

## **CHAPTER 7.06 TRANSIENT LODGING UNITS**

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### **Section 7.06.010 Purpose**

The City Council of Midway City hereby makes the following findings:

A. Midway City is a small rural community that attracts many visitors. Our vision is that Midway City "be a place where citizens, businesses and civic leaders are partners in building a city that is family-oriented, aesthetically pleasing, safe, walk able and visitor friendly." We welcome visitors; we are pleased to have them come. Our resort and lodging establishments are valued and we appreciate all they contribute to our community.

B. There are many single and multi-family vacation homes and condominiums in Midway. Transient rental of some of these units provide a community benefit by expanding the number and type of lodging facilities available and assists owners of vacation homes by providing revenue which may be used for maintenance, upgrades and deferred costs.

C. Transient rental of homes and condominiums and individually owned units associated with commercial lodging establishments has, on occasion, created problems for City staff and the City's permanent residents. The City has been called upon to respond to complaints involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking and accumulations of refuse at transient rental units.

D. It has become necessary for Midway City to address transient rental of single family and multifamily homes, and individually owned units within, or associated with, commercial lodging establishments, to forestall future problems and provide an equitable balance of private and public interests.

E. Due to its limited resources and staff, the City must often rely on third parties (resorts, inns and property management firms) for assistance in the enforcement of this Chapter to maintain civic peace and tranquility for the benefit of both citizens and visitors.

**Section 7.06.020 Definitions:**

A. Commercial lodging facility. A motel, hotel, resort, bed and breakfast inn, or other facility, the operation of which is governed by the resort provisions of this code and/or a conditional use permit or development agreement issued by the City which allows, among other things, the rental of a lodging unit or units for periods of more or less than 48 hours.

B. Commercial lodging unit. A lodging unit located in a commercial lodging facility and which is wholly owned by said commercial lodging facility, the rental of which lodging unit is subject to the terms of a conditional use permit or a development agreement issued by the City for the commercial lodging facility.

C. Commercial lodging unit rental. The rental of a commercial lodging unit located in a commercial lodging facility for periods of more than or less than 48 hours. Commercial lodging unit rental is governed primarily by the conditional use permit or a development agreement issued for the commercial lodging facility (and other City ordinances as applicable), and not primarily by this Title.

D. Individually owned lodging unit. An apartment, condominium, house or other building or structure, or a room designed for human habitation not wholly owned by a commercial lodging facility.

E. Lodging unit. A house, apartment, condominium, or other building or structure or portion thereof, or a room designed for human habitation.

F. Owner. The person(s) or entity who possesses legal title to a lodging unit and/or possesses the legal right to allow entrance into the unit or to compel departure from the unit.

G. Transient lodging unit. A lodging unit which is rented for less than 30 days and which is not a commercial lodging unit.

H. Transient lodging unit manager. A person or entity designated by the owner of a transient lodging unit pursuant to this Title to manage the transient lodging unit in accordance with the terms of this and other applicable City ordinances.

I. Transient lodging unit owner. A person or entity who owns a transient lodging unit.

J. Transient lodging unit rental. The rental of a transient lodging unit located in the transient rental overlay district within the City. Transient lodging unit rental does not mean the rental of a commercial lodging unit located in a commercial lodging facility.

K. Transient rental overlay district. An additional district established by Midway City that may be more or less restrictive than one or more underlying primary zoning district(s). When a property is

located within an overlay district, it is subject to the provisions of both the primary zoning district and the overlay district. Where the provisions are in conflict, the overlay district governs.

#### **Section 7.06.030 Rental Period of Lodging Unit**

The rental of any lodging unit for a period less than twelve hours is prohibited in Midway City. A transient lodging unit may not be rented for a period less than 48 hours.

#### **Section 7.06.040 Commercial Lodging Facility**

A commercial lodging facility may not exist or operate unless pursuant to a conditional use permit or a development agreement issued by the City.

