

**ORDINANCE NO. 23-080**

**AN ORDINANCE REPEALING ORDINANCE NO. 17-088; AMENDING PART ELEVEN (PLANNING AND ZONING CODE), TITLE ONE (ZONING ADMINISTRATION), CHAPTER 1107 (DEFINITIONS), TITLE THREE (ZONING DISTRICTS AND REGULATIONS), CHAPTER 1129 (RESIDENTIAL DISTRICTS), CHAPTER 1133 (BUSINESS DISTRICTS), AND CHAPTER 1137 (COMMERCIAL DISTRICTS), TITLE FIVE (ADDITIONAL ZONING REQUIREMENTS), CHAPTER 1151 (NONCONFORMING STRUCTURES AND USES) OF THE CODIFIED ORDINANCES; AND DECLARING THAT THIS ORDINANCE 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**, the City must repeal and replace Ordinance No. 17-088 in order to reinstate the City’s transient rental zoning 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**, 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 immediately reinstate the City’s transient rental zoning regulations and so that the City can immediately begin processing transient rental permit applications for 2023; 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. This City Commission hereby repeals Ordinance No. 17-088, passed on May 8, 2017.

Section 2. Part Eleven (Planning and Zoning Code), Title One (Zoning Administration), Chapter 1107 (Definitions), Section 1107.01(h), of the Codified Ordinances of the City is hereby amended as follows:

**1107.01 DEFINITIONS.**

For purposes of this Chapter, the following words and phrases shall have the following meanings ascribed to them respectively.

- (h) Dwellings and other living accommodations.
  - (1) " Dwelling unit" means space, within a dwelling, comprising living, dining, and sleeping room or rooms, storage closets, as well as space and equipment for bathing and toilet facilities, all used by only one family.
  - (2) " Dwelling" means a building occupied exclusively for ~~non-~~~~transient~~ residential use (including one-family, two-family, or multi-family buildings).
  - (3) "One-family dwelling" means a building consisting of one dwelling unit only, detached or separated from other dwelling units by open spaces.
  - (4) "Two-family dwelling" means a building consisting of 2 dwelling units which are either attached side by side or one above the other, and each unit having either a separate or combined entrance or entrances (including duplex and flats).
  - (5) "Multi-family dwelling" means a building consisting of 3 or more dwelling units with varying arrangements of entrances and party walls (including apartment house, apartment hotel, and row house).
    - A. "Row house" means a multi-family dwelling comprising dwelling units attached in a row or group, having party walls, and each unit having at least one separate outside entrance.
    - B. "Apartment building" means a multi-family dwelling comprising 3 or more dwelling units (apartments), arranged side by side or one above the other, and each unit having a separate entrance or entrances connected to a common outside entrance or entrances.
    - C. "Apartment hotel" means a unit similar to an apartment house, except that the unit may be used for more or less transient occupancy.
  - (6) "Accessory living accommodations" means a building, or part thereof, used solely as accommodations for occupants, personal guests, or persons employed on the premises, or nonpaying transients, and in which no cooking or similar housekeeping equipment is provide.
  - (7) "Rooming house" means a building operated by a resident family, accommodating for compensation 3 through 10 persons.

- (8) "Tourist house" means a one-family dwelling, operated by a resident family, in which only overnight guests are lodged for compensation.
- (9) "Hotel" means a building containing living and sleeping accommodations (excluding cooking facilities within the rental unit) for transient occupancy, and having a common entrance or entrances.
- (10) "Motel" means a building or buildings (detached or semidetached) having separate outside entrance or entrances, and containing accommodations for compensation for automobile travelers and vacationers.
- ~~(11) "Non-transient" means a period of not less than 365 days.~~
- ~~(112) "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. occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.~~

~~(Ord. 15-201. Passed 12-28-15.)~~

Section 3. Part Eleven (Planning and Zoning Code), Title Three (Zoning Districts and Regulations), Chapter 1129 (Residential Districts), Section 1129.06 (Accessory Uses), of the Codified Ordinances of the City be amended by the addition of new subsection 1129.06(g) as follows:

**1129.06 ACCESSORY USES.**

**(g) Transient Occupancy Overlay District. The renting from a resident family to other individuals for the purposes of transient occupancy is permitted within an approved Transient Occupancy Overlay District.**

**(1) Establishment of a Transient Occupancy Overlay District.**

**A. Initiation of Change:**

**Whenever deemed appropriate and in the interest of the general welfare of the city, the City Commission or Planning Commission may initiate a Transient Occupancy Overlay District. The overlay district shall be created to spur investment in a declining geographic area with the goal of increasing property values and maintenance of homes in areas that are close in proximity to commercial and retail areas.**

**B. Action of Planning Commission:**

The Planning Commission shall hold a public hearing. The time, place, and purpose of the hearing shall be given by both of the following methods:

1. Publication at least once in a newspaper of general circulation in the City at least fifteen (15) days prior to the date of the hearing;
2. A printed notice, not less than ten (10) days prior to the date of the hearing, sent to the owners of all property as shown upon the records of the County Recorder within three hundred (300) feet of the area proposed to be changed; and
3. The Planning Commission shall forward their recommendation to the legislative body.

