AN ORDINANCE FOR THE CITY OF CLEMSON, SOUTH CAROLINA

Chapter 13: Offenses and Miscellaneous Provisions
***Add* Article IV, Sections: 76 - 82**
SHORT TERM RESIDENTIAL RENTALS

Now, therefore, be it ordained that the City Code of the City of Clemson, South Carolina shall be amended:

Done and ordained this the 20th day of June 2016.

First Reading: 06/13/16

Final Reading: 06/20/16

Ord. No CC-2016-13

J.C. Cook III, Mayor

Attest:

Beverly A. Coleman, Municipal Clerk

ARTICLE IV - SHORT TERM RESIDENTIAL RENTALS

SEC. 13-76 - Introduction

The City of Clemson is a special and unique community. Clemson residents have enjoyed a long and treasured tradition of living in close-knit neighborhood settings within immediate proximity to one of our country's major universities. Being largely bounded by Clemson University lands, Lake Hartwell, and two contiguous municipalities, the City has few avenues for growth beyond its existing corporate limits. Accordingly, as both the University and the City have grown in population and in popularity, commercial and population density pressure on the City's residential neighborhoods has sharply increased.

Since 2008, there has been a nationwide expansion of a business model consisting of homeowners renting out rooms or entire residences on a short term basis, often via centralized online booking. This business use of residences was already taking place within the City of Clemson, but was not legal until August 17, 2015, when the City adopted Ordinance #CC-2015-30. That ordinance amended the Clemson Zoning Ordinance to add short term rentals in residential districts as a conditional accessory use. As noted in the Council minutes, the City indicated at that time the ordinance was adopted that additional regulation of short term rentals would be developed at a later date.

After providing many opportunities for public input, and following careful study and consideration, Council finds it necessary, appropriate, and in the best interests of its citizens, property owners, and visitors to further and more comprehensively regulate short term rentals within the City.

Unlike other municipalities where both the municipality and the residents may be largely, or even entirely, dependent upon year-round tourism, Clemson experiences an influx of tens of thousands of visitors in connection with an average of seven Clemson University home football games and one spring game each year, and, on a somewhat smaller scale, for University graduation ceremonies. Thus, tailoring the short term residential rental ordinance to meet the specific and unique needs of the community appears both necessary and proper.

The regulation of short term rentals as set forth herein is not intended to restrict homeowners from continuing to utilize their residences in any other manner permitted by the Zoning Ordinance for the type of zone in which a particular home is located. For example, a homeowner may still choose to live in a home, use a home as a weekend or vacation home, participate in Clemson's rental housing program by renting out a home as a long-term rental residence, or operate a bed-and-breakfast, as may be allowed in a particular residential zone. Similarly, this ordinance does not restrict businesses from operating legal year-round transient accommodations in the form of hotels or motels located in appropriate commercial zones.

Sec. 13-77 - Purposes

The City of Clemson is committed to working to protect the traditional quality of life and character of Clemson's residential neighborhoods. Concerns about permitting short term residential rentals include, but are not limited to, concerns about increased traffic, noise, trash, and parking needs; safety issues created by increased traffic and population density; residences potentially standing empty for long periods for time; negative impacts on the volume of available and affordable family residential housing stock; and, other undesirable changes to the traditional nature of the City's neighborhoods. This ordinance provides a registration and inspection process governing all short term residential rentals, for the purposes of balancing the protection of existing residential neighborhoods and residents with allowing a limited business use of residences for short term residential rentals, and for implementing life safety standards applicable to participating short term rental residences.

Sec. 13-78 - Definitions

Dwelling. A dwelling is any structure or series of multiple related structures that legally may be used for habitation by humans. For purposes of this ordinance, the term "dwelling" includes single-household structures, two-household structures (duplexes), and townhouses.

Improved surfaces. Off-street parking spaces and vehicular use areas are subject to City Code requirements for the zone classification in which a dwelling is located. Generally, improved surfaces include areas surfaced with asphalt, concrete, bituminous or other alternative paving material, including grass pavers, porous concrete, and other similar materials, subject to approval by the City. Gravel and other materials similar to gravel are generally not allowed except in areas used for occasional parking, again only as permitted by applicable zoning requirements. (See, Clemson City Code Sections 19-801 through 19-900).

