

**FORSYTH COUNTY, GEORGIA
ORDINANCE NO. 129**

**AN AMENDMENT TO ORDINANCE 129, ARTICLE VIII OF
CHAPTER 22 OF THE CODE OF FORSYTH COUNTY,
GEORGIA RELATING TO LICENSING OF SHORT-TERM
RENTALS TO CLARIFY APPLICABILITY OF THE
ORDINANCE; TO REPEAL CONFLICTING ORDINANCES;
AND FOR OTHER PURPOSES**

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, the governing authority of Forsyth County, to wit, the Board of Commissioners, desires to exercise its authority to amend regulations applicable to 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 Forsyth County, Georgia hereby ordains as follows:

Section 1. The Short Term Rental Ordinance, Ordinance 129, as codified as Article VIII in Chapter 22 of the Code of Ordinances, is hereby replaced in its entirety by the text attached hereto as Exhibit "A."

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where such ordinance, or part thereof, conflicts herewith, in which case such ordinance, or part thereof, is hereby repealed.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 Forsyth 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 immediately following the date of adoption.

BE IT RESOLVED this _____ day of _____, 2021.

FORSYTH COUNTY BOARD OF COMMISSIONERS

Cindy Jones Mills, Chairman

Molly Cooper, Vice-Chairman

Alfred John, Secretary

Todd Levent, Member

Laura Semanson, Member

Attest:

Clerk to the Board

Exhibit "A"

SHORT-TERM RENTAL ORDINANCE

Article VIII in Chapter 22 of the Code of Ordinances

Sec. 22-263. – Purpose.

- a. The purpose of this article is to establish standards for short-term rentals of privately owned residential structures used as short-term rentals and rented to transient occupants, minimize adverse effects of short-term rental uses on surrounding residential neighborhoods, and preserve the character of neighborhoods in which short-term rental use occurs.
- b. This article is not intended to regulate hotels, motels, inns, or non-vacation type rental arrangements including, but not limited to, boardinghouses, lodging houses, or rooming houses.

Sec. 22-264. – Applicability.

- a. ~~It shall be unlawful for any owner of any property~~This article shall have applicability only to short-term rental activity in the Agricultural (A1) or Agricultural Residential (Ag-Res) zoning districts for properties that have received a short-term rental conditional use permit under Section 16-4.33 of the Unified Development Code.~~within the unincorporated areas of Forsyth County to rent or operate a short-term rental of residential property contrary to the procedures and regulations established in this article, other provisions of this Code, or any applicable state law.~~
- b. The restrictions and obligations contained in this article shall apply to applicable short-term rentals activity at all times during which ~~such any~~ short-term rentals is are marketed ~~and or~~ used as a short-term rentals.
- c. The ~~licensing allowance~~ of short-term rentals ~~pursuant in accord with~~ to this article shall not prevent enforcement of additional restrictions that may be contained in restrictive covenants or other private contractual agreements or arrangements. Forsyth County shall not be responsible for enforcement of such covenants, agreements, or arrangements.
- d. A property subject to this article 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.
- ~~d.e.~~ Limitations on the applicability of this article notwithstanding, short-term rental activity is otherwise impermissible unless in full compliance with the Code, to include Section 16-4.33 of the Unified Development Code.

Sec. 22-265. – 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: A room that meets the building code requirements to be used as a sleeping room and for no other primary purpose.

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

Noise Regulations: Those regulations contained in Article IV of Chapter 34 of the Forsyth County Code of Ordinances.

Owner: A person that holds legal and/or equitable title to private property.

Person: A natural human being, estate, association, firm, partnership, corporation, or other legal entity.

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

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

Responsible Person: an occupant of a short-term rental who is at least twenty-one (21) 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, rented for the purpose of overnight lodging for a period of less than thirty (30) days. For the purposes of this definition, a short-term rental shall include all housing types but shall exclude Bed and Breakfast Inns and Boarding Houses, as they are defined by the Unified Development Code.

Sec. 22-266. – 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 occupants and/or guests of the short-term rental do not create noise in violation of the noise regulations of this Code 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.

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 local contact person shall be required to respond to the location of the short-term rental 24 hours a day, 7 days a week, and within three (3) hours after being notified by a duly authorized representative of Forsyth 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. Whether the local contact person shall be required to respond to the location of the short-term rental to address a violation, disturbance, or complaint shall be determined in the discretion of the County officer or employee responding to said violation, disturbance, or complaint. Nothing in this section shall be construed as limiting Forsyth County or any officer or employee thereof in responding to any violation, disturbance, or complaint or taking any enforcement action under this article;
5. 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 permitting of the short-term rental, the management of the short-term rental, and the compliance with the conditions of the short-term rental license. 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; and
6. The owner must immediately notify the Business License Manager in writing upon a change of local contact person or the local contact person's telephone number. This notification will be on forms prescribed by the Business License Department. The new, revised business short-term rental license will not extend the expiration date of the original short-term rental license, will be issued for a fee of \$50.00, and must be posted in the short-term rental within ten (10) days of any change of local contact person information and before occupants can rent or occupy the short-term rental. Failure to do so within 14 days after such change shall, unless such time limit is extended for good cause, be reason for revocation of a license granted pursuant to this article.

