Athens City Planning Commission
Minutes of Regular Meeting
Thursday, December 19, 2019, 12:00 p.m.

The regular meeting of the Athens City Planning Commission was held in City Council Chambers, third floor, at City Hall on December 19, 2019.

Attendees: Karen Williams, Jan Hodson, Mary Abel, Betty Hollow, Joan Safran, Jack Stauffer, Alan McMillan, Robert Delach, Chris Fahl, Joan Kraynanski, Steven Safran

1. **Call to Order**

RJ Sumney called the regular meeting of the Planning Commission to order at 12:04 p.m. and administered the oath to those in attendance wishing to speak before the commission. Quorum was established.

PLANNING COMMISSION MEMBERS:	
RJ Sumney, Chair	Present
Christy Zempter	Present
Nancy Bain, Vice Chair	Present
Steve Patterson, Mayor	Present
Andrew Stone, Service-Safety Director	Present
STAFF:	
Paul Logue, City Planner	Present
David Riggs, Code Enforcement Director	Present

2. **Disposition of Minutes**

Steve Patterson moved to accept the December 5, 2019 minutes. RJ Sumney seconded. All present voted aye. Motion passed 5:0.

3. **Cases**

Case #19-07: City Council Resolution R-08-19
Request to consider amending zoning code to include short-term rentals in residential zones

Andy Stone/Summary
At the last meeting recommendations were brought forth which included a review of Title 23 and some modifications to the proposed changes from City Council. These pen & ink mark-ups were made in a word document and provided for today's meeting (Attachment A).
Andy Stone proceeded to review the proposed changes as per Attachment A. Back page of document, disregard and instead look at the more thorough recommended changes to Chapter 29.03 (Attachment B).

These changes to Title 23 will only be functional if there are changes to the housing code (Title 29) and tax code (Title 15). The recommended changes to Title 29 and Title 15 are included in the packet (Attachments B and C, respectively). Contends that the provisions put forth in Title 11 (Business Regulations) by City Council in their recommendation to the Planning Commission aren't necessary because the housing code allows for all the enforcement necessary for short-term rentals through the rental permit process that already exists.

David Riggs/Title 29 changes

Intent from the staff is to capture the short-term rental into the existing rental program and that can be accomplished by modifying Chapter 29.03 to incorporate short-term rentals in the rental dwelling and housing permit. All the changes that you see for Title 29 insert the term "short-term rentals", removed the 6-month period and added, on the next to last page, a definition of short-term rental which is the same as in Title 23.

RJ Sumney: The administration has talked in the past about penalties that may go along with violations of short-term rentals.
David Riggs: Will try to use the same system we have in place for rental units.
Lance Allison: We currently have penalty systems in Title 29 that would apply to short-term rentals.
RJ Sumney: There is still nothing in regard to prohibiting short-term rentals in an R1.
David Riggs: Yes, no changes were made to that.

David Riggs/Title 15 changes

Did the same thing as in Title 29. Added a definition of short-term rentals and added term "short-term rentals" to text.

Discussion

Steven Safran/36 Utah Place

Lives next to a large facility that has been renting to weddings. It is a large party house and he has complained about it because it causes major problems with the noise level. The house next door has applied for a short-term rental permit and the neither owners are there much. Have to call the cops and it cause tension and stress with neighbors. This will destroy the residential character of his neighborhood. Cities across the world have experienced residential neighborhoods being overrun by tourists. Athens has hotels that can handle this. So few residential neighborhoods in the city as it is (30-35%)? He has lived in Athens 40 years. This is a grave mistake and will open a can of worms. There is no way the city will be able to check and regulate. Already problems in the city with students. Vested in the city. People will turn their houses to hotels. Pays a lot of taxes deserves a quiet neighborhood. Doesn't want to have to regulate this himself.

Andy Stone: The back half of the property is outside of the city limits and where they do their business is on the front part. Would they be willing to annex to solve the problem?
Steven Safran: It is a strip of land outside of city limits. Doesn't know if neighbors would agree with annexing or not. He would be ok with it.

Andy Stone: takes a majority of the neighbors to annex.

Jan Hodson/45 Graham Drive

Annexing it may be a good idea. She has heard this (back half of property being outside of city limits) used as an excuse before for certain behavior. The promise of the R1 was an owner occupied long term rental. Happy that "tourist home" has been removed from an R1, but through this you have opened the door for a tourist home to happen again. There is no real way to tell if someone has started a short-term rental and if they are present. Regarding the Affordable Housing Commission, the city is supposedly for establishing affordable housing. Many of the little houses would be great starter homes for people. Consider that instead of people starting a short-term rental. Keep one residential area that you can count on it being owner occupied or long-term rental.

Joan Kraynanski/56 Mound

For item #5 under B, propose the removal of the comment "any duration" because that means "short term rentals", correct?
Andy Stone: Yes.
Joan Kraynanski: You are allowing short-term rentals in R1 neighborhoods.
Andy Stone: Absolutely, this compromised position is what the administration has recommended to the body as a way that they can best enforce provision in Title 29 to include no more than 3 unrelated people, all the parking requirements, etc. to have a rental. Yes, in this instance short-term rentals would be allowed in an R1.
Joan Kraynanski: This is a big mistake and is very disappointed. The violations that apply to a long-term rental will apply to a short-term rental. So now an egregious situation will be allowed and so a situation will exist a long time before it is addressed and the situation will continue on until resolved. If this is allowed it is cutting us to the quick, you have to cover our backs (the people who live in the R1). Have done them a disservice.

Joan Safran/36 Utah Place

Feels very strongly about not allowing any short-term rentals in R1 neighborhoods for many of the same reasons articulated here. Moved from county to live in the city and has lived here for 5 years. Chose the neighborhood specifically to have a true residential section - don't take that away from us. Athens is a unique place. Short-term term rentals will bring more money in so people will choose to do that. This will destroy R1 neighborhoods.

Rob Delach/24 Morris Avenue

This is an attempt by the city to fix the current uncontrolled situation for short-term rentals. This permits them so the city can enforce them. Only way to fix it is to make changes so that it can be regulated.

Andy Stone: Currently have a contract to monitor short-term rental websites.
David Riggs: It is hard to find out where the short-term rentals are. A company called "Post Compliance" is able to locate, pinpoint addresses, and analyze the data. Will take a few weeks to get this in place and operational. This is web-based, annual subscription.

