

BILL NO. 2023-01 INTRODUCED BY TRUSTEE 

ORDINANCE NO. 2023-01

COPY

AN ORDINANCE AMENDING ORDINANCE 92-1 BY
ADDING THERETO REGULATIONS FOR SHORT TERM
RENTAL UNITS

BE IT ORDAINED by the Board of Trustees of the Town of Augusta, Missouri,
as follows:

SECTION 1: Purpose –

1. The purpose of this Ordinance is to establish regulations for short term rental units in order to ensure an appropriate balance of residential and commercial properties; to preserve the community and cohesiveness of the Town's residents; and to safeguard the peace, safety and general welfare of neighborhoods by minimizing negative secondary affects related to short term rental units including excessive noise, disorderly conduct, illegal parking, overcrowding, and excessive accumulation of refuse, and improve responsiveness to neighbors' complaints, all within the Town of Augusta, Missouri. This Ordinance is adopted pursuant to the Town's police power to preserve the Town's permanent housing stock, balance the economic opportunity created by short-term rentals with the need to maintain a supply of long-term rental housing stock available at a range of prices, reduce any indirect negative effects on the availability of affordable housing that results from the dedication of long term housing stock to short-term rental use, create a level playing field for all parties engaged in the business of providing lodging, mitigate the disruptive effects that unmonitored short-term rentals can have on neighborhoods, and protect the livability and quality of life of the Town's residential neighborhoods.

The Board of Trustees acknowledges there are thirteen (13) existing short-term rental units as of the Effective Date of this Ordinance. Those existing short-term rental units will be allowed to continue to operate by complying specifically with the requirements in section 5.d below and with the rest of this Ordinance. The Town will allow of maximum of fifteen (15) short-term rental units total.

2. Definitions –

a. For the purpose of this Ordinance, the following words and phrases shall have the meaning ascribed to them by this Ordinance;

b. "Actively Operating" means a short-term rental that is rented out/occupied for a total of more than 18 days per calendar year.

- c. “Apartment” means a rented room or set of rooms that is part of a residential building and is used as a place to live for 28 days or longer.
- d. “Applicable Laws, Rules, and Regulations” means any laws, rules, regulations, and codes (whether local, state, or federal) pertaining to the use and occupancy of a privately-owned residential dwelling or a short-term rental unit.
- e. “Applicant” means a person applying for a Short-Term Rental Unit permit or renewal of permit.
- f. “Good Neighbor Brochure” means a document prepared by the Town of Augusta, as may be revised from time to time that summarizes the general rules of conduct, consideration and respect t pertaining to the use and occupancy of Short-Term Rental Units.
- g. “Owner’s Agent or Operator” means an individual or business entity who is designated as the Owner’s agent to act on the Owner’s behalf to ensure compliance with this Ordinance. “Operator” may be the “Owner”.
- h. “Owner” means any person or entity having fee-title ownership.
- i. “Property” means the actual single-family house or other residential dwelling unit including all of its improved real property, which is used as a short-term rental.
- j. “Responsible Person” means a Short-Term Rental Unit occupant who is at least 21 years of age and who is legally responsible for ensuring that all occupants of the short-term rental unit and/or their guests comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental unit.
- k. “Short-Term Rental Unit” means a privately-owned residential dwelling or other property (but not a hotel or bed and breakfast), including, without limitation a single family detached or multiple-family attached unit (not including apartments), second unit dwelling, lodging or rooming house, condominium, duplex, triplex, quadplex, mobile home or house trailer at a fixed location, or any portion of such dwelling or other property rented for lodging or sleeping purposes for any period of less than 28 days.

A “short-term rental unit” is different from a “bed and breakfast,” as 1.040.2.d. of the Code defines. The difference between the two is based on several factors and is ultimately the decision of the Town Board. Both provide overnight lodging to guests.

Whether a property constitutes a “bed and breakfast” or a “short-term rental unit” is determined on a case-by-case basis.

