




Emergency 911  
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Turu VanderWiel, Chief of Police  
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## SONORA POLICE DEPARTMENT

100 South Green Street  
Sonora, California 95370

*“Maintaining a Safe Community since 1851”*

**TO:** Honorable Mayor and City Council Members  
**FROM:** Turu VanderWiel, Chief of Police   
**DATE:** November 18<sup>TH</sup> 2019  
**RE:** Ordinance 863 Trespass on Private Property or Business Premises Prohibited

### RECOMMENDATIONS:

City staff recommends that the City Council approve the following:

- 1) Introduce by title Ordinance No. 863, Trespass on Private Property or Business Premises Prohibited, and waive the first reading.

### BACKGROUND:

Staff has identified that there are no state or local statutes that properly deal with the most common trespassing issues relating to businesses or other privately owned land/properties that are open to the general public. Many California cities have adopted trespassing ordinances that contain language authorizing enforcement options in areas not specifically addressed by the California Penal Code. I am recommending that the City of Sonora also adopt a similar ordinance to provide options for those experiencing trespassing and quality of life-related problems within the City limits.

### DISCUSSION:

Throughout the year, the Sonora Police Department receives a significant number of trespassing requests to help deal with vagrancy concerns, shoplifting problems, and drug activity. Existing state trespassing laws have specific conditions attached, which limit law enforcement’s ability to assist business owners and property managers in the areas needed the most.

The proposed ordinance outlines specific criteria in which common trespassing issues can be addressed in a way that is functional, fair, and constitutionally sound. Chapter 9.60, as proposed, provides a notification process and a time period for which the trespass notice is to remain in effect. This ordinance, in general, will essentially allow business owners and land managers the ability to have unwanted persons leave their property so long as it does not infringe upon the person's constitutional or civil rights as detailed under Section 9.60.030. Additionally, the proposed misdemeanor penalty is in line with California Penal Code section 602 - Trespassing.

**ORDINANCE NO. 863**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONORA  
Trespass on Private Property or Business Premises Prohibited**

**Adding Chapter 9.60, Trespass on Private Property or Business Premises  
Prohibited, to the Sonora Municipal Code.**

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

SECTION ONE: Adding Chapter 9.60, Trespass on Private Property or Business Premises Prohibited, as follows:

**Chapter 9.60**

**TRESPASS ON PRIVATE PROPERTY OR BUSINESS PREMISES  
PROHIBITED**

**Sections:**

- 9.60.010      Unlawful.**
- 9.60.020      Violation—Penalty.**
- 9.60.030      Exceptions.**
- 9.60.040      Definitions.**
- 9.60.050      Trespass Authority Letter.**

**9.60.010      Unlawful.**

- A. It is unlawful for any person to enter or remain upon any private property or business premises, whether indoors or outdoors, after having been notified by the owner or agent to keep off or keep away therefrom.
  - B. The notification referred to in subsection A of this section may be given orally or in the form of a written notice, posted in any conspicuous place; in either case, the notice shall identify the prohibited area and the time period, whether limited or permanent, during which such prohibition remains in effect.
1. Such notification shall be made by the owner, owner’s agent, or a peace officer on behalf of the owner or owner’s agent, but that the peace officer must say that they are doing so at the request of the owner or owner’s agent.

**9.60.020      Violation—Penalty.**

Any person violating any of the provisions of this chapter is guilty of a misdemeanor and is punishable as provided in Section 1.08.030(C). (Ord. 752 § 1, 2019.)

**9.60.030      Exceptions.**

- A. Section 9.60.010 shall not apply in any of the following instances:

1. Where the owner or agent rescinds a notice of trespass by the giving of written permission to enter or remain upon the private property or business premises. Such permission shall void the existing notice of trespass, and should the owner or agent want to exclude the person at a later time, that person shall be re-noticed.
2. Where its application results in or is coupled with an act prohibited by section 365 of the California Penal Code relating to duties of innkeepers and common carriers.
3. Where its application results in or is coupled with an act prohibited by the Civil Rights Act or any other provision of law relating to prohibited discrimination against any person on account of age, ancestry, color, disability, genetic information, gender (including gender identity and gender expression), marital status, medical condition, national origin, race, religion, sex, or sexual orientation.
4. Where its application would result in an interference with or inhibition of peaceful labor picketing or other lawful labor activities.
5. Where its application would result in an interference with or inhibition of any other exercise of a constitutionally protected right of freedom of speech including, but not limited to, peaceful expressions of political or religious opinions not involving offensive personal conduct.

**9.60.040 Definitions.**

The following words and phrases shall have the following meanings when used in this section:

“Owner” means the actual owner of the property, a lessee, or other person in charge of the private property or business premises.

“Agent” means any person or organization expressly authorized by the owner of the private property or business premises to serve the notice of trespass.

“Organization” as used in this subsection shall include a private patrol operator as defined in California Business and Professions Code Section 7582.1.

“Notice of trespass” means a notification given verbally or a printed document.

