

ORDINANCE NO.: 2015-099

*Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina,
Chapter 5, Buildings and Building Regulations, Article VIII, Absentee Landlord Regulation Program*

BE IT ORDAINED by the Mayor and Council this 19th day of April, 2016, that the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 5, Buildings and Building Regulations, Article VIII, Absentee Landlord Regulation Program is hereby repealed in its entirety and amended to read as follows:

ARTICLE VIII. RENTAL HOUSING REGULATIONS

Sec. 5-325. Definitions.

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

Citation means a charge or formal written accusation of violation of a municipal, state or federal law, regulation or ordinance, including any violations of the International Property Maintenance Code as adopted by the City of Columbia.

Dwelling unit means a building or portion thereof, designed for occupancy for residential purposes and having individual cooking facilities and sanitary facilities for each leased space.

Landlord means any person who owns or controls a dwelling, dwelling unit, or rental unit and rents such unit, either personally or through a designated agent, to any person.

Occupant means a family as defined by the City of Columbia 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 means 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 article, 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 means 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.

Owner-occupied rental unit means a rental unit that is occupied in whole or in part by an individual whose name specifically appears on the deed for the property where the rental unit is located.

Person means any natural individual, firm, partnership, association, joint stock company, joint venture, public or Private Corporation or receiver, executor, personal representative, trust, trustee, conservator or other representative appointed by order of any court.

Premises means a lot, plot or parcel of land, including the buildings or structures thereon, which also includes dwelling units and dwellings.

Professional Management Company means any company licensed by South Carolina Department of Labor, Licensing and Regulation as a real estate broker or property manager and holding the appropriate current City of Columbia Business License.

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

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a living facility. For purposes of this article, the term "rental unit" is limited to single-household dwellings, townhouses, and multi-unit structures used for residential purposes. Whenever the words rental unit are stated in this Code, they shall be construed as though they were followed by the words "or any part thereof". Exceptions shall be the following:

- (1) Dwellings occupied for residency for over 120 days by employees of that organization which are owned by a firm, corporation, religious organization or another incorporated organization;
- (2) 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 city attorney and the zoning and codes administrator; or
- (3) Dwellings owned and operated by the United States of America, the State of South Carolina, or any agency thereof, including the Housing Authority of the City of Columbia, or any institution of higher learning which operates housing for its faculty, staff or students.

Responsible Local Representative means a person having his or her place of residence or business office within 45 miles of the rental property and designated by the property owner as the agent responsible for operating such property in compliance with the ordinances adopted by the city. For the purposes of this article, the term "agent" shall refer to the Responsible Local Representative.

Tenant means any individual who has the temporary use and occupation of real property owned by another person in subordination to that other person's title and with that other person's consent; for example, a person who rents or leases a dwelling, dwelling unit, or rental unit from a landlord.

Townhouses means dwelling units constructed in a series or group of attached units with property lines separating such units.

Violation means breach of law, **except, for the purposes of this section, any laws related to Chapter 25 of Title 16 of the Code of Laws of South Carolina.**

Sec. 5-326. Rental permit required.

- (a) No owner, whether a person, firm or corporation, shall operate any residential rental unit as defined in section 5-325 unless that owner holds a current rental permit issued by the City of Columbia for the residential rental unit named therein.
- (b) Before a rental permit can be granted owner or landlord shall certify that the subject property complies with the minimum code. This minimum standard shall be determined by the City and available to all citizens upon request. If an owner or Responsible Local Representative is unsure if the property meets the minimum code, inspections by City staff are available upon request.
- (c) Properties that fail to pass an inspection as outlined in this article within 30 days shall correct all defects noted on the inspection report and schedule a subsequent inspection of property.
- (d) Permits are not transferable from any owner to another.
- (e) The permitting year shall be for twelve months following the issuance of the permit.
- (f) Renewals of permits after sixty (60) days of the expiration date will be assessed a late penalty fee of five percent of the unpaid fee per month.
- (g) If the permit fee is not paid after 120 days following the expiration of the permit and the property is occupied as a rental unit, then the City of Columbia shall issue a uniform ordinance summons to the property owner for appearance in municipal court and charged with a violation of this article as provided in Section 5-337.
- (h) The property owner will be susceptible to other code enforcement action depending upon the circumstance.
- (i) Each individual property requires a separate permit.
- (j) Professional management companies in good standing are exempt from the annual permit fee.

Sec. 5-327. Application.

Applications for a permit to operate residential rental units and for renewal thereof shall be on a form provided by the City of Columbia. Such form shall set forth the owner's name, address, and telephone number, the residential rental unit address, the name of the person, firm, or corporation located within a 45-mile radius of the City of Columbia responsible for the care and maintenance of the building and additional information as outlined on the application for rental housing. Multiple permits can be requested on one application when there are multiple units owned/managed by the same person or owner.