The individual circumstances of each property determine the weight the Town Board assigns different factors. There is no one factor or set number of factors that makes the property a bed and breakfast or a short-term rental unit, and no one factor alone makes this determination. The factors used to evaluate a property and to determine whether it is a “bed and breakfast” or a “short-term rental unit” include:

- Access to space: A guest of a bed and breakfast typically has exclusive control and access over one room or a specific area of a building, whereas a guest of a short-term rental unit typically has exclusive control and access over the entire building.
- Personal Host: A bed and breakfast is typically hosted by a person who personally hosts the guests, prepares meals for them, and serves and assists the guests in person. That person is typically an owner of the bed and breakfast or an owner of a company that owns the bed and breakfast. On the other hand, a short-term rental unit is typically unhosted, the guests do not share the building with a host during the guests’ rental, and a host typically does not perform the functions listed above.
- Bona fide meals: A bed and breakfast typically serves fresh, prepared breakfast or other *bona fide* meals to the guests. A short-term rental unit typically does not do so and guests are either responsible for their own meals or may partake in pantry food left in the short-term rental unit.
- Groups of guests: A building operating as a bed and breakfast typically has between two and four guest rooms, so between two and four groups of unrelated guests may occupy the building at the same time. On the other hand, a short-term rental unit typically has only one group of guests occupying the building at one time.

For these purposes a “bed and breakfast” includes a “bed and breakfast residence,” as section 2.040.2(c) mentions. A “bed and breakfast residence” is defined as a “bed and breakfast” in which the host of the bed and breakfast lives as his or her primary residence.

1. “Bed Tax” – St. Charles County Convention and Sports Facility Authority Sleeping Room Tax
- m. “Short-Term Rental Permit” means a permit issued by the Town of Augusta authorizing the operation of a Short-Term Rental Unit.
3. Authorized Agent or Representative

a. An Owner shall designate an Operator to act on the owner's behalf to ensure compliance with the requirements of this ordinance.

b. Notwithstanding Subsection 3.a above, the Owner shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term rental unit, regardless of whether such noncompliance was committed by the Owner or Operator or the occupants of the Owner's short-term rental unit or their guests.

4. Short-Term Rental unit permit – Required

a. An Owner must obtain a Short-Term Rental unit permit and a Bed Tax Registration Permit prior to advertising or renting any "short-term rental unit" to any transient for a period less than 28 days.

5. Short-Term rental unit permit for all types – Application and processing requirements.

a. The Owner/Operator must submit the following information on an application form provided by the Town of Augusta:

i. Short-Term Rental application – form can be found on website

ii. A passing life-fire-safety inspection/valid Occupancy permit from designated official from the Augusta Fire Department

iii. A Copy of the St. Charles County Convention and Sports Facility Authority Sleeping Room Tax registration form that was filed by the Short-Term Rental, along with either a paid receipt for such taxes for the prior calendar quarter, or a no tax due from St. Charles County Convention and Sports Facility Authority.

iv. A business license from the Town of Augusta

v. Permit fee of \$200.00

vi. Acknowledgement of receipt and inspection of the Good Neighbor Brochure.

vii. Other information as the Town Clerk deems reasonably necessary to administer this ordinance.

b. A short-term rental unit permit issued under this ordinance shall expire one anniversary year (i.e. 365 days or 366 days with a leap year) from date of permit issuance, unless revoked earlier. The permit authorizes the property owner to conduct only such services as is described in the permit and in accordance with the terms and conditions of this ordinance.

c. Beginning January 1, 2023, a Short-Term Rental unit permit application, along with the necessary license and inspections, for an

existing short-term rental unit permit must be submitted at least thirty (30) days prior to the expiration date of the permit. Upon timely submittal of renewal, the Short-Term Rental unit permit will remain effective until such time as the Short-Term Rental unit permit expires, is revoked, or denied. Failure to timely submit an application for a renewal of an existing short-term rental unit permit shall result in that permit being eliminated from the cap inventory and the owner or agent must apply for a new short-term rental unit permit. If no permits are available, the property owner will be added to the waiting list.

