

RESOLUTION NO. 2023-38

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "2023 SHORT-TERM RENTAL CODE"

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provisions of the City Code by reference to a public record, provided that the adopting ordinance is published in full; and

WHEREAS, the City desires to update its short-term rental regulations.

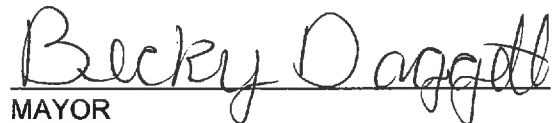
ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

That certain document known as "2023 Short-Term Rental Code" attached hereto as Exhibit A is hereby declared to be a public record, and one (1) paper copy and one (1) electronic copy maintained in compliance with A.R.S. § 44-7041 shall remain on file with the City Clerk and kept available for public use and inspection.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

Exhibit A: 2023 Short-Term Rental Code

2023 SHORT-TERM RENTAL CODE

The Flagstaff City Code, Title 3 Business Regulations, is amended by repealing the current Chapter 3-12 Short-Term Rentals, and by replacing it with a new Chapter 3-12 Short-Term Rentals, to read as follows:

CHAPTER 3-12. SHORT-TERM RENTALS

3-12-001-0001	Purpose
3-12-001-0002	Definitions
3-12-001-0003	License Required
3-12-001-0004	License Application
3-12-001-0005	License Term; Renewal
3-12-001-0006	Emergency Point of Contact
3-12-001-0007	Prohibited Uses
3-12-001-0008	Advertisements
3-12-001-0009	Posting on the Property
3-12-001-0010	Neighbor Notification
3-12-001-0011	Reserved
3-12-001-0012	Reserved
3-12-001-0013	Reserved
3-12-001-0014	License Suspensions
3-12-001-0015	Penalties for Verified Violations
3-12-001-0016	Enforcement
3-12-001-0017	Hearing Procedures

3-12-001-0001 PURPOSE

The purpose of the short-term rental (STR) regulations is to protect the health, safety, and welfare of the community and visitors.

3-12-001-0002 DEFINITIONS

For purposes of this chapter:

“City business day” means a day that City Hall is open for business.

“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 short-term rental; and (ii) respond to complaints and emergencies relating to the short-term rental in a timely manner.

“Nonresidential use” means any use that is not permitted in a residentially zoned district of the City.

“Online lodging marketplace” has the same meaning prescribed in A.R.S. § 42-5076 and generally means a person that provides a digital platform for compensation through which an unaffiliated third party offers to rent lodging accommodations in this State to an occupant, including a transient.

“Online lodging operator” has the same meaning as prescribed in A.R.S. Section [42-5076](#) and means a person that is engaged in the business of renting to an occupant, including a transient as defined in A.R.S. Section [42-5070](#), any lodging accommodation in this State offered through an online lodging marketplace.

“Owner” means any person who, alone or with others, has title or interest in a property, dwelling unit, or portion thereof, with or without actual possession of the short-term rental.

“Owner’s designee” means any person or persons with the charge, care, or control of any property, dwelling unit, or portion thereof and includes the “emergency point of contact.”

“Person” means any individual, public entity, firm, corporation, partnership, limited liability company, trust, association, or any other entity of any kind.

“Short-term rental” or “STR” means any individually or collectively owned single-family or one-to-four-family house or dwelling unit, accessory 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 if the accommodations are not classified for property taxation under A.R.S. Section [42-12001](#). A short-term rental shall also include a dwelling unit in a multiple-family development offered for rent as transient lodging. Each unit that is separately leased is a STR. A short-term rental does not include a timeshare managed pursuant to A.R.S. Section 33-2201 et seq.

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

“Transient” means any person who either at the person’s own expense or at the expense of another obtains lodging space or use of lodging space on a daily or weekly basis, or any other basis for less than thirty (30) consecutive days.

"Verified violation" means a final adjudication finding of guilt or civil responsibility for violating any state law or City Code provision relating to a purpose prescribed in A.R.S. Section 9-500.39 subsection B or K that has been finally adjudicated (a final decision of a court or administrative hearing officer with no further right of appeal).

