

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

ORDINANCE NO. 04-03-24

**AN ORDINANCE REGULATING PUBLIC NUISANCES AND UNFIT DWELLINGS
WITHIN NEWBERRY COUNTY AND PROVIDING PROCEDURES FOR
ENFORCEMENT AND PENALTIES FOR VIOLATION AND MATTERS RELATED
THERETO.**

WHEREAS, public nuisances can substantially degrade residential and business areas within the County and promote blight and social, economic and physical deterioration; and

WHEREAS, public nuisances and the resulting social, economic and physical deterioration impacts the health, safety, and economic wellbeing of Newberry County residents and property owners; and

WHEREAS, Newberry County Council has determined that negative impact of public nuisances warrants the enactment of regulations and procedures to adequately address such nuisances; and

WHEREAS, Newberry County Council has determined that the passage and enforcement of this ordinance will over time steadily improve the health, safety, and general welfare of the citizens of Newberry County and the value of property within the county; and

WHEREAS, Newberry County Council has the authority to enact this ordinance pursuant to South Carolina Code of Laws 1976, Sections 4-9-25 and 4-9-30, in addition to other authority of the Council.

NOW, THEREFORE BE IT ORDAINED by the County Council of the County of Newberry, in Council duly assembled this 15th day of May 2024 that the following requirements are hereby adopted:

CHAPTER 157 – PUBLIC NUISANCES AND UNFIT DWELLINGS

GENERAL PROVISIONS

**NUISANCE ORDINANCE – CHAPTER 157
GENERAL PROVISIONS**

§ 157.001 PURPOSE.

In addition to the burden placed on the County’s public services, nuisance properties present health, safety and quality of life concerns and exist when the persons responsible for such properties fail to take corrective actions to abate nuisance activities or a nuisance condition. Public nuisance properties have a significant adverse effect on the quality of life, safety, and

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CLERK OF COURT

health of the neighborhoods where they are located. Public nuisance properties are a financial and operational burden on the County by generating repeat calls for service to the properties. Public nuisance properties adversely affect the value of adjacent properties.

Pursuant to the County's home rule authority, public nuisance properties are hereby declared to constitute a public nuisance and are subject to enforcement and abatement as described herein. The nuisance abatement process hereinafter set forth may be used by the County in conjunction with any and all legal actions available to the governing body.

It is the County's intent:

- A. To identify public nuisance activities and public nuisance conditions.
- B. To hold accountable those persons responsible for such nuisance activities and/or conditions on the property.
- C. To assist victims of crime and penalize those who commit crimes or those who permit conditions to exist that give rise to crime or excessive calls for service.
- D. To establish rules, procedures, and penalties to address property owners and occupants that have public nuisance issues and fail to take corrective measures.
- E. To work in partnership with the owners and occupants to address the negative results caused by public nuisance activities and/or conditions and to improve the vitality of neighborhoods by addressing excessive calls for service.
- F. To encourage owners and operators to abate conditions considered a nuisance through an administrative process which is separate from the County's Magistrate Court system.
- G. To establish a means for the County to abate public nuisance properties in the event the owner or occupant is unwilling or unable to correct such conditions in a timely manner.

§ 157.002 DEFINITIONS.

Words used in this chapter shall have their customary meanings as determined by the standard dictionary definition except for the following specific words and terms which are herein defined. In any case, the Code Enforcement Officer, or other County designee shall have the right to define or interpret any words or terms contained within this chapter.

Abandoned Building means any building that is both: a) vacant and/or dangerous or in need of repair greater than fifty percent (50%) of its fair market value, and b) not occupied by the property owner, family member, renter, lessee, or other legal occupant for a period of six months or longer.

Abate means repair, replace, remove, destroy or other otherwise remedy the condition in question by means, in such time, in such a manner and to such an extent

as the enforcement officer shall determine to be in the best interest of the public, taking into account all facts and circumstances.

Building means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons or property.

Building Materials means any material such as lumber, brick, plaster, gutters or other substances accumulated as a result of repairs or additions to existing buildings, construction of new buildings or demolition of existing structures.

Close and Secure or **Closing and Securing** means compliance with the provisions of this chapter regarding minimum standards for uninhabited or vacant buildings.

Code Enforcement Officer means the person designated by Newberry County as the person responsible for enforcement of the provisions of this Ordinance.

County means Newberry County.

County Council means Newberry County Council.

Dwelling means a building or portion of a building arranged or designed exclusively for human habitation and includes any outhouses and appurtenances belonging thereto or usually employed therewith.

Garbage means any waste from the preparation, cooking and serving of food, market refuse, and waste from the handling, storage and sale of produce and meats as well as disposal of household items.

Habitation means the act of inhabiting by a human for any length of time, unrelated to the owners or parties in interest acting to preserve, maintain, repair, or inspect the property.

Junk means any materials consisting of waste, discarded or salvage matter consisting of a total of more than three (3) cubic yards of volume regardless of whether it is to be bought, sold, exchanged, stored, baled, packed or disassembled for profit, trade or hire, and shall include any vehicle damaged so as not to comply with state or federal safety regulations, incapable of self-propulsion or partially dismantled if retained on the premises for more than seventy-two (72) hours, whether for repair or not. The term junk shall also mean, but not be limited to, old or scrap copper, brass, aluminum, rope, rags, paper, trash, tires, carcasses, rubber debris, old vehicle parts, non-working major appliances, and other old ferrous or non-ferrous material.

Lien-holder means that person, persons, organization, or corporation that holds the property of a debtor as security or payment for a debt.

Litter means garbage, refuse, waste materials or any other discarded, used or unconsumed substance which is not handled as specified herein.

Local Governing Body means Newberry County Council.

Local Official means the designee(s) of the County Administrator.

Occupant means any person who resides or is present in a house or vehicle at any given time.

Outdoor Storage means the outdoor accumulation or outdoor storage of decaying animal matter, animal or human feces, trash, rubbish, garbage, rotting lumber, packing materials, old or scrap copper, brass, aluminum, rope, rags, paper, trash, tires, carcasses, rubber debris, old vehicle parts, non-working major appliances, and other old ferrous or non-ferrous material.

Owner means any person, persons, organization, or corporation that owns, in whole or part, the land, structure or other property as the holder of title in fee simple or is the purchaser of the property under contract for deed.

Premises means any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, occupied or unoccupied, including adjacent parking.

Public Nuisance means any activity or failure to act that adversely affects the public and shall include, but not be limited to, any condition which poses an immediate and direct hazard to human health if left unheeded due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals including rodents, or other means or transmission or