d. Owners of existing short-term rental units shall submit all application requirements in Section 5.a. within forty-five (45) days following the effective date of this ordinance. Failure to timely submit an application of an existing short-term rental unit permit shall result in that Owner not receiving a short term rental unit permit.

e. After registration of existing short term rental units, new short-term rental unit applications will be considered on a first-come-first-served basis to issue short-term rental unit permits for a maximum of fifteen (15) short-term rental units total. When the maximum number of short-term rental unit permits have been issued, applications will be placed on a waitlist for consideration when permits become available. An owner must pay an annual fee of \$100 to be placed on the waitlist and to remain on the waitlist. Applicants will be added to the waitlist in the order in which the Town Clerk receives the applications by e-mail.

f. Following a change in ownership of a property with a short-term rental unit permit, the new owner will have thirty (30) days to apply for a new short-term rental unit permit according to Section 5.a. above. The new owner must be approved and permit assigned before the new owner rents or advertises the unit for rent as a short-term rental unit. If a short-term rental unit application is not received within thirty (30) days after the change in owner, then the short-term rental unit permit will expire, and the first Owner on the waitlist shall be eligible to apply for a permit according to Section 5.a. above.

g. Except as provided for the properties with 13 existing short-term rental units as of the effective date of this ordinance, a Short-Term Rental Unit Permit will not be granted for a property zoned residential (either R-1 or R-2), unless the owner of that property first obtains a Conditional Use Permit to operate a Short-Term Rental Unit on that R-1 or R-2 zoned property.

The procedures and standards for the Conditional Use Permit application shall be those set forth in Section 7.010 of the Town's Zoning Code.

If, after 45 days from the effective date of this ordinance, any owner of an existing Short-Term Rental Unit fails to apply for a Short-Term Rental Unit Permit, then that property shall be subject to this rule that a Short-Term Rental Unit Permit will not be granted for a property zoned residential (either R-1 or R-2), unless that the owner of that property first obtains a Conditional Use Permit to operate a Short-Term Rental Unit on that R-1 or R-2 zoned property.

h. A Short-Term Rental Unit Permit application, whether initial or renewal, shall be accompanied by payment of an application fee of \$200.

i. A Short-Term Rental Unit Permit shall not be issued or renewed if there are unresolved Town compliance cases, outstanding fines or fees, or liens on the property, either for the Owner or the property.

j. A Short-Term Rental Unit Permit must be renewed annually to remain valid. Failure to apply to renew a Short-Term Rental Unit Permit within thirty calendar days prior to the expiration date of the permit will result in the Short-Term Rental Unit Permit being terminated.

k. Short-Term Rental unit permit renewals are subject to any intervening changes in this ordinance, and renewal shall be denied if the short-term rental unit no longer qualifies under the requirements of this ordinance, unless specifically exempted therefrom. A Short-Term Rental Unit Permit shall not be renewed if the unit has not been Actively Operating in the previous 364 days. An Owner or Operator that is denied a renewal for failure to actively operate may apply for a new Short Term Rental Unit Permit, if otherwise qualified under this ordinance, and shall be added to any existing waitlist.

l. A short-term rental unit permit shall not be granted for apartments, as defined in this ordinance.

m. The Town of Augusta may conduct an inspection of the Short-Term Rental Unit prior to issuing a new permit and prior to issuing a renewal.

n. A Short-Term Rental Unit Permit may be denied if the Owner or property has had a prior Short-Term Rental Unit Permit suspended or revoked.

o. The Town Clerk shall issue the Short-Term Rental Unit permit.

