

ORDINANCE NO. 2020- 35

AN ORDINANCE TO AMEND CHAPTER 4 OF THE CODE OF ORDINANCES OF THE CITY OF FLORENCE ENTITLED “BUILDINGS, CONSTRUCTION AND RELATED ACTIVITIES, TO ESTABLISH ARTICLE XIV “SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL RENTAL HOUSING REGISTRATION”.

WHEREAS, the City of Florence commits to advancing efforts to ensure a safe and habitable environment of all residential rental properties throughout our community; and

WHEREAS, the City will establish registration, renewal registration, and registry update for all single-family and multi-family rental properties within the municipal limits; and

WHEREAS, this ordinance will provide the City of Florence contact information for the rental property to establish a clear line of communication; and

WHEREAS, this ordinance is in concurrence with the South Carolina Landlord and Tenant Act and encourages landlords and tenants to maintain housing that is habitable,

WHEREAS, the City of Florence will be provided, by policy, the ability to pursue enforceable action in the event a property violates this ordinance; and

WHEREAS, pursuant to S.C. Code of Laws 6-9-60, the City of Florence previously adopted codes the South Carolina Building Codes Council has recognized as optional, to include property maintenance; and

WHEREAS, the Comprehensive Plan and the Neighborhood Revitalization Strategy of the City of Florence specifically recommends a rental registry to continue the City’s effort to stabilize and improve the integrity of all our neighborhoods; and

WHEREAS, the City Council of the City of Florence hereby adopts requirements of owners and their local representatives to register residential rental properties within the municipal limits of the City of Florence.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLORENCE IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF:

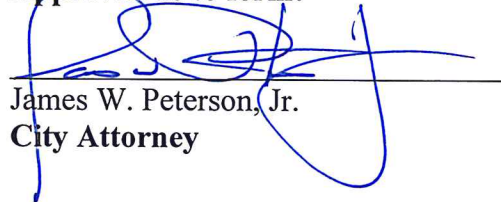
1. That an Ordinance is hereby adopted to amend Chapter 4 of the Code of Ordinances of the City of Florence entitled “Buildings, Construction, and Related Activities, to establish

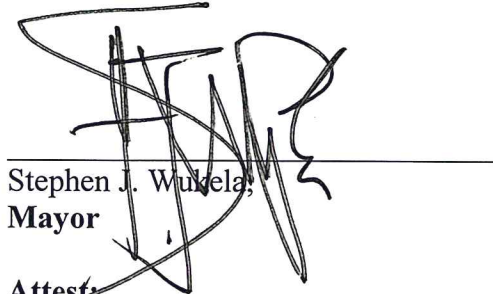
Article XIV "Single-family and Multi-family Residential Rental Housing Registration";

2. That this Ordinance shall become effective seven days upon its approval and adoption by the City Council of the City of Florence and posting of this amendment in the official Zoning Atlas.

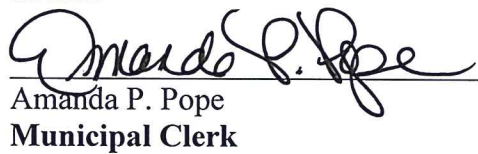
ADOPTED THIS 12th DAY OF October, 2020

Approved as to form:


James W. Peterson, Jr.
City Attorney


Stephen J. Wukela
Mayor

Attest:


Amanda P. Pope
Municipal Clerk

Article XIV. Single-Family and Multi-Family Residential Rental Housing Registration

Sec. 4-900. - 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 Florence.

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 Florence Unified Development 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.

Occupancy violation: means a violation of the permitted number of persons that may occupy a single-family or multi-family residential unit as defined by the City of Florence Unified Development Ordinance.

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, corporation, or legal entity 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 at the subject property by an individual or individuals whose name(s) appears on the deed for the property on which the rental unit is located provided said individual(s) has designated the subject property as his/her legal voting address and the address of his/her driver's license.

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, corporation, or legal entity identified as the responsible representative for any residential unit(s) 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 Florence Business License.

Professional Property Manager: means any person identified as the responsible representative for any residential rental unit(s), holding the appropriate permit and current City of Florence Business License, if required.

Residential rental unit: means that portion of a dwelling or building 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 article, the term "rental unit" may be a single-family detached dwelling unit(s), single-family attached dwelling unit(s), duplex, townhouse, 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, recorded contract to purchase the residence in which a significant portion of the rent applies to the purchase price;
3. Dwellings owned and operated by the United States of America, the State of South Carolina, or any agency thereof;
4. Owner-occupied rental dwellings, including, but not limited to duplexes, over and under duplexes, and accessory dwelling units, that are consistent with the City of Florence Unified Development Ordinance.

