



Legislation Text

File #: 20-011, **Version:** 1

TO: Mayor and Town Council

FROM: Jill B. Keimach, Town Manager
Andrew Miller, Town Attorney

DATE: January 9, 2020

CONTACT:

AGENDA TITLE:

Adoption of Ordinance No. 2019-12, Amending Chapter 10, Offenses, by adding Article 10-14, adding a registration requirement by the property owner(s) of short-term rental properties and other related regulations.

RECOMMENDATION:

Adopt Ordinance Number 2019-12.

BACKGROUND:

On May 21, 2019, Governor Ducey signed HB 2672 (the "Bill"); which made some changes to the prior preemption of cities and towns in the regulation of residential vacation rentals or short-term rentals (STR). A draft ordinance has been prepared that would add a section to the Town Code, Article 10-14, specifically adopting new regulatory measures made available to the Town as a result of removing certain preemptions formerly enacted by the State.

The Bill clarifies that cities and towns can prohibit a STR operator (owner) from using a STR for non-residential purposes including retail, restaurant, banquet space or other similar use. Although the Town has had such rules in force with relation to all single-family properties (Zoning Ordinance §1603 makes it illegal to use a single-family zoned property "as a commercial venue for weddings; luncheons, dinners, auctions, sales or similar events") and has applied such existing regulations to short term rentals previously, the Bill reinforces the Town's enforcement authority in these areas. Thus, proposed Section 10-14-4 incorporates a restriction on non-residential use and incorporates by reference a list of some of the non-residential uses listed in the Bill, which would include restrictions on special events that would require a permit from the Town or retail, restaurant, banquet or similar use.

The Bill also allows cities and towns to require the owner of an STR to provide contact information for someone who is responsible for responding to complaints, with such contact information to be supplied to the Town before offering for rent or renting the STR. Proposed Sections 10-14-2(A) and (B) of Draft Ordinance 2019-12 incorporate both a requirement for STR operators to provide such contact information as well as an emergency contact, should that be a different designated person.

The Bill also allows for municipalities to require that the STR operator's designated contact person respond to complaints in a timely manner. Proposed Section 10-14-2(C) of Draft Ordinance 2019-12 incorporates a requirement that the designated contact person must respond within 2 hours when the police initiate contact while on the scene of an incident at a short term rental and within 24 hours for incidents where the Town contact is initiated after leaving the scene of an incident.

The Bill also authorized the Arizona Department of Revenue (ADOR) to impose additional penalties in some circumstances to STR operators who have been cited by a local government for ordinance violations relating to their STR operations. As a result, the bill requires local governments that issue a citation at a STR property to make a reasonable attempt to notify the owner, or their designee, within seven business days of a citation being issued, but only if contact information has been provided pursuant to a local requirement. Staff has some contact information on STR properties through its past work with third party vendors who assist in identifying STR properties in the Town, but upon enactment of Draft Ordinance 2019-12 staff will be actively seeking to have such contact information provided by the STR operator/owner directly.

The Bill also requires local government to notify ADOR within 30 days of a STR violation being finally adjudicated so that ADOR may issue its mandatory fines for "verified violations." Town staff has worked with the League of Cities and others such that an ADOR "report form" has been prepared and distributed to the cities and towns in Arizona. The Town staff will file this form with ADOR when future code violations have been finally adjudicated (including a "finding of [criminal] guilt or civil responsibility") as ADOR will add a civil penalty against the STR operator for each verified violation, with such penalties starting at \$500 per violation and increasing to \$1,00 for a second violation and \$1,500 for a third and each successive violation.

In summary, Draft Ordinance 2019-12 will allow the Town to adopt the additional provisions authorized by the Bill, including requiring contact information for STR properties, timely responses to complaints, and limiting the use of a STR to residential uses only. It is hoped that these added regulations will help the Town code enforcement officials more readily enforce STR restrictions and assess penalties against STR property owners who violate the new regulations.

ATTACHMENTS:

Draft of Ordinance No. 2019-12
PowerPoint