

Short-Term Rental Ordinance

Hotel/Motel Occupancy Tax Ordinance

Cherokee County

Board of Commissioners

September 7, 2021

Sec. 18-380 Purpose

The Purpose of this division is to:

- Establish standards for short-term rentals of privately-owned residential structures;
- Minimize adverse effects on surrounding residential neighborhoods, and
- Preserve the character of residential neighborhoods.

This division is not intended to regulate hotels, motels, inns, or non-short-term rental arrangements or an individual providing long term-rental (more than 30 days) of their home.

Sec. 18-381 Applicability

- Any property within the unincorporated areas of Cherokee County in a residential zoning district, or property with a residential use thereon.
- A certificate shall be required to rent, operate, or advertise for short-term rental.
- Regulations apply to short-term rentals at all times during which such properties are marketed and used as short-term rentals.
- Does not prevent enforcement of additional private restrictions in restrictive covenants or other private contractual agreements or arrangements.
- Cherokee County shall not be responsible for enforcement of restrictive covenants, agreements, or arrangements.
- Advertising or listing a property for short-term rental shall be evidence the property is being used as a short-term rental.

Sec. 18-382 Definitions

Residential Dwelling Unit: Single family housing types that are permissible for use as a Short-term Rental, provided that no more than five (5) bedrooms may be offered for rent and excluding group living or other lodging uses. If a single family home has more than five (5) bedrooms, the excess bedrooms must be, and remain, locked in order for the home to qualify as a Residential Dwelling Unit for use as a Short-term Rental. A motor vehicle as defined in O.C.G.A Title 40 is not a Residential Dwelling Unit and may not be used as a Short-term Rental. Tents, yurts, truck campers, trailers, and other similar portable shelters are not Residential Dwelling Units and are not permitted as a Short-term Rental.

Short-term Rental: an accommodation for transient guests where, in exchange for compensation, a residential dwelling unit is rented for the purpose of overnight lodging for a period not to exceed thirty (30) consecutive nights.

Sec. 18-383 (b) Application for Short-Term Rental Certificate

Apply to Development Services Center annually (initial application / renewal thereafter)

Application shall include:

- Contact information of the owner(s) of record and 24-hour local contact
- Address of the property to be used as short-term rental;
- Owner's acknowledgement they have reviewed the short-term rental regulations;
- Number of bedrooms, approximate square footage, and the maximum number of occupants;
- Number and location of parking spaces;
- Owner's agreement the use of the premises by rental occupants will not disrupt the neighborhood, nor interfere with the quiet enjoyment of neighboring properties;
- Written statement from the home owner's association confirming the HOA does not prohibit short-term rentals in accordance with its bylaws, where applicable
- Acknowledgement that the owner or local contact person has or will post the information notice required;
- Evaluation from Cherokee County Health Department verifying condition of on-site sewage management system, if on septic.

Sec. 18-383 (b) Application for Short-Term Rental Certificate

Submitted with application:

- Written rental agreement between Owner and Occupant(s);
- Proof of owner's current ownership of the short-term rental;
- Proof of insurance;
- Certification that local contact person agrees to perform the duties specified in ordinance.
- Owner responsible for notifying Cherokee County should bylaws of the homeowner's association be amended to prohibit or restrict Short-Term Rentals.

Sec. 18-383 (b) Application for Short-Term Rental Certificate

Application submitted to Cherokee County Development Services Center; reviewed and issued or denied within 7 business days.

Each certificate issued will include a unique identification number.

Grounds for denial:

- Revocation or suspension of certificate within 12 month period;
- Property is not current on its property taxes;
- History of complaints;
- Inadequate septic system or other health concerns by Health Department;
- Code violations from County Building Official, County Marshal's Office, County Sheriff's Office, or County Fire Marshal;
- Covenants or other legal documents preventing short-term rentals provided by HOA;

Denial will be issued in writing and may be appealed to Board of Commissioners.

18-383 (c) Fee, renewal

- 1) Application shall be accompanied by an initial administration fee and be subject to an annual renewal fee every year thereafter.
- 2) Certificates shall expire on December 31.
- 3) Short-term rental certificate is not transferrable and should ownership of a property change, a new certificate application shall be required prior to any use of the property as a short-term rental.

