

AGENDA

AGENDA OF THE WORK SESSION OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, AND STATE OF ARIZONA, TO BE HELD ON TUESDAY, SEPTEMBER 20, 2022 AT 5:30 PM AT COUNCIL CHAMBERS LOCATED AT, 915 S. TOVREAVILLE ROAD, BISBEE, ARIZONA.

THE MEETING WAS CALLED TO ORDER BY _____ AT _____ PM.

ROLL CALL

COUNCIL

Councilmember Juanetta Hill, Ward III
Councilmember Joni Giacomino, Ward II
Councilmember Frank Davis, Ward I
Mayor Ken Budge
Councilmember Leslie Johns, Ward I
Councilmember Mel Sowid, Ward II
Councilmember Anna Cline, Ward III, Mayor Pro Tempore

STAFF

Stephen J. Pauken, City Manager
Ashlee Coronado, City Clerk
Keri Bagley, Finance Director
Joelle Landers, Personnel Director
Matthew Gurney, Public Works Director
Logan Dodd, Operations Manager
Tim Cox, Police Chief
Jim Richardson, Fire Chief

CITY ATTORNEY

Joseph Estes

THE FOLLOWING ITEMS WILL BE DISCUSSED AT THIS MEETING:

1. Discussion and Possible Direction to Staff regarding Amending the City Code, Article 7.10, Light Pollution and the Bisbee Zoning Code, Article 3, 6, 7, and 9.
Stephen Pauken, City Manager
2. Discussion and Possible Direction to Staff regarding Repealing and Replacing the City Code Article 8.9 Vacation Rentals and Short-Term Rentals.
Stephen Pauken, City Manager

ADJOURNMENT

Individuals with hearing disabilities can contact the City Clerk's Office (520) 432-6012 to request an Assisted Listening Device, at least 24 hours before the meeting.

Anyone needing special accommodation to attend this meeting should contact Ashlee Coronado at (520) 432-6012 at least twenty-four hours before the meeting.

Public documents referred to herein may be viewed during regular business hours at the City Clerk's Office at 915 S. Tovreaville Rd., Bisbee, AZ.

Pursuant to A.R.S. § 38-431.03(A) (3), the Council may vote to enter executive session at any point during this meeting for discussion or consultation for legal advice with its attorney(s), who may appear telephonically.



AGENDA ITEM NUMBER 1

MAYOR & COUNCIL WORK SESSION FOR SEPTEMBER 20, 2022

DATE ACTION SUBMITTED: September 14, 2022

PRESENTATION/ DISCUSSION ONLY

SUBJECT: Discussion and Possible Direction to Staff regarding Amending the City Code, Article 7.10, Light Pollution and the Bisbee Zoning Code, Article 3, 6, 7, and 9.

FROM: Stephen Pauken, City Manager

RECOMMENDATION: DISCUSSION ONLY

PROPOSED MOTION: WORK SESSION ONLY

DISCUSSION:

FISCAL IMPACT:

DEPARTMENT LINE-ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

Prepared by: Ashlee Coronado
Ashlee Coronado
City Clerk

Reviewed by: Stephen Pauken
Stephen Pauken
City Manager

**NOTICE OF INTENT
ORDINANCE O-22-11**

**AN ORDINANCE OF THE CITY OF BISBEE, AMENDING THE CITY CODE, ARTICLE 7.10,
LIGHT POLLUTION AND THE BISBEE ZONING CODE, ARTICLES 3, 6, 7, 9 AND
PROVIDING FOR REPEAL AND SEVERABILITY**

WHEREAS, The City of Bisbee has determined the need for lighting practices and systems, which will minimize light pollution, light trespass and conserve energy while maintaining nighttime safety;

WHEREAS, the City permits the use of outdoor lighting that does not exceed the minimum levels specified in this Ordinance for enjoyment, and commerce;

WHEREAS, the curtailment of light pollution will improve nighttime environment for astronomy, conserve energy, and protect the natural environment; and

WHEREAS, it is in the best interests of the City of Bisbee and its citizens to amend Article 7.10 of the City Code and in the Bisbee Zoning Code, Articles 3, 6, 7 and 9 set forth on Exhibit A hereto.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:

Section 1. The amendments to Article 7 of the City Code, as set forth in the attached Exhibit A, incorporated herein by reference, are hereby adopted.

Section 2. The amendments to Articles 3, 6, 7 and 9 of the Zoning Code as set forth in the attached Exhibit B, incorporated herein by reference, are hereby adopted.

Section 3. 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.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee on this _____ day of September, 2022.

APPROVED:

Ken Budge, Mayor

ATTEST:

Ashlee Coronado, City Clerk

APPROVED AS TO FORM:

Joseph D. Estes, City Attorney
Gust Rosenfeld, P.L.C.

EXHIBIT A

BISBEE CITY CODE

ARTICLE 7.10 LIGHT POLLUTION CODE

7.10.1 Purpose

The purpose of this Article is to achieve effective and efficient lighting, while preserving the safety, security and well-being of City residents and visitors; to protect and enhance the lawful nighttime use and enjoyment of all property through protection of access to the dark, night skies; and, to encourage the conservation of energy and other resources. To specify and encourage lighting practices and systems that will minimize the adverse man-made light pollution effects of sky-glow, glare and light trespass.