"Written notice" includes but is not limited to a written notice sent by electronic means, United States certified mail-return receipt requested, or hand delivery to the address on file for the STR. If written notice is served by electronic means, it is deemed received on the date sent.

3-12-001-0003 LICENSE REQUIRED

- A. License required. It is unlawful to rent or offer to rent a short-term rental (STR) without having first obtained a valid STR license issued under this chapter. A separate license is required for each STR.
- B. Prima facie evidence. Representations or advertisements including online listings that reference the property, house or dwelling unit location within the City as available for transient lodging is prima facie evidence that an owner is offering to rent or operating a STR in the City.
- C. Violations. In addition to any penalty or fine that may be imposed under section 3-12-001-0015 (Penalties for Verified Violations), the owner shall immediately cease operations of the STR until a valid license is obtained.

3-12-001-0004 LICENSE APPLICATION

- A. License applications. The owner of a STR shall apply for a license on an application form supplied by the City. The City Management Services Director may require use of an online licensing system. The application must be signed by the applicant and shall contain the following information:
 - 1. The physical address of the STR property.
 - 2. The name, address, email address, and telephone number of the owner of the STR. If the property owner is an entity, the legal name of the entity and its state of incorporation. The owner's email address and telephone number will not be public information when the owner is not the emergency point of contact, unless disclosure is required by law.
 - 3. The name, address, email address, and telephone number of the owner's designee, if any.
 - 4. The name, address, email address, and twenty-four (24) hour telephone number of the individual who will serve as the emergency point of contact. The emergency point of contact shall be public information.
 - 5. The transaction privilege tax ("TPT") license number issued for the STR by the State of Arizona, including the location code (where applicable).

6. A statement that the owner acknowledges and agrees that the owner shall comply with all applicable laws, regulations, and ordinances in operating the STR.
 7. A statement that the owner and each owner designee is not a registered sex offender, has not been convicted of any felony act that resulted in death or serious physical injury, and has not been convicted of any felony use of a deadly weapon within the past five (5) years.
 8. A statement that the owner shall timely complete the neighborhood notification required under section 3-12-001-0010.
 9. A license fee in the amount established in Chapter 3 - User Fees. The license fee is non-refundable, shall not be pro-rated, and is for an entire year, regardless of whether or not the STR is operated for an entire year.
 10. Proof of lawful presence in the United States in accordance with A.R.S. Sections 1-502 and 41-1080, unless exempted by A.R.S. Section 41-1080(B).
 11. The application may request that the owner of the STR voluntarily indicate whether the STR is owner-occupied.
- B. License approval. The City shall promptly issue or deny a STR license after receipt of a complete application.
- C. License denial. The City may deny a STR license for any of the following reasons:
1. The applicant failed to provide the required application information;
 2. The applicant failed to pay the license fee;
 3. The applicant provided false information;
 4. The owner or owner's designee: (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 license for the same STR.
- D. Notice of denial and appeals. City Code Compliance shall give written notice of the license denial of an application to the applicant. The notice shall inform the applicant of the right to appeal the denial to the City Manager within ten (10) calendar days and request a hearing pursuant to Section 3-12-001-0017 (Hearing Procedures).
- E. Violations. In addition to any other penalty imposed under section 3-12-001-0005 (Penalties for Verified Violations), the City may impose a civil penalty of \$1,000 per month against the owner if the owner or owner's designee fails to apply for a license within 30 days after receiving written notice of the failure to comply with licensing requirements.

3-12-001-0005 LICENSE TERM, RENEWAL

- A. License term. A STR license issued under this chapter shall be valid for one (1) year from the date of issuance unless suspended or revoked.
- B. Renewal. The owner shall apply for a STR license renewal and pay a renewal license fee via the STR license account.
- C. Non-transferable. A STR license is non-transferable and non-assignable.
- D. License information on file. The owner shall maintain current and accurate information in its online STR license account.