6. Operational requirements for Short-Term Rental Unit Permits

a. The Owner or Operator shall reside within a 12-mile radius of the town limits of Augusta, Missouri, as measured specifically from 237 Ferry Street, Augusta, Missouri 63332. The Owner or Operator shall demonstrate regular occupancy, which may be by neighbor verification or other means sufficient, to demonstrate regular and continuous residence. If the Owner or Operator is a business or organization, then one of its owners, directors, or officers (if a corporation), or members (if an LLC) must reside within a 12-mile radius of 237 Ferry Street, Augusta, Missouri 63332, in order to satisfy this section's requirement.

b. While a Short-Term Rental is rented, the Owner/Operator shall be available 24 hours a day, seven days a week for the purpose of responding within 30 minutes to complaints regarding condition, operation, or conduct of occupants or guests of the Short-Term Rental Unit.

c. Upon notification that the Responsible Person and/or any occupant and/or guest of the short-term rental unit has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the subject Short-Term Rental Unit, the Owner or Operator shall promptly respond within 30 minutes in an appropriate manner to immediately halt or prevent a recurrence of such conduct by the Responsible Person and/or any occupants and/or guests. Failure of the Owner or Operator to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the Short-Term Rental Unit within 30 minutes and in an appropriate manner shall render the Owner and/or Operator subject to all administrative, legal and equitable remedies available to the Town, up to and including Short-Term Rental Unit Permit revocation.

d. The Owner or Operator shall post the current Short-Term Rental Unit Permit number on, or in, any advertisement appearing in any newspaper, magazine, brochure, television trade paper, internet website, social media website, etc., that promotes the availability or existence of a Short-Term Rental Unit in a place or location deemed acceptable by the Town Clerk. In the instance of audio-only advertising of the same, the Short-Term Rental Unit Permit number shall be read as part of the advertising. The following shall be clearly identified in any advertisement: 1) the maximum overnight occupancy of the Short-Term Rental Unit; 2) requirements for compliance with the Town's noise standards and regulations; 3) a statement that the Short-Term Rental Unit occupants shall respect the privacy and quiet enjoyment of their property and neighboring properties.

e. The Owner/Operator shall use reasonably prudent business practices to ensure that the Responsible Person, occupants and/or guests of

the short-term rental unit do not create unreasonable noise, disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject Short-Term Rental Unit. The Short-Term Rental Unit shall be used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject Short-Term Rental Unit including paying the bed tax.

f. Maximum Number of Occupants. The maximum number of overnight guests and residents for a Short-Term Rental Unit shall not exceed two persons per bedroom, unless the Owner/Operator gives the Responsible Person prior explicit permission. The Owner/Operator shall use caution in giving such permission and bear in mind the Owner/Operator's responsibilities in section 6.n.

Additional daytime guests are allowed between the hours of 9:00am and 9:00pm, with the additional maximum daytime guests not to exceed two persons per bedroom with a maximum of 15 guests allowed for five bedrooms or more. If the use is On-Site Owner Short-Term Rental, the Owner shall be deemed to occupy at least one bedroom, which shall diminish the number of bedrooms for overnight guests.

g. A Short-Term Rental Unit shall not change the residential character of the outside appearance of the residence, either by use of colors, materials, lighting, or any advertising mechanism.

h. No property use shall cross over any property line.

i. Except as allowed in Section 6.p above, all parking associated with a Short-Term Rental Unit shall be entirely on-site, in the garage, carport, and driveway or otherwise off the public street. No parking spaces shall be between the front door of the unit and the street.

j. The Augusta Town Board shall have the authority to impose additional conditions on the use of any given Short-Term Rental Unit to ensure that any potential secondary effects unique to the subject Short-Term Rental Unit are avoided or adequately mitigated.

k. Trash and refuse shall not be left stored within public view. Short-term rental units shall be kept clean with no visible trash. All trash containers shall be stored out of public view except when at the curb the night before or on trash collection days.

l. All Short-Term Rental Units must comply with the provisions of Section 5 of this ordinance regarding the collection and remittance of

licensing and permit fees and bed taxes. Failure to comply with these provisions may result in revocation of short-term rental unit permit.

m. The short-term rental unit address and 24-hour contact phone number of the Owner or Operator shall be listed in the Town's annual hard copy directory.

n. The Owner and/or the Operator shall use reasonably-prudent business practices to ensure the Responsible Person, occupants, and guests of the short-term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct or violate any provisions of this ordinance or applicable laws.