Responsible representative: means a person, professional property manager, or professional management company designated by the property owner as the agent available for service and 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 representative. The representative must be willing to assume the duties and responsibilities of an owner, specifically in an emergency or urgent situation even if the owner cannot be contacted by the responsible representative.

Short-term residential rental: means a furnished residential unit that is rented by the property owner for financial gain for a period of no more than twenty-nine (29) consecutive days and not to exceed seventy-two (72) days in the aggregate during any calendar year, as defined and regulated within the Unified Development Ordinance of the City of Florence.

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.

Townhome: means three or more attached dwelling units that are arranged in rows with common side walls.

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, and any code and/or ordinance related to the condition of and/or occupancy of premises, including but not limited to the City of Florence Codes and Ordinances, the Fair Housing Act, the International Property Maintenance Code (IPMC), and the South Carolina Residential Landlord and Tenant Act.

Sec.4-901. - Rental permit required.

1. All property owners, whether a person, firm, corporation, or other form of legal entity, that operates residential rental unit(s), as defined in Section 4-900, shall be required to obtain a rental permit with the City of Florence.
2. A rental permit for an individual residential rental unit will not be issued until the owner and/or responsible representative certifies, after personal inspection and to the best of the person's

knowledge, that the unit complies with the applicable codes, or until the unit passes the voluntary inspection requested of the City of Florence.

3. Permits issued under this ordinance are non-transferable. In the event of the sale or other transfer of the residential rental unit covered by the permit, the successor must obtain the permit required by this ordinance before commencing business or operations.
4. A rental permit is required for each residential rental unit that a property owner rents or responsible representative manages on behalf of a property owner. The City shall, per written policy, allow certain residential rental units with the same address or tax map designation be grouped under an individual or single permit.
5. Renewals of rental permits after sixty (60) days of the expiration date will be assessed a late penalty fee of ten dollars (\$10.00) per month, for the initial and all subsequent months.
6. 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, the City of Florence shall then issue a uniform ordinance summons to the property owner and/or the responsible representative for appearance in municipal court charging the owner with a violation of this article as provided in Sec. 4-914, and the property owner and representative are subject to revocation of business license as outlined within Chapter 13 of the City of Florence Code of Ordinances.

Sec.4-902. – Business License required.

1. No owner or responsible representative, whether a person, firm, or corporation, shall operate a residential rental unit within the municipal limits of the City of Florence without obtaining a business license as required by the City of Florence Code of Ordinances.
2. Before a business license can be issued, the owner must first obtain a Rental Permit as outlined within Sec. 4-901 in this ordinance.
3. The business license requirement shall not apply, if:
 - a. The owner or responsible representative has less than five (5) residential rental units that are owned or managed by an individual and not by a business, corporation, or limited liability partnership or other like legal entity.
 - b. This exemption does not apply to short-term rental properties as defined in this ordinance and outlined within the Unified Development Ordinance.

Sec. 4-903. - Application.

Applications for a permit to operate a residential rental unit(s), and for renewal thereof, shall be on a form provided by the City of Florence. Such form shall set forth the owner's name, address, e-mail, and telephone number, the residential rental unit(s), and additional information as outlined on the application for rental housing. If the owner uses a responsible representative, the same contact information shall be provided for the responsible representative.

Sec. 4-904. - Issuance or refusal of rental permit.

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

1. The property has passed the rental housing inspection conducted by the City of Florence at the owners or responsible representatives request, or the owner or responsible representative has

submitted written certification that the subject property complies with all applicable codes and ordinances of the City of Florence on the Certification form provided by the City;

2. All fees have been paid as required by Sec. 4-916 of this ordinance.
3. Per Sec. 4-902 of this ordinance, the issuance of a rental permit does not negate the requirement of a business license. Please see Sec. 4-902 for further clarification.

Sec. 4-905. - Property owner, responsible local representative, and occupant.

1. It is the sole responsibility of the property owner to maintain current contact information. If the property owner fails to notify the City of a change in personal contact information or a change of responsible representative, it shall be considered failing to meet the rental housing ordinance and is subject to revocation of the rental permit and business license.
2. The property owner, responsible representative, and/or occupants shall be responsible for occupancy violations within rental residences under their control or in which they are located.
3. For every residential rental unit, the owner and/or responsible representative shall be responsible for responding to emergency needs. The property owner and/or the responsible representative shall make reasonable efforts to hire a licensed contractor or provide the services to correct the emergency.
4. Any and all occupancy violations, maintenance, repair, replacement, damages and/or expenses which occur to the structure and property shall be the responsibility of the property owner and/or responsible representative of the residential rental unit(s).
5. The owner or responsible representative shall provide each tenant the names, addresses, e-mails, and telephone numbers of such owner and/or responsible representative.