7.10.2 Definitions

A. "Adaptive controls" means mechanical or electronic devices, when used in the context of outdoor lighting systems, intended to actively regulate the switching, duration, and/or intensity of light emitted by such systems. Examples of adaptive controls include timers, dimmers and motion-sensing switches.

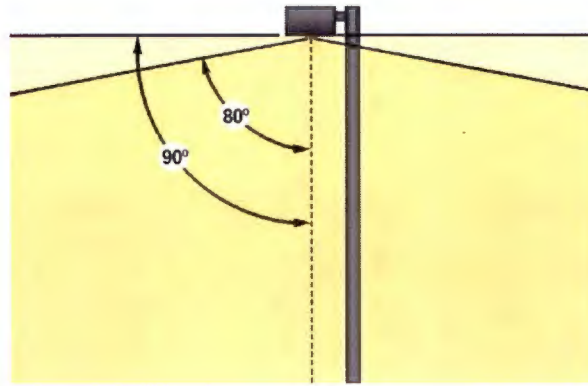
AB. "Decorative" means lighting which is used for non-utilitarian purposes such as lighting building exteriors, fountains, landscaping , and decorations.

C. "Correlated Color Temperature" (or "CCT") means a measure of the color properties of light emitted by lamps, being equal to the temperature, expressed in degrees kelvin (K), of a blackbody whose spectrum best approximates the spectrum of the light source in question. CCT values are typically provided in lighting manufacturer data sheets.

~~B. "Fully shielded" means that fixtures are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected 10 to 15 degrees minimum below a horizontal plane running through the lowest point on the fixture where light is emitted.~~

D. "Full Cutoff" means that a luminaire is shielded in such a manner as to yield zero light intensity at or above a horizontal plane passing through the lowest light-emitting part of the luminaire, and which further limits light intensity to a value not to exceed 2.5 percent of total lamp lumens at angles between 80 degrees and 90 degrees with respect to the local nadir. (See the example in Figure 1 showing these angles.) This applies to all lateral angles around the luminaire.

Figure 1.



CE. "General Illumination" means outdoor lighting used for, but not limited to, illumination for walkways, roadways, equipment yards, parking lots, and outdoor security where safety or security of the grounds is the primary concern.

DF. "Glare" means the sensation produced by a bright light source within the visual field that is sufficiently brighter than the level to which the eyes are adjusted, causing discomfort and/or loss in visual performance or visibility.

EG. "Installed" means the attaching or assembling in place of any outdoor light fixture.

F. "~~Light Fixture, Fully Shielded~~" means a light fixture constructed, installed and maintained in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly by reflection or refraction from any part of the fixture, is projected ~~10 to 15 degrees minimum~~ below a horizontal plane running through the lowest part of the fixture. A practical way to determine if a fixture or tube is fully shielded: if the lamp or tube, any reflective surface, or lens cover (clear or prismatic) is visible when viewed from above or directly from the side, from any angle around the fixture or tube, the fixture or tube is not fully shielded.

H. "Illuminance" means the total luminous flux incident on a surface per unit area. Illuminance is a measure of the light received by or on a surface. The foot-candle (fc) is a unit of measurement equal to the illuminance resulting from a source of one candela at a distance of one foot, equal to one lumen per square foot of illuminated surface area.

I. "Initial lumens" means the number of lumens of light emitted by a luminaire when the lamp is new, not accounting for any depreciation due to the age of the lamp or environmental conditions that may be detrimental to its performance.

GJ. "Light Trespass" means ~~stray electric light in excess of the levels specified in Section 7.10.8 falling where it is not desired or needed. Direct or reflected light that has its source on one site, and illuminates areas beyond the property boundaries.~~ *the condition in which light emitted on one property exceeds an illuminance, measured in the vertical direction and at any height above grade, of one-half of one foot-candle (0.5 fc) at the boundary of any adjacent property. is directly visible on any other property, not inclusive of incidental reflections from luminaire mounting surfaces or hardware.* Light trespass is typically produced by stray light from unshielded or misdirected outdoor lighting, and includes glare from direct viewing, as well as "off-site spill" light.

~~HK~~. "Lumen" means a unit used to measure the total amount of light that is produced by a luminaire. The conversion of watts to lumens is provided in Section 7.10.15.

~~HL~~. "Luminaire" means a light fixture, including the complete lighting assembly (including lamps, housings, reflectors, lenses and shields), but excluding the support assembly.

~~M~~. "Net acre" means an acre of any land parcel that is developed, consisting of structures and/or hardscape. The net acreage of a parcel is the gross acreage of that parcel less any acres that are considered undeveloped.

~~JN~~. "Off-Site Spill Light" means any combination of glare, uplight (sky glow) and/or light trespass applicable, but not limited to, structure exterior lighting, roadway/street lighting, pedestrian malls, parks, recreational facilities, outdoor display lots, parking lots, service stations, billboards and signage.

~~K~~. "Outdoor Light Fixtures" means outdoor electric illuminating devices, outdoor fixtures, lamps and other devices; searchlights, spot lights, flood lights, permanently installed or portable, used for illumination, emergency, security or commercial purposes. Such devices shall include, but are not limited to, lights for: parking lots, roadways, buildings and structures, recreational areas and facilities, landscaping decorative effects, billboards and signs (advertising and other), product display areas.

