

A.R.S. § 9-500.39

Current through all legislation of the 55th Legislature's 2nd Regular session enacted as of June 25, 2022, including act chapter 305

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9-500.39. Limits on regulation of vacation rentals and short-term rentals; state preemption; civil penalties; transaction privilege tax license suspension; definitions [Effective September 24, 2022]

- A.** A city or town may not prohibit vacation rentals or short-term rentals.
- B.** A city or town may not restrict the use of or regulate vacation rentals or short-term rentals based on their classification, use or occupancy except as provided in this section. A city or town may regulate vacation rentals or short-term rentals as follows:
- 1.** to protect the public's health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control and solid or hazardous waste and pollution control, if the city or town demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.
 - 2.** to adopt and enforce use and zoning ordinances, including ordinances related to noise, protection of welfare, property maintenance and other nuisance issues, if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.
 - 3.** to limit or prohibit the use of a vacation rental or short-term rental for the purposes of housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses.
 - 4.** to require the owner of a vacation rental or short-term rental to provide the city or town an emergency point of contact information for the owner or the owner's designee who is responsible for responding to complaints or emergencies in a timely manner in person if required by public safety personnel, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental. in addition to any other penalty pursuant to this section, the city or town may impose a civil penalty of up to \$1,000 against the owner for every thirty days the owner fails to provide contact information as prescribed by this paragraph. the city or town shall provide thirty days' notice to the owner before imposing the initial civil penalty.
 - 5.** to require an owner of a vacation rental or short-term rental to obtain and maintain a local regulatory permit or license pursuant to title 9, chapter 7, article 4. as a condition of issuance of a permit or license, the application for the permit or license may only require an applicant to provide the following:
 - (a)** name, address, phone number and email address for the owner or owner's agent.
 - (b)** address of the vacation rental or short-term rental.
 - (c)** proof of compliance with section 42-5005.
 - (d)** contact information required pursuant to paragraph 4 of this subsection.
 - (e)** acknowledgment of an agreement to comply with all applicable laws, regulations and ordinances.

(f) a fee not to exceed the actual cost of issuing the permit or license or \$250, whichever is less.

6. to require, before offering a vacation rental or short-term rental for rent for the first time, the owner or the owner's designee of a vacation rental or short-term rental to notify all single-family residential properties adjacent to, directly and diagonally across the street from the vacation rental or short-term rental. notice shall be deemed sufficient in a multi-family residential building if given to residents on the same building floor. a city or town may require additional notification pursuant to this paragraph if the contact information previously provided changes. notification provided in compliance with this paragraph shall include the permit or license number if required by the city or town, the address, and the information required pursuant to paragraph 4 of this subsection. the owner or the owner's designee shall demonstrate compliance with this paragraph by providing the city or town with an attestation of notification compliance that consists of the following information:

- (a)** the permit or license number of the vacation rental or short-term rental, if required by the city or town.
- (b)** the address of each property notified.
- (c)** a description of the manner in which the owner or owner's designee chose to provide notification to each property subject to notification.
- (d)** the name and contact information of the person attesting to compliance with this paragraph.

7. to require the owner or owner's designee of a vacation rental or short-term rental to display the local regulatory permit number or license number, if any, on each advertisement for a vacation rental or short-term rental that the owner or owner's designee maintains. a city or town that does not require a local regulatory permit or license may require the owner or owner's designee of a vacation rental or short-term rental to display the transaction privilege tax license required by section 42-5042 on each advertisement for a vacation rental or short-term rental that the owner or owner's designee maintains.

8. to require the vacation rental or short-term rental to maintain liability insurance appropriate to cover the vacation rental or short-term rental in the aggregate of at least \$500,000 or to advertise and offer each vacation rental or short-term rental through an online lodging marketplace that provides equal or greater coverage.

C. a city or town that requires a local regulatory permit or license pursuant to this section shall issue or deny the permit or license within seven business days of receipt of the information required by subsection b, paragraph 5 of this section and otherwise in accordance with section 9-835, except that a city or town may deny issuance of a permit or license only for any of the following:

- 1.** failure to provide the information required by subsection b, paragraph 5, subdivisions (a) through (e) of this section.
- 2.** failure to pay the required permit or license fee.
- 3.** at the time of application the owner has a suspended permit or license for the same vacation rental or short-term rental.
- 4.** the applicant provides false information.
- 5.** the owner or owner's designee of a vacation rental or short-term rental is a registered sex offender or has been convicted of any felony act that resulted in death or serious physical injury or any felony use of a deadly weapon within the past five years.