**9.60.050 Sonora Police Department Trespass Authority Letter.**

Twelve-month trespass authority letters filed with the Sonora Police Department by the owner or agent of the described property pursuant to California Penal Code Section 602(m) requesting peace officer assistance to remove trespassers from (land/ [or] a buildings) shall be deemed renewed for one additional twelve-month period unless the person who filed the trespass letter requests that there be no such renewal. No such trespass letter filed pursuant to Penal Code Section 602(m) shall be effective for more than one year.

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 November 18, 2019, and passed and adopted as an Ordinance of said City at a regular meeting of said Council held on December 2, 2019, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT OR ABSTAIN: \_\_\_\_\_

\_\_\_\_\_  
James M. Garaventa, Mayor

ATTEST: \_\_\_\_\_  
Colette Such, City Clerk Pro Tem

Approved as to Form:

\_\_\_\_\_  
Douglas L. White, City Attorney

Publish:      The Union Democrat, Sonora  
                                 \_\_\_\_\_, 2019

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Sonora City will conduct a public hearing at 5:00 PM, or shortly thereafter, on the 18th day of November, 2019, in the Sonora City Council Chambers, 94 North Washington Street, Sonora, CA for the purpose of considering the following:

1. Adopting an ordinance to amend Section 10.04.060, Curb Markings – Parking and Standing, Specifications, of the Sonora Municipal Code.
2. Adopting an ordinance adding Chapter 9.60, Trespass on Private Property or Business Premises Prohibited, to the Sonora Municipal Code.

At the above time and place, all persons interested in the above, either for or against, will be given the opportunity to be heard. Testimony from interested persons will be heard and considered by the City Council prior to taking action or making any recommendation on the above items. Written comments are also accepted, prior to the meeting at 94 N. Washington Street, Sonora, California 95370. If a challenge to the above proposed action is made in court, persons may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City before the meeting.

The project staff reports and all supporting documents are available for review at the City of Sonora Community Development Department, 94 North Washington Street, Sonora CA 95370 Monday through Friday, between the hours of 8:00 AM and 4:00 PM or on the City's website at [www.sonoraca.com](http://www.sonoraca.com). Upon request, the agenda and the documents in the meeting agenda packet can be made available to persons with a disability. Notification of at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to insure accessibility to this meeting (28CFR35.102-35.104ADA Title II). Questions regarding the project may be directed to Community Development Director Rachelle Kellogg at (209) 532-3508.

Rachelle Kellogg  
Community Development Director

-v-

Publication Date: November 8, 2019

The Union Democrat  
Sonora, CA

**CITY COUNCIL OF THE CITY OF SONORA  
STAFF REPORT**

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**MEETING DATE:** NOVEMBER 18, 2019

**TO:** CITY COUNCIL

**FROM:** DOUGLAS L. WHITE, CITY ATTORNEY

**SUBJECT:** ORDINANCE 864 OF THE CITY COUNCIL OF THE CITY OF SONORA AMENDING SECTION 2.48.190, DISMISSAL—NOTICE, OF CHAPTER 2.48, ADMINISTRATIVE OFFICER, OF TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE SONORA MUNICIPAL CODE TO REMOVE THE NINETY (90) DAY WRITTEN NOTICE REQUIREMENT FOR THE DISMISSAL OF THE CITY ADMINISTRATOR

**RECOMMENDATION:**

Motion to approve first reading and introduction of Ordinance No. 864, reading by title only, waiving further reading, an ordinance of the City Council of the City of Sonora amending section 2.48.190, Dismissal—Notice, of Chapter 2.48, Administrative Officer, of Title 2, Administration and Personnel, of the Sonora Municipal Code, to remove the ninety (90) day written notice requirement for the dismissal of the City Administrator (“Ordinance”).

**BACKGROUND:**

The City of Sonora’s (“City”) City Administrator manages City operations by running the day-to-day affairs of the City, supervising all City departments and performing any actions assigned by the City Council (“Council”). The City Administrator is appointed by the Council and serves at the pleasure of the Council. Prior to appointment, the Council establishes the terms of employment in an employment agreement, which governs the appointment in addition to state law and the Sonora Municipal Code (“Code”). Currently, before the Council can dismiss the City Administrator, the Code requires that the Council provide the City Administrator ninety (90) day written notice.<sup>1</sup>

**DISCUSSION:**

Since the City Administrator manages City operations on behalf of the City, it would be more efficient if the Council is given discretion to determine the appropriate notice requirements as part of an employment agreement with the City Administrator. The Ordinance, if adopted, will remove the ninety (90) day written notice requirement from the Code. Instead, while the Ordinance will still require that the written notice be given prior to dismissal of the City Administrator, the written notice will only need to comply with the terms of the employment agreement. The Ordinance will still allow the Council to suspend or relieve the City Administrator during the period prior to dismissal.

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<sup>1</sup> Sonora Municipal Code § 2.48.190  
{CW088090.4}

## **FISCAL IMPACT**

There is no fiscal impact associated with adopting the Ordinance.

## **ENVIRONMENTAL**

The Ordinance does not constitute a “project” under the California Environmental Quality Act (CEQA) because it does not have the potential to cause a direct or reasonably foreseeable indirect physical change to the environment. (Pub. Res. Code § 21065; Cal. Code Regs., tit. 14, § 15064, subd. (d).)

