



PRESCOTT CITY COUNCIL MEETING AGENDA

STUDY SESSION MEETING AGENDA

TUESDAY, OCTOBER 11, 2016, 1:00 PM

Council Chambers, 201 S. Cortez Street
Prescott AZ 86303
(928) 777-1100

Harry Oberg, Mayor

Jim Lamerson, Mayor Pro Tem

Steve Blair, Councilman

Greg Lazzell, Councilman

Billie Orr, Councilwoman

Steve Sischka, Councilman

Jean Wilcox, Councilwoman

The following Agenda will be considered by the Prescott City Council at its **Study Session Meeting** pursuant to the Prescott City Charter, Article II, Section 13. Notice of the meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02. One or more members of the Council may be attending the meeting through the use of a technological device.

1. CALL TO ORDER

2. ROLL CALL

3. DISCUSSION

- A. Presentation by Public Works of Various Capital Improvement Program (CIP) Project Delivery Methods
- B. Discussion/direction regarding adoption of a residential vacation rental ordinance
- C. Requests for information re October 11, 2016, Voting Meeting agenda items

4. ADJOURNMENT

EXECUTIVE SESSION

Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

- (i) Discussion or consideration of personnel matters (A.R.S. §38-431.03(A)(1));

- (ii) **Discussion or consultation for legal advice with the city’s attorneys (A.R.S. §38-431.03(A)(3));**
- (iii) **Discussion or consultation with the city’s attorneys regarding the city’s position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid litigation (A.R.S. §38-431.03(A)(4));**
- (iv) **Discussion or consultation with designated representatives of the city to consider its position and instruct its representatives regarding negotiations with employee organizations (A.R.S. §38-431.03(A)(5));**
- (v) **Discussion, consultation or consideration for negotiations by the city or its designated representatives with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city (A.R.S. §38-431.03(A)(6));**
- (vi) **Discussion or consultation with designated representatives of the city to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. §38-431.03(A)(7)).**

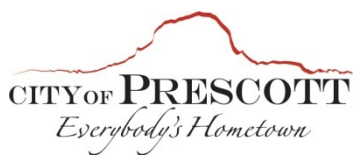
Confidentiality

Arizona statute precludes any person receiving executive session information from disclosing that information except as allowed by law. A.R.S. §38-431.03(F). Each violation of this statute is subject to a civil penalty not to exceed \$500, plus court costs and attorneys’ fees. This penalty is assessed against the person who violates this statute or who knowingly aids, agrees to aid or attempts to aid another person in violating this article. The city is precluded from expending any public monies to employ or retain legal counsel to provide legal services or representation to the public body or any of its officers in any legal action commenced for violation of the statute unless City Council takes a legal action at a properly noticed open meeting to approve of such expenditures prior to incurring any such obligation or indebtedness. A.R.S. §38-431.07(A)(B).

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall on _____ at _____ m. in accordance with the statement filed by the Prescott City Council with the City Clerk

Dana R. DeLong, CMC, City Clerk

**COUNCIL AGENDA MEMO**

MEETING DATE/TYPE: **STUDY SESSION MEETING** **10-11-16**

DEPARTMENT: **Public Works**

AGENDA ITEM: Presentation by Public Works of Various Capital Improvement Program (CIP) Project Delivery Methods

Approved By: Craig McConnell, City Manager

Item Summary

The presentation will provide an overview of various delivery methods available to the City for projects within the Capital Improvement Program (CIP). The most commonly used method used by the City today is Design-Bid-Build. Three additional delivery options will be presented: Design-Build, Construction Manager at-Risk (CMAR) and Job Order Contracting (JOC).

The presentation is being provided as a prelude to Public Works' recommendation that the SCADA and Production Well Rehabilitation projects be procured via the Design-Build method.

Attachments

1. CIP Project Delivery Presentation

Recommended Action: Presentation for Council information, discussion, and comments.



