YORK COUNTY GOVERNMENT

Planning & Development Services

Customer Service
(803) 909-7200

Building & Codes Division
(803) 909-7200

Planning Division
(803) 909-7220

Zoning Division
(803) 909-7230

Administration
(803) 909-7240

MEMORANDUM

TO: York County Council
York County Planning Commission

FROM: Eddie Moore, Development Services Manager EM

RE: ***PROPOSED CHANGES TO TEMPORARY EMERGENCY DWELLING PERMIT REQUESTS***

DATE: May 9, 2016

Planning & Development Services has been working to improve the County's ordinances and appreciate your assistance as we work through these important items. We will be continuing to identify items to address in the County's ordinances and listening to feedback from elected and appointed officials, members of the development community, residents, and other stakeholders to continue to improve the County's ordinances to better address the needs of the public.

Staff is presenting the proposed revisions as previously discussed with Council. The Planning & Development Services Department is experiencing an issue with property owners who do not vacate temporary emergency dwellings at the end of one year (original six-month approval and one six-month extension). While the ordinance is very clear on the actions that must occur when this happens, the ability of staff to implement these actions is severely limited. Staff can issue a citation, but the maximum penalty is a $470 fine. Staff can request Council approve a civil action in order to obtain a judicial order for the removal of the temporary emergency dwelling. Both processes may take a period of time, and the County and staff are basically requesting the court evict someone from his/her home. The proposed revisions will help limit this occurrence by reducing the reasons for granting a Temporary Emergency Dwelling Permit and reducing the time of the permit. By reducing the time, the property owner will not become so established in the temporary emergency dwelling.

The following is a tentative adoption schedule:

- May 9, 2016: Planning Commission Recommendation
- May 16, 2016: Council First Reading
- June 6, 2016: Council Second Reading with Public Hearing
- June 20, 2016: Council Third Reading

During the April 14, 2016, Quarterly Development Community Workshop, staff presented the proposed changes, and there were no major concerns and responses raised during the workshop.

The following is a summary of draft recommendations created by Planning & Development Services. The attached proposed changes have been reviewed by the Office of County Attorney. *Staff recommends approval of the proposed draft ordinance changes.*

CHAPTER 156: TEMPORARY DWELLING PERMITS

1. *Authorization of a Temporary Emergency Dwelling Permit:*
   a. Currently, a Temporary Emergency Dwelling Permit may be issued under one of the following circumstances:

i. The occupant of the temporary dwelling will receive continuous care or assistance from someone who resides in the permanent dwelling unit located on the parcel for which a permit is requested or the occupant of a temporary dwelling will provide such care to someone residing in the permanent dwelling;
ii. The owner(s) of the parcel are in the process of building or placing a permanent dwelling intended for the owner's occupation on that parcel; or
iii. The occupant of the temporary dwelling is an immediate family member (grandparent, parent, child, grandchild or sibling) of the owner(s) and occupant(s) of the permanent dwelling.

b. Staff recommends revising the above circumstances to only allow a temporary dwelling for the following reason:
   i. The owner of the parcel is in the process of repairing or rebuilding a permanent dwelling on that parcel because a temporary emergency hardship rendered the permanent dwelling uninhabitable.

2. *Staff justification for revising the circumstances for the authorization of a Temporary Emergency Dwelling Permit:*
   a. Staff, generally, must address one of the following scenarios once property owners have been issued a Temporary Emergency Dwelling Permit:
      i. Staff contacting and advising the property owner to petition Council for a six-month renewal of the permit, compared to the property owner being proactive in contacting staff. The terms of approval are provided to the property owner in a letter from staff after Council approval;
      ii. Staff contacting and advising the property owner the permit is about to expire and the need to vacate or remove the temporary dwelling from the property, compared to the property owner being proactive in contacting staff; or
      iii. Staff issuing a criminal citation against a property owner for failure to remove the temporary dwelling at the end of one year. Additionally, the Planning & Development Services Department cannot unilaterally remove a temporary dwelling. In order to truly stop the use, the Department would have to obtain Council approval to initiate a civil action, which could lead to protracted litigation. There is no guarantee either action will result in the removal of the dwelling. A judge will make the determination, and a judge has the discretion to deny the County's claim. Since the staff will basically be asking the judge to remove someone from their home, a judge will most likely allow the permittee greater latitude in remaining in the dwelling, which will continue the problem. This is a problem for the Planning & Development Services Department because campers and recreational vehicles are not designed for permanent residents, so they do not meet any building codes. This Department is responsible for ensuring residences meet basic safety requirements, and by having to allow continue occupancy of temporary dwellings, this Department's mission is impacted.