**C. Action by the Legislative Body:**

1. After the above recommendation is received, the City Commission shall set a date for a public hearing. In a newspaper of general circulation in the City, notice of the time and place of the meeting shall be given at least (30) days prior to the meeting. During the thirty (30) day period, the text or copy of the text of the ordinance, map of the proposed district boundaries and report submitted by the Planning Commission shall be on file, for public examination, in the office of the Clerk of the Planning Commission.
2. After the hearing, the legislative body may approve in whole or in part by majority vote of its entire membership the recommendation submitted by the Planning Commission. The legislative body may disapprove or modify the recommendations by Planning Commission by a vote of not less than three- fourths of its entire membership.

~~(1980 Code 151.14)~~

Section 4. Part Eleven (Planning and Zoning Code), Title Three (Zoning Districts and Regulations), Chapter 1133 (Business Districts), Sections 1133.05 (Permitted Buildings and Uses; Roadside Business District), and Section 1133.08 (Permitted Buildings and Uses; Downtown Business District, of the Codified Ordinances of the City are hereby amended as follows:

**1133.05 PERMITTED BUILDINGS AND USES; ROADSIDE BUSINESS DISTRICT.**

- (a) Main Buildings and Uses.

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- (1) All stores, services, dwellings, and other uses permitted in Local Business Districts;
- (2) Additional retail business stores and services conducted wholly within enclosed buildings, or adjoining and operated in connection with an establishment in an enclosed building to the following extent:
  - A. The sale and serving of all beverages and eating places of all types permitting dancing and live entertainment. Conditional use permits shall be obtained by places selling or serving alcoholic beverages, and by all drive-in establishments;
  - B. Motels, hotels; fraternal and social clubs, and labor union halls;
  - C. Automotive services, repair or service garages, and buildings for the sale of new and second-hand motor vehicles. The parking of vehicles with or without a fee, the sale of gasoline and oil, and the sale of motor vehicles may be permitted on an open lot, providing all requirements for front yards in the Business District as set forth in the Zoning Code are met;
  - D. The sale of boats and other marine supplies; motorcycles, bicycle shops; sports and athletic equipment; pet shops;
  - E. Amusement and recreational services, such as assembly and meeting halls, billiard halls, bowling alleys, dance halls, indoor theaters, skating rinks, and other social, sports, or recreation establishments, provided the services are conducted within a building, sufficiently sound-insulated to confine the noise to the premises;
  - F. Nursery stock, monuments, garden equipment, supplies, and garden furniture may be sold on an open lot, provided the operation is in connection with an established related business conducted within a building not more than 150 feet therefrom, and provided goods are not sold, displayed, or stored in a required yard;
- (3) Microbrewery.

**(4) Transient Occupancy.**

(b) Similar Main Uses. Any other business store, shop, or service not listed above or in any subsequent use classification, and determined as similar by the Commission.

(c) Accessory Buildings or Uses.

- (1) Accessory off-street parking and loading facilities as required and set forth in Chapter 1149;
- (2) Any accessory use, such as the storage of goods and processing operations clearly incident to the conduct of a retail business

or service establishment permitted as main uses, provided the use has no injurious effect on adjoining residential districts.

~~(Ord. 15-201. Passed 12-28-15.)~~

**1133.08 PERMITTED BUILDINGS AND USES; DOWNTOWN BUSINESS DISTRICT.**

(a) Main Buildings and Uses.

- (1) Single, two and multi-family residential uses above the first floor.
- (2) All stores and services permitted in the General Business District;
- (3) Public uses as follows and as defined in Section 1123.02: governmental, civic, education, religious, recreational and transportation.

**(4) Transient Occupancy.**

(b) Similar Main Uses. Any other business, service or recreation activity not listed above or in any subsequent use classification and determined as similar by the Commission.

(c) Conditional Uses Permitted: Outdoor recreational facilities such as beaches, waterparks, amphitheaters, marinas, swimming pools, etc.

(d) Accessory Buildings or Uses:

- (1) Accessory off-street parking and loading facilities as required and set forth in Chapter 1149;
- (2) Any accessory use and building clearly incident to the conduct of a permitted main use, providing the use has no injurious effect on adjoining residential districts.

~~(Ord. 04-057. Passed 1-12-04.)~~

Section 5. Part Eleven (Planning and Zoning Code), Title Three (Zoning Districts and Regulations), Chapter 1137 (Commercial Districts), of the Codified Ordinances of the City is hereby amended as follows:

**1137.03 PERMITTED BUILDINGS AND USES, COMMERCIAL RECREATION DISTRICTS.**

(a) Main Buildings and Uses.