Owner-occupied. A dwelling is owner-occupied if a dwelling owner uses the dwelling, or part thereof, as his or her primary residence.

Rental day. A rental day is any day on which a dwelling or any part thereof is rented for any portion of the 24-hour period beginning at 12 a.m. and ending at 11:59 p.m. Unrented hours in a 24-hour period cannot be added to any other day to extend the number of days on which a dwelling may be rented as a short term rental during a calendar year.

Short term residential rental. A short term residential rental is the legally permitted accessory use of a dwelling or portion thereof for a fee or other compensation for a period or periods of up to a total of no more than 25 rental days per calendar year. Short term residential rentals do not include hotels, motels, bed-and-breakfast establishments, or inns that are subject to and compliant with the City's business license and other applicable code requirements, nor does the term include longer term rentals subject to the City's Rental Housing Regulations (CC Sections 13-55 through 13-75).

If any part of dwelling is rented on a rental day, that day counts towards the 25-day cap for the entire dwelling. In other words, the 25-day rental cap is calculated per dwelling, rather than per bedroom or per rental unit within a dwelling.

For structures with multiple separate dwelling units owned by more than a single owner, such as a condominium or townhouse building or complex, or for an apartment building with multiple leases of separate units to different tenants, the 25-day limit shall apply per separate unit.

Short Term Tenant. A short term tenant is any person, other than a legal owner, who pays a fee or other compensation in order to occupy a dwelling for 25 or fewer rental days, as defined by this ordinance.

Sec. 13-79 - Requirements

a. Registration. Property owners must register dwellings with the City Planning and Codes Office prior to renting out a dwelling or any part of a dwelling for a short term residential rental. All of the legal owners of a dwelling must complete and sign a form provided by the City for that purpose and pay the annual fee.

The owners must provide information concerning the dwelling location, ownership, contact information, and the number of short term rental units in the dwelling, and must agree to comply with the requirements of this ordinance. The City may request additional registration information, as it deems necessary.

When registering, the owner(s) must provide the City with the number of days each dwelling or any part of the dwelling was rented as a short-term residential rental during the preceding calendar year.

Registrations are non-transferrable. If ownership of a registered dwelling changes, the new owner(s) must complete a new registration form before renting out any part of the dwelling for a short term rental and must pay the annual fee. A change in ownership does not increase the number of rental days on which a dwelling or part of a dwelling may be rented for short term rentals in a calendar year. The total number of rental days for short term rentals for any registered or subsequently re-registered dwelling is no more than 25 rental days.

A dwelling that is permitted under the City of Clemson Rental Housing Regulations (CC Sec. 13-55, et seq.) as a Residential Rental Unit, may also be registered by all legal property owners as a short term residential rental dwelling under this ordinance, but must also comply with all provisions applicable to short term residential rental dwellings.

If a residence is not owner-occupied, the owner(s) must provide the name of a person, firm, or corporation located within a seventy-five (75) mile radius of the City of Clemson responsible for the care and maintenance of the residence and who can be contacted in case of emergency or in case issues arise.

b. Annual registration and fee. The annual registration fee is $100 per dwelling regardless of the point in a calendar year that a registration is obtained. The registration year runs from April 15 to April 14 of the following year. All short term rental registrations expire on April 14 each year. No registration fees are to be prorated or refunded.

c. Signage and Proof of Registration. No dwelling used as a short term rental may display a sign advertising that rental unless otherwise permitted by applicable zoning requirements. However, during all rental days, each short term rental dwelling must display in a location visible from the street a City-provided sign with a current registration decal attached.

d. Maximum short term residential rental days in a calendar year. Registered dwelling owners may allow short term residential rentals for no more than 25 rental days per calendar year per registered dwelling.

e. Occupancy. Maximum occupancy for a short term residential rental dwelling is set as follows:

1. If the dwelling is owner-occupied, the maximum short term residential rental occupancy is 2 persons per bedroom, plus 2 additional persons per dwelling, but in no cases shall rental occupancy exceed 10 persons total; or,

2. If the dwelling is not owner-occupied, it is subject to the occupancy levels established by the type of zoning applicable to the dwelling, with 2 persons per bedroom, plus 2 additional persons per dwelling, but in no cases shall rental occupancy exceed 10 persons total. This means, however, that non-owner-occupied short term residential rentals may not rent to more than two unrelated occupants, as defined in CC Sec. 13-55, at a time.

f. Property Owner(s), Persons in Charge, and Tenants.

