

ORDINANCE NO. 824

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONORA Transient Residential Use

Adding Chapter 17.64 to the Sonora Municipal Code establishing regulation of transient residential use related to vacation rental of residential facilities; and amending Chapter 17.04, Definitions, to define terms related to transient residential use; and amending Sections 17.12.020, 17.14.020, 17.16.020, 17.18.020, 17.20.020, 17.22.020 and 17.24.020 to establish transient residential use as a use allowed by right; and amending Section 17.60.040 to allow for use permits for transient residential use in specific zones.

The City Council of the City of Sonora does hereby ordain as follows:

SECTION ONE: Amend Chapter 17.04 Definitions as follows:

17.04.010 Generally.

Certain words and phrases, when used in this title, are defined as follows, unless the context of a particular provision clearly requires a different definition. The terms or phrases used in this title are technical or specialized, or may not reflect common usage. If any of the definitions in this chapter conflict with the definition in other provisions of the Sonora Municipal Code, these definitions shall control for the purposes of this title. If a word is not defined in this chapter, or in other provisions of this title, the most common dictionary definition is presumed to be correct.

17.04.215 “owner representative,” means any person authorized by the owner to fully manage the transient use parcel.

17.04.268 “remuneration,” means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession or use of real property.

17.04.278 “residential property,” means any dwelling unit, except those dwelling units lawfully established as second units established pursuant to Section 17.55 of the Sonora Municipal Code or as part of a bed and breakfast inn, motel, hotel, timeshare development, or other transient use.

17.04.279 “responsible tenant,” means a person aged 18 or older who has received notice of occupancy, parking and other limits that apply to the transient use parcel, and who has agreed to be responsible to ensure that impermissible or inappropriate behavior does not occur at the transient use parcel.

17.04.335 “transient,” means a period of time less than 30 consecutive calendar days.

17.04.336 “transient use,” means the commercial use, by any person, of residential property for transient lodging uses where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy is less than 30 consecutive calendar days.

17.04.337 “transient use of residential property,” and “transient use parcel” mean property occupied and used for transient or short-term rental purposes.

SECTION TWO: Add Chapter 17.64 to the Sonora Municipal Code as follows:

Chapter 17.64 TRANSIENT USE PERMIT

17.64.010 Allowed use.

Transient use of residential property for remuneration is allowed pursuant to Chapter 3.20 of the Sonora Municipal Code or this chapter; provided, that a separate transient use permit has first been granted and validly maintained for each transient use parcel.

Each contract or tenancy that allows transient use shall identify the name, address, phone and e-mail contact information of at least one responsible tenant who has been informed of, and has agreed to abide by occupancy, parking and other limits that apply to that transient use. The owner or owner representative shall make a record of the motor vehicle license number of each motor vehicle used by an occupant of the transient use parcel, and shall upon request provide that information to the city administrator or his delegated agent.

Transient use of residential property for remuneration allowed by Chapter 3.20 SMC or this chapter shall be subject to each and every limitation in this section:

- (a) Each contract shall be in writing, and identify thereon the name, address, phone and e-mail contact information of (1) the owner or (2) the owner representative;
- (b) Each contract shall identify the name, address, phone and e-mail contact information of at least one responsible tenant who has been informed by the owner or owner representative of the occupancy, parking and other limits that apply to transient use by this chapter;
- (c) The transient use parcel (1) shall be used and maintained in a manner consistent with the character of the neighborhood, (2) shall not impair the desirability of investment or occupation of the surrounding neighborhood, and (3) shall not have displayed thereon any sign that indicates the property is used or available for transient or short-term rental purposes;
- (d) Owner and owner representative shall respond in a reasonable and timely manner, to ensure that every occupant of the transient use parcel does not create or contribute to unreasonable use of the property, cause unreasonable noise or disturbance, engage in disorderly or unlawful conduct, or overcrowd the parcel;
- (e) The owner or owner representative shall be on-call full time to manage the property and shall be able to be physically present at the transient use parcel within 30 minutes of request during

any time the property is occupied for transient use. Within 24 hours of the time an initial call is attempted, the owner or owner representative shall prevent the recurrence of such conduct by the occupants and take corrective action to address any violation. Failure to respond timely to two or more complaints regarding tenant violations is grounds for penalties as set forth in this chapter;