o. Upon notification by a Town representative authorized to enforce this ordinance that any Responsible Person, occupant, or guest of the occupant of a short-term rental unit has created unreasonable noise or disturbance, engaged in disorderly conduct or committed a violation of an applicable law, the Owner and/or the Operator shall use all reasonable efforts to immediately halt and prevent a reoccurrence of such conduct. Failure of the Owner or the Operator to respond to a notification provided under this Section within thirty (30) minutes of the receipt of that notification shall be evidence that the Owner or the Operator has failed to use reasonable efforts as required by Section 6 of this ordinance.

p. All garage, driveway and on-site designated parking spaces shall be made available for vehicle parking. If those existing on-site parking spaces do not include one parking space per bedroom, then the short-term rental unit property shall be allowed one on street parking space per bedroom, as needed.

q. Parking, either on-site or on the street, of any detached camper, boat, boat trailer or other non-motorized vehicle will not be permitted for more than 72 hours during one rental of the short-term rental unit.

r. No vehicles shall be parked in a designated fire lane or block or restrict access to adjacent properties.

s. No amplified or reproduced sound shall be audible from the property line of any short-term rental unit between the hours of 9:00pm and 10:00am. Any disturbing, excessive, or offensive noises are prohibited.

7. Restrictions

a. Special Events. Weddings, corporate events, commercial functions, and any other similar events that have the potential to cause traffic,

parking, noise, or other problems in the neighborhood are prohibited from occurring at the short-term rental unit property. Informal gatherings and social gatherings are allowed in accord with section 6.f.

b. Fireworks. No person shall use, discharge, or possess any fireworks.

c. Subletting. Guests are prohibited from subletting a short-term rental. Only property owners and/or agents with a valid short-term rental unit permit are allowed to advertise and rent a residential unit as a short-term rental.

d. Maximum Short-Term Rental Units per Property. Only one Short-Term Rental unit per property is permitted, including single-family and multi-family properties. The only exception to this section is that the property at 208 Ferry Street shall be allowed to continue to operate two short-term rental units at 208 Ferry Street as long as that property owner obtains the proper license in conformity with the requirements of this Ordinance and then holds the proper license continuously.

e. Types of Units. Short-term rental of tiny homes or mobile or manufactured home units is prohibited.

f. Incidental Camping. A short-term rental unit permit does not authorize incidental camping, which means any overnight camping, sleeping in tents or on decks attached to the short-term rental unit, or sleeping in travel trailers or recreational vehicles parked on the short-term rental unit property.

g. Visible Address. Each short-term rental shall have an address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Whenever the address on the short-term rental unit will not be clearly visible from the street or access road fronting the property, the address shall also be placed at the public street or access road in a manner which is clearly visible from both directions of travel on the frontage road or street.

h. Smoke Alarms. Smoke alarms, in good working order, shall be installed in accordance with the St. Charles County Building Code and at a minimum shall be installed in each bedroom, and at least one alarm on every level of the short-term rental, including basements and habitable attics.

i. Carbon Monoxide Alarms. Carbon monoxide alarms, in good working order, shall be installed in accordance with the St. Charles County Building Code and at a minimum shall be installed outside each

bedroom, on every level of the rental unit, including basements and habitable attics, and bedrooms or attached bathrooms with a fuel- burning appliance, and shall be installed in accordance with the manufacturer's installation instructions.

j. Fire Extinguisher. Each short-term rental shall be equipped with one five-pound fire extinguisher, type 3-A:40-B:C, installed at a readily available location near the kitchen. If the short-term rental has more than one level, an extinguisher must be mounted within each level. Fire extinguishers shall be inspected annually by a certified professional to ensure the extinguishers are in good working order.