#### **Section 7.06.050 Transient Lodging Unit Rental**

A. Transient lodging unit rental may be conducted only in the transient rental overlay district within the City, and only pursuant to the terms of this Chapter. Transient lodging unit rental in the Resort Zone (RZ) within the transient rental overlay district is a permitted use. Transient lodging unit rental in any other zone within the transient rental overlay district is a conditional use.

(2011-09, Sub-section Amended, eff. 12/15/2011)

B. Whenever a lodging unit is rented for transient lodging purposes, the owner of the lodging unit is required to comply with all provisions of this Chapter.

C. The rental of any transient lodging unit within Midway City is prohibited unless conducted in compliance with the terms of this Title.

#### **Section 7.06.060 License of Transient Lodging Unit**

Prior to being rented as a transient lodging unit, and at all times while being rented or while being offered for rental, a transient lodging unit must be licensed as a transient lodging unit with Midway City.

#### **Section 7.06.070 Unit License Application Procedure**

The owner must provide the following information on the unit license application:

- A. The name, street address, telephone and other contact information of the owner of the unit offered for transient rental.
- B. The street address and telephone number of the rental unit.
- C. Proof that all required health, building, and fire code inspections have been successfully completed.

D. A title report issued for the transient rental unit verifying ownership. For a new unit license application this report must have been issued within the past 30 days.

E. A schematic floor plan for the rental unit indicating all utility shut-off locations in case of emergency.

F. A statement granting Midway City the right to inspect the rental properties and authorize the entry of police or other emergency personnel in the case of an emergency.

(2010-03, Section Amended, eff. 5/26/2010)

#### **Section 7.06.080 Physical Requirements of Transient Lodging Rental Units**

In order for a lodging unit to receive and maintain a valid license as a transient lodging unit licensed by Midway City, the lodging unit must comply with the following physical requirements:

A. The transient rental is not specifically prohibited by zoning requirements or private development covenants, conditions, and restrictions (CC&R's) as a conditional use.

B. The Midway City Business License Officer has reviewed the application and has determined that the rental unit is in compliance with state and local health, building and fire codes. Inspection of the proposed rental by the appropriate inspector is required before this finding can be made by the Business License Officer. The applicant shall bear the cost of any such inspection, or any re-inspection, in accordance with the regular policies of each department.

C. If the structure and the layout of the unit are such that:

1. There is direct access to the public right of way such that trespass from the proposed rental unit onto adjoining private properties is not necessary to use the unit; or
2. The proposed rental unit is part of a multi-family structure and shares an access, hallway, common wall, or driveway with another dwelling.

Written consent of the owner(s) of the impacted dwellings is required prior to the initial application for a unit license. Written documentation of this permission shall be furnished with this application. Permission, once granted, shall be considered binding on the grantor and all successors and assigns so long as such dwelling is licensed as a transient rental unit in Midway City and such permission shall also be recorded at the office of the Wasatch County Recorder.

D. Lighting shall be shielded and operated in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from fixture surfaces, are directed away from an adjacent property and shall not detract from driver visibility on adjacent streets.

#### **Section 7.06.090 Usage Requirements of Transient Lodging Rental Units**

In order for a lodging unit to receive and maintain a valid license as a transient lodging unit licensed by Midway City, the lodging unit must comply with the following usage requirements:

- A. Maximum overnight occupancy will be based on the number of designated bedrooms, with a limit of two occupants per bedroom plus two additional persons per residence up to a maximum overnight occupancy of 14 persons in any transient lodging unit. Designated bedrooms must meet all Midway City building and safety code standards.
- B. The number of cars parked on site shall be limited to garage capacity plus two for each unit.
- C. No on street overnight parking is permitted.
- D. Visitor on street parking shall not result in an obstruction to traffic and pedestrian circulation or public safety.
- E. Noise resulting from activities at the transient rental shall not intrude on adjoining properties by exceeding 55 dB at the property line between 11 p.m. and sunrise or exceeding 60 dB between 7 a.m. and 11 p.m. Violations of Midway City Code provisions regulating noise will not be permitted.
- F. Transient rentals may not be converted to corporate sponsored or business houses which are used primarily to distribute retail products or personal services to invitees for marketing or similar purposes, regardless of whether such products or services are charged for.
- G. Signs advertising transient lodging unit rental are prohibited.
- H. No obscene or raucous activity, and no unsanitary or unsightly conditions, shall occur on the property.
- I. All activities on the property must be conducted in a manner that does not disturb the peace or violate Midway City Code regulating nuisances.