~~LO~~. "Outdoor Recreational Facility" means an area designed for active recreation, whether publicly or privately owned, including but not limited to parks, baseball or softball diamonds, soccer and football fields, golf courses, tennis courts, and roping/equestrian arenas.

~~M~~. "Partially shielded" means the fixtures are shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the lamp reducing light above the horizontal.

~~NP~~. "Person" shall mean any private person, tenant, lessee, owner, or any commercial entity including but not limited to companies, partnerships, joint ventures or corporations.

~~OQ~~. "Residential Lighting" means residential refers to outdoor lighting for single or multiple household dwellings.

~~PR~~. "Sky-glow" means the undesirable and unnecessary emission of light rays, directly or indirectly, into the night sky.

~~S~~. "Unshielded" means the condition of any luminaire not meeting the definition of full cutoff.

~~QT~~. "Use, Non-Residential" means the use of land for a purpose other than residential dwelling units.

~~RU~~. "Watt" means the unit used to measure the electrical power consumption (not the light output) of a lamp.

7.10.3 New Uses, Buildings and Additions or Modifications

The requirements of this Code shall apply to any and all new uses and additions to existing land uses, developments, buildings, or structures.

A. Change of Use. Whenever the use of any existing building, structure, or premises is changed to a new use, all outdoor lighting shall be reviewed and brought into compliance

B. For purposes of this section, the following are considered to be major additions:

1. Additions or modifications of 50 percent or more in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces, either with a single addition or with cumulative additions subsequent to the effective date of this provision; or,

2. Single or cumulative modification or replacement of outdoor legally installed lighting fixtures constituting 50 percent or more of the watts that would be permitted under this Code for the property, no matter the actual amount of lighting already on a non-conforming site.

C. For purposes of this section, the following are considered to be minor additions:

1. Additions or modifications of less than 50 percent in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces to existing uses shall require the submission of a complete inventory and site plan detailing all existing and any proposed new or modified outdoor lighting. Any new or modified outdoor lighting on the site shall meet the requirements of this Code with regard to shielding and lamp type; the total amount of lighting after the modifications are complete shall not exceed that on the site before the modification, or that permitted by this Article, whichever is larger.

D. Mitigation of Legal Non-Conforming Installations. All legal non-conforming luminaires may continue to be used and maintained after the adoption of this Article, but shall be brought into compliance with its requirements within ten (10) years after the effective date of this Article.

7.10.4 Permits

A. Any person changing the use of an existing building, structure, or premises or making a major addition as defined in Section 7.10.3 shall apply for a permit with the City Building Inspector.

B. Any person applying for a building or use permit under the City of Bisbee Code or the City of Bisbee Zoning Code intending to install outdoor light fixtures shall as a part of said application submit evidence to the City Building Inspector that the proposed work will comply with these provisions. The submission shall contain:

1. Plans indicating the location on the premises, and the type of all illuminating devices, existing and proposed.

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2. Description of the existing and proposed illuminating devices, fixtures, lamps, supports and other devices, and the initial lumen output. This description shall include but is not limited to, manufacturers' catalog cuts, photographs, diagrams and/or drawings .

C. Substitution of outdoor light fixtures or lamps after a permit has been issued requires City Building Inspector approval prior to installation. Amendments to permits for the installation of outdoor light fixtures require adequate information to assure compliance with this Code, pursuant to Section 7.10.4(B).

7.10.5 Mounting Height, Shielding and Light Trespass

Requirements for height, shielding, placement and aiming of lights to minimize light trespass and direct glare emitted by a lighting system shall be, as follows:

A. Off-site spill light on adjacent properties and roadways shall be minimized by complying with the following:

1. Residential Sites: The overall height of lighting fixtures (including the base) shall not exceed 20 feet above ground level, except for residential sites with a minimum parcel size of 4 acres or larger. Lighting fixtures which are located 50 feet or more from any property line shall not exceed 30 feet in height (including the base) above ground level.

2. Non-Residential Sites: Except as provided herein for specific uses, the overall height of lighting fixtures (including the base) on all non-residential sites shall not exceed 30 feet above ground level. The overall height of lighting fixtures located at least 100 feet from any property line shall not exceed 35 feet in height above ground level.

3. Any lamp type luminaire consisting of lamps with a total output of 1,000 lumens or more shall be fully shielded full cutoff.

4. All light fixtures located within 25 feet of the property line adjacent to a residential use shall use fully shielded luminaires. No luminaire shall be installed or operated on any property whose lamp, or light source, is directly visible from any other property.

5. Final determination as to compliance with this section shall be based on point-by-point analysis by the City Building Inspector.

B. Direct glare shall be minimized by compliance with the following requirements:

1. The lighting system shall be designed to minimize the impact on sky glow and glare to adjacent properties.

7.10.6 Shielding of Outdoor Light Fixtures: Total Light Emission Limits

A. Total outdoor light output shall not exceed the limits in Section 7.10.8~~12~~. (The values in this table are upper limits and not design goals; design goals should be the lowest levels that meet the requirements of the task to reduce glare and reduce energy costs.)

~~B. Streetlight fixtures are exempt from this requirement if the shielding is not available from the manufacturer.~~

7.10.7 Lighting Spectrum Control

The correlated color temperature of all lamps shall not exceed 3000 degrees kelvin.

