

ORDINANCE NO. 23-031

AN ORDINANCE AMENDING ORDINANCE 17-088 AMENDING CHAPTER 1341 (ENVIRONMENTAL HEALTH HOUSING CODE), BY THE REPLACEMENT OF FORMER SECTION 1341.32 (TRANSIENT RENTAL PROPERTY REGULATION), OF THE CODIFIED ORDINANCES, IN THE MANNER AND WAY SPECIFICALLY SET FORTH HEREINBELOW; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the purpose and intent of these amendments is to regulate the health, safety and wellness of the public, including the owners, occupants, and neighboring property owners of properties being utilized for transient occupancy within the City; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to reinstitute the City's transient rental regulations invalidated by the recent Sixth District Court of Appeals Decision in *Judith A. Kinzel, Trustee, et al. v. Douglas Ebner, et al.* Case No. E-21-0036; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

**NEW LANGUAGE APPEARS IN BOLD PRINT
LANGUAGE TO BE STRICKEN APPEARS WITH A STRIKE THROUGH IT
LANGUAGE TO REMAIN UNCHANGED APPEARS IN REGULAR PRINT**

Section 1. Part Thirteen (Building Code), Title Five (Additional Local Provisions), Chapter 1341 (Environmental Health Housing Code), of the Codified Ordinances of the City be amended by the replacement of former Section 1341.32 (Transient Rental Property Regulation), which was invalidated by Case No. [], as follows:

1341.32 TRANSIENT RENTAL PROPERTY REGULATION

(a) Purpose and intent.

The purpose and intent of this section is to regulate the health, safety and wellness of the public, including the owners, occupants, and neighboring property owners of properties being utilized for transient occupancy within the City.

(b) Definitions.

- (1) **“Transient occupancy” means to use, occupy or possess, or the use, occupancy, or possession of a dwelling or other living accommodation for a period of 30 consecutive calendar days or less.**
- (2) **“Transient rental” means the renting, letting, subletting, leasing or subleasing of a dwelling for a period of 30 consecutive calendar days or less.**

(c) Code Enforcement Division.

- (1) **The Code Enforcement Division shall maintain a registry of individuals offering transient rentals and maintaining essential records on licensed transient rentals.**
- (2) **Monitor transient rentals for compliance with building codes, health codes, and provisions of this section.**
- (3) **Inspect the interior and exterior of the dwelling to be used as a transient rental upon submission of a transient rental permit application.**
- (4) **Investigate suspected violations of this section.**
- (5) **Refer suspected violations of the fire, health, building, or tax codes, zoning regulations, or other laws regarding transient rentals to the appropriate City department or the appropriate governmental agency.**

(d) Transient Rental Permit Application.

- (1) **Each owner of a dwelling being used for transient occupancy must apply to the Code Enforcement Division for an annual permit which expires on December 31st of the year the permit is issued, and pay an annual fee of \$500.00 per dwelling annually.**
- (2) **To obtain a permit, the owner of a dwelling intended on being used for transient occupancy must apply for a permit on a form approved by the City Manager, that will include the following:**
 - A. **A certification from the Housing Manager that the dwelling is not subject to outstanding City Code or State law violations;**
 - B. **The name, street address, mailing address, and telephone number of the owner of the dwelling to be used for transient occupancy purposes;**
 - C. **The name, street address, mailing address, and telephone number of the operator of the dwelling to be used for transient occupancy purposes if different than the owner;**
 - D. **The street address of the dwelling to be used for transient occupancy purposes;**
 - E. **A floor plan of the dwelling showing number of bedrooms, points of ingress/egress, basement rooms, points of exits, and locations of smoke alarms, as well**

- as a parking plan;
 - F. Proof of property insurance;
 - G. Proof of payment of all applicable taxes, including real estate taxes, due as of the date of submission of the application; and
 - H. Any other information requested by the City Manager necessary to protect the health, safety, and welfare of the City of Sandusky.
- (3) No transient occupancy permit shall be issued for a dwelling unless the Code Enforcement Division has conducted an internal and external inspection of the dwelling including any dwelling units and determined that:
- A. The dwelling and any common spaces in the dwelling meet health, fire, and building code standards for the type of dwelling;
 - B. The dwelling meets any other requirements that the Code Enforcement Division deems necessary to ensure the health and safety of visitors during transient occupancy.
- (4) No owner of a dwelling in any Residential Zoned area, except the Residential Business area shall be able to apply for a transient rental permit, unless the City of Sandusky Planning and Zoning Division has determined that the dwelling has been legally provided a legal non-conforming use for transient occupancy or the dwelling is located in a Transient Occupancy Overlay District.
- (6) The permit shall be valid from the date of issuance shall expire on December 31st of the year of issuance. If it is found that a dwelling has been used for transient occupancy without a permit, there shall be a one year waiting period from the date of such finding for the owner of the dwelling to become eligible to apply for a transient rental permit.
- (e) Transfer of Transient Rental Permit.
- (1) The Housing Manager may approve the transfer of a transient rental permit for a dwelling from the prior owner of a dwelling to the purchaser of the dwelling following a request from the purchaser to do so, which request shall not unreasonably be denied.
 - (2) If the transfer is approved, the purchaser must register as required under section 1341.32(d)(2) but no additional registration fee is required for that calendar year.
- (f) Transient rental health and safety regulations.
- (1) The maximum number of persons who may occupy the

dwelling overnight during a transient occupancy shall be limited to two (2) persons per bedroom, plus three (3) additional persons per dwelling in a dwelling located in a residentially zoned area. The overnight occupancy limit of dwellings located in areas other than residentially zoned areas shall be determined on a case by case basis by the Code Enforcement Division at the time a permit application is submitted.

