

AN ORDINANCE OF THE COMMISSIONER OF BARTOW COUNTY SITTING FOR THE PURPOSE OF **AMENDING THE CODE OF BARTOW COUNTY, CHAPTER 44, TO ADD ARTICLE XII, RELATING TO SHORT TERM RENTALS; TO PROVIDE FOR REGULATION AND LICENSING OF SAME;** AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 8TH DAY OF JANUARY, 2020.

WHEREAS, the Sole Commissioner of Bartow County finds that there is a proliferation of Short Term Rentals within the unincorporated areas of the County, whereby persons are operating unlicensed businesses to provide accommodations; and

WHEREAS, the Commissioner finds that an ordinance to require registration and licensing of such businesses is necessary to promote the public health, safety and welfare;

THEREFORE BE IT ORDAINED, AND IT IS HEREBY ORDAINED, by virtue of the authority vested in the Commissioner by law, that Chapter 44, the Code of Bartow County is hereby amended to add Article XII which shall pertain specifically to short term rentals, and shall begin at Section 44-710, as set forth below.

SECTION ONE

Article XII of Chapter 44 of the Code of Bartow County is hereby adopted as follows:

Sec. 44-710. Purpose.

A. The purpose of this article is to establish standards for short-term rentals of privately-owned residential structures and homes which are rented to transient occupants, to minimize adverse effects of short-term rental uses on surrounding residential neighborhoods, and to preserve the character of neighborhoods. This article is intended to apply to those persons renting their property to others through websites such as www.vrbo.com, www.airbnb.com, and www.hometogo.com, and similar programs. This article is intended to provide opportunities for property owners to participate in short term rental programs and generate income, while not unduly burdening adjacent properties, endangering life safety or violating applicable laws.

B. This article is not intended to regulate hotels, motels, inns, or non-short term rental arrangements including, but not limited to, boardinghouses, lodging houses, or rooming houses, or an individual providing long-term rental (over

thirty days) of their home. Hotels and extended stay hotels are subject to other Articles in this Chapter of the Code of Bartow County.

Sec. 44-711. Applicability.

A. It shall be unlawful for any owner of any property within the unincorporated areas of

Bartow County to rent, operate or advertise a short-term rental of property in a residential zoning district contrary to the procedures and regulations established in this article, other provisions of this Code, or any applicable state law. A permit shall be required to lawfully rent, operate or advertise any property for short-term rental. Properties receiving a permit must comply with all applicable requirements of this article.

B. The restrictions and obligations contained in this article shall apply to short-term rentals at all times during which such homes are marketed and used as short-term rentals.

C. Evidence that a property has been advertised or listed on the internet or other media sources (e.g. www.vrbo.com, www.airbnb.com, www.hometogo.com) for short-term rental shall be prima facie evidence that the property is being used as a short-term rental.

Sec. 44-712. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Bedroom: means a room that is designed to be, or meets the building code requirements to be, used as a sleeping room and for no other primary purpose.

Director: means the Director of the Community Development Department of Bartow County, Georgia, or his/her designee.

Owner: A person or entity that holds legal title to private property.

Residential zoning district: means a district that is designated as residential under the Bartow County Zoning Ordinance, including A-1, RE-1, RE-2, R-1, R-2, R-4 and R-8.

Short-term Rental: an accommodation in a single-family home in a residential zoning district, for transient guests, rented for the purpose of overnight lodging for a period of between one and thirty nights.

Sec. 44-713. Application Process.

A. Application. An owner of a proposed short-term rental shall submit an application for a short-term rental permit to the County Community Development Department on an annual basis. Any false statements or information provided in the application are grounds for denial or revocation of a permit, including the denial of future applications. The application shall be furnished on a form specified by the County, accompanied by a non-refundable permit fee as established in this Section. Such application shall include:

1. The complete street address of the short-term rental.
2. Ownership information, including the name, address, e-mail address, and telephone number of each person or entity with an ownership interest in the property.
3. The name, address, and contact information including a 24-hour contact phone number for the person at the property management company managing the property; or, if there is no property management company, the name, address and contact information, including a 24-hour contact phone number, of a person, who may be the owner or owner's agent, and who can be contacted in the event of an emergency and can respond consistent with Sec. 44-714.
4. The number of bedrooms and approximate square footage in the short-term rental, and the maximum number of overnight and daytime occupants, as allowed by this Ordinance in Sec. 44-714.
5. Evidence that the property meets the parking requirements of this Ordinance set forth in Sec. 44-714. This can be a plat or aerial photo or other similar evidence.
6. The application shall contain a statement for signature by the owner certifying that the property complies with the safety requirements of Sec. 44-716.
7. The application shall contain a statement for signature by the owner certifying that the owner understand the other applicable regulations set forth in Sec. 44-715.

