

ORDINANCE NO. 4715-19

AN ORDINANCE TO AMEND TITLE 5 MUNICIPAL FINANCE AND TAXATION,
CHAPTER 3 HOTEL/MOTEL TRANSIENT OCCUPANCY PRIVILEGE TAX OF
THE MUNICIPAL CODE OF THE CITY OF JOHNSON CITY

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF
THE CITY OF JOHNSON CITY AS FOLLOWS:**

SECTION 1. That Title 5, Chapter 3 of the Municipal Code of the City of Johnson City, Tennessee, Exhibit A, is amended as underlined.

SECTION 2. BE IT FURTHER ORDAINED, That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. BE IT FURTHER ORDAINED, That this ordinance shall take effect upon final passage and publication of this ordinance in a newspaper of general circulation, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING ON
THE FIRST READING 07 Nov. 2019

PASSED IN OPEN, PUBLIC MEETING ON
THE SECOND READING 21 Nov. 2019

PASSED IN OPEN, PUBLIC MEETING ON
THE THIRD READING 05 Dec 2019

APPROVED AND SIGNED IN OPEN MEETING
ON THE 5 DAY OF DEC, 2019
FOLLOWING PASSAGE ON THIRD READING.


MAYOR

ATTEST:


CITY RECORDER

APPROVED AS TO FORM:


STAFF ATTORNEY

EXHIBIT "A"

CHAPTER 3

HOTEL/MOTEL TRANSIENT OCCUPANCY PRIVILEGE TAX¹

SECTION

- 5-301. Definitions.
- 5-302. Levied.
- 5-303. Collected by operator; refund.
- 5-304. Tax advertised as being absorbed, etc.
- 5-305. Remittance of tax to city.
- 5-306. Delinquency.
- 5-307. Collection; disposition of funds.
- 5-308. Operator's and treasurer's responsibilities.
- 5-309. Powers of treasurer; taxpayer's remedies.
- 5-310. Records preserved.

5-301. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel and/or short-term rental valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(4) "Operator" means the person operating the hotel and/or short-term rental whether as owner, lessee or otherwise.

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint-stock company, corporation, estate, trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(6) "Short-Term Rental Property (STRP) means a residential dwelling unit that is used and/or advertised for transient occupancy. The residence can be owner-occupied, on a lot with an owner-occupied residence, or not owner-occupied. A rental that lasts between one and 89 days is considered short term."

¹State law reference

Hotel occupancy tax: Tennessee Code Annotated, § 67-4-1401, et seq.

(7) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel and/or short-term rental for a period of fewer than ninety (90) continuous days. (1985 Code, § 22-27)

5-302. Levied. There is hereby levied, assessed, and imposed and shall be paid and collected a privilege tax upon the privilege of occupancy in any hotel and/or short-term rental of each transient in an amount equal to seven percent (7%) of the consideration charged by the operator. Of this seven percent (7%) privilege tax, two percent (2%) received by the City of Johnson City shall be used solely for tourism. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this chapter. (Ord. #2823, June 1989, as replaced by Ord. #4580-15, June 2015)

5-303. Collected by operator; refund. (1) The tax levied in this chapter shall be added by each operator to each invoice prepared by the operator for the occupancy in his hotel and/or short-term rental and shall be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the city.

(2) When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to this city. (1985 Code, § 22-29)

5-304. Tax advertised as being absorbed, etc. No operator of a hotel and/or short-term rental shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (1985 Code, § 22-30)

5-305. Remittance of tax to city. The tax levied in this chapter shall be remitted by all operators who lease, rent or charge for occupancy within a hotel and/or short-term rental in the city to the city treasurer, such tax to be remitted to such officer no later than the twentieth day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy, whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city for such tax shall be that of the operator. (1985 Code, § 22-31)

5-306. Delinquency. Taxes under this chapter, collected by an operator, which are not remitted to the city treasurer on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve (12) percent per annum, and in addition,

a penalty of one (1) percent for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). (1985 Code, § 22-32)

5-307. Collection; disposition of funds. The city treasurer is hereby charged with the duty of collection of the tax levied in this chapter and shall place the proceeds of such tax in the municipal general fund. (1985 Code, § 22-33)

5-308. Operator's and treasurer's responsibilities. A monthly tax return under oath shall be filed with the city treasurer by the operator with such number of copies thereof as the city treasurer may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city treasurer and approved by the board of commissioners prior to use. The city treasurer shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the board of commissioners. (1985 Code, § 22-34)

5-309. Powers of treasurer; taxpayer's remedies. (1) The city treasurer, in administering and enforcing the provisions of this chapter, shall have those powers and duties with respect to collecting taxes as are provided in Tennessee Code Annotated, title 67, or otherwise provided by law for county clerks.

