



Planning Commission Staff Report

TO: PLANNING COMMISSION

FROM: ASHLEE MACDONALD, AICP, PRINCIPAL PLANNER *Am*
(480) 503-6748, ASHLEE.MACDONALD@GILBERTAZ.GOV

THROUGH: EVA CUTRO, AICP, PLANNING MANAGER *EC*
(480) 503-6782, EVA.CUTRO@GILBERTAZ.GOV

MEETING DATE: AUGUST 2, 2023

SUBJECT: Z23-07 LDC TEXT AMENDMENT: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 3.0 BASE ZONING DISTRICTS AND USE REGULATIONS, SECTION 3.1 USE REGULATIONS, TABLE 3.1.2 USE REGULATIONS RELATED TO THE MODIFICATIONS OF VACATION SHORT TERM RENTAL WITHIN THE TABLE; DIVISION 5 ADDITIONAL USE AND SITE REGULATIONS, SECTION 5.1.2 VACATION OR SHORT-TERM RENTALS RELATED TO THE DELETION OF THE EXISTING PROVISIONS IN THIS SECTION AND THE ADDITION OF LANGUAGE REFERRING TO THE GILBERT MUNICIPAL CODE.

STRATEGIC INITIATIVE: Prosperous Community

This text amendment will relocate regulations related to short-term rentals from the Land Development Code to the Code of Gilbert

RECOMMENDED MOTION

For the reasons set forth in the staff report, move to recommend approval to the Town Council of Z23-07.

BACKGROUND/DISCUSSION

History

| Date | Description |
|---------------|--|
| June 20, 2023 | Town Council adopted Ordinance No. 2874, an amendment to the Code of Gilbert (municode) regulating short term rentals. |
| July 12, 2023 | Planning Commission conducted a citizen review session and initiated an LDC text amendment (Z23-07) related to Short Term Rentals. |

Overview

On a continual basis, staff seeks ways to improve the content and usefulness of Town regulations and reviews the code for compliance with changing state and federal regulations.

Because of cross-departmental impacts of short-term rentals the Town has adopted new regulations as part of the Code of Gilbert (Gilbert Municipal Code) relating to Short-Term Rentals (adopted June 20, 2023). With the adoption of the Short-Term Rental Ordinance, the language in the Land Development Code is redundant. This text amendment proposes to refer short-term rental operators to the Code of Gilbert and remove the Additional Use Regulations from the Land Development Code.

Staff has identified the following sections for revision:

Table 3.1.2

| Use Category | Residential | | | | | | | | | | | | Mixed Use and Non-Residential | | | | | | | | | | | | Additional Standards | | | | | | |
|--------------------------------|-------------|-------|-------|-------|------|------|------|------|------|------|------|------|-------------------------------|-----|-----|-----|-----|-----|----|-----|-----|----|----|------|----------------------|-----|-----|------|------|------|--|
| | SF-43 | SF-35 | SF-15 | SF-10 | SF-8 | SF-7 | SF-6 | SF-D | SF-A | MF/L | MF/M | MF/H | NC | CC | SC | GC | RC | HMC | NO | GO | BP | LI | GI | PF/1 | | GMC | GBC | MU/S | MU/L | MU/R | |
| Visitor Accommodations | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Convention Center | | | | | | | | | | | | | | | P | P | P | | | | | | | P | | | | | | P | |
| Hotels and Commercial Lodging | | | | | | | | | | | | | | | | P | P | P | | | P | | | | P | P | P | P | P | | |
| Recreational Vehicle Park | | | | | | | | | | | | | | | | U | U | | | | | | | | | | | | | | |
| Vacation or Short-Term Rentals | P | P | P | P | P | P | P | P | P | P | P | P | L31 | L31 | L31 | L31 | L31 | | | L31 | L31 | | | | L31 | L31 | L31 | L31 | L31 | | |

Add:
SEE GILBERT
MUNICIPAL CODE



5.1.2 Vacation or Short-Term Rentals

THE OWNER(S) OF A VACATION OR SHORT-TERM RENTAL SHALL COMPLY WITH THE REQUIREMENTS CONTAINED IN CHAPTER 14, ARTICLE III OF THE GILBERT MUNICIPAL CODE.