**Section 7.06.100 Revocation of Transient Lodging Unit License**

The following are grounds for revocation of a transient lodging unit license:

- A. Failure to maintain a licensed transient lodging unit manager for the property.
- B. Any recurring activity on the property that disturbs the peace or violates the Midway City Code regulating nuisances.
- C. Any activity on the property that violates State or Federal law or the Midway City Code or this Chapter.
- D. Failure to collect and deposit all appropriate Midway City, Wasatch County and Utah State taxes.
- E. Failure to renew the Midway City transient lodging unit license annually.

**Section 7.06.110 Transient Lodging Unit Manager**

The owner of a transient lodging unit, prior to allowing the unit to be rented as a transient lodging unit rental, and at all times while said unit is being so rented or is being offered as such a rental, shall designate and maintain a transient lodging unit manager for the transient lodging unit. The transient lodging unit manager shall have in force at all times a current and valid business license as a transient lodging unit manager and shall have for such business a valid business address and valid business office which is operating and in use and located within the C-2, C-3 or Resort Zones within Midway City.

#### **Section 7.06.120 Application to Obtain License as Transient Lodging Unit Manager**

The application to obtain a license as a transient lodging unit manager shall contain:

- A. The name and address of the manager.
- B. The Midway City street address for the manager and the street address of the office which will serve as the guest check-in and check-out location.
- C. The office location must be in the C-2, C-3 or Resort Zones within Midway City.
- D. The telephone number at which the manager is available 24 hours per day every day.
- E. An appropriate Utah State tax collection account number, the address of which matches the Midway City street address of the check-in and check-out location that will assure that Midway City and Wasatch County receive all appropriate tax revenue. In no event shall any license authorized under this Section be effective until the tax account number is provided and verified by Midway City.
- F. A list of all other licensed transient lodging rental units that the manager will manage.
- G. Any other information deemed necessary by the Midway City business licensing official.

(2010-03, Section Amended, eff. 5/26/2010)

#### **Section 7.06.130 Standards for Transient Lodging Unit Manager**

- A. The transient lodging unit manager must be available by telephone, or otherwise, 24 hours per day every day and must be able to respond to telephone inquiries immediately.
- B. The manager shall also be designated as the agent for receiving and responding to all official communications from Midway City, Wasatch County, and the State of Utah required under this Section.
- C. The manager must comply with all Midway City and Utah state laws, including state law provisions governing property management companies where applicable.
- D. The manager must provide each year with the manager's license renewal application the following:

1. A list of all transient lodging units that the manager managed during the previous year.
2. A list of all transient lodging units that the manager will manage during the coming year.
3. All dates when each unit was rented during the previous one-year period (listed separately by date and by unit).
4. And the amount of rent that was charged for every rental during the previous one-year period (listed separately by date and by unit).

#### **Section 7.06.140 Duties of Transient Lodging Unit Manager**

Both the owner and the manager are responsible and liable to ensure that the following duties are performed by the manager:

