

CHEROKEE COUNTY, GEORGIA

ORDINANCE NO. _____

AN ORDINANCE BY THE CHEROKEE COUNTY BOARD OF COMMISSIONERS
REGARDING SHORT-TERM RESIDENTIAL RENTALS

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November 1982, and effective July 1, 1983, provides in Article IX, Section 2, Paragraph 1 thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations; and

WHEREAS, O.C.G.A. § 36-1-20 authorizes the County to adopt ordinances preserving the public health, safety, and welfare, and to adopt appropriate measures to enforce those ordinances; and

WHEREAS, in the interests of the health, safety, and general welfare of the citizens of Cherokee County, Georgia, the Board of Commissioners of Cherokee County desires to exercise its authority to adopt an ordinance regulating Short-term Rentals; and

WHEREAS, appropriate notice and hearing on the ordinance contained herein have been carried out according to general and local law.

NOW, THEREFORE, the Board of Commissioners of Cherokee County, Georgia hereby ordains as follows:

Section 1. The language incorporated herein by reference is hereby adopted and approved, and shall be codified as Division 11 Short-Term Rentals in Article III of Chapter 18 of the Cherokee County Code of Ordinances.

Section 2. All other ordinances shall continue in full force and effect and shall remain unaffected, except where such ordinance, or part thereof, conflicts herewith, in which case such ordinance, or part thereof, is hereby repealed.

Section 3. It is the express intent of the Board of Commissioners of Cherokee County, Georgia that this Ordinance be consistent with both federal and state law. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 4. This Ordinance shall become effective 30 days following the date of adoption.

BE IT RESOLVED this _____ day of _____, 2021.

CHEROKEE COUNTY BOARD OF COMMISSIONERS

Harry Johnston, Chairman

Attest:

Christy Black, County Clerk

DRAFT

DIVISION 11. SHORT-TERM RENTALS

Article III in Chapter 18 of the Code of Ordinances

Sec. 18-380 - Purpose.

- (a) The purpose of this division is to establish standards for Short-term Rentals of privately-owned residential structures rented to transient occupants, minimize adverse effects of Short-term Rental uses on surrounding residential neighborhoods, and preserve the character of residential neighborhoods.
- (b) This division 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 (more than 30 days) of their home.

Sec. 18-381 – Applicability.

- (a) It shall be unlawful for any owner of any property within the unincorporated areas of Cherokee County to rent, operate or advertise a Short-term Rental of property in a residential zoning district, or property with a residential use thereon, contrary to the procedures and regulations established in this division, other provisions of the Cherokee County Code or Ordinances, or any applicable state law. A certificate shall be required to lawfully rent, operate or advertise any property for short term rental. Properties receiving a certificate shall comply with all applicable requirements of this division.
- (b) The restrictions and obligations contained in this division shall apply to Short-term Rentals at all times during which such properties are marketed and used as Short-term Rentals.
- (c) The allowance of Short-term Rentals pursuant to this division shall not prevent private enforcement of additional private restrictions that may be contained in restrictive covenants or other private contractual agreements or arrangements. Cherokee County shall not be responsible for enforcement of such private restrictive covenants, agreements or arrangements.
- (d) A property that has been advertised or listed via the internet or other media sources (e.g. www.vrbo.com, www.airbnb.com, etc.) for short term rental shall be prima facie evidence the property is being used as a short term rental.

Sec. 18-382 – Definitions.

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

Bedroom: 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: The Director of the Community Development Agency, or successor agency, of Cherokee County, Georgia, or his/her designee.

Local Contact Person: An individual designated for the Short-term Rental who must perform the requirements of this division to respond within one (1) hour of notification by a duly authorized

representative of the County to address, remedy, and abate any violation of this division, any other violation of the Cherokee County Code of Ordinances, and/or any disturbance or complaint at the Property.

Managing agency or agent: A person, firm or agency representing an owner or owners of a Short-term Rental.

Marshal, County: County official charged with authority to enforce all ordinances, resolutions, rules and regulations of Cherokee County, by the use of county citations, and to return such violations to the magistrate's court of the county for proper trial and sentencing, and to otherwise enforce county ordinances and perform the duties of marshals and constables as otherwise provided by law.

