

ORDINANCE NO. 22-09

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE FOUNTAIN HILLS MUNICIPAL CODE, BY AMENDING ARTICLE 8-6 RELATING TO REGULATING SHORT TERM RENTALS AND VACATION RENTALS; INCORPORATING THE RECITALS BY REFERENCE; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; REQUIRING A PERMIT TO OPERATE A SHORT TERM RENTAL OR VACATION RENTAL WITHIN FOUNTAIN HILLS' BOUNDARIES; ESTABLISHING REGULATIONS; ADOPTING NOTIFICATION AND DISCLOSURE REQUIREMENTS; ADOPTING INSURANCE 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, as limited by Arizona Revised Statutes ("A.R.S.") § 9-500.39;

WHEREAS the Town of Fountain Hills (the "Town") deems it necessary to adopt certain regulations regarding the use of property as a vacation 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 vacation rentals to obtain and maintain a valid Town permit, pay permitting fees, provide an emergency point of contact to respond to compliance and emergencies in a timely manner, maintain insurance, provide neighbor notification, and disclose certain information about the vacation rental in each advertisement;

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 the Town Council;

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

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Fountain Hills, Arizona, as follows:

Section I. General.

The Code of Fountain Hills, Arizona, is hereby amended by amending/adding Article 8-6, Vacation Rentals, to read as follows:

ARTICLE 8-6. SHORT-TERM RENTALS AND VACATION RENTALS

- Sec. 8-6-1 Purpose.
- Sec. 8-6-2 Definitions.
- Sec. 8-6-3 Permit Required; Penalties.
- Sec. 8-6-4 Emergency Point of Contact Requirements; Penalties.
- Sec. 8-6-5 Compliance with the Law; Prohibited Uses.
- Sec. 8-6-6 Neighbor Notification Required.
- Sec. 8-6-7 Advertisement Requirements.
- Sec. 8-6-8 Posting on the Property Required.
- Sec. 8-6-9 Insurance Required.
- Sec. 8-6-10 Background Checks Required.
- Sec. 8-6-11 Standards and Operating Requirements; Health and Safety.
- Sec. 8-6-12 Permit Suspensions.
- Sec. 8-6-13 Enhanced Penalties.
- Sec. 8-6-14 Appeals.
- Sec. 8-6-15 Judicial Relief.
- Sec. 8-6-16 Severability.
- Sec. 8-6-17 Prior Code Provisions Superseded.
- Sec. 8-6-18 Effective Date.

Sec. 8-6-1 Purpose.

This Article is adopted to protect the peace, health, safety, and welfare of the Town's residents and visitors by enacting reasonable regulations that mitigate the harmful abuses common to the Short-Term Rental of residential property within the Town while preserving property Owners' rights to rent their property in a manner that does not disturb the peace or harm public health, public safety, or general public welfare. Such harmful abuses deplete law enforcement and public safety resources and can leave other areas of the Town with compromised levels of police protection so as to create a significant threat to the safety of both citizens and police officers alike. The inclusion of a specific regulation or reference to the Town Code in this chapter does not imply the exclusion of any other applicable law. It shall be unlawful to provide, offer or operate a Short-Term Rental or Vacation Rental within the corporate limits of the Town without first obtaining a Permit as provided in this Article and without complying with any and all applicable laws, regulations and this Code.

Sec. 8-6-2 Definitions.

In this Article, unless the context or definitions in A.R.S. § 9-500.39 indicate otherwise, the following terms or phrases are defined as follows:

"Online Lodging Marketplace" has the same meaning prescribed in A.R.S. § 42-5076.

"Short-term rental" and "vacation rental" are interchangeable for purposes of this Article and mean any individually or collectively owned single-family or one-to-four-family house or dwelling unit, or any unit or group of units in a condominium or cooperative, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use. "Vacation rental" does not include:

(i) accommodations or property that 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.

"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.

"Advertisement" means any method of soliciting the use of property for vacation rental purposes.

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

“Days” shall mean calendar days unless stated otherwise.

“Designee” and “Agent” are interchangeable for purposes of this Article and mean any person or persons with the charge, care, or control of any property, dwelling unit, or portion thereof. “Designee” includes the “emergency point of contact.”

“Emergency point of contact” means the owner or individual designated by the owner to: (i) serve as the local twenty-four (24) hour emergency point of contact for the vacation rental; and (ii) respond to complaints and emergencies relating to the vacation rental in a timely manner as required by this Article.