- (2) Only one open rental agreement per dwelling is permitted at a time for the purposes of transient occupancy.
- (3) The owner of a dwelling being utilized for transient occupancy must maintain a copy of all rental agreements for the dwelling being used for transient occupancy for a period of twenty-four (24) months, and provides said agreements to City for inspection upon request.
- (4) The dwelling being utilized for transient occupancy must have an off-street parking plan approved by the Planning and Zoning Division.
- (5) No transient rental dwelling shall allow overnight on-street parking, unless approved prior to the issuance of a permit by the Planning and Zoning Division.
- (6) A property being utilized as a transient rental shall visibly display a transient occupancy permit outside the main entry of the property.
- (7) The registered owner or operator for the transient rental shall be within a one-hour arrival of the transient rental unit while the transient rental is being occupied.
- (8) No person shall sell food to a transient guest while the guest uses the property unless such person has obtained food safety permits.
- (9) No person shall sell or provide alcoholic beverages to any transient guest while the guest uses the dwelling unless such person obtains an appropriate license from the State of Ohio.
- (10) No person shall be allowed to transient rent a dwelling that is in violation of the City of Sandusky's health code, building code, or zoning regulations.
- (11) No person shall display a transient occupancy permit or allow transient occupancy of a dwelling that has had its permit suspended, revoked, or denied.
- (12) No person shall allow a dwelling to be listed or advertised as a transient rental prior to obtaining a valid transient

occupancy permit.

- (13) No person shall allow a dwelling to be listed or advertised as a transient rental if the transient occupancy permit has been suspended, revoked, or denied.

(g) Enforcement procedures.

- (1) Upon the filing of a complaint that a person has engaged in a transient rental in violation of this section, the Code Enforcement Division shall take all steps necessary to determine the validity of the complaint.
- (2) The Code Enforcement Division shall independently determine whether a person has offered transient rental in violation of this section.
- (3) If while investigating transient rental activity the Code Enforcement officer discovers suspected violations of the fire, health, building, or tax codes, or the zoning regulations, or other laws, the Code Enforcement officer shall report such suspected violation to the relevant City department or governmental agency.
- (4) To determine if there is a violation of this section, the Code Enforcement Division shall initiate an investigation of the subject property and/or request any pertinent information from a person offering transient rental, including records required by this section, leases, or other documents.
- (5) If the Code Enforcement Division determines that a person has violated any provision of this section, the Code Enforcement Division shall issue a cease and desist order and shall assess the appropriate penalty and fines for said violation.
- (6) The Code Enforcement Division's ability to assess penalties and fines for violations of this section, are separate and apart from any civil or criminal violations, penalties, and fines able to be assessed by any other City department, including, but not limited to, the City of Sandusky Fire Department, the City of Sandusky Police Department, and the City of Sandusky Planning and Zoning Division.

(h) Penalties and fines.

- (1) The Code Enforcement Division shall assess the owner for violations of this section as follows:
- A. First Violation -- \$500 fine;
 - B. Second Violation -- \$1,000 fine; and
 - C. Third Violation -- \$2,500 fine.

- (2) Multiple violations that arise out of the same set of facts or circumstances, or occur on the same date, may constitute one violation or multiple violations based upon the severity of the violations as determined by the City of Sandusky Code Enforcement Division.**
 - (3) Each day the dwelling owner violates this section shall constitute a separate violation.**
 - (4) The City has the right to revoke the owner's right to use his or her dwelling for transient occupancy after three violations of this section within a period of 12-months. If the City revokes the owner's right to use his or her dwelling for transient occupancy, such revocation shall be for a period of no less than twelve (12) months from the date of the third violation.**
- (i) Other Remedies.**
- (1) Civil Action. The following parties may seek also injunctive or other relief to prevent or remedy violations of this section:**

 - A. The Law Director for the City of Sandusky;**
 - B. A neighborhood association whose borders include the property; and**
 - C. Any neighboring property owner or occupant who would be specially damaged by any such violation.**

The prevailing party in such an action shall be entitled to recover reasonable costs, attorney's fees, and statutory damages.
 - (2) Criminal Action. Any person who violates any provision of this section may be guilty of a misdemeanor of the third degree. Any person convicted of a misdemeanor hereunder shall be punishable by a maximum fine of \$500 for each dwelling offered for transient occupancy in violation of this section, or by imprisonment for a period not exceeding 60 days, or both.**
 - (3) Additional Remedies. Any person convicted of violating any provision of this section in a criminal case or found to be in violation of this section in a civil case shall remit all illegally obtained revenue to the City of Sandusky.**

Section 2. If any section, phrase, sentence, 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.

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Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

CATHLEEN A. MYERS
CLERK OF THE CITY COMMISSION

Passed: February 13, 2023