18-383 (d) Short-Term Rental Requirements

A separate certificate required for each property used for short-term rental.

No short-term rental for any dwelling unit in a multi-family residential development.

No short-term rental shall offer more than five (5) bedrooms for rent.

No short-term rental shall function as a special event facility, lodge, campground or similar use.

The use of outdoor speakers by short-term rental occupants is prohibited.

Occupancy limitation. 2 persons per bedroom as Overnight Guests; in no case shall rental occupancy, including day guests, exceed 16 persons total on Property. Children 10 years and under do not count toward these limits.

Must designate Local Contact person to respond to complaints requiring immediate remedy.

Parked vehicles. Off the street sufficient for one car for each bedroom being rented.

If located on privately-owned road, property owner must provide written authorization from the owner of the road granting access to County employees with authority to enforce this division, including employees or agents of the County Marshals Office, Sheriff's Office, Fire Department, and Board of Health, which shall authorize gate access, where applicable, for enforcement purposes.

18-383 (d) Short-Term Rental Requirements

Posted information notice. Posted within the short-term rental on or adjacent to the front door.

- Name of the owner and local contact person, and a telephone number;
- Name and address of the nearest hospital;
- Maximum number of Overnight Guests and total persons permitted;
- Maximum number of vehicles allowed to be parked on the property;
- Trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the property;
- Quiet Hours (11:00 p.m. to 7 a.m. daily, except Midnight on Saturday to 1:00 p.m. on Sunday) are to be observed as set forth in the Cherokee County Code of Ordinances;
- The use of outdoor speakers is prohibited.
- A copy of the certificate with the certificate number displayed.

18-383 (e) Safety Requirements

- Smoke detectors: Every bedroom, outside each bedroom in the immediate vicinity and each story of the dwelling.
- Carbon Monoxide Detectors: Outside each bedroom in the immediate vicinity of the bedrooms for rent.
- Fire Extinguisher: Each floor of the short-term rental shall be equipped with a portable minimum five-pound ABC fire extinguisher.
- Every bedroom shall have at least one operable window or door for emergency escape or rescue that opens directly to the exterior of the residence.
- House number that is visible from the street at all times.
- The property and all structures shall be maintained in good order in compliance with the Property Maintenance Code of the Cherokee County Code of Ordinances.
- The short-term rental must have a sewer connection or a septic system in good working order and capable of handling the number of bedrooms approved for rental.
- Private swimming pools shall comply with the current International Swimming Pool and Spa Code, as amended from time to time.

Sec. 18-384 - Property owners, Local Contact Person, and Responsible Person

(a) Property Owners:

The owner shall:

- Ensure the short-term rental is used in a manner that complies with all applicable laws, rules, and regulations pertaining to the use and occupancy of the subject short-term rental, and
- Ensure the occupants and/or guests do not create noise in violation of the noise regulations of the Cherokee County Code of Ordinances or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation.
- Collect and remit lodging excise taxes as required by Article III of Chapter 54 of the Cherokee County Code of Ordinances and the official code of the State of Georgia.

Sec. 18-384 Property owners, Local Contact Person, and Responsible Person

Local Contact Person:

Designated by owner, has access and authority to assume management of the short-term rental and take remedial measures. An owner may designate self as local contact person;

At least twenty-one (21) years of age;

Only one (1) designated local contact person for a short-term rental at any given time;

Duties are to:

- Be available to handle any problems arising from use of the short-term rental;
- Appear on the premises of any short-term rental within one hour following notification of a complaint;
- Receive and accept service of any notice of violation; and
- Monitor the short-term rental for compliance

Failure to respond to calls or complaints from Cherokee County shall be a violation and grounds for imposition of penalties

Sec. 18-384 Property owners, Local Contact Person, and Responsible Person

Responsible Person:

(1) Short-term rental shall be rented to a designated responsible person.

(2) The responsible person must be at least 24 years of age.

(3) The responsible person is responsible for ensuring that all occupants and/or guests of the short-term rental comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental.