Sec. 4-906. – Violations.

1. It shall be unlawful for a person, firm or corporation to be in conflict with, or in violation of, any of the provisions of this ordinance. Violation(s) shall include any citation, offense, 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) for any violation of any code and/or ordinance related to the condition of and/or occupancy of premises, including but not limited to the City of Florence Codes and Ordinances, the Fair Housing Act, the International Property Maintenance Code (IPMC), and the South Carolina Residential Landlord and Tenant Act.
2. In the event of a violation, the Building Official, or its designee, shall serve a notice of violation in accordance with Section 4-907 of this ordinance.
3. Any person failing to comply with a notice of violation or order served in accordance with this ordinance shall be deemed guilty of a misdemeanor or civil infraction as determined by the City of Florence, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Building Official, or its designee, may institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the City of Florence shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
4. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, may be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

5. The imposition of the penalties herein prescribed shall not preclude the City of Florence from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure, or premises.
6. Residential rental units where repeated criminal activity by a tenant, household member, guest, or other person under Tenant's control, including criminal activity that threatens the health, safety or right to peaceful enjoyment of the residential unit including any drug-related criminal activity will be considered a violation. In order for this to constitute a violation, the City of Florence shall notify the owner or responsible representative of the repeated criminal activity and provide incident reports, criminal records and other appropriate information. The owner and/or responsible representative shall be given service of such information as outlined in Section 4-907 of this ordinance. The owner or responsible representative shall notify the City of Florence Building Official, or its designee, if they disagree that the violation rises to the level required to evict the tenant or if there are alternative remedies such as only evicting the individual(s) engaged in such criminal activity and not the entire household. In the event the City of Florence and owner or responsible representative cannot reach an agreement as to how to proceed, a violation shall be assigned to the rental permit for that unit. Should the owner and/or responsible representative disagree with the assignment of a violation, the appeal procedure contained in Section 4-909 of this ordinance shall be followed.

Sec. 4-907. – Notice and Method of Service.

1. Any notice called for in this ordinance shall be in accordance with Section 107.2 of the IPMC, which provides as follows:
 - a. Be in writing.
 - b. Include a description of the real estate sufficient for identification.
 - c. Include a statement of the violation or violations and why the notice is being issued.
 - d. Include a correction order allowing a reasonable time to make repairs and improvements required to bring the unit into compliance.
 - e. Inform the property owner or responsible representative of the right to appeal.
2. Method of service of any notice shall be in accordance with Section 107.3 of the IPMC, which provides as follows:
 - a. Delivered personally; or
 - b. Sent by certified or first-class mail addressed to the last known address; or
 - c. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

Sec. 4-908. – Revocation of Rental Permit.

1. In the event an owner and/or responsible representative fails to correct a violation after notice, the Building Official, or its designee, may refer the matter to the City Manager with a recommendation that the rental permit be revoked. If the City Manager approves the revocation, a Notice of Revocation will be served to the owner and/or responsible representative, pursuant to Section 4-907.

Sec. 4-909. - Appeal.

1. Any person directly affected by a decision or notice of the City of Florence issued under this ordinance shall have the right to appeal to the Construction Maintenance Board of Adjustment and Appeals, provided that a written application for appeal is filed within 20 days after the day the

decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

2. The membership, term of members, quorum, appeal procedure, and decisions of the Construction Maintenance Board of Adjustment and Appeals shall be in accordance with Chapter 4, Article 2 of the City of Florence Code of Ordinances.
3. The City Manager, or its designee shall provide notice of the final decision within five (5) days of the date of the decision.
4. The final decision of the City is subject to certiorari review in a court of competent jurisdiction in Florence County, South Carolina.

Sec. 4-910. - Effect of revocation.

1. Upon the commencement of revocation of the rental permit for a residential rental unit, no permit shall be granted to another responsible representative or owner for the operation of that residential rental unit(s) until all citations and/or notice of violations are remedied. Any residential tenants under a lease in existence at the time of the commencement of revocation shall have all rights afforded to them under applicable local, state, and federal law.
2. If the permit is revoked under these procedures, the owner or responsible representative shall have fourteen (14) days from the date of the final decision to commence recovering possession of the rental unit. If the tenant(s) 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 its designee. If the owner collects any rent from the tenants following permit revocation, fails to comply with these provisions, or fails to abide with the final decision of the City, the City may seek criminal relief by citing the owner for violation of Section 4-901 and Section 4-902, or seek other available legal or equitable relief.
 - a. 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.
 - b. Subject to conditions, the City of Florence may take further action which may result in the discontinuance of use of the water meter, revocation of the business license and ability to operate the residential rental unit(s), and any other action the City of Florence deems appropriate.