- A. Physically and in person check renters into and out of the unit at the beginning and ending of each rental.
- B. Report any illegal conduct, or any other abuse, which violates any law regarding use of the premises. Midway City does not expect, nor desire, the owner or his or her agent to place themselves in harm's way. However, reporting and seeking assistance from qualified public agencies is required.
- C. Provide adequate property maintenance services. The minimum services required include:
  1. Structural maintenance to preserve substantial compliance with Midway City code as required.
  2. Routine upkeep, including painting and repair to a level that is consistent with the level of maintenance on adjoining or nearby properties.
  3. Trash collection which insures that adequate trash facilities are provided, that trash cans are not left at the curb for any period in excess of 24 hours and that the property is kept free from accumulated garbage and refuse.
  4. Adequate housekeeping service to all rental units.
  5. Snow removal during winter months to a level that allows safe access to the building over the normal pedestrian access to the unit.
  6. Snow removal service to off-street parking facilities associated with the rental property so that off-street parking is at all times available for use of the occupants.
  7. Summer yard maintenance, including landscaping, weed control, and irrigation to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties.
- D. Provide emergency contact information to renters and describe appropriate emergency procedures.
- E. Provide City access to the premises. Midway City has the right to inspect the rental properties at any time and authorize the entry of police or other emergency personnel in the case of an emergency.
- F. Ensure that all required taxes are paid to Midway City, Wasatch County, and the State of Utah, as applicable.
- G. The owner and manager may jointly authorize a person other than the manager to perform the duties required by this Section if the authorization is made in writing and signed by both the owner

and manager. Notwithstanding such authorization, the owner and manager shall continue to be responsible and liable for the fulfillment of the duties required by this Section.

#### **Section 7.06.150 Revocation of Transient Lodging Unit Manager License**

A transient lodging unit manager shall properly manage rental units fulfilling all the duties and responsibilities required by this Chapter. Failure to satisfy the conditions of this Chapter shall be grounds for forfeiture of the license and thereby the right to operate transient rentals. A party having lost a license may petition the City Council to have it reinstated after a period of at least six months.

#### **Section 7.06.160 Business License Fees**

The license fees for a transient lodging unit and a transient lodging unit manager shall be set by the City Council from time to time. The license fee for a transient lodging unit manager shall be based on the number of units the manager manages.

## **CHAPTER 7.07 SPECIAL EVENT LICENSE**

### **Section 7.07.010 Definitions**

### **Section 7.07.020 Unlawful to Operate Without License**

### **Section 7.07.030 Renewal of Licenses**

### **Section 7.07.040 Special Event License Application Procedure**

### **Section 7.07.050 Standards for License Approval**

### **Section 7.07.060 Conflicting License Applications**

### **Section 7.07.070 Licenses, Permits and Approvals Necessary for a Special Event License**

### **Section 7.07.080 Fees to be Assessed**

### **Section 7.07.090 Insurance Requirements**

### **Section 7.07.100 Runs, Walks, Biking Event, Parade, etc.**

### **Section 7.07.110 Criminal Penalty**

### **Section 7.07.120 Enforcement**

### **Section 7.07.130 Non-Transferability**

### **Section 7.07.140 Events at Outdoor Music Areas**

### **Section 7.07.010 Definitions**

A. Applicant. The Applicant is the person, or group of people, who is the organizer who assumes the responsibility for conduct of the event. The Applicant signs the Special Event application and all other documents relevant to the event. The Applicant must be an actual person or persons, and not a corporation, corporate sponsor, business, or any other entity which is not an actual person.

B. Concession. A concession is a granted privilege to sell food, beverages, souvenirs, or copyrighted or logoed event memorabilia at a licensed event.

C. Fees. Charges assessed by Midway City for licensing, staffing, equipment use/rental, property use/rental, clean up, inspections, public employees, or public equipment assessed to an event and established within the event licensing process.

D. Licensee. The Applicant, as defined above, becomes the licensee when the Special Event License is signed by the Special Events Manager, upon meeting all the criteria in this Chapter. As the license holder, the licensee becomes the sole proprietor of the event and inherits the responsibilities connected with all licenses, fee assessments, copyrights, and insurance liabilities connected with the licensed event.

E. Private Property. Property other than public property owned by Midway City or any other government entity within Midway City limits.

F. Public Property. Property, including easements and rights of way, owned by Midway City.

G. Special Event. Special events are organized gatherings for a limited period of time for which licenses and permits are required and where large numbers of persons may gather or participate. Such events may include, but are not limited to parades, cultural programs, festivals, concerts, runs, walks, Town Square events, etc.