

Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1035

AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-1-24 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

Chapter 24. Short Term Rentals

Sec. 1. (a) This chapter does not apply to a unit that has adopted a zoning ordinance or any other ordinance before January 1, 2018, that prohibits, regulates, or restricts short term rentals in any manner.

(b) Any reference in this chapter (except for this section) to a zoning ordinance or other ordinance does not apply to a zoning ordinance or other ordinance of a unit described in subsection (a).

(c) A unit may amend or delete any provision of an ordinance described in subsection (a) after December 31, 2017, without complying with or becoming subject to this chapter.

(d) A unit may repeal an ordinance described in subsection (a). However, in repealing the ordinance, the unit concurrently becomes subject to this chapter.

Sec. 2. As used in this chapter, "owner" means a person that has an interest in title or a present possessory interest in property that is offered to the public as a short term rental.

Sec. 3. As used in this chapter, "owner occupied short term rental property" means property that is the owner's primary

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residence and is offered to the public as a short term rental.

Sec. 4. As used in this chapter, "permit" means a short term rental permit issued by a unit.

Sec. 5. As used in this chapter, "permitted property" means a property that is subject to a valid, unexpired, unrevoked permit under this chapter. A permitted property may contain one (1) or more dwelling units offered as short term rentals.

Sec. 6. As used in this chapter, "short term rental" means the rental of:

- (1) a single family home;
- (2) a dwelling unit in a single family home;
- (3) a dwelling unit in a two-family or multifamily dwelling; or
- (4) a dwelling unit in a condominium, cooperative, or time share;

for terms of less than thirty (30) days at a time through a short term rental platform. The term includes a detached accessory structure, including a guest house, or other living quarters that are intended for human habitation, if the entire property is designated for a single family residential use. The term does not include property that is used for any nonresidential use.

Sec. 7. As used in this chapter, "short term rental platform" means an entity that:

- (1) provides a platform through which unaffiliated parties offer to rent a short term rental to an occupant; and
- (2) collects consideration for the rental from the occupant.

Sec. 8. A short term rental of owner occupied short term rental property is a permitted residential use under any applicable zoning ordinance of a unit and may not be disallowed by any zoning ordinance (as defined in IC 36-7-1-22) in a zoning district or classification of a unit that permits residential use.

Sec. 9. (a) This section applies only to a short term rental property that is not an owner occupied short term rental property.

(b) A unit may require a special exception, special use, or zoning variance for the short term rental property that is in a residential zoning district or classification of a unit. However, the unit may not interpret and enforce the unit's zoning regulations for a special exception, special use, or zoning variance in a manner that is intended or has the effect of prohibiting or unreasonably restricting short term rentals of property to which this section applies. Denial of a special exception, special use, or zoning variance for the short term rental property may be appealed in accordance with IC 36-7-4.



Sec. 10. A unit may enact or enforce a law or plan that regulates, prohibits, or limits short term rentals only for the following primary purposes:

- (1) Protection of the public's health and safety related to:**
 - (A) fire and building safety;**
 - (B) sanitation;**
 - (C) transportation;**
 - (D) traffic control; and**
 - (E) pollution control;**

if enforcement is performed in the same manner as enforcement that applies to similar properties that are not short term rentals.

- (2) Residential use and zoning related to:**
 - (A) noise;**
 - (B) protection of welfare;**
 - (C) property maintenance; and**
 - (D) nuisance issues;**

if enforcement is performed in the same manner as enforcement that applies to similar properties that are not short term rentals.

(3) To limit or prohibit use of short term rentals for the following purposes:

- (A) To house sex offenders.**
- (B) To operate a structured sober living home.**
- (C) To manufacture, exhibit, distribute, or sell illegal drugs, liquor, pornography, or obscenity.**
- (D) To operate an adult entertainment establishment (as defined in IC 12-7-2-1.8).**

(4) To limit or prohibit short term rentals located within the boundaries of a conservancy district established under IC 14-33.

(5) To provide the unit with an emergency contact for a short term rental.

Sec. 11. (a) A unit may require an owner to obtain a permit for each property by adopting an ordinance that sets forth only the requirements of this chapter for obtaining a permit. A unit may require only one (1) permit for each single family home, two-family or multifamily dwelling, condominium, cooperative, or time share that an owner rents in whole or in part under this chapter. A permit covers all:

- (1) dwelling units; and**
- (2) detached accessory structures;**



located on the permitted property that the owner offers to the public as a short term rental.

(b) An owner must submit a permit application for each property for which a permit is sought. The permit application may require the owner to provide only the following information for each property:

(1) The owner's name, street address, mailing address, electronic mail address (if applicable), and telephone number. If the owner is a corporation or partnership, the application must require the owner's:

(A) state of incorporation or organization; and

(B) names, residence addresses, and telephone numbers of the owner's principal officers or partners.

(2) If a property manager is used, the property manager's name, street address, mailing address, electronic mail address (if applicable), and telephone number.

(3) A short description of how each of the owner's short term rentals on the property are marketed or advertised, including the following:

(A) The advertised occupancy limits of each short term rental.

(B) Whether the short term rental is:

(i) a single family home;

(ii) a dwelling unit in a single family home;

(iii) a dwelling unit in a two-family or multifamily dwelling; or

(iv) a dwelling unit in a condominium, cooperative, or time share.

(c) A permit application must be made by an owner. If the owner is a corporation, partnership, or other legal entity, the permit application must be made by an officer or agent of the owner.

(d) Subject to section 16 of this chapter, if an owner submits a permit application under this section that meets the requirements set forth in the ordinance adopted by the unit, the unit shall issue a permit to the owner within thirty (30) days of receipt of the application.

Sec. 12. If any information provided by an owner to a unit in the permit application changes, the owner shall provide updated information to the unit in writing within thirty (30) business days.

Sec. 13. (a) A permit expires one (1) year after the date the permit is issued.



(b) Except as provided in subsection (c), a unit may charge a permit fee, not to exceed one hundred fifty dollars (\$150), for each of the following:

- (1) An initial permit issued to an owner for the permitted property.
- (2) The issuance of a subsequent permit to an owner for the permitted property after the owner's previous permit has been revoked.

(c) A unit may not charge a permit fee for renewing a permit, including renewal of a permit that has expired.

Sec. 14. If three (3) or more citations for ordinance violations are issued to an owner for a permitted property within a calendar year, the unit may revoke the permit for that permitted property for a period of not more than one (1) year after the date the permit is revoked. The unit shall provide notice and a hearing for revocation in accordance with the unit's ordinance.

Sec. 15. If a unit revokes a permit under this chapter, revocation of the permit shall be conducted under the notice and hearing procedures of the unit for revocation of other permits issued by the unit.

Sec. 16. An owner may apply for a permit for a short term rental for which a previous permit of the owner was revoked by the unit. However, a new permit may not be issued until any outstanding fines are paid for ordinance violation citations issued to the owner with regard to use of the short term rental.

Sec. 17. If an owner sells all or part of a permitted property, the permit may not be transferred to the new owner. The new owner must submit an application for a new permit.

Sec. 18. (a) An owner that rents a short term rental without obtaining a valid permit from a unit that adopts an ordinance under this chapter commits a Class C infraction.

(b) Each short term rental transaction that the short term rental provider completes without a short term rental permit constitutes a separate violation of this section.

Sec. 19. This chapter does not affect, prohibit, preempt, or render unenforceable any property or use restrictions contained in properly enacted rules or regulations of a:

- (1) homeowners association;
- (2) condominium association;
- (3) lake owners association; or
- (4) similar property owners association or cooperative.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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