Registration of a short term rental residence will not be allowed if the residence is not owner-occupied, or if the owners of a non-owner-occupied residence have not identified a Person in Charge. A Person in Charge, who may or may not be an owner, must reside in or have an office within a seventy-five (75) mile radius of the City and be able to act as the agent for the owner(s). The City must be notified in writing within fourteen (14) days of the change if there is a change of ownership or in the identity of the Person in Charge.

Owners and Persons in Charge must maintain all short term rental residences under their ownership and/or control in compliance with all applicable City ordinances and regulations.

Owners, Persons in Charge, and tenants shall be liable for violations of laws and/or ordinances, including, but not limited to, occupancy violations, at rental residences under their ownership, control, or occupancy.

g. Parking. All parking for tenants must be contained on-site and only on improved surfaces. During rentals, no parking for owners, occupants, tenants, or guests may be located on unimproved surfaces even if the property is also registered to participate in the City's Gameday Parking program. Unimproved surfaces include, but are not limited to, grassed, wooded, dirt, and mulched surfaces, as well as any other parking surfaces not in compliance with applicable City code requirements.

h. Safety and damages. Property owners are responsible for their own safety and insurance needs, as well as the safety and sanitation needs of their tenants. By providing a registration process allowing property owners to conduct short term rentals of dwellings and/or by providing a compliance inspection service, the City is not assuming responsibility for safety or liability related to rental activities.

i. Life Safety and Sanitation Requirements. For purposes of this ordinance, the following standards apply to short term residential rentals and must be met prior to being issued a registration.

1. **9-1-1 Numbers** – Minimum 3 inches tall and readily visible and legible from the street.

2. **Trash Cans and Storage of Solid Waste** – One roll cart and recycling bin with a designated storage location for the roll cart behind the front building line.

3. **Environmental** – Property exteriors shall comply with the International Property Maintenance Code.

4. **Doors and Windows** – Individual dwelling units must have access directly to the outside or to a common corridor. Sleeping rooms must have at least one operational window.

5. **Stairs, Rails, Porches, Decks** – A graspable handrail is required for four or more stairs whether indoors or out. Guardrails are required on decks over 30" above grade, must be a minimum of 36" in height and not have any openings between pickets or rails that exceeds 4". Porches and decks shall not have apparent structural damage or broken or missing rails or steps. No exposed risers are allowed on stairs over 30" in height whether indoors or out.

6. **Swimming Pools/Spas** – Swimming pools and spas shall be enclosed and include a self-closing and self-latching gate of 48" minimum height.

7. **Electrical Service and Electrical Hazards** – Electrical service shall be provided through the public service provider. All bathrooms, exterior outlets, non-dedicated kitchen outlets within 6 feet of kitchen sink shall be ground fault protected. Missing or cracked plates on switches or outlets shall be repaired.

8. **Ceilings** – Habitable spaces and hallways must have a clear ceiling height of not less than seven feet. Ceilings shall not have any apparent visual defects, evidence of mold or mildew, or holes with exposed wiring or insulation.

9. **Walls** – Walls shall not have any apparent visual defects evidence of mold or mildew, or holes with exposed wiring or insulation.

10. **Floors** – Floors shall not have any apparent visual defects, evidence of mold or mildew, or soft spots.

11. **Sink** – In kitchen with hot and cold running water. Hot water to be at least 85 degrees and not to exceed 120 degrees.

12. **Stove or Range** – Stoves and ranges shall be free of apparent hazards. Combustible material must be at least 30" above the heat source. Anti-tip device must be installed for free-standing units.

13. **Toilet** – Flushing and leak free in a room affording privacy.

14. **Wash Basin** – Operational and leak free equipped with hot and cold running water. . Hot water to be at least 85 degrees and not to exceed 120 degrees.

15. **Tub or Shower** – Must be operational and equipped with hot and cold running water in a room affording privacy. Hot water to be at least 85 degrees and not to exceed 120 degrees.

