

EXHIBIT "A"

CITY OF LITCHFIELD PARK SHORT-TERM VACATION RENTAL ORDINANCE

ARTICLE 8.8

SHORT-TERM VACATION RENTALS

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Section 8-8-1 Purpose

This Article is adopted to protect the health, safety, and welfare of the community of the City by enacting reasonable regulations for short-term rentals and vacation rentals. It is the purpose of this Article to benefit the general public by minimizing adverse impacts on the housing supply, public health, safety, and peaceful enjoyment, when visiting and living in the City. These regulations are in addition to other codes of the City.

Section 8-8-2 Definitions

In this article, unless the context otherwise requires:

- A. "Advertisement" means any method of soliciting the use of property for vacation rental purposes.
- B. "Applicant" means the owner or owner's designee who applies with the City for a permit or renewal of a permit.

- C. “Days” shall mean calendar days unless stated otherwise.
- D. “Designee” and “Agent” are interchangeable for purposes of this Article and mean any person or persons with the charge, care of control of any property, dwelling unit, or portion thereof. “Designee” includes the “emergency point of contact”.
- E. “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.
- F. “Neighborhood 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 or stairs of the vacation rental property that includes the valid permit number issued by the City the physical address of the vacation rental, and the name, address and twenty-four (24) hour telephone number of the emergency point of contact.
- G. “Nonresidential Use” means any use that is not permitted in a residential zoning district pursuant to a City zoning ordinance.
- H. “Online Lodging Marketplace” is defined in A.R.S. § 42-5076.
- I. “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.
- J. “Permit” means authorization by the City to operate a vacation rental in accordance with the Article.
- K. “Person” means an individual, public entity, firm, corporation, partnership, limited liability company, trust, association, or any other business entity or jurisdictional person, whether operating on a for-profit or nonprofit basis.
- L. “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 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 is 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.

M. "Timely Manner" means responding to complaints and emergencies in person, by phone, or by email within sixty (60) minutes from the request by public safety personnel.

N. "Transaction Privilege Tax License" is the license issued by the State of Arizona pursuant to A.R.S. Title 42.

O. "Transient" has the same meaning prescribed in A.R.S. § 42-5070.

Section 8-8-3 Permit Required; Penalties

A. Permit required. Prior to use of a property as a vacation rental, the owner of shall obtain an annual vacation rental permit from the City. Renting, or offering for rent, a vacation rental without complying with the permit process requirements in this Section 8-8-3 is prohibited.

B. Permit applications. The owner of a proposed vacation rental shall submit to the City a permit application on a form furnished by the City. 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 phone 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 agents.
- 3) The name, address, and phone 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) Proof of a valid City business license.
- 7) The total number of available guest spaces and parking spaces for the property to be used as a vacation rental.

- 8) Verification that the owner of the property to be used as a vacation rental does not have any outstanding past due fee owed to the City.
 - 9) Acknowledgement 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 a felony act that resulted in death or serious injury, or been convicted of any felony use of a deadly weapon within the past five years.
 - 10) Attestation of compliance with the notification required in this Article.
 - 11) 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.
 - 12) If the applicant is an individual, proof of lawful presence in the United States in accordance with A.R.S. §§ 1-502 and 41-1080.
- C. 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 the City Council resolution and as listed in the city fee schedule.
- D. Issuance; reasons for denial. The City shall issue or deny the permit within seven (7) business days after receipt of a complete application, except that the City may deny issuance of a permit for any of the following reasons:
- 1) The applicant failed to provide the information required under Subsection B;
 - 2) The applicant failed to pay the permit fee required under Subsection C;
 - 3) The applicant provided false information;
 - 4) The owner or designee of the owner: (i) is a registered sex offender; (ii) has been convicted of a felony act that resulted in death or serious injury; or (iii) has been convicted of a felony use of a deadly weapon with five (5) years of submitting 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 Section 8-8-13.

- E. Notice of denial: appeal. The City manager or designee shall give notice of the denial of an application to the applicant by mailing 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 Section 8-8-14.
- F. Maintaining Accurate Information; Violations. All applicants and persons holding permits issued pursuant to this Article shall give prior written notice to the City 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 City Manager not less than ten days prior to the effective date of this change. A violation of this Subsection is a civil offense.
- G. Term of Permit: Renewal application. All permits issued under this Article shall be valid until December 31st of each year unless suspended or revoked. Except where the City 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. A vacation rental that fails to apply for a permit or license within 30 days of the permit application being made available by the City shall immediately cease operations. In addition to any other penalty pursuant to the City Code, the City 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 the violation from the City. 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 is operating in the City.
- I. Non-transferable. No permit shall be transferable either as to location or as to a person.
- J. Implementation. The City Manager or designee shall develop the necessary forms and/or database necessary to implement this Section 8-8-3.

Section 8-8-4 Emergency Point of Contact Requirements; Penalties

- A. Emergency responses; Violations. When requested by a police officer, 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 sixty (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 email, or by text within 24 hours of the request.