## **OPTIONS**

1. The Council may waive first reading, read by title only, and introduce the Ordinance;
2. The Council may continue consideration of the Ordinance, with instructions to staff for any changes; or
3. The Council may reject the Ordinance for first reading.

## **ATTACHMENTS**

Ordinance

**THE CITY COUNCIL  
OF THE CITY OF SONORA**

**ORDINANCE NO. 864**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONORA AMENDING  
SECTION 2.48.190, DISMISSAL—NOTICE, OF CHAPTER 2.48, ADMINISTRATIVE  
OFFICER, OF TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE SONORA  
MUNICIPAL CODE TO REMOVE THE NINETY (90) DAY WRITTEN NOTICE  
REQUIREMENT FOR THE DISMISSAL OF THE CITY ADMINISTRATOR**

**WHEREAS**, the City of Sonora's ("City") City Administrator runs the day-to-day affairs of the City, supervises all City departments and performs any actions assigned by the City Council ("Council"); and

**WHEREAS**, the City Administrator serves at the pleasure of the Council; and

**WHEREAS**, the Sonora Municipal Code ("Code") currently requires the Council to give the City Administrator ninety (90) days written notice before the Council can dismiss the City Administrator; and

**WHEREAS**, the Council seeks to establish the appropriate notice for termination pursuant to an employment agreement with the City Administrator.

**NOW, THEREFORE THE CITY OF SONORA CITY COUNCIL DOES ORDAIN AS  
FOLLOWS:**

**SECTION 1:** Section 2.48.190, Dismissal—Notice, of Chapter 2.48, Administrator Officer, of Title 2, Administration and Personnel, of the Sonora Municipal Code is repealed in its entirety and amended with a new section 2.48.190 to read as follows:

**2.48.190 Dismissal—Notice.**

Before dismissing the administrative officer, the City Council shall give written notice to him/her. The written notice shall comply with any written notice requirements in the employment agreement with the administrative officer. If the employment agreement requires advanced notice prior to dismissal, the City Council may suspend or relieve the administrative officer of his/her duties during the time period prior to dismissal.

**SECTION 2:** If any section, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.



**SECTION 3:** This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

**SECTION 4. CERTIFICATION OF COUNCIL ADOPTION AND APPROVAL.** This Ordinance was introduced and approved by Ordinance No. 864 at a regular meeting of the City Council of the City of Sonora held on the 18th of November, 2019 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAINED:

APPROVED:

\_\_\_\_\_  
James M. Garaventa  
Mayor of the City of Sonora

ATTEST:

\_\_\_\_\_  
Colette Such  
City Clerk of the City of Sonora

APPROVED AS TO FORM:

\_\_\_\_\_  
Douglas L. White  
City Attorney of the City of Sonora

**NOTICE OF PUBLIC HEARING  
OF THE CITY OF SONORA CITY COUNCIL**

**NOTICE IS HEREBY GIVEN** that a public hearing will be held by the City Council of the City of Sonora (“City”) on Monday, November 18, 2019, at 5:00 p.m. at Council Chambers located at 94 N. Washington Street, Sonora, California 95370. The public hearing will consider the following:

Adopting an ordinance to amend section 2.48.190, Dismissal Notice, of Chapter 2.48, Administrative Officer, of the Sonora Municipal Code to remove the ninety (90) day written notice requirement for the dismissal of the City Administrator (“Ordinance”).

The City Administrator runs the day-to day affairs of the City, supervises all City departments and performs any actions assigned to it by the City Council (“Council”). The City Administrator serves at the pleasure of the Council. To dismiss the City Administrator, however, the Sonora Municipal Code currently requires that the Council provide the City Administrator ninety (90) day written notice. If adopted, the Ordinance will eliminate the ninety (90) written notice requirement, giving the Council the discretion to determine the appropriate notice requirement as part of an employment agreement with the City Administrator.

**ALL INTERESTED PARTIES** are invited to attend the Monday, November, 18, 2019 public hearing to express opinions or submit evidence for or against the approval of the ordinance. At the above noted time and place, testimony from interested persons will be heard and considered by the City Council prior to taking action on the ordinance. Upon request, the agenda and the documents in the meeting agenda packet can be made available to persons with a disability. In compliance with the Americans with Disabilities Act, the City encourages those with disabilities to participate fully in the meeting process. Any person requiring special assistance to participate in the meeting should call (209) 532-4541 at least forty-eight (48) hours prior to the meeting.

Interested individuals will be given an opportunity to speak in favor or opposition to the above proposed action. Written comments are also accepted, prior to the meeting at 94 N. Washington Street, Sonora, CA 95370. Information regarding the meeting is on file and may be viewed by interested individuals at City Hall, 94 N. Washington Street, Sonora, CA 95370. If a challenge to the above proposed action is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City before the hearing.

Copies of the proposed documents will be available for public review at City Hall, 94 N. Washington Street, Sonora, CA 95370. If you have any questions, please call the City Administrator at (209) 532-4541 or stop by the office at 94 N. Washington Street, Sonora, CA 95370.