All short-term rentals use the internet for publishing vacancies, so they can locate all in the area.
Joan Kraynanski: If you find properties that do not have permits and are using a short-term rental, what is the enforcement on that?
David Riggs: We don't have data right now on how long people are doing their rentals, but this will collect data so we can see how long the rentals are.
Joan Kraynanski: This is a catch for anyone who is doing a short-term rental.
David Riggs: Will hope to get data at the first of the year.
Joan Kraynanski: If you take out 6 months from Title 29, and didn't add short-term rentals, you could find all the short-term rentals, etc.
David Riggs: If they are renting for more than 6 months.
Joan Kraynanski: This will only reveal for someone who has been doing it for more than 6 months. People are doing it all the time.

Mary Abel/48 Strathmore
Regarding item #5 with addition of last sentence. This is setting up short-term rentals in an R1, thereby setting up a business. Can become a back door approach for a tourist home. At the public hearing the majority of people were on opposition to having a short-term rental in R1. This is a way for the city to control this, but this is actually due to people having been doing this and it being allowed. Article #5 refers to number of renters, how is this going to be checked and enforced? The City of Athens went through this process a number of years ago. Knowing that there are short-term rentals happening, they haven't been controlled – there should be a cease and desist order. This legislation has been going through the process for quite some time. There should be more inclusion and discussion. Remove the last sentence in #5. You are setting the city and the residents up for a situation that can't be enforced.

Jack Stauffer/69 Elmwood
The public hearing 14 people spoke against and 3 for and a petition was submitted. Only concern about the R1 neighborhood. Please take to heart what the previous people have said. He submitted questions to City Council and the Mayor and have not received answers. Mr. Stauffer listed his questions. Citizens are not allowed to their own property rights. Keep existing code so residents can keep rights and maintain their quality of life.

RJ Sumney: Called Mr. Stauffer out of order and regained control of the meeting.

Betty Hollow/31 Maplewood
Supports the statement of Mary Abel. Delighted that tourist home was removed. Regarding item #5. Term "unrelated" seems like a tourist home with fewer people. An unsupervised situation.

Alan McMillan/209 E State St
Live is a sharing economy now. All this is new to us and it will continue to evolve. How do we evolve under a changing world? The process (public hearing and forums) is appreciated, a thoughtful approach. The people who are opposed are well organized, but he doesn't believe the sky is falling. Right now there isn't enough hotel space on big

weekends. Respects landowner rights and that the rights evolve on both sides of the equation. The original proposal was a reaction to people being concerned that this was going to be horrible. This is adding regulations to make sure that this doesn't deteriorate the neighborhoods. Athens won't become Barcelona. Can be done thoughtfully and so that the community thrives.

Steven Safran/36 Utah Place
Disagree. Airbnb's are impossible to regulate and this will open up the door for more. Not many owner occupied.

Paul Logue/R1 nature of short-term housing
Demand on any given night for someone to stay at an Airbnb is very minimal. Most of the hotels on any given night are less than half full. Does not expect that a lot of people will rent out their homes. The Comprehensive Plan draft is silent on this issue right now. There is some discussion on how to change and be more dynamic with our rental permits, inspections and enforcement. Does not feel that there is much interest or demand for this. If you have the opportunity it doesn't mean you will do it. It does allow more flexibility and there are people who do this so that they can earn a few dollars to pay their mortgage. High rentals, yes, however, 40% of our city's land use is single family residential. Very little R2 in the city (close to 0%). Of the rentals, 90% or greater are in the R3's. 75% are owner occupied and 25% are rentals.

RJ Sumney: Historically, when people began to create zones around the country, what was the philosophical thought of creating an R1 zone?
Paul Logue: Separation of uses is the historic purpose of zoning. Typically referred to as "Euclidian" zoning, to separate residential from manufacturing. Separation of uses is the overriding goal of zoning. Recently, the separation of uses has caused unintended complications. Many cities are moving back from separation, and they are looking at the design of the city. To solve the problems, this is the trend.
RJ Sumney: Noticing that more families are moving back with children. Concerned that allowing more short-term rentals in the R1 will obstruct family life.
Paul Logue: Seeing a generational change, which is typical every 20-30 years. Concerns regarding how it may impact, he does not know.
Steve Patterson: The percentage of housing stock in Athens that are rentals. What is the percent of rental units in R1 neighborhoods? What constitutes a housing unit? Looking at larger complexes like Carriage Hill, etc. Are they considered many units?
Paul Logue: Considered many units.
Steve Patterson: Do we know what the percentage of rentals is in R1's?
Paul Logue: In the range of 25-35 %.

Betty Hollow/31 Maplewood
Reported rental units in her neighborhood: 179 rentals in her R1 district.

Christy Zempter: Is there some compelling legal impediment that would prevent us from eliminating short-term rentals from certain zones altogether?

Andy Stone: A question for the Law Director. Our approach so far regarding enforcement actions, is to wait for legislation to pass in order to take action against somebody. Hasn't had that happen yet.
Christy Zempter: Since we are changing code, we could spell out specifically, that short-term rentals are permissible only in certain zoning districts.
Andy Stone: We could, but whether it is enforceable or not, I don't know.
Steve Patterson: It is already permissible in B's and R3's. How many short-term rentals are there in the R3 neighborhoods?
Andy Stone: We don't have to permit them so we wouldn't have counted them.
Nancy Bain: The non-conformities are a problem. A house in an R1 all of a sudden it becomes a party house? Can we deal with that because it is a non-conformity? There is no problem with student rentals, we are talking about a business intrusion into the neighborhood. A mixed neighborhood is a stable neighborhood in Athens. Regarding #5, it is a statement of fact. Doesn't see how this would be a segway into having short-term rentals everywhere. Would still like to see some protection of the R1. Should accommodate sabbaticals or swaps. Do something about a single family dwelling requirement in R1, either an owner-occupant or no.
RJ Sumney: We are talking about a sharing economy, there are parts of this town for everybody. If you don't strengthen the R1 requirements as far as owner occupied, etc. there should be a piece of the town for those people as well, who want to have a nice R1 neighborhood to raise children, etc. There should be an ultimate notion of what the R1 is to this town and the protections that we need to keep that thriving and having some normalcy in town. There are things in here that gives more clarity, but would like to see a stronger protection of the R1 neighborhoods. Easier to have an outright no short-term housing in an R-1 because the city provides for that in other zones.
Andy Stone: Currently the code reads "The keeping of not more than two renters by a resident owner or the keeping of not more than three adult renters plus related children by a nonresident owner. …" are permitted uses in an R1. That is the status quo. Our housing code says that you have to get a permit if you are renting for more than 6 months, but you don't have to get a permit for less than 6 months. So currently if I own a house and I rent to two renters and I live there, I don't have to get a permit. Do we continue to allow that but then reduce what constitutes needing a rental permit?
Nancy Bain: I would say that because they need those protections.
Andy Stone: Should there be a definition of a short-term rental, period? So as to collect transient guest tax. Input on language.
RJ Sumney: Do you want short-term rental in the R1?
Andy Stone: It currently is there. Currently legal. Do we want to further restrict?
RJ Sumney: Yes.
Andy Stone: This would take current property rights from a current R1 resident.
Nancy Bain: With good faith effort that line could be saved. Rentals of any duration can be allowed. Strengthen code so people can't slip by.
RJ Sumney: It's about the short-term in an R1.
Andy Stone: If you want me to come back with a recommendation please send me ideas.