3. *Permit and renewal term:*
   a. Staff recommends that a Temporary Emergency Dwelling Permit be valid for 90 days compared to 6 months.
   b. Staff recommends that a renewal term not be an option for a Temporary Emergency Dwelling Permit.
   c. Staff recommends these changes because the ordinance will better reflect the intended purpose: a true emergency. Ninety days should allow a person sufficient time to secure permanent housing until a residence can be constructed and prevents the temporary use from becoming an established use. The public will be more likely to seriously consider utilizing this option if they know they only have a short-period of time to reside in the temporary dwelling and not assume the emergency temporary dwelling permit is a permanent solution to their housing issue.

Thank you for your attention to this matter and please contact me at eddie.moore@yorkcountygov.com or 803-909-7234 with input or questions.

Ordinance No.: _____
Adopted: _____

AN ORDINANCE

TO AMEND THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, CHAPTER 156, TEMPORARY DWELLING PERMITS IN ORDER TO DEFINE TEMPORARY EMERGENCY HARDSHIP; TO DEFINE THE CONDITIONS AN APPLICANT MUST MEET TO RECEIVE A TEMPORARY EMERGENCY DWELLING PERMIT; TO AMEND REQUIRED APPLICATION ITEMS; TO AMEND PERMIT TERM, REVOCATION AND EXPIRATION; TO TEMPORARILY ALLOW PARKING OF RECREATIONAL VEHICLES ON THE PROPERTY AFTER THE PERMIT EXPIRES; TO PROVIDE A PENALTY PROVISION; TO PROVIDE FOR A PUBLIC HEARING; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNTY COUNCIL OF YORK COUNTY, SOUTH CAROLINA:

SECTION 1. Legislative findings.

As an incident to the adoption of this ordinance, the York County Council, as the governing body of York County, South Carolina, has made the following legislative findings:

1.1 Council is empowered to enact ordinances for the implementation and enforcement of powers granted to Council pursuant to Sections 4-9-30 (9) and (17), S.C. Code Ann., as amended and to exercise such other powers as may be authorized for counties under Sections 6-29-710 et seq., S.C. Code Ann., as amended.

1.2 Council finds that this ordinance will:

(A) Address the need for emergency shelter for individuals who have experienced a hardship or accident involving their primary residence;

(B) Ensure the safety and welfare of these individuals and the general public are protected by limiting the duration of the use of the temporary dwellings;

(C) Ensure the integrity of the Building Codes and Development Standards of the County are maintained; and

(D) Promote the public health, safety, order, and general welfare.

SECTION 2. Code of York County Amended.

CHAPTER 156 – TEMPORARY DWELLING PERMITS

Chapter 156, Temporary Dwelling Permits within the York County Code of Ordinances is hereby amended to now read as follows:

"**CHAPTER 156: TEMPORARY EMERGENCY DWELLING PERMITS**

§ 156.01 PURPOSE.

The purpose of this chapter is to allow the occupancy of temporary emergency dwellings under certain circumstances in order to address personal hardships. Because such hardships or needs are personal, temporary and transitory, the approval of a temporary emergency dwelling permit does not constitute a long-term use, authorization, permit or approval that conflicts with the York County Comprehensive Plan or constitutes a threat or hazard to the health, safety and welfare of York County, the permittee, occupants of the permitted temporary residence or adjoining property owners.

§ 156.02 TEMPORARY EMERGENCY DWELLING PERMIT AUTHORIZED; PERSONAL HARDSHIP DEFINED.

The owner of a parcel of land in York County may apply for a temporary emergency dwelling permit to authorize up to one temporary emergency dwelling on his or her parcel under ~~one of~~ the following circumstance~~s~~:

~~(A) The occupant of the temporary dwelling will receive continuous care or assistance from someone who resides in the permanent dwelling unit located on the parcel for which a permit is requested or the occupant of a temporary dwelling will provide such care to someone residing in the permanent dwelling;~~

(~~B) The owner(s) of the parcel are in the process of building or placing a permanent dwelling intended for the owner's occupation on that parcel; or~~

(~~C~~A) ~~The occupant of the temporary dwelling is an immediate family member (grandparent, parent, child, grandchild or sibling) of the owner(s) and occupant(s) of the permanent dwelling~~ A temporary emergency hardship exists when a fire, flood, or other accident renders a permanent dwelling uninhabitable.

