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 BE IT FURTHER ORDAINED, That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.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 5TH DAY OF DEC, 2019 FOLLOWING PASSAGE ON THIRD READING.

[Signature]
MAYOR
ATTEST:

[Signature]

CITY RECORDER

APPROVED AS TO FORM:

[Signature]

STAFF ATTORNEY
CHAPTER 3

HOTEL/MOTEL TRANSIENT OCCUPANCY PRIVILEGE TAX

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."

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1 State law reference
"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

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)
<table>
<thead>
<tr>
<th>City</th>
<th>Email</th>
<th>Do you have an ordinance regulating short-term rentals?</th>
<th>Comments:</th>
<th>In what districts of your city are short-term rentals allowed?</th>
<th>Any special building code requirements on short-term rentals?</th>
<th>If so, what are they?</th>
<th>Limit on number of occupants?</th>
<th>Limit on number of days for a stay?</th>
<th>If so, what is it?</th>
<th>Permit Required?</th>
<th>Cost of the permit?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bartlett</td>
<td><a href="mailto:kaylekd@cityofbartlett.org">kaylekd@cityofbartlett.org</a></td>
<td>Yes - they are regulated through a zoning ordinance</td>
<td>Residential zoning permits</td>
<td>Required to have an inspection; required to have smoke detectors in rooms and hallways; required to have a fire extinguisher; required to have a carbon monoxide detector. Parking must be provided.</td>
<td>Yes - they are regulated through a zoning ordinance.</td>
<td>Required to have an inspection; required to have smoke detectors in rooms and hallways; required to have a fire extinguisher; required to have a carbon monoxide detector. Parking must be provided.</td>
<td>No</td>
<td>Yes</td>
<td>30 days</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Collierville</td>
<td><a href="mailto:jware@collierville.org">jware@collierville.org</a></td>
<td>Yes - they are regulated through a zoning ordinance.</td>
<td>no residential zoning permits</td>
<td>yes - they are regulated through a zoning ordinance.</td>
<td>Required to have an inspection; required to have smoke detectors in rooms and hallways; required to have a fire extinguisher; required to have a carbon monoxide detector. Parking must be provided.</td>
<td>Yes - they are regulated through a zoning ordinance.</td>
<td>yes - they are regulated through a zoning ordinance.</td>
<td>Yes</td>
<td>30 days</td>
<td>Yes</td>
<td>$1,000 annually</td>
</tr>
<tr>
<td>Cookeville</td>
<td><a href="mailto:jahn@cookeville.org">jahn@cookeville.org</a></td>
<td>Yes - they are regulated through a zoning ordinance.</td>
<td>no residential zoning permits</td>
<td>yes - they are regulated through a zoning ordinance.</td>
<td>yes - they are regulated through a zoning ordinance.</td>
<td>yes - they are regulated through a zoning ordinance.</td>
<td>Yes</td>
<td>30 days</td>
<td>Yes</td>
<td>$1,000 annually</td>
<td></td>
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<tr>
<td>Hendersonville</td>
<td><a href="mailto:hver@hunten.org">hver@hunten.org</a></td>
<td>Yes - they are regulated through a zoning ordinance.</td>
<td>no residential zoning permits</td>
<td>yes - they are regulated through a zoning ordinance.</td>
<td>yes - they are regulated through a zoning ordinance.</td>
<td>yes - they are regulated through a zoning ordinance.</td>
<td>Yes</td>
<td>30 days</td>
<td>Yes</td>
<td>$1,000 annually</td>
<td></td>
</tr>
<tr>
<td>Lebanon</td>
<td><a href="mailto:paul.conter@lebassified.org">paul.conter@lebassified.org</a></td>
<td>Yes - they are regulated through a zoning ordinance.</td>
<td>Commercial and Old Town Commercial, not allowed in residential districts.</td>
<td>Commercial and Old Town Commercial, not allowed in residential districts.</td>
<td>Commercial and Old Town Commercial, not allowed in residential districts.</td>
<td>Commercial and Old Town Commercial, not allowed in residential districts.</td>
<td>Yes</td>
<td>30 days</td>
<td>Yes</td>
<td>$1,000 annually</td>
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<tr>
<td>Maryville</td>
<td><a href="mailto:amilkeee@maryville-park.org">amilkeee@maryville-park.org</a></td>
<td>Yes - they are regulated through a zoning ordinance.</td>
<td>Zones that are primarily non-residential</td>
<td>Zones that are primarily non-residential.</td>
<td>Zones that are primarily non-residential.</td>
<td>Zones that are primarily non-residential.</td>
<td>Yes</td>
<td>30 days</td>
<td>Yes</td>
<td>$30-$150 or $100 annual renewal</td>
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<tr>
<td>Morristown</td>
<td><a href="mailto:steve@smyrnasmorristown.com">steve@smyrnasmorristown.com</a></td>
<td>Yes - they are regulated through a zoning ordinance.</td>
<td>Other occupant units are allowed in all districts where a single-family is allowed with the exception of R-1 which is a single-family district. Other occupant units are allowed in all multi-family, commercial, or professional office districts.</td>
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<td>Yes</td>
<td>30 days</td>
<td>Yes</td>
<td>$50</td>
<td></td>
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<tr>
<td>Spring Hill</td>
<td><a href="mailto:duy@springhill.org">duy@springhill.org</a></td>
<td>Yes - they are regulated through a separate ordinance.</td>
<td>yes - they are regulated through a separate ordinance.</td>
<td>yes - they are regulated through a separate ordinance.</td>
<td>yes - they are regulated through a separate ordinance.</td>
<td>yes - they are regulated through a separate ordinance.</td>
<td>Approved by the STVR.</td>
<td>30 days</td>
<td>Yes</td>
<td>$15.00</td>
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<td>City</td>
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<td>Do you have an ordinance regulating short-term rentals?</td>
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<tr>
<td>Columbia</td>
<td><a href="mailto:paul@columbiatn.com">paul@columbiatn.com</a></td>
<td>No</td>
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<tr>
<td>Gallatin</td>
<td><a href="mailto:james.fenton@gallatinth.gov">james.fenton@gallatinth.gov</a></td>
<td>No</td>
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<tr>
<td>Jackson</td>
<td><a href="mailto:spilant@cityofjackson.net">spilant@cityofjackson.net</a></td>
<td>No</td>
<td></td>
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<tr>
<td>Kingsport</td>
<td><a href="mailto:markhaga@kingsporttn.gov">markhaga@kingsporttn.gov</a></td>
<td>No</td>
<td></td>
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<tr>
<td>Oak Ridge</td>
<td><a href="mailto:wblasius@oakridgetn.gov">wblasius@oakridgetn.gov</a></td>
<td>No</td>
<td></td>
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<tr>
<td>Bristol</td>
<td><a href="mailto:tbeavers@bristoltn.org">tbeavers@bristoltn.org</a></td>
<td>No</td>
<td></td>
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## Appalachian Highlands Short Term Rental Comparison

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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Johnson City</td>
<td>45 (36)</td>
<td>48 (32)</td>
<td>27 (17)</td>
</tr>
<tr>
<td>Bristol</td>
<td>68 (49)</td>
<td>56 (47)</td>
<td>31 (23)</td>
</tr>
<tr>
<td>Kingsport</td>
<td>15 (14)</td>
<td>16 (15)</td>
<td>7 (4)</td>
</tr>
</tbody>
</table>

(#) = Entire Units (Houses / Townhouses)

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