

***AN ORDINANCE TO ADD CHAPTER 18, ARTICLE XV TO ALLOW AND PROVIDE
REGULATIONS FOR SHORT-TERM RENTALS;***

WHEREAS, the City Council desires to allow short-term rentals as a business in the City, subject to certain regulations;

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF CANTON as follows:

1. Chapter 18 – Article XV is hereby adopted, to read as follows:

Sec. 18-357. - Intent; purpose.

It is the purpose of this chapter to protect the public health, safety and general welfare of individuals and the community at large; to monitor and provide reasonable means for citizens to mitigate impacts created by occupancy of short-term units; and to implement rationally based, reasonably tailored regulations to protect the integrity of the city's neighborhoods.

Sec. 18-358.- Definitions; general provisions.

Code compliance verification form is a document executed by a short-term unit owner certifying that the short-term unit complies with applicable zoning, building, health and life safety code provisions. No person shall allow occupancy or possession of any short-term rental unit if the premises are in violation of any applicable zoning, building, health or life safety code provisions. *Short-term rental agent* means a natural person designated by the owner of a short-term rental on the short-term rental certificate application. Such person shall be available for and responsive to contact at all times and someone who is customarily present at a location within the city for purposes of transacting business.

Short-term rental certificate is the certificate issued by the development services division to applicants who have submitted the required documentation and met the requirements set for in this article for the operation of a short-term rental.

Short-term rental occupants means guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a dwelling unit for lodging for a period of time not to exceed 30 consecutive days.

Short-term rental unit means an accommodation for transient guests where, in exchange for compensation, a residential dwelling unit, either the primary structure or any approved accessory dwelling is provided for lodging for a period of time not to exceed 30 consecutive days. For the purposes of this definition, a residential dwelling shall include all single family and multi-family housing types with no more than five bedrooms offered for rent and shall exclude group living or other lodging uses, as defined in the Unified Development Code and regulated separately throughout this Code. A motor vehicle as defined in O.C.G.A. Title 40 may not be used as a short-term rental. 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. 18-359. - Short-term rental certificate.

No person shall rent, lease or otherwise exchange for compensation all or any portion of a dwelling unit as short-term rental without first obtaining a short-term rental certificate pursuant to the regulations contained in this article and obtaining an occupational tax certificate and/or home occupation license. No certificate issued under this chapter may be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

Sec. 18-360.- Application for short-term rental certificate.

(a) Applicants for a short-term rental certificate shall submit, on an annual basis, an addendum to the application for an occupational tax certificate or home occupation license provided by the city for a short-term rental certificate. The application shall be furnished under oath on a form specified by the city manager. Such application should include:

(1) The name, address, telephone and email address of the owner(s) of record that hold more than 20 percent ownership of the dwelling unit for which a certificate is sought. 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 dwelling unit or which a certificate is sought, including personal contact information;

(2) The address of the unit to be used as a short-term rental;

(3) The name, address, telephone number and email address of the short-term rental agent, which shall constitute his or her 24-hour contact information;

(4) The owner's sworn acknowledgement that he or she has received a copy of this section, has reviewed it and understands its requirements;

(5) A parking plan showing the number and location of parking spaces allotted to the premises as determined by residential parking requirements in the city's land development ordinance; required parking spaces must be located on the same property as the short-term rental, unless otherwise approved by the Zoning Administrator. Parking shall not be allowed in the yard of any property. Areas not owned by the short-term rental shall not be used to meet this requirement;

(6) The owner's agreement to use his or her best efforts to assure that use of the premises 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; and

(7) Any other information that this chapter requires the owner to provide to the city as part of an application for a short-term rental certificate. The city manager or his or her designee shall have the authority to obtain additional information from the applicant as necessary to achieve the objectives of this chapter.

(8) If the short-term rental is located within a subdivision subject to covenants and restrictions or within a condominium, a written statement from the homeowner's association or condominium association where the short-term rental is located stating that the homeowner's association or condominium association does not prohibit short-term rentals in accordance with

its covenants and bylaws. This requirement may be waived if the applicant can provide proof that the subdivision does not have an active homeowner's association or the condominium does not have an active association.

(b) Attached to and concurrent with submission of the application described in this section, the owner shall provide:

(1) A written exemplar agreement, which shall consist of the form of document to be executed between the owner and occupant(s) and which shall contain the following provisions:

(i). The occupant(s)' agreement to abide by all of the requirements of this chapter, any other city ordinances, state and federal law and acknowledgement that his or her rights under the agreement may not be transferred or assigned to anyone else;

(ii). The occupant(s)' acknowledgement that it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in the city's noise ordinance; and

(iii). The occupant(s)' acknowledgement and agreement that violation of the agreement or this chapter may result in immediate termination of the agreement and eviction from the short-term rental unit by the owner or agent, as well as the potential liability for payments of fines levied by the city.