(2) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, § 67-1-901 et seq., it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The city treasurer shall also possess those powers and duties provided in Tennessee Code Annotated, § 67-1-707(b), for county clerks with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under authority of this chapter and to direct the refunding of same. Notice of any tax paid under protest shall be given to the city treasurer and any suit may be brought for recovery of such tax paid under protest by filing the same against the city recorder-treasurer. (1985 Code, § 22-35)

5-310. Records preserved. It shall be the duty of every operator liable for the collection and payment to the city of the tax levied by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to this city, which records the city treasurer shall have right to inspect at all reasonable times. (1985 Code, § 22-36)



City	Email	Do you have an ordinance regulating short-term rentals?	Comments:	In what districts of your city are short-term rentals allowed?	Any special building code requirements on short-term rentals?	If so, what are they?	Limit on number of occupants?	Limit on number of days for a stay?	If so, what is limit on days?	Permit Required?	Cost of the permit?
Bartlett	ktaylor@cityofbartlett.org	Yes - they are regulated through a zoning ordinance		Residential zoning districts	Yes	Fire and Life Safety Codes	No	Yes	30	Yes	\$75 new/\$50 renewal
Collierville	jcravens@colliervilletn.gov	Yes - they are regulated through a zoning ordinance	We prohibit short-term rentals in all zoning districts in Collierville.								
Cookeville	jam@cookeville-tn.gov	Yes - they are regulated through a zoning ordinance	We permit Short-Term Rentals in two (2) ways. In some of our single-family residential districts, short-term rentals are allowed as a use on appeal (special exception) as Bed and Breakfast Homes. These are required to be owner or operator occupied. Short-term rentals are permitted in multi-family residential districts and commercial districts as a use by right, with no owner/operator occupancy requirements.	Bed and Breakfast homes - Single-family residential districts (RS20, Ra15, and RS10) Short-Term Rentals - Multi-family residential districts (RM6, RM14, Planned Residential District, PRD) Commercial Districts (CBD, CN, CL, CG), Medical Services (MS), University (UNV)	Yes	Required to have an inspection, require functional smoke detectors in rooms and outside of rooms, require fire (5) pounds ABC fire extinguisher, each sleeping room must have secondary means of egress. Parking must be sufficient.	Yes, Max of Two (2) adults and two (2) children per sleeping room.	Yes	<30 days	Yes	\$100 permit, \$50 renewal (annual)
Hendersonville	kfree@hvilletn.org	Yes - they are regulated through a zoning ordinance	Short-term rentals, renting out the entire home are restricted to certain commercial zones. Renting out a room in your home while you are living there is allowed in all zones.	Only Commercial and Old Town Commercial, not allowed in residential districts	No		No	Yes	30	No	
Lebanon	paul.corder@lebanontn.org	Yes - they are regulated through a zoning ordinance	Short-Term rentals are handled through the Home Occupation regulations. The property main use has to be a residence and the Short-Term Rental has to be a subordinate use.	Any Residential district. In commercial districts they are treated like hotels.	No		No	No	N/A	No	N/A
Maryville	arnlucke@maryville-tn.gov	Yes - they are regulated through a zoning ordinance		Zones that are primarily non-residential	Yes	Building must already be approved for residential occupancy, but if so, there are no special requirements.	Yes, 2 per bed but not to exceed 12 occupants total.	No		Yes	\$300 initial/\$100 annual renewal
Morristown	snelson@mymorristown.com	Yes - they are regulated through a zoning ordinance		Owner occupied units are allowed in all districts where single-family is allowed with the exception of R-1 which is a large lot single-family district. Non-owner occupied units are allowed in any multi-family, commercial, or professional office district.	Yes	Smoke Alarms, Carbon Monoxide Detectors, Fire Extinguishers, Inspections	Yes, shall not exceed more than twice the number of bedrooms plus four.	Yes	30 days	Yes	\$50
Spring Hill	vlay@springhilltn.org	Yes - they are regulated through a separate ordinance	https://library.municode.com/tn/franklin/codes/code_of_ordinances?nodeId=PTIICOOR_TIT13PRMARE_CH2SHTEVARE_TIT13CHAPTER2	Allowed only in the following Base Zoning Districts: AG, ER, R-1, R-2, R-3, R-6, SD-R, SD-X, OR, and CC (Check the online Franklin Zoning Map at www.franklintn.gov)	Yes	Approval of the STVR does not grant approval of violations of the International Building Code, Residential Code, or Fire Code. Fire Alarm Inspection conducted by Building Inspector.	Yes 10	Yes	21	Yes	\$15.00

Short-Term Rentals in Selected Tennessee Cities

MTAS Research and Information Center Survey | October 2019



City	Email	Do you have an ordinance regulating short-term rentals?
Columbia	paul@columbiatn.com	No
Gallatin	james.fenton@gallatintn.gov	No
Jackson	spilant@cityofjackson.net	No
Kingsport	markhaga@kingsporttn.gov	No
Oak Ridge	wblasius@oakridgetn.gov	No
Bristol	tbeavers@bristoltn.org	No

Appalachian Highlands Short Term Rental Comparison			
Availability in 2020	1/28-1/29	4/1-4/2	9/15-9/16
Johnson City	45 (36)	48 (32)	27 (17)
Bristol	68 (49)	56 (47)	31 (23)
Kingsport	15 (14)	16 (15)	7 (4)

(#) = Entire Units (Houses / Townhouses)

+ Totals include Airbnb, VRBO, Craigslist. Homeaway and other sites are included in VRBO listings.

+ Hotel listings excluded

~~APPROVED~~ - DISAPPROVED
BY CITY COMMISSION

DATE: Dec 5, 2019

M. Dennis Peterson

AGENDA SUMMARY

December 5, 2019

DEPARTMENT: Development Services – Planning

SUBJECT: Ordinance 4715-19 – Revisions to Title 5, Chapter 3 Hotel/Motel Transient Occupancy Privilege Tax. Third Reading.

SUMMARY: Planning Division staff has developed an ordinance revising Title 5 – Municipal Finance & Taxation, Chapter 3 – Hotel/Motel Transient Occupancy Privilege Tax to include provisions for Short Term Rentals. Additional clarity is being proposed to ensure that Short Term Rentals are required to remit the same occupancy tax as hotels, motels, etc.

RECOMMENDED ACTION: Staff is recommending Approval of the proposed ordinance.