**Capital Improvement Program
Overview of Project Delivery Methods
Public Works Department
October 11, 2016**

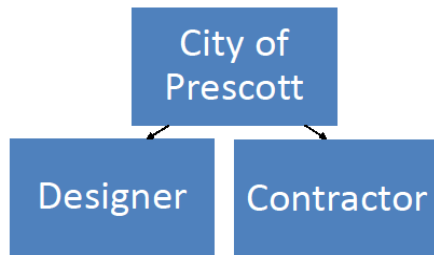


Overview of Project Delivery Methods

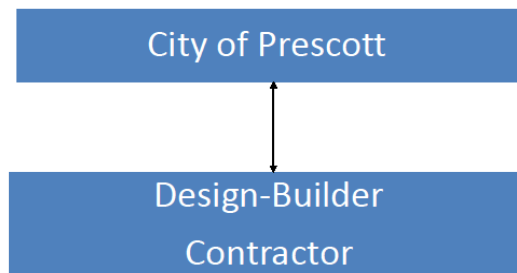
- v Design – Bid – Build (DBB) (Most Common)
- v Design – Build (DB)
- v Construction Manager at-Risk (CMAR)
- v Job Order Contracting (JOC)

Overview of Project Delivery Methods

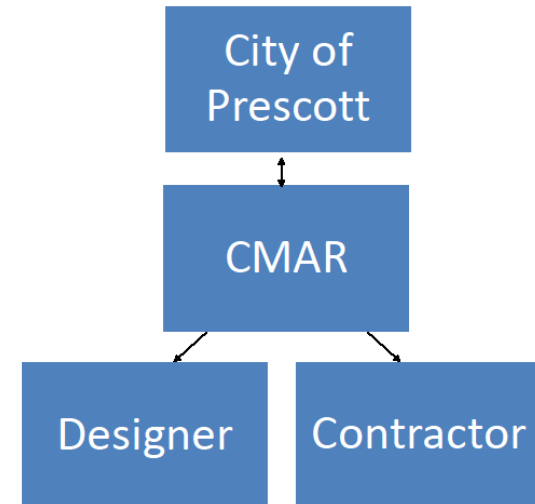
Design-Bid-Build



Design-Build



CMAR





Overview of Project Delivery Methods

- v Collaboration between City-Designer-Contractor
- v Schedule Control
- v Cost Control
- v Contract Management



Overview of Project Delivery Methods – Key Features

Design-Bid-Build	Design-Build	CMAR	JOC
Two Contracts	One Contract	One Contract	Multiple Contracts
Designer and Contractor Work Independently with City	Designer and Contractor Collaborate	Designer and Contractor Collaborate	City Directs Work
Low Bid	Guaranteed Maximum Price	Guaranteed Maximum Price	Fixed Pricing



Overview of Project Delivery Methods – Benefits to City

Public Works Department

Design-Bid-Build	Design-Build	Construction Manager At-Risk	Job Order Contracting (JOC)
Proven System	Fewer Changes	CMAR Controls Project	Quick Job Completion
Low Bid	Known Price	Known Price	Known Price
Designer and Contractor Work for City	Increased Constructability	Increased Constructability	
City Controls Schedule	DB Controls Schedule	Better Long Term O&M	
		CMAR Controls Schedule	



What Delivery Method is Best?

Job Order Contracting (JOC)

- Small, routine, specific projects
- Examples: Sidewalk panel replacement, roof repairs, minor pavement projects, etc.

Design – Bid –Build

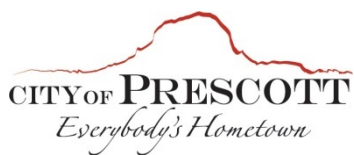
- Traditional Method – Most commonly used.
- Straight forward construction projects.
- Examples: Water, sewer, storm drain line construction, Roadway Reconstruction, etc.

Design- Build

- Best suited for project with many unknowns.
- Contractor input during design
- Examples: SCADA Standardization, Production Well Rehabilitation Program

Construction Manager At-Risk (CMAR)

- Best suited for large, complex projects, potential long term O&M is desired.
- Advocate for City that directs Designer and Contractor
- Examples: Granite Dells Parkway/SR89A Interchange, Airport Wastewater Treatment Plant

**COUNCIL AGENDA MEMO****MEETING DATE/TYPE:****STUDY SESSION MEETING****10-11-16****DEPARTMENT:** City Attorney**AGENDA ITEM:** Discussion/direction regarding adoption of a residential vacation rental ordinance**Approved By:** Craig McConnell, City Manager**Item Summary**

The purpose of the attached draft ordinance is to establish regulations for rentals of vacation residential property, enabling the City to preserve the public health, safety, and welfare. The ordinance will not impose further regulations on hotels, motels, inns, or similar types of business uses otherwise regulated by City Code or the City Land Development Code.

