

ORDINANCE NO. 2020-27

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3 BUSINESS REGULATIONS, BY ADOPTING A NEW CHAPTER 3-12 SHORT-TERM RENTALS; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, in 2019 the State Legislature adopted Chapter 240, a new law relating to regulation of vacation rentals and short-term rentals, and codified in A.R.S. §§ 9-500.39, 11-269.17, 42-1125.02, 42-2001, 42-2003, and 42-5042; and

WHEREAS, pursuant to A.R.S. § 9-500.39 the City has limited authority to regulate short-term rentals as defined by state law to protect public health and safety, and is required to report verified violations of unlawful uses of such rental properties to the Arizona Department of Revenue; and

WHEREAS, the City desires to regulate short-term rentals and transient lodging accommodations, including rental of dwelling units within multiple-family developments, within the limits of its authority; and

WHEREAS, the City desires to monitor and obtain a greater understanding of how short-term rentals and transient lodging accommodations, including rental of dwelling units within multiple-family developments, affect the local economy, residential neighborhoods, and housing supply.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Code, Title 3 *Business Regulations*, is amended by adding a new Chapter 3-12, *Short-Term Rentals*, to read as follows:

CHAPTER 3-12 SHORT-TERM RENTALS

3-12-001-0001 DEFINITIONS

FOR PURPOSES OF THIS CHAPTER:

“LODGING ACCOMMODATION” HAS THE SAME MEANING AS PRESCRIBED IN A.R.S. § 42-5076 AND MEANS ANY SPACE OFFERED TO THE PUBLIC FOR LODGING, INCLUDING ANY HOTEL, MOTEL, INN, TOURIST HOME OR HOUSE, DUDE RANCH, RESORT, CAMPGROUND, STUDIO OR BACHELOR HOTEL, LODGING HOUSE, ROOMING HOUSE, RESIDENTIAL HOME, APARTMENT HOUSE, DORMITORY, PUBLIC OR PRIVATE CLUB, MOBILE HOME OR HOUSE TRAILER AT A FIXED LOCATION IN THIS STATE OR OTHER SIMILAR STRUCTURE OR SPACE (SUCH AS A DWELLING UNIT IN A MULTIPLE-FAMILY

DEVELOPMENT).

“NON-RESIDENTIAL USE” MEANS ANY USE PROHIBITED IN A RESIDENTIALLY-ZONED DISTRICT OF THE CITY.

“ON-LINE LODGING OPERATOR” HAS THE SAME MEANING AS PRESCRIBED IN A.R.S. § 42-5076 AND MEANS A PERSON THAT IS ENGAGED IN THE BUSINESS OF RENTING TO AN OCCUPANT, INCLUDING A TRANSIENT AS DEFINED IN § 42-5070, ANY LODGING ACCOMMODATION IN THIS STATE OFFERED THROUGH AN ONLINE LODGING MARKETPLACE.

“ON-LINE LODGING MARKET PLACE” HAS THE SAME MEANING AS PRESCRIBED IN A.R.S. § 42-5076 AND GENERALLY MEANS A PERSON THAT PROVIDES A DIGITAL PLATFORM FOR COMPENSATION THROUGH WHICH AN UNAFFILIATED THIRD PARTY OFFERS TO RENT LODGING ACCOMMODATIONS IN THIS STATE TO AN OCCUPANT, INCLUDING A TRANSIENT.

“SHORT-TERM RENTAL” OR “STR” MEANS ANY INDIVIDUALLY OR COLLECTIVELY OWNED SINGLE-FAMILY OR ONE-TO-FOUR FAMILY HOUSE OR DWELLING UNIT OR ANY UNIT OR GROUP OF UNITS IN A CONDOMINIUM, COOPERATIVE OR TIMESHARE, THAT IS ALSO A TRANSIENT PUBLIC LODGING ESTABLISHMENT OR OWNER-OCCUPIED RESIDENTIAL HOME OFFERED FOR TRANSIENT USE IF THE ACCOMMODATIONS ARE NOT CLASSIFIED FOR PROPERTY TAXATION UNDER A.R.S. § 42-12001. A SHORT-TERM RENTAL SHALL ALSO INCLUDE A DWELLING UNIT IN A MULTIPLE-FAMILY DEVELOPMENT OFFERED FOR RENT AS TRANSIENT LODGING.