Noise Regulations: Those regulations contained in Article II of Chapter 26 of the Cherokee County Code of Ordinances.

Overnight Guests: Short-term Rental occupants staying on the property from 12 am (midnight) to 7 am.

Owner: A person that holds legal and/or equitable title to Property intended for use as a Short-term Rental.

Private: Intended for or restricted to the occupants and/or guests of his or her Short-term Rental; not for public use.

Property: A residential legal lot of record on which a Short-term Rental is intended to be located.

Rental Term: The period of time a responsible person rents or leases a Short-term Rental.

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.

Residential Zoning District: a district that is designated as residential under the Cherokee County Zoning Ordinance, including AG, R-80, R-60, R-40, R-30, R-20, R-15, RD3, RZL, RA, RTH, PUD, TND.

Responsible Person: an occupant of a Short-term Rental who is at least twenty-four (24) years of age and who is legally 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.

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.

Short-term Rental Certificate: the certificate issued by the Cherokee County Development Services Center to applicants who have submitted the required documentation and met the requirements set forth in this division for the operation of a Short-term Rental.

Short-term Rental Occupants: guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a Residential Dwelling Unit for lodging for a period of time not to exceed 30 consecutive days.

Special Event: a celebration, ceremony, wedding, reception, corporate function, or similar activity for the benefit of someone other than the property owner involving a gathering of people for the common purpose of attending such event.

Special Event Facility: a building, structure or the grounds where a group or individual has an agreement with the owner to use said building, structure or grounds for a special event, regardless if any fee or compensation is exchanged for such use.

Sec. 18-383 – Short Term Rental Certificate.

(a) Short-term Rental Certificate required

No person shall rent, lease or otherwise exchange for compensation all or any portion of a Residential Dwelling Unit as a Short-term Rental, as defined in this division, without first obtaining a Short-term Rental Certificate pursuant to the regulations contained herein. No certificate issued under this division may be transferred or assigned or used by any person other than the person to whom it is issued, or at any location other than the location for which it is issued.

(b) Application for Short-term Rental Certificate.

(1) *Application.* An owner of a proposed Short-term Rental shall apply for a Short-term Rental Certificate to the Cherokee County Development Services Center on an annual basis. Any false statements or information provided in the application are grounds for denial or revocation of a certificate, including the denial of future applications. The application shall be furnished on a form specified by the county, accompanied by a non-refundable certificate fee as established in this section. Such application shall include and meet the following requirements:

- (i) The name, address, telephone and email address of the owner(s) of record of the Property. If such owner is not a natural person, the application shall identify all partners, officers and/or directors that hold more than 20 percent ownership of the Property and Residential Dwelling Unit for which a certificate is sought, including contact information to include address, telephone, and email address;
- (ii) The address of the Property to be used as a Short-term Rental;
- (iii) The name, address, telephone number and email address of the 24-hour Local Contact Person;

- (iv) The Owner's sworn acknowledgement they have reviewed all regulations of the County pertaining to the operation of a Short-term Rental and understand the requirements for Short-term Rentals;
 - (v) The number of bedrooms and approximate square footage of the Residential Dwelling Unit to be used as the Short-term Rental, and the maximum number of occupants, as allowed by this division. If the Residential Dwelling Unit has more than five (5) bedrooms, the Owner must provide a sworn acknowledgement that the excess bedrooms will be, and remain, locked during the entirety of all rental periods;
 - (vi) The number and location of parking spaces allotted to the Property to be used for the Short-term Rental. Required parking spaces must be located on the same Property as the Short-term Rental as parking not owned by the Short-term Rental shall not be used to meet this requirement;
 - (vii) The Owner's agreement to use his or her best efforts to assure that use of the Property and the Residential Dwelling Unit by Short-term Rental Occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties;
 - (viii) Any other information that this division requires the owner to provide to the county as part of an application for a Short-term Rental Certificate;
 - (ix) Where applicable, a written statement from the homeowner's association where the Short-term Rental is located confirming the homeowner's association does not prohibit Short-term Rentals in accordance with its bylaws. The property owner shall be responsible for notifying Cherokee County, in writing, should the bylaws of the homeowner's association be amended to prohibit or restrict Short-Term Rentals;
 - (x) Acknowledgement that the Owner or Local Contact Person has or will post, at the Short-term Rental, the Notice required in this division; and
 - (xi) In cases where the Short-term Rental has an on-site septic system, a performance evaluation from the Cherokee County Health Department ("Health Department") verifying suitability of the on-site sewage management system for the intended purpose and intensity of use.
- (2) Attached to and concurrent with submission of the application described in this section, the owner shall provide:
- (i) A written exemplar agreement, which shall consist of the form of rental document to be executed between the Owner and Occupant(s) and which shall contain the following provisions:
 - a. The Short-term Rental Occupant(s)' agreement to abide by all of the requirements of this division, any other county ordinances, state and federal law and acknowledgement that his or her rights under the agreement may not be transferred or assigned to anyone else;
 - b. The Short-term Rental Occupant(s)' acknowledgement that it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in this division and the county's Noise Ordinance, with the most stringent requirements controlling; and