Background

The current Prescott Land Development Code prohibits rentals of residential units for less than 30-days in residentially zoned areas of the City. This prohibition effectively bans the use of residential properties as short-term (i.e., weekend or one week) vacation rentals. In 2016, the Arizona legislature adopted A.R.S. §9-500.39 which takes effect on January 1, 2017, and which prevents cities and towns from prohibiting vacation rentals or short-term rentals in residential zones. In response to the new state law, Council can anticipate seeing three ordinances for approval in the near future. The first will amend the Prescott Land Development Code (LDC) to allow for vacation or short-term rentals in residentially zoned areas. That ordinance will mostly be a “house-keeping” ordinance and mainly revise definitions in the LDC. The second ordinance will be a minor revision to the Building Code to require building safety and fire inspections of vacation rental units before issuance of permits and licenses allowing the use. The third ordinance, attached hereto, provides for operational regulations and performance standards for short-term and vacation rentals, in order to mitigate the impact of vacation-type uses in residential neighborhoods.

If adopted, the attached ordinance will require, among other things, the owner/operator of a vacation rental to obtain a annually issued vacation rental registration certificate from the City (in addition to obtaining business and transaction privilege tax TPT licenses).

AGENDA ITEM: Discussion/direction regarding adoption of a residential vacation rental ordinance

In order to obtain the certificate, the owner must complete an application that includes the address of the vacation rental property, the name, address, and telephone number of the owner, the name, address, and telephone number of any agent or property manager, the name, address, and 24-hour telephone number of the local contact person and verification that the local contact can respond in-person to the site of the vacation rental within 45 minutes, evidence that the applicant has provided the name and 24-hour telephone number of the local contact to all property owners within 300 feet of the property, and the number of bedrooms in the vacation rental.

A vacation rental will be allowed a maximum occupancy of two persons, plus an additional two persons per bedroom. The primary purpose of the ordinance is to mitigate short-term rental type impacts on residential neighborhoods (e.g., noise, parking, trash, disorderly conduct, etc.). The owner or agent will be responsible for ensuring that vacation renters comply with the operational and performance standards set forth in the ordinance.

Other City and state law regulations such as the City Property Maintenance Code, Disruptive Property Ordinance, noise regulations and nuisance laws, will also apply to vacation rentals in the same manner as applied to other residential and commercial uses throughout the City.

Financial Impact

According to a recent estimate by an outside vendor using search software to identify vacation rental sites, Prescott is home to approximately 165 vacation rentals. Under the City's new business license code, effective January 1, 2017, vacation rental owners/operators will be required to obtain a city business license as well as a TPT license. Because vacation rentals are short-term, the transactions are subject to both TPT and transient occupancy (bed) taxes.

Attachments

1. Draft Vacation Rental Ordinance

Recommended Action: For discussion and direction only.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AMENDING PRESCOTT CITY CODE TITLE IV (BUSINESS REGULATIONS) BY ADDING A NEW CHAPTER 4-9 (VACATION RENTALS).

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. Prescott City Code Title 4 (Business Regulations) is hereby amended by adding a new Chapter 4-9 (Vacation Rentals), as follows:

4-9-1 Purpose and Applicability

A. The purpose of this chapter is to establish regulations for vacation rental use of residential property enabling the city to preserve the public health, safety, and welfare.

B. This chapter is not intended to further regulate hotels, motels, inns, time-share units, bed and breakfasts, or non-vacation type rental arrangements including, but not limited to, lodging houses, rooming houses, convalescent homes, rest homes, halfway homes, or rehabilitation homes.

4-9-2 Definitions

For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. The owner or in the event the vacation rental is covered by an exclusive listing arrangement, the agent or representative of the owner.

BEDROOM. An area of a vacation rental normally occupied for sleeping and being heated or cooled by any equipment for human habitation, which is 100 square feet and greater in size, with at least 1 horizontal distance measuring at least 7 feet, having 4 walls to the ceiling, at least 1 of which is located along an exterior wall with a window, and containing a built-in closet.

