

**ORDINANCE NO. 2023-01**

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AMENDING THE CODE OF YOUNGTOWN, ARIZONA, TITLE 5 BUSINESS LICENSES AND REGULATIONS, BY ADOPTING A NEW CHAPTER 5.25 SHORT-TERM RENTALS AND VACATION RENTALS RELATING TO ADOPTION OF REGULATIONS FOR SHORT TERM RENTALS AND VACATION RENTALS IN ACCORDANCE WITH STATE LAW; REQUIRING A PERMIT TO OPERATE WITHIN TOWN BOUNDARIES; ADOPTING NOTIFICATION, ADVERTISEMENT AND DISCLOSURE REQUIREMENTS; ADOPTING INSURANCE REQUIREMENTS; ADOPTING APPLICATION FEES; PROVIDING FOR ENFORCEMENT; ESTABLISHING FINES AND PENALTIES FOR VIOLATIONS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, local governments may regulate short term rentals and vacation rentals (“vacation rentals”) in accordance with Arizona Revised Statutes § 9-500.39, as amended;

WHEREAS, the Town deems it necessary to adopt regulations regarding the use of property as vacation rentals to protect the health, safety, and welfare of the Town residents; and

WHEREAS, the Town desires to preserve its housing stock and maintain the quality and character of residential neighborhoods.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Youngtown, Arizona, as follows:

**Section I. General.**

The Code of Youngtown, Arizona, is hereby amended by amending Title 5 Business Licenses and Regulations, by adopting a new Chapter 5.25 Short-term Rentals and Vacation Rentals, to read as follows:

**CHAPTER 5.25. SHORT-TERM RENTALS AND VACATION RENTALS**

- Sec. 5.25.010 Purpose.
- Sec. 5.25.020 Definitions.
- Sec. 5.25.030 Permit Required; Penalties.
- Sec. 5.25.040 Emergency Point of Contact Requirements; Penalties.
- Sec. 5.25.050 Compliance with the Law; Prohibited Uses.
- Sec. 5.25.060 Neighbor Notification Required.
- Sec. 5.25.070 Advertisement Requirements.
- Sec. 5.25.080 Posting on the Property Required.
- Sec. 5.25.090 Insurance Required.

- Sec. 5.25.100 Background Checks Required.
- Sec. 5.25.110 Permit Suspensions.
- Sec. 5.25.120 Enhanced Penalties.
- Sec. 5.25.130 Appeals.
- Sec. 5.25.140 Judicial Relief.

**5.25.010 Purpose.**

This Chapter is adopted to protect the health, safety, and welfare of the community of the Town by enacting reasonable regulations for short-term rentals and vacation rentals. These regulations are in addition to other codes of the Town.

**5.25.020 Definitions.**

In this Chapter, unless the context or definitions in A.R.S. § 9-500.39 indicate otherwise, the following terms or phrases are defined as follows:

“Advertisement” means any method of soliciting the use of property for vacation rental purposes.

“Applicant” means the owner or owner’s designee who applies with the Town for a permit or renewal of a permit.

“Days” shall mean calendar days unless stated otherwise.

“Designee” and “Agent” are interchangeable for purposes of this Chapter and mean any person or persons with the charge, care, or control of any property, dwelling unit, or portion thereof. “Designee” includes the “emergency point of contact.”

“Emergency point of contact” means the owner or individual designated by the owner to: (i) serve as the local twenty-four (24) hour emergency point of contact for the vacation rental; and (ii) respond to complaints and emergencies relating to the vacation rental in a timely manner as required by this Chapter.

“Neighbor notification” means the written notice provided by the owner to each single-family residential property adjacent to the vacation rental property, directly across from the vacation rental property, and diagonally across the street of the vacation rental property that includes the valid permit number issued by the Town, the physical address of the vacation rental, and the name, address, and twenty-four (24) hour telephone number of the emergency point of contact.

“Online Lodging Marketplace” has the same meaning prescribed in A.R.S. § 42-5076.

“Owner” means any person who, alone or with others, has title or interest in a property, dwelling unit, or portion thereof, with or without accompanying actual possession

thereof, and includes any person who as agent, executor, administrator, trustee, or guardian has charge, care, or control of any property, dwelling unit, or portion thereof.

“Permit” means authorization by the Town to operate a vacation rental in accordance with this Chapter.