(2) Proof of the owner's current ownership of the short-term rental unit;

(3) Proof of insurance satisfactory in accordance with administrative guidelines published by the city; and

(4) A written certification from the short-term agent that he or she agrees to perform the duties specified.

(c) The certificate holder shall publish a short-term rental certificate number in every print, digital, or internet advertisement and any property listing in which the short-term rental is advertised.

Sec. 18-361. - Short-term rental agent.

(a) The owner of a short-term rental shall designate a short-term rental agent on its application for a short-term rental certificate. A property owner may serve as the short-term rental agent. Alternatively, the owner may designate a representative as his or her agent who is over age 18.

(b) The duties of the short-term rental agent are to:

(1) Be reasonably available to handle any problems arising from use of the short-term rental unit;

(2) Appear on the premises of any short-term rental unit within two hours following notification from the city of issues related to the use or occupancy of the premises. This includes, but is not limited to, notification that occupants of the short-term rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of this Code or other applicable law pertaining to noise, disorderly conduct, overcrowding,

consumption of alcohol or use of illegal drugs. Failure of the agent to timely appear to two or more complaints regarding violations may be grounds for penalties as set forth in this chapter. This is not intended to impose a duty to act as a peace officer or otherwise require the agent to place himself or herself in a perilous situation;

- (3) Receive and accept service of any notice of violation related to the use or occupancy of the premises; and

- (4) Monitor the short-term rental unit for compliance with this chapter.

- (c) In the event the short-term rental agent is replaced by another agent, the owner will apply for a new short-term rental certificate with the correct short-term rental agent designated within 30 days of such change.

Sec. 18-362. - Grant or denial of application.

Review of an application shall be conducted within thirty (30) days and shall be granted unless the applicant fails to meet the conditions and requirements of this chapter, or otherwise fails to demonstrate the ability to comply with local, state or federal law. Any false statements or information provided in the application are grounds for revocation, suspension and/or imposition of penalties, including denial of future applications.

Sec. 18-363. - Short-Term Rental Standards.

Short-term rentals, as defined herein shall be subject to the following general requirements in addition to the zoning district regulations for the zoning district in which the short-term rental is located:

- (a) A legible copy of the short-term rental unit certificate shall be posted within the unit and include all of the following information:

- (1) The name, address, telephone number and email address of the short-term rental agent:

- (2) The occupational tax certificate number;

- (3) The maximum occupancy of the unit;

- (4) The maximum number of vehicles that may be parked at the unit as determined at the issuance of the certificate; and

- (b) Short-term rental units must be properly maintained and regularly inspected by the owner to ensure continued compliance with applicable zoning, building, health and life safety code provisions.

- (c) Short-term rentals shall include the entirety of a dwelling unit and may not be for a portion of a dwelling unit, unless the portion is an approved accessory dwelling unit (ADU).

(d) Short-term rentals shall meet all applicable building, health, fire, and related safety codes at all times. Each short-term rental shall also have:

(i) Working smoke and carbon monoxide detectors in every bedroom and on all habitable floors;

(ii) A properly maintained and charged fire extinguisher in each short-term rental unit; and

(iii) A solid waste collection (trash) service that removes waste at least once a week. All solid waste (trash) must be contained in secured containers when outside of the residence. Trash and refuse shall not be left or stored on the exterior of the property unless it is placed in a curbside container. The curbside container shall not be placed on the curb awaiting trash service pickup any sooner than 24 hours prior to the pickup day and must be removed no later than 24 hours after trash service pickup.

(e) the maximum occupancy shall be two adults per bedroom rented.

(f) No exterior signage shall be permitted except in accordance with the regulations for the district in which the short-term rental is located.

(g) Short-term rentals shall not be operated outdoors, in a motor vehicle, or in a non-habitable structure.

(h) Parking shall be provided in accordance with the approved parking plan.

(i) Only one party of guests shall be permitted per short-term rental.

Sec. 18-364. - Short-term rental regulation procedure.

(a) To ensure the continued application of the intent and purpose of this chapter, the City Manager shall notify the owner of a short-term rental unit of all instances in which nuisance behavior of the rental guest or the conduct of his or her short-term rental unit agent results in a citation for a code violation or other legal infraction.

