Hotels), Imposing on Hotel Owners/Operators, Certain Fair Customer Standards and Worker Retention Requirements Upon Transfer of Ownership”.

9:1.1 Definitions.

“Critical Employees” means any employee whose job classification is related to Housekeeping, Food Preparation or Food Service, Front Desk/Front Service, and Engineering at a Hotel. Such classifications include, but are not limited to, Room Attendants, House Persons, Bell/Door Persons, Front Desk Agents, Engineers and Maintenance Employees, Cooks, Stewards, Bartenders, and Servers.

“Hotel” shall mean a building or portion of it which is regularly used and kept open as such for lodging of guests and includes an apartment hotel, boarding house or club whether or not meals are served. See, Revised Ordinance, 10:20-3.

“Hotel Services” means any services commonly offered by a Hotel, including, but not limited to, letting of guest rooms, letting of meeting rooms, provision of food and/or beverage services, provision of banquet services, and provision of spa services.

“Service Disruption” means the occurrence of any of the following:

- (1) Any construction at such hotel that creates excessive noise that has the potential to disturb guests in their rooms other than construction that is unplanned and intended to correct an emergency or other situation requiring immediate attention.
- (2) Any infestation verified by a licensed exterminator or governmental agency of hotel rooms by bed bugs, lice, or other insects or vermin that are capable of spreading disease and/or being carried, including on one’s person, that has not been remedied by a licensed exterminator.
- (3) Temporary or permanent closure of any advertised amenity, including, but not limited to, pool, spa, shuttle service, or food & beverage service.
- (4) Temporary or permanent unavailability of any advertised room appliances or technology, including, but not limited to, in-room refrigerators or internet or Wi-Fi services.
- (5) The unavailability of a non-smoking room in an instance in which a customer reserved a non-smoking room.
- (6) Any durational strikes, lockouts or picketing activity at or near a Hotel which is related to such Hotel.

“Successor Employer” means any person or entity assuming ownership or operation of an existing Hotel.

9:1.2 Worker Retention.

- (1) At least ten (10) days prior to the transfer of ownership or operation of any Hotel, the owner of the Hotel shall provide the Successor Employer a complete and accurate list of Critical Employees, showing name, address, phone number, classification, date of hire, and wage rate.
- (2) At least thirty (30) days prior to the transfer of ownership or operation of any Hotel all Critical Employees shall be notified by the Hotel of the proposed transfer and of their rights under this Ordinance.
- (3) The Successor Employer shall fill its job positions at the Hotel by first hiring from the pool of Critical Employees who had been employed at the Hotel, in accordance with seniority in the applicable classification, and shall offer such employees equal or better wages and benefits.
- (4) The Successor Employer shall retain and not discharge Critical Employees without just cause during the initial ninety (90) day work period of employment following the transfer.
- (5) The provisions of this section shall not apply to a Successor Employer that, on or before the effective date of the transfer of ownership or operation of a Hotel, agrees to assume, or to be bound by, the collective bargaining agreement, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees.

9:1.3. Fair Hotel Customer Practices.

- A. Notification of Service Disruption: A Hotel must notify, in writing, each guest who has reserved a room, any customer who has entered into a booking to utilize Hotel Services, and any vendor with which the hotel has an arrangement for third-party room reservations, of any Service Disruption, including a description of the nature of the service disruption, and of the right to a full refund of the amount paid for any portion of a stay affected by such service disruption. Such notification must be prominent and clear. If such notice is included in a communication containing other information, it must be prominent and clear, in a significantly larger font and different color than the remainder of the communication.
- B. Right to Refund and Prohibition on Penalty for Cancellation: Guests and customers shall be entitled to a full refund of the amount paid for any portion of a stay affected by a service disruption. Hotels may not impose any fee, penalty or other charge, nor retain any deposit in the event a guest or customer cancels a reservation, arrangement or agreement to use Hotel Services in the event of a Service Disruption.
- C. If a Hotel violates subsection A of this section such Hotel shall provide affected guests and customers a full refund in addition to any consequential and compensatory damages, in addition to any other available remedies.

9:1.4. No Subcontracting of Critical Employees.

- A. A Hotel must directly employ all Critical Employees. Contracting to any third parties for employees who perform the duties of Critical Employees at a Hotel, including staffing agencies or other contractors or subcontractors, is not permitted.
- B. Notwithstanding subsection A, an owner of a Hotel may retain a single management company to manage all Hotel operations on the owner's behalf and employ all Critical Employees at the Hotel as the owner's agent.

9:1.5. Penalties.

Any violation of this ordinance shall, upon conviction thereof, be punishable by a fine not exceeding Two Thousand Dollars (\$2,000). The continuation of a violation shall constitute a separate offense for each successive day.

In addition to any other penalties or remedies for violations of this code, guests, customers, and Critical Employees may also bring a private cause of action in any court of competent jurisdiction to recover, in addition to the remedies provided for in this act, compensatory, equitable and consequential damages. A successful plaintiff in such an action shall be entitled to recover reasonable costs and attorney's fees.

Section 2. Severability.

If any provision of this ordinance or application thereof to any person(s) or circumstance is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or application of the ordinance that that can be given effect without the invalidated provision or application, and to this end the provisions of this ordinance are declared severable.

Section 3. Effective Date.

This ordinance shall be effective upon final passage and publication, in accordance with laws of the State of New Jersey.

STATEMENT

Ordinance imposing on hotel owners/operators, certain fair hotel customer standards and worker retention requirement.