



## CITY OF SOUTH TUCSON ORDINANCE NO: 12-01

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AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA RELATING TO BUSINESSES REGULATED, LICENSES AND PRIVLEDGE TAXES AND CRIMES AND OFFENSES; REGULATING HOTELS; REQUIRING IDENTIFICATION OF GUESTS; PROHIBITING CONSECUTIVE RENTALS WITHIN EIGHT HOURS; REQUIRING NOTICE OF VIOLATIONS TO LICENSEE; PROVIDING GROUNDS FOR SUSPENSION OF BUSINESS LICENSE; PROVIDING FOR HEARING UPON SUSPENSION; PROHIBITING OPERATING ON A SUSPENDED LICENSE; AMENDING CHAPTER 11 BY ADDING ARTICLE VII, SECTIONS 11-293 THROUGH 11-299.

**WHEREAS**, prostitution and other criminal activity in hotels greatly diminishes the quality of life in surrounding neighborhoods and hurts tourism to the detriment of responsible members of the hospitality industry; and

**WHEREAS**, the ability to rent a hotel room on an hourly basis without the need to show positive identification creates a situation where prostitution and other criminal activity can flourish;

**NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, AS FOLLOWS:**

**SECTION 1.** The South Tucson City Code, Chapter 11 is hereby amended by adding Article VII as follows:

## **ARTICLE VII. HOTELS**

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**Sec. 11-293. Definitions.**

(a) *Rent or subrent* means the act of permitting a room to be occupied in exchange for any form of consideration.

(b) *Hotel* is defined in South Tucson City Code Section 11-76.

(Ord. No 12-01, 03/05/12)

**Sec. 11-294. Guest register required; guest identification required.**

(a) It shall be unlawful for any owner, operator, employee or person in control of any hotel to rent, subrent, or otherwise furnish accommodations therein to any person without first requiring the person requesting the accommodations to exhibit a written instrument of identification. The following written instruments are the only acceptable types of identification:

(1) An unexpired drivers license issued by any state of the United States or Canada, provided such license includes a picture of the licensee;

(2) A non-operating identification license issued pursuant to A.R.S. Section 28-3165;

(3) An armed forces identification card;

(4) A valid unexpired passport or border crossing identification card which is issued by a government; or

(5) A voter card issued by the government of Mexico and which contains a photograph of the person and the date of birth.

(b) It shall be unlawful for any owner, operator, employee, or person in control of any hotel to rent, subrent, or otherwise furnish accommodations therein to any person without first entering in a register the following information:

(1) The name and address of each guest furnished with accommodations;

(2) The correct date and time of day that the accommodations were rented, subrented, or otherwise furnished to the guest;

(3) The room number or other specific description of the accommodations which were furnished to the guest;

(4) The signature of the guest to whom the accommodations were furnished; and

(5) The type of written instrument of identification presented by the guest to verify his/her name and address, and the number of the identification. A photocopy of the instrument of identification is sufficient to satisfy this requirement.

Such register shall be made available for the inspection of any peace officer at all times upon request.

(Ord. No.12-01, 03/05/12)

**Sec. 11-295. Limitation on consecutive rentals.**

If any owner, operator, employee, or person in control of any hotel rents, subrents, or otherwise furnishes accommodations therein to any person, it shall be unlawful for that owner, operator, employee, or person in control to rent, subrent, or otherwise furnish the same accommodations again to any person within eight (8) hours from the commencement of the previous rental.

(Ord. No.12-01, 03/05/12)

**Sec. 11-296. Notification to licensee of violation by employee.**

The person holding a business license issued pursuant to Chapter 11 shall be notified in writing by the police department whenever an employee of the licensee is cited for a violation of section 11-294 or section 11-295. Notice shall be given to the licensee within ten (10) days of charges being filed. The provisions of section 11-297 regarding license suspension shall not apply in the absence of such notification.

(Ord. No. 12-01,03/05/12)

**Sec. 11-297. Suspension of business license; grounds; penalties.**

(a) The business license issued pursuant to Chapter 11 entitling the licensee to operate any hotel shall be suspended for twenty-four (24) hours if the licensee or any employee of the licensee violates the provisions of section 11-294 or section 11-295 on two (2) separate dates within a twelve (12) month period.

