

## **SHORT-TERM AND VACATION RENTALS 2022**

### **CHAPTER 5.40**

#### **SHORT-TERM AND VACATION RENTALS**

##### **Sections:**

- 5.40.010 Purpose.**
- 5.40.020 Definitions.**
- 5.40.030 Permit Required; Penalties.**
- 5.40.040 Emergency Point of Contact Requirements; Penalties.**
- 5.40.050 Compliance with the Law; Prohibited Uses.**
- 5.40.060 Advertisement Requirements.**
- 5.40.070 Posting on the Property Required.**
- 5.40.080 Insurance Required.**
- 5.40.090 Audit.**
- 5.40.100 Permit Suspensions.**
- 5.40.110 Enhanced Penalties.**
- 5.40.120 Appeals.**
- 5.40.130 Judicial Relief.**
- 5.40.140 Severability.**

##### **5.40.010 - Purpose.**

This Chapter is adopted pursuant to Arizona Revised Statutes § 9-500.39 to protect the health, safety, and welfare of the community of City of Bullhead City (“City”) by enacting reasonable regulations for short-term and vacation rentals. These regulations are in addition to other codes of the City.

#### **5.40.020 - Definitions.**

In this Chapter, 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 City for a permit or renewal of a permit.

“Days” shall mean calendar days unless stated otherwise.

“Designee” and “Agent” are interchangeable for purposes of this Chapter 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 emergency point of contact for the vacation rental; and (ii) respond to complaints relating to the vacation rental as required by this Chapter.

“Nonresidential use” means any use that is not permitted in a residential zoning district pursuant to a City zoning ordinance.

“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.

“Permit” means authorization by the City to operate a vacation rental in accordance with this Chapter.

“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 Chapter 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:

1. property that is classified for property taxation under A.R.S. § 42-12001; or

2. 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.

“Transaction privilege tax license” is the license issued by the State of Arizona pursuant to A.R.S., Title 42.

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

“Verified violation” means a finding of guilt or civil responsibility for violation of any state law or City ordinance relating the purposes prescribed in Arizona Revised Statutes § 9-500.39 and that has been finally adjudicated.

#### **5.40.030 - Permit Required; Penalties.**

A. Permit required. Prior to use of a property as a vacation rental, the owner of shall obtain an annual permit from the City. Renting, or offering for rent, a vacation rental without complying with the permit requirement in this Section 5.40.030 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 publicly available:

1. The physical address of the residential property proposed to be used as a vacation rental.
2. The name, address, and telephone number of the owner for which the vacation rental permit 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 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 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.
7. Acknowledgment by the owner of lawful presence in the United States in accordance with Arizona Revised Statutes § 41-1080.

8. Acknowledgment by the owner that the owner and any current or subsequent emergency point of contact: a. Is not a registered sex offender; b. Has not been convicted of any felony act that resulted in death or serious physical injury; and c. Has not been convicted of any felony use of a deadly weapon with five years of submitting the application.

9. Acknowledgment by the owner that any vacation rental may not include the availability of personal watercraft as regulated by Chapter 5.30 of the City code.

10. Proof of liability insurance covering the vacation rental in the amount of at least \$1,000,000, or evidence that each vacation rental transaction will be provided insurance through an online lodging marketplace platform that mandates equal or greater primary liability insurance coverage for the vacation rental.

11. Proof that the vacation rental is registered with Mohave County Assessor's Office in accordance with A.R.S. § 33-1902.

C. Permit fee. Every application, including any renewal application, for a vacation rental permit under this Chapter shall be accompanied by a non-refundable fee in the amount of \$250.

D. Issuance; reasons for denial. The City shall issue or deny the permit within seven 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. 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 5.40.050; or b. three violations of this Chapter at the vacation rental within a 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. Notice of denial; appeal. The City Development Services Director or designee shall give notice of the denial of an application to the applicant by certified mail 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 5.40.120.

F. Maintaining Accurate Information; Violations. All applicants and persons holding permits issued pursuant to this Chapter shall give written notice to the City Development Services Director or designee of any material change in information submitted in connection with an application for

a permit or renewal of a permit. The notice shall be provided not less than ten days prior to the effective date of the change. Any information required for an application under this Section 5.40.030 is deemed to be material for purposes of this Section 5.40.030. A violation of this subsection is a civil violation.

G. Term of Permit. All permits issued under this Chapter shall be valid for a period of one year from the date of issuance or until suspended or revoked. Except where the City has received a new application along with the requisite fee, 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. The owner or designee of a vacation rental that fails to apply for a permit or license within 30 days of this Chapter becoming effective and the permit application being made available by the City, or fails to apply for a new permit after expiration of a previously issued permit, shall immediately cease operations. In addition to any other penalty pursuant to City code, the City may impose a civil penalty of \$1,000 per month against the owner by notice of certified mail if the owner or owner's designee fails to apply for permit within 30 days of receiving the written notice of violation from the City. The notice shall advise the owner of the right to appeal the penalty as provided in Section 5.40.120. 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 person.

J. Implementation. The City Manager or designee shall develop the necessary forms and/or database necessary to implement this Section 5.40.030.