“TRANSIENT” MEANS 30 DAYS OR LESS.

“UNLAWFUL USE OF A SHORT-TERM RENTAL” MEANS USE OF A SHORT-TERM RENTAL PROPERTY FOR ANY NONRESIDENTIAL USE, SPECIAL EVENTS THAT REQUIRE A PERMIT OR LICENSE, RETAIL BUSINESS, RESTAURANT, EVENT CENTER, BANQUET HALL OR OTHER USES PROHIBITED BY ARIZONA REVISED STATUTES, SECTION 9-500.39 AS MAY BE AMENDED.

“VACATION RENTAL” MEANS A SHORT-TERM RENTAL.

“VERIFIED VIOLATION” MEANS A FINAL ADJUDICATION FINDING OF GUILT OR CIVIL RESPONSIBILITY FOR VIOLATING ANY CITY CODE REGULATION RELATING TO UNLAWFUL USE OF A SHORT-TERM RENTAL.

ANY ARIZONA REVISED STATUTE (“A.R.S.”) REFERENCED IN THIS CITY CODE, SHALL MEAN THE LAW AS MAY BE AMENDED FROM TIME TO TIME.

3-12-001-0002 STR REGISTRATION

A. BEFORE OFFERING FOR RENT OR RENTING A SHORT-TERM RENTAL, THE OWNER SHALL PROVIDE TO THE CITY THE RENTAL ADDRESS; OWNER’S NAME; AND THE NAME, TELEPHONE NUMBER, AND EMAIL ADDRESS OF AN EMERGENCY CONTACT WHO CAN BE REACHED AT ANY TIME OF DAY. THE CITY MAY REQUIRE USE OF AN ONLINE REGISTRATION SYSTEM. THERE IS NO REGISTRATION FEE.

B. THE OWNER OF A TRANSIENT LODGING ACCOMMODATION THAT IS NOT A SHORT-TERM RENTAL MAY VOLUNTARILY REGISTER WITH THE CITY IN THE SAME MANNER AS THE OWNER OF A SHORT-TERM RENTAL.

3-12-001-0003 STR AND NOTICE TO BE POSTED

THE OWNER OF A SHORT-TERM RENTAL SHALL POST AND MAINTAIN THE FOLLOWING NOTICE, PRINTED IN MINIMUM FONT SIZE 12, IN A CONSPICUOUS PLACE WITHIN TEN (10) FEET FROM THE PRIMARY ENTRANCE TO THE SHORT-TERM RENTAL:

NOTICE

IT IS UNLAWFUL TO USE THIS PROPERTY FOR ANY NONRESIDENTIAL USE, SPECIAL EVENTS THAT REQUIRE A PERMIT OR LICENSE, RETAIL BUSINESS, RESTAURANT, EVENT CENTER, BANQUET HALL OR OTHER USES PROHIBITED BY ARIZONA REVISED STATUTES, SECTION 9-500.39.B, AS MAY BE AMENDED.

3-12-001-0004 STR COMPLIANCE, COMPLAINTS AND REPORTING

A. THE CITY POLICE DEPARTMENT AND CITY CODE COMPLIANCE MANAGER OR DESIGNEE IS DELEGATED AUTHORITY TO ENFORCE THIS CHAPTER.

B. THE CITY MAY USE EMERGENCY CONTACT INFORMATION TO RESPOND TO COMPLAINTS INVOLVING THE SHORT-TERM RENTAL.

C. THE CITY WILL MAKE A REASONABLE ATTEMPT TO PROMPTLY NOTIFY THE OWNER OR THE EMERGENCY CONTACT REGARDING AN ALLEGED VIOLATION OF CITY CODE RELATING TO AN UNLAWFUL USE OF A SHORT-TERM RENTAL PROPERTY.