7.10.8 Publicly Owned Lighting

A. Warranting. New installations of outdoor lighting will only be installed on public properties and rights-of-way upon determination by the City Manager that a public safety hazard exists in the area to be lit, and that the hazard can only be effectively mitigated through the use of outdoor lighting and not through some other passive means, such as reflectorized roadway paint or markers.

B. Curfew. All lighting not adaptively controlled must be fully extinguished by 11 P.M., or within one hour of the end of occupancy of the structure or area to be lit, whichever is later.

C. Adaptive controlling. All new installations of outdoor lighting on public properties and rights of way must be regulated with adaptive controls such that the lighting of areas is restricted to times, places and amounts required for safe occupancy.

7.10.9 Outdoor Recreational and Athletic Facility Lighting

A. The illumination of outdoor recreational and athletic facilities shall adhere to Illuminating Engineering Society lighting guidelines according to the appropriate class of athletic play.

B. Lighting shall be provided exclusively for illumination of the surface of play and viewing stands and not for any other applications.

C. Lighting shall be adjustable and provide safe and appropriate light levels according to the nature of the task it illuminates.

D. Off-site impacts of lighting shall be limited to the greatest practical extent.

E. Lighting shall be extinguished by the earlier of 10 p.m. or one hour after the conclusion of play, whichever is later.

F. Lighting equipment shall be furnished with mechanical or electronic timing circuits installed to prevent lighting from remaining in use inadvertently by automatically extinguishing it after the curfew hour specified in item 5, above.

7.10.10 Flagpoles

Property owners are encouraged to not illuminate flagpoles at night, but rather to hoist flags after dawn and lower flags before sunset. If flags are illuminated at night, lighting of up to a total of one (1) flag per property is permitted with the following conditions:

A. The flag must either be the flag of the United States of America or the flag of the State of Arizona in order for illumination to be permitted.

B. If nighttime illumination is used, flagpoles with a height greater than 20 feet above ground level shall be illuminated only from above. This may be achieved by utilizing a luminaire attached to the top of the flagpole or a luminaire mounted above the top of the flagpole on a structure within fifteen (15) feet of the flagpole and must comply with all sections of this Chapter. The total light output from any luminaire mounted on top of or above a flag pole shall not exceed 800 initial lumens.

7.10.711 Special Use Permit and Waivers

Any application or lighting installation not meeting all requirements of this Code, including, but not limited to height, shielding, curfew or lumen caps shall require a Special Use Permit, and ~~must demonstrate that the proposed lighting will not cause off-site glare or light trespass.~~ **must demonstrate why compliance with this Article is not possible, and how the lighting for which the permit or waiver is sought adheres as closely to this Article as possible.** The Special Use Permit application shall be accompanied by the lighting system design, and prior to final inspection or use, the installation shall be certified by the City Building Inspector.

7.10.812 Maximum Total Outdoor Light Output

Zoning	Total Shielded Full Cutoff Lumens Per Net Acre*	Total Unshielded Lumens Per Net Acre
Non-Residential	150,000 25,000	3,000 5,000
Residential	20,000 10,000	10,000 2,000

*Properties under ~~an~~ **one net** acre are held to the per-~~net~~ **net** acre lumen cap.

7.10.913 Prohibitions

A. The operation of searchlights and/or laser lights for advertising or commercial purposes is prohibited.

B. No new mercury vapor outdoor light fixtures shall be installed after the effective date of this section, noting the use of mercury vapor light fixtures were prohibited in the State of Arizona after January 1, 2011.

7.10.1014 Signage

A. External illumination for signs shall conform to the shielding restrictions and lumen caps of Section 7.10.812. All upwardly-directed sign lighting is prohibited.

B. All lighting mounted under the a canopy, including but not limited to light fixtures mounted on or recessed into the lower surface of the canopy and any lighting within signage (but not including any lamps mounted within the pumps and used to illuminate information indicating the total cost of such items as fuel pumped and price per gallon), shall be included in the Total Outdoor Light Output for the site and is subject to the shielding restrictions and lumen caps of Section 7.10.812.

C. Luminance levels during permitted operating hours shall not exceed 100 nits. For electronic displays, this figure is to be measured under conditions of a full white display.

D. Lighting of illuminated signs shall be extinguished completely after 11 P.M. or at the end of normal business hours, whichever is later, and remain off until one (1) hour before sunrise.

E. The luminous surface area of any illuminated sign, or any illuminated portion of any sign, shall not exceed 200 square feet.

7.10.1115 Nonconforming Light Fixtures

A. All outdoor electric illuminating devices shall be installed in conformance with the provisions of this Code, the City of Bisbee Zoning Code, and any applicable building codes.

B. Where any provision of any of the Arizona Revised Statutes, or any Federal Law, or any related City of Bisbee regulation conflicts with the requirements of this Light Pollution Code, the most restrictive shall govern.

7.10.1216 Permanent Exemptions

A. Light fixtures using fossil fuel (i.e., light produced directly or indirectly by the combustion of natural gas or other utility type fossil fuels) are exempt from the requirements of this ordinance.

B. Equipment and signal lights necessary for agricultural equipment or required by state or federal regulations shall be by the least obtrusive means that meets the applicable operating or regulatory requirements.