Jack Stauffer

Let the short-term rentals come in the B's, R2's and the R3's. Don't give additional privileges to those in the R1 zones.

RJ Sumney: We will discuss further. The Planning Commissioners will get ideas to Andy Stone.

4. **Communications**

None

6. **Report from City Planner and Director of Code Enforcement**

Paul Logue

- No report

David Riggs

- Two Title 41 applications coming up at the next meeting.

7. **Opportunity for Citizens to Speak**

No comments.

8. **Announcements & Other Business**

The next meeting will be January 2, 2019.

9. **Adjournment**

The meeting was adjourned at 1:23 p.m.

RJ Sumney, Planning Commission

Patricia Witmer, City of Athens

A

R-08-19

Introduced by Chris Fahl, Chair
Planning & Development Committee

A RESOLUTION REQUESTING THE ATHENS CITY PLANNING COMMISSION CONSIDER AMENDING THE ZONING CODE TO INCLUDE SHORT-TERM RENTALS IN RESIDENTIAL ZONES WITHIN THE CITY OF ATHENS.

WHEREAS, Athens City Council is interested in providing an alternate type of lodging for our visitors

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO;

SECTION I: Athens City Council requests consideration by the Planning Commission to amend Title 23, Zoning Code, to allow Short-term Rentals in Residential Zones within the City of Athens.

SECTION II: Athens City Code hereby amends Title 23, Chapter 23.04, Permitted Uses, Sections 23.04.01(B) and (C), in the R-1 Residential Zone (One-Family) to read as follows:

Chapter 23.04. - Permitted Uses.

23.04.01. - R-1 Residential Zone (One-Family).

The following regulations shall apply in all R-1 Zones:

(B)

Permitted accessory uses:

Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established; erected or constructed; provided, that such accessory uses shall not involve the conduct of any business, trade or industry, **UNLESS OTHERWISE AUTHORIZED HEREIN,** or any private way or walk giving access to such activity, or any sign other than authorized herein and not including the board of animals or the keeping of fowl or farm animals except in a building at least 100 feet distant from every lot line. Accessory uses may include the following:

(1) Summer houses—Summer houses and living quarters of persons employed on the premises, without kitchen facilities and not rented or otherwise used as a separate dwelling.

(2)
Parking facilities—Garages, carports or other parking spaces for the exclusive use of residents of the premises.

(3)
Swimming pools—Swimming pools, exclusively for the use of the residents.

(4)
Professional offices and home occupations. Provided that not more than one-half of the floor area of the dwelling is devoted to such accessory use, that not more than one person who is not a resident on the premises is employed at the home; that no such use shall require exterior structural, alterations or involve construction features not customary in dwellings, and that the entrance to such office or home occupations shall be from within the dwelling.

(5)
Rentals—The keeping of not more than two renters by a resident owner or the keeping of not more than three adult renters plus related children by a nonresident owner. House-keeping units may not keep renters. Rentals for any duration must be annually permitted per provisions in ACC 29.

(6)
Trailers—Parking of a trailer in any R-Zone shall be prohibited, except that one trailer may be stored as an accessory to a principal use, provided that no living quarters shall be maintained or any business conducted in connection therein while such trailer is parked or stored.

(7)
Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as business, **UNLESS OTHERWISE AUTHORIZED HEREIN.**

(8)
On premises sales (yard sales, garage sales, porch sales) may be conducted up to three times per year, not exceeding three consecutive days per sale.

(9)
Gardening, domestic animals—Gardening, the raising of vegetables, fruits or flowers and the keeping of domestic animals exclusively for the use of personal enjoyment of residents of the premises and not for commercial purposes.

(10)

~~HOMESTAY – A SINGLE FAMILY HOUSE OR A DUPLEX, WITH NO MORE THAN TWO (2) GUEST ROOMS. THERE SHALL BE NO SEPARATE OR ADDITIONAL KITCHEN FACILITY FOR GUESTS. GUEST ROOMS CANNOT HAVE STOVES OR OVENS.~~

(C)
Conditionally permitted uses: The following uses shall be permitted only if expressly authorized by the board of zoning appeals (hereinafter referred to as BZA) in accordance with provisions of this Code:

(1)
Recreational—Private and noncommercial recreation areas and facilities not listed above including club swimming pools, provided that no such swimming pool shall be located nearer than 100 feet from any other lot in any R-Zone.

(2)
Utility stations—Static transformer stations, booster stations, and other utility stations, when operating requirements necessitate locating in an R-1 Zone in order to serve the neighborhood; provided there is no yard or garage for service or storage and provided further, that the premises upon which such utility station is erected and maintained shall be appropriately landscaped and screened so as to be in harmony with the general appearance of the neighborhood.

~~(3)~~

~~TOURIST HOME – A SINGLE FAMILY HOUSE OR DUPLEX DWELLING THAT IS RENTED AS A WHOLE HOUSE FOR SHORT-TERM RENT WITH NO MORE THAN SIX (6) GUESTS FOR NO MORE THAN THIRTY (30) CONSECUTIVE DAYS.~~

SECTION III: Athens City Code Section 23.04.03(A), Principal permitted uses and 23.04.03(C), Conditionally permitted uses, in the R-3 Residential Zone (Multi-Family) shall read as follows:

23.04.03. - R-3 Residential Zone (Multi-Family).

(A)
Principal permitted uses:

(1)
General—Any principal use permitted and as regulated in the R-1 and R-2 Zones.