8. The application must be accompanied by the applicable fee set forth below.

B. Permit fee/renewal.

1. The short-term rental permit application shall be accompanied by an initial permit application fee of \$100 and be subject to an annual renewal fee of \$50 every year thereafter.

2. All permits granted under this article shall expire one year from issuance. Applicants shall be billed annually for a renewal and provided a form to make any necessary changes or updates to their information. Renewals that are submitted after expiration of the permit shall require repayment of the initial permit application fee of \$100.

3. The short-term rental permit is not transferrable and should ownership of a unit change, a new permit application shall be required.

C. Approval Process. The application for an initial permit, and any renewal, shall be reviewed by the Community Development Department and issued or denied within thirty days. Any permit issues shall be issued with a unique identification number. The application or renewal may be denied if the applicant has had any other short-term rental permit revoked or suspended within any 12-month period; if the property is not current on its property taxes; if there is a history of complaints regarding the property or the owner or operator of the facility; if the Health Department notifies the County of an inadequate septic system or other health concerns; if the Code Enforcement officers, Fire Marshal or Building Official notify the County of code violations on the property; if the Homeowners Association of the relevant neighborhood provides covenants or other legal documents preventing short-term rentals for the property; or if the Director finds it is not in the interests of the public health, safety or welfare to approve or renew a permit. A decision to deny the permit shall be issued in writing and may be appealed to the Commissioner of Bartow County with a written appeal within 30 days. A hearing on the denial shall be conducted by the Commissioner in accordance with the procedures set forth in Sec. 44-720.

Sec. 44-714. – Requirements.

A. A separate short-term rental permit shall be required for each home used for short-term rental.

B. The permit number shall be listed in any advertisement on the internet or other media for the rental of the property.

C. No short-term rental permit shall be issued for apartments.

D. Occupancy limitation. The number of overnight occupants shall not exceed two persons per bedroom plus two additional persons per residence, but in no case shall rental occupancy exceed 15 overnight persons total. The Director shall have discretion to increase this limit to not more than 24 with justification. Additional non-overnight guests are permitted up to the same amount as the occupancy limit. For example, a three bedroom home could have up to eight overnight occupants and eight additional guests. Children three and under do not count against these numbers.

E. Contact Person. The contact person or management company shall be required to respond to the location of the short-term rental 24 hours a day, 7 days a week, and within one (1) hour after being notified by Bartow County of the existence of a violation of this article or any other provision of this Code, or any disturbance or complaint requiring immediate remedy or abatement regarding the condition, operation, or conduct of occupants of the short-term rental. The owner must immediately notify the Bartow County Community Development Department in writing upon a change of local contact person or the local contact person's telephone number.

F. Parked Vehicles. The rental must have parking off the street sufficient for one car for each bedroom being rented; the Director shall have discretion to reduce this requirement by up to 50% with justification. Parking shall only be on designated hard surfaced areas with gravel, concrete or asphalt surfacing; and shall not be permitted outside such hard-surfaced areas (i.e. no parking in yards).

G. Posted Information Notice. Each short-term rental shall have a clearly visible and legible notice conspicuously posted within the short-term rental on or adjacent to the front door, containing the following information:

1. The name of the owner and local contact person of the short-term rental, and a telephone number at which that party may be reached on a 24-hour, 7 days a week, basis.

2. The name and address of the nearest hospital.

3. The maximum number of overnight occupants and guests permitted to be at the short-term rental.
4. The maximum number of vehicles allowed to be parked on the property, with notice that vehicles should not be parked off the property.
5. Notification that failure to conform to the parking and occupancy requirements of the short-term rental is a violation of this article.
6. A copy of the permit with the permit number displayed.

Sec. 44-715. Compliance with Other Regulations.

- A. The owner shall pay the required occupation tax and shall comply with all applicable provisions of Article VIII of Chapter 44 of the Code of Ordinances.
- B. The owner shall collect and remit lodging excise taxes as required by Article VII of Chapter 44 of the Code of Ordinances.
- C. The owner and/or local contact person shall use best efforts to ensure that the occupants and guests of the short-term rental do not violate this ordinance or create a nuisance or otherwise interfere with the public health, safety and welfare.
- D. Failure of the owner or local contact person to respond to calls or complaints regarding the condition, operation, or conduct of occupants and guests of the short-term rental in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this article. It is not intended that an owner or local contact person act as a peace officer or place himself or herself in an at-risk situation.