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C. Outdoor lighting on facilities and lands owned and operated or protected by the United States Government, ~~or the State of Arizona, its political subdivisions – including, but not exclusive to, Cochise County, the Bisbee Unified School District and the City of Bisbee~~ are exempt by law from all requirements of this section. Voluntary compliance with the intent of this ordinance at those facilities is encouraged.

D. Temporary lighting to facilitate immediately necessary repairs or similar emergency actions of a public or private utility company necessary to continue or resume service, provided the emergency does not exceed 48 hours without authorization from the Zoning Inspector. Lights shall be arranged to reflect light away from and prevent glare to adjoining residential properties and public rights of way to the extent feasible.

E. Temporary lighting to facilitate immediately necessary repairs or similar emergency actions provided the emergency does not exceed 48 hours without authorization from the Zoning Inspector. Lights shall be arranged to reflect light away from and prevent glare to adjoining residential properties and public rights of way to the extent feasible.

F. Temporary lighting to facilitate harvesting or similar actions necessary for general agricultural use (as defined in the Zoning Regulations) provided the night time operation does not exceed 5 days without authorization from the Zoning Inspector. Lights shall be arranged to reflect light away from and prevent glare to adjoining residential properties and public rights of way to the extent feasible.

~~G. The illumination of outdoor recreational facilities, public or private. Voluntary compliance with the intent of this ordinance at those facilities is encouraged.~~

~~H. Lighting required to display an American Flag.~~

~~I. Seasonal decorations that exceed the lumen cap of Section 7.10.812 shall be permitted from October 15 to January 15. All illuminated displays shall be extinguished between 1 a.m. and one hour before sunrise.~~

7.10.1317 Temporary Exemptions

A. Any person as defined herein may submit a written request on a form prepared by the Board of Adjustment and the City Building Inspector for a "temporary exemption" to the requirements of this Code, such exemption to be valid for thirty (30) days; **Exemptions may be renewedable no more than twice** at the discretion of the City Building Inspector **for a total exemption of ninety (90) days**. The request for Temporary Exemption shall contain at least the:

1. Specific exemptions requested.
2. Specific reasons why the requirements listed in this Code cannot be met.
3. Type and use of exterior light involved.
4. Duration of time for requested exemption.

5. Type and number of lamps and calculated lumens
6. Total lumens of lamp or lamps.
7. Proposed location and height of exterior lights.
8. Previous temporary exemptions, if any.
9. Physical size of exterior light and type of shielding provided.

B. The City Building Inspector, within fifteen (15) days from the date of the properly completed Request for Temporary Exemption, shall approve or reject the Request in writing. If rejected, the person making the Request shall have the right of appeal to the Board of Adjustment as any other appeal of the City Building Inspector's decisions.

7.10.1418 Violations and enforcement

A. Non-compliant lighting that was installed in good faith by an electric utility shall be brought into conformance with this Code within five (5) years of adoption; however, person light fixtures which are the subject of a citizen complaint or City enforcement action shall be brought into conformance within thirty (30) days of notification of the property owner.

B. It shall be unlawful to install or operate an outdoor light fixture in violation of this Code. Failure to comply with this Code and remedy any and all violations within the time allotted in Section 7.10.1418(A) shall be subject to a fine of not less than \$100.00 and not more than \$1000.00. Each and every day which the illegal erection, maintenance, and use continue is a separate offense.

C. The fees in this Section 7.10.1418 shall be superseded by a subsequent act of the City Council to adopt a new fee schedule. Until and in the event these fees are superseded, this Section 7.10.1418 controls.

7.10.15 Lamp Data

Incandescent	Lamp Wattage	Initial Lumens
	25	150
	40	460

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60	890
75	1210
100	1750
150	2880
300	6360

Aluminized Floods

Lamp Wattage

Initial Lumens

1,000	23,800
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**Compact
Fluorescent/Pressure
Sodium**

Lamp Wattage

Initial Lumens

5	250
7	400
13	900
18	1,200

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26 1,800

32 2,900

~~Tungsten-Halogen Sodium Lamp Wattage Initial Lumens~~

250 4,700

500 10,700

1,000 19,000

1,500 36,000

~~Mercury Vapor Lamp Wattage Initial Lumens~~

100 4,000

175 8,500

400 23,000

700 44,000

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	1,000	61,000
Fluorescent (Standard Cool White, 1.5 Inch Tubes)	Lamp Wattage	Initial Lumens
	24	1,190
	30	2,050
	36	2,450
Metal Halide	Lamp Wattage	Initial Lumens
	175	14,000
	250	20,000
	400	40,000
	1,000	115,000
PAR (Parabolic Aluminized Floods & Spots)	Lamp Wattage	Initial Lumens

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	150	1,740
HPS (High Pressure Sodium)	Lamp Wattage	Initial Lumens
	50	3,300
	70	5,800
	100	9,500
	150	16,000
	200	22,000
	250	30,000
	310	37,000
	400	50,000
	1,000	140,000
LPS (Low Pressure Sodium)	Lamp Wattage	Initial Lumens

18	1,800
35	4,800
55	8,000
90	13,500
135	22,500
180	33,000

~~These are standard values are based on manufacturers data and are to be used unless the applicant submits other verified lumen values.~~