(b) The business license issued pursuant to Chapter 11 entitling the licensee to operate any hotel shall be suspended for ten (10) days if the licensee or any employee of the licensee violates the provisions of section 11-294 or section 11-295 on four (4) separate dates within a twelve (12) month period.

(Ord. No. 12-01, 03/05/12)

**Sec. 11-298. Hearing upon suspension.**

(a) The director of finance, upon notification by the chief of police or the city attorney that grounds for suspension exist, shall file a written petition for suspension with the City Court, requesting that a time and place be set for a hearing and specifying the grounds for suspension per section 11-296. Within five (5) days a magistrate, special magistrate or limited special magistrate shall schedule a hearing to be conducted within fifteen (15) days of the receipt of the petition to suspend. The magistrate, special magistrate or limited special magistrate shall notify the parties in the manner provided in this section and shall state the grounds relied upon for the proposed suspension. Should the licensee fail to appear at the hearing, a default judgment of suspension shall be entered. A record shall be kept of all proceedings. No license shall be suspended unless grounds therefore are established by a preponderance of the evidence. The hearing shall be held in an informal manner as to the order of proceeding and presentation of evidence. The Arizona Rules of Evidence shall not apply. Any evidence offered shall be admitted subject to a determination by the magistrate, special magistrate or limited special magistrate that the offered evidence is relevant and material and has some probative value as to a fact at issue. The magistrate, special magistrate or limited special magistrate shall provide the licensee and other parties written notice of the decision within five (5) days, pursuant to subsection (b) of this section. The magistrate, special magistrate or limited special magistrate's signing of the written notice of the decision shall affect the suspension of a license. A licensee's right to operate a hotel under authority of the license shall terminate immediately upon giving or mailing to the licensee a copy of the signed decision suspending the license; except that the suspension may be stayed by the Superior Court pending a timely appeal of the decision by Special Action. Such appeal must be filed within ten (10) days after the decision to suspend is signed unless the decision is mailed, in which case the appeal must be filed no later than fifteen (15) days after entry of the decision. The appellee shall bear the cost of preparing the record of appeal. If an appeal is not timely made, the suspension becomes final.

(b) Notices required by this article shall be served by certified mail to the licensee's attorneys or to the licensee at the address as shown on the licensee's license, or by personal service.

(Ord. No. 12-01, 03/05/12)

**Sec. 11-299. Operating on a suspended license.**

It shall be unlawful to operate on a suspended license. Each day the violation continues shall constitute a separate offense.

(Ord. No. 12-01, 03/05/12)

Secs. 11-300—11-305. Reserved.

**SECTION 2:** That Ordinance 12-01 of the City of South Tucson entitled "Businesses Regulated-Hotels" is hereby adopted, an emergency is hereby declared and all ordinances or parts of ordinances in conflict herewith are hereby amended.

**SECTION 3:** That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, the City of South Tucson, Arizona, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase, irrespective of the fact that any sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION 4:** That nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of actions acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**SECTION 5:** That the various City Officers and Official(s) and/or any other duly appointed deputy are authorized and directed to perform all acts necessary or desirable to give effect and to carry out all the duties authorized under this Ordinance and the City Code.

**SECTION 6:** That where this Ordinance conflicts or overlaps with any other Ordinance, Code provision or regulation, whichever imposes the more stringent restrictions for the health, safety and welfare of the public shall prevail.

**SECTION 7:** The City Clerk is ordered and directed to cause this Ordinance to be published and posted as required by the South Tucson City Code and by state law.

**SECTION 8:** The City Clerk shall attest to the adoption of this Ordinance and cause same to be maintained as a public record as required by law. This Ordinance shall become effective after posting and publication as required by law and passed and adopted by Mayor and Council.

**SECTION 9:** The Ordinance shall be effective on April 15, 2012.

**PASSED, ADOPTED and APPROVED** by the Mayor and Council of the City of South Tucson, Arizona, this 5<sup>th</sup> day of March, 2012.

APPROVED/EXECUTED

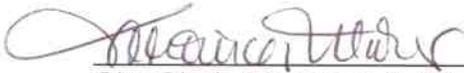


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MAYOR, JENNIFER ECKSTROM

ATTEST:

APPROVED AS TO FORM:



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City Clerk, Veronica B. Moreno



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City Attorney, Patrick Moran