A. Registration

~~The owner(s) of a vacation or short-term rental shall submit a completed registration form to the Development Services Department on a form established by the Development Services Director. The registration form shall include all of the following:~~

- ~~1. Name, address, email, and telephone number of the property owner~~
- ~~2. Name, address, email address, signature and telephone number of the operator of the property, if any.~~
- ~~3. If the property owner and operator are not the same person or entity, a notarized Letter of Authorization from the property owner shall be provided with the registration form.~~

~~B. A Transaction Privilege Sales Tax license with the State of Arizona Department of Revenue is required for all Vacation Rentals and Short-term rentals.~~

~~C. All rental units, including vacation and short term rentals, shall be registered with Maricopa County, in accordance with A.R.S. § 9-500.39, as amended.~~

PUBLIC NOTIFICATION AND INPUT

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town and notice was provided per the requirements of the Land Development Code 6.2.6 have been satisfied

A Citizen Review meeting was held at the July 12, 2023 Planning Commission meeting. No residents spoke at this meeting regarding the proposed text amendment.

Staff has received no comment from the public.

STAFF RECOMMENDATION

Recommend to the Town Council approval of Z23-07, a request to amend the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Division 3.0 Base Zoning Districts and Use Regulations, Section 3.1 Use Regulations, Table 3.1.2 Use

Regulations related to the modifications of Vacation Short Term Rental within the table; Division 5 Additional Use and Site Regulations, Section 5.1.2 Vacation or Short-Term Rentals related to the deletion of the existing provisions in this section and the addition of language referring to the Gilbert Municipal Code.

Respectfully submitted,

A handwritten signature in cursive script that reads "Ashlee MacDonald".

Ashlee MacDonald, AICP
Principal Planner

Attachments

1. NOPH
2. Draft Ordinance
3. Ordinance 2874 (for reference only)



NOTICE OF PUBLIC HEARING

PURSUANT TO ARS Sections 39-204 & 9-462.04, NOTICE IS HEREBY GIVEN OF PUBLIC HEARING in the Town of Gilbert, Arizona, relating to the following requests for changes in land use regulations:

Z23-07: Request to amend the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Division 3.0 Base Zoning Districts and Use Regulations, Section 3.1 Use Regulations, Table 3.1.2 Use Regulations related to the modifications of Vacation Short Term Rental within the table; Division 5 Additional Use and Site Regulations, Section 5.1.2 Vacation or Short-Term Rentals related to the deletion of the existing provisions in this section and the addition of language referring to the Gilbert Municipal Code. The effect of this amendment will be to remove Vacation or Short-Term Rentals from the Land Development Code. Regulations related to these sites will be added to the Gilbert Municipal Code.

The applications and project files may be viewed by the public Monday through Thursday, 7:00 am to 6:00 pm at the Town of Gilbert, Planning and Development Services office located at 90 East Civic Center Drive, Gilbert, AZ. Written comments may be sent to Town of Gilbert, Planning and Development Services, 90 East Civic Center Drive, Gilbert, AZ 85296. Written comments may also be submitted at the public hearing. Any interested person may appear and be heard at the following public hearing:

**Planning Commission: Wednesday, August 2, 2023 at 6:00 p.m.
Gilbert Municipal Center, Council Chambers, 50 East Civic Center Drive, Gilbert, AZ**

Chaveli Herrera, Town Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE LAND DEVELOPMENT CODE OF GILBERT, ARIZONA, CHAPTER 1 ZONING REGULATIONS, DIVISION 3.0 BASE ZONING DISTRICTS AND USE REGULATIONS, SECTION 3.1 USE REGULATIONS, TABLE 3.1.2 USE REGULATIONS RELATED TO THE MODIFICATIONS OF VACATION SHORT TERM RENTAL WITHIN THE TABLE; DIVISION 5 ADDITIONAL USE AND SITE REGULATIONS, SECTION 5.1.2 VACATION OR SHORT-TERM RENTALS RELATED TO THE DELETION OF THE EXISTING PROVISIONS IN THIS SECTION AND THE ADDITION OF LANGUAGE REFERRING TO THE GILBERT MUNICIPAL CODE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING PENALTIES.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Gilbert, Arizona, as follows:

Section I. In General.