EXHIBIT B

**BISBEE ZONING CODE
ARTICLE 3 PROCEDURES**

3.4.1 Site Plan Approval

The application will be accompanied by the following information when applicable for the proposed development:

13. Lighting: location and general nature, hooding devices.

3.4.2 Procedure

A. The site plan shall be submitted to the Site Planning Committee, which shall determine whether:

3. Proposed lighting shall be in accordance with the City "Light Pollution Code".

ARTICLE 6 GENERAL PROVISIONS

6.13 Community Gardens

C. Criteria for a Community Garden

5. All lighting used on the site must comply with the City of Bisbee Light Pollution Code.

ARTICLE 7 SIGN REGULATIONS

7.2.2. Signs Exempt from Permit Requirements

Except for traffic control devices, exempt signs may not include internal, direct or indirect lighting or electrification.

7.2.5 Issuance of the Sign Permit

Inspections may be required for footing or foundation construction, electrical installation, anchoring connections and lighting functions.

7.2.6 General Requirements Applicable to All Signs

D. Any lighting or illumination that is associated with a sign must be installed to prevent any direct beam or glare from falling on any adjacent property or travel way, must be shielded as required by applicable City regulations, and must not provide more illumination than the minimum amount that is necessary for the reasonable purposes of the sign.

7.3.2 Identification Signs for Multiple Family Dwellings which meet the following conditions:

B. The total sign area of each wall sign shall not exceed twenty four (24) square feet and no part of the sign shall

extend above the building plate line. Wall signs may be illuminated by internal or indirect lighting, subject to approval of appropriate lighting plans.

7.4.3 Marquee Signs

B. Marquee signs may [sic] illuminated by direct or internal lighting.

7.4.5 Free-Standing Signs

C. Freestanding monument signs may be illuminated by indirect or internal lighting

7.5 Historical Preservation Overlay District Sign Regulations

...Signs that are out of proportion or scale to the existing development within the district, that are to be illuminated in a manner that would not be consistent with the color, lettering or techniques of lighting that were prevalent in the historic period of the district, or that employ technology that would be out of place in the district will not be permitted.

7.6 Signs Allowed by Special Use Permits

A. The following types of signs may be allowed within a commercial or manufacturing zoning district, or in connection with a lawful non-residential use, upon the approval of a Special Use Permit for the sign.

3. Signs with external lighting not otherwise permitted under these regulations.

ARTICLE 9 DEFINITIONS

9.2 Definitions

58. Indirect Lighting shall all mean a source of external illumination located away from the sign which is not visible to persons viewing the sign.

62. Internal Lighting shall mean a source of illumination entirely within the sign which makes the sign visible at night.



MAYOR & COUNCIL WORK SESSION FOR SEPTEMBER 20, 2022

DATE ACTION SUBMITTED: September 14, 2022

PRESENTATION/ DISCUSSION ONLY

SUBJECT: Discussion and Possible Direction to Staff regarding Repealing and Replacing the City Code Article 8.9 Vacation Rentals and Short-Term Rentals.

FROM: Stephen Pauken, City Manager

RECOMMENDATION: DISCUSSION ONLY

PROPOSED MOTION: WORK SESSION ONLY

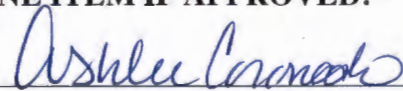
DISCUSSION:

FISCAL IMPACT:

DEPARTMENT LINE-ITEM ACCOUNT:

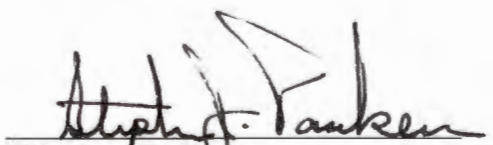
BALANCE IN LINE ITEM IF APPROVED:

Prepared by:


Ashlee Coronado

City Clerk

Reviewed by:


Stephen Pauken
City Manager

**NOTICE OF INTENT
ORDINANCE O-22-15**

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF BISBEE, ARIZONA, BY DECLARING THE DOCUMENT ENTITLED "CITY OF BISBEE VACATION RENTALS AND SHORT-TERM RENTALS CODE" AS A PUBLIC RECORD; AMENDING THE CITY OF BISBEE CODE ARTICLE 8, BUSINESS REGULATIONS, BY REPEALING AND REPLACING SECTION 8.9, VACATION RENTALS AND SHORT-TERM RENTALS; REQUIRING A PERMIT TO OPERATE A VACATION RENTAL OR SHORT-TERM RENTAL WITHIN CITY BOUNDARIES; ESTABLISHING REGULATIONS; ADOPTING NOTIFICATION AND DISCLOSURE REQUIREMENTS; ADOPTING INSURANCE REQUIREMENTS; ADOPTING APPLICATION FEES; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; ESTABLISHING FINES AND PENALTIES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, local governments may regulate vacation rentals and short-term rentals ("Vacation Rentals") except as limited by Arizona Revised Statutes ("A.R.S.") § 9-500.39; and,

WHEREAS, the City of Bisbee, Arizona ("City") deems it necessary to repeal and replace certain regulations regarding the use of property as a Vacation Rentals to protect the health, safety, and welfare of the City residents; and,