“Neighbor notification” means the written notice provided by the owner to each single-family residential property adjacent to the vacation rental property, directly across from the vacation rental property, and diagonally across the street of the vacation rental property that includes the valid permit number issued by the Town, the physical address of the vacation rental, and the name, address, and twenty-four (24) hour telephone number of the emergency point of contact.

“Nonresidential use” means any use that is not permitted in a residential zoning district pursuant to the Town Zoning Ordinance, any use that constitutes an “unruly gathering,” as defined in Section 11-1-7(B) of this Code, and any use other than lodging or uses that are customarily incidental to lodging. In addition to those uses already stated herein, such nonresidential uses include, but are not limited to, weddings; banquets; concerts; retreats; any use for which entrants pay an entry fee; fireworks displays; a one-time or periodic, free or ticketed, cultural, charitable or cause-related occasion conducted for the purpose of attracting revenue, support, awareness and/or entertainment purposes; and social gatherings with more than ten (10) persons in attendance.

“Owner” means any person who, alone or with others, has title or interest in a property, dwelling unit, or portion thereof, with or without accompanying actual possession thereof, and includes any person who as agent, executor, administrator, trustee, or guardian has charge, care, or control of any property, dwelling unit, or portion thereof.

“Permit” means authorization by the Town to operate a vacation rental in accordance with this Article.

“Person” means an individual, public entity, firm, corporation, partnership, limited liability company, trust, association, or any other business entity or juridical person, whether operating on a for-profit or nonprofit basis.

“Timely manner” means responding to complaints and emergencies in person, by phone, or by email within the timeframe required by public safety personnel.

Sec. 8-6-3 Permit Required; Penalties.

(A) *Permit required.* Prior to use of a property as a vacation rental, the Owner shall obtain an annual vacation rental permit from the Town. Renting, or offering for rent, a vacation rental without complying with the permit requirement in this Section 8-6-3 is prohibited.

(B) *Permit applications.* The owner of a proposed vacation rental shall submit to the Town a permit application on a form furnished by the Town. The permit application shall be signed by the applicant and shall contain the following minimum information, which shall be made publicly available:

(1) The physical address of the residential property proposed to be used as a vacation rental.

(2) The name, address, and telephone number of the owner for which the vacation rental registration certificate is to be issued. If the property owner is an entity, the legal name of the entity and its statutory agent.

(3) The name, address, and telephone number of each designee of the owner, if any.

(4) The full name, address, and twenty-four (24) hour telephone number of the individual who will serve as the emergency point of contact.

(5) Proof of a valid transaction privilege tax license.

(6) Acknowledgment by the owner of an agreement to comply with all applicable laws, regulations, and ordinances, including the requirement that the owner and each designee shall not be a registered sex offender, been convicted of any felony act that resulted in death or serious physical injury, or been convicted of any felony use of a deadly weapon within the past five years.

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

(8) Evidence of liability insurance appropriate to cover the vacation rental in the aggregate of at least \$500,000 or evidence that each vacation rental transaction will be provided through a platform that provides equal or greater primary liability insurance coverage for the vacation rental.

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

(C) *Permit fee.* Every application, including any renewal application, for a vacation rental permit under this Article shall be accompanied by a non-refundable fee established by resolution.

(D) *Issuance; reasons for denial.* The Town shall issue or deny the permit within seven (7) business days after receipt of a complete application, except that the Town may deny issuance of a permit for any of the following reasons:

(1) The applicant failed to provide the information required under subsection B herein;

(2) The applicant failed to pay the permit fee required under subsection C herein;

(3) The applicant provided false information;

(4) The owner or designee of the owner: (i) is a registered sex offender; (ii) has been convicted of any felony act that resulted in death or serious physical injury; or (iii) has been convicted of any felony use of a deadly weapon within five (5) years of submitting the application; or

(5) At the time of application, the owner has a suspended permit for the same vacation rental or any of the following applies: (a) one violation at the vacation rental that resulted in or constituted any of the offenses described in Sec. 8-6-12; or (b) three violations of this Article at the vacation rental within a twelve (12) month period, not including an aesthetic, solid waste disposal or vehicle parking violation that is not also a serious threat to public health and safety.

(E) *Notice of denial; appeal.* The Town Manager or designee shall give notice of the denial of an application to the applicant by emailing the notice to applicant at the address listed on the application. The notice of the denial shall inform the applicant of the right to appeal the denial as provided for in Sec. 8-6-13.