(b) The City Manager shall maintain for each short-term rental location file a record of all code violation charges, founded accusations and convictions occurring at or relating to a short-term rental unit. When a property owner has accumulated three code violations for a particular property within a period of 12 consecutive months, the city shall revoke any pending certificates and reject all applications for the subject premises for a period of 12 consecutive months.

(c) If a short-term rental unit owner has been cited and found to be in violation of any zoning, building, health or life safety code provision, the owner must demonstrate compliance with the applicable code prior to being eligible to receive a short-term rental certificate.

(d) Citations for code violations and any other violation of the city code shall be issued to the short-term rental owner or its designated agent if the violation is a violation caused by the short-term rental owner and to the tenant if the violation is a violation caused by the tenant, unless otherwise specified in this article, and shall be heard by the municipal court. Violations of this chapter, including but not limited to operating a short-term rental unit without obtaining a short-term rental certificate and a home occupational tax license are subject to the following fines, which may not be waived or reduced and which may be combined with any other legal remedy available to the city:

- (1) First violation: \$500.00.
- (2) Second violation within the preceding 12 months: \$750.00.
- (3) Third violation within the preceding 12 months: \$1,000.00.
- (e) A certificate granted under this article shall be subject to denial, revocation or suspension.

Whenever, in the opinion of the city manager, there is cause to revoke or suspend the certificate, a written notice of intention to revoke or suspend the certificate shall be furnished to the holder thereof. A hearing will be scheduled wherein the certificate holder may present his case before the mayor and council. Within ten days from the suspension or revocation, the certificate holder may appeal directly to the city manager. The appeal shall be in writing, setting forth the circumstances for the appeal. Upon receipt of the appeal, the city manager shall docket a hearing on the agenda of the mayor and city council to occur at a regular meeting within 45 days from the receipt of the appeal by the city manager. After the hearing, the mayor and city council may deny, revoke or suspend the certificate if, in their discretion, denial, revocation or suspension is in the best interest of the health, safety and welfare of the city.

(f) Nothing in this section shall limit the city from enforcement of its Code, state or federal law by any other legal remedy available to the city. Nothing in this section shall be construed to limit or supplant the power of any city inspector, police officer, or other duly empowered officer under the city's ordinances, rules and regulations and the authority granted under state law, as amended, to take necessary action, consistent with the law, to protect the public from property which constitutes a public nuisance or to abate a nuisance by any other lawful means of proceedings.

Sec. 18-365. – Inspections By City

The City Manager, or any person directed by the City Manager, shall be permitted to inspect the short-term rental as part of the approval for a certificate, whether as part of the initial grant of the certificate or a renewal. This right of inspection shall be in addition to any right to inspect as part of an investigation into any violation of any ordinance applicable to the short-term rental.

Sec. 18-366. – Taxes; Audit.

(a) Short-term rental unit owners are subject to state sales tax, city taxes, including but not limited to the hotel/motel tax, and are liable for payment thereof as established by state law and the city code. The city may seek to enforce payment of all applicable taxes to the extent provided by law, including injunctive relief.

(b) Every short-term rental owner shall keep such records, receipts, invoices and other pertinent papers in such form as the City Manager may require.

(c) The chief finance officer or any person authorized in writing by the chief finance officer may examine the books, papers, records, equipment and other facilities of any short-term rental owner in order to verify the accuracy of any return made or to ascertain and determine the amount of tax required to be paid.

(d) In the administration of this article, the city may require the filing of reports by any person owning a short-term rental which is subject to any applicable tax. The reports shall be filed with the chief finance officer and shall set forth the rental charge for each occupancy; the dates of occupancy; and such other information as the city may require.

2. If any portion of this Ordinance be declared invalid or unconstitutional by any court or competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared to be the intent of the City Council to provide for separable and divisible parts and does hereby adopt any and all parts hereof as may not be held invalid for any reason.

3. This Ordinance shall become effective upon adoption of an ordinance amending the Unified Development Code to add a definition of short-term rentals, to add short-term rentals to the table of uses in at least one zoning category, and to add short-term rentals as an allowed home occupation.

Attest:

Annie Fortner, City Clerk

Bill Grant, MAYOR

Date:

Approved as to form:

Robert M. Dyer, City Attorney

ORDINANCE NO. _____

First Reading _____

Adopted by Council _____

Approved by Mayor _____

Veto by Mayor _____

Second Vote by Council _____

Effective Date _____

Annie Fortner, City Clerk