Sec. 44-716. Safety Requirements.

- A. Every bedroom, adjoining hallway, and common area shall be equipped with an operational smoke detector that meets Underwriters Laboratory (UL) 217 standards and shall be maintained in good working order at all times. The placement and mounting of each smoke detector shall comply with all applicable requirements of the applicable building code.

B. Every bedroom, and each habitable floor, shall be equipped with an operational carbon monoxide detector that meets applicable state law standards and shall be maintained in good working order at all times.

C. 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. The emergency door or window shall be operable from the inside to provide a full, clear opening without the use of separate tools. Minimum clear opening area shall be at least 5.7 square feet, with a minimum width of 20 inches and a minimum height of 24 inches. Note that a window of minimum width would need to be at least 42 inches tall to meet area requirements, and a window of minimum height would need to be at least 36 inches wide to meet minimum area requirements.

D. Each floor of the short-term rental shall be equipped with a portable minimum 5-lb ABC fire extinguisher that is fully charged, not past expiration date, and that meets all National Fire Protection Association (NFPA) standards as adopted by the State of Georgia.

E. The owner and/or local contact person shall maintain a house number that is visible from the street at all times.

F. The property and the structure shall be maintained in good order in compliance with Bartow County Zoning Ordinance and the International Property Maintenance Code, which has been adopted as a standard code by Bartow County.

G. The rental home must have a sewer connection or a septic system in good working order and capable of handling the number of bedrooms approved for rental.

Sec. 44-717. Administration and Enforcement.

A. The Director or his or her designee is hereby authorized and directed to establish such procedures as may from time to time be required to carry out the purpose and intent of this ordinance. The County shall be authorized to contract with third parties to secure compliance and enforcement of this ordinance and compliance with other applicable laws relating to short term rentals.

B. The Director or designee shall conduct an investigation whenever there is reason to believe that an owner and/or local contact person has failed to comply with the provisions of this article. The investigation may include an inspection of the premises, review of law enforcement/security reports, online searches, citations, or neighbor documentation consisting of photos, sound recordings and video all of which may constitute evidence of a violation. Complaints from other citizens or government agencies may trigger an investigation.

C. County employees, including employees or agents of Bartow County Sheriff's Office, Fire Department, Community Development Office, and Board of Health shall have the authority to enforce this ordinance and may conduct inspections to ensure compliance with this ordinance.

D. When there is probable cause to make an inspection to enforce the provisions of this ordinance, or whenever there is a reasonable cause to believe that there exists a condition in violation of this article, personnel identified above are authorized to enter the structure or premises, including individual rooms, at reasonable times to inspect or perform the duties imposed by this article.

E. If such structure or premises is occupied, county personnel shall present credentials to the occupant and request entry. If entry is refused by occupant, County personnel shall have recourse to the remedies provided by law to secure entry. If such structure or premises is unoccupied, County personnel shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused by the owner or other person having charge or control of the structure refuses entry, County employees shall have recourse to all methods of entry allowed by law, and the owner and responsible party shall be in violation of this article and subject to punishment under this article.

F. Administrative enforcement. Should the investigation support a finding that a violation of this article occurred, Code Enforcement Officers may pursue legal remedies under Sec. 44-719, and/or pursue administrative enforcement under this section. Administrative enforcement shall mean requesting the Director to issue written notice of the violation and intention to impose a civil penalty and/or suspend or revoke the short-term rental permit. The written notice may be served either by email or first class mail, and shall specify the facts which, in the opinion of the Director, constitute grounds for imposition of the penalties and/or suspension or revocation, and specify that the penalties will be imposed and/or that the short-term rental permit will be suspended or revoked fifteen (15) calendar days from the date of the notice unless the owner and/or local contact person files with the Community Development Department a request for an appeal hearing before the Director. Civil penalties shall be authorized up to \$500.00, and suspensions up to 60 days. Nonpayment of civil penalties shall

subject the permit to revocation after the payment is thirty days late unless an appeal is underway. The appeal hearing shall be conducted pursuant to procedures set forth in Sec. 44-720.

Sec 44-718. – Suspension or Revocation of Permit

A. Any false statements or information provided in the application are grounds for denial, suspension or revocation of a permit, including the denial of future applications.

B. Any violation or noncompliance with the provisions of Sec. 44-715 or 44-716 are grounds for denial, suspension, or revocation of a permit, including denial of future applications.

C. Discovery of an Immediate Health Hazard. Upon the discovery of an immediate health hazard to renters, the Director can suspend the Short Term Rental License until the hazard is remedied and the property has been inspected. If the issue is not timely corrected, the permit may be revoked.

D. Reasons for revocation include but are not limited to:

1. Any short-term rental permit issued under this ordinance for the operation of a short-term rental shall be immediately revoked in the case of bankruptcy, receivership or levy of legal process upon the owner or subject short-term rental property.

2. A short-term rental permit shall be immediately suspended or revoked upon learning that an applicant furnished fraudulent or untruthful information in the application for a permit, or omits information required in the application for a permit, or fails to pay all fees, taxes, or other charges imposed under the provisions of this ordinance or other applicable ordinances and laws.

3. A permit may be revoked in the case of at least three violations of this ordinance within a 12 month period.

4. A permit may be suspended or revoked if the property's use as a short term rental constitutes a public nuisance.

Sec 44-719. Legal Proceedings and Remedies

- A. Operation of a short term rental without a permit under this Ordinance shall be a violation of this ordinance, subjecting the owner and/or manager to citation in magistrate court, actions to abate a nuisance and/or injunctive relief.
- B. In addition to or in lieu of civil penalties imposed by the Director, any violation of the provisions of this article by a permit holder shall be punishable by citation to the magistrate court of Bartow County, Georgia.
- C. Each day of noncompliance shall constitute a separate offense punishable by a separate citation and fine.
- D. The violation of the provisions of this article may be abated as a nuisance in magistrate court or superior court.
- E. The violations of all provisions of this article by any person may be enjoined by instituting appropriate proceedings for injunction in any court of competent jurisdiction. Such actions may be maintained notwithstanding that other adequate remedies of law exist.
- F. Upon conviction of a violation for which a citation is filed in magistrate court:
1. The first violation within a consecutive 12-month period shall result in a fine in magistrate court not to exceed \$150.00 and a written warning notice of violation upon a finding of guilt or plea in magistrate court.
 2. The second violation within a consecutive 12-month period shall result in a fine in magistrate court not to exceed \$300.00 and a permit suspension for a period of not less than thirty (30) days nor more than ninety (90) day upon a finding of guilt or plea in magistrate courts.
 3. The third violation within a consecutive 12-month period shall result in a fine in magistrate court not to exceed \$600.00 and the revocation of the short-term rental permit 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.
- G. Suspensions or revocations imposed by the magistrate court are not appealable to the Director or the Commissioner.
- H. In addition to the penalties described above, any person violating the provisions of this article by operating a short-term rental without a valid short-term rental permit may be prosecuted according to the general penalties described in Section 1-19 of this Code.

Sec. 44-720. – Hearings

A. To conduct an appeal hearing or revocation hearing, the Director shall schedule a hearing and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The Director shall also state in the written notice the basis for the administrative denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the County Attorney and the adverse party and/or counsel for the adverse party.

B. The Director shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a permit. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.

C. At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his case, to rebut the allegations made against him, and present whatever defenses he has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses.

D. At the conclusion of the hearing, it shall be the duty of the Director to provide written notification via email or certified mail to the adverse party of the decision of the Director, which can either be announced at the hearing and reduced immediately to writing, or issued within five business days.

E. The decision of the Director may be appealed to the Commissioner within thirty (30) days of receipt of the Director's written notification to the adverse party of the Board's decision. The Commissioner's hearing follow the same procedures as the Director's hearing.

SECTION TWO

- (a) **Severability.** This Ordinance and each section and subsection thereof are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of said Ordinance, or the application thereof

to any person or circumstance, is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this Ordinance be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Ordinance.

- (b) **Conflicting Code Provisions Repealed.** All ordinances or parts of ordinances specifically in conflict with this Ordinance are hereby expressly repealed.
- (c) **Effective Date.** This Ordinance shall take effect and be in force as of the date of its adoption, the public welfare of Bartow County demanding.

SO ADOPTED AND MADE EFFECTIVE this 8th day of January, 2020.

ATTEST:

BARTOW COUNTY, GEORGIA

Kathy Gill, County Clerk

Steve Taylor, Sole Commissioner