

ORDINANCE 822-23

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AMENDING THE QUEEN CREEK TOWN CODE CHAPTER 8, ARTICLE 8-1, BUSINESS LICENSE, SECTION 8-1-2 AND ARTICLE 8-6, SHORT-TERM RENTALS AND VACATION RENTALS; AND AMENDING CHAPTER 9 BY AMENDING SECTION 9-2-13 SHORT-TERM RENTAL OFFENSES

WHEREAS, A.R.S. § 9-500.39, as amended, allows the Town to regulate the business of short-term and vacation rentals within the Town subject to limitations set forth in the statute; and

WHEREAS, the Town Council adopted Ordinance 805-22 enacting reasonable regulations for short-term rentals and vacation rentals by making certain changes to Town Code Chapter 8, Article 8-1, Business License and Adding Article 8-6, Short-Term Rentals and Vacation Rentals, and Amending Chapter 9 By Adding A New Section 9-2-13 Short-Term Rental Offenses, and Moving Section 9-2-13 To 9-2-14 (collectively the “Short-Term Rental Regulations”); and

WHEREAS, the Town Council has determined that it is not necessary at this time to require a business license and corresponding licensing fees for short-term and vacation rentals within the Town, but maintaining the requirements to provide contact information through registration with the Town and prohibitions against certain illegal activities through amendment of the Short-Term Rental Regulations is in the best interest of the Town at this time.

WHEREAS, A.R.S. § 9-802 provides a procedure whereby a municipality may enact the provisions of a code or public record by reference, without setting forth such provisions, providing that the adopting ordinance is published in full;

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AS FOLLOWS:

Section 1. The Queen Creek Town Code, Section 8-1-2, Application and Issuance, Subsection C, is deleted in its entirety and Section 8-1-2 Subsections D through F are renumbered C through E.

Section 2. The Queen Creek Town Code, Section 8-1-10 Business License Fees, is deleted in its entirety to remove references to “short-term rental operators” and replaced with the following:

Section 8-1-10 Business License Fees

Initial application for providers of services, wholesalers and manufacturers with a fixed place of business within the town limits	\$60
Initial application for retail merchants, restaurants, bars, contractors and rental of real and personal property with a fixed place of business within the town limits, persons engaging in the sale or rental of real estate, and mobile food vendors	\$60
Initial application for Wholesalers, manufacturers and providers of services without a fixed place of business within the town limits	\$60

Initial application for Retail merchants, etc. (as above) without a fixed place of business within the town limits	\$60
Renewal fee for all businesses within the town limits	\$40/year
Renewal fee for all businesses without a fixed place of business within the town limits	\$60/year
Liquor license – all license types (issued January)	\$200/calendar year

Section 3. The Queen Creek Town Code, Article 8-6, Short-Term Rentals and Vacation Rentals, is amended as set forth in Exhibit A hereto and Exhibit A is declared to be a public record, and is adopted and incorporated herein by this reference.

Section 4. The Queen Creek Town Code, Section 9-2-13, Short-Term Rentals, is amended as set forth in Exhibit A hereto.

Section 5. The repeal of the Article, Sections and Subsections set forth above does not affect the rights and duties that matured, or penalties that were incurred and proceedings that were begun before the effective date of the repeal.

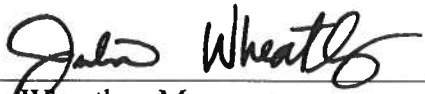
Section 6. If any section, subsection, clause, phrase or portion of this Ordinance or any part of these amendments to the Town Code is for any reason held invalid or unconstitutional by the decision of any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 7. At least one paper copy and one electronic copy of this ordinance and exhibits are to be filed in the office of the Town Clerk.

PASSED AND ADOPTED BY the Common Council of the Town of Queen Creek, Arizona, this 1st day of November 2023.

FOR THE TOWN OF QUEEN CREEK:

ATTESTED TO:



 Julia Wheatley, Mayor



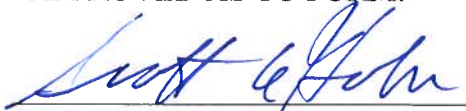
 Maria Gonzalez, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



 Bruce Gardner, Town Manager



 Dickinson Wright, PLLC
 Town Attorneys

EXHIBITS ON FILE AT THE TOWN CLERK'S OFFICE

EXHIBIT A

[Deletions shown in ~~strike through~~ and additions in ALL CAPITALS]

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

- 8-6-1 Purpose.**
- 8-6-2 Definitions.**
- 8-6-3 ~~License~~ Registration Required; Penalties.**
- 8-6-4 Emergency Point of Contact Requirements; Penalties.**
- 8-6-5 Compliance with the Law; Prohibited Uses.**
- 8-6-6 ~~License~~ REGISTRATION Suspensions.**
- 8-6-7 Penalties.**
- 8-6-8 Appeals.**
- 8-6-9 Judicial Relief.**
- 8-6-10 Severability.**

8-6-1 Purpose.

This Article is adopted to protect the health, safety, and welfare of the Queen Creek community by enacting reasonable regulations for short-term rentals and vacation rentals. These regulations are in addition to other codes of the Town.

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:

“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 license or renewal of a license.~~

“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.

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

“Nonresidential use” means any use that is not permitted in a residential zoning district pursuant to a Town zoning ordinance. Nonresidential use includes banquets, wedding venues, event venues, day cares, restaurants, health clubs, arts and craft boutiques, swap meets and other similar nonresidential uses.

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

“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.

“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.

“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 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 license, 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" means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty consecutive days.

"Timely manner" means responding to complaints and emergencies in person, by phone, or by email within 60 minutes when requested by a police officer and within 24 hours for all other non-emergency requests.

8-6-3 ~~License~~ REGISTRATION Required; Penalties.