8. Procedures for operators and renters.

a. Prior to occupancy of any short-term rental unit the Operator shall:

i. Provide the Responsible person a copy of the Good Neighbor Brochure.

ii. Provide the Responsible person information about the short-term regulations.

iii. Require such Responsible person to execute a formal acknowledgement in the form acceptable by the Town of Augusta that he or she is legally responsible for compliance of all occupants of the short-term rental unit and their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term rental unit. This information shall be maintained by the Operator for a period of three years and be made readily available upon request of any officer of the Town of Augusta Board responsible for the enforcement of the Town of Augusta ordinances or any other applicable law, rule or regulation pertaining to the use and occupancy of the short-term rental.

iv. Provide the Responsible person with the Operator's 24-hour availability information.

v. Provide the Responsible person a copy of the maximum number of overnight occupants and the maximum number of daytime occupants as permitted pursuant to this ordinance.

vi. Post a copy of the short-term rental unit permit and a copy of the Good Neighbor Brochure in a conspicuous place within the short-term rental unit.

vii. Provide the responsible person a copy of trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash on the exterior of the property.

viii. Provide a copy that no radio receiver, musical instrument, phonograph, compact disk player, loudspeaker, karaoke machine, sound amplifier, or any machine, device or equipment that produces any sound shall be used outside or be audible from beyond the property boundaries of any short-term rental unit between the hours of 9:00pm and 10:00am.

9. Recordkeeping Duties

a. The Owner or Operator shall maintain for a period of three years records in such form as the Town Board of Augusta may require to determine the amount of sales tax owed to the Town. The Town Board shall have the right to inspect such records at all reasonable times. Such records shall be maintained at the Owner or Operator's premises or online and shall be available for delivery to the Town Board within five calendar days.

10. Violations.

a. Additional Conditions. An Owner operating a short-term rental without a permit or any other violation of any provision of this ordinance by any of the occupants, Owner(s) or the Operator shall authorize the Town Board of Augusta to impose additional conditions on the use of any given short-term rental unit to ensure that any potential additional violations are avoided.

b. Permit Modification, Suspension, and Revocation. A violation of any provision of this ordinance by any of the occupants, Owner(s) or the Operator shall constitute grounds for modification, suspension, and/or revocation of the Short-Term Rental unit permit and/or any affiliated licenses or permits pursuant to the provisions set forth in this ordinance.

c. Whenever any Owner or Operator fails to comply with any provision of this ordinance, the Town Board upon hearing, after giving the Operator/Owner 10 days' notice in writing specifying the time and place of hearing and requiring him or her to show cause why the short-term rental unit permit should not be revoked, may modify, suspend or revoke the short-term rental unit permit.

d. The Town Board shall give to the Operator and/or Owner written notice of the modification, suspension, or revocation of the permit. The

notices required in this Ordinance may be served personally or by first-class U.S. mail.

e. The Town Board shall not issue a new short-term rental unit permit after the revocation of a permit unless the Town Board is satisfied that the former holder of the permit will comply with the provisions of this ordinance and the unit complies with any additional application and processing requirements.

f. Notice of Violation. The Town may issue a notice of violation to any occupant, Owner(s) or Operator(s), pursuant to this ordinance, if there is any violation of this ordinance committed, caused or maintained by any of the above parties.

g. Citation. The Town may issue a citation to the property Owner(s) if there is any violation of this ordinance committed, caused, or maintained. Unless otherwise provided, any person issued a citation pursuant to this ordinance shall for each separate violation be subject to: 1) a fine in an amount not to exceed two hundred dollars (\$200) for the first violation; 2) a fine in an amount not to exceed two hundred seventy-five dollars (\$275) for a second violation issued for the same offense within a 12 month period of the date of the first offense; and 3) a fine in an amount not to exceed three hundred dollars (\$300) and an immediate revocation of the Short-Term Rental unit permit for a period of two years for the third violation and every violation thereafter within a 12 month period of the date of the first violation. Every calendar day of violation shall constitute a separate violation.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: This ordinance shall be in full force and effect from and after its passage and approval.

Passed: 4/9/2023

ATTEST: Laura J. Miller

[Signature]
Chairman of the Board of Trustees
Town of Augusta, Missouri

Approved: 4/9/2023

ATTEST: Laura J. Miller

[Signature]
Chairman of the Board of Trustees
Town of Augusta, Missouri