“Person” means an individual, public entity, firm, corporation, partnership, limited liability company, trust, association, or any other business entity or juridical person, whether operating on a for-profit or nonprofit basis.

“Timely manner” means responding to complaints and emergencies in person, by phone, or by email within the timeframe required by public safety personnel not to exceed sixty minutes for emergencies and within 24 hours for non-emergency requests.

“Short-term rental” and “vacation rental” are interchangeable for purposes of this Chapter and mean 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 or cooperative, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use. “Vacation rental” does not include:

(i) accommodations or property that is classified for property taxation under A.R.S. § 42-12001; or

(ii) any unit that is used for any nonresidential use, including a special event that would otherwise require a permit, retail, restaurant, banquet space, or other similar use.

“Transaction privilege tax license” is the State license pursuant to A.R.S., Title 42.

“Transient” has the same meaning prescribed in A.R.S. § 42-5070.

#### **5.25.030 Permit Required; Penalties.**

(A) *Permit required.* Prior to use of a property as a vacation rental, the owner of a proposed vacation rental shall obtain an annual vacation rental permit from the Town. Renting, or offering for rent, a vacation rental without complying with the permit requirement in this Section is prohibited.

(B) *Permit applications.* The owner of a proposed vacation rental shall submit to the Town a permit application on a form furnished by the Town. The permit application shall be signed by the applicant and shall contain the following minimum information, which shall be made publicly available:

(1) The physical address of the residential property proposed to be used as a vacation rental.

(2) The name, address, and telephone number of the owner for which the vacation rental registration certificate is to be issued. If the property owner is an entity, the legal name of the entity and its statutory agent.

(3) The name, address, and telephone number of each designee of the owner, if any.

(4) The full name, address, and twenty-four (24) hour telephone number of the individual who will serve as the emergency point of contact.

(5) Proof of a valid transaction privilege tax license.

(6) Acknowledgment by the owner of an agreement to comply with all applicable laws, regulations, and ordinances, including the requirement that the owner and each designee shall not be a registered sex offender, been convicted of any felony act that resulted in death or serious physical injury, or been convicted of any felony use of a deadly weapon within the past five years.

(7) Attestation of compliance with the notification required in this Chapter.

(8) Evidence of liability insurance appropriate to cover the vacation rental in the aggregate of at least \$500,000 or evidence that each vacation rental transaction will be provided through a platform that provides equal or greater primary liability insurance coverage for the vacation rental.

(9) Evidence the vacation rental is registered with Maricopa County Assessor's Office in accordance with A.R.S. § 33-1902.

(10) If the applicant is an individual, proof of lawful presence in the United States in accordance with A.R.S. §§ 1-502 and 41-1080.

(C) *Permit fee.* Every application, including any renewal application, for a vacation rental permit under this Chapter shall be accompanied by a non-refundable fee established by Town Council resolution not to exceed two-hundred and fifty dollars (\$250.00).

(D) *Issuance; reasons for denial.* The Town shall issue or deny the permit within seven (7) business days after receipt of a complete application, except that the Town may deny issuance of a permit for any of the following reasons:

(1) The applicant failed to provide the information required under subsection B;

(2) The applicant failed to pay the permit fee required under subsection C;

(3) The applicant provided false information;

(4) The owner or designee of the owner: (i) is a registered sex offender; (ii) has been convicted of any felony act that resulted in death or serious physical injury; or (iii) has been

convicted of any felony use of a deadly weapon within five (5) years of submitting the application; or

(5) At the time of application, the owner has a suspended permit for the same vacation rental or any of the following applies:

(a) one violation at the vacation rental that resulted in or constituted any of the offenses described in Section 5.25.120; or

(b) three violations of this Chapter at the vacation rental within a twelve (12) month period, not including an aesthetic, solid waste disposal or vehicle parking violation that is not also a serious threat to public health and safety.

(E) *Notice of denial; appeal.* The Town Manager or designee shall give notice of the denial of an application to the applicant by mailing and/or emailing the notice to applicant at the address listed on the application. The notice of the denial shall inform the applicant of the right to appeal the denial as provided for in Section 5.25.130.

(F) *Maintaining Accurate Information; Violations.* All applicants and persons holding permits issued pursuant to this Chapter shall give prior written notice to the Town Manager or designee of any material change in information submitted in connection with an application for a permit or renewal of a permit. The notice shall be provided to the Town Manager not less than ten (10) days prior to the effective date of the change. Any information required for an application under this Section is deemed to be material for purposes of this Section. A violation of this subsection is a civil offense.

