

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, CREATING A NEW MESA CITY CODE TITLE 5, CHAPTER 15 TITLED “SHORT-TERM RENTALS.”

WHEREAS, the City of Mesa (“City”) is authorized to enact and enforce laws and regulations on short-term rentals as allowed pursuant to Arizona Revised Statutes (“A.R.S.”) § 9-500.39.

WHEREAS, short-term rentals operate throughout residential areas of the City and the City seeks, for the primary purpose of protecting the public health, safety, and welfare, to enact reasonable regulations allowed pursuant to A.R.S. § 9-500.39 requiring, in pertinent part: licensing of short-term rentals; disclosure of an emergency point of contact responsible for responding to emergencies and complaints associated with a short-term rental; compliance with rules and regulations related to zoning, fire and building codes, health and sanitation, transportation, traffic control, solid or hazardous waste and pollution control, noise, protection of welfare, property maintenance, and nuisance issues; and prohibiting short-term rentals from being used for purposes that are harmful to the public such as for housing sex offenders, selling liquor and illegal drugs, pornography, obscenity, and adult-oriented businesses.

WHEREAS, the City Council finds that licensing and regulating short-term rentals in the City will protect the public health, safety, and welfare while preserving property owners’ rights to rent their property in a manner that does not disturb the peace or harm public health, safety, or welfare by encouraging efficient and appropriate responses to complaints and emergencies by a designated emergency point of contact, notifying neighbors of the intent to use a property as a short-term rental, and implementing reasonable penalties for the misuse of short-term rentals to help mitigate harmful abuses associated with short-term rentals.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. Mesa City Code Title 5, Chapter 15 titled “Short-Term Rentals” is created as follows:

CHAPTER 15 SHORT-TERM RENTALS

SECTION:

- 5-15-1 Purpose; Administration; Enforcement
- 5-15-2 Definitions
- 5-15-3 Licensing Requirements
- 5-15-4 Notification to Neighbors
- 5-15-5 Operational Requirements

- 5-15-6 Suspension
- 5-15-7 Civil Violations and Penalties

5-15-1: PURPOSE; ADMINISTRATION; ENFORCEMENT

- A. This Chapter is adopted to protect the health, safety, and welfare of the City's residents and visitors by enacting reasonable regulations of short-term rentals consistent with A.R.S. § 9-500.39 to help mitigate harmful abuses associated with short-term rentals while preserving property owners' rights to rent their property in a manner that does not disturb the peace or harm public health, safety, or welfare. Such reasonable regulations include requiring: (1) licensing of short-term rentals; (2) compliance with zoning, safety, and nuisance standards; (3) disclosure of contact information of the property owner or owner's designee responsible for responding to complaints, incidences, and emergencies associated with a short-term rental; (4) notification to neighboring properties that a property will be used as a short-term rental; (5) prohibition of the use of short-term rentals for illegal and harmful purposes; and (6) implementation of an administrative process to suspend short-term rental licenses and reasonable civil penalties for the misuse of short-term rentals.
- B. It is the responsibility of the Licensing Administrator to administer the provisions of this Chapter, including the issuance, denial, and suspension of licenses. Pursuant to these responsibilities, the Licensing Administrator has the authority to create rules, regulations, and policies consistent with the purpose of this Chapter. The Mesa Police Department, Code Compliance, and any other City department, division, or official designated by the City Manager is authorized to enforce the provisions of this Chapter.

5-15-2: DEFINITIONS

The terms of this Chapter have the below meanings, whether or not the term is capitalized, unless the context requires otherwise. Words in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The term "including" means "including but not limited to" or "including without limitation." The term "shall" means a requirement or mandate. All references to laws or regulations mean such laws and regulations as amended or replaced. Definitions set forth in this Section apply only to this Chapter and do not affect and are not to be applied to any other Mesa City Code.

A.R.S.: Arizona Revised Statutes.

