

[REDACTED]

Fwd: Short Term Rental Notification

[REDACTED]

Thu, Dec 21, 2023 at 2:55 PM

From: **CFPOA** <cfpoa@connesteefalls.com>
Date: Wed, Nov 8, 2023 at 6:02 PM
Subject: Short Term Rental Notification
To:

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November 7, 2023

I am writing you now to address an issue that the Board of Directors of your Association has been reviewing in great detail. As community leaders, we have worked closely with the Association's staff and legal counsel to make sure this issue is addressed properly.

For many years, short-term rentals in Connestee Falls have been restricted by our governing documents. Limitations on rentals in our community have appeared in several iterations of our restrictive covenants. The current limitations are contained in our Fifth Restatement of Declaration of Restrictive Covenants for Connestee Falls that was adopted in 2016. After 2016, discussions occurred about changing the rental restrictions in our community, but the restrictions in the Fifth Restatement of Declaration remained. We have now reached a conclusion on what rental restrictions exist under our current covenants, including the restriction on the minimum length of any rental.

The Fifth Restatement of Declaration limits rentals in our community to rental terms of one month or longer. In other words, each rental in our community must be for a minimum of one month in length. One month is defined as 30 consecutive days, which can span a calendar month. For example, July 15 through August 14.


This one-month minimum restriction on rentals arises out of several provisions in the Fifth Restatement of Declaration (which, for ease of reading, is identified as the Declaration throughout the remainder of this letter). These include, but are not limited to, the following:

1. Section E of Article XVIII of the Declaration provides that "any" lease of a lot in the community "shall be deemed to contain the provisions of the form lease attached as Exhibit 'A' to the Declaration. In other words, all leases of lots in the community must be rented under "the provisions of" the form lease attached to the Declaration. The form lease attached to the Declaration as Exhibit A is a month-to-month rental agreement. It specifically provides a blank line for the number of months for the lease. This form lease is incorporated into the terms of the Declaration, and the restriction is straightforward that all leases must have these provisions. In other words, all leases must have a monthly term. There can be no lease for less than one month in duration.
2. Article XVIII, Section A, of the Fifth Restatement of Declaration provides, "No transient Tenants shall be permitted." The word "transient" is not defined in the Declaration, but dictionaries consistently indicate that being "transient" means passing through a place for only a brief stay (e.g., Merriam Webster Dictionary). A "transient tenant" is defined as someone who stays in a place for less than 30 consecutive days (i.e., less than a month). The prohibition against "transient Tenants" is a prohibition against residents staying for less than a month.
3. Article XVIII, Section A, of the Declaration provides that the intent is for the community to have "Owner-occupied" homes.
4. The definition of "Leasing" in Article I, Section U, of the Declaration discusses "regular" occupancy. This further supports the one-month minimum rental period in the form lease, as a two-night or one-week rental period (as examples) could never be "regular" occupancy.

We recognize that the rental restrictions in our community's covenants have generated confusion in the past, but we now have clarity. We intend to enforce this rental restriction moving forward.

All rentals in Connestee Falls must be for one month or longer moving forward. Please make sure any future lease or rental agreement complies with the terms of the Declaration's restrictive covenants, including the minimum, one-month rental requirement in Article XVIII of the Declaration.

We want to make the enforcement of this one-month minimum rental restriction reasonable for all community members. In recognition of the confusion that occurred in the past, the Association will



not impose any penalty against any owner who rents under an existing or new lease shorter than one month in duration where that lease has a lease end date on or before May 31, 2024. This "grace period" will give community members an opportunity to adjust the uses of their properties to comply with the minimum rental period. After May 31, 2024, any lease in violation of the one-month minimum rental period will be treated like any other violation of the restrictive covenants in our community.

We also do not want to interfere with any rental agreement that is already in place with a tenant in calendar year 2024. If a community member has entered into a lease or rental agreement dated on or before December 31, 2023 to rent a property for less than one month, and the rental occurs after May 31, 2024 but within calendar year 2024, a copy of the lease or rental agreement must be provided to the Association office no later than March 31, 2024. If the lease or rental agreement complies with these requirements, there will not be any violation for that rental term being less than the one-month minimum.

We trust you appreciate that your Association leadership has worked diligently to get our community in compliance with the rental restrictions in our Declaration and, at the same time, to develop a path moving forward that is fair to our members. The restrictions in the Declaration exist to preserve and enhance our community, and they help to make Connetsee Falls the wonderful community that we enjoy. Your future compliance with the minimum rental requirements is appreciated by all of us.

Sincerely,

Brent Ziegler

President, CFPOA Board of Directors



[REDACTED]

Fwd: Follow up on Short Term Rentals

[REDACTED] Thu, Dec 21, 2023 at 2:56 PM

From: **CFPOA** <cfpoa@connesteefalls.com>
Date: Wed, Nov 15, 2023 at 6:02 PM
Subject: Follow up on Short Term Rentals
To:

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Subject: Follow-up on Short Term Rentals Communication


The Board and CFPOA management have received many emails and calls from community members regarding the Board's recently announced decision regarding short term rentals. It is worthy of note that the majority of feedback has been positive and in favor of the Board's decision to enforce what is stated in our governing documents.

Concerns about rentals and their impact in Connestee Falls is not a recent development (nor is it unique to our community). As far back as 2012, previous Boards and CFPOA management have been aware of member concerns regarding rentals and what is stated in our governing documents. As a result, the Board publicly announced in September that addressing rentals in Connestee Falls would be a priority for the 2023/2024 Board year. Following that announcement, a scheduled "Chat with the Board" was dominated by discussion of rental concerns, and the Board was subsequently approached by a group of Connestee Falls residents requesting that the language in our governing documents be examined and enforced. As the first step toward resolution, the Board engaged our outside legal counsel, a North Carolina firm with a significant HOA/POA practice. We asked counsel to render an opinion on rentals based on our governing documents and North Carolina state law. Their legal opinion was that short term rentals (those of a duration of less than one month) are prohibited by our governing documents. After receiving the legal opinion, it became the Board's responsibility to enforce what is in our governing documents.

There are times when the Board decides to form a task team or committee to address a topic of concern or an initiative. However, in this situation, once the legal opinion was received stating that short term rentals are not permitted under our governing documents, the charge for that task team or committee would have been to determine whether to enforce or ignore the plain language in our governing documents. Following and enforcing our governing documents is a Board responsibility, not something to be assigned to a task team or committee.

Another thing that the Board considered was whether we should hold a public meeting prior to communicating a decision on short term rentals to community members. We decided that holding a public meeting would not change our decision on short term rentals, since that was determined by the express terms of the governing documents. In our opinion, holding a public meeting would have only created a divisive situation in a public setting, pitting those in favor of short term rentals against those opposing them.

In short, the Board has no choice but to follow and enforce our governing



documents regarding short term rentals. Any change to the governing documents to allow short term rentals would require a community vote.

In closing, we would like to thank everyone who has provided feedback via the cfpoa@connesteeffalls.com email address. That correspondence has been distributed and reviewed by the Board and Management. That correspondence is addressed by this communication and the list of Frequently Asked Questions (FAQs). Click on the link below to view the current FAQs. We will continue to update the FAQs as additional feedback is received and will publish an updated version in a few weeks, as appropriate.

On behalf of the entire Board,

Brent Ziegler

President, CFPOA Board of Directors

[Short Term Rental Frequently Asked Questions](#)



Fwd: General Manager's New & Views - December 2023

Thu, Dec 21, 2023 at 2:57 PM

From: **CFPOA** <cfpoa@connesteefalls.com>
Date: Mon, Dec 18, 2023 at 6:02 PM
Subject: General Manager's New & Views - December 2023
To:

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December Edition
Jim Whitmore, General Manager/COO

I hope everyone enjoyed their Thanksgiving holiday and is enjoying our cooler time of year. We are now quickly moving into the rest of the holiday period where many religious faiths, family and friends celebrate their beliefs and each other's company and the ringing of the New Year. The staff here at Connestee Falls want to wish everyone a joyous and safe holiday, and I am sure, like you, look forward to some downtime to recharge for the upcoming year. As always, they are very appreciative of all your generous and kind contributions to the Employee Fund as this shows them all our appreciation for their dedication and hard work on the behalf of Connestee Falls.

We continue to make significant progress on the Activity and Wellness Center. Currently, the exterior hardscape is almost complete, except for sidewalks, and we hope to start installing landscape the first part of next year. Exterior siding will begin to be installed before year end. On the inside, all framing is complete, ceiling drywall has been hung, and insulation installed and drywall on the interior walls should be hung in place by year end. All flooring materials are ordered and will be delivered by the middle of February. Once flooring is complete the new fitness equipment will be installed, which is tentatively set for the week of March 11, 2024. This should allow us to meet our internal goal of having the new building open for use in April 2024. One favor we need to ask is that members do not enter the construction site until the building is officially open, as this creates a liability issue if any injuries were to occur.

Last month the Board sent out communicating the enforcement of our Governing Documents regarding renting your home within Connestee Falls. Our documents specify a duration of a minimum of 30 days for any rental application, per our lease exhibit within our Declaration. Since the announcement, a coalition of members have engaged legal counsel to challenge the Boards interpretation, which was made after the Board receiving a legal opinion from our own legal counsel. Based on the current situation we will not be able to communicate directly with members on this topic until any legal dispute has been resolved through the legal process. We will, however, like I am now, give general updates.

Regarding connectivity, currently Verizon, and from what I understand, the other major carriers, have begun to rollout 5G service in the city of Brevard and the surrounding Transylvania County area. Personally, I have Verizon and I have noticed a better signal in many locations, including areas within Connestee Falls, where previously I had a very weak or no signal at all. We are also working with the County Sheriff's Office, Emergency Medical Services, and the city of Brevard, to see if we can access government grant funds to pay for an installation of a communication tower in a location that would benefit all parties.

During the State of North Carolina annual dam inspections this year we were notified of a

During the state of emergency and annual dam inspections this year we were notified of a new regulation put in place that requires new downstream modeling for any potential breach and required updating of our Emergency Action Plan (EAP) for each dam location. We were required to engage a specialized engineer to write the new EAP's and submit them to the State for approval. Last week we received final approval on the EAP for the Atagahi dam and expect the other three EAP's to be approved before year end. It is important to note that all our dams passed their inspection and that they are all considered safe and sound at this point in time. The EAP's updates were strictly a paperwork update based on the new State regulations.

2023 turned out to be a lot better than the previous years with the reduction or elimination of the pandemic restrictions. This allowed for us to report record revenues in our Food & Beverage and Gold operations. There were also increases in all amenity usage such as pickleball, tennis, bocce, pool and almost all our social groups within the community. It has been great to see everyone enjoying all Connestee Falls has to offer.

I look forward to working with the dedicated Team of employees, the Board, Committees, Group Leaders, and all the community Volunteers, in making 2024 an even better year of experiences.

As always stay safe and continue to help each other. Happy Holidays!

Regards

Jim