Sec. 5-328. Issuance or refusal of rental permit.

The City of Columbia shall issue a rental permit for rental housing to the applicant upon proof of the following:

- (1) The property has either passed the rental housing inspection or the owner has submitted a certification the subject property complies with the minimum code; and,
- (2) All fees have been paid as required by section 5-339 of the rental housing ordinance.

Sec. 5-329. Property owner, responsible local representative, and occupant.

(a) A permit will not be issued or renewed to a person, firm, or corporation who does not either reside in nor have an office within a 45-mile radius of the City of Columbia, unless a Responsible Local Representative is designated. The Responsible Local Representative may be a Professional Management Company. The zoning and codes administrator shall be notified in writing if there is a change of owner or Responsible Local Representative within 14 days of the change.

(b) Property owner, the person in charge, and occupants shall be liable for occupancy violations within rental residences of their control or in which they are located.

(c) For every residential rental unit, the owner or Responsible Local Representative shall be responsible for the repair and maintenance of the 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 Responsible Local Representative.

Sec. 5-330. Violations and assignment of violations.

(a) For purposes of this section, violations shall include citations for any federal, state, or local ordinance.

(b) Violations; warnings; points. Rental units where there are citations, warnings of violation and/or adjudication of guilt, finding of guilt with adjudication withheld, waiver of right to contest the violation, or pleas of no contest (including, but not limited to, payment of fine) of the following city ordinances:

- (1) Nuisance ordinances (Chapter 8);
- (2) Animal control ordinances (Chapter 4);
- (3) Solid waste ordinances (Chapter 19)
- (4) Zoning Ordinances (Chapter 17);
- (5) International Property Maintenance Code (section 5-151)
- (6) Law Enforcement (Chapter 10); or,
- (7) Licenses, Permits and Miscellaneous Business Regulations (Chapter 11).

(c) Violations shall apply as points towards revocation of the rental permit for residential rental units as follows:

- (1) Single-household dwellings and townhouses. Violations that occur anywhere on the premises shall apply to the permitted dwelling unit.
- (2) Multi-unit structures.
 - a. Violations that occur within an individual unit shall apply to that unit.
 - b. Violations occurring outside of the units shall be assigned to the unit responsible as determined by the investigating party for the offense.
 - c. Violations committed by the property owner and/or Responsible Local Representative shall be assigned to all units.

(d) In the event a citation or violation takes place at a unit regulated by this article, such citation shall be grounds for the accumulation of points as follows:

- (1) For one or more written warnings given in any 24-hour period for violation of one or more of the ordinances listed above, points will be assessed on the landlord permit for that unit in accordance with this section:
 - a. First Offense – One point will be assessed for the first occurrence of citation, violation or offense.
 - b. Second Offense – Two points will be assessed for a second occurrence of the same citation, violation or offense within the same permit year.
 - c. Third Offense or Each Offense Thereafter – Five points will be assessed for a third occurrence and each occurrence thereafter of the same citation, violation or offense within the same permit year.
 - d. Serious Offense – Ten points will be assessed for any serious violation or offense that could result in serious bodily injury or death to occupants as determined by the Chief of Police.
- (2) After points are assessed on a landlord permit for a unit, the Police Chief or designee will send a written warning to the owner or agent. Each warning will specify which ordinance or ordinances have been violated and will state that further warnings or violations could lead to a revocation of the permit. Each warning will be sent by regular mail to the address of the owner or agent, as identified on the permit application, as well as a copy of the warning mailed to the property address of the subject property.
- (3) A fee of \$100 will be assessed per point for each point accumulated beyond five points due upon any renewal of the permit.
- (4) If a person is found not guilty, or the case against them for a violation is dismissed, then the point shall be removed from the permit as if it had not been assessed.

Sec. 5-331. Revocation of permit.

(a) Accumulation of fifteen (15) or more points on a permit for a dwelling unit within 12 months shall constitute subject the owner to proceedings to revoke the permit.

(b) Upon the accumulation of fifteen (15) or more points or failure to comply with the requirements of this article, the following procedure shall be followed:

- (1) The police chief or designee shall cause to be served written notice to show cause why the permit should not be revoked. Service shall be deemed complete if personally delivered upon the owner or agent by any officer authorized by law to serve process or a duly appointed law enforcement officer of the city police department. The person serving process shall make proof of service within the time