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

(G) *Term of Fountain Hills Permit; Renewal application.* All permits issued under this Article shall be valid for a period of one (1) year from the date of their issuance or unless suspended or revoked. Except where the Town has received a new application along with the requisite fees, it shall be unlawful for any person to operate a vacation rental after the expiration date recorded upon the face of the vacation rental permit.

(H) *Operating Without a Permit; Penalties.* An owner or operator of a vacation rental that fails to apply for a permit or license within thirty (30) days of the permit application being made available by the Town shall immediately cease operations. In addition to any other penalty pursuant to the Town Code, the Town may impose a civil penalty of up to \$1,000 per month against the owner if the owner or owner's designee fails to apply for permit within 30 days of receiving the written notice of violation from the 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 vacation rental is operating in the Town.

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

(J) *Implementation.* The Town Manager or designee shall develop the forms and/or database necessary to implement this Section 8-6-3.

Sec. 8-6-4 Emergency Point of Contact Requirements; Penalties.

(A) *Emergency Responses; Violations.* When requested by a certified peace officer or Town official, the owner or emergency point of contact whose name appears on the permit application must be on the vacation rental premises, or be available over the phone or text, within 60 minutes of the request.

(B) *Non-emergency Responses; Violations.* The owner or emergency point of contact shall respond to all other complaints relating to the vacation rental in person, over the phone, by e-mail, or by text within four (4) hours of the request.

(C) *Maintaining Accurate Emergency Information.* All applicants and persons holding permits issued pursuant to this Article shall give prior written notice to the Town Manager 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 Manager not less than ten (10) days prior to the effective date of the change.

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

(E) *Penalties.* In addition to any other penalty pursuant to the Town Code, an owner shall be subject to civil penalties of up to \$1,000 for every thirty (30) days the owner fails to provide notice to the Town as required under this subsection. Before imposing the initial civil penalty, the Town shall provide thirty (30) days' notice to the owner by emailing a notice of violation to the owner's email address that was provided to the Town. The notice of the violation shall inform the applicant of the right to appeal the denial as provided for in Sec. 8-6-13. Notwithstanding the date of the notice of violation, the date for calculating the penalties shall be the first day the vacation rental is occupied following the owner's failure to provide the notice to the Town regarding the change.

Sec. 8-6-5 Compliance with the Law; Prohibited Uses.

(A) A vacation rental shall comply with the federal, state, and local laws, including laws relating to public health and safety, sanitation, solid waste, hazardous waste, tax privilege licensing, property tax registration, traffic control, pollution control, noise, property maintenance, and nuisance abatement.

(B) No person or entity shall operate a vacation rental in violation of this Article or other law. In addition, the use of a vacation rental property for any of the following uses or purposes is strictly prohibited:

(1) Any nonresidential use;

(2) Holding a special event that requires a permit or license pursuant to a Town ordinance or state law or rule;

(3) Operating a retail business, restaurant, event center, banquet hall or similar use;

(4) Housing sex offenders;

(5) Operating or maintaining a sober living home;

(6) Selling liquor, illegal drugs, or pornography;

(7) Operating a nude or topless dancing;

(8) Obscenity;

(9) Adult-oriented business; or

(10) Any other use prohibited by A.R.S. § 9-500.39 or Town Code.

(C) A vacation rental lacking a valid transaction privilege tax license issued by the State of Arizona shall not be rented or offered for rent.

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

(E) In addition to any other penalty pursuant to the Town Code, any person who causes, allows, facilitates, aides, or abets any violation of this Article shall be subject to a civil offense.

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

Sec. 8-6-6 Neighbor Notification Required.

(A) *Neighbor notification.* Prior to offering a vacation rental for rent for the first time, the owner or designee shall provide neighbor notification to each single-family residential property adjacent to the vacation rental property, directly across from the vacation rental property, and diagonally across the street of the vacation 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 permit number issued by the Town;
- (2) The physical address of the vacation rental; and
- (3) The name, physical address, email address, and twenty-four (24) hour telephone number of the emergency point of contact.

(B) *Additional neighbor notification required.* Any change to the information provided under Subsection A shall require additional neighbor notification by the owner or designee not later than five (5) days prior to each change. The additional notification shall be provided in the manner required by Section A.

(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 8-6-6.

(D) *Violations.* In addition to any other penalty pursuant to Town Code, a violation of this Section 8-6-6 shall be a civil offense.

Sec. 8-6-7 Advertisement Requirements.

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

(B) In addition to the permit number that must be included in the Short-Term Rental's listing, the Owner shall complete and prominently display the following statement in the Short-Term Rental's Online Lodging Marketplace or other listing:

The Owner of this property will provide you with pertinent safety information, explain your responsibilities under the Fountain Hills Town Code, and expect you to certify your compliance therewith.

You must not use this property for any nonresidential or other prohibited activity or use, as defined in Fountain Hills Town Code Section X-X-X. Any renter who causes, permits, facilitates, aides, or abets such prohibited use of this property shall be subject to a civil infraction carrying a

mandatory penalty of a minimum of \$500.00, in addition to any other penalties which the Town may impose.

The use of this Short-Term Rental to house sex offenders is prohibited by State Law and by the Fountain Town Code. The Owner of this Short-Term Rental is required to perform a background check on you and your guests prior to your stay.

(C) *Violations.* In addition to any other penalty pursuant to the Town Code, a violation of this Section shall be a civil offense. Each advertisement in violation of this Section 8-6-7 shall constitute a separate violation.

Sec. 8-6-8 Posting on the Property Required.

(A) *Posting at the Vacation Rental.* The owner of the vacation rental must display the name, phone number, and email address of the owner or designee, and emergency point of contact in a conspicuous place within 15 feet of the primary entrance of the vacation rental.

(B) *Booking Information.* To protect the peace, health, safety, and general welfare of the Town's residents and visitors, the Owner of a Short-Term Rental shall (1) provide each booking Guest with a statement of applicable Town rules and regulations, or direct each booking Guest thereto, and inform the booking Guest that rental of the unit constitutes an agreement to comply with such rules and regulations and (2) display the Permit number issued by the Town on each advertisement for such Short-Term Rental.

(C) *Failure to Comply.* In addition to any other penalty pursuant to the Town Code, a violation of this Section 8-6-8 shall be a civil offense. Each day a vacation rental does not display the information required by this Section 8-6-8 shall constitute a separate violation.

Sec. 8-6-9 Insurance Required.

(A) *Required insurance.* Prior to offering or renting a vacation rental for rent for the first time, liability insurance appropriate to cover the vacation rental in the aggregate of at least \$500,000 shall be provided by the owner or the online marketplace platform.

(B) *Proof of insurance.* Proof of the required liability insurance coverage shall be provided to the Town at the time of the application.

(C) *Violation.* In addition to any other penalty pursuant to the Town Code, a violation of this Section 8-6-9 shall be a civil offense. Each day a vacation rental lacks the insurance required by this Section 8-6-9 shall constitute a separate violation.

Sec. 8-6-10 Background Checks Required.

(A) No sex offender shall be permitted to rent or occupy the vacation rental. Owners who allow a sex offender at the vacation rental shall be found in violation of this Section 8-6-10.

(B) Within twenty-four (24) hours of every booking, a sex offender background check on each guest shall be conducted by the owner or by the online lodging marketplace on which the vacation rental is advertised. The owner shall demonstrate compliance with this requirement by retaining a full copy of each background check for a minimum of twelve (12) months after the booking date and providing the copy to the Town upon a request by a police officer.

(C) In addition to any other penalty pursuant to the Town Code, any person who violates this Section 8-6-10 shall be subject to a civil offense.

(D) The failure of an online lodging marketplace to conduct a background check shall not relieve the owner of liability under this Section 8-6-10.

Section 8-6-11 Standards and Operating Requirements; Health and Safety.

(A) Standards and Operating Requirements.

1. An Owner or Owner's Representative shall (a) affirmatively respond to complaints in person, over the phone, or by email, and (b) abate the incident from which the complaint arose in a Timely Manner regardless of when the Owner receives notice of the complaint. If such a response is due within one hour under this Article's definition of Timely Manner, the response is deemed necessary to protect the peace, health, safety, and welfare of the general public, and the Owner or Owner's Representative shall so respond in person. If the response is due within 24 hours, the Owner or the Owner's Representative shall respond either in person, by telephone, or by email. Failure of the Owner or the Owner's Representative to respond to a complaint as provided herein is a violation of this Article, and the owner shall be deemed responsible for such violation regardless of whether an Owner's Representative has been designated.
2. Prior to the commencement of the occupancy or during check-in, the Owner shall explain and describe all rules and regulations applicable to the use of the property as a Short-Term Rental including, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash collection schedules, Special Event and Nonresidential Use restrictions, fire evacuation routes, and any other information, as required by this Code, applicable to the Short-Term Rental and the surrounding neighborhood. Prior to or upon the booking Guest's arrival at the Short-

Term Rental, the Owner shall provide the booking Guest with a written copy of the statement of rules and regulations acknowledged by the booking Guest at the time of booking. The Owner shall keep a record of compliance with this section.

3. Trash and refuse shall not be left stored within public view, except in proper collection containers for the purpose of collection in accordance with Town Code.
4. The following notice must be completed in 14-point or larger bold font, on a laminated or otherwise similarly shielded paper, and prominently displayed on the inside of the front door and the primary door to the backyard or in a conspicuous location near each such door. The notice below shall also include information regarding the location of all fire extinguishers and Town of Fountain Hills parking and waste disposal regulations.

NOTICE

USE OF THIS PROPERTY FOR ANY OF THE FOLLOWING PURPOSES IS PROHIBITED; VIOLATORS MAY BE SUBJECT TO SUBSTANTIAL PENALTIES:

1. Housing sex offenders;
2. Operating or maintaining a sober living home;
3. Selling controlled substances, liquor, or pornography;
4. Obscenity, Nude or topless dancing, and other adult-oriented businesses, performances, parties, or activities in which value is given in exchange for an adult-oriented service;
5. Any uses prohibited under A.R.S. § 9-500.39, or federal, state, or local law; or
6. Any use that disturbs neighboring properties' peace and enjoyment including, but not limited to, excessive noise, impeding traffic, obstruction of public streets by crowds or vehicles, use or possession of illegal drugs, drinking in public areas, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and/or littering.

USE OF THIS PROPERTY FOR ANY OF THE FOLLOWING PURPOSES IS PROHIBITED; VIOLATORS MAY BE SUBJECT TO SUBSTANTIAL PENALTIES:

Use for any nonresidential use, including:

1. For a special event that would otherwise require a permit or license pursuant to Town ordinance or a state law or rule; or
2. Operating a retail business, restaurant, event center, banquet space, or similar use.

Your local contact person's name is _____ and can be reached by phone 24 hours a day, seven days a week, at ____-____-____.

(B) Health, Safety, and Sanitation. To protect the health, safety, and general welfare of all Short-Term Rental occupants, Short-Term Rentals must meet the minimum standards for habitable structures set forth in this Code and the Zoning Ordinance and the following requirements. The Town may require inspection if it has a reason for concern that the Short-Term Rental may not be compliant with the Town's fire, building, or zoning requirements or other requirements set forth in this chapter.

1. Smoke and carbon monoxide (CO) detection and notification system. A working smoke alarm and carbon monoxide (CO) alarm system, which may require the installation and maintenance of several detection units, shall be present within the Short-Term Rental and maintained annually as required under NFPA (National Fire Protection Association) 72. The Owner or Owner's Representative shall keep and make available for inspection upon request by the Fire Marshal a record of all inspections and maintenance activities.
2. Fire extinguisher. A portable, multi-purpose fire extinguisher shall be installed, inspected, and maintained as required under NFPA 10 in any kitchen area and on each floor of a Short-Term Rental and within 20 feet of every outdoor fire feature, fire pit, patio heater, fireplace, or other areas with fire. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location of the fire extinguisher.
3. Fire Safety and Emergency Evacuation Map. The Owner shall provide and prominently display a map of the Short-Term Rental showing the following information: safe routes of egress in the event of a fire or other emergency; the location of fire detection and suppression equipment; and any additional information relevant to such emergency preparedness measures. Such maps shall include the full property address, emergency information (911), and Owner contact information.
4. Air Filters. As applicable, all HVAC filters in the Short-Term Rental shall be changed every three months or according to the manufacturer's instructions. The Owner or Owner's Representative shall keep and make available for inspection upon request by the Town a record of all HVAC filter changes.

5. **Parking.** The Owner shall establish and post the maximum number of vehicles that can be parked at the rental for a period of 24-hours or more based on an allowance of 1 vehicle for each 750 square feet of livable area in the home. This limitation applies to vehicles parked in the driveway or on the street within 1,000 feet of the property.
6. **Cleaning.** The Owner shall have the Short-Term Rental cleaned between bookings following CDC guidelines and using household disinfectant products recommended by the United States Environmental Protection Agency. The Owner or Owner's Representative shall keep and make available for inspection upon request by the Town a record of all cleanings.
7. **Pest Control.** The Owner shall ensure that the Short-Term Rental receives regular (at least monthly) pest control treatments to keep the interior of all buildings and structures and exterior area of the premises free from infestation of insects, rodents, and other noxious pests where such infestation threatens the health, safety, or welfare of a person or persons. The Owner or Owner's Representative shall keep and make available for inspection upon request by the Town a record of all pest control treatments.