(G) *Term of Permit; Renewal application.* All permits issued under this Chapter shall be valid for a period of one (1) year from the date of their issuance unless suspended or otherwise revoked. Except where the Town has received a new application along with the requisite fees, it shall be unlawful for any person to operate a vacation rental after the expiration date recorded upon the face of the vacation rental permit.

(H) *Operating Without a Permit; Penalties.* A vacation rental that fails to apply for a permit or license within thirty (30) days of the permit application being made available by the Town shall immediately cease operations. In addition to any other penalty pursuant to the Town Code, the Town may impose a civil penalty of up to \$1,000 per month against the owner if the owner or owner's designee fails to apply for permit within thirty (30) days of receiving the written notice of violation from the Town. Representations or advertisements including online listings that reference the property, house or dwelling unit location within the Town is prima facie evidence that a vacation rental is operating in the Town.

(I) *Non-transferable.* No permit shall be transferable either as to location or as to person.

(J) *Implementation.* The Town Manager or designee shall develop the necessary forms and/or database necessary to implement this Section.

**5.25.040 Emergency Point of Contact Requirements; Penalties.**

(A) *Emergency Responses; Violations.* When requested by a law enforcement officer, the owner or emergency point of contact whose name appears on the permit application must be on the vacation rental premises, or be available over the phone or text, within sixty (60) minutes of the request.

(B) *Non-emergency Responses; Violations.* The owner or emergency point of contact shall respond to all other complaints relating to the vacation rental in person, over the phone, by e-mail, or by text in a timely manner.

(C) *Maintaining Accurate Emergency Information.* All applicants and persons holding permits issued pursuant to this Chapter shall give prior written notice to the Town Manager or designee of any change to the contact information provided to the Town for the emergency point of contact. The notice shall be provided to the Town Manager not less than ten (10) days prior to the effective date of the change.

(D) *Violations.* In addition to any other penalty pursuant to the Town Code, a violation of this Section shall be a civil offense.

(E) *Penalties.* In addition to any other penalty pursuant to the Town Code, an owner shall be subject to civil penalties of up to \$1,000 for every thirty (30) days the owner fails to provide notice to the Town as required under this subsection. Before imposing the initial civil penalty, the Town shall provide thirty (30) days' notice to the owner by mailing and/or emailing a notice of violation to the owner's address provided to the Town. The notice of the violation shall inform the applicant of the right to appeal the denial as provided for in Section 5.25.130. Notwithstanding the date of the notice of violation, the date for calculating the penalties shall be the first day the vacation rental is occupied following the owner's failure to provide the notice to the Town regarding the change.

**5.25.050 Compliance with the Law; Prohibited Uses.**

(A) A vacation rental shall comply with the federal, state, and local laws, including laws relating to public health and safety, sanitation, solid waste, hazardous waste, tax privilege licensing, property tax registration, traffic control, pollution control, noise, property maintenance, and nuisance abatement.

(B) No person or entity shall operate a vacation rental in violation of this Chapter or other law. In addition, the use of a vacation rental property for any of the following uses or purposes is strictly prohibited:

- (1) Any nonresidential use;
- (2) Holding a special event that requires a permit or license pursuant to a city or town ordinance or state law or rule;
- (3) Operating a retail business, restaurant, event center, banquet hall or similar use;

- (4) Housing sex offenders;
- (5) Operating or maintaining a sober living home;
- (6) Selling liquor, illegal drugs, or pornography;
- (7) Operating a nude or topless dancing;
- (8) Obscenity;
- (9) Adult-oriented business; or
- (10) Any other use prohibited by A.R.S. § 9-500.39 or the Town Code.

(C) A vacation rental lacking a valid transaction privilege tax license issued by the State of Arizona shall not be rented or offered for rent.

(D) No person or entity may receive payment or accept a fee, directly or indirectly, for facilitating the rental of a vacation rental operating in violation of this Code or other law.

(E) In addition to any other penalty pursuant to the Town Code, any person who causes, allows, facilitates, aides, or abets any violation of this Chapter shall be subject to a civil offense.

(F) The failure of any designee to comply with this Chapter shall not relieve the owner of liability under this Chapter.