3-12-001-0006 EMERGENCY POINT OF CONTACT

- A. Response time. When requested by a police officer, the emergency point of contact must be on the STR premises, or be available over the phone or text, within sixty (60) minutes of the request related to an emergency that requires police response. For purposes of this section, an emergency includes but is not limited to securing a crime scene, cleanup of a biohazard, cleanup of hazardous materials, or any other circumstances requiring immediate action to protect public health and safety, or property.
- B. Violations. In addition to any other penalty imposed under section 3-12-001-0005 (Penalties for Verified Violations), the City may impose a civil penalty of \$1,000 against the owner for every 30 days the owner fails to provide or maintain current emergency point of contact information on file with the City as required by Section 3-12-001-0004(A)(4). The City shall provide at least thirty (30) days' written notice to the STR owner before imposing the initial civil penalty.

3-12-001-0007 PROHIBITED USES

- A. Prohibited uses. No person may use a STR for any of the following:
 - 1. Nonresidential uses including for a special event that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.
 - 2. Housing sex offenders, sex trafficking, operating or maintaining a sober living home, selling illegal drugs, liquor control violations, producing pornography, obscenity, nude or topless dancing and other adult oriented businesses.
 - 3. Any other use that violates applicable laws, including but not limited to local zoning, building and fire codes, health and sanitation, and noise regulations.
- B. Prima facie evidence. Representations or advertisements including online listings that advertise one of the prohibited uses under this section that reference a STR located within the City is prima facie evidence that a STR is operating in violation of this section.
- C. Nothing herein shall be construed to prohibit a group home for persons with disabilities as allowed by the Americans with Disabilities Act.

3-12-001-0008 ADVERTISEMENTS

The owner shall display the City short-term rental license number on each advertisement for the STR.

3-12-001-0009 POSTING ON THE PROPERTY

The owner of the STR shall display a Notice inside the STR within ten (10) feet of the primary entrance to the STR. The Notice will read as follows:

NOTICE

It is unlawful to use this property for any nonresidential use, special events that otherwise require a permit or license, retail business, restaurant, event center, banquet hall or other uses prohibited by Flagstaff City Code 3-12-001-0007 (Prohibited Uses).

Emergency Contact: (name and phone number)

City Complaints Hotline #:

City Short-Term Rental License #:

The City Management Services Director may include additional information in the Notice related to the STR or City contact information.

3-12-001-0010 NEIGHBOR NOTIFICATION

A. Neighbor notification. Prior to offering a STR for rent for the first time, the owner shall provide neighbor notification to each single-family residential property adjacent to the STR, directly across from the STR, directly behind the STR, diagonally across the street of the STR, and diagonally behind the STR (touching a point on the adjacent STR property). Prior to offering a STR located within a multi-family residential building, the owner shall provide neighbor notification to residents on the same building floor as the STR, and the units directly above and below the STR. The neighbor notification shall be provided in writing in the form required by the City and shall include the following information:

1. The STR license number issued by the City;
2. The physical address of the STR; and
3. The name, physical address, e-mail address, and twenty-four (24) hour telephone number of the emergency point of contact.

B. Attestation of compliance. Upon completion of the neighborhood notification, the licensee shall submit to the City an attestation of compliance which shall include: (a) the address of each property notified; (b) a description of the manner which the owner chose to provide notification to each property so notified; (c) the name and contact information of the person attesting to compliance. The attestation submittal date shall be prima evidence as the date the neighborhood notification was completed.

C. Additional neighbor notifications. The owner shall provide an additional neighbor notification within ten (10) days after any change in the emergency point of contact on file with the City and at time of license renewal.