(f) The maximum number of occupants aged 18 or older authorized to stay overnight at any transient use parcel shall be limited to two persons per bedroom, plus one additional person per parcel;

(g) A maximum of two motor vehicles shall be allowed to park on street, if no on-site parking is available, at the transient use parcel by the responsible tenant or any other occupant subject to availability and parking regulations; and

(h) Each designated on-site parking space at a transient use parcel shall be made available for use by overnight occupants of that parcel.

(i) Upon approval of the transient use permit by the Community Development Director, the transient parcel owner shall obtain a city business license, except for those owners of transient use parcels whose total gross remuneration is less than five thousand dollars (\$5,000).

17.64.020 Transient use permit.

It is unlawful for any person to own property allowing transient use of residential property in the city without first having procured a transient use permit from the City to do so, and paying the permit fee hereinafter prescribed, and without complying with any and all applicable provisions of this chapter. A transient use permit, however, shall not be required for any lawfully established bed and breakfast inn, motel, hotel, or timeshare development.

17.64.030 Display of transient use permit.

The owner or owner representative shall cause a copy of the transient use permit to be displayed in a prominent location within the interior of the transient use parcel, and shall provide a copy to each responsible tenant. Each Internet or online ad, sign, circular, card, telephone book, or newspaper advertisement that indicates or represents a transient use parcel is available for rental purposes shall prominently display thereon the transient use permit number assigned to that parcel by the City of Sonora.

17.64.040 Separate properties.

A separate transient use permit shall be obtained for each separate transient use parcel. A single transient use permit may be issued for multiple residential dwelling units under identical ownership on a single parcel. In all other circumstances, a separate permit shall be required for each transient use. A transient use permit shall authorize the permittee to transact and carry on transient use of residential property only at the location and in the manner and subject to the limits designated in such permit.

17.64.050 Transient permit required.

Every person required to have a permit under the provisions of this chapter shall make application to the City of Sonora and pay a \$50.00 permit fee.

When a person first makes an application for a permit pursuant to this chapter, such person shall furnish to the City a sworn statement, upon a form provided by the City, setting forth the following information:

- (a) The address of the transient use parcel to which the permit shall apply, and all places of residence of the owner(s) of same;
- (1) In the event an application is made for issuance of a permit to a person doing business under a fictitious name, the application shall set forth the names and places of residence of those owning the business; (2) In the event an application is made for the issuance of a permit to a corporation or a partnership, the application shall set forth the names and places of residence of the principal officers and all partners thereof;
- (b) Each application shall set forth such information as may be therein required by the City and deemed necessary to estimate the annual transient occupancy tax to be charged for that property;
- (c) Each application shall identify the name, address, phone and e-mail contact information of the owner and the owner representative;
- (d) Each application shall include a site plan, which shows the number of bedrooms and the number of on-street and off-street parking spaces;
- (e) An affidavit affirming that smoke detectors are installed in all sleeping quarters and common areas and that fire extinguishers are accessible to protect the health and safety of the occupants of the transient use parcel and the applicant shall provide access and information to the fire inspector as may be needed to ensure health and safety for occupants of the transient use parcel; and
- (f) Such further information which the City may require to enable proper administration of the permit.

The applicant shall remit a required annual renewal fee of \$25.00 per transient use permit. The applicant shall agree to renew and/or amend the permit in accordance with the requirements of this chapter, and if there is a change in any material fact stated in the application.