**5.25.060 Neighbor Notification Required.**

(A) *Neighbor notification.* Prior to offering a vacation rental for rent for the first time, the owner or designee shall provide neighbor notification to each single-family residential property adjacent to the vacation rental property, directly across from the vacation rental property, and diagonally across the street of the vacation rental property. The neighbor notification shall be provided in writing in the form required by the Town and shall include the following minimum information:

- (1) The permit number issued by the Town;
- (2) The physical address of the vacation rental; and
- (3) The name, physical address, email address, and twenty-four (24) hour telephone number of the emergency point of contact.

(B) *Additional neighbor notification required.* Any change to the information provided under subsection A shall require additional neighbor notification by the owner or designee not later

than five (5) days prior to each change. The additional notification shall be provided in the manner required by subsection A.

(C) *Attestation.* At the time of the application, the owner or designee shall provide to the Town an attestation of compliance with the neighbor notification required by this Section.

(D) *Violations.* In addition to any other penalty pursuant to the Town Code, a violation of this Section shall be a civil offense.

**5.25.070 Advertisement Requirements.**

(A) *Required Disclosure.* To protect the peace, health, safety, and general welfare of the Town's residents and visitors, the owner or owner's designee shall be responsible for displaying the permit number issued by the Town on each advertisement for such vacation rental.

(B) *Violations.* In addition to any other penalty pursuant to the Town Code, a violation of this Section shall be a civil offense. Each advertisement in violation of this Section shall constitute a separate violation.

**5.25.080 Posting on the Property Required.**

(A) *Posting at the Vacation Rental.* The owner of the vacation rental must display the name, phone number, and email address of the owner, designee, and emergency point of contact in a conspicuous place in the vacation rental.

(B) *Failure to Comply.* In addition to any other penalty pursuant to the Town Code, a violation of this Section shall be a civil offense. Each day a vacation rental does not display the information required by this Section shall constitute a separate violation.

**5.25.090 Insurance Required.**

(A) *Required insurance.* Prior to offering or renting a vacation rental for rent for the first time, liability insurance appropriate to cover the vacation rental in the aggregate of at least \$500,000 shall be provided by the owner or the online marketplace platform.

(B) *Proof of insurance.* Proof of the required liability insurance coverage shall be provided to the Town upon a request by the Town no later than 5 days prior to offering or renting the vacation rental for rent for the first time.

(C) *Violation.* In addition to any other penalty pursuant to the Town Code, a violation of this Section shall be a civil offense. Each day a vacation rental lacks the insurance required by this Section shall constitute a separate violation.



**5.25.100 Background Checks Required.**

(A) No sex offender shall be permitted to rent or occupy the vacation rental. Owners who allow a sex offender at the vacation rental shall be found in violation of this Section.

(B) Within twenty-four (24) hours of every booking, a sex offender background check on each guest shall be conducted by the owner or by the online lodging marketplace on which the vacation rental is advertised. The owner shall demonstrate compliance with this requirement by retaining a full copy of each background check for a minimum of twelve (12) months after the booking date and providing the copy to the Town upon a request by a police officer.

(C) In addition to any other penalty pursuant to the Town Code, any person who violates this Section shall be subject to a civil offense.

(D) The failure of an online lodging marketplace to conduct a background check shall not relieve the owner of liability under this Section.

**5.25.110 Permit Suspensions.**

(A) *Permit suspensions.* The Town may initiate an administrative process to suspend a vacation rental permit for a period of up to twelve (12) months for any of the following:

(1) Three verified violations of this Chapter within a twelve (12) month period, not including any such violation based on an aesthetic, solid waste disposal or vehicle parking violation that is not also a serious threat to public health and safety.

(2) One verified violation that results in or constitutes any of the following:

(a) A felony offense committed at or in the vicinity of a vacation rental by the owner of the vacation rental or by the owner's designee;

(b) A serious physical injury or wrongful death at or related to a vacation rental resulting from the knowing, intentional or reckless conduct of the owner of the vacation rental or the owner's designee;

(c) The owner of the vacation rental or the owner's designee knowingly or intentionally housing a sex offender, allowing offenses related to adult-oriented businesses, sexual offenses, or prostitution, or operating or maintaining a sober living home; or

(d) The owner of the vacation rental or the owner's designee knowingly or intentionally allowing the use of a vacation rental for a special event that would otherwise require a permit or license pursuant to the Town code or a state law or rule or for a retail, restaurant, banquet space or other similar use.