(2)
Residential—Multi-family dwellings for any number of families or housekeeping units, provided all of the requirements of the zoning code are complied with.

(3)
Apartment hotels—Apartment hotels, lodging houses, boarding houses for any number of guests, but not primarily for transients, including incidental accessory services, such as a restaurant or dining room and newsstands, when conducted and entered from within the building; provided there is no exterior display or advertising, except as provided for in this title.

(4)

OWNER-OCCUPIED OR OWNER-MANAGED "BED AND BREAKFAST" ESTABLISHMENTS.

(5) TOURIST HOME – A SINGLE FAMILY HOUSE OR DUPLEX DWELLING THAT IS RENTED AS A WHOLE HOUSE FOR SHORT-TERM RENT WITH NO MORE THAN FIVE (5) UNRELATED GUESTS OR ONE (1) FAMILY FOR NO MORE THAN THIRTY (30) CONSECUTIVE DAYS. A SHORT TERM RENTAL PERMIT IS REQUIRED.

(4~~5~~6)
Parking area (See Chapter 23.08).

(C)
Conditionally permitted uses:

(1)
General—Any conditionally permitted use as regulated in R-2 Zone.

~~(2)~~
~~Owner-occupied or owner-managed "bed and breakfast" establishments.~~

(**2**~~3~~)
Residential health care facilities—Residential care facilities for person(s) with disabilities, provided that such facilities comply with all federal, state and local laws and regulations.

(**3**~~4~~)
Clinics—An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologist, or social workers and where patients are not usually lodged overnight.

(~~45~~)
Clubs—Private clubs, lodges and meeting places for other similar organizations, not including those that are ordinarily conducted as a gainful business, provided all building in which such organizations or activities are housed shall be located at least 200 feet from any lot in any R-1 Zone.

(~~56~~)
Funeral homes and mortuaries.

(~~67~~)
Any convenience business or service establishment supplying commodities or performing services primarily for residents of the neighborhood, subject to the following general conditions:

(a)
Business in enclosed buildings—All business, services or processing shall be conducted wholly within a completely enclosed building.

(b)
Residential uses—Any use permitted and as regulated in the residential zone adjoining the B-1 Zone; and if there are adjoining two or more different categories of residence zones, the regulations of the least restrictive residence zone shall prevail.

(~~78~~)
Fraternity and sorority chapter houses—and customary accessory uses.

SECTION IV: Section 23.04.04(B), in the B-1 Neighborhood Business Zone is hereby amended to read as follows:

23.04.04. - B-1 Neighborhood Business Zone.

(B)
Conditionally permitted uses:

(1)
Accessory uses and structures as permitted and regulated in the R-3 Zone and any other accessory uses and structures customarily accessory and incidental to any of the foregoing permitted B-1 uses.

(2)

Any other retail business or service establishment determined by the board to be of the same general character as the above permitted uses, not including those which first permitted or are not permitted in the B-2 Zone.

~~(3)~~
~~"Bed and breakfast" establishments.~~

SECTION V: Athens City Code Section 23.10, Definitions, is hereby amended by the enactment of the following new definitions, which shall be inserted alphabetically into the existing section:

"Bed and breakfast." A dwelling unit with no more than four guest rooms, providing lodging with or without breakfast to paying transient guests, with a maximum stay of no more than 30 days. ~~A bed and breakfast permit is required.~~ **~~A CATEGORY "A" LICENSE IS REQUIRED.~~** **A SHORT TERM RENTAL PERMIT IS REQUIRED.**

"GUEST" A PERSON WHO RENTS ONE OR MORE GUEST ROOMS IN A SHORT-TERM RENTAL ON A TEMPORARY BASIS, FOR NO MORE THAN THIRTY (30) CONSECUTIVE DAYS.

~~**"GUEST NIGHT" ONE GUEST STAYING ONE NIGHT.**~~

"GUEST ROOM" A ROOM OFFERED TO THE PUBLIC FOR A FEE THAT CONTAINS, AT A MINIMUM, PROVISIONS FOR SLEEPING IN ACCORDANCE WITH ACC 29.. ~~EACH ROOM MUST HAVE A MINIMUM OF 70 SQUARE FEET OF FLOOR SPACE FOR ONE GUEST WITH AN ADDITIONAL 50 SQUARE FEET OF FLOOR SPACE FOR EACH ADDITIONAL GUEST, AND MUST BE A MINIMUM OF 7 FEET WIDE.~~

~~**"HOMESTAY" A SINGLE FAMILY HOUSE OR A DUPLEX WITH NO MORE THAN TWO (2) GUEST ROOMS. THERE SHALL BE NO SEPARATE OR ADDITIONAL KITCHEN FACILITY FOR GUESTS. GUEST ROOMS CANNOT HAVE STOVES OR OVENS.**~~

"OPERATOR" ANY PERSON WHO PROVIDES ONE OR MORE GUEST ROOMS FOR TRANSIENT GUESTS FOR PERIODS OF LESS THAN 30 CONSECUTIVE DAYS TO THE GENERAL PUBLIC FOR COMPENSATION.

"SHORT-TERM RENTAL" A DWELLING UNIT OFFERED FOR RENT IN PART, OR IN ITS ENTIRETY, FOR LESS THAN 30 CONSECUTIVE DAYS PER

OCCUPANT. ~~THESE CAN BE HOMESTAYS, BED AND BREAKFASTS OR TOURIST HOMES.~~

"TOURIST HOME" A SINGLE FAMILY HOUSE THAT IS RENTED AS A WHOLE UNIT FOR SHORT-TERM RENT. NO MORE THAN ~~SIX~~ SFIVE (~~6~~5) UNRELATED GUESTS OR ONE (1) FAMILY FOR NO MORE THAN (30) CONSECUTIVE DAYS. ~~EACH ROOM MUST HAVE A MINIMUM OF 70 SQUARE FEET OF FLOOR SPACE FOR ONE GUEST WITH AN ADDITIONAL 50 SQUARE FEET OF FLOOR SPACE FOR EACH ADDITIONAL GUEST, AND BE A MINIMUM OF 7 FEET WIDE.~~ A SHORT TERM RENTAL PERMIT IS REQUIRED.

SECTION VI: The Athens City Planning Commission is requested to consider this amended language at its next meeting and transmit its recommendation to Athens City Council within 60 days, unless a public hearing is required. If the Commission determines that a public hearing is appropriate, then this period may be extended to 90 days, pursuant to ACC 23.09.07.