Sec. 18-385 Suspension or Revocation of Certificate – Administrative Penalties

- False statements or information provided in application is grounds for denial, suspension, or revocation.
- Violations or noncompliance with the provisions of this division are grounds for denial, suspension, or revocation.
- Director may suspend Certificate upon discovery of immediate health hazard.
- Certificate may be revoked in case of three violations within 12-month period.
- Certificate may be suspended or revoked if Property's use as Short-term Rental constitutes a public nuisance.

Sec. 18-386 Violation and Penalties – upon Citation in Magistrate Court

Any violation of this division, including violation of the noise regulations in the Code of Ordinances, within a consecutive 12-month period shall subject the Short-term Rental Certificate holder to the following progressive actions:

- 1) First violation: a fine in magistrate court not to exceed \$ 250.00 and a written warning notice of violation.
- 2) Second violation: a fine in magistrate court not to exceed \$ 500.00 and a suspension of the Short-term Rental Certificate for a period of not less than thirty (30) nor more than ninety (90) days.
- 3) Third violation: a fine in magistrate court not to exceed \$ 1,000.00 and the revocation of the Short-term Rental Certificate upon a finding of guilt or plea in magistrate court, and the Owner or Local Contact Person shall not be eligible to reapply for a permit for a period of twelve (12) months from the date of revocation.

Sec. 18-386 Violation and Penalties – upon Citation in Magistrate Court

- Any violation by the Owner, Local Contact Person, Responsible Person or, occupants and/or guests of a Short-term Rental shall be enforced in magistrate court. Enforcement actions may be brought against occupants and/or guests of a Short-term Rental for violations.
- Each day the Short-term Rental is marketed or rented for overnight accommodation without the necessary Certificate shall constitute a separate violation.
- Failure of the Owner or Local Contact Person to respond to calls or complaints in a timely and appropriate manner shall be grounds for imposition of penalties.
- Any person operating a Short-term Rental without a valid Certificate may be prosecuted according to the general penalties described in the Code of Ordinances.

Sec. 18-387 Enforcement

- Any complaints received by Cherokee County shall result in a notice of complaint being directed to the Local Contact Person.
- The Local Contact Person shall be responsible for contacting the Responsible Person to correct the problem.
- Cherokee County may respond to any violation, disturbance, or complaint, and may take any enforcement action.
- County employees, including employees or agents of the Marshals Office, Sheriff's Office, Fire Department, and Board of Health shall have the authority to enforce this division.

Sec. 18-388 Hearing on Appeal of an Administrative Denial, Suspension, or Revocation of Short-term Rental Certificate

- Upon receipt of an appeal of a denial of a Certificate or upon the suspension or revocation of a Certificate, the Director shall schedule a hearing before the Board of Commissioners.
- Board of Commissioners shall conduct hearings concerning the appeal of a denial, revocation, or suspension of a Short-term Rental Certificate.
- Decision of Board of Commissioners shall be final, unless appealed to the Superior Court of Cherokee County within thirty (30) calendar days of the date of the Director's written notification to the adverse party of the Board's decision.

Chapter 54 – Taxation

Article III – Hotel/Motel Occupancy Tax

- Specifically references “short-term rentals” under the definition of “hotels” in order to remove any doubt that these properties are also subject to the hotel/motel tax.
- The amendment tracks HB 317, which makes third-party “marketplace innkeepers” (i.e., VRBO, AirBNB, etc.) responsible for paying state and county hotel-motel taxes.

Chapter 54 – Taxation

Article III – Hotel/Motel Occupancy Tax

Innkeeper means:

- 1) Any person that furnishes any guest rooms within a hotel to the public for value in the special district, or one who otherwise operates a hotel or is entitled to be paid the rent received for occupancy of a guest room within such hotel, including, but not limited to, the owner or proprietor of such premises, the lessee, sub lessee, lender in possession, licensee, or any other person otherwise operating such hotel or entitled to be paid the rent received for occupancy of a guest room within such hotel; or
- 2) A marketplace facilitator who facilitates the furnishing for value to the public any guest rooms on behalf of another person in any manner, including, but not limited to, promoting, marketing, advertising, taking reservations, collecting payment, or as otherwise defined by O.C.G.A. § 48-13-50.2 (2)(B).