- c. The Short-term Rental Occupant(s)' acknowledgement and agreement that violation of the agreement or this division may result in immediate termination of the agreement and eviction from the Short-term Rental by the Owner or agent, as well as the potential liability for payments of fines.
 - (ii) Proof of the Owner's current ownership of the Property and Residential Dwelling Unit intended for use as the Short-term Rental;
 - (iii) Proof of insurance; and
 - (iv) A written certification from the Local Contact Person that he or she agrees to perform the duties specified in this division.
- (3) *Review process.* The application for an initial certificate, and any renewal, shall be reviewed by the Cherokee County Development Services Center and issued or denied within seven (7) business days.
- (i) Any approval of an application and issuance of the Short-term Rental Certificate shall include a unique identification number.
 - (ii) The application or renewal may be denied if:
 - (a) the applicant has had any other Short-term Rental Certificate within the unincorporated area of the County revoked or suspended within any 12-month period;
 - (b) the Property is not current on its property taxes;
 - (c) there is a history of complaints regarding the Property or the Owner or operator of the facility, as determined in the discretion of the Director;
 - (d) the Health Department notifies the county of an inadequate septic system or other health concerns;
 - (e) the County Marshal's office, the County Sheriff's Office, Cherokee County Fire Marshal or Cherokee County Building Official notify the county of code violations on the Property;
 - (f) the Homeowner's Association of the relevant neighborhood provides covenants or other legal documents preventing Short-term Rentals for the property; and/or
 - (g) any other requirement of this division is not met.
 - (iii) A decision to deny the certificate shall be issued in writing. The denial decision may be appealed to the Cherokee County Board of Commissioners by submitting a written appeal that details the grounds for the appeal to the Director within thirty (30) days of the date of the decision to deny the certificate. A hearing on the appeal of the denial shall be conducted before the Board of Commissioners, in accordance with the procedures set forth herein.
- (c) Fee, renewal.**
- (1) The Short-term Rental Certificate application shall be accompanied by an initial administration fee and be subject to an annual renewal fee every year thereafter.
 - (2) All certificates granted under this division shall expire on December 31 of every year.
 - (3) The 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.

(d) Additional Short Term Rental Requirements.

- (1) A separate Short-term Rental Certificate shall be required for each Property used for Short-term Rental.
- (2) The Certificate number shall be listed in any advertisement on the internet or other media for the rental of the Property.
- (3) No Short-term Rental Certificate shall be issued for any Residential Dwelling Unit in a multi-family residential development.
- (4) No Short-term Rental shall offer more than five (5) bedrooms for rent. Any excess bedrooms must be, and remain, locked throughout the entirety of all rental periods.
- (5) No Short-term Rental shall function as a Special Event Facility, lodge, campground or similar use.
- (6) The outdoor use of speakers or similar devices to amplify and indiscriminately broadcast music, spoken word and / or similar sounds by Short-term Rental Occupants is prohibited.
- (7) *Occupancy limitation.* The number of Occupants shall not exceed two (2) persons per bedroom as Overnight Guests, and in no case shall rental occupancy, including day guests, exceed sixteen (16) persons total on the Property. Children ten (10) years of age and under do not count toward these occupancy limits.
- (8) *Local Contact Person.* The Local Contact Person shall be required to respond to the location of the Short-term Rental 24 hours a day, seven days a week, and within one hour after being notified by a duly authorized representative of the County of the existence of a violation of this division or any other provision of the Cherokee County Code of Ordinances, or any disturbance or complaint requiring immediate remedy or abatement regarding the condition, operation, or conduct of occupants of the Short-term Rental.
- (9) *Parked vehicles.* The Short-term Rental must have parking off the street sufficient for one car for each bedroom being rented. 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 on grass or in yards) or on neighboring property.
- (10) *Access to a Short-term Rental.* The Property upon which the Short-term Rental is located must either front upon, and have access to, a County-maintained road by a minimum fifty (50) feet of road frontage, or if the property is located on a privately-owned road, the 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.
- (11) *Posted 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:
 - (i) The name of the Owner and Local Contact Person of the Short-term Rental, and a telephone number at which the Local Contact Person may be reached on a 24-hour, seven days a week, basis;
 - (ii) The name and address of the nearest hospital;