3-12-001-0011 RESERVED

3-12-001-0012 RESERVED

3-12-001-0013 RESERVED

3-12-001-0014 LICENSE SUSPENSIONS

- A. License suspensions. The City may suspend a STR license for a period of up to twelve (12) months for any of the following:
1. Three (3) verified violations within a twelve (12) month period, not including any aesthetic, solid waste disposal or vehicle parking violation that is not also a serious threat to public health and safety.
 2. One (1) verified violation that results in or constitutes any of the following:
 - a. A felony offense committed at or in the vicinity of a STR 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 STR 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 STR or the owner's designee knowingly or intentionally housing a sex offender, allowing offenses related to adult-oriented businesses, sexual offenses, sex trafficking, or prostitution, or operating or maintaining a sober living home; or
 - d. The owner of the STR or the owner's designee knowingly or intentionally allowing the use of a STR for a special event that would otherwise require a permit or license pursuant to the City code or a state law or rule or for a retail, restaurant, banquet space or other similar use.
- B. Notice of license suspension and appeals. City shall give written notice of the license suspension to the owner of the STR. The notice shall inform the owner of the right to appeal the license suspension within ten (10) calendar days to the City Manager and request a hearing pursuant to Section 3-12-001-0017 (Hearing Procedures). An appeal under this section does not operate as a stay of the license suspension. This section is not applicable to actions for judicial relief brought pursuant to subsection C.
- C. Judicial relief. Notwithstanding any, any attempted or completed felony act, arising from the occupancy or use of a STR 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 STR for a period that shall not exceed twelve (12) months.
- D. Authority. The City Attorney may initiate proceedings in the city court or other court of competent jurisdiction to enforce this section.

3-12-001-0015 PENALTIES FOR VERIFIED VIOLATIONS

- A. Penalties. Notwithstanding any other law or penalties assessed, the City may impose the following enhanced civil penalties upon the owner of a STR if the owner receives one or more verified violations related to the same STR within a 12-month period:
 - 1. \$500 for the first verified violation.
 - 2. \$1,000 for the second verified violation.
 - 3. \$3,500 for a third and any subsequent verified violation.
- B. If multiple violations arise out of the same response to an incident at a STR, those verified violations are considered one verified violation for the purpose of imposing a penalty.
- C. If multiple violations under section 3-12-001-0008 (Advertisements) for the same STR have occurred within a period of 30 days, then, upon a showing that the STR has come into compliance with such section, those verified violations shall be considered as one verified violation for the purpose of imposing a penalty.
- D. If multiple violations under section 3-12-001-0010 (Neighbor Notification) for the same STR have occurred within a period of 30 days, then upon a showing that the STR has come into compliance with such section, those verified violations shall be considered as one verified violation for the purpose of imposing a penalty.

3-12-001-0016 ENFORCEMENT

- A. Enforcement authority. The City Manager, the City Police Department, City Code Compliance Manager, City Attorney or their designees are delegated authority to enforce this chapter.
- B. Notice of violation. The City may send a written notice of violation of any provision of this chapter to the owner or owner's designee. The notice of violation shall inform the owner of:
 - 1. The nature of the violation(s).
 - 2. The section(s) of the code alleged to have been violated.
 - 3. Possible fines or penalties that may be assessed by the City.
 - 4. The time for curing any deficiency or violation so as to avoid fines or penalties.
 - 5. The right to appear at a hearing on a specific date and time to contest the notice of violation, fines, or penalties.
 - 6. The effect of failure to timely request a hearing or appear.
 - a. A failure of the person request a hearing within ten (10) calendar days from receipt of the written notice of violation, shall constitute a waiver of the right to a hearing or to challenge the validity of the City notice of violation and assessment of fines or penalties. The Hearing Officer may render a final decision notwithstanding the owner's failure to appear.

- b. Similarly, a failure of the person to request a hearing within ten (10) calendar days from receipt of the written notice of the denial or suspension of a license shall constitute a waiver of the right to a hearing or to challenge the validity of the denial or suspension of a license. The Hearing Officer may render a final decision notwithstanding the owner's failure to appear.
7. The hearing procedures, which are set forth in section 3-12-001-0017 (Hearing Procedures) of the City Code.
- C. Civil offenses. Each violation of this chapter shall constitute a civil offense. Each day that a violation occurs shall be a separate offense.
 - D. Owner liability. The failure of any owner's designee to comply with this chapter shall not relieve the owner of liability under this chapter.
 - E. Remedies cumulative. The remedies in this chapter are cumulative and the City may proceed under one or more such remedies.