16. **Ventilation in Bathroom** – Bathrooms must have a window or mechanical ventilation and not have an evidence of mold or mildew.

17. **Smoke Detectors** – Every bedroom and adjoining hallway as well as the common area shall be equipped with an operational, approved listed smoke detector. In units containing more than one (1) story, detectors are required on each story.

18. **Fire Extinguisher** - Minimum 5 lb.-ABC fire extinguisher that is fully charged and not past expiration date.

19. **Evacuation Plan** - Each room used for sleeping shall have an evacuation plan posted on the door.

20. **Heating Equipment** – Operational-heating facilities capable of maintaining a room temperature of 70 degrees.

21. **Evidence of Infestation** – Premises shall appear free of rats, mice, roaches or other vermin.

22. **Interior Stairs and Common Halls** – Stairs and halls shall not have apparent damage or missing rails or steps. No exposed risers are allowed on stairs over 30" in height whether indoors or out.

j. **Compliance inspections.** Annual compliance inspections of short term residential rentals shall begin January 1, 2017, and will be required for 2017 and each year thereafter. Short term rental inspections will be conducted from January 1 to April 14 each year. Property owners must arrange with the City for onsite inspections of short term rental properties prior to the use of a dwelling for short term rental purposes. Properties that do not pass inspection may not be used for short term rentals until successfully completing inspection. Properties that do not pass inspection must correct all defects noted on the inspection report and schedule a re-inspection of the property.

k. **Accommodations, sales, and income taxes.** There are federal, state and/or county laws and rules for collection of sales, accommodations, and income taxes. Owners, operators, lessors, occupiers, and/or tenants of dwellings used for short term rentals are solely responsible for payment of all applicable taxes. The City does not collect or accept such taxes.

Sec. 13-80 - Violations

Depending on severity, violations of this ordinance may result in immediate revocation of the registration of a dwelling or dwellings. Absent the need for immediate revocation, a formal written warning shall be issued for a first violation in a 12-month period. However, if there is an additional violation at the same dwelling within the 12-month period immediately following a warning, registration for that dwelling shall be revoked for 12 months to begin with the start of the next calendar year. Warnings, citations, and revocations may be issued to dwelling owners, operators, lessors, agents, occupants, tenants, and/or guests, depending on the nature of the violation. Dwelling owners are ultimately responsible for the conduct of their dwelling operators, lessors, agents, occupants, tenants, and guests, regardless of whether the owners are present at the dwelling.

Violations include, but are not limited to,

a. Lying and/or providing false information about a dwelling or short term rental to the City;

b. Failure to have a valid registration for any dwelling at a time when it is used in whole or in part as a short term rental;

c. Failure to display a City short term rental sign with a current registration decal during any short term rental day;

d. Falsifying or altering a registration sign or decal (for example, using a sign and/or decal issued for one dwelling at another dwelling location or altering the date on the decal);

e. Violation of any part of this ordinance; and,

f. Violation of any applicable ordinance or laws by owners, operators, lessors, agents, occupants, tenants, or guests of short term rentals (examples include, but are not limited to, violations of ordinances and laws concerning excessive noise, disorderly conduct, littering, underage drinking, drug offenses, public drunkenness, traffic and parking, and all other criminal and nuisance offenses).

Sec. 13-81 - Revocation of Registration

If it is determined that a dwelling's registration for short term rentals should be revoked, a revocation hearing notification will be sent to the property owner(s) at the contact address provided in the registration application. Notice shall include the time and place for the hearing, which shall take place before City Council for the purpose of determining whether to revoke registration.

After the hearing, the City shall notify the property owner(s) of the Council's decision by written notice sent by certified mail or delivered in person. The notice shall set forth the effective dates of any revocation, the reason for any revocation, the penalties that may be imposed for violation of any revocation, and any applicable appeal rights, deadlines, and filing procedures.

Sec. 13-82. Severability, Savings, and Effective Date

1. Severability.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part, of this ordinance shall not affect the validity of the remaining parts of the ordinance.

2. Savings.

Any enforcement action which is pending on the effective date of this ordinance and which arose from a violation of an ordinance repealed by this ordinance, or a prosecution which is started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

3. Effective date.

This ordinance is effective on 1/1/17.