SECTION VII: The Clerk of Council is hereby directed to forward a certified copy of this resolution to the Athens City Planning Commission.

SECTION VIII: This Resolution shall be in full force and effect at the earliest moment permitted by law upon its passage and approval by the Mayor.

_____
President of Council

ATTEST:

APPROVED:

_____
Clerk of Council

_____
Mayor

Additional Changes:

29.03.01. - Rental permit required.

All residential property within the City of Athens owned for rental purposes or occupied by a party other than the owner for any period of time ~~of more than six months during any single calendar year~~, shall require a rental dwelling or rooming house permit from the office of code enforcement. Traditional motels and hotels are excluded from the necessity of obtaining a rental dwelling or rooming house permit. Nontraditional (long-term) rentals in hotels and motels are not excluded.

B

Chapter 29.03. - Rental Dwelling, short term rental and Housing Permit

29.03.01. - Rental permit required.

All residential property within the City of Athens owned for rental purposes or occupied by a party other than the owner ~~for a period of more than six months during any single calendar year~~, shall require a rental dwelling, short term rental or rooming house permit from the office of code enforcement. Traditional motels and hotels are excluded from the necessity of obtaining a rental dwelling, short term rental or rooming house permit. Nontraditional (long-term) rentals in hotels and motels are not excluded.

29.03.02. - Application.

To obtain a rental dwelling, short term rental or rooming house permit, the owner of a rental dwelling, short term rental or rooming house, as defined in this code, shall apply to the Code Enforcement Office of the City of Athens. A rental dwelling, short term rental or rooming house permit shall be issued by the director of code enforcement if, upon inspection of the rental dwelling, short term rental or rooming house, it is determined that the rental dwelling, short term rental or rooming house meets the requirements of this code. Such an inspection shall be made within 30 days after said application has been made. Upon application for a permit, the owner of a rental dwelling, short term rental or rooming house may rent or lease the premises at his or her own risk, subject to the subsequent approval of the permit by the director of code enforcement. The director of code enforcement shall deny the issuance of a permanent permit to any owner or operator whose structure does not, within 30 days, comply with this code. Any permit granted or issued under the terms of this code to an owner or operator may be suspended or revoked at any time by the director of code enforcement upon satisfactory proof of violation of any provision pursuant to this code or which could have been grounds for failure to issue an original permit. Any person who feels aggrieved by such denial may pursue the remedies as outlined in Chapter 29.07 of this code (housing appeals board). If a permit is suspended or revoked after a hearing as provided in Chapter 29.07, said permit shall be surrendered to the code enforcement office within five days of notification of such suspension or revocation.

29.03.03. - Zoning certification required.

Any person applying for a rental dwelling, short term rental or rooming house permit shall include zoning compliance verification.

29.03.04. - Maximum occupancy.

The rental dwelling, short term rental or rooming house permit shall state the maximum number of persons who may occupy the rental dwelling, short term rental or rooming house as determined by this code and other ordinances of the City of Athens.

29.03.05. - Authorized agent.

No rental dwelling, short term rental or rooming house permit shall be issued or received unless the applicant designates, in addition to himself, an agent for the receipt of process pursuant to this code. Said agent must be designated in writing on the application for said permit. Such agent must reside within Athens County.

29.03.06. - Notice of change of ownership.

Any person selling or otherwise relinquishing ownership or control of a rental dwelling, short term rental or rooming house for which a rental dwelling, short term rental or rooming house permit has been issued shall notify the code enforcement office of said change in ownership within five days of the effective date of the transfer. Such notice shall be in writing and shall include:

(A) The name and address of the new owner;

(B) The name and address of the previous owner; and

(C) The agent for the new owner as required under the provisions of Section 23.03.05 herein.

29.03.07. - Expirations and renewals.

Every rental dwelling, short term rental and rooming house permit shall be renewed annually on January 2. A flat fee, established by ordinance, will be assessed for each dwelling/rooming house permit fee unpaid on March 1.

(Ord. No. 0-98-14, § I, 11-3-2014)

29.03.08. - Fees.

(A) The annual fee for a rental dwelling, short term rental or rooming house permit shall be established by ordinance. Nothing herein contained shall prohibit the owner of a dwelling used for rental purposes from treating all the required inspection fees as a normal business expense incidental to the renting of property and, therefore, an appropriate consideration in the determination of debt. A permit issued after July 1 shall pay half of the annual fee for that year.

(B) Failure to pay a rental permit fee within one year after the date of its mailing, shall result in the cancellation of the rental permit.

(C) Said rental permit shall be reinstated upon payment of all past due amounts, plus interest, along with a reinstatement fee of $100.00 per unit.

29.03.08.1. - City of Athens Occupancy Permit and Compliance Form.

Effective, January 1, 2018, it is the responsibility of the owner to place the City of Athens Occupancy Permit and Compliance Form on the back of the main entrance door of each rental unit, or on the wall next to the entrance door.

For all rentals, the names, addresses, and telephone numbers of both the property owner and the agent, along with the address of the rental property, must be provided with the payment of the rental fee.

(A) This information will be placed on the City of Athens Occupancy Permit and Compliance Form by the code enforcement office, along with the maximum permitted occupancy and expiration date.

(B) The office of code enforcement will provide one copy of the form for each rental unit. A fee of $5.00 will be charged for additional or replacement copies.

(Ord. No. 0-124-17, § I, 11-20-2017)

29.03.09. - Display of occupancy permit and compliance form.

It shall be the responsibility of the owner or agent of a rental dwelling, short term rental or rooming house to post the City of Athens Occupancy Permit and Compliance Form. This posted form is part of the rental inspection requirements. Failure to post said form is a minor misdemeanor punishable by a fine of up to $150.00.

(Ord. No. 0-124-17, § I, 11-20-2017)

29.03.10. - Suspension and reinstatement.

(A) At the end of the time allowed for correction of violations cited, the code inspector, lacking sufficient documentary evidence of compliance, shall reinspect the rental dwelling, short term rental or rooming house. If he determines that such conditions have not been corrected, he may issue an order suspending the operating permit.

Any person whose permit to operate a rental dwelling, short term rental or rooming house has been suspended shall be entitled to a reconsideration of the order by the housing appeals board in the manner herein provided. If no request for reconsideration or appeals reaches the housing appeals board within 14 days following receipt of an order of suspension, the permit shall be revoked, except that prior to revocation any person whose permit has been suspended may request reinspection, upon a showing that the violation or violations cited in the notice have been corrected.

(B) When the owner or agent has been ordered by the code inspector to correct violations that may exist in a dwelling, as noted in the procedure in Section 29.02.03, the inspector shall reinspect the property to verify compliance with the original order. If additional inspections are required, due to

noncompliance, a fee to be established by ordinance shall be assessed to the owner for each additional inspection. A reinstatement fee shall be established by ordinance.

Chapter 29.37. - Definitions

29.37.01. - Definitions.

"Accessory building." A building, the use of which is incidental to that of the main building(s) on the premises, and which is not intended to be used as a dwelling.

"Agent." Any person who has been designated by the owner of a building, or part thereof, in which dwelling units or rooming units are to be let, as the owner's legal representative for the receipt of process pursuant to this ordinance.

"Approved." As applied to a material, device or method of construction, shall mean approved by the code official under the provisions of this ordinance, or approved by other authority designated by law to give approval in the matter in question.

"Basement." The portion of a building which is partly underground and which has one-half or more of its ceiling height above the average finished grade of the ground adjoining the building.

"Bathroom." A nonhabitable room of not less than 30 square feet which affords privacy to a person within said room and which is equipped with a sink, a shower or bathtub and a flush water closet, all of which are in good working condition. Such room shall comply with all standards for lighting, ventilation and electrical outlets.

"Blight." Condition of damage, decay, dilapidation, age, or obsolescence producing inadequate provision for ventilation, light, air, sanitation, or open space, or unsafe and unsanitary conditions, or conditions which endanger lives or properties by fire or other hazards and causes, or conditions conducive to ill health, transmission of disease, or conditions detrimental to the public health, safety, and general welfare, or conditions leading to a significant decrease in property values including, but not limited to graffiti, in adjacent properties, or other identified hazards to health and safety.

"Building code." The building code officially adopted by the legislative body of this jurisdiction, or such other code as may be officially designated by the legislative body of the jurisdiction for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures.

"Building official." The official designated by the jurisdiction to enforce building, zoning or similar laws, or a duly authorized representative.

"Cellar." That portion of a building which is partly or completely below grade and having at least one-half its height below grade (see "basement").

"Central heating." The heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms and water closet compartments from a source outside of these rooms.

"Certificate of zoning compliance." Written verification from the zoning inspector that the use of the subject property complies with the zoning laws.

"Code official." The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

"Common areas." Those interior areas in a multi-family dwelling or rooming house used by the occupants of two or more dwelling units, including, but not limited to, common hallways, storage areas, lounges or common rooms, and basements.

"Compliance." Conformance with the provisions of this code or lawful orders promulgated therefrom.

"Condemn." To adjudge unfit for use or occupancy.

"Condemnation." The act of judicially condemning.

"Dilapidated building." A structure that is no longer adequate for the purpose or use for which it was originally intended.

"Dwellings." Whenever the words, "Multi-family dwelling," "residence building," "dwelling unit," "rooming house," "rooming unit" or "premises" are used in this code, they shall be construed as though they were followed by the words, "or any part thereof." For specific definitions, see Chapter 23.12 of the Athens City Code.

"Dwelling unit." A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

"Egress." A means to travel from the interior of a building to the exterior at ground level.

"Enforcement officer." The official designated herein or otherwise charged with the responsibilities of administering this code, or the official's authorized representative.

"Exterior property areas." The open space on the premises and on adjoining property under the control of owners or operators of such premises.

"Extermination." The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison, spraying, fumigating, trapping or by any other approved pest elimination methods.

"Family." See Chapter 23.12 of the Athens City Code.

"Garbage." See Chapter 5.02 of Athens City Code.

"Graffiti." Any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advanced authorization, is otherwise deemed a public nuisance.

"Guardrail." A system of components installed in elevated places such as open-sided floors, balconies, platforms, stairways, and ramps, which serve as protective barriers to prevent people and equipment from falling to the adjacent surface.

"Guest." For determining occupancy standards, any person who shares a dwelling unit or rooming unit on a nonpermanent status for not more than 30 days in a single year.

"Habitable room." A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communication corridors, closets and storage spaces.

"Handrail." A horizontal or sloping rail grasped by the hand for guidance or support or for arresting falls to the adjacent surface.

"Heated water." Water heated to a temperature of not less than 110?. at the outlet, giving appropriate consideration for a reasonable amount of time to reheat the water during peak periods of use.

"Heating device." All furnaces, unit heaters, domestic incinerators, cooking and heating stoves and ranges, and other similar devices.

"Infestation." The presence within a structure of insects, rats, vermin or other pests in a manner that constitutes a potential health hazard.

"Junk vehicle." See Athens City Code Chapter 7.07.

"Kitchen." Any room used for the storage of foods, preparation of foods and containing the following equipment: sink and one other device for cooking, refrigerator or other device for cold storage of food, cabinets and/or shelves for storage of equipment and utensils, and counter or table for food preparation.

"Let for occupancy or let." To permit possession or occupancy of a dwelling, dwelling unit, rooming unit, building or structure by a person who shall be legal owner or not be the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

"Maintenance." Conformance of a building and its facilities to the code under which the building was constructed.

"Occupant." Any person over one year of age (including owner or operator) living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit.

"Operable area." The part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

"Operator." Any person who has or who has been designated by the owner to have charge, care or control of a building or part thereof in which the dwelling units or roofing units are let. An operator may or may not also be the owner's agent.

"Owner." Any person who alone or jointly or severally with others (1) shall have legal title to any dwelling or dwelling unit with or without accompanying actual possession thereof; or (2) shall have charge, care or control of any dwelling or dwelling unit as owner or agent of the owner or as buyer under land contract, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance and of the rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

"Plumbing." The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: drainage systems, vent systems, water-supply venting systems within or adjacent to any building, structure or conveyance; also, the practice and materials used in installation, maintenance or alteration of the storm water, liquid waste or drainage and water-supply systems of any premises.

"Plumbing fixture." A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises and demands a supply of water therefrom; or discharges used water, liquid-borne waste materials or sewage, either directly or indirectly to the drainage system of the premises; or which requires both a water supply connection and a discharge to the drainage system of the premises.

"Premises." A lot, plot or parcel of land including the buildings or structures thereon.

"Public nuisance." Includes the following: (1) The physical condition or use of any premises regarded as a public nuisance at common law; or (2) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures; or (3) Any premises which have unsanitary sewerage or plumbing facilities; or (4) Any premises designated as unsafe for human habitation or use; or (5) Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecure as to endanger life, limb or property; or (6) Any premises from which the plumbing, heating and/or facilities required by this code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided; or (7) Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds; or (8) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises, or (9) Graffiti.

"Rain carrier." A drainage device, such as gutters or downspouts, used to remove drainage water from roof surfaces of any building or structure.

"Ratproofing." A form of construction which will prevent the ingress or egress of rats to or from a given space or building, or gaining access to food, water or harborage. This construction of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, sidewalks, gratings, sidewalk openings and other places that may be reached and entered by rats by climbing, burrowing or other methods, by the use of materials impervious to rat gnawing and other methods approved by the code enforcement office.

"Refuse container." A watertight container that is constructed of metal or other durable material impervious to rodents, which is capable of being served without creating unsanitary conditions, or such other containers as have been approved by the code official. Openings into the containers, such as covers and doors, shall be tight fitting.

"Renovation." A building and its facilities made to conform to present-day minimum standards of sanitation, fire and life safety.

"Rooming house." Any residence building, or any part thereof, containing one or more rooming units, in which space is let by the owner or operator to more than five persons who are not members of the same family. This includes fraternity and sorority houses.

"Rooming unit." Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

"Rubbish." See Chapter 5.02, Athens City Code of Ordinances.

"SHORT-TERM RENTAL" A DWELLING UNIT OFFERED FOR RENT IN PART, OR IN ITS ENTIRETY, FOR LESS THAN 30 CONSECUTIVE DAYS PER OCCUPANT.

"Space heater." A room heater which is a self-contained above-the-floor device for furnishing heated air through openings in its casing directly into the space in which the device is located or immediately adjacent to it. The device may be freestanding or recessed in a wall or partition.

"Structure." See Sec. 23.12.01, Athens City Code of Ordinances.

"Supplied." Installed, furnished or provided by the owner or operator.

"Toilet room." A nonhabitable room equipped with a flush water closet.

"Total habitable room area." The total floor space of all habitable rooms having a ceiling height of seven feet or more.

"Unsafe structure" An unsafe structure is one in which all or part thereof is found to be dangerous to life, health, property or the safety of the public or its occupants because it is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable condition that it is likely to partially or completely collapse.

"Unsafe equipment" Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life, health, property or safety of the public or occupants of the premises or structure. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use.

"Unfit for human occupancy" A structure is unfit for human occupancy or use whenever the code official finds that it is unsafe, unlawful, or because of the degree in which it lacks maintenance or is in disrepair, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because its location constitutes a hazard to its occupants or to the public.

"Unlawful structure" An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

"Ventilation." The process of supplying and removing of air by natural or mechanical means to or from any space. (1) Mechanical: Ventilation by power-driven devices. (2) Natural: Ventilation by opening to outer air through windows, sky-lights, doors, louvers or stacks without wind-driven devices.

"Violation." Any specific conditions which is not in conformance with the provisions of this ordinance.

"Workmanlike." Whenever the words, "workmanlike state of maintenance and repair," are used in this code, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner.

"Yard." An open unoccupied space on the same lot with a building extending along the entire length of street or rear or interior lot line.

(1) Yard, front: A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.

(2) Yard, rear: A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

(3) Yard, side: A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

C

Chapter 15.03. - Transient Guest Tax

15.03.01. - Definitions.

As used in this chapter:

(A) ~~(A)~~ "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.

(B) **"SHORT-TERM RENTAL" A DWELLING UNIT OFFERED FOR RENT IN PART, OR IN ITS ENTIRETY, FOR LESS THAN 30 CONSECUTIVE DAYS PER OCCUPANT.**

(C)~~(B)~~ "Transient accommodation" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests in which four or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.

~~(C)~~(D) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than 30 consecutive days.

~~(D)~~(E) "Vendor" means the person who is the owner or operator of the hotel, short term rental or transient accommodation and who furnishes the lodging.

~~(E)~~(F) "Administrator" shall mean the income tax administrator as designated by Section 3.03.07 of the Athens City Code.

15.03.02. - Imposition of tax.

For the purpose of providing revenue with which to meet the needs of the city for the use of the promotional and tourism fund of the city, an excise tax is hereby levied on transactions by which lodging by a hotel, short term rental or transient accommodation is or is to be furnished to transient guests.

The tax is three percent of the amount paid or to be paid by the transient guest for the lodging. The tax applies and is collectible at the time when the price is paid.

For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax it is presumed that all lodging furnished by hotels, short term rentals or transient accommodations in this city to transient guests is subject to the tax until the contrary is established.

15.03.03. - Transient guest to pay tax.

The tax imposed by this chapter shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

If the transaction is claimed to be exempt, the transient guest must furnish to the vendor, and the vendor must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed the tax applies.

15.03.04. - Effective period.

Said tax shall be levied, collected and paid on aforesaid transactions from the first day of October, 1981.

15.03.05. - Refund of illegal or erroneous payments.

The city treasurer shall refund to transient guests the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment. Applications shall be filed with the tax administrator, on the form prescribed by the auditor within one year from the date the tax is paid. On filing of such application the tax administrator shall determine the amount of refund due and certify such amount to the treasurer. The tax administrator shall draw a warrant for such certified amount on the treasurer to the person claiming such refund. The treasurer shall make such payments from a tax refund fund as established by ordinance.

15.03.06. - Required records; inspection and destruction.

Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices

and such other pertinent documents. If the vendor furnishes lodging not subject to the tax the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to the inspection of the Tax Administrator of the City of Athens, and shall be preserved for a period of four years, unless the tax administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

15.03.07. - Returns required.

Each vendor shall on or before the twentieth day of the next following month make and file a return for the preceding quarter on forms prescribed by the tax administrator, showing the receipts from furnishing lodging, the amount of tax due from the vendor to the city for the period covered by the return and such other information as the tax administrator deems necessary for the proper administration of this chapter. The tax administrator may extend the time for making and filing returns. Returns shall be field by mailing the same to the tax administrator, together with payment of the amount of tax shown to be due thereon.

The tax administrator may authorize vendors whose tax liability is not such as to merit quarterly returns, as determined by the tax administrator upon the basis of administrative costs to the city, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

The treasurer shall stamp or otherwise mark on all returns the date received by him and shall also show thereon by stamp or otherwise the amount of payment received with the return. Any vendor who fails to file a return under this chapter shall, for each day he so fails, forfeit and pay into the city treasury the sum of $100.00. Each day a vendor fails to file a return under this chapter shall be deemed a complete and separate offense.

The tax administrator, if he deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than quarterly periods. The returns shall be signed by the vendor or his authorized agent.

15.03.08. - Liability; assessment and petition for reassessment; penalties.

If any vendor collects the tax imposed by or pursuant to this chapter and fails to remit the same to the city as prescribed, he shall be personally liable for any amount collected which he failed to remit. The tax administrator may make an assessment against such vendor based upon any information in the tax administrator's possession.

If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, such vendor or transient guest shall be personally liable for the amount of the tax applicable to the transaction. The tax administrator may make an assessment against either the vendor or transient guest, as the facts may require, based upon any information in his possession.

An assessment against a vendor in cases where the tax imposed by or pursuant to this chapter has not been collected or paid, shall not discharge the transient guest's liability to reimburse the vendor for the tax applicable to such transaction.

In each case the tax administrator shall give to the vendor or transient guest assessed written notice of such assessment. Such notice may be served upon the vendor or transient guest assessed personally or by registered or certified mail. An assessment issued against either, pursuant to the provisions of this chapter shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any vendor or transient guest for the tax due on a particular transaction if said tax has actually been paid by another.

The tax administrator may make an assessment against any vendor who fails to file a return required by this chapter or fails to remit the proper amount of tax in accordance with this chapter. When information in the possession of the tax administrator indicates that the amount required to be collected is, or should be greater than the amount remitted by the vendor, the tax administrator may upon the basis of test checks of a vendor's business for a representative period which are hereby authorized, determine

the ratio which the tax required to be collected under this chapter bears to the hotel's, short term rentals or transient accommodation's lodgings which determination shall be the basis of an assessment as herein provided in this chapter. Notice of such assessment shall be made in the manner prescribed in this chapter.

Unless the vendor or transient guest, to whom said notice of assessment is directed, files within 30 days after service thereof, either personally or by registered or certified mail a petition in writing, verified under oath by said vendor, transient guest, or his authorized agent, having knowledge of the facts, setting forth with particularity the items of said assessment objected to, together with the reasons for such objections, said assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor or transient guests so assessed, to Tax Administrator of the City of Athens, Ohio. When a petition for reassessment is filed, the tax administrator shall assign a time and place for the hearing of same and shall notify the petitioner thereof by registered or certified mail, but the tax administrator may continue the hearings from time to time if necessary.

A penalty of 15 percent shall be added to the amount of every assessment made under this chapter. The tax administrator may adopt and promulgate rules and regulations providing for the remission of penalties added to assessments made under this chapter.

When any vendor or transient guest files a petition for reassessment as provided in this chapter, the assessment made by the tax administrator, together with penalties thereon, shall become due and payable within three days after notice of the finding made at the hearing has been served, either personally or by registered or certified mail, upon the party assessed.

15.03.09. - Three-year limitation for assessments; exceptions.

No assessment shall be made or issued against a vendor or transient guest for any tax imposed by or pursuant to this chapter more than three years after the return date for the period in which the lodging was furnished, or more than three years after the return for such period is filed, whichever is later. This section does not bar an assessment:

(A) When the tax administrator has substantial evidence of amounts of taxes collected by a vendor from transient guest's lodging which were not returned to the city;

(B) When the vendor assessed failed to file a return as required.

15.03.10. - Tax paid transient guest; false evidence of tax-exempt status.

No transient guest shall refuse to pay the full and exact tax as required by this chapter, or present to the vendor false evidence indicating that the lodging as furnished is not subject to the tax.

15.03.11. - Vendor to collect tax; prohibition against rebates.

No vendor shall fail to collect the full and exact tax as required by this chapter. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly, any of the tax levied pursuant to this chapter, or make in any form of advertising, verbal or otherwise, any statements which might imply that he is absorbing the tax, or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner unless otherwise permitted by Section 5739.03 of the Ohio Revised Code.

15.03.12. - Reports must be filed; fraudulent reports.

(A) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false, or fraudulent return, report or statement, or aid or abet another in the filing of any false or fraudulent return, report or statement.

(B) If any vendor required to file quarterly returns under this chapter fails, on two consecutive quarters or on six or more quarters within a 24-month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the tax administrator to file returns at less frequent intervals, fails on two or more occasions within a 24-month period, to file such returns when due or to pay the tax due thereon, the tax administrator may:

(1) Require such vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one year, as determined by the tax administrator from a review of returns, or other information pertaining to such vendor, which amount shall in no event be less than $100.00. The security may be in the form of an advance tax payment to be applied to pay the tax due on subsequent returns, or a corporate surety bond, satisfactory to the tax administrator, conditioned upon payment of the tax due with the returns from the vendor. The security must be filed within ten days following the vendor's receipt of the notice from the tax administrator of its requirements.

(2) A corporate surety bond filed under this section shall be returned to the vendor if, for a period of 12 consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter.

15.03.13. - Personal liability of corporate officers or employees.

If any vendor corporation required to file returns and to remit tax due to the city under the provisions of this chapter, fails for any reason to make such filing or payment, any of its officers or employees having control or supervision of or charged with the responsibility of filing returns and making payments, shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for such liability may be collected by assessment in the manner provided in this chapter.

15.03.14. - Intent of chapter.

It is the intent of this chapter to levy the excise tax of three percent on transactions by which lodging by a hotel is or is to be furnished to transient guests as referred to and authorized by Division (c) of Section 5739.02 of the Ohio Revised Code, and further, to levy an excise tax of three percent on transactions by which lodging by short term rentals or transient accommodations is or is to be furnished to transient guests. Accordingly, this chapter shall be construed to effectuate those purposes and so as to be consistent with any requirement of law compliance with which is a prerequisite to the validity of the tax intended to be levied hereby.

15.03.15. - Severability clause.

See income tax saving clause, Section 15.01.16.

15.03.99. - Penalty.

Whoever violates any section of Chapter 15.03 for which no other penalty is provided shall be fined not less than $25.00 nor more than $100.00 for a first offense. For each subsequent offense such person shall, if a corporation, be fined not less than $100.00 nor more than $500.00, or if an individual, or a member of a partnership, firm or association, be fined not less than $25.00 nor more than $500.00, or imprisoned not more than 60 days, or both.