3-12-001-0017 HEARING PROCEDURES

- A. Hearing officer. The City Manager shall appoint an independent Hearing Officer to preside over any hearing under this chapter.
- B. Hearing date. Upon receipt of a timely appeal or request for a hearing, the Hearing Officer shall schedule a hearing to occur within thirty (30) days or as soon as practicable. The hearing date may be continued or rescheduled upon good cause shown.
- C. Information submittal. Each party shall submit the following to the Hearing Officer and to the opposing party at least ten (10) days prior to the scheduled hearing date:
 - 1. Factual bases for contesting City's written notice of violation or decision;
 - 2. List of persons expected to testify, and a brief summary of each person's expected testimony;
 - 3. A list of and copy of all exhibits;
 - 4. Notice as to whether the party will be represented by legal counsel at the hearing;
 - 5. If desired, a request that the hearing be recorded by an electronic hearing device.
- D. Informal process. The hearing shall be conducted in an informal process to determine whether there is a sufficient factual and legal basis to support the City's notice of violation, fines to be imposed if any, or decision that is being appealed. The rules of evidence shall not apply, provided, however, that the decision of the Hearing Officer shall in all cases be based upon substantial and reliable evidence. All parties to the hearing shall have the right to present evidence and conduct cross-examination. The City shall present its case first. The Hearing Officer may issue orders as may be necessary or appropriate to fairly and efficiently determine the truth and decide the case at hand. The Hearing Officer may

ask questions. The City shall have the burden of establishing by a preponderance of the evidence that a violation has occurred or that its action was merited.

- E. Final decision. The Hearing Officer shall issue its written decision within thirty (30) days from the hearing date. The decision shall include factual findings. The decision of the Hearing Officer is final.
- F. Waiver. A failure of the person who received written notice in compliance with the requirements of this chapter to timely request a hearing or the failure to appear at a scheduled hearing shall constitute a waiver of the right to a hearing or to challenge the validity of the City notice of violation or action. The Hearing Officer may render a final decision notwithstanding the person's failure to appear at the hearing.

The Flagstaff City Code, Title 3 Business Regulations, Chapter 3-01 Business License Regulations, is hereby amended by deleting those provisions shown in strike-out, and adding those provisions shown in capitalized underlined text:

3-01-001-0003 LICENSE EXEMPTIONS

A. The following persons shall not be required to obtain a business license:

1. Any person defined in Section 3-05-002-0270 as a Federally exempt organization, governmental entity, proprietary club or public educational entity;
2. Any person licensed under Chapter 3-07 (Special Licenses) or 3-09 (Cable);
3. Any person with a valid franchise agreement with the City;
4. Any person licensed under Chapter 3-08 (Sexually Oriented Businesses);
5. ANY PERSON WITH A VALID SHORT-TERM RENTAL LICENSE ISSUED UNDER CHAPTER 3-12 (SHORT-TERM RENTALS);
- ~~5.6.~~ Sidewalk vendor with a permit issued under Section 8-03-002-0004 (Sidewalk Vending Carts);
- ~~6.7.~~ Any person with a valid special event permit issued under Chapter 8-12 (Special Events);
- ~~7.8.~~ Any person with a valid temporary use permit issued under Section 10-20.40.150 (Temporary Use Permits);
- ~~8. 9.~~ A fair vendor at a prescheduled fair, convention, celebration, promotion or other public gathering, where the organizer has obtained a special event permit issued under Chapter 8-12 (Special Events) or temporary use permit issued under Section 10-20.40.150 (Temporary Use Permits).

The Flagstaff City Code, Title 3 Business Regulations, Chapter 3-10 User Fees, is hereby amended by deleting those provisions shown in strike-out, and adding those provisions shown in capitalized underlined text:

3-10-001-0008 License Fees

The user fees of the Management Services Division shall be as follows:

Fee Type	Fee per Each
Business license – annual	\$8
Business license – renewal	\$8
Business license – penalty failure to obtain/renew	50% of fee
Transient merchant approval	\$0
Transaction privilege and use tax license (see Section 3-05-003-0320)	
Commercial ground transportation – per taxi	\$38
Commercial ground transportation – per motor coach	\$38
Commercial ground transportation – annual renew	\$8
Adult oriented business (see Section 3-08-001-0006)	
Adult oriented business renew (see Section 3-08-001-0006)	
Scavenger waste permit	\$24
<u>SHORT TERM RENTAL LICENSE – ANNUAL (SEE CHAPTER 3-12)</u>	<u>\$175*</u>
<u>* SHORT TERM RENTAL LICENSE FEE WILL INCREASE BY \$5 ANNUALLY ON NOVEMBER 1, COMMENCING IN 2024.</u>	