CIVIL HEARING OFFICER: The individual designated by the City Manager or their designee to conduct hearings and make rulings related to this Chapter on short-term rental license suspensions, civil violations, and citations issued.

EMERGENCY POINT OF CONTACT: The owner or owner's designee responsible for responding to complaints, incidences, and emergencies associated with the short-term rental in compliance with Subsection 5-15-5(A).

LICENSE: A short-term rental license issued to a person in accordance with the provisions of this Chapter.

LICENSING ADMINISTRATOR: The City’s Business Licensing and Revenue Collections Administrator, or such City employee who supervises the Licensing Office, or their designee.

ONLINE LODGING MARKETPLACE: As defined by A.R.S. § 42-5076.

OWNER: Any person who, alone or with other persons, has title to or interest in a short-term rental, with or without actual possession of the short-term rental.

OWNER’S DESIGNEE: An agent or representative of the short-term rental owner, such as a landlord, statutory agent, or property manager, or other designee, agent, executor, administrator, or guardian acting on behalf of the short-term rental owner, who controls or otherwise regulates the occupancy or use of the short-term rental.

PERSON: An individual, firm, partnership, joint venture, association, corporation, any other group or combination acting as a unit, or any other entity of whatever kind or nature.

SHORT-TERM RENTAL: Any individually or collectively owned residential unit, dwelling unit, or individual 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 that is not classified for property taxation under A.R.S. § 42-12001. A “short-term rental” is also commonly referred to as a “vacation rental.”

SPECIAL EVENT: As defined by Mesa City Code Title 11, Chapter 87.

TIMELY MANNER: Within one (1) hour of the initiation of contact with the emergency point of contact regarding a complaint, incident, or emergency associated with a short-term rental for which public safety personnel are dispatched; and within twenty-four (24) hours of the initiation of contact with the emergency point of contact regarding all other complaints, incidences, and emergencies associated with a short-term rental. “Initiation of Contact” means the first actual contact or documented attempt to contact, such as leaving a voicemail at the designated number for the emergency point of contact or sending an email to the designated email address for the emergency point of contact.

TRANSIENT: As defined by A.R.S. § 42-5070.

5-15-3: LICENSING REQUIREMENTS

- A. A person shall not offer for rent or rent a short-term rental within the City without a valid license issued pursuant to this Chapter. Each day a short-term rental is operated without a valid license constitutes a separate offense.

- B. A separate license is required for each short-term rental. A license is valid for one (1) year from the date of issuance or renewal. A license is non-transferable and non-assignable. Attempted transfer or assignment will void the license and all fees paid will be forfeited.
- C. To obtain a new or renewal license, a person must submit to the City a complete application on the forms prescribed by the Licensing Administrator. A complete application shall include, at a minimum:
 - 1. Name, address, phone number, and email address for the owner or, if the owner is a business entity, the name of the business entity, and the name, address, phone number, and email address of the business entity's statutory agent.
 - 2. Address of the short-term rental.
 - 3. The transaction privilege tax license number issued for the short-term rental by the State of Arizona, including the location code (where applicable).
 - 4. Name, address, phone number, and email address for the emergency point of contact.
 - 5. Acknowledgement of agreement to comply with all applicable laws, regulations, and ordinances in the operation of the short-term rental.
 - 6. The fees prescribed in the City's then current schedule of fees and charges.
- D. Complete renewal applications must be submitted to the Licensing Administrator no later than forty-five (45) calendar days prior to the expiration of a license; otherwise, the license will be deemed expired and non-renewable. If a complete renewal application and the applicable renewal fee are not received by the required date, an application for a new license must be submitted and must include all information and fees required for a new license application.
- E. The owner or owner's designee must update the Licensing Administrator in writing of any change to the application information listed in Subsection 5-15-3(C) within ten (10) calendar days of occurrence of the change.
- F. The Licensing Administrator may deny issuance of a new or renewal license only for any of the following reasons:
 - 1. Failure to provide the information and fees required by Subsections 5-15-3(C)(1)-(5).
 - 2. Failure to pay the fees required in the City's then current schedule of fees and charges.