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 article, and the failure to ensure the short-term rental is rented to a designated responsible person shall be deemed noncompliance by the owner.

Sec. 22-267. – Licenses and transferability.

A. Required Licenses:

1. The owner shall pay the required occupation tax and shall comply with all applicable provisions of Article II of Chapter 22 of this Code for business licenses and regulations;
2. The owner shall timely pay all property taxes owed for the real property on which the short-term rental is located;
3. No owner or local contact person of a short-term rental shall rent, lease, or otherwise exchange for compensation all or any portion of such short-term rental without first obtaining a short-term rental license from the County;
4. A separate short-term rental license shall be required for each structure used for short-term rental;
5. No short-term rental license shall be issued for apartments;
6. An owner of a short-term rental, or their designated representative, shall submit an application for a short-term rental license to the Business License Department on an annual basis. The application shall be furnished on a form specified by the County, accompanied by a non-refundable license fee as established in this Section. Such application shall include:
 - a. The complete street address of the short-term rental;
 - b. Ownership information, including the name, address, e-mail address, and telephone number of each person or entity with an ownership interest in the property;
 - c. The name, address, telephone number, and email address of the local contact person for the short-term rental;
 - d. 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 article;
 - e. A sworn statement from the applicant certifying that all designated bedrooms, including egress from all designated bedrooms, meet applicable safety code requirements, as required by Section 22-268(D);
 - f. Signed acknowledgment that the owner has read all regulations pertaining to the operation of a short-term rental;
 - g. Signed acknowledgment that the local contact person has read all regulations pertaining to the operation of a short-term rental;
 - h. Acknowledgement that the owner or local contact person has or will post, at the short-term rental, the notice required in Section 22-268(a); and

- i. In cases where the short-term rental has an on-site septic system, a performance evaluation from the Health Department verifying condition of the on-site sewage management system, except that such a performance evaluation shall not be required for renewal applications. In cases where the short-term rental is serviced by sewer, documentation from the applicable County or City department providing sewer to the rental property verifying sewer capacity, except that such documentation shall not be required for renewal applications.
7. Any false statements or information provided in the application are grounds for denial or revocation of a license, including the denial of future applications.
8. Upon the filing of a completed license application, the Business License Manager shall review the application for compliance with the requirements of this article. Within 30 days of the filing of the completed application, the Business License Manager or his or her designee shall either issue a short-term rental license to the applicant or issue a written notice of denial. A short-term rental license shall be issued to an applicant unless:
 - a. The applicant has had a short-term rental license revoked within the previous 12-month period;
 - b. The property taxes have not been paid and are delinquent;
 - c. The Health Department notifies the County of an inadequate septic system or other health concerns;
 - d. The application does not meet the minimum requirements of this article.
9. A decision to deny an application shall be issued in writing and may be appealed to the Board of Commissioners in accordance with the procedures set forth in this article.

B. License fee/renewal.

- a. The short-term rental license application and any renewal application shall be accompanied by an application fee of \$250.
- b. All licenses granted under this article shall expire on December 31 of each year. Applicants shall file a renewal application accompanied by the requisite renewal fee with the County on or before the second Monday in December of each year without penalty. If an application is submitted after the second Monday in December, a new application shall be required, as renewal eligibility will not be considered past this date.
- c. The short-term rental license is not transferrable and should ownership of a unit change, a new license application shall be required prior to any use of the property as a short-term rental.