- (1) One- and two-family dwellings, boathouses, motels;
- (2) The following amusement establishments, whether open or enclosed:
  - A. Beaches and swimming pools, with accessory bath houses and locker rooms;

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- B. Manufacturing, rental, repair, and storage of boats, marinas; sale of live bait for fishing;
- C. Hunting and fishing clubs, shooting ranges;
- D. Arenas, auditoriums;
- E. Golf courses, driving ranges;
- F. Riding academies, stables, race tracks;
- G. Assembly and meeting halls, bowling alleys, dance halls, skating rinks.
- H. All retail stores, services and offices as permitted in General Business Districts.
- I. **Transient Occupancy.**

(b) Similar Main Uses. Any other recreational use not listed above or in any other use classification, and if determined as similar by the commission.

(c) Accessory Buildings or Uses.

- (1) Accessory off-street parking facilities as regulated and set forth in Chapter 1149;
- (2) Eating places, sales of equipment or accessories, living quarters, maintenance facilities for caretakers, and any accessory use customarily incident to a permitted main use, provided the use has no injurious effect on adjoining residential districts.

~~(1980 Code 151.63)~~

**1137.04 PERMITTED BUILDINGS AND USES, COMMERCIAL AMUSEMENT DISTRICT.**

(a) Main Buildings and Uses.

- (1) All buildings and uses permitted in and as regulated in Commercial Recreation Districts; provided, however, that no residential units shall be constructed or maintained except as may be clearly secondary or incidental to the principal uses contemplated and permitted under this section;
- (2) The following amusement establishments, whether open or enclosed:
  - A. Ferris wheels, roller coasters, whips, merry-go-rounds, and other similar open midway attractions;
  - B. Freak shows, wax museums, dodgem scooters, and other semi- enclosed or enclosed midway attractions;
  - C. Open booths with games of skill or chance, including shooting galleries, penny arcades;
  - D. Public dance halls, skating rinks, indoor theaters;
- (3) The following businesses and services, open or enclosed:
  - A. Hotels, motels, taverns, eating places; the sale, serving, and consumption of soft drinks and alcoholic beverages;
  - B. The sale of foods, drugs, gifts, sports equipment.

**(4) Transient Occupancy.**

(b) Similar Main Uses. Any other amusement not listed above or in any other use classification, and determined as similar by the Commission.

(c) Accessory Buildings and Uses.

- (1) Accessory off-street parking facilities as regulated and set forth in Chapter 1149;
- (2) Living quarters for caretakers, maintenance facilities, and other accessory uses customarily incident to a permitted main use, providing the uses have no injurious effect on adjoining residential districts.

~~(1980 Code 151.64)~~

Section 6. Part Eleven (Planning and Zoning Code), Title Five (Additional Zoning Requirements), Chapter 1151 (Nonconforming Structures and Uses), Section 1151.08 (Certificates of Nonconformity), of the Codified Ordinances of the City is hereby amended as follows:

**1151.08 CERTIFICATES OF NONCONFORMITY.**

- (a) (1) The Division of Planning shall issue a certificate of nonconformity for legally nonconforming uses and structures if the nonconformity is included in an inventory of nonconformities created by the City or upon application by the owner, if the owner can document in detail the extent of nonconforming land uses, structures, signs, and/or lots or parcels at the time the nonconformity was established.
- (2) The inventory of nonconformities shall contain the detailed information that must be contained in a certificate. If there is no inventory, an owner of a nonconformity can obtain a certificate if he or she can establish the extent and nature of the nonconformity at the time it was established. The nonconformity must be in existence at the time the relevant ordinance(s) were adopted or amended. A nonconformity can be established through photographs, maps and drawings, and written statements describing the nonconforming use at the time it became nonconforming. **In the case of a transient occupancy use, annual nonconformity must be proven through the following methods: documentation of the previous years' Federal tax return and State tax return showing income from the property providing transient occupancy and executed rental agreements from the previous year.**

(b) A certificate of nonconformity shall describe the nonconforming land uses, structures, signs, and/or lots or parcels in sufficient detail so that a reasonable person can determine how the nonconformity is not in compliance



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with present or previous land development regulations. A map with drawings, with the location, height and size of structures and signs, and the area of the nonconformity shall be attached to the certificate.

(c) The City may rely on the description and/or map of a nonconformity in a certificate of nonconformity in determining whether a nonconformity has been discontinued, destroyed, changed or expanded.

(d) A Certificate of Nonconformity shall not entitle a property owner the re- establishment of a nonconforming use or reconstruction of a nonconforming structure. However, it shall serve as a base line record of the nonconformity when a property owner is requesting to reconstruct or re-establish a nonconformity.

~~(Ord. 02-191. Passed 12-9-02.)~~

Section 7. 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.

Section 8. 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 9. That for the 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.



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RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION



ATTEST:

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CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: March 27, 2023