Sec. 4-911. - 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 and business license shall receive one written warning and twenty (20) working days to comply. If an owner is convicted of a violation of Sec. 4-902 of the City of Florence Code of Ordinances, the property shall not be eligible for a rental housing permit for a period of three (3) months after the conviction. The property owner and/or agent that operates without a business license is subject to violations and penalties outlined within Chapter 13 of the City of Florence Code of Ordinances. However, a subsequent purchaser who properly obtains a permit and otherwise complies with this ordinance may obtain a permit.

Sec. 4-912. - Operating without a permit a public nuisance.

If a person operates as a landlord without a rental permit or business license (when applicable) as set forth in this section, such shall constitute a public nuisance and be in violation of this ordinance.

Sec. 4-913. - Complaints and inspections.

1. 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.
2. 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.

Sec. 4-914. – Criminal Penalties.

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 the City of Florence Code of Ordinances. Each day of violation may be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties, and costs provided for in this article.

Sec. 4-915. - Denial of permit and appeal.

1. The Building Official, or its designee, may deny issuance of any permit applied for under this section if it is determined that either 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 any city ordinances, or that the owner has otherwise violated a provision of this ordinance.
2. If the Building Official, or its designee, determines there is reasonable cause to believe that there are grounds to deny a permit, the administrator or designee shall provide notice of the denial, including the grounds for the denial based upon findings of fact.
3. The owner or responsible representative may appeal this denial pursuant to Section 4-909 of this ordinance.
4. The Planning Director, or its designee, may deny issuance of any permit applied for under this section if it is determined that the property is not in compliance with City of Florence zoning regulations. Such permit denials however shall not be subject to the appeals procedure outlined in this section. Upon an owner's request to appeal the administrator's decision to deny a permit due to non-compliance, the appeal shall be made to the Board of Zoning Appeals in accordance with the procedure set forth in sections 6-20.2.3 and 6-22.1.1 of the Unified Development Ordinance.
5. The final decision of the City is subject to certiorari review in a court of competent jurisdiction in Florence County, South Carolina.
6. If a permit is denied under this section, the owner shall not be issued a permit for the subject residential rental unit(s) or property(s) until remediation of the identified violation(s) is provided to the City of Florence.

Sec. 4-916. – Rental permit fee and annual permit fee.

1. The rental permit fee shall be \$25.00 per application, upon approval.

2. The annual permit fee for the owner and/or responsible representative is \$25.00 regardless of the point in the year that a permit is obtained. The permitting year runs from July 1 to June 30 of the following year. All rental permits expire on June 30 each year. No registration fees are to be prorated or refunded.
3. Upon determination that a rental property owner has failed to obtain a rental housing permit, an administrative fine shall be assessed at \$400.00 each year the unpermitted occupancy has occurred for each residential rental unit.
4. An inspection fee of \$25.00 shall be included in the permit fee for properties that fail to pass inspection after the second inspection.
5. All required fines shall be paid before a permit is issued, including any past due fines assessed for work abated by the City.
6. After the first year of permitting the annual permit fee is not required, if:
 - a. the applicant is a professional management company or professional property manager applying on behalf of an owner as a responsible party; or
 - b. the applicant is licensed by the City of Florence through the business license office to conduct the business of being a landlord; and
 - c. the applicant is in good standing per this ordinance.

Sec. 4-917. – Release of liability of responsible representative.

In the event the responsible representative has exercised due diligence in performance if its responsibilities under this ordinance but the property owner is not cooperating, the responsible representative may resign as the responsible representative of said owner and provide notice to the owner and City of Florence. The notice of resignation must confirm the current contact information of the owner. The responsible representative should consequently not have any violations assigned to the properties he or she represents. The responsible representative shall be precluded from representing said owner for a period of six (6) months. The City of Florence shall recognize this action and find the responsible representative was diligent and took reasonable steps to perform its duties under this ordinance.

Sec. 4-918. - 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. 4-919. - Existing rights unaffected.

Nothing contained in this article is intended to affect the rights and responsibilities of property owners or tenants under the laws 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 Violence Against Women Act, the Fair Housing Act or any other provision of federal or state law regulating housing.

Sec. 4-920. - Effective date.

The provisions of this section shall become effective July 1st, 2021.

Sec. 4-921 – 4-949. Reserved