- A. ~~License~~ REGISTRATION required. Prior to use of a property as a vacation rental, the owner of shall obtain REGISTER THE PROPERTY WITH ~~an annual vacation rental license from~~ the Town. Renting, or offering for rent, a vacation rental without complying with the ~~license~~ REGISTRATION requirement in this Section 8-6-3 is prohibited.
- B. ~~License applications~~ REGISTRATION. The owner of a proposed vacation rental shall ~~submit to~~ REGISTER WITH the Town ~~a license application~~ on a form furnished by the Town. The ~~license application~~ REGISTRATION shall be signed by the ~~applicant~~ PROPERTY OWNER 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 short-term rental.
 2. The name, address, email address and telephone number of the owner for which the short-term rental registration ~~license~~ 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. Evidence the vacation rental is registered with the Maricopa or Pinal County Assessor's Office in accordance with A.R.S. § 33-1902.
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.

~~C.~~ ~~License fee.~~ Every application, including any renewal application, for a vacation rental license under this Article shall be accompanied by the fee set forth in Section 8-10-10 for rental of real or personal property or real estate.

~~D C.~~ ~~Issuance; r~~ *Reasons for denial OF REGISTRATION.* The Town shall ~~issue~~ ACCEPT or deny the ~~license~~ REGISTRATION within seven (7) business days after receipt of a complete application REGISTRATION FORM, except that the Town may deny issuance of a ~~license~~ REGISTRATION for any of the following reasons:

1. The ~~applicant~~ OWNER OR DESIGNEE failed to provide the information required under subsection B;
- ~~2. The applicant failed to pay the license fee required under subsection C;~~
- ~~3. The applicant~~ OWNER OR DESIGNEE provided false information;
43. 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~~ REGISTRATION, the owner has HAD a suspended ~~license~~ REGISTRATION 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. 8-6-7; 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 D.~~ *Notice of denial; appeal.* The Town Clerk or designee shall give notice of the denial of an ~~application~~ REGISTRATION to the ~~applicant~~ by emailing the notice to ~~applicant~~ OWNER OR DESIGNEE at the address listed on the ~~application~~ REGISTRATION FORM. The notice of the denial shall inform the ~~applicant~~ OWNER OR DESIGNEE of the right to appeal the denial as provided for in Sec. 8-6-8.

~~F E.~~ *Maintaining Accurate Information.* All applicants and persons holding ~~license~~ A REGISTRATION issued pursuant to this Article shall give prior written notice to the Town Clerk or designee of any material change in information submitted in

connection with ~~an application for a license or renewal of a license~~ THE REGISTRATION. The notice shall be provided to the Town Clerk or designee not less than ten (10) days prior to the effective date of the change. Any information required for an application under this Section 8-6-3 is deemed to be material for purposes of this Section 8-6-3.

~~G. *Term of License; Renewal application.* All licenses issued under this Article shall be valid for the remainder calendar year from the date of their issuance and renewed annually every January. 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 license.~~

~~H F. *Operating Without a License REGISTERING; Penalties.* A vacation rental owner that fails to REGISTER ~~apply for a license or license~~ within thirty (30) days of the ~~license application~~ REGISTRATION FORM 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 license~~ REGISTER 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 G. *Non-transferable.* No ~~license~~ REGISTRATION shall be transferable either as to location or as to person.~~

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

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

A. *Emergency Responses.* When requested by a police officer, the owner or emergency point of contact whose name appears on the ~~license application~~ REGISTRATION 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.* 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 twenty-four (24) hours of the request.

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

- D. *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 mailing a notice of violation to the owner's mailing 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 Section 8-6-8. 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.

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 license or ~~license~~ PERMIT pursuant to a ~~city or~~ Town ordinance or state law or rule;
 3. Operating a retail business, restaurant, event center, banquet hall or similar use;
 4. Operating or maintaining a sober living home;
 5. Selling liquor, illegal drugs, or pornography;
 6. Operating a nude or topless dancing;
 7. Obscenity;
 8. Adult-oriented business; or
 9. Any other use prohibited by A.R.S. § 9-500.39 or the 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.
- DC. 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~~ ARTICLE or other law.

8-6-6 ~~License~~ REGISTRATION Suspensions.

- A. ~~License~~ REGISTRATION suspensions. The Town may initiate an administrative process to suspend a vacation rental ~~license~~ REGISTRATION 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 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 license or license pursuant to 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 license may be appealed by the owner as set forth in Section 8-6-8.

8-6-7 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 Town Code, any person who violates or causes, allows, facilitates, aides, or abets any violation of this Article shall be guilty of a civil offense.
- D. The failure of any designee to comply with this Article shall not relieve the owner of liability under this Article.

8-6-8 Appeals.

- A. Any person aggrieved by any decision with respect to the denial of ~~or a refusal to issue~~ a vacation rental ~~license~~ REGISTRATION, the suspension of a vacation rental ~~license~~ REGISTRATION, or a penalty imposed pursuant to this Article may appeal the decision by filing a written notice of appeal with the Town Clerk or designee 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 8-6-8 does not operate as a stay of the ~~license~~ REGISTRATION suspension.
- C. This Section 8-6-8 is not applicable to judicial actions brought pursuant to Section 8-6-9 or to penalties including fines imposed by a court.

8-6-9 Judicial relief.

- A. Notwithstanding Section 8-6-6, 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 8-6-9.

8-6-10 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.

Article 9-2-13 Short-Term Rentals

It is unlawful for any person to operate a short-term rental within the Town without first ~~obtaining the appropriate license issued by~~ REGISTERING WITH the Town under Article 8-6 of the Town Code or to violate any Section under Article 8-6 of the Town Code. Violation of this Section is a Civil Offense.