#### **5.40.040 - Emergency Point of Contact Requirements; Penalties.**

A. Emergency Responses. When requested by public safety personnel, the owner or emergency point of contact whose name appears on the permit application must respond to the vacation rental premises, or be available over phone or text, within 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, by phone, e-mail, or by text within 24 hours of the request.

C. Maintaining Accurate Emergency Information. All applicants and persons holding permits issued pursuant to this Chapter shall give prior written notice to the City Development Services Director 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 is a civil violation.

E. Penalties. In addition to any other penalty pursuant to the City code, an owner shall be subject to civil penalties of \$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 certified mail, to the owner's mailing address that was provided to the City. The notice of the violation shall inform the owner of the right to appeal the denial as provided for in Section 5.40.120. 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 City regarding the change.

#### **5.40.050 - Compliance with the Law; Prohibited Uses.**

A. The owner or designee of a vacation rental shall comply with 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 Chapter 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;
8. Obscenity;
9. Adult-oriented business; or
10. Any other use prohibited by A.R.S. § 9-500.39 or the City code.

C. A vacation rental that does not have 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 Chapter shall be subject to a civil violation.

F. The failure of any designee to comply with this Chapter shall not relieve the owner of liability under this Chapter.

#### **5.40.060 - 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 a vacation rental.

B. Violations. In addition to any other penalty pursuant to the City code, a violation of this Section is a civil violation. Each advertisement in violation of this Section 5.40.060 constitutes a separate violation.

#### **5.40.070 - 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 and emergency point of contact, and the vacation rental permit and business license at a conspicuous location at or near the interior side of a common entry way of the vacation rental.

B. Access. Upon City request and timely coordination of a mutually agreeable date and time between 8:00 a.m., and 5:00 p.m., Monday through Friday, the owner or designee shall grant City reasonable access to a vacation rental to determine compliance with this Section 5.40.070.

C. Failure to Comply. In addition to any other penalty pursuant to the City code, a violation of this Section 5.40.070 is a civil violation. Failure to grant timely access is deemed a failure to comply. Each day a vacation rental does not display the information required by this Section 5.40.070 constitutes a separate violation.

#### **5.40.080 - Insurance Required.**

A. Required insurance. Prior to offering or renting a vacation rental for rent for the first time and throughout the term of any vacation rental permit, the owner shall acquire and maintain liability insurance covering the vacation rental in the amount of at least \$1,000,000 or provide evidence that each vacation rental transaction will be provided insurance through an online lodging marketplace platform that mandates equal or greater primary liability insurance coverage for the vacation rental.

B. Proof of insurance. Proof of the required liability insurance coverage shall be provided to the City upon application for a permit and upon request anytime the permit is in effect.

C. Violation. In addition to any other penalty pursuant to the City code, a violation of this Section 5.40.080 is a civil violation. Each day a vacation rental does not have in force the insurance required by this Section 5.40.080 constitutes a separate violation.

#### **5.40.090 – Audit.**

A. Request. Upon City request and timely coordination of a mutually agreeable date and time between 8:00 a.m., and 5:00 p.m., Monday through Friday, the owner or designee shall grant City reasonable access to vacation rental records to determine compliance with this Chapter.

B. Violation. In addition to any other penalty pursuant to the City code, a violation of this Section 5.40.090 is a civil violation. Failure to grant timely access is deemed a failure to comply. Each day an owner fails to provide access to records as required by this Section 5.40.090 constitutes a separate violation.

#### **5.40.100 - Permit Suspensions.**

A. Permit suspensions. The City may suspend a vacation rental permit for a period of 12 months, for any of the following:

1. Three verified violations of this Chapter within a 12-month period, not including any 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 or for a retail, restaurant, banquet space or other similar use.

3. The owner of the vacation rental or the owner's designee knowingly or intentionally provided false information in connection with the permit application.

B. Notice. The owner will be provided written notice by certified mail of the suspension. The notice will include an advisory concerning the owner's right to appeal the suspension under Section 5.40.120.

C. Appeals. The owner may appeal the suspension decision in accordance with Section 5.40.120.

#### **5.40.110 - Enhanced Penalties.**

A. The remedies in this Chapter 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 Chapter or fails to perform any act or duty required by this Chapter, related to the same vacation rental property within the same twelve-month period:

1. \$500 or an amount equal to one night's rent for the vacation rental as advertised, whichever is greater, for the first violation.

2. \$1,000 or an amount equal to two nights' rent for the vacation rental as advertised, whichever is greater, for the second violation.

3. \$3,500 or an amount equal to three nights' rent for the vacation rental as advertised, whichever is greater, for a third and any subsequent violation.

C. 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.

D. The owner will be notified of the penalty by certified mail and advised of the right to appeal the penalty as provided by Section 5.40.120.

**5.40.120 - 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 Chapter, 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. The notice shall include the decision being appealed and a detailed explanation for the basis of the appeal.

B. An appeal under this Section 5.40.120 does not operate as a stay of the action previously taken.

C. This Section 5.40.120 is not applicable to judicial actions brought pursuant to Section 5.40.130 or to penalties or fines imposed by a court.

**5.40.130 - Judicial relief.**

A. Notwithstanding Section 5.40.100, 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 of 12 months.

B. The City Attorney may initiate proceedings in the City court or other court of competent jurisdiction to enforce this Section 5.40.130.

**5.40.140 - Severability.**

In the event any section or provision of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.