(B) The owner of the parcel is in the process of repairing or rebuilding a permanent dwelling on that parcel because a temporary emergency hardship rendered the permanent dwelling uninhabitable.

(C) The owner must have occupied the permanent dwelling prior to the temporary emergency hardship and must intend to occupy the repaired or rebuilt permanent dwelling.

§ 156.03 CRITERIA AND STANDARDS.

Every temporary emergency dwelling permit authorized and issued in accordance with this chapter shall meet all of the following criteria and standards:

(A) There shall be no more than one temporary emergency dwelling per parcel;

(B) A current vehicular license shall be maintained for any recreational vehicle used as a temporary emergency dwelling. A recreational vehicle shall be defined as described in § 155.009 of the York County Zoning Ordinance;

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(C) A temporary emergency dwelling shall be maintained in a manner which will facilitate its removal by the expiration date of the permit;

~~(D) No rent, fee or payment of any kind may be paid to the parcel owner for the placement and/or occupancy of the temporary dwelling;~~

(~~E~~D) The placement of the temporary emergency dwelling must meet SCDHEC requirements for water and wastewater connections and York County requirements for temporary electrical service;

(~~F~~E) Setback requirements applicable to a residential structure shall be met.

§ 156.04 APPLICATION.

To apply for a temporary emergency dwelling permit, the parcel owner shall submit a completed application on a form supplied by the planning department. In addition, the parcel owner must submit copies of issued applicable permits for the repairing or rebuilding of the permanent dwelling intended for the owner's occupation on the subject parcel.

The temporary emergency dwelling permit application shall be accompanied by:

(A) A site plan drawn to a scale large enough to allow determination of the following:

(1) The size and boundaries of the parcel;
(2) The size and location of access, including driveways and access easements, from the parcel to a county, state or public road;
(3) The approximate location and size of all existing structures on the parcel; and
(4) The proposed location and size of the temporary dwelling~~.~~;

(B) A description of the proposed dwelling;

(C) A notarized statement signed by all owners of the parcel (excluding lien holders) setting forth the circumstances which necessitate the temporary dwelling~~;~~.

~~(D) A non-refundable fee as established by the York County Council; and~~

~~(E) If the temporary emergency permit is based on a requirement for continuous care and assistance, a statement from a physician substantiating the need for a person residing on the parcel to receive or administer such continuous care and assistance, if the need for personal care and assistance is the basis for the application for a temporary emergency permit.~~

§ 156.05 DECISION ON APPLICATION.

A permit for a temporary emergency dwelling may be issued by the York County Council upon a finding that:

(A) The application is complete;

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(B) Grounds exist for the application and that a temporary emergency hardship exists under this chapter; and

(C) The standards and criteria required by this chapter have been met.

§ 156.06 CONDITIONS.

When approving a request for a temporary emergency dwelling permit, the Council may attach any conditions that are reasonably necessary to mitigate the impacts of the temporary emergency dwelling on adjacent parcels or infrastructure. Such conditions may include increased buffering or screening requirements, additional setbacks, driveway and access restrictions, requirements for the provisions of utilities to serve the temporary emergency dwelling and such other requirements or conditions as may be necessary or appropriate under the circumstances and conditions applicable to the parcel for which a temporary emergency dwelling permit is sought. Council may also prohibit any improvements that, in its opinion, would increase the permanence of the temporary emergency dwelling or otherwise prevent or hinder its removal by the end of the term of the ~~special emergency~~ temporary emergency dwelling permit.

§ 156.07 PERMIT TERM, ~~RENEWAL AND~~ REVOCATION, AND EXPIRATION.

(A) *Term*. A temporary emergency dwelling permit issued to an applicant based on compliance with the requirements of this chapter shall be valid for a period not exceeding ~~six months unless renewed according to the requirements of this section~~ninety (90) days from the date of County Council approval.

