

ORDINANCE NO. 2020-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA AMENDING SECTION 16-19(13)(A) REGULATING THE REQUIREMENT FOR A BUSINESS TAX RECEIPT FOR RENTAL PROPERTY TO PROVIDE A REBUTTABLE PRESUMPTION OF A RENTAL ARRANGEMENT WHEN SOMEONE OTHER THAN THE OWNER OCCUPIES A RESIDENTIAL RESIDENCE; PROVIDING FOR HOW THE PRESUMPTION IS REBUTTED; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Section 16-19(13)(a) currently states that "a rental arrangement is presumed to exist when someone is residing in a residential structure who is not the owner of the property and someone with an ownership interest is not residing in said structure at the same time."

**WHEREAS**, pursuant to Florida Statute Section 697.01, financial arrangements between a seller and buyer may be viewed under the law as a mortgage, and therefore subject to foreclosure, even though the real property appears to be in the name of the seller.

**WHEREAS**, if the seller is able to establish that the financial arrangement between the seller and buyer qualifies as a mortgage under Florida Statute Section 697.01 and is therefore required to be foreclosed, the presumption of a rental arrangement can be rebutted and a business tax receipt would not be required.

**WHEREAS**, words which are underlined (underlined) are additions to the texts and words with strike through (~~strike through~~) the characters are deletions from the text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY  
OF SOUTH DAYTONA, FLORIDA:

Section 1. The City Council of the City of South Daytona  
hereby amends Section 16-19(13)(a) to read as follows:

*Local business tax receipt required:* It shall be unlawful for any owner of residential property to rent or lease, or offer to rent or lease (throughout this subsection (13) the terms "rent" and "lease" are synonymous; as are the terms "to rent or lease" and "to offer to rent or lease") therein any dwelling or dwelling unit(s), whether single-family, duplex, triplex, multi-family, apartment, condominium, or more than one (1) room, etc., unless a current local business tax receipt therefore has been issued by the city, a copy of which is to be available at the structure in which the dwelling unit(s) is located. There is no requirement for there to be a written lease or any evidence ~~on~~ of monetary payment to establish a rental arrangement. A rental arrangement shall be presumed to exist when someone is residing in a residential structure who is not the owner of the property and someone with an ownership interest is also not residing in said structure at the same time. However, the owner can rebut this presumption by providing sufficient evidence to the City to establish that the arrangement between the property owner and the occupant qualifies as a mortgage under Florida Statute Section 697.01. To rebut the presumption that a rental arrangement exists, the property owner must clearly establish to the satisfaction of the City that the arrangement qualifies as a mortgage under Florida Statute Section 679.01.

Section 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such

portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

**Section 3.** That all ordinances made in conflict with this Ordinance are hereby repealed.

**Section 4.** That this Ordinance shall become effective immediately upon its adoption.

PASSED upon first reading at a regular meeting of the City Council of the City of South Daytona held in the City of South Daytona, Florida, on the 14<sup>th</sup> day of September 2020.

PASSED AND ADOPTED upon second and final reading at a regular meeting of the City Council of the City of South Daytona held in the City of South Daytona, Florida, on the 29<sup>th</sup> day of September, 2020.

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Bill Hall  
Mayor

ATTEST:

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James L. Gillis, Jr.  
City Manager