

ORDINANCE NUMBER 2022-03

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA, ADOPTING THE “JANUARY 2022 AMENDMENTS TO THE PARADISE VALLEY TOWN CODE REGARDING NUISANCES, UNRULY GATHERINGS, NON-COMPLIANT SHORT-TERM RENTALS, AND THE PEACE, HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC” BY REFERENCE; AMENDING THE PARADISE VALLEY TOWN CODE BY AMENDING CERTAIN PROVISIONS OF CHAPTER 1 (GENERAL), CHAPTER 8 (SAFETY, HEALTH, SANITATION AND NUISANCE), AND CHAPTER 10 (OFFENSES); PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF; AND PROVIDING FOR SEVERABILITY.

WHEREAS, A.R.S. § 9-500.39 empowers cities and towns to regulate vacation rentals or short-term rentals (collectively referred to herein as “Short-Term Rentals”) for purposes related to protecting the public’s health and safety, adopting and enforcing various residential use and zoning ordinances, limiting or prohibiting certain Short-Term Rental uses, and requiring certain information from Short-Term Rental owners; and

WHEREAS, the Town Council has sought to protect the peace, health, safety, and welfare of the general public by adopting reasonable ordinances related to nuisance behaviors, unruly gatherings, and Short-Term Rentals; and

WHEREAS, the Town Council held a series of study sessions from September 2021 to January 2022 related to code enforcement, nuisance behaviors, Short-Term Rentals, and unruly gatherings, and determined that amendments to the Town Code are required to protect the peace, health, safety, and welfare of the general public.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Paradise Valley, Arizona, as follows:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. That certain document known as the “January 2022 Amendments to the Paradise Valley Town Code Regarding Nuisances, Unruly Gatherings, Non-Compliant Short-Term Rentals, and the Peace, Health, Safety, and Welfare of the General Public,” of which one paper copy and one electronic copy of is maintained, in compliance with A.R.S. § 44-7041, on file in the office of the Town Clerk as required by A.R.S. § 9-802, and available for public use and inspection during normal business hours, is hereby declared to be a public record, which is hereby referred to, adopted, and made a part hereof as if fully set forth herein, and said copies thereof are hereby ordered to remain on file with the Town Clerk.

Section 3. The Town Code is hereby amended by inserting the provisions of the “January 2022 Amendments to the Paradise Valley Town Code Regarding Nuisances, Unruly Gatherings, Non-Compliant Short-Term Rentals, and the Peace, Health, Safety, and Welfare of the General Public,” as provided therein.

Section 4. Violations of this ordinance are punishable pursuant to the following Sections of the Town Code:

Section 1-9-1 Unlawful Acts as Misdemeanor

When an act or omission is declared by statute or by this code or by any ordinance of the Town to be unlawful and no penalty is prescribed by such statute, code or ordinance, the act or omission is punishable as a misdemeanor.

Section 1-9-2 Punishment For Misdemeanor When Not Otherwise Prescribed

Except when a different punishment is prescribed, an unlawful act or omission which is declared to be a misdemeanor is punishable by imprisonment for a period of time not to exceed six months or by a fine not to exceed two thousand five hundred dollars or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as described.

Section 1-9-3 Civil Penalties Prescribed

In the absence of a specifically prescribed penalty, any violation of the provisions of this Code or amendments thereto shall also constitute a civil offense. Any person who is served with a citation charging such violation and who admits, or is found responsible for such offense, shall be liable to pay to the Town a civil sanction in an amount that does not exceed the maximum amount permitted by law. Each day that a violation continues shall be a separate offense punishable as described.

Section 1-9-4 Repeat Offender

A person who commits a violation of the provisions of this Code or amendments thereto after previously having been found responsible for committing two (2) or more civil violations of this Code within a twenty-four (24) month period - whether by admission, by payment of the fine, by default or by judgment after hearing – shall be guilty of a criminal misdemeanor. The Town Prosecutor is authorized to file a criminal misdemeanor complaint in the Paradise Valley Court against repeat offenders who violate this section. Punishment will be as prescribed under Section 1-9-2. For purposes of calculating the twenty-four (24) month period under this paragraph, the dates of the commission of the offenses are the determining factor.

Section 8-10-4 Penalty

Any person who violates any provision of this article may be prosecuted for such a violation in accordance with the provisions of article 1-9 of the Paradise Valley Town Code. Each such violation shall constitute a new and separate, yet cumulative, punishable offense.