EXCLUSIVE LISTING ARRANGEMENT. A written agreement between an owner and an agent or representative where the agent or representative has the sole and exclusive right to rent or lease a vacation rental unit to any person and the owner is prohibited from renting or leasing the vacation rental unit except through the owner's agent or representative.

GOOD NEIGHBOR BROCHURE. A document that summarizes general rules of conduct, consideration, and respect, including without limitation provisions of the Prescott Municipal Code applicable to or expected of residents of the city.

LOCAL CONTACT PERSON. A local property manager, owner or owner's agent, who is available 24 hours per day, 7 days per week for the purpose of responding in-person within 45 minutes to complaints regarding the condition, operation, or conduct of occupants of the vacation rental, or any owner's agent authorized by the owner to take remedial action and who responds to any violation of this code.

OWNER. The person(s) or entity(ies) that hold(s) legal or equitable title to a vacation rental.

PROPERTY. A residential legal lot of record on which a vacation rental is located.

RENTAL TERM. The period of time a responsible person rents or leases a vacation rental.

RESPONSIBLE PERSON. An occupant of a vacation rental who shall be legally responsible for compliance of all occupants of the unit and their guests with all provisions of this chapter and this code.

VACATION RENTAL. One or more residential dwellings, including either a single-family detached or multiple-family attached unit, or any portion of such a dwelling, including associated yards, rented for occupancy for dwelling, lodging, or sleeping purposes for a period of 29 consecutive days or less, other than ongoing month-to-month tenancy granted to the same renter for the same unit, occupancy on a time-share basis, or a condominium hotel.

VACATION RENTAL REGISTRATION CERTIFICATE or REGISTRATION CERTIFICATE. An annual registration submitted to the city pursuant to this chapter.

4-9-3 Registration Certificate and Advertisement Display Required

A. No owner of a vacation rental shall rent a vacation rental for a period of 29 consecutive days or less without a valid vacation rental registration certificate.

B. The current vacation rental registration certificate number issued by the city shall be displayed in a clear and legible manner on all advertising related to each vacation rental, including without limitation, web based advertising, print media, and television.

4-9-4 Agency

A. An owner may retain an agent or a representative to comply with the requirements of this chapter, including, without limitation, the filing of a complete vacation rental registration, the management of the vacation rental unit or units, and the compliance

with the requirements of this chapter. Except as provided in subsection B. of this section and notwithstanding any agency relationships between an owner and an agent or representative, the owner of the vacation rental unit or units shall remain responsible for compliance with the provisions of this chapter and the failure of an agent to comply with this chapter shall not relieve the owner of the owner's obligations under the provisions of this chapter.

B. In the event an owner enters into an exclusive listing arrangement, the vacation rental registration certificate may be secured, and the transient occupancy registration certificate requirements provided in this chapter may be performed, by the agent or representative and not by the owner.

4-9-5 Vacation Rental Registration Requirements

A. Prior to use of a property as a vacation rental, the applicant shall register the property as a vacation rental with the city annually on a registration form furnished by the city and signed by the applicant under penalty of perjury. Each application shall contain the following information:

1. The address of the residential property proposed to be used as a vacation rental.
2. The name, address, and telephone number of the owner of the unit for which the vacation rental registration certificate is to be issued.
3. The name, address, and telephone number of the agent, if any, of the owner of the unit.
4. The name, address, and 24-hour telephone number of the local contact person and verification that the local contact person can respond in-person to the site of the vacation rental within the time frames provided in this Chapter 4-9.
5. Evidence that the applicant has provided the name and 24-hour telephone number of the local contact person to all property owners, as shown in the Yavapai County Assessor's records, within 300 feet of the vacation rental property.
6. The number of bedrooms in the vacation rental unit.
7. The applicable overnight occupancy limit of the unit consistent with the provisions of this chapter.
8. Evidence of a valid business license issued by the city for the separate business of operating vacation rentals.