- (iii) The maximum number of Overnight Guests and total persons permitted to be at the Short-term Rental as provided in this division;
- (iv) The maximum number of vehicles allowed to be parked on the Property, with notice that vehicles must be parked in designated areas and should not be parked off the Property;
- (v) Notification that failure to conform to the parking and occupancy requirements of the Short-term Rental is a violation of this division and could result in immediate eviction and forfeiture of rental payments;
- (vi) The trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the Property, unless it is placed in a container, and that the container shall not be placed sooner than 24 hours prior to the pickup day, and must be removed no later than 24 hours after pickup (If Owner or operator provides daily trash removal then this notice is not necessary);
- (vii) The times that quiet hours are to be observed: (i.e. 11:00 p.m. to 7 a.m. daily, except Midnight on Saturday to 1:00 p.m. on Sunday) and a statement advising the Occupants that any failure to comply with this noise regulation or any aspect of the Cherokee County Noise Ordinance, with this most stringent requirement controlling, is a violation of this division and could result in immediate eviction and forfeiture of rental payments;
- (viii) The outdoor use of speakers or similar devices to amplify and indiscriminately broadcast music, spoken word and / or similar sounds is prohibited.
- (ix) A copy of the Certificate with the certificate number displayed.

(e) Safety requirements.

- (1) Every bedroom, outside each bedroom in the immediate vicinity of each bedroom, and each story of the Residential Dwelling Unit shall be equipped with an operational smoke detector which shall be maintained in good working order at all times. The placement and mounting of each smoke detector shall comply with all requirements of the applicable adopted residential building code.
- (2) Outside each bedroom in the immediate vicinity of the bedrooms for rent, shall be equipped with an operational carbon monoxide detector that meets applicable adopted residential building code and shall be maintained in good working order at all times.
- (3) Every bedroom shall have at least one operable window or door for emergency escape or rescue that opens directly to the exterior of the Residential Dwelling Unit. The emergency door or window shall be operable from the inside to provide a full, clear opening without the use of separate tools.
- (4) Each floor of the Short-term Rental shall be equipped with a portable minimum five-pound 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.
- (5) The Owner and/or Local Contact Person shall maintain a house number on the Property that is visible from the street at all times.
- (6) The Property and all structures shall be maintained in good order in compliance with the Cherokee County Zoning Ordinance and Article II, the Property Maintenance Code of Chapter 14 of the Cherokee County Code of Ordinances.

- (7) 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.
- (8) 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:

- (1) The Owner and/or Local Contact Person shall use reasonably prudent business practices to 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 shall further use reasonably prudent business practices to ensure the Short-term Rental Occupants and/or guests of the Short-term Rental do not create noise in violation of this division or the noise regulations of the Cherokee County Code of Ordinances (whichever restriction that shall be the most stringent shall apply), or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject Short-term Rental.

The Owner shall 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.