D. THE CITY WILL ISSUE CITATIONS FOR AN ALLEGED VIOLATION OF A CITY CODE REGULATION RELATING TO AN UNLAWFUL USE OF A SHORT-TERM RENTAL. FOR EXAMPLE, A BUILDING CODE OCCUPANCY VIOLATION OCCURRING ON A SHORT-TERM RENTAL PROPERTY WILL BE CITED AS A BUILDING CODE VIOLATION, AND NO SEPARATE CITATION WILL BE ISSUED FOR UNLAWFUL USE OF A SHORT-TERM RENTAL AS DEFINED IN THIS CHAPTER.

E. WITHIN 30 DAYS AFTER A VERIFIED VIOLATION, THE CITY WILL ENDEAVOR TO NOTIFY THE ARIZONA DEPARTMENT OF REVENUE AND THE OWNER OF THE SHORT-TERM RENTAL OF THE FOLLOWING:

- i. A DESCRIPTION OF THE VIOLATION, LEGAL AUTHORITY, AND RESPONSIBLE PARTY;
- ii. DATE OF VIOLATION;
- iii. ANY CIVIL PENALTY AMOUNT ASSESSED ON THE OWNER.

3-12-001-0005 STR AND LODGING ACCOMODATIONS: TAX COMPLIANCE

IT IS UNLAWFUL TO OFFER FOR RENT OR RENT A SHORT-TERM RENTAL OR LODGING ACCOMMODATION PROPERTY, UNLESS:

A. THE OWNER OR ONLINE LODGING OPERATOR HAS A CURRENT TRANSACTION

PRIVILEGE TAX LICENSE FOR THE PROPERTY ISSUED BY THE ARIZONA DEPARTMENT OF REVENUE; AND

B. THE TRANSACTION PRIVILEGE TAX LICENSE NUMBER FOR THE PROPERTY IS LISTED ON EACH ADVERTISEMENT OR OFFER TO RENT THE PROPERTY.

POSSIBLE VIOLATIONS OF THIS SUBSECTION MAY BE REPORTED TO THE ARIZONA DEPARTMENT OF REVENUE FOR ENFORCEMENT.

3-12-001-0006 STR AND LODGING ACCOMMODATIONS: ADVERTISING

IT IS UNLAWFUL TO OFFER FOR RENT A SHORT-TERM RENTAL OR LODGING ACCOMMODATION FOR ANY USE THAT WOULD BE A VIOLATION OF CITY CODE.

3-12-001-0007 CIVIL PENALTIES

A. ANY PERSON FOUND IN VIOLATION OF SECTION 3-12-001-0002 (RELATING TO SHORT-TERM RENTAL REGISTRATION), 3-12-001-0003 (RELATING TO SHORT-TERM RENTAL NOTICES), SECTION 3-12-001-0006 (RELATING TO ADVERTISING) SHALL BE GUILTY OF A CIVIL INFRACTION AND SHALL BE FINED A SUM NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00). ANY VIOLATION WHICH IS CONTINUING IN NATURE SHALL CONSTITUTE A SEPARATE OFFENSE ON EACH SUCCESSIVE DATE THE VIOLATION CONTINUES, UNLESS OTHERWISE PROVIDED.

B. WHEN AN ONLINE LODGING OPERATOR FAILS TO COMPLY WITH A.R.S. § 42-5042 (RELATING TO TAX COMPLIANCE), OR AN ONLINE LODGING OPERATOR HAS RECEIVED A VERIFIED VIOLATION, THEN A.R.S. § 42-1125.02 ESTABLISHES STATE PENALTIES FOR SUCH VIOLATIONS. THE ARIZONA DEPARTMENT OF REVENUE WILL COUNT CITY CIVIL PENALTIES TOWARDS THE STATE PENALTIES OWED.

SECTION 2. Penalties.

Any person found in violation of this ordinance shall be guilty of a civil infraction and shall be fined a sum not to exceed five hundred dollars (\$500.00). Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

SECTION 4. Severability.

That, if any section, subsection, sentence, clause, phrase or portion of this ordinance or any of the amendments adopted in this ordinance is for any reason held to be invalid, unconstitutional, or unenforceable by a decision of any court of competent jurisdiction, such decision shall not affect any of the remaining portions thereof.

SECTION 5. Effective Date.

This ordinance shall be effective January 1, 2021.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this third day of November 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY