ORDINANCE NO. 4566

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, REPEALING AND REPLACING ARTICLE IX OF CHAPTER 18 OF THE SCOTTSDALE REVISED CODE CONCERNING VACATION RENTALS AND SHORT-TERM RENTALS

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Chapter 18, Article IX is hereby repealed.

Section 2. Chapter 18, Article I, Section 18-2 of the Scottsdale Revised Code is amended and renumbered to conform by adding two new definitions as follows with new language shown in shaded format:

Owner's designee means a person authorized to act on behalf of the owner of a vacation rental or short-term rental.

Verified violation means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in A.R.S. Sections 9-500.39(B) or 9-500.39(K) that has been finally adjudicated.

Section 3. Chapter 18, Article IX of the Scottsdale Revised Code is hereby added as follows with new language shown in shaded format:

ARTICLE IX. – VACATION RENTALS AND SHORT-TERM RENTALS.

DIVISION 1. – LICENSING.

Sec. 18-150. – Purpose.

This article is necessary to protect the health, safety and welfare of the public.

Sec. 18-151. - Vacation rental license required; invalid license; penalties.

(a) Effective January 8, 2023, no person shall operate a vacation rental or short-term rental in the city without first having obtained a current vacation rental license from the city and paying the applicable fees. A separate current vacation rental license is required for each house or dwelling unit where a vacation rental or short-term rental is operated.

(b) No person shall operate a vacation rental or short-term rental in the city with an expired, suspended or revoked vacation rental license.

(c) Representations or advertisements including online listings that reference the property, house or dwelling unit location within the city is prima facie evidence that a vacation rental or short-term rental is operating in the city.

(d) A violation of this section is a civil offense and shall be punished by a fine of not less than one thousand dollars ($1,000.00) per violation. The court shall not suspend any part of any fine required by this section.

Sec. 18-152. - License fees.

(a) Every application, including any renewal application, for a vacation rental license under this article shall be accompanied by a non-refundable two hundred fifty-dollar ($250.00) license fee and penalties incurred pursuant to this section.

(b) If the applicant failed to apply for a vacation rental license upon receiving written notice from the city of the requirement to do so, the applicant shall pay an additional one-thousand-dollar ($1,000.00) penalty for every thirty (30) day period the applicant failed to apply. Any penalty shall be non-refundable. For purposes of this section, written notice includes, but is not limited to, a notice sent by electronic means, United States mail or hand delivered to the physical location of the vacation rental or short-term rental or the address on file with the county assessor for the property. Written notice is deemed served on the date it is sent by electronic means, hand delivered or, if mailed, on the date it is deposited in the United States mail.

(c) The amount of any license fee and any penalty imposed by the provisions of this article shall be deemed a debt to the city. An action may be commenced in the name of the city in any court of competent jurisdiction for the amount of any delinquent license fee and penalties.

Sec. 18-153. - Term of license; transfer.

(a) A vacation rental license issued under this article shall be valid for a period of one (1) year from the date of issuance unless suspended or revoked.

(b) No license shall be transferable either as to location or as to person.

Sec. 18-154. – Application for license.

(a) An applicant for a vacation rental license including for a renewal application shall file an application on a form prescribed by the city manager or designee and contain the following information:

(1) The physical address of the house or dwelling unit to be used as a vacation rental or short-term rental.

(2) The name, address, email and telephone number of the owner of the vacation rental or short-term rental. If the owner is a fictitious person, the name, address, email and phone number of the owner's statutory agent.

(3) The name, address, email and telephone number of the owner's designee, if any. The owner shall certify that the owner's designee is authorized to act upon the owner's behalf.

(4) The name, address, email and twenty-four (24) hour telephone number of the individual who will serve as the emergency point of contact for the vacation rental or short-term rental. An individual pursuant to this subsection must be a real person and cannot be a fictitious person.

(5) Agreement by the owner and each designee to comply with all applicable laws, regulations, and ordinances.

(6) The owner and each owner's designee shall attest that they are not registered sex offenders, have not been convicted of any felony act that resulted in death or serious physical injury, and have not been convicted of any felony use of a deadly weapon within the past five (5) years.

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

(8) If the applicant is an individual, proof of lawful presence in the United States in accordance with A.R.S. §§ 1-502 and 41-1080 unless exempted by A.R.S. § 41-1080(B).

Sec. 18-155. – License issuance; denial.