WHEREAS, a central and significant goal for the City is to protect the health, safety, and welfare of the City residents, preserve its housing stock, and maintain the quality and character of residential neighborhoods; and,

WHEREAS, the City will require all Vacation Rentals to maintain a valid City permit, pay permit fees, provide an emergency point of contact to respond to compliance and emergencies in a timely manner, maintain insurance, provide neighbor notification, and disclose certain information about the Vacation Rentals in each advertisement; and,

WHEREAS, the City will require all Vacation Rentals to obtain and maintain a valid transaction privilege tax ("TPT") license number, provide proof of the TPT license to the City, and require disclosure of the TPT number on each advertisement; and,

WHEREAS, the City retains the right to change its fees after review and approval from City Council; and,

WHEREAS, the City deems it necessary to establish penalties and fines that apply to Vacation Rentals.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:

Section 1. That document entitled “City of Bisbee Vacation Rentals and Short-Term Rentals Code,” three (3) copies of which are on file in the office of the City Clerk of the City of Bisbee, Arizona, is hereby declared to be a public record.

Section 2. The City of Bisbee Code, Article 8, Business Regulations, is hereby amended by repealing and replacing Section 8.9, Vacation Rentals and Short-Term Rentals in its entirety as set forth in that certain document entitled “City of Bisbee Vacation Rentals and Short-Term Rentals Code,” which document is a public record and attached hereto as Exhibit A, and incorporated herein by reference.

Section 3. Providing for Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict with this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section 4. 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 5. Penalties. A violation of this Ordinance is subject to the following penalties:

Section 6. Effective Date. The effective date of this Ordinance shall be 31 days following adoption by the City Council.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee on this _____ day of _____, 2022.

APPROVED:

Ken Budge, Mayor

ATTEST:

Ashlee Coronado, City Clerk

APPROVED AS TO FORM:

Joseph Estes, City Attorney
Gust Rosenfeld, PLC

EXHIBIT “A”

CITY OF BISBEE VACATION RENTALS AND SHORT-TERM RENTALS CODE

ARTICLE 8.9. VACATION RENTALS AND SHORT-TERM RENTALS

- Sec. 8.9.1 Purpose.
- Sec. 8.9.2 Definitions.
- Sec. 8.9.3 Permit Required; Penalties.
- Sec. 8.9.4 Emergency Point of Contact Requirements; Penalties.
- Sec. 8.9.5 Compliance with the Law; Prohibited Uses.
- Sec. 8.9.6 Neighbor Notification Required.
- Sec. 8.9.7 Advertisement Requirements.
- Sec. 8.9.8 Posting on the Property Required.
- Sec. 8.9.9 Insurance Required.
- Sec. 8.9.10 Background Checks Required.
- Sec. 8.9.11 Safety Inspection and Equipment Required.
- Sec. 8.9.12 Permit Suspensions.
- Sec. 8.9.13 Enhanced Penalties.
- Sec. 8.9.14 Appeals.
- Sec. 8.9.15 Judicial Relief.
- Sec. 8.9.16 Severability.

Sec. 8.9.1 Purpose.

This Article is adopted to protect the health, safety, and welfare of the community of the City by enacting reasonable regulations for short-term rentals and vacation rentals. It is the purpose of this Article to benefit the general public by minimizing adverse impacts on the housing supply, public health, safety, and peaceful enjoyment, when visiting and living in the City. These regulations are in addition to other codes of the City.

Sec. 8.9.2 Definitions.

In this Article, 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 City 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 Article 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 Article.

“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 or stairs of the vacation rental property that includes the valid permit number issued by the City the physical address of the vacation rental, and the name, address, and twenty-four (24) hour telephone number of the emergency point of contact.

“Nonresidential use” means any use that is not permitted in a residential zoning district pursuant to a City zoning ordinance.

“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 City to operate a vacation rental in accordance with this Article.

“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.

“Short-term rental” and “vacation rental” are interchangeable for purposes of this Article 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.

“Timely manner” means responding to complaints and emergencies in person, by phone, or by email within sixty (60) minutes from the request by public safety personnel.

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

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

Sec. 8.9.3 Permit Required; Penalties.

(A) *Permit required.* Prior to use of a property as a vacation rental, the owner of shall obtain an annual vacation rental permit from the City. Renting, or offering for rent, a vacation rental without complying with the permit requirements in this Section 8.9.3 is prohibited.

(B) *Permit applications.* The owner of a proposed vacation rental shall submit to the City a permit application on a form furnished by the City. 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) Proof of a valid City business license.

(7) 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.

(8) Attestation of compliance with the notification required in this Article.

(9) 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.

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

(11) 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 Article shall be accompanied by a non-refundable fee established by City Council resolution and as listed in the city fee schedule.

(D) *Issuance; reasons for denial.* The City shall issue or deny the permit within seven (7) business days after receipt of a complete application, except that the City 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 8.9.13; or (b) three violations of this Article 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 City manager or designee shall give notice of the denial of an application to the applicant by mailing 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 8.9.14.

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

(G) *Term of Permit; Renewal application.* All permits issued under this Article shall be valid for a period of one (1) year from the date of their issuance / until suspended or revoked. Except where the City 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 City shall immediately cease operations. In addition to any other penalty pursuant to the City Code, the City 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 30 days of receiving the written notice of violation from the City. Representations or advertisements including online listings that reference the property, house or dwelling unit location within the City is prima facie evidence that a vacation rental is operating in the City.

