

**ORDINANCE O-19-08**

**AN ORDINANCE OF THE CITY OF BISBEE, AMENDING THE CITY CODE, CHAPTER 8, BUSINESS REGULATIONS, AND ADDING REGULATIONS RELATED TO VACATION RENTALS**

**WHEREAS**, the City has an interest in protecting the public health, safety, and welfare of its citizens and general public;

**WHEREAS**, the City recognizes tourism as a vital part of its community and aims to protect the health, safety, and welfare of tourists through sound regulation;

**WHEREAS**, the citizens of Bisbee and general public have a reasonable expectation to peacefully enjoy this community; and,

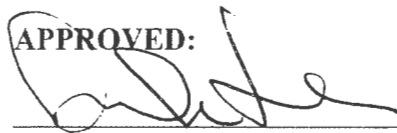
**WHEREAS**, the City must provide those offering vacation rentals clear rules for operating such businesses within the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:**

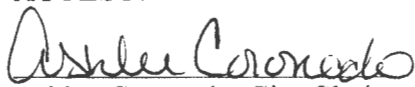
**Section 1.** The amendments to Chapter 8 of the City Code, as set forth in the attached Exhibit A, incorporated herein by reference, are hereby adopted.

**Section 2.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

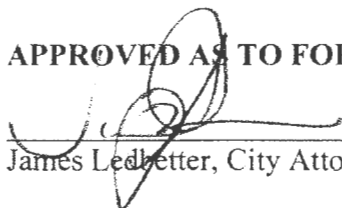
**PASSED, APPROVED AND ADOPTED** by the Mayor and Council of the City of Bisbee on this 3<sup>rd</sup> day of December, 2019.

**APPROVED:**  
  
\_\_\_\_\_  
David Smith, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ashlee Coronado, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
James Ledbetter, City Attorney

## EXHIBIT A

## ARTICLE 8.9 VACATION RENTALS AND SHORT-TERM RENTALS

## 8.9.1 Purpose

It is the purpose of this ordinance 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 of Bisbee. This is to be accomplished by regulating the conversion of residential units to tourist and transient use, through appropriate administrative and judicial remedies.

## 8.9.2 Definitions

- A. "Booking Service" means any reservation and/or payment service provided by a person or entity that facilitates a short-term rental transaction between an Owner or Business Entity and a prospective Tourist or Transient user, and for which the person or entity collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment services provided for the short-term rental transaction.
- B. "Business Entity" means a corporation, partnership, or other legal entity that is not a natural person that owns or leases one or more Vacation Rentals or Short-Term Rentals.
- C. "Hosting Platform" means a person or entity that participates in the short-term rental business by providing, and collecting or receiving a fee for, Booking Services through which an Owner may offer a Vacation Rental or Short-Term Rental for Tourist or Transient use. Hosting Platforms usually, though not necessarily, provide Booking Services through an online platform that allows an Owner to advertise the Vacation Rental or Short-Term Rental through a website provided by the Hosting Platform and the Hosting Platform conducts a transaction by which potential Tourist or Transient users arrange Tourist or Transient Use and payment, whether the Tourist or Transient pays rent directly to the Owner or to the Hosting Platform.
- D. "Owner" means any person or Business Entity who is the owner of record of the real property. Owner also includes a lessee where the lessee is offering a Vacation Rental or Short-Term Rental for Tourist or Transient use.
- E. "Tourist" or "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.
- F. "Vacation Rental" or "Short-Term Rental" means 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, cooperative or timeshare. Vacation Rental and Short-Term Rental do not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

## 8.9.3 Requirements for Operating a Vacation Rental or Short-Term Rental

- A. The Owner of a Vacation Rental or Short-Term Rental must provide to the City Clerk contact information for the person who is responsible for responding to complaints, at any time of day, doing so before offering for rent or renting the Vacation Rental or Short-Term Rental.

- B. The Owner of a Vacation Rental or Short-Term Rental must secure a business license pursuant to Article 8.2 of this Code.
- C. The Owner must have a current state transaction privilege tax license and number. The Owner must list the current state transaction privilege tax license number on each advertisement for each Vacation Rental or Short-Term Rental on the website provided by the Hosting Platform.
- D. The Owner must make available in the advertisement for the Vacation Rental or Short-Term Rental, and within the rental unit itself, City Code Sections 8.9.4 and 8.9.5.

**8.9.4 Prohibited Uses**

- A. A Vacation Rental or Short-Term Rental shall not be used for nonresidential uses, including retail, restaurant, banquet space, event center or other similar use.
- B. Owners of a Vacation Rental or Short-Term Rental are prohibited from housing sex offenders, sheltering persons not lawfully in the United States, operating or maintaining a sober living home, selling illegal drugs, liquor or pornography, obscenity, and providing nude or topless dancing or other adult-oriented businesses.

**8.9.5 Restrictions: Maximum Guest Limit; Noise; and Application of Existing Law**

- A. The maximum number of adult tourists, transients or occupants allowed on the Vacation Rental or Short-Term Rental property at any one time is limited to no more than two adults per sleeping room plus two, additional adults in the Vacation Rental or Short-Term Rental.
- B. The Owner, Tourist or Transient shall not produce noise that is intermittent or continuous for a period of at least 15 minutes, which travels beyond the property line, and disturbs the peace and order of the neighborhood or a person of ordinary sensibilities. The Owner, Tourist or Transient shall not create noise that is intermittent or continuous between the hours of 10:00 p.m. and 6:00 a.m., which exceeds the property line, and disturbs the peace and order of the neighborhood or a person of ordinary sensibilities. Such violations will be considered a nuisance pursuant to City Code Section 10.1.8.
- C. The Owner, Tourist and Transient shall comply with all State, County and City laws, codes and regulations.

**8.9.6 Fines and Penalties**

Fines and Penalties for violations of this Article are as follows:

- A. For a first offense, impose a civil penalty of not more than \$500 against the Owner.
- B. For a second offense on the same property within a twelve-month period, impose a civil penalty of not more than \$1,000 against the Owner.
- C. Upon a third offense on the same property within the same twelve-month period, the Owner is suspended from operating any Vacation Rental or Short-Term Rental property within City limits for a period of sixty (60) days. The Owner shall be assessed a civil penalty of \$1,500 or fifty percent of the gross monthly revenue generated from the property, whichever is greater.

- D. Upon the fourth offense within the same twelve-month period, the Owner is banned from operating any Vacation Rental or Short-Term Rental property within City limits. The Owner shall be assessed a civil penalty of \$1,500 or fifty percent of the gross monthly revenue generated from the property, whichever is greater.
- E. The fees in this Section 8.9.6 shall be superseded by a subsequent act of the City Council to adopt a new fee schedule. Until and in the event these fees are superseded, this Section 8.9.6 controls. The non-monetary penalties of this Section 8.9.6 will continue to apply and will not be superseded in the event the City Council adopts a new fee schedule.

**8.9.7 Appeals**

- A. If the City imposes a civil penalty on the Owner for any violation of this Article 8.9, the hearing officer may waive or lower the civil penalty based on the Owner's diligence in attempting to prohibit renters from violating applicable State, County or City laws, codes or regulations.