C. All short-term rentals are subject to the following:

1. The owner or local contact person shall, by written agreement with the responsible person, limit overnight occupancy of the short-term rental to the specific number of overnight occupants designated in the short-term rental license application;
2. Any advertising of the short-term rental shall conform to information included in the short-term rental license and requirements of this article, and shall include the short-term rental license number issued by the County, notification of the maximum occupancy, maximum number of vehicles allowed, and provisions regulating noise;
3. Occupancy for short-term rentals served by sewer: the number of overnight occupants shall not exceed two persons per bedroom plus two additional persons per residence meeting all life-safety code requirements, but in no case shall rental occupancy exceed 15 overnight persons total. For the purpose of maximum occupancy, those persons under two (2) years of age shall not be counted;
4. Occupancy for short-term rentals with onsite septic system: the number of overnight occupants shall not exceed two persons per bedroom, and shall meet all life-safety codes, but in no case shall rental occupancy exceed 15 overnight persons total. The maximum capacity shall be based on the number of bedrooms. All occupants, regardless of age, are counted as persons;
5. A bedroom shall be 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. Every bedroom shall have an emergency escape or rescue exit and a minimum ceiling height as follows:
 - a. Each 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, and shall comply with all requirements of the International Residential Code (“IRC”) as were in effect on the date the short-term rental was issued a Certificate of Occupancy;
 - b. Bedroom ceilings shall comply with all requirements of the IRC as were in effect on the date the short-term rental was issued a Certificate of Occupancy;
6. The owner or local contact person shall, by written agreement with the responsible person, limit daytime occupancy of the short-term rental to the specific number of daytime occupants designated in the short-term rental license application, with the number of daytime occupants not to exceed four (4) guests in addition to the total number of allowed overnight occupants, but in no case shall the daytime occupancy of a short-term rental exceed 19 persons total. Overnight occupancy limitations shall apply between the hours of 11:00 PM and 7:00 AM;
7. Prior to permitting occupancy of a short-term rental by a transient occupant, the owner or the local contact person shall: (a) verify the rental is to a responsible person and obtain their name and address; (b) provide information about the short-term rental regulations to the responsible person; and (c) require written confirmation from the responsible person that he or she:

- a. Has read the pertinent regulations; and
- b. Understands all applicable laws, rules, and regulations pertaining to the use and occupancy of the short-term rental, including, but not limited to, the County's noise regulations; and
- c. Understands that they are bound to all applicable laws, rules, and regulations; and
- d. Agrees to comply with all applicable laws, rules, and regulations, and agrees to be legally responsible for compliance by all occupants and/or guests of the short-term rental with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term rental, including, but not limited to, to the County's noise regulations.

This information shall be maintained by the owner or the local contact person for a period of one (1) year from the last day of each rental period.

8. Parked Vehicles:

- a. Shall be limited to the number designated in the short-term rental license application with the maximum allowable vehicles not to exceed one vehicle per bedroom, or the capacity of the paved or impervious surface parking lot, whichever is greater, at any one time for both daytime and overnight guests. A watercraft, travel trailer, or any other recreational trailer which is pulled by a motorized vehicle shall be counted as a separate vehicle when referenced in this article of the Code;
- b. Shall not be parked on the County right-of-way or along any roadways at any time; and
- c. Shall be parked only 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).

9. The owner and/or local contact person shall use best efforts to ensure that the occupants and/or guests of the short-term rental do not violate the noise regulations set forth in Article IV of Chapter 34 of this Code by notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws regarding their occupancy. Any violation of the noise regulations by a guest at a short-term rental shall be considered a violation under this article. It is not intended that the owner and/or local contact person act as a peace officer or place himself or herself in harm's way;

D. Transferability:

- 1. No short-term rental license issued under this article shall be transferred or assigned or used by any person other than the owner or local contact person to whom it is issued, or at any location other than the one for which it is issued.

Sec. 22-268. – Standard operational requirements and conditions.

A. Posted Information Notice:

1. 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:
 - a. 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;
 - b. The name and address of the nearest hospital;
 - c. The maximum number of overnight occupants and/or daytime guests permitted to be at the short-term rental;
 - d. The maximum number of vehicles allowed to be parked on the property, including a sketch of the location(s) of the on-site parking spaces;
 - e. 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 curbside container, and that the curbside 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);
 - f. Notification that failure to conform to the parking and occupancy requirements of the short-term rental is a violation of this article; and
 - g. The times that quiet hours are to be observed per the noise regulations set forth in Article IV of Chapter 34 of this Code and a statement advising the occupant that any failure to comply with the noise regulations is a violation of this article.
 - h. A copy of the short-term rental license with the license number displayed.

B. Occupancy:

1. The number of overnight occupants and/or daytime guests at the short-term rental shall comply with all applicable provisions of Section 22-267 of this Code.

C. Parked Vehicles

1. All parked vehicles at the short-term rental shall comply with all applicable provisions of Section 22-267 of this Code.

D. Life Safety and Sanitation

1. All designated bedrooms, including egress from all bedrooms, shall comply with all applicable safety codes as were in effect on the date the short-term rental was issued a Certificate of Occupancy.
2. Every bedroom, adjoining hallway, and common area shall be equipped with an operational smoke detector that meets current IRC 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 current IRC.

3. 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.
4. Each floor of the short-term rental shall be equipped with a fire extinguisher that is fully charged, not past expiration date, and that meets all National Fire Protection Association (NFPA) standards, including those as set forth in NFPA 10: Standard for Portable Fire Extinguishers.
5. Private swimming pools shall comply with the current International Swimming Pool and Spa Code.
6. The owner and/or local contact person shall maintain a house number that is visible from the street at all times.