Sec. 8-6-12 Permit Suspensions.

(A) *Permit suspensions.* The Town may initiate an administrative process to suspend a vacation rental permit for a period of up to twelve (12) months for any of the following:

- (1) Three verified violations of this Article within a twelve (12) month period, not including any such violation based on an aesthetic, solid waste disposal or vehicle parking violation that is not also a serious threat to public health and safety.
- (2) One verified violation that results in or constitutes any of the following:
 - (a) A felony offense committed at or in the vicinity of a vacation rental by the owner of the vacation rental or by the owner's designee;
 - (b) A serious physical injury or wrongful death at or related to a vacation rental resulting from the knowing, intentional or reckless conduct of the owner of the vacation rental or the owner's designee;
 - (c) The owner of the vacation rental or the owner's designee knowingly or intentionally housing a sex offender, allowing offenses related to adult-oriented businesses, sexual offenses, or prostitution, or operating or maintaining a sober living home; or

(d) The owner of the vacation rental or the owner's designee knowingly or intentionally allowing the use of a vacation rental for a special event that would otherwise require a permit or license pursuant to the 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 permit may be appealed by the owner as set forth in Sec. 8-6-14.

Sec. 8-6-13 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, the Town may impose a civil penalty of the following amounts against an owner if the owner causes, allows, facilitates, aides, or abets a verified violation of any provision of this Article or fails to perform any act or duty required by this Article, related to the same vacation rental property within the same twelve-month period:

(1) Up to \$500 or up to an amount equal to one night's rent for the vacation rental as advertised, whichever is greater, for the first violation.

(2) Up to \$1,000 or up to an amount equal to two nights' rent for the vacation rental as advertised, whichever is greater, for the second violation.

(3) Up to \$3,500 or up to an amount equal to three nights' rent for the vacation rental as advertised, whichever is greater, for a third and any subsequent violation.

If multiple violations arise out of the same response to an incident at a vacation rental, those violations are considered one violation for the purpose of assessing civil penalties.

(C) In addition to any other penalty pursuant to the Code, any property that operates as a vacation rental and fails to apply for vacation rental permit in accordance with this Article within thirty (30) days of the application process being made available by the Town, must cease operations immediately. In addition to any fines imposed pursuant to this Section 8-6-12, the Town may impose a civil penalty of up to one thousand dollars (\$1,000) per month against the owner if the owner or owner's designee fails to apply within thirty (30) days of receiving written notice of the failure to comply with this Article.

Sec. 8-6-14 Appeals.

(A) Any person aggrieved by any decision with respect to the denial of or a refusal to issue a vacation rental permit, the suspension of a vacation rental permit, or a penalty imposed pursuant to this Article may appeal the decision by filing a written notice of appeal with the Town Manager no later than thirty (30) days from the date of the decision letter. The notice of appeal shall be on a form approved by the Town.

(B) An appeal under this Section 8-6-13 does not operate as a stay of the permit suspension.

(C) This Section 8-6-13 is not applicable to judicial actions brought pursuant to Sec. 8-6-14 or to penalties including fines imposed by a court.

Sec. 8-6-15 Judicial relief.

(A) Notwithstanding Sec. 8-6-11, any attempted or completed felony act, arising from the occupancy or use of a vacation rental that results in a death, or actual or attempted serious physical injury, shall be grounds for judicial relief in the form of a suspension of the property's use as a vacation rental for a period that shall not exceed twelve (12) months.

(B) The Town attorney may initiate proceedings in the Town court or other court of competent jurisdiction to enforce this Section 8-6-14.

Sec. 8-6-16 Severability.

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

Sec. 8-6-17 Prior Code Provisions Superseded.

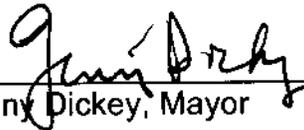
Section 8-6 of the Town Code is superseded and replaced in its entirety by this ordinance.

Sec. 8-6-18 Effective Date.

This Ordinance shall become effective on February 1, 2023.

PASSED AND ADOPTED by the Mayor and Council of the Fountain Hills, Maricopa County, Arizona, this 15th day of November 2022.

FOR THE TOWN OF FOUNTAIN HILLS:



Ginny Dickey, Mayor

ATTESTED TO:



Linda Mendenhall, Town Clerk

REVIEWED BY:



Grady E. Miller, Town Manager

APPROVED AS TO FORM:



Aaron D. Arnson, Town Attorney