(B) *Appeals*. A decision to suspend a permit may be appealed by the owner as set forth in Section 5.25.130.

**5.25.120 Enhanced Penalties.**

(A) The remedies in this Chapter are cumulative and the Town may proceed under one or more such remedies.

(B) In addition to any other penalty pursuant to the Town Code, and notwithstanding any other law, the Town may impose a civil penalty of the following amounts against an owner if the owner causes, allows, facilitates, aides, or abets a verified violation of any provision of this Chapter or fails to perform any act or duty required by this Chapter, related to the same vacation rental property within the same twelve-month period:

- (1) Up to \$500 or up to an amount equal to one night's rent for the vacation rental as advertised, whichever is greater, for the first violation.
- (2) Up to \$1,000 or up to an amount equal to two nights' rent for the vacation rental as advertised, whichever is greater, for the second violation.
- (3) Up to \$3,500 or up to an amount equal to three nights' rent for the vacation rental as advertised, whichever is greater, for a third and any subsequent violation.

If multiple violations arise out of the same response to an incident at a vacation rental, those violations are considered one violation for the purpose of assessing civil penalties.

(C) In addition to any other penalty pursuant to the Town Code, any property that operates as a vacation rental and fails to apply for vacation rental permit in accordance with this Chapter within thirty (30) days of the application process being made available by the Town, must cease operations immediately. In addition to any fines imposed pursuant to this Section, the Town may impose a civil penalty of up to one thousand dollars (\$1,000) per month against the owner if the owner or owner's designee fails to apply within thirty (30) days of receiving written notice of the failure to comply with this Chapter.

**5.25.130 Appeals.**

(A) Any person aggrieved by any decision with respect to the denial of or a refusal to issue a vacation rental permit, the suspension of a vacation rental permit, or a penalty imposed pursuant to this Chapter may appeal the decision by filing a written notice of appeal with the Town Manager no later than thirty (30) days from the date of the decision letter. The notice of appeal shall be on a form approved by the Town.

(B) An appeal under this Section does not operate as a stay of the permit suspension.

(C) This Section is not applicable to judicial actions brought pursuant to Section 5.25.140 or to penalties including fines imposed by a court.

**5.25.140 Judicial relief.**

(A) Notwithstanding Section 5.25.110, any attempted or completed felony act, arising from the occupancy or use of a vacation rental that results in a death, or actual or attempted serious physical injury, shall be grounds for judicial relief in the form of a suspension of the property's use as a vacation rental for a period that shall not exceed twelve (12) months.

(B) The Town Attorney may initiate proceedings in the Town court or other court of competent jurisdiction to enforce this Section.

**Section II. Providing for 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 III. Providing for Severability.**

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

**Section IV. Penalties.**

Any person found guilty of violating any provision of this Ordinance shall be responsible for a civil infraction in accordance with Section 1.12.010 of the Town of Youngtown Code, punishable by a fine not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation. Each day that a violation continues shall be a separate offense punishable as hereinabove described. After having been found responsible for committing three or more civil infractions of the same code provision in any twenty-four month period, a person is a habitual offender and may be charged with a class one misdemeanor.

**Section V. Effective Date.**

This Ordinance shall be effective ninety (90) days following adoption by Council.

PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 19<sup>th</sup> day of January, 2023, by the following vote:

AYES: 7

NAYES: 0 ABSENT: 0

EXCUSED: 0 ABSTAINED: 0


APPROVED this 19<sup>th</sup> day of January, 2023.

\_\_\_\_\_  
Michael E. LeVault, Mayor

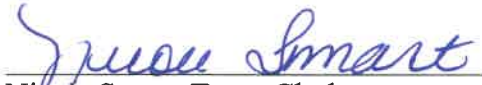
ATTEST:

  
Nicole Smart, Town Clerk

APPROVED AS TO FORM:

  
Trish Stuhan, Town Attorney

I, NICOLE SMART, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 2023-01 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 19 TH DAY OF JANUARY, 2023, WAS POSTED IN THREE PLACES ON THE 26 DAY OF January, 2023.

  
Nicole Smart, Town Clerk

APPROVED this 19<sup>th</sup> day of January, 2023.




\_\_\_\_\_  
Michael E. LeVault, Mayor

ATTEST:

  
\_\_\_\_\_  
Nicole Smart, Town Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Trish Stuhan, Town Attorney

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Nicole Smart, Town Clerk