Chapter 1 Zoning Regulations, Division 3.0 Base Zoning Districts and Use Regulations, Section 3.1 Use Regulations, Table 3.1.2 Use Regulations, is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

| Table 3.1.2 Use Regulations | | |
|--------------------------------|--|-----------------------------------|
| Use Category | | Additional Standards |
| Subcategory | | |
| Specific Use Type | | |
| Visitor Accommodations | | |
| Convention Center | | |
| Hotels and Commercial Lodging | | |
| Recreational Vehicle Park | | |
| Vacation or Short-Term Rentals | | <u>SEE GILBERT MUNICIPAL CODE</u> |

The Land Development Code of Gilbert, Arizona Chapter 1 Zoning Regulations, Division 5 Additional Use and Site Regulations, Section 5.1.2 Vacation or Short-Term Rentals is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

5.1.2 Vacation or Short-Term Rentals

THE OWNER(S) OF A VACATION OR SHORT-TERM RENTAL SHALL COMPLY WITH THE REQUIREMENTS CONTAINED IN CHAPTER 14, ARTICLE III OF THE GILBERT MUNICIPAL CODE.

A. Registration

~~The owner(s) of a vacation or short-term rental shall submit a completed registration form to the Development Services Department on a form established by the Development Services Director. The registration form shall include all of the following:~~

- ~~1. Name, address, email, and telephone number of the property owner~~
- ~~2. Name, address, email address, signature and telephone number of the operator of the property, if any.~~
- ~~3. If the property owner and operator are not the same person or entity, a notarized Letter of Authorization from the property owner shall be provided with the registration form.~~

~~B. A Transaction Privilege Sales Tax license with the State of Arizona Department of Revenue is required for all Vacation Rentals and Short term rentals.~~

~~C. All rental units, including vacation and short term rentals, shall be registered with Maricopa County, in accordance with A.R.S. § 9-500.39, as amended.~~

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. 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 IV. Providing for Penalties

Any person found responsible for violating the provisions set forth in this ordinance shall be subject to the civil sanctions and habitual offender provisions set forth in Sections 6.12.6 and 6.12.7 of the Town of Gilbert Land Development Code. Each day a violation continues, or the failure to perform any act or duty required by this zoning ordinance, the Zoning Code or by the Town of Gilbert Municipal Court continues, shall constitute a separate civil offense.

PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this _____ day of _____, 20__, by the following vote:

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this ___ day of _____, 20__.

Brigette Peterson, Mayor

ATTEST:

Chaveli Herrera, Town Clerk

APPROVED AS TO FORM:

Christopher W. Payne, Town Attorney

I, CHAVELI HERRERA, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE ___ DAY OF _____, 20__, WAS POSTED IN FOUR PLACES ON THE ___ DAY OF _____, 20__.

Chaveli Herrera, Town Clerk

ORDINANCE NO. 2874

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE CHAPTER 14 – BUSINESS OF THE CODE OF GILBERT, ARIZONA BY AMENDING ARTICLE III RELATING TO REGULATING SHORT-TERM RENTALS; INCORPORATING THE RECITALS BY REFERENCE; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; REQUIRING A LICENSE TO OPERATE A SHORT- TERM RENTAL OR SHORT-TERM RENTAL WITHIN TOWN BOUNDARIES; ESTABLISHING REGULATIONS; ADOPTING NOTIFICATION AND DISCLOSURE REQUIREMENTS; ADOPTING APPLICATION FEES; ESTABLISHING FINES AND PENALTIES FOR VIOLATIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE.