- during which the person served must respond to the process. If service cannot be personally made within the city, then service may be made by notice posted on the property and mailed certified return receipt to the last known address of record.
- (2) The owner or agent shall have 15 days from the date of service to request a hearing to appeal the revocation of the permit. The request shall be sent to the police chief by certified mail, return receipt requested. If such request is not timely made, the revocation shall take effect on the 21st day after the date of service to show cause.
 - (3) Upon request for a hearing, the police chief or designee is authorized to schedule the appeal with the Property Maintenance Board of Appeals (PMBoA) at the next regularly scheduled meeting or special called meeting by the Board.
 - (4) Once the hearing is scheduled, the property should be posted to announce the hearing date to the general public.
 - (5) In conducting the hearing, the PMBoA shall have the power to administer oaths, issue subpoenas, compel the production of books, paper, and other documents, and receive evidence. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to the PMBoA's recommended order, and to be represented by counsel or other qualified representative. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The lack of actual knowledge of, acquiescence to, participation in, or responsibility for, a public nuisance at common law or a noxious use of private property on the part of the owner or agent shall not be a defense by such owner or agent.
 - (6) If the PMBoA finds that the accumulation of fifteen (15) or more points and the existence of a public nuisance at common law or noxious use of private property exist, then PMBoA shall prepare a recommended order.
 - (7) If the PMBoA finds no public nuisance at common law or noxious use of private property exists, or that the owner has recovered possession of the dwelling unit, the PMBoA will prepare a recommended order to dismiss the revocation action and recommend which points, if any, should be rescinded from the permit based upon the actions taken by the landlord to seek compliance with the city's ordinances.
 - (8) The PMBoA's recommended order shall consist of findings of fact, conclusions of law and recommended relief. The police chief or designee shall transmit the recommended order to the city manager and the owner or agent. The owner or agent shall have 15 days from the date of the hearing officer's order to submit written exceptions to the PMBoA's recommended order. The city manager shall review such order and any written exceptions by the owner and may set forth any deficiencies he/she finds with respect to the order. Said deficiencies shall be limited to determinations that the findings were not based upon competent, substantial evidence, or that the proceedings on which the findings were based did not comply with the essential requirements of law. In reviewing such recommended order, the city manager shall not have the power to receive or consider additional evidence and shall not have the power to reject or modify the findings of fact or conclusions of law contained in the recommended order. The city manager may remand the recommended order along with the delineated deficiencies back to the PMBoA for consideration of the deficiencies. The PMBoA shall address the deficiencies in an

addendum to the recommended order. The city manager shall then either: (a) adopt the recommended order and addendum, if applicable, in its entirety; or (b) adopt the findings of fact and conclusions of law in the recommended order and addendum, if applicable, and reject or modify the recommended relief. The action of the city manager shall be the final order of the city.

- (9) The city manager or designee shall provide notice of the final order within 5 days of the date of the final order.
- (10) If the permit is revoked under these procedures, the owner or agent shall have 5 days from the date of the final order to commence recovering possession of the rental unit. If the tenants do not voluntarily agree to vacate the premises, the owner or agent shall diligently pursue the process of eviction to completion. The owner or agent shall provide copies of all documents provided to the tenants or filed with the court concerning the eviction process to the city manager or designee. If the owner collects any rent from the tenants following the revocation of the permit, fails to comply with these provisions, or fails to abide with the final order of the city, the city may seek criminal relief by citing the owner for violation of section 5-326 (rental permit required), or seek other available legal or equitable relief.
- (11) In addition to the above-described procedures, the city attorney is authorized to file for injunctive relief to abate the public nuisance at common law or noxious use of private property pursuant to law.
- (12) The final order of the city is subject to certiorari review in a court of competent jurisdiction in Richland or Lexington County, South Carolina.

Sec. 5-332. Effect of revocation.

Upon the commencement of revocation, no permit shall be granted nor any lease approved and no person, firm or corporation shall operate or rent/lease to another for residential occupancy any dwelling unit or rooming unit during such time that the rental housing permit for such unit is revoked; however any residential tenants under a lease in existence at the time of the commencement of revocation shall have all of the rights afforded to them under applicable state law.

Sec. 5-333. Notification exemption.

Residential rental properties are exempt from the notification requirements, as given in the codes, when they have not obtained a valid permit for rental housing as required by this article. Properties operating without a valid rental permit shall receive one written warning and 20 working days to comply. If an owner is convicted of a violation of section 5-326 of the City of Columbia Code of Ordinances, the property shall not be eligible for a rental housing permit for a period of six months after the conviction.

Sec. 5-334. Defenses.

(a) 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 city. A remediation plan, as outlined in Section 5-341, which addresses any future problems with the tenants, will also have the same effect as initiating eviction proceedings.

(b) If the permit accumulates points which are solely caused by the behavior of a tenant, the Landlord or permit holder may apply for removal of those tenant-related points at the conclusion of eviction proceedings which result in the eviction of those tenants or upon proof that the tenants have vacated the property. If the City, by and through the Chief of Police, or his designee, agrees to remove the points after the Landlord or permit holder presents a valid order of eviction of those tenants, the points shall be removed as if never assessed. If the Chief of Police, or his designee, does not agree to remove those points from the permit as tenant related, then the Landlord or permit holder may apply for a review by the City Manager.