3. At the time of applying, the owner has a suspended license for the same short-term rental.
4. The applicant provides false information.
5. Within the five (5) year period immediately prior to submission of the new or renewal application, the owner or owner's designee was registered as a sex offender or was convicted of any felony act that either resulted in death or serious physical injury or involved the use of a deadly weapon.

5-15-4: NOTIFICATION TO NEIGHBORS

- A. Prior to offering for rent or renting a short-term rental within the City, the owner or owner's designee must provide notice in writing that the property will be used as a short-term rental as follows:
 1. If the short-term rental is a single-residence unit, notice shall be provided to the owners or residents of all single-residence units and lots located (a) adjacent to the lot on which the short-term rental is located, (b) directly across the street from the lot on which the short-term rental is located, and (c) diagonally across the street from the lot on which the short-term rental is located. The requirements of this Subsection 5-15-4(A)(1) may be met by providing notice to all owners or residents of single-residence units and lots located within two hundred feet (200') of the property line of the lot on which the short-term rental is located.
 2. If the short-term rental is a multiple-residence unit, notice shall be provided to the owners or residents of all residential units located on the same floor of the same building as the short-term rental.
- B. The notification required by Subsection 5-15-4(A) must include the short-term rental license number issued by the City, short-term rental address, and the emergency point of contact information required by Subsection 5-15-3(C)(4).
- C. Within ten (10) calendar days of request by the Licensing Administrator, the owner or owner's designee must submit to the Licensing Administrator an attestation of compliance with Section 5-15-4 that includes, at a minimum, all the following:
 1. The license number for the short-term rental.
 2. The address of each property notified.
 3. A description of the manner in which the owner or owner's designee provided written notice to each property requiring notification.

4. The name and contact information of the person attesting to compliance with Section 5-15-4.
- D. If the emergency point of contact information provided in a notification changes, the owner or owner's designee must, within ten (10) calendar days of occurrence of the change, provide additional notification in compliance with Section 5-15-4 of the updated emergency point of contact information.

5-15-5: OPERATIONAL REQUIREMENTS

- A. The emergency point of contact must affirmatively respond in a timely manner, no matter the time of day, to all complaints, incidences, and emergencies associated with the short-term rental and (1) shall respond in person if requested by public safety personnel, including the Mesa Police Department and the Mesa Fire and Medical Department, and (2) may respond in person or by phone or email in all other instances.
- B. The owner or owner's designee must post the emergency point of contact information required by Subsection 5-15-3(C)(4) in a conspicuous place in the short-term rental that is clearly visible upon entry through the primary entrance to the short-term rental, in a form determined by the Licensing Administrator.
- C. The owner or owner's designee must display the license number on each advertisement for the short-term rental.
- D. The owner or owner's designee must maintain liability insurance covering bodily injury and property damage for each short-term rental in an amount determined appropriate by an insurance company but in no case may the amount be less than five hundred thousand dollars (\$500,000) in the aggregate. The requirements of this Subsection 5-15-5(D) may be met by offering for rent and renting a short-term rental through an online lodging marketplace which provides insurance coverage equal to or greater than the insurance coverage required by this Subsection 5-15-5(D). Within ten (10) calendar days of request by the Licensing Administrator, the owner or owner's designee must provide to the Licensing Administrator commercially reasonable proof, as determined by the Licensing Administrator, of compliance with this Subsection 5-15-5(D).
- E. Owners and owners' designees must at all times comply with federal, state, and local laws, rules, and regulations applicable to the short-term rental that are related to public health, safety, sanitation, solid waste, hazardous waste, tax privilege licensing (including advertising requirements), property tax registration, traffic control, pollution control, noise, property maintenance, and nuisance abatement.
- F. The owner or owner's designee must maintain with the Maricopa County Assessor all information required pursuant to A.R.S. §§ 33-1901 through 33-1907.
- G. In operating, renting, occupying, and using a short-term rental, all persons must comply with Mesa City Code Title 6, Chapter 12 regarding offensive, excessive, and prohibited

noises; Mesa City Code Title 8, Chapter 6 regarding public nuisance, property maintenance, neighborhood preservation and animal regulations; and the Mesa Zoning Ordinance found in Mesa City Code Title 11.