~~(B) *Renewal*. A request for renewal of a valid temporary dwelling permit shall be submitted by the applicant at least 45 days prior to the expiration of the temporary permit. Such request must be accompanied by a statement and supporting documentation demonstrating that the conditions which formed the basis for the temporary emergency dwelling permit continued to exist, and listing any changes in the information provided on the application for the original permit. A temporary emergency permit may be renewed only once and for a term no longer than the term of the initial temporary dwelling permit. If a request for renewal of a temporary emergency dwelling permit under this subsection is not received at least 45 days prior to the expiration of the permit, the initial permit shall expire on its expiration date and become null and void.~~

(~~C~~B) *Revocation*. If the County Council determines that:

(1) Any of the requirements of this chapter have not been satisfied;
(2) Any of the conditions attached to the permit have not been met; or
(3) The grounds authorizing the permit no longer exist, then the temporary emergency dwelling permit may be revoked after notice to the holder of the permit. If the permit holder fails to demonstrate to the satisfaction of Council or officials charged with the administration of county codes on or before the next regularly scheduled meeting of Council that no grounds for revocation exist, then the permit may be revoked and the matter referred to county code enforcement officials for appropriate action.

(~~D~~C) *Expiration*. Occupancy of a temporary dwelling shall cease immediately upon expiration or revocation of a temporary emergency dwelling permit ~~or within 14 days after~~

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~~mailing, by certified mail, of notice of revocation, whichever event shall first occur~~. All utilities shall be disconnected and the temporary emergency dwelling shall be removed ~~within 30 days after~~upon expiration or revocation of the temporary emergency dwelling permit. An unoccupied recreational vehicle may be stored on the property with all utilities disconnected so long as it meets the setback requirements for a residential structure and no one lives in the recreational vehicle. Once the owner completes repair or construction of the permanent dwelling, the recreational vehicle must comply with all requirements of York County Code of Ordinances § 155.446.

(D) *Penalty.*

(1) Any violation of York County Code of Ordinances § 156 shall constitute a misdemeanor punishable by a maximum fine of $470 or imprisonment for no more than 30 days. Each day that a violation continues shall be deemed a separate and distinct offense. Violations shall be enforced by any duly commissioned code enforcement officer using the county ordinance summons or by the York County Sheriff or any deputy sheriff.

(2) In addition to the above penalty, the York County Council may institute an action for an injunction, abatement, or any other appropriate action to enforce the expiration or revocation of the temporary emergency dwelling permit.

§ 156.08 ADDITIONAL REQUIREMENTS AND CONDITIONS FOR TEMPORARY EMERGENCY DWELLINGS.

In addition to all other conditions and requirements under this chapter, the following requirements and conditions shall apply to ~~emergency~~ temporary emergency ~~accessory~~ dwellings:

(A) A temporary emergency dwelling shall be permitted only if it is located on a lot that is 10,000 square feet in area or greater.

(B) The principal use of the lot shall be residential and the principal structure on the lot shall be a detached single-family residential building.

(C) No more than one temporary emergency ~~accessory~~ dwelling shall be permitted on any single parcel of record and shall be permitted only if a principal dwelling unit is located on the affected parcel or a principal dwelling unit is being constructed.

(D) The temporary emergency dwelling shall not be served by a driveway separate from that serving the principal dwelling.

(E) A detached temporary emergency~~accessory~~ dwelling shall be located in the rear or side yard only."

SECTION 3. Public Hearing Required.

The York County Council shall conduct a public hearing after publishing a notice of the date, time and place of such hearing at least fifteen (15) days in advance of such hearing before final legislative action is taken for the adoption of this ordinance.

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SECTION 4. Severability.

The provisions of this ordinance are hereby declared to be severable, and if any provision or section of this ordinance is declared to be unconstitutional or unenforceable by the final order of a court of competent jurisdiction, such declaration shall not affect the constitutionality, legality, or enforceability of any other section or provision of this ordinance, which shall be deemed severable, valid, enforceable, and effective.

SECTION 5. Repeal of inconsistent sections and ordinances.

All sections of the York County Code of Ordinances and all York County ordinances in conflict with this ordinance are hereby amended to the extent of such conflict.

SECTION 6. Effective date.

This ordinance shall take effect immediately upon adoption.

Adopted this _____ day of _____, 2016.

YORK COUNTY COUNCIL

By: _____
J. Britt Blackwell, O.D., Chairman
York County Council

Attest: _____
William P. Shanahan, Jr.
County Manager

1st Reading:_____

2nd Reading:_____

Public Hearing:_____

3rd Reading:_____

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