Section 10-13-7 Penalties; Aggravating Factors

- A. Criminal Offense. If the Responsible Person is convicted of an Unruly Gathering, the penalty shall be a minimum mandatory fine of one thousand dollars (\$1,000.00) or up to the maximum associated with a class one misdemeanor. Additionally, if the Responsible Person for an Unruly Gathering has previously been convicted for an Unruly Gathering, regardless of the location of the prior violation, the penalty shall be a minimum mandatory fine of two thousand dollars (\$2,000.00) for a second violation, and a minimum mandatory fine of two thousand five hundred dollars (\$2,500.00) for a third or subsequent violation.
- B. Civil Offense. If the Responsible Person is an Owner that was not present at the Unruly Gathering, was not aware of the social activity or special occasion constituting the Unruly Gathering, and was not an organizer, host or sponsor of the Unruly Gathering, but had been notified that an Unruly Gathering had occurred on the property within the prior one hundred eighty (180) days, then the civil penalty shall be a minimum mandatory fine of one thousand dollars (\$1,000.00) for a first violation, a minimum mandatory fine of two thousand dollars (\$2,000.00) for a second violation, and a minimum mandatory fine of the maximum amount permitted by law for civil violations for a third or subsequent violation.
- C. Police Service Fee. The Police Service Fee shall be an amount equal to the actual costs (essentially a reimbursement) of the law enforcement response to an Unruly Gathering, including:
1. the salaries, and associated benefits of the responding law enforcement officers corresponding to the amount of time actually spent in responding to and remaining at the Unruly Gathering; and,
 2. the salaries, and associated benefits of any dispatcher or other police personnel involved with the response for the amount of time actually spent in responding to Unruly Gathering; and
 3. any actual costs of any medical treatment to injured officers and/or the costs of repairing any damage to town equipment or property; and
 4. the associated overhead costs including, but not limited to, vehicle and equipment used; with such overhead costs to be set annually within the first 60 days of the new fiscal year and available for inspection.
- D. Aggravating Factors. Mandatory fines shall be automatically increased to the next higher fine level if any of the following factors are found during a response to an Unruly Gathering:
1. Minor in possession;
 2. Public urination or defecation;

3. Indecent exposure;
4. Public sexual indecency;
5. Weapons violations; or
6. Felonious conduct.

Section 10-14-3(D)

- D. Failure to Register. Any person, entity, or Online Lodging Marketplace who offers for rent or accepts a fee for booking a Short-Term Rental that is not registered with the Town pursuant to Section 10-14-3(A) or, where applicable, with the Maricopa County Assessor's Office pursuant to A.R.S. § 33-1902, as amended, shall be fined one hundred fifty dollars (\$150) per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

Section 10-14-6 Enhanced Penalties

- A. The remedies herein are cumulative, and the Town may proceed under one or more such remedies.
- B. Any Short-Term Rental Owner, agent, or renter who causes, permits, facilitates, aides, or abets any violation of any provision of this Article or who fails to perform any act or duty required by this Article is subject to the following civil sanctions:
 1. First offense, five hundred dollars (\$500).
 2. Second offense on the property within twelve (12) months, one thousand dollars (\$1,000) per offense.
 3. Third and subsequent offense within twelve (12) months, one thousand five hundred dollars (\$1,500) per offense.
- C. Notwithstanding any other provisions of the Code, the Short-Term Rental Owner, agent, or renter who causes, permits, facilitates, aides, or abets the use of the Short-Term Rental in violation of any provision of the Code is subject to a civil sanction as set forth in subsection B of this section.
- D. Any Short-Term Rental Owner, agent, or renter who causes, permits, facilitates, aides, or abets any violation of any provision of this Article or fails to perform any act or duty required by this Article is guilty of a Class 1 misdemeanor.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance 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 6. Not later than one year after the effective date of this ordinance, the Town Manager is hereby authorized and directed to prepare a report regarding the implementation and effectiveness of the January 2022 Amendments to the Paradise Valley Town Code Regarding Nuisances, Unruly Gatherings, Non-Compliant Short-Term Rentals, and the Peace, Health, Safety, and Welfare of the General Public.

PASSED AND ADOPTED by the Town Council of the Town of Paradise Valley this 27th day of January, 2022.

Jerry Bien-Willner, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney