

STATE OF SOUTH CAROLINA

ORDINANCE ~~06212016~~08162016

COUNTY OF LEXINGTON

Amending the Town Code to Add a New Article VI ("Rental, Non-Owner Occupied and Unoccupied Property Regulations") to Chapter 5 ("Buildings and Building Regulations")

TOWN OF CHAPIN

**WHEREAS**, the Council has determined that it is in the interest of the Town and the public, and in furtherance of the Council's obligations and authority to provide for security, law enforcement, peace and order in the municipality, to enact regulations requiring, among other things, that certain rental properties register with the Town so as to provide a mechanism for remedies in the event violations of the law occur on such properties on a repeated basis,

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Chapin, in Council, duly assembled, that Chapter 5 ("Buildings and Building Regulations") of the Chapin Town Code is hereby amended to add a new Article VI entitled " Rental, Non-Owner Occupied and Unoccupied Property Regulations" which shall read as in the form attached to this Ordinance.

This Ordinance shall be effective from the date of second and final reading.

**DONE IN MEETING DULY ASSEMBLED**, this \_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
J. Robert "Skip" Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Inga Whelchel, Clerk of Court

First Reading: \_\_\_\_\_

Second Reading and Adoption: \_\_\_\_\_

## Chapter 5

### Article VI. Rental, Non-Owner Occupied and Unoccupied Property Regulations

#### Sec. 5-601. Definitions.

Unless otherwise expressly stated, the following terms shall, for the purposes of this Article, have the meanings shown in this Section. When terms are not defined, through the methods authorized by this Section, such terms shall have their ordinarily accepted meaning such as the context implies.

**Non-Owner Occupied** -A property that is occupied by someone other than the purchaser or owner of a property.

**Occupant** –A family as defined by the Town of Chapin Zoning Ordinance or an individual unrelated by blood to a second degree of consanguinity, marriage, adoption, or guardianship to any other occupant of the dwelling unit. A family of related persons shall be counted as one occupant.

**Offense** –any violation of local, state, or federal statutes or ordinances which results in a forfeiture of bond, plea of guilty, no contest, acceptance into Pre-Trial Intervention, Alcohol Education Program or a determination of guilt by a court or a jury. For purposes of this ordinance, all violations for which charges are made during one response by law enforcement officers which result in a forfeiture of bond, acceptance into a Pre-Trial Intervention Program, Alcohol Education Program, conviction, or a plea of guilty or no contest, collectively shall be deemed one offense.

**Owner** –any person, firm or corporation having a legal or equitable title in the property; or recorded in the official records of the state, county or municipality as holding title.

**Residential Rental Unit** –means that portion of a dwelling for which payment or other consideration, including performance of general maintenance, payment of utilities or other fees, or similar in-kind services, is being made to an owner, agent, or manager for the use and occupancy of that portion as a living facility. For purposes of this ordinance, the term rental unit is limited to single household dwellings, two household dwellings (duplex), three household dwellings (triplex), four household dwellings (quadraplex), townhouses, and boarding houses. . Exceptions shall be the following:

- a) Single, two, three, or four household dwelling within a horizontal property regime or;
- b) Dwellings occupied by individuals who are under a written contract to purchase the residence after the contract has been reviewed for validity of purchase by the Town Attorney and the Zoning Administrator.

Whenever the words "rental unit" are stated in this Article, they shall be construed as though they were followed by the words "or any part thereof."

**Townhouses** -Dwelling units constructed in a series or group of attached units with property lines separating such units.

Unoccupied – Any property that lacks continued presence of human beings who have a legal right to be on the property, or where any substantial lawful residential occupancy or business operations has ceased for at least six months.

Violation – Breach of law.

Sec. 5-602. Rental, Non-Owner Occupied and Unoccupied Permit Required.

- a. No owner, whether a person, firm or corporation, shall operate any residential rental, non-owner occupied or unoccupied unit as defined in Sec. ~~10-805-601~~ unless that owner holds a current permit issued by the Town of Chapin for the property named therein.
- b. Permits are not transferable from any owner to another.
- c. The permitting year shall begin on January 1st and end on December 31st.
- d. Renewals of permits after April 15th will be considered late and will be assigned any late fees designated in this ordinance.
- e. The required permit ~~fee as defined by Section 10-97~~ may be paid-filed beginning January 1<sup>st</sup> but no later than the 15<sup>th</sup> of April each year.
- f. If the permit ~~fee~~ is not paid-acquired by April 15th then on April 16th the Town of Chapin shall issue a Uniform Ordinance Summons to the property owner for appearance in Municipal Court.
- g. The Property Owner may be subject to other code enforcement action depending upon the circumstances.

Sec. 5-603. Application.

Applications to operate residential rental, non-owner occupied or unoccupied units and for renewal thereof shall be on a form provided by the Town of Chapin. ~~Such form shall set forth the owner's name, address, and telephone number, the unit address, the name of the person, firm, or corporation located within a seventy five (75) mile radius of the Town of Chapin responsible for the care and maintenance of the building and additional information as outlined on the application for rental housing.~~

Sec. 5-604. Issuance or Refusal of Rental, Non-Owner Occupied and Unoccupied Property Permit.

The Town of Chapin shall issue a Rental Permit for rental, non-owner occupied or unoccupied properties to the applicant upon proof of the following:

- a) The property is in compliance with all applicable Town Ordinances; and
- b) All fees have been paid as required by Section ~~10-975-618~~ of this Article.

Sec. 5-605. Property Owner, Person in Charge, and Occupant.

- a) A permit will not be issued or renewed to a person, firm, or corporation who does not either reside in or have an office within a seventyfourty-five (745) mile radius, or one hour travel time, of the Town of Chapin, unless a Person in Charge is designated. The Person in Charge must reside in or have an office within a seventyfourty-five (475) mile radius, or one hour travel time, of the Town and be able to act as the agent for the owner. The Zoning Administrator shall be notified in writing if there is a change of owner or Person in Charge within fourteen (14) days of the change.
- b) The Property Owner, the Person in Charge, and Occupants shall maintain all residential rental, non-owner occupied or unoccupied units under their control, or in which they are located, in compliance with the Town Codes.
- c) The Property Owner, the Person in Charge, and Occupants shall be liable for occupancy violations within rental, non-owner occupied or unoccupied residences of their control or in which they are located. Occupancy limits are established according to building code and will be established for each property permitted.
- d) For every residential rental, non-owner occupied or unoccupied unit, the Owner or Person in Charge shall be responsible for the repair and maintenance of the property, to include adjoining common areas of the dwelling, and responding to service requests and emergency needs, including entry into units where an emergency appears to exist. Such person or persons shall be situated close enough to the dwelling as to be able to service tenant and emergency calls with reasonable dispatch. The Owner shall advise the tenants individually of the names, addresses, and telephone numbers of such Owner and/or Person in Charge.

Sec. 5-606. Reserved.

Sec. 5-607. Offenses and Assignment of Offenses.

- a) For purposes of this ordinance, offenses shall include any Federal or state, law or regulation or any Town ordinance or regulation.
- b) Offenses shall apply towards revocation of the permit for residential rental, non-owner occupied or unoccupied units as follows:
  - (1) Single household dwellings, townhouses, and boarding houses. Offenses that occur anywhere on the property shall apply to the permitted dwelling unit.
  - (2) Duplex, Triplex and Quadraplex:
    - (a) Offenses that occur within an individual unit shall apply to that unit.
    - (b) Offenses occurring outside of the units shall be assigned to the unit responsible as determined by the investigating party for the offense.
    - (c) Offenses committed by the Property Owner and/or Person in Charge shall be assigned to both units.

- (d) When a duplex is issued one permit at the request of the owner, any offense within any dwelling unit will be apply to the duplex.

Sec. 5-608. Requirement for Revocation Hearings Town Council shall hold Revocation Hearings as follows:

- (1) Occupancy. Violation of occupancy regulations shall be grounds for declaring the rental, non-owner occupied or unoccupied unit a nuisance property. A revocation hearing date will be established by Town Council within 60 days of the offense. The Zoning Administrator shall issue a notice by certified mail or any other means available to ensure delivery to the Property Owner and Person in Charge noting the property is considered a nuisance property and pending a revocation hearing. A copy of this notice shall be maintained by the Zoning Administrator.
- (2) Other Offenses
  - (a) Warning Notice. A Town of Chapin Codes Enforcement Officer shall send written notification to the Property Owner and Person in Charge of any violations of Federal or state law or regulation or any Town ordinances or regulations that occur at properties governed by this Article. The Zoning Administrator shall provide an advisory notice by first class, certified mail or any other means available to ensure delivery to the Property Owner and Person in Charge of any rental, non-- owner occupied or unoccupied property whenever three offenses of the Town of Chapin Code of Ordinances or regulations or any state or Federal law or regulations have occurred individually or in combination at the property within a twenty-four (24) month period. The twenty-four month period shall commence on the day of the first offense. This notice shall advise the Property Owner and Person in Charge that the property has been identified as a potential problem property and advise them of the consequences of continued offenses on this property. This notice shall be maintained by the Zoning Administrator and made available as necessary.
  - (b) Notice of Revocation Hearing. When another offense occurs within twelve (12) months after the issuance of the warning notice, this shall be grounds to declare the rental unit a nuisance property. A revocation hearing will be established by Town Council within 60 days of the last offense. The Zoning Administrator shall issue a notice by certified mail or any other means available to ensure delivery to the Owner and the Person in Charge noting the property is considered a nuisance property and pending a revocation hearing. A copy of this notice shall be maintained by the Zoning Administrator.

Sec. 5-609. Town Council Hearing.

- (a) The written notice by the Zoning Administrator for a revocation hearing shall be delivered by personal service, certified mail or any other means available and shall include the time and place at which the hearing is to be held which shall be at a regular or special Council meeting. The notice shall also contain a brief statement of the reasons for revocation hearing and a copy of the applicable provisions of the Code of Ordinances.

- (b) The Zoning Administrator shall provide Town Council with a written report outlining the circumstances for declaring the rental property as a nuisance property. All documents relating to the property shall be available prior to the hearing for review by all parties.

#### Sec. 5-610. Notice of Revocation

Upon Town Council's decision, the Zoning Administrator shall notify the Property Owner and/or the Person in Charge of the revocation by written notice sent by certified mail or delivered in person. The notice shall advise the Property Owner and/or the Person in Charge of the property address, the effective dates of the revocation, the reason for the revocation, the effect of the revocation on the property, and penalties that can be imposed for violation of the revocation and appeal rights and procedures.

The Zoning Administrator shall set forth the effective date of the revocation as and if modified by Town Council in such manner so that revocation commences on the first day following expiration of the lease or leases in force provided such lease or leases are not for more than a one (1) year period. The Owner shall provide the Zoning Administrator with a copy of the current lease to determine the appropriate dates. If no lease is provided then the Zoning Administrator shall set the effective date as the first day following the annual permit renewal date. When there is no lease in force or when the lease or leases are for periods greater than one year, revocation shall commence upon the first day following the annual permit renewal date. Any additional offenses which occur between the revocation date and the commencement of revocation date shall automatically increase the revocation by three (3) months per offense.

#### Sec. 5-611. Effect of Revocation.

Upon the commencement of revocation, the property shall be secured and no person, firm or corporation shall operate or rent/lease to another for residential occupancy a n y dwelling unit or rooming unit during such time that the permit for such unit is revoked.

#### Sec. 5-612. Notification E x e m p t i o n .

Residential rental, non-owner occupied or unoccupied properties are exempt from the notification requirements, as given in the Codes, when they have not obtained a valid permit as required by this ordinance. Properties operating without a valid permit shall receive one (1) written warning and twenty (20) working days to comply. If an owner is convicted of a violation of Section 10-81 of the Town of Chapin Code of Ordinances, the property shall not be eligible for a permit for a period of six (6) months after the conviction.

#### Sec. 5-613. Defense.

When tenants are guilty of offenses resulting in a revocation notice, the Property Owner may request a suspension of revocation proceedings by providing written evidence of the initiation of eviction proceedings against the culpable tenants. If the tenants are evicted, the Property Owner may request termination of the revocation proceedings. If revocation has been suspended but the tenants are not evicted, revocation proceedings

will be reinstated by the Town.

Sec. 5-614. Appeals/Revocation Hearing before Town Council.

- (a) Any person aggrieved by a decision or a denial of a permit by the Town of Chapin may appeal the decision to Town Council by filing a written request stating the reasons for the grievance with the Zoning Administrator within ten (10) days after the payment of the assessment under protest or notice of denial is received.
- (b) An appeal or a hearing on revocation shall be held by Town Council within forty-five (45) days after receipt of a request for appeal or service of notice of revocation at a regular or special meeting of which the Property Owner and/or the Person in Charge has been given written notice. At such hearing all parties shall have the right to be represented by counsel, to present testimony and evidence and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council shall govern the hearing. Town Council shall by majority vote of members present render a written decision based on findings of fact and application of the standards herein which shall be served upon all parties or their representatives and shall be final.

Sec. 5-615. Change of Ownership.

Any person, firm, or corporation who has purchased or has a legally binding contract to purchase a property whose permit has been revoked pursuant to this Article under another owner, may apply for a new permit.

~~Sec. 5-616. Confidentiality.~~

~~Nothing in this Section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns. Any inquiries regarding offenses resulting from enrollment into the Pre-Trial Intervention Program will be administered by the Chief of Police.~~

Sec. 5-6167. Offenses.

Any person violating any provision of this Article shall be deemed guilty of a misdemeanor offense and shall be subject to the penalties outlined in Section 1-6. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties, and costs provided for this Article.

Sec. 5-6178. Permit Fee.

- a. The annual permit fee shall be \$0.
- b. Upon determination that a property owner has failed to obtain a permit, a late permit fee shall be assessed at \$100 for each year the unpermitted occupancy has occurred.
- c. All required fees shall be paid before a permit is issued.

Sec. 5-61~~8~~<sup>9</sup>. Severability.

The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts, or provisions of this Ordinance. It is hereby declared that the intent of the Council is that this Ordinance would have been adopted as if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.