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

WHEREAS the Town of Gilbert deems it necessary to adopt certain regulations regarding the use of property as a short-term rental to protect the health, safety, and welfare of the Town residents;

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

WHEREAS the Town will require all short-term rentals to obtain and maintain a valid Town license, pay licensing fees, provide an emergency point of contact to respond to compliance and emergencies in a timely manner, and provide neighbor notification;

WHEREAS the Town will require all short-term rentals to obtain and maintain a valid transaction privilege tax (“TPT”) license number, provide proof of the TPT license to the Town, and require disclosure of the TPT number on each advertisement;

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

WHEREAS the Town deems it necessary to establish penalties and fines that apply to short-term rentals.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Gilbert, Arizona, as follows:

Section I. General.

Chapter 14 of the Code of Gilbert, Arizona, is hereby amended by amending Article III, Reserved, to read as follows:

ARTICLE III. SHORT-TERM RENTALS

- Sec. 14-76 Purpose.
- Sec. 14-77 Definitions.
- Sec. 14-78 License Required; Penalties.
- Sec. 14-79 Emergency Point of Contact Requirements; Penalties.
- Sec. 14-80 Compliance with the Law; Prohibited Uses.
- Sec. 14-81 Neighbor Notification Required.
- Sec. 14-82 License Suspensions.
- Sec. 14-83 Enhanced Penalties.
- Sec. 14-84 Appeals.
- Sec. 14-85 Judicial Relief.
- Sec. 14-86 Violations and Civil Sanctions.
- Sec. 14-87 Severability.

Sec. 14-76 Purpose.

This Article is adopted to protect the health, safety, and welfare of the community of the Town by enacting reasonable regulations for short-term rentals and vacation rentals. These regulations are in addition to other codes of the Town.

Sec. 14-77 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 short-term rental purposes.

“Applicant” means the owner or owner’s designee who applies with the Town for a license or renewal of a license.

“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. For purposes of this Article, “Designee” also 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 short-term rental; and
- (ii) respond to complaints and emergencies relating to the short-term 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 short-term rental property, directly across from the short-term rental property, and diagonally across the street of the short-term rental property that includes the physical address of the short-term 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 Town 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.

“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. “Short-term rental” does not include:

- (i) accommodations that are 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 one (1) hour if requested by law enforcement or within 24 hours for non-emergency requests.

“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.

“Verified violation” has the same meaning prescribed in A.R.S. § 9-500.39(L)(4).

Sec. 14-78 License Required; Penalties.

(A) *License required.* Prior to use of a property as a short-term rental, the owner shall obtain an annual short-term rental license from the Town. Renting, or offering for rent, a short-term rental without complying with the license requirement in this Section is prohibited.

(B) *License applications.* The owner of a proposed short-term rental shall submit to the Town a license application on a form furnished by the Town. The license 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 short-term rental.
- (2) The name, address, email address, and telephone number of the owner for which the short-term 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, email address, and telephone number of each designee of the owner, if any.
- (4) The name, address, email address, and telephone number of an agent authorized by appointment or by law to receive service of process.
- (5) The full name, address, email address, and twenty-four (24) hour telephone number of the individual who will serve as the emergency point of contact.
- (6) Proof of a valid transaction privilege tax license.
- (7) Attestation of compliance with the notification required in this Article.
- (8) Evidence that the short-term rental is registered with Maricopa County Assessor’s Office in accordance with A.R.S. § 33-1902.

(9) 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) *License fee.* Every application, including any renewal application, for a short-term rental license under this Article shall be accompanied by a non-refundable fee of \$100 as established by Town Council resolution.

(D) *Issuance; reasons for denial.* The Town shall issue or deny the license within seven (7) business days after receipt of a complete application, except that the Town may deny issuance of a license 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 license 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 license for the same short-term rental or any of the following applies: (a) one violation at the short-term rental that resulted in or constituted any of the offenses described in Section 14-83 or (b) three violations of this Article at the short-term 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 Town Finance and Management Services Director or designee shall give notice of the denial of an application to the applicant by emailing the notice to applicant at the email address on file. The notice of the denial shall inform the applicant of the right to appeal the denial as provided for in Section 14-84. Service of the notice shall be deemed complete once the email is sent to the licensee.