17.64.060 Renewal permit.

In all cases, the applicant for the renewal of a permit shall submit to the City on or before July 1st, an application for renewal containing a sworn statement upon a form to be provided by the City, setting forth such information concerning the applicant's transient occupancy activity during the preceding calendar year as may be required by the City to enable him or her to verify the amount of the transient occupancy tax paid by said applicant pursuant to the provisions of this chapter. The applicant shall remit the annual renewal permit fee at the same time as the renewal application. The applicant shall submit an annual affidavit affirming that smoke detectors are installed and maintained in all sleeping quarters and common areas and that fire

extinguishers are accessible, and the applicant shall provide access and information to the fire inspector as may be needed to ensure health and safety for occupants of the transient use parcel.

17.64.070 Change to permit information.

A request to amend any information provided on the permit issued pursuant to this chapter shall be made within 14 days of a change of the owner representative, or a change in any material fact upon which the permit was issued..

17.64.080 Evidence of transient occupancy of residential property.

When any owner, owner representative or other person makes use of Internet services, signs, circulars, cards, telephone books, or newspapers, and/or advertises, holds out, or represents that he or she allows transient occupancy of residential property in the City, and such person fails to provide a sworn statement to the City that he or she does not allow transient occupancy of residential property in the city after being requested to do so by the City, then such information shall be considered prima facie evidence that he or she is conducting a business in the City allowing transient occupancy of residential property. Until proper evidence to the contrary is presented to the City, the City shall be entitled to presume that residential property is subject to the permit required by this chapter, and/or that the transient use of residential property has occurred at the transient use parcel.

17.64.090 Statements and records.

No statement shall be conclusive as to the matters set forth therein, nor shall the filing of such statement keep the City from collecting by appropriate action taxes and/or fees that are due and payable hereunder. In the event that the City deems it necessary, he or she may require that a permittee or applicant for a permit submit verification of financial information necessary to calculate the transient occupancy tax due, or at the option of the permittee or applicant, may authorize the City to examine records or business transactions to compute the transient occupancy tax that is owed.

17.64.100 Failure to file statement or corrected statement.

If any person fails to file any required statement within the time prescribed, or if after demand therefore made by the City he or she fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a permit, the City may determine the amount of tax due from such person by means of such information as he or she may be able to obtain and shall give written notice thereof to such person. Delinquent payment shall be subject to penalties calculated in the same manner as set forth in Chapter 3.20 SMC.

17.64.110 Payment of transient occupancy tax.

The owner or owner representative shall remit the transient occupancy tax as set forth in Chapter 3.20 SMC.

17.64.120 Appeal of tax.

Any person aggrieved by any decision of the City with respect to the amount of the transient occupancy tax or fees associated thereto may appeal as set forth under Section 3.20.110 SMC.

17.64.130 Additional power of City Administrator.

In addition to all other power conferred upon the City Administrator, he or she shall have the power, for good cause shown:

(a) To extend the time for filing any required sworn statement or application for a period not exceeding 30 days, and in such case to waive any penalty that would otherwise have accrued; and (b) Whenever any fee, tax or penalty pursuant to this chapter is due and payable but has not been satisfied in full within 90 days and/or has not been successfully challenged by a timely writ of mandate, such amounts shall constitute a lien against the real property, and be subject to the processes set forth in Chapter 3.20 SMC.

17.64.140 Permit nontransferable – Changed location.

No permit issued pursuant to this chapter shall be transferable to any other person or location. If ownership to the transient parcel is transferred, the new owner must obtain a transient use permit.

17.64.150 Permit denial or revocation.

Any application for a permit may be denied, and any permit issued pursuant to this chapter may be revoked, as hereinafter provided, unless substantial evidence is presented as to why the application should not be denied, or the permit should not be revoked for any of the following reasons:

- (a) A false material statement or misrepresentation has been made in, or in support of, the application;
- (b) A change occurs in any material fact upon which the permit was issued that has not been reported to the city as a change to the required permit content within 14 days;
- (c) The transient use parcel, or any other location owned by the owner or applicant, has been the site of a violation of any provision of law, or otherwise fails to meet sanitation or health standards of the neighborhood, within the two years immediately preceding;
- (d) The owner or applicant has violated any provision of the municipal code or any provision of the Health and Safety Code, within the two years immediately preceding;
- (e) The owner, owner representative or applicant has been convicted of any crime involving moral turpitude;
- (f) The owner, owner representative or applicant has failed to timely respond to two or more complaints regarding limits on transient use as required by SMC 17.64 within the two years immediately preceding.