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

(J) *Implementation.* The City Manager or designee shall develop the necessary forms and/or database necessary to implement this Section 8.9.3.

Sec. 8.9.4 Emergency Point of Contact Requirements; Penalties.

(A) *Emergency Responses; Violations.* When requested by a police 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 within twenty-four (24) hours of the request.

(C) *Maintaining Accurate Emergency Information.* All applicants and persons holding permits issued pursuant to this Article shall give prior written notice to the City Manager or designee of any change to the contact information provided to the City for the emergency point of contact.

The notice shall be provided to the City 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 City Code, a violation of this Section shall be a civil offense.

(E) *Penalties*. In addition to any other penalty pursuant to the City 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 City as required under this Subsection. Before imposing the initial civil penalty, the City shall provide thirty (30) days' notice to the owner by mailing a notice of violation to the owner's mailing address that was provided to the City. The notice of the violation shall inform the applicant of the right to appeal the denial as provided for in Section 8.9.14. 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 City regarding the change.

Sec. 8.9.5 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 Article 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 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 City 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 City Code, any person who causes, allows, facilitates, aides, or abets any violation of this Article shall be subject to a civil offense.

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

Sec. 8.9.6 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 or stairs of the vacation rental property. The neighbor notification shall be provided in writing in the form required by the City and shall include the following minimum information:

(1) The permit number issued by the City;

(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.* Prior to offering a vacation rental for rent for the first time, the owner or designee shall provide to the City an attestation of compliance with the neighbor notification required by this Section 8.9.6.

(D) *Violations.* In addition to any other penalty pursuant to the City Code, a violation of this Section 8.9.6 shall be a civil offense.

Sec. 8.9.7 Advertisement Requirements.

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

(B) *Violations.* In addition to any other penalty pursuant to the City Code, a violation of this Section shall be a civil offense. Each advertisement in violation of this Section 8.9.7 shall constitute a separate violation.

Sec. 8.9.8 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 or designee, and emergency point of contact in a conspicuous place within 3 feet of the primary entrance of the vacation rental.

(B) *Failure to Comply.* In addition to any other penalty pursuant to the City Code, a violation of this Section 8.9.8 shall be a civil offense. Each day a vacation rental does not display the information required by this Section 8.9.8 shall constitute a separate violation.

Sec. 8.9.9 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 City no later than 10 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 City Code, a violation of this Section 8.9.9 shall be a civil offense. Each day a vacation rental lacks the insurance required by this Section 8.9.9 shall constitute a separate violation.

Sec. 8.9.10 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 8.9.10.

(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 City upon a request by a police officer.

(C) In addition to any other penalty pursuant to the City Code, any person who violates this Section 8.9.10 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 8.9.10.

Sec. 8.9.11 Safety Inspection and Equipment Required.

(A) To protect the health, safety, and general welfare of all vacation rental occupants, vacation rentals must meet the minimum standards for habitable structures set forth in City Code and the Zoning Ordinance and the following requirements:

(1) Initial Safety Inspection. Prior to use of a property as a vacation rental, the owner shall obtain an initial safety inspection from the City to ensure the structure meets the minimum requirements for fire, building, and those additional requirements provided for in this Article.

(2) Smoke and carbon monoxide (CO) detection and notification system. A working smoke alarm and carbon monoxide (CO) alarm system, which may require the installation and maintenance of several detection units, shall be present within the vacation rental and maintained annually as required under NFPA (National Fire Protection Association) 72. The owner shall keep and make available for inspection upon request by the City a record of all inspections and maintenance activities.

(3) Fire extinguisher. A portable, multi-purpose fire extinguisher shall be installed, inspected, and maintained as required under NFPA 10 in any kitchen area and on each floor of a vacation rental and within 20 feet of every outdoor fire feature, fire pit, patio heater, fireplace, or other areas with fire. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location of the fire extinguisher.

Sec. 8.9.12 Permit Suspensions.

(A) *Permit suspensions.* The City 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 Article 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 City 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 8.9.14.

Sec. 8.9.13 Enhanced Penalties.

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

(B) In addition to any other penalty pursuant to the City Code, and notwithstanding any other law, the City 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 Article or fails to perform any act or duty required by this Article, 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 Code, any property that operates as a vacation rental and fails to apply for vacation rental permit in accordance with this Article within thirty (30) days of the application process being made available by the City, must cease operations immediately. In addition to any fines imposed pursuant to this Section 8.9.13, the City 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 Article.

Sec. 8.9.14 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 Article may appeal the decision by filing a written notice of appeal with the City 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 City.

(B) An appeal under this Section 8.9.14 does not operate as a stay of the permit suspension.

(C) This Section 8.9.14 is not applicable to judicial actions brought pursuant to Section 8.9.15 or to penalties including fines imposed by a court.

Sec. 8.9.15 Judicial relief.

(A) Notwithstanding Section 8.9.12, 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 City attorney may initiate proceedings in the magistrate court or other court of competent jurisdiction to enforce this Section 8.9.15.

Sec. 8.9.16 Severability.

In the event any section or provision of this Article shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Article as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.