(F) *Maintaining Accurate Information.* All applicants and persons holding licenses issued pursuant to this Article shall give written notice to the Town Finance and Management Services Director or designee of any change in information submitted in connection with an application for a license or renewal of a license. The notice shall be provided to the Town Finance and Management Services Director not less than ten (10) days prior to the effective date of the change. Any information required for an application under this Section is deemed to be material for purposes of this Section.

(G) *Term of License; Renewal application.* All licenses issued under this Article shall be valid for a period of one (1) year from the date of their issuance. Except where the Town has received a new application along with the requisite fees, it shall be unlawful for any person to operate a short-term rental after the expiration date recorded upon the face of the short-term rental license.

(H) *Operating Without a License; Penalties.* It shall be unlawful for a short-term rental to operate in the Town without a license. A short-term rental that fails to apply for a license within thirty (30) days of the license application being made available by the Town shall immediately cease operations. In addition to any other penalty pursuant to the Town Code, an owner shall be subject to a civil penalty of up to \$500 per month if the owner or owner's designee fails to apply for license within 30 days of receiving the written notice of violation from the Town. Representations or advertisements including online listings that reference the property, house or dwelling unit location within the Town is prima facie evidence that a short-term rental is operating in the Town.

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

(J) *Implementation.* The Town Finance and Management Services Director or designee shall develop the necessary forms and/or database necessary to implement this Section.

Sec. 14-79 Emergency Point of Contact Requirements; Penalties.

(A) *Emergency Responses.* When requested by a police officer, the owner or emergency point of contact whose name appears on the license application must be on the short-term rental premises, or be available over the phone or text, within one (1) hour of the request.

(B) *Non-emergency Responses.* The owner or emergency point of contact shall respond to all other complaints relating to the short-term 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 licensed short-term rental owners pursuant to this Article shall give prior written notice to the Town Finance and Management Services Director or designee of any change to the contact information provided to the Town for the emergency point of contact. The notice shall be provided to the Town Finance and Management Services Director not less than ten (10) days prior to the effective date of the change. The failure to provide prior written notice to the Town of the change is a violation of this Section.

(D) *Use of a Designee.* The failure of any emergency point of contact to comply with the response requirements shall not relieve the owner of liability under this Section.

(E) *Penalties.* In addition to any other penalty pursuant to the Town Code, an owner shall be subject to civil penalties of up to \$500 for every thirty (30) days the owner fails to provide notice to the Town as required under this subsection.

Sec. 14-80 Compliance with the Law; Prohibited Uses.

(A) A short-term rental shall comply with the federal, state, and local laws and regulations, including but not limited to 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) The use of a short-term 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 Town Code, Town of Gilbert Land Development Code, 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 any adult-oriented business including nude and topless dancing;
- (8) Obscenity; or
- (9) Any other use prohibited by A.R.S. § 9-500.39 or the Town Code.

(C) A short-term 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 shall operate a short-term rental in violation of this Article or other law.

(E) No person or entity may receive payment or accept a fee, directly or indirectly, for facilitating the rental of a short-term rental operating in violation of this Code or other law.

(F) In addition to any other penalty pursuant to the Town Code, it shall be unlawful for any person to cause, allow, facilitate, aide, or abet any violation of this Article.

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

Sec. 14-81 Neighbor Notification Required.

(A) *Neighbor notification.* Prior to offering a short-term rental for rent for the first time, the owner or designee shall provide neighbor notification to each single-family residential property adjacent to the short-term rental property, directly across from the short-term rental property, and diagonally across the street of the short-term rental property. The neighbor notification shall be provided in writing in the form required by the Town and shall include the following minimum information:

- (1) The physical address of the short-term rental; and

(2) 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.

(C) *Attestation.* At the time of the application, the owner or designee shall provide to the Town an attestation of compliance with the neighbor notification required by this Section.

Sec. 14-82 License Suspensions.