(a) The city shall issue a vacation rental license within seven (7) business days after receipt of a complete application unless grounds for denial exist as follows:

(1) Failure to provide the information required by this article;

(2) Failure to pay the required license fee(s) including any penalties;

(3) At the time of application, the owner has a revoked or suspended license for the same vacation rental or short-term rental;

(4) The applicant has provided false information;

(5) 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; (iii) or has been convicted of any felony use of a deadly weapon within five (5) years of submitting the application; and

(6) Any grounds for revocation or suspension of a vacation rental license exist for the specific license application.

(b) The city manager or designee shall give notice of any denial of an application, and the right of appeal from the denial, as provided for in this article.

Sec. 18-156. – License revocation.

The city manager or designee shall initiate revocation proceedings if any grounds for denial exist for a vacation rental license that already has been issued.

Sec. 18-157. – Reapplication after denial or revocation.

No person who has had a vacation rental license denied or revoked pursuant to this article may apply for another vacation rental license for one (1) year at that same property after the decision affecting the applicant's license has become final. At the time of sustaining a denial, the hearing officer may reduce in whole or in part the one (1) year period described above in this section, if the denial was based on a good faith failure to provide complete information pursuant to section 18-155(a)(1) or failure to pay the required license fee(s) and any penalties provided that the applicant has paid all required fees and penalties by the time of the denial hearing.

Sec. 18-158. - License suspension; term of suspension.

(a) The city manager or designee shall initiate suspension proceedings against a vacation rental license for any of the following:

(1) Three verified violations 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 or short-term rental by the owner of the vacation rental or short-term rental or by the owner's designee;

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

(c) An owner of the vacation rental or short-term rental or the owner's designee knowingly or intentionally housing a sex offender, allowing offenses related to adult-oriented businesses, sexual offenses, or prostitution, or operating or maintaining a sober living home; or

(d) An owner of the vacation rental or short-term rental or the owner's designee knowingly or intentionally allowing the use of a vacation rental or short-term rental for a special event that would otherwise require a permit or license pursuant to this code or a state law or rule or for a retail, restaurant, banquet space or other similar use.

(b) The city manager or designee shall give notice of any suspension, and the right of appeal from the suspension, as provided for in this article.

(c) Any final suspension shall be for a period of one (1) year except that a hearing officer may reduce the suspension period to a period of six (6) months upon a finding that the owner of the vacation rental or short-term rental has taken substantial and significant steps to prevent the reoccurrence of the actions that led to the suspension.

Sec. 18-159. – Judicial relief for certain grounds of suspension.

(a) Notwithstanding section 18-158, any attempted or completed felony act, arising from the occupancy or use of a vacation rental or short-term rental, that results in a death, or actual or attempted serious physical injury, shall be grounds for judicial relief in the form of a suspension of the property's use as a vacation rental or short-term rental for a period that shall not exceed twelve (12) months.

(b) The city attorney may initiate proceedings in the city court or other court of competent jurisdiction to enforce this section.

Sec. 18-160. - Information updates.

All applicants and persons holding licenses issued pursuant to this article shall give written notice to the city manager or designee of any material changes in information submitted in connection with an application or application for renewal of a license. Any information required for an application pursuant to section 18-154 is deemed to be material for purposes of this section. This information shall be provided to the city manager or designee by the licensee or the effected person, as applicable, within ten (10) business days of any such change.

Sec. 18-161. - Appeals.

(a) Any person aggrieved by any decision with respect to the denial of or a refusal to issue a vacation rental license, the revocation of a vacation rental license, the suspension of a vacation rental license or a verified violation penalty imposed pursuant to section 18-177, shall be entitled to the review and appeal procedures provided in chapter 16, article I.

(b) This section is not applicable for judicial actions brought pursuant to section 18-159 or penalties including fines imposed by a court.

Sec. 18-162. – City use of license information.

Unless otherwise provided for by law, the city may use any information obtained from licensing applications including contact information pursuant to this article for any lawful purpose including, but not limited to, communicating or providing information regarding compliance with laws, public health and safety regulations, general city updates and reminders to keep required information updated with the city.

Secs. 18-163 -169. – Reserved.

DIVISION 2. – PROHIBITIONS AND OPERATIONAL REQUIREMENTS.

Sec. 18-170. – Compliance with laws.