Sec. 22-269. – Suspension or Revocation of License

Any suspension, revocation, or forfeiture of an issued license by the Board of Commissioners shall occur only after notice and opportunity for a hearing before the Board of Commissioners consistent with the procedures set forth in this article and upon the following occurrences:

1. A short-term rental, its owner, local contact person, responsible person, or occupants are found to be in violation of this article or in violation of the noise regulations set forth in Article IV of Chapter 34 of this Code, subject to criminal citation and prosecution as outlined in Section 22-270.
2. An applicant furnished fraudulent or untruthful information in the application for a license, or omitted information required in the application for a license, or failed to pay all fees, taxes, or other charges imposed under the provisions of this article, in which case the Board of Commissioners may immediately suspend or revoke the short-term rental license.
3. A short-term rental does not meet the licensing qualifications set forth in this article at any time such knowledge becomes known to the Board of Commissioners, in which case the Board of Commissioners shall immediately suspend or revoke the short-term rental license.
4. A short-term rental has been used as a short-term rental during a period of suspension of a license, in which case the Board of Commissioners shall immediately revoke the short-term rental license.

Sec. 22-270. – Violation and penalties.

- A. Any violation of this article, including any violation of the noise regulations set forth in Article IV of Chapter 34 of this Code, shall subject the licensed individual to the following progressive actions by the Board of Commissioners, except for those violations and

occurrences set forth in Section 22-269 that provide for immediate suspension or revocation upon notice and hearing:

1. The first violation within a consecutive 12-month period 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 of guilty or nolo contendere in magistrate court.
 2. The second violation within a consecutive 12-month period shall result in a fine in magistrate court not to exceed \$500.00 and a license suspension for a period of not less than thirty (30) days nor more than ninety (90) day upon a finding of guilt or plea of guilty or nolo contendere in magistrate court.
 3. The third violation within a consecutive 12-month period shall result in a fine in magistrate court not to exceed \$1,000.00 and the revocation of the short-term rental license upon a finding of guilt or plea of guilty or nolo contendere in magistrate court, and neither the owner nor local contact person shall be eligible to reapply for a license for a period of twelve (12) months from the date of revocation.
- B. Nothing contained in this subsection shall be construed to preclude the Board of Commissioners from suspending or revoking a license for a period exceeding those periods identified in sections 22-270(A)(1),(2), or (3) or from revoking the license 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.
- C. In all cases, the mandatory suspension period may be mitigated by the Board of Commissioners upon presentation of evidence that the licensee established practices and procedures to prevent the violation from occurring.
- D. Enforcement action may be brought against any individual, including, but not limited to, the owner, local contact person, responsible person, or occupants and/or guests of a short-term rental for violations of this article and any other provision of this Code. Any violation of the provisions of this article shall be enforced in magistrate court to the full extent authorized by O.C.G.A. § 36-1-20, with a finding of guilt or plea of guilty or nolo contendere subjecting the licensed individual to the same administrative sanctions as set forth in Section 22-270(A)(1-3) regardless of whether the finding of guilt as against or the plea of guilty or nolo contendere was by the owner, local contact person, responsible person, or occupants and/or guests.
- E. Each day the short-term rental is marketed or rented for overnight accommodation without the necessary short-term rental license required under this article shall constitute a separate violation.
- F. Failure of the owner or local contact person to respond as provided in Section 22-266(d) 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 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.

- G. 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 license may be prosecuted according to the general penalties described in Section 1-12 of this Code.

Sec. 22-271. – Enforcement

- A. The Forsyth County Sheriff or his or her designee and Forsyth County Code Compliance shall have authority to enforce this article.
- B. Any complaints received by the County regarding a short-term rental may result in a notice of the complaint being directed to the local contact person designated in the short-term rental license, which may result in direction that the local contact person respond to the short-term rental as provided in Section 22-266(b)(4).
- C. Notice of any citations issued for violations of this article shall be provided to the local contact person designated in the short-term rental license within one week of the issuance of such citations.

Sec. 22-272. – Hearing on Denial, Suspension or Revocation

- A. Upon receipt of a timely appeal (accompanied by a fee of \$250.00 made payable to Forsyth County, Georgia) of an administrative denial, upon presentation of evidence to the Business License Manager of a violation of this article, or upon a showing of any of the other occurrences set forth in Section 22-269, the Business License Manager 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. The Business License Manager 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 Board of Commissioners shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a license. 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, the findings and conclusions of the Board of Commissioners shall be forwarded to the Business License Manager, and it shall be the duty of the Business License Manager to provide written notification via 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 Forsyth County within thirty (30) days of receipt of the Business License Manager's written notification to the adverse party of the Board's decision.
- F. For purposes of this section, notice shall be deemed delivered when personally served or when served by certified mail postage prepaid within three days after the date of deposit in the United States Mail.