(A) *License suspensions.* The Town may initiate an administrative process to suspend a short-term rental license 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 short-term rental by the owner of the short-term rental or by the owner's designee;

(b) A serious physical injury or wrongful death at or related to a short-term rental resulting from the knowing, intentional, or reckless conduct of the owner of the short-term rental or the owner's designee;

(c) The owner of the short-term 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 short-term rental or the owner's designee knowingly or intentionally allowing the use of a short-term rental for a special event that would otherwise require a permit or license pursuant to the Town 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 license may be appealed by the owner as set forth in Section 14-84.

Sec. 14-83 Enhanced Penalties.

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

(B) In addition to any other penalty pursuant to the Town Code, and notwithstanding any other law, an owner shall be responsible for a civil penalty in the following amounts if the owner or its

designee 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 short-term rental property within the same twelve-month period:

- (1) Up to \$250 or up to an amount equal to one night's rent for the short-term rental as advertised, whichever is greater, for the first violation.
- (2) Up to \$500 or up to an amount equal to two nights' rent for the short-term rental as advertised, whichever is greater, for the second violation.
- (3) Up to \$1,750 or up to an amount equal to three nights' rent for the short-term 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 short-term rental, those violations are considered one violation for the purpose of assessing civil penalties.

Sec. 14-84 Appeals.

(A) Any person aggrieved by any decision with respect to the denial of or a refusal to issue a short-term rental license or the suspension of a short-term rental license, may appeal the decision by filing a written notice of appeal with the Town Finance and Management Services Director no later than thirty (30) days from the date of the decision is emailed. The notice of appeal shall be on a form approved by the Town.

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

(C) This Section is not applicable to judicial actions brought pursuant to Section 14-85 or to sanctions, penalties, or fines imposed by a court.

Sec. 14-85 Judicial relief.

(A) Any attempted or completed felony act, arising from the occupancy or use of a short-term 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 short-term rental for a period that shall not exceed twelve (12) months.

(B) The Town attorney may initiate proceedings in the Gilbert Municipal Court or other court of competent jurisdiction to enforce this Section.

Sec. 14-86 Violations and Civil Sanctions.

Except for (i) the Town's denial of short-term rental license applications or (ii) the suspension of short-term rental licenses (which are subject to appeal as set forth in Section 14-85), the Gilbert Municipal Court shall have jurisdiction over violations of this Article. Any person found responsible for violating any provision of this Article shall be subject to the penalties provided in this Article and the civil sanction and habitual offender provisions set forth in Section 1-5 of the Gilbert Municipal Code.

Sec. 14-87 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.

Section II. Penalties.

Any person found responsible of violating any provision of this Ordinance shall be subject to the violation and penalty provisions as set forth above and subject to the civil sanction and habitual offender provisions set forth in section 1-5 of the Gilbert Municipal Code.

Section III. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section IV. Recitals.

The recitals above are fully incorporated in this Ordinance by reference.

Section V. Effective Date.

The effective date of this Ordinance shall be 30 days following adoption by the Town Council.

Section VI. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section VII. 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.


PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this 20th day of June, 2023, by the following vote:

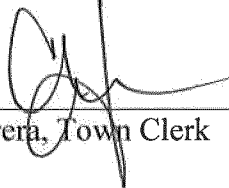
AYES: Anderson, Bongiovanni, Buchi, Koprowski, Peterson, Tilque, Torgeson

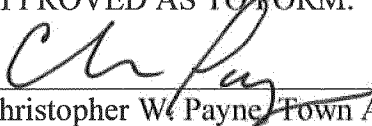
NAYS: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

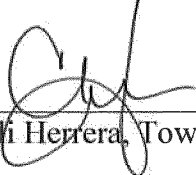
APPROVED this 20th day of June, 2023.


Brigitte Peterson, Mayor

ATTEST:

Chaveli Herrera, Town Clerk

APPROVED AS TO FORM:

Christopher W. Payne, Town Attorney

I, CHAVELI HERRERA, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 2874 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE 20TH DAY OF JUNE, 2023, WAS POSTED IN ONE PLACE ON THE 21ST DAY OF JUNE, 2023.


Chaveli Herrera, Town Clerk