(b) Local Contact Person:

- (1) Each Owner of a Short-term Rental shall designate a Local Contact Person who has access and authority to assume management of the Short-term Rental and take remedial measures while the Short-term Rental is being rented to an occupant and/or guest. An owner of a Short-term Rental may designate himself or herself as the Local Contact Person;
- (2) The Local Contact Person shall be at least twenty-one (21) years of age;
- (3) There shall be only one (1) designated Local Contact Person for a Short-term Rental at any given time;
- (4) The duties of the Local Contact Person are to:
 - (i) Be available to handle any problems arising from use of the Short-term Rental when being rented to an occupant and/or guest;
 - (ii) Appear on the premises of any Short-term Rental within one hour following notification from a duly authorized representative of Cherokee County of the existence of a violation of this division or any other provision of the Cherokee County Code of Ordinances, or any disturbance or complaint requiring immediate remedy or abatement regarding the condition, operation, or conduct of occupants of the Short-term Rental. This includes, but is not limited to, notification that occupants of the Short-term Rental have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the Cherokee County Code of Ordinances or other applicable law pertaining to noise, disorderly conduct, overcrowding, consumption of alcohol or use of illegal drugs. This is not intended to impose a duty to act as a peace officer or otherwise require the Local Contact Person to place himself or herself in a perilous situation;

- (iii) Receive and accept service of any notice of violation related to the use or occupancy of the Short-term Rental; and
- (iv) Monitor the Short-term Rental for compliance with this division.
- (5) Failure of the Owner or Local Contact Person to respond to calls or complaints from Cherokee County regarding the condition, operation, or conduct of occupants and guests of the Short-term Rental in a timely and appropriate manner shall be a violation of this division and grounds for imposition of penalties as set forth in this division.
- (6) An Owner may retain a managing agent, managing agency, operator, or representative to serve as the Local Contact Person to comply with the requirements of this section, including, without limitation, the certification of the Short-term Rental, the management of the Short-term Rental, and the compliance with the conditions of the Short-term Rental Certificate. The Owner of the Short-term Rental is responsible for compliance with the provisions of this section and the failure of an agent, representative, or Local Contact Person to comply with this section shall be deemed noncompliance by the Owner.
- (7) The Owner must immediately notify the Cherokee County Development Services Center in writing upon a change of Local Contact Person or the Local Contact Person's telephone number. Failure to do so within 14 days after such change shall be reason for revocation of a Certificate granted pursuant to this division, unless such time limit is extended for good cause.

(c) Responsible Person:

- (1) Every Short-term Rental shall be rented to a designated Responsible Person. The Owner of the Short-term Rental is responsible for compliance with the provisions of this division. Rental to a person who does not meet the requirements of a Responsible Person, or the failure to designate a Responsible Person prior to the occupancy of a Short-term Rental shall be deemed noncompliance by the Owner.
- (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.

- (a) Any false statements or false information provided in the application is grounds for denial, suspension or revocation of a Short-term Rental Certificate, including the denial of future applications.
- (b) Any violations or noncompliance with the provisions of this division are grounds for denial, suspension, or revocation of a Short-term Rental Certificate, including denial of future applications.
- (c) *Discovery of an immediate health hazard.* Upon the discovery of an immediate health hazard to renters, the Director may suspend the Short-term Rental Certificate until the hazard is remedied. If the hazard is not timely corrected, the Certificate may be revoked.
- (d) Reasons for revocation of a Short-term Rental Certificate include, but are not limited to:

- (1) Any Short-term Rental Certificate issued under this division 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 Certificate shall be immediately suspended or revoked upon learning that an applicant furnished fraudulent or untruthful information in the application for a Certificate, or omits information required in the application for a Certificate, or fails to pay all fees, taxes, or other charges imposed under the provisions of this division or other applicable ordinances and laws.
 - (3) A Certificate may be revoked in the case of three violations of this division within a 12-month period.
 - (4) A Certificate may be suspended or revoked if the Property's use as a Short-term Rental constitutes a public nuisance.
- (e) Any suspension, revocation, or forfeiture of an issued Short-term Rental Certificate shall occur only after notice and opportunity for a hearing before the Board of Commissioners consistent with the procedures set forth in this division.