(a) A vacation rental or short-term rental must at all times comply with all federal, state, and local laws, rules and regulations including but not limited to public health, safety, sanitation, solid waste, hazardous waste, tax privilege licensing, residential rental property recording, traffic control, pollution control, noise, property maintenance, and nuisance abatement.

(b) No person including an owner or operator shall operate a vacation rental or short-term rental in violation of this section.

Sec. 18-171. – Non-residential usage by vacation rentals or short-term rentals prohibited.

(a) No vacation rental or short-term rental may be used for any non-residential use or purpose including but not limited to any of the following:

1. Any commercial, industrial, manufacturing, or other non-residential purpose; or

2. Operating a retail business, restaurant, event center, banquet center or similar use; or

3. Housing sex offenders; or

4. Operating or maintaining a structured sober living home; or

5. Selling liquor, controlled substances or pornography; or

6. Operating any adult-oriented business including nude and topless dancing.

(b) The owner of a vacation rental or short-term rental or the owner's designee shall not knowingly or intentionally allow the use of a vacation rental or short-term rental for a special event that would otherwise require a permit or license pursuant to this code or a state law or rule.

(c) No person including, but not limited to, an owner, owner's designee, tenant, guest, business, vendor or operator shall operate a vacation rental or short-term rental in violation of this section.

(d) Representations or advertisements including online listings that advertise one of the prohibited activities pursuant to this section that reference a vacation rental or short-term rental property, house or dwelling unit location within the city is prima facie evidence that a vacation rental or short-term rental is operating in violation of this section.

Sec. 18-172. – Failure to respond to an emergency; penalties.

(a) In the event of an emergency, any person designated as an emergency contact pursuant to section 18-154 upon the request of public safety personnel shall respond in-person within one (1) hour to the physical location of the vacation rental or short-term rental for which they are a designated emergency contact.

(b) For the purpose of this section "in the event of an emergency" means any time police, fire or other public safety personnel respond to a vacation rental or short-term rental for a call for service including responding to a nuisance party or unlawful gathering.

(c) It shall be a civil offense for any person designated as an emergency contact upon request by public safety personnel pursuant to subsection (a) of this section to either fail to respond to the physical location of the vacation rental or short-term rental for which they are a designated emergency contact or fail to arrive within one (1) hour to the physical location of the vacation rental or short-term rental for which they are a designated emergency contact. Failure to respond shall be punished by a minimum fine of five hundred dollars ($500.00) and failure to arrive within one (1) hour shall be punished by a minimum fine of two hundred fifty dollars ($250.00).

(d) It shall be a civil offense for the owner of a vacation rental or short-term rental to intentionally, knowingly or recklessly have the owner's emergency contact fail to comply with the requirements of subsection (a). A violation of this subsection shall be punished by a minimum fine of five hundred dollars ($500.00). Evidence such as failure of an owner to keep contact information current may be considered when determining whether the owner acted intentionally, knowingly or recklessly.

Sec. 18-173. – Insurance required; failure to maintain insurance; penalty.

(a) Unless provided by an online lodging market place that provides primary liability insurance coverage of at least five hundred thousand dollars ($500,000) for the vacation

rental or short-term rental, every owner of a vacation rental or short-term rental shall maintain liability insurance to cover each vacation rental or short-term rental in the aggregate of a least five hundred thousand dollars ($500,000).

(b) Within thirty (30) days of obtaining a vacation rental license issued pursuant to this article, the owner or owner's designee shall provide evidence to the city of liability insurance to cover the vacation rental or short-term rental in the aggregate of at least five hundred thousand dollars ($500,000) or evidence that each vacation rental or short-rental transaction will be provided through an online lodging market place that provides equal or greater primary liability insurance coverage for the vacation rental or short-term rental.

(c) The owner or owner's designee of vacation rental or short-term rental shall provide proof of compliance with subsection a above upon demand by the city.

(d) It shall be unlawful for the owner or operator of a vacation rental or short-term rental to fail to comply the requirements of this section.

(e) A violation of this section is a civil offense and shall be punished by a minimum fine of five hundred dollars ($500.00). Upon a showing that the owner or operator has obtained the required insurance, the court may reduce the fine pursuant to this section to one hundred dollars ($100.00).

Sec. 18-174. – Advertising license number required; penalty.

(a) It shall be unlawful for the owner, operator or owner's designee of a vacation rental or short-term rental to fail to display or list a city vacation rental license number on each advertisement for a vacation rental or short-term rental located within the city.

(b) A violation of this section is a civil offense and shall be punished by a minimum fine of five hundred dollars ($500.00). Upon a showing that the owner, operator or owner's designee has come into compliance with this section, the court may reduce the fine pursuant to this section to one hundred dollars ($100.00).

Sec. 18-175. - Additional health and public safety regulations.

(a) The health and public safety regulations in this section are for the primary purpose of protecting the health and safety of the public as vacation rentals and short-term rentals create unique public health and safety issues.

(b) No person owning or operating a vacation rental or short-term rental shall:

(1) leave trash or garbage within public view, except in proper collection containers for the purpose of collection in accordance with the residential collection schedule outlined in section 24-17.

(2) collection containers shall not be placed for collection before 6:00 p.m. on the day preceding the date of collection, and after the containers are emptied, they shall be removed from the curbline on the day of collection.

(c) Any person owning or operating a vacation rental or short-term rental shall ensure that every vacation rental or short-term rental has working smoke alarms, which may require the

installation and maintenance of several detection units and maintained annually as required under National Fire Protection Association (NFPA) 72.

(d) The owner or owner's designee of a vacation rental or short-term rental shall provide and prominently display a map of the floor plan of the property 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/emergency contact information.

(e) The owner or owner's designee of a vacation rental or short-term rental shall have the property cleaned between stays. It shall be a defense to any prosecution of this subsection that the owner or owner's designee followed the cleaning standards outlined in the Maricopa County Environmental Health Code, Chapter 10, Section 2 relating to Transient Dwelling Establishments.

(f) The owner or owner's designee of a vacation rental or short-term rental shall ensure that the property receives regular (at least bi-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.

(g) The owner of a vacation rental or short-term rental that includes a swimming pool, spa or hot tub that is accessible to the renters, shall comply with the barrier requirements outlined in Scottsdale Revised Code § 31-68, AG105, Barrier Requirements. Owners of vacation rentals or short-term rentals shall have six months from the effective date of this article to come into compliance with this subsection.

(h) 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 a conspicuous location near each such door. The notice shall include information regarding the location of any fire or life safety equipment such as fire extinguishers, and the City of Scottsdale nuisance waste disposal regulations.

NOTICE

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

1. Any commercial, industrial, manufacturing, or other non-residential purpose; or
2. Operating a retail business, restaurant, event center, banquet center or similar use; or
3. Housing sex offenders; or
4. Operating or maintaining a structured sober living home; or
5. Selling liquor, controlled substances or pornography; or
6. Operating any adult-oriented business including nude and topless dancing; or
7. Any uses prohibited under A.R.S. § 9-500.39, or federal, state or local law; or
8. Any use that constitutes a substantial disturbance of the quiet enjoyment, and peace, health, safety or general welfare of private or public property through a nuisance party or unruly gathering, including, but not limited to, excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, litter, spirituous liquor served to, or in the possession of, or consumed by any minor, or where illegal drugs are in the possession of, or consumed by, any person.

9. The occupancy of this premises is limited to a single family of one to six adults and, if any, their related dependent children as defined in Appendix B, Sec. 3.100 of the Scottsdale Zoning Ordinance.
10. None of the following may occur where such acts may reasonably be viewed by the public whether at ground level or from a reasonable vantage point of a nearby property, such as a deck or balcony:
    a. Urination or defecation;
    b. Nudity; or
    c. Sexual acts.

UNLESS THE CITY EXPRESSLY PERMITS SUCH A USE IN WRITING, USE OF THIS PROPERTY FOR ANY OF THE FOLLOWING PURPOSES IS PROHIBITED; VIOLATORS MAY BE SUBJECT TO SUBSTANTIAL PENTALTIES:

Use for any nonresidential use, including:
1. For a special event that would otherwise require a permit or license pursuant to city 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 ___-___-____.

City of Scottsdale Vacation Rental License #_____.

Sec. 18-176. – Sex offender background checks.

(a) No later than twenty-four (24) hours before every stay the owner or owner's designee shall perform a background check on the person booking a vacation rental or short-term rental through the online national sex offender public website operated by the United States Department of Justice to ensure that there are no sex offenders at the vacation rental or short-term rental.

(b) An owner or owner's designee shall retain a printout (either in hard copy or electronic form) of the background check on the person booking the property for twelve (12) months after the booking date. Records of each background check shall be made available for inspection by the city upon demand during normal business hours.

(c) It shall be a civil offense for owners or owner's designees to fail to comply with the requirements of subsections a and b above and shall be punished by a mandatory minimum fine of one thousand dollars ($1,000.00). The court shall not suspend any part of any fine required by this section.

(d) It shall be a civil offense for a person to intentionally or knowingly book a vacation rental or short-term rental on behalf of a sex offender when the person booking the reservation will not be staying at the vacation rental or short-term rental. A violation of this subsection shall be punished by a mandatory minimum fine of one thousand dollars ($1,000.00). The court shall not suspend any part of any fine required by this section.

(e) The requirements of subsections a and b above are satisfied and/or waived if the online lodging marketplace on which the vacation rental or short-term rental is advertised performs the background check.

(f) For the purposes of this section, booking means the act of securing a reservation for the use of a vacation rental or short-term rental.

Sec. 18-177. – Verified violation penalties.

(a) In addition to any other penalty pursuant to this code, and notwithstanding any other law, the following civil penalties shall be imposed by the city upon the owner of a vacation rental or short-term rental related to the same vacation rental or short-term rental property within the same twelve-month (12) period:

(1) Up to $500.00 or up to an amount equal to one night's rent for the vacation rental or short-term rental as advertised, whichever is greater, for a first verified violation.

(2) Up to $1,000.00 or up to an amount equal to two nights' rent for the vacation rental or short-term rental as advertised, whichever is greater, for the second verified violation.

(3) Up to $3,500.00 or up to an amount equal to three nights' rent for the vacation rental or short-term rental as advertised, whichever is greater, for a third verified violation and any subsequent violation.

(b) If multiple violations arise out of the same response to an incident at a vacation rental or short-term rental, those violations are considered one violation for the purpose of assessing the civil penalties provided in this section.

(c) Unless an appeal is filed in a timely manner pursuant to section 18-161, a civil penalty assessed pursuant to this section shall be due within thirty (30) days of the initial notice sent to the owner by the city. For purposes of this section, written notice includes, but is not limited to, a notice sent by electronic means, United States mail or hand delivered.

Secs. 18-178 -18-190. – Reserved.

DIVISION 3. – NEIGHBOR NOTIFICATION.

Sec. 18-191. - Neighbor Notification.

(a) Prior to offering a vacation rental or short-term rental for rent for the first time, the owner or owner's designee is required to notify all single-family residential properties adjacent to, directly and diagonally across the street from the property, or in a multi-family residential building, to all units on the same building floor. After providing such notification, the owner or owner's designee shall attest compliance on a form prescribed by the city manager or designee and contain the following information:

(1) The vacation rental license number required by this article;

(2) The address of each property notified;

(3) How the notification was provided; and

(4) The name and contact information of the person attesting to compliance.

(b) The notification required by subsection (a) above is also required anytime the contact information for the vacation rental or short-term rental changes. Notification pursuant to this subsection shall occur within fifteen (15) business days.

(c) The notice required by this section shall be in writing and include the following information: the vacation rental license number issued pursuant to this article, the physical address of the vacation rental or short-term rental, and the name, address, and twenty-four (24) hour telephone number of the emergency point of contact. For purposes of this section, written notice includes notice sent by electronic means, United States mail or hand delivered.

(d) Vacation rentals or short-term rentals that are lawfully operating prior to the effective date of this section must comply with this section within thirty (30) days of obtaining a vacation rental license required by this article.

(e) It shall be unlawful to operate a vacation rental or short-term rental without complying with the notification requirements in this section.

(f) A violation of this section is a civil offense and shall be punished by a minimum fine of five hundred dollars ($500.00). Upon a showing that the owner or owner's designee has come into compliance with this section, the court may reduce the fine pursuant to this section to one hundred dollars ($100.00).

(g) For purposes of this section, adjacent shall mean the condition of being near to or close to but not necessarily having a common dividing line, i.e., two (2) properties which are separated only by a street or alley shall be considered as adjacent to one another.

Secs. 18-192 -18-195. – Reserved.

PASSED AND ADOPTED by the Council of the City of Scottsdale this 25 day of October 2022.

ATTEST:

Ben Lane

Ben Lane, City Clerk

APPROVED AS TO FORM:

Luis E. Santaella

Sherry R. Scott, City Attorney
By: Luis E. Santaella, Deputy City Attorney

CITY OF SCOTTSDALE, an
Arizona municipal corporation

David D. Ortega, Mayor