H. A short-term rental may not be rented or used for any of the following uses or purposes:

1. Housing sex offenders.
2. Operating or maintaining a sober living home.
3. Operating or maintaining an adult-oriented business including nude or topless dancing.
4. Selling or offering for sale, consideration, or entrance fee, liquor or illegal drugs.
5. Commercial display or production of pornography.
6. Obscenity as prohibited by A.R.S. Title 13, Chapter 35.
7. Special event requiring a special event license pursuant to Mesa City Code Title 5, Chapter 1.
8. Retail business, restaurant, banquet space, or other similar use.

5-15-6: SUSPENSION

A. The Licensing Administrator shall suspend a license for up to twelve (12) months for any of the following reasons:

1. One (1) violation of this Chapter associated with a short-term rental that results in or constitutes any of the following:
 - a. A felony offense committed by the owner or owner's designee (i) at the short-term rental, or (ii) within the area in which notification is required by Subsection 5-15-4(A)(1) or (2).
 - b. A serious physical injury or wrongful death at or related to the short-term rental resulting from the knowing, intentional, or reckless conduct of the owner or owner's designee.
 - c. The owner or owner's designee knowingly or intentionally renting or allowing the use of a short-term rental in violation of Subsection 5-15-5(H).

2. Three (3) violations of this Chapter associated with the same short-term rental within a twelve (12) month period; except not including a violations that are for an aesthetic, solid waste disposal, or vehicle parking violation, unless the City demonstrates that the subject violation was also a serious threat to public health and safety. The twelve (12) month period shall be calculated starting on the date on which the first violation occurred.
 3. If multiple violations arise out of the same response to an incident associated with a short-term rental, those violations shall be considered one (1) violation for the purpose of suspending a license pursuant to Subsection 5-15-6(A).
- B. The following process shall apply to the suspension of a license by the Licensing Administrator:
1. The Licensing Administrator must give written notice to the owner or owner's designee of a violation that may result in the suspension of the license. The notice must include a description of the violation, the statutory or code reference, notification that a hearing may be requested, the time limit for requesting a hearing, and a warning that failure to timely request a hearing may result in suspension of the license. The notice must be served on the owner or owner's designee by either personal service or registered/certified mail using the address provided pursuant to Subsection 5-15-3(C)(4). Service of the notice will be deemed complete upon mailing to, or receipt of personal service on, the owner or owner's designee.
 2. The owner or owner's designee receiving a notice under Subsection 5-15-6(B) may request a hearing. If requested, the hearing will be conducted in the same manner as set forth in Mesa City Code Section 8-6-8. Requesting a hearing will stay the decision of the Licensing Administrator to suspend a license until the Civil Hearing Officer has rendered their decision. If the decision to suspend the license is upheld by the Civil Hearing Officer, and the original period of suspension has passed, in whole or in part, the Civil Hearing Officer may designate the period of suspension for up to twelve (12) months.
 3. If the owner or owner's designee does not request a hearing, the Licensing Administrator may suspend the license for up to twelve (12) months.
- C. In addition to Subsections 5-15-6(A)(1) and (2), judicial relief in the form of a suspension of the property's use as a short-term rental may be granted in accordance with Subsection 5-15-7(F)(3).
- D. If a license is suspended pursuant to this Chapter, the short-term rental is prohibited from operating during the suspension period and, if the suspension is for a period beyond the term of the license, then, in order to operate the short-term rental, the owner will be required to obtain a new license pursuant to Section 5-15-3 after the completion

of the suspension period. A person may not apply for a new license for a short-term rental until the suspension period is over.