D. a city or town that requires a local regulatory permit or license pursuant to this section shall adopt an ordinance to allow the city or town to initiate an administrative process to suspend a local regulatory permit or license for a period of up to twelve months for the following verified violations associated with a property:

- 1.** three verified violations within a twelve month period, not including any verified 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 vacation rental or short-term rental owner or 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 vacation rental or short-term rental owner or owner's designee.
- (c)** an owner or 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, in violation of a regulation or ordinance adopted pursuant to subsection b, paragraph 3 of this section.
- (d)** an owner or 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 a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

3. notwithstanding paragraphs 1 and 2 of this subsection, 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 of time that shall not exceed twelve months.

E. a city or town that requires sex offender background checks on a vacation rental or short-term rental guest shall waive the requirement if an online lodging marketplace performs a sex offender background check of the booking guest.

F. notwithstanding any other law, a city or town may impose a civil penalty of the following amounts against an owner of a vacation rental or short-term rental if the owner receives one or more verified violations related to the same vacation rental or short-term 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 or short-term rental as advertised, whichever is greater, for the first verified violation.
- 2.** up to \$1,000 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 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 and any subsequent verified violation.

G. a vacation rental or short-term rental that fails to apply for a local regulatory permit or license in accordance with subsection b, paragraph 5 of this section, within 30 days of the local regulatory permit or license application process being made available by the city or town issuing such permits or licenses, must cease operations. in addition to any fines imposed pursuant to subsection f of this section, a city or 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 a regulatory permit or license within 30 days after receiving written notice of the failure to comply with subsection b, paragraph 5 of this section.

H. if multiple verified violations arise out of the same response to an incident at a vacation rental or short-term rental, those verified violations are considered one verified violation for the purpose of assessing civil penalties or suspending the regulatory permit or license of the owner or owner's designee pursuant to this section.

I. If the owner of a vacation rental or short-term rental has provided contact information to a city or town pursuant to subsection B, paragraph 4 of this section and if the city or town issues a citation for a violation of the city's or town's applicable laws, regulations or ordinances or a state law that occurred on the owner's vacation rental or short-term rental property, the city or town shall make a reasonable attempt to notify the owner or the owner's designee of the citation within seven business days after the citation is issued using

the contact information provided pursuant to subsection B, paragraph 4 of this section. If the owner of a vacation rental or short-term rental has not provided contact information pursuant to subsection B, paragraph 4 of this section, the city or town is not required to provide such notice.

J. This section does not exempt an owner of a residential rental property, as defined in section 33-1901, from maintaining with the assessor of the county in which the property is located information required under title 33, chapter 17, article 1.

K. A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

L. For the purposes of this section:

1. "online lodging marketplace" has the same meaning prescribed in section 42-5076.
2. "Transient" has the same meaning prescribed in section 42-5070.
3. "Vacation rental" or "short-term rental":
 - (a) 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 or cooperative that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001.
 - (b) does not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.
4. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B or K of this section that has been finally adjudicated.

History

Recent legislative history: [2016 2nd Reg. Sess. Ch. 208, § 1](#), effective January 1, 2017; [2018 2nd Reg. Sess. Ch. 194, § 1](#), effective August 3, 2018; [2019 1st Reg. Sess. Ch. 240, § 1](#), effective August 27, 2019; [2020 2nd Reg. Sess. Ch. 43, § 1](#), effective August 25, 2020; [2022 2nd Reg. Sess. Ch. 343, § 1](#), effective September 24, 2022.

Annotations

Notes

Editor's Notes

Enacted as [A.R.S. § 9-500](#).38 and renumbered by the reviser.

Amendment Notes

The 2018 amendment, in (B)(3), deleted "structured" preceding "sober living home."

The 2019 amendment added "except as provided in this section" in the first sentence of the introductory language of (B); added (B)(4); added (C) and (D); redesignated former (C) as (E); added (F); redesignated former (D) as (G); added (G)(3); and made a stylistic change.

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The 2020 amendment substituted “42-1125.02, subsection B” for “42-1125, subsection AA” in the second sentence of (C).

Savings Clauses

[Laws 2020, 2nd Reg. Sess., Ch. 43, § 35](#), provides, “The repeal of the income tax credits by this act does not affect the continuing validity of any amount of the credit carried forward from previous taxable years for application against subsequent tax liabilities as allowed by prior law.”

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