Sec. 5-335. Operating without a permit a public nuisance.

If a person operates as a landlord without a rental permit as set forth in this section, such shall constitute a public nuisance.

Sec. 5-336. Inspections and complaints.

(a) *Inspections.* By applying for a permit, the owner agrees to allow inspection of the unit for violations of this article, as well as violations of the International Property Maintenance Code at any reasonable time; however, this provision shall not be interpreted as authorizing the city to conduct an inspection of an occupied rental unit without obtaining either the consent of an occupant or a warrant.

(b) *Complaints.* Each complainant shall be requested to state his/her name and addresses and give a statement of the facts giving rise to the complainant's belief that the provisions of this article are being violated. Such information may be obtained orally or in writing. A complainant may be subpoenaed to appear in a revocation or denial proceeding to provide evidence or testimony.

Sec. 5-337. 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 1-5. 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. 5-338. Denial of permit.

(a) The police chief or designee may deny issuance of any permits applied for under this section if it is determined either that the owner or agent has made material misrepresentations about the condition of his/her property or status of ownership, or that the occupancy of the property is in violation of the International Property Maintenance Code or City Ordinances or that the owner has otherwise violated a provision of this article.

(b) If the police chief or designee determines there is reasonable cause to believe that there are grounds to deny a permit applied for the police chief or designee shall provide notice of the denial, including the grounds for the denial.

(c) Within 15 days of the date of the notice, the owner may request in writing to the police chief a hearing on the denial. The police chief or designee shall schedule the hearing to occur within 15 days after receiving the request for hearing and shall notify the owner at least 5 days in advance of the time and location for the hearing. The hearing may be postponed if mutually agreed upon by the police chief and the owner.

(d) The hearing shall be conducted informally and adherence to the rules of evidence normally followed by the courts shall not be required. Any person may present testimony, documents or other

evidence as deemed relevant by the city manager or designee. Any person may be represented by counsel.

(e) The police chief or designee shall consider all evidence presented, and if the preponderance of the evidence supports the allegation of violation the permit shall be denied. If the preponderance of the evidence does not support the allegation of violation, the permit shall be issued. The decision of the police chief or designee may be appealed by a writ of certiorari to a court of competent jurisdiction in Richland County or Lexington County, South Carolina.

(f) The police chief or designee may waive the denial requirement as to any permit if it is determined that the owner has attempted in good faith to comply with this article. In determining asserted good faith as required for a waiver, the police chief or designee may consider, but not be limited to, the owner response to current violations and remedy of past violations.

(g) If a permit is denied under this section, the owner whose permit was denied shall not be issued another permit on the same dwelling unit for a period of 6 months after the date of denial.

Sec. 5-339. Permit fee.

(a) The annual permit fee shall be \$25.00 for each permit, unless: (1) the applicant is a professional management company applying on behalf of an owner as a Responsible Local Party; or (2) the applicant is licensed by the City of Columbia through the Business License Office to conduct the business of being a Landlord.

(b) Upon determination that a rental property owner has failed to obtain a rental housing permit, a permit fee shall be assessed at \$400.00 for each year the unpermitted occupancy has occurred.

(c) An inspection fee of \$50.00 shall be included in the permit fee for properties that fail to pass inspection after the second inspection.

(d) All required fees shall be paid before a rental permit is issued, including any past due fees assessed for work abated by City.

Sec. 5-340. Severability.

The provisions of this article 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 article. It is hereby declared that the intent of the council is that this article would have been adopted as if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

Sec. 5-341. Remediation plan.

Whenever points are assessed to a permit, the responsible party may establish a remediation plan with the City that outlines actions to be taken to remedy the violation of City Ordinances. The plan must be approved by the Police Chief or his designee and include a timeline for implementation. Once the remediation plan is approved, the points against the permit will be suspended during the term of the remediation. When the remediation is completed successfully as agreed the points assessed prior to remediation will be removed. If the permit holder fails to adhere to the remediation plan, the plan will be withdrawn by the City and the points will be re-assessed.

Sec. 5-342. Existing rights unaffected.

Nothing contained in this section is intended to affect the rights and responsibilities of property owners or tenants under the law of the United States of America or the State of South Carolina as outlined by the South Carolina Landlord Tenant Act, the Americans with Disabilities Act, the

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Violence Against Women Act, the Fair Housing Act or any other provision of Federal or State law regulating housing.

Sec. 5-343. Effective date.

The provisions of this section shall become effective July 1st, 2016.

Requested by:

City Manager _____



Mayor

Approved by:



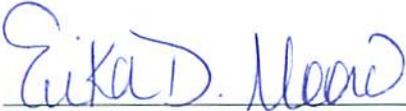
City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 4/5/2016

Final Reading: 4/19/2016