- C. **Maintaining Accurate Emergency Information.** All participants and persons holding permits issued to this Article shall give prior written notice to the City Manager or designee of any change to the contact information provided to the City for the emergency point of contact. The notice shall be provided to the City Manager not less than ten days prior to the effective date of the change.
- D. **Violations.** In addition to any other penalty pursuant to the City Code, a violation of this Section 8-8-4 shall be a civil offense.
- E. **Penalties.** In addition to any other penalty pursuant to the City Code, an owner shall be subject to civil penalties of up to \$1,000 for every 30 days the owner fails to provide notice to the City as required under this Subsection. Before imposing the initial civil penalty, the City shall provide 30 days' notice to the owner by mailing a notice of violation to the owner's mailing address that was provided to the City. The notice of the violation shall inform the applicant of the right to appeal the denial as provided for in Section 8-8-14. Notwithstanding the date of the notice of violation, the date for calculating the penalties shall be the first day of the vacation rental is occupied following the owner's failure to provide the notice to the City regarding the change.

Section 8-8-5 Compliance with the Law; Prohibited Uses

- A. A vacation rental shall comply with the federal, state, and local 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 city 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 business;
 - 8) Obscenity;
 - 9) Adult-oriented business; or
 - 10) Other uses prohibited by Arizona Revised Statute 9-500.39
- 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 City 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.

Section 8-8-6 Neighbor Notification Required

- A. Neighborhood 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 City and shall include the following minimum information:
- 1) The permit number issued by the City;
 - 2) The physical address of the vacation rental; and
 - 3) The name, physical address, email address, and 24-hour phone 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 days prior to each change. The additional information shall be provided in the manner required by Subsection A.

- C. Attestation. Prior to offering a vacation rental for rent for the first time, the owner or designee shall provide to the City an attestation of compliance with the neighbor notification required by Section 8-8-6.
- D. Violations. In addition to any other penalty pursuant to the City Code, a violation of this Section 8-8-6 shall be a civil offense.

Section 8-8-7 Advertisement Requirements

- A. Required Disclosure. To protect the peace, health, safety, and general welfare of the City's residents and visitors, the owner or owner's designee shall be responsible for displaying the permit number issued by the City on each advertisement for such vacation rental.
- B. Violations. In addition to any other penalty pursuant to the City Code, a violation of this Section 8-8-7 shall be a civil offense. Each advertisement in violation of this Section 8-8-7 shall constitute a separate violation.

Section 8-8-8 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 3 feet of the primary entrance of the vacation rental.
- B. Failure to Comply. In addition to any other penalty pursuant to the City Code, a violation of this Section 8-8-8 shall be a civil offense. Each day a vacation rental does not display the information required by this Section 8-8-8 shall constitute a separate violation.

Section 8-8-9 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 required liability insurance coverage shall be provided to the City no later than 10 days prior to offering or renting the vacation rental for rent for the first time.
- C. Violation. In addition to any other penalty pursuant to the City Code, a violation of this Section 8-8-9 shall be a civil offense. Each day a vacation rental lacks the insurance required by the Section 8-8-9 shall constitute a separate violation.

Section 8-8-10 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 8-8-10.
- B. Within 24 hours of every booking and before a guest's check-in, a sex offender background check on each booked guest shall be conducted by the owner or by the online lodging marketplace on which the vacation rental is advertised to ensure there are no sex offenders at the vacation rental. The owner shall demonstrate compliance with this requirement by retaining a full copy of each background check for a minimum of 12 months after the booking date and providing the copy to the City upon a request by a police officer.
- C. In addition to any other penalty pursuant to the City Code, any person who violates this Section 8-8-10 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 8-8-10.

Section 8-8-11 Safety Equipment Required

- A. To protect the health, safety, and general welfare of all vacation rental occupants, vacation rentals must meet the minimum standards for habitable structures set forth in City Code and the Zoning Ordinance and the following requirements:
 - 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 vacation rental and maintained annually as required under National Fire Protection Association (NFPA) 72. The owner shall keep and make available for inspection upon request by the City 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 vacation 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) Pool Enclosure. Regardless of the date a swimming pool was installed, each Vacation Rental that has a swimming pool shall meet the minimum safety requirements

provided for in A.R.S. §§ 36-1681(A), (B) and (C). The exclusions of A.R.S. § 36-1681(D)(4-7) shall not apply to Vacation Rentals under this Article.

Section 8-8-12 Permit Suspensions

- A. Permit suspensions. The City may initiate an administrative process to suspend a vacation rental permit for a period of up to 12 months for any of the following:
- 1) Three verified violations of this Article within a 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 City code or a state law or rule 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 Section 8-8-14.

Section 8-8-13 Enhanced Penalties

- A. The remedies in this Article are cumulative and the City may proceed under one or more such remedies.
- B. In addition to any other penalty pursuant to the City Code, and notwithstanding any other law, the City 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 30 days of the application process being made available by the City, just cease operations immediately. In addition to any fines imposed pursuant to this Section 8-8-13, the City 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 within 30 days of receiving written notice of the failure to comply with this Article.

Section 8-8-14 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 City Manager no later than 30 days from the date of the decision letter. The notice of appeal shall be on a form approved by the City.
- B. An appeal under this Section 8-8-14, does not operate as a stay of the permit suspension.
- C. This Section 8-8-14 is not applicable to judicial actions brought pursuant to Section 8-8-15 or to penalties including fines imposed by a court.

Section 8-8-15 Judicial Relief

- A. Notwithstanding Section 8-8-12, 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 12 months.
- B. The City attorney may initiate proceedings in the magistrate court or other court of competent jurisdiction to enforce this Section 8-8-15.

Section 8-8-16 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.