9. Evidence of a valid transaction privilege tax license issued by the City or the State of Arizona for the vacation rental unit.
- B. The vacation rental application shall be accompanied by a fee established by City Council Resolution.
- C. A vacation rental registration certificate may be denied if a registration certificate for the same unit and issued to the same owner was previously revoked pursuant to this chapter.
- D. A vacation rental registration certificate may be denied for failing to provide required information or for failure to pay amounts owed to the city for penalties, interest, fees, charges, transaction privilege taxes, sewer connection fees, or any other amounts owed to the city for any other reason. Any applicant who has a current debt related to any open or closed account maintained or formerly maintained with the city shall be ineligible to receive any new or additional licenses until such debt has been resolved to the satisfaction of the city.
- E. Like all properties in the City of Prescott, the property must be maintained in full compliance with all city building codes, the Prescott Municipal Code, and the Prescott Land Development Code.
- F. Upon change of property owner, owner's agent, or other material facts set forth in the annual registration, a new registration for a vacation rental shall be required to continue operation of the vacation rental and within 14 days of said change the owner or owner's agent shall submit the required registration and fee.
- G. The denial of a registration certificate for any reason may be appealed in writing to the City Manager.
- H. A vacation rental registration certificate shall be in effect and valid for 1 year, or any portion of a year, from the date of application and shall require renewal each year thereafter.

4-9-6 Operational Requirements and Standard Conditions

- A. The owner shall be responsible to ensure that the vacation rental unit complies with all applicable codes regarding fire, building, health and safety, and all other relevant laws.
- B. The local contact person shall limit overnight occupancy of the vacation rental unit to a maximum number of overnight occupants equal to 2 persons, plus an additional 2 persons per bedroom within the vacation rental unit. The number of bedrooms in a vacation rental may be verified by staff using County Assessor or city building records or by inspection, prior to the issuance of a certificate. The following chart is provided as an example of how this section would be applied to specific situations:

Number of Bedrooms	Total of Overnight Occupants
0	2
1	4
2	6
3	8
4	10
5	12
6	14
7	16

C. During the rental term each vacation rental unit is rented, the local contact person shall be available 24 hours per day, 7 days per week for the purpose of responding in-person within 45 minutes to any initial or successive complaints regarding the condition, operation, or conduct of occupants of the vacation rental.

D. The local contact person shall be responsible to ensure that the occupants and guests of the vacation rental unit do not create unreasonable noise disturbances, engage in disorderly conduct, or violate provisions of the code or any state law.

E. The local contact person shall be responsible to ensure that trash and refuse shall not be left stored within public view except as allowed in Chapter 12-13-16(A)(2).

F. The local contact person shall be responsible to ensure that noise levels shall not exceed those described in Chapter 5-4.

G. Prior to occupancy pursuant to each separate occasion of rental of a vacation rental, the owner or the owner's agent or representative shall enter into a written rental agreement with a responsible person where (1) the responsible person will provide the responsible person's name, age, address, and a copy of a government issued identification; (2) establishes and sets out the terms and conditions of the rental agreement, including without limitation occupancy limits, trash disposal, and noise prohibitions; (3) requires the responsible person to acknowledge and agree that he or she is legally responsible for compliance of all occupants of the vacation rental or their guests with all provisions of this chapter and the code; (4) provides a copy of the "Good Neighbor Brochure" to the responsible person. Each rental agreement shall be maintained by the owner or the owner's agent for a minimum of 2 years and shall be

readily available for inspection upon request of the City. Notwithstanding a rental agreement between the responsible person and owner, the owner of the vacation rental unit or units shall remain responsible for compliance with the provisions of this Chapter and the failure of the responsible person to comply with this chapter or the rental agreement shall not relieve the owner of the obligations under the provisions of this chapter.

H. The local contact person shall, upon notification that the responsible person, including any occupant or guest of the vacation rental unit, has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of provisions of the code or any state law, shall promptly respond in a timely and appropriate manner to prevent a recurrence of such conduct by those occupants or guests.

For the purpose of this subsection and subsection I. below, the phrase “in a timely and appropriate manner” shall mean each of the following components:

1. Telephonic contact with the responsible person at the subject vacation rental unit within 30 minutes of a call for each incident during a rental term.
2. In-person contact at the subject vacation rental unit within 45 minutes of a call if contact with the responsible person is not made by telephone for each incident during a rental term;
3. If the local contact person must be contacted by the hotline with a complaint, the local contact person must report back to the hotline of the disposition and handling of the reported incident within 45 minutes of each call from the hotline for each incident during a rental term.

I. Failure of the local contact person to respond to calls or complaints from the hotline regarding the condition, operation, or conduct of occupants of the vacation rental in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this chapter. It is not intended that a local contact person act as a peace officer or place him/herself in an at-risk situation.

J. The local contact person shall post a copy of the vacation rental registration certificate and a copy of the conditions set forth in this section in a conspicuous place within the vacation rental unit.

K. The local contact person shall provide the responsible person of a vacation rental with the following information prior to occupancy of the unit and post such information in a conspicuous place within the unit:

1. The name of the local contact person and a telephone number at which that party may be reached on a 24-hour basis;

2. A “Good Neighbor Brochure” as defined in this chapter;
 3. The maximum number of overnight occupants permitted to stay in the unit;
 4. The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property;
 5. Notification that noise levels shall not exceed those described in Chapter 5-4.
 6. Notification that the occupant may be cited or fined by the city and may be evicted by the local contact person pursuant to state law, in addition to any other remedies available at law, for creating a disturbance or for violating other provisions of this chapter;
 7. Notification that failure to conform to the occupancy requirements of the vacation rental unit is a violation of this chapter;
 8. A copy of this chapter, as may be amended from time to time.
- L. The use of a vacation rental unit shall not violate any applicable conditions, covenants, or other restrictions on real property.
- M. The owner shall comply with all provisions of Chapter 4-1 and the city Model Tax Code concerning transient occupancy taxes and city business licensing.
- N. The standard conditions may be modified by the City upon request by the owner or owner’s agent based on site-specific circumstances for the purpose of allowing reasonable accommodation of a vacation rental. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a vacation rental would not be allowed. Any hardships identified must relate to physical constraints to the subject site and shall not be self-induced or economic. Any modifications of to the standard conditions shall not further exacerbate an already existing problem.

4-9-7 Audit

Each owner, or owner’s agent, shall provide access to each vacation rental and any records related to the use and occupancy of the vacation rental to the City Manager or designee at any time during normal business hours, for the purpose of inspection or audit to determine that the objectives and conditions of this chapter are being fulfilled.

4-9-8 Violations

A. Any person who uses, or allows the use of, residential property in violation of the provisions in this chapter is guilty of a misdemeanor for each day in which the

residential property is used, or allowed to be used, in violation of this chapter. Violations are punishable pursuant to Chapter 1-3 and Chapter 1-14 of the City Code.

B. Notwithstanding the provisions of Article 1, any citation or courtesy notice issued for violations of the City Code to provide for a reasonable compliance date or time, a shorter compliance period may be required or a citation may be issued if, due to the nature of the violation, a shorter compliance period is necessary or appropriate, as determined in the reasonable judgment of the city official issuing the citation or notice.

C. Upon the third or any subsequent violation of this Chapter or any other provision of the City Code in any 12-month period, the City Manager or his designee may suspend or revoke the vacation rental registration certificate for a vacation rental unit.

D. Any person who fails to timely register a vacation rental shall pay a fine in the amount of triple the fee set by City Council Resolution as provided in Section 4-6-5.B of this Chapter. Such penalty may also include interest from the date on which the fee or charge became due and payable to the city until the date of payment.

E. The remedies provided for in this section are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this code or other public nuisance.

4-9-9 Requirements Not Exclusive

The requirements of this Chapter shall be in addition to any license, permit, or fee required under any other provision of this code. The issuance of any permit pursuant to this chapter shall not relieve any person of the obligation to comply with all other provisions of this code pertaining to the use and occupancy of vacation rental or the property on which it is located.

SECTION 2. 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 decision, such decision shall not affect the validity of the remaining portions thereof.

SECTION 3. Clerical Corrections.

The City Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary, related to this ordinance as amended herein, and to make formatting changes needed for purposes of clarity and form or consistency within thirty (30) days following adoption by the City Council.

SECTION 4. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona on this ____ day of _____, 2016.

HARRY B. OBERG
Mayor

ATTEST:

APPROVED AS TO FORM:

DANA DeLONG
City Clerk

JON M. PALADINI
City Attorney