5-15-7: CIVIL VIOLATIONS AND PENALTIES

- A. No person shall operate, offer for rent, rent, occupy, or use a short-term rental in violation of any provision of this Chapter or other applicable law, rule, or regulation.
- B. The owner shall be subject to the suspensions, civil violations, and penalties set forth in this Chapter for the owner's designee's violation of any provision of this Chapter or failure to perform any act or duty required by this Chapter.
- C. Each day a violation of any provision of this Chapter continues shall constitute a separate violation.
- D. Any person who violates a provision of this Chapter will be subject to a civil code offense in accordance with Mesa City Code Section 8-6-8. Except as set forth in Subsections 5-15-7(E) and (F), a person found responsible for a civil violation of this Chapter, whether by admission, default, or after a hearing, shall pay a penalty of two hundred and fifty dollars (\$250).
- E. The owner shall be subject to the following penalties if any person causes, permits, facilitates, aides, or abets any violation of a provision of this Chapter or fails to perform any act or duty required by this Chapter:
 - 1. Five hundred dollars (\$500) for the first violation.
 - 2. One thousand dollars (\$1,000) for the second violation related to the same short-term rental within the same twelve (12) month period.
 - 3. Two thousand dollars (\$2,000) for the third violation related to the same short-term rental within the same twelve (12) month period.
 - 4. If multiple violations arise out of the same response to an incident at a short-term rental, those violations shall be considered one (1) violation for the purpose of imposing civil penalties pursuant to Subsection 5-15-7(E).
- F. In addition to any penalty or suspension that may be imposed pursuant to this Chapter, the penalties and suspension set forth in this Subsection 5-15-7(F) may be imposed. Before imposing the initial penalty under Subsection 5-15-7(F)(1) or (2), the City must provide owner or owner's designee thirty (30) calendar days written notice of the failure to comply.
 - 1. The owner shall be subject to the following penalties for each month the owner or owner's designee fails to submit a complete application as set forth in Subsection 5-15-3(C) for a license for the same short-term rental:

- a. Two hundred and fifty dollars (\$250) for the first month.
 - b. Five hundred dollars (\$500) for the second month.
 - c. Seven hundred fifty dollars (\$750) for the third month.
 - d. Nine hundred dollars (\$900) for the fourth month and each subsequent month thereafter.
2. The owner shall be subject to the following penalties for each month the owner or owner's designee fails to provide accurate and complete contact information required by Subsection 5-15-3(C)(4) for the same short-term rental:
 - a. Two hundred and fifty dollars (\$250) for the first month.
 - b. Five hundred dollars (\$500) for the second month.
 - c. Seven hundred fifty dollars (\$750) for the third month.
 - d. Nine hundred dollars (\$900) for the fourth month and each subsequent month thereafter.
3. Any attempted or completed felony act arising from the occupancy or use of the short-term rental that results in a death or actual or attempted serious physical injury may result in the suspension of the property's use as a short-term rental. The City Prosecutor or their designee may initiate proceedings in the Mesa Municipal Court or other court of competent jurisdiction to enforce the provisions of this Subsection 5-15-7(F)(3). If proven by a preponderance of the evidence, the Court shall suspend the property's use as a short-term rental for a period of time not to exceed twelve (12) months.

SECTION 2. RECITALS. The recitals above are fully incorporated in this Ordinance by reference.

SECTION 3. EFFECTIVE DATE. The effective date of this Ordinance shall be February 1, 2023.

SECTION 4. LICENSING. As of the effective date of this Ordinance, every short-term rental within the City must be licensed pursuant to this Ordinance. An owner will be in violation of this Ordinance and subject to the penalties set forth herein if the owner or owner's designee does not obtain a license for each of the owner's short-term rentals by the effective date of this Ordinance.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 17th day of October, 2022.

APPROVED:

Mayor

ATTEST:

City Clerk