17.64.160 City Administrator review of revocation or suspension.

Any person who has been denied a permit or to whom notice of revocation or suspension of a permit has been mailed may request a hearing before the City Administrator. The City Administrator, in that event, shall give each applicant or permittee at least 10 days' written notice of hearing. The City Administrator's decision, after hearing, shall be final. Any applicant or permit holder whose permit shall have been denied or revoked shall be ineligible for a two-year

period from applying for a new permit. No person whose permit has been revoked shall continue to engage in or carry on the activity for which the permit was granted, unless and until such permit has been reinstated or reissued. The decision of the City Administrator may be appealed to the City Council within 15 business days of the decision.

17.64.170 Enforcement and Penalties

Enforcement of this Chapter shall be per Chapter 17.70, Enforcement and Penalty.

SECTION THREE: Amend Chapter 17.12 Agricultural / Residential Zone as follows:

17.12.020 Uses allowed by right.

D. Transient Residential Use of a Single-Family Residential structure per parcel in conformance with Chapter 17.64.

SECTION FOUR: Amend Chapter 17.14 Residential Estates Zone as follows:

17.14.020 Uses allowed by right.

B. Transient Residential Use of a Single-Family Residential structure per parcel in conformance with Chapter 17.64.

SECTION FIVE: Amend Chapter 17.16 Single-Family Residential Zone as follows:

17.16.020 Uses allowed by right.

D. Transient Residential Use of a Single-Family Residential structure per parcel in conformance with Chapter 17.64.

SECTION SIX: Amend Chapter 17.18 Limited Multifamily Residential Zone as follows:

17.18.020 Uses allowed by right.

C. Transient Residential Use of a Single-Family Residential structure per parcel in conformance with Chapter 17.64.

SECTION SIX (A): Amend Chapter 17.20 Multifamily Residential Zone as follows:

17.20.020 Uses allowed by right.

D. Transient Residential Use of two residential units per parcel in conformance with Chapter 17.64.

SECTION SEVEN: Amend Chapter 17.22 CO, Tourist and Administrative Zone as follows:

17.22.020 Uses allowed by right.

E. Transient Residential Use in conformance with Chapter 17.64.

SECTION EIGHT: Amend Chapter 17.24 Commercial Zone as follows:

17.24.020 Uses allowed by right.

J. Transient Residential Use in conformance with Chapter 17.64.

SECTION NINE: Amend Chapter 17.60 Uses Permitted by Use Permit as follows:

17.60.040 Uses permitted in specific zones.

P. Transient Residential Use of a multifamily residential structure(s) or multiple single-family residential structures per parcel, in the R-2 zone. Transient Residential Use of three or more units of a multifamily residential structure(s) or multiple single-family residential structures per parcel, in a R-3 zone.

This Ordinance shall take effect thirty (30) days after its passage and shall be published within (15) days after its final passage as required by law.

Said Ordinance was introduced at a regular meeting of the City Council of the City of Sonora held on January 20, 2015, and passed and adopted as an Ordinance of said City at a regular meeting of said Council held on February 2, 2015, by the following vote:

AYES: Ron Stearn, Connie Williams, Bill Canning, Jim Garaventa

NOES: George Segarini

ABSENT OR ABSTAIN: None

Ron Stearn
Ron Stearn, Mayor

ATTEST: Marijane Cassinetta
Marijane Cassinetta, City Clerk

APPROVED AS TO FORM:

Byron C. Smith
Byron C. Smith, City Attorney

Publish: The Union Democrat, Sonora
February 11, 2015