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

- (a) Any violation of this division, including any violation of the noise regulations set forth in the Cherokee County Code of Ordinances, shall subject the Short-term Rental Certificate holder to the following progressive actions, except for those violations and occurrences set forth in Section 18-385 that provide for immediate suspension or revocation upon notice and hearing:
 1. the first violation within a consecutive 12-month period, which shall result in a fine in magistrate court not to exceed \$ 250.00 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, which shall result in 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 upon a finding of guilt or plea in magistrate court.
 3. the third violation within a consecutive 12-month period, which shall result in 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.
- (b) Any violation of the provisions of this division by the Owner, Local Contact Person, Responsible Person or, occupants and/or guests of a Short-term Rental shall be enforced in magistrate court to the full extent authorized by O.C.G.A. § 36-1-20. Enforcement actions may be brought against occupants and/or guests of a Short-term Rental for violations of this division and any other provision of the Cherokee County Code of Ordinances notwithstanding that enforcement actions may also be brought against the Owner or Local Contact Person of the Short-term Rental responsible for the conduct constituting the violation. A finding of guilt or plea of guilty or nolo contendere for any violation of the provisions of this division shall subject the Owner of a Short-

term Rental to the administrative penalties as set forth in Section 18-386(a)(1-3) regardless of whether the finding of guilty is against, or the plea of guilty or nolo contendere was by, the Owner, Local Contact Person, Responsible Person, or occupants and/or guests of a Short-term Rental.

(c) Each day the Short-term Rental is marketed or rented for overnight accommodation without the necessary Short-term Rental Certificate required under this division shall constitute a separate violation.

(d) Failure of the Owner or Local Contact Person to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the Short-term Rental in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this division. 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.

(e) In addition to the penalties described above, any person violating the provisions of this division by operating a Short-term Rental without a valid Short-term Rental Certificate may be prosecuted according to the general penalties described in the Cherokee County Code of Ordinances.

(f) Nothing contained in this subsection shall be construed to preclude the Board of Commissioners from suspending or revoking a Certificate for a period exceeding those periods identified in sections 18-386(a)(1),(2), or (3) or from revoking the Certificate if the Board determines in its discretion that such action is necessary and in the best interest of the public health, safety, and welfare of the County.

(g) In all cases, the mandatory suspension period may be mitigated by the Board of Commissioners upon presentation of evidence that the certificate holder established practices and procedures to prevent the violation from occurring.

Sec. 18-387 – Enforcement

(a) Any complaints received by Cherokee County regarding a Short-term Rental shall result in a notice of the complaint being directed to the Local Contact Person designated in the Short-term Rental Certificate. The Local Contact Person shall be responsible for contacting the Responsible Person to correct the problem within one (1) hour, if applicable. The Local Contact Person is required to visit the Property to confirm compliance with this division, unless compliance can reasonably be confirmed without visiting the Property. However, nothing in this section shall be construed as limiting Cherokee County or any officer or employee thereof in responding to any violation, disturbance, or complaint, or taking any enforcement action under this division.

(b) The Director, or designee, shall investigate whenever there is reason to believe that an Owner, Occupant(s) and/or Local Contact Person has failed to comply with the provisions of this division. The investigation may include an inspection of the Property and Residential Dwelling Unit in accordance with applicable law, 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. Should the investigation support a finding that a violation occurred, the Director shall determine in his/her discretion whether to proceed with the

administrative penalties set forth in Section 18-385 or upon citation to Magistrate Court as set forth in Section 18-386, or both, as applicable.

(c) The Director, or his or her designee, is hereby authorized to establish such procedures as may be required to carry out the purpose and intent of this section.

(d) County employees, including employees or agents of the County Marshals office, Sheriff's Office, Fire Department, Community Development Agency, 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

(a) Upon receipt of an appeal of an administrative denial of a Short-term Rental Certificate or upon the administrative suspension or revocation of a Short-term Rental Certificate, the Director shall schedule a hearing before the Board of Commissioners and provide written notice to the adverse party of the time, place, and date of the scheduled hearing by personal delivery or certified mail. 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 Cherokee County Attorney and the adverse party and/or counsel for the adverse party.

(b) The Board of Commissioners shall have the duty of conducting hearings concerning the appeal of an administrative denial, revocation, or suspension of a Short-term Rental Certificate. 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/her case, to rebut the allegations made against him/her, and present his/her defense. 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, the findings and conclusions of the Board of Commissioners shall be forwarded to the Director, and it shall be the duty of the Director to provide written notification via personal delivery or certified mail to the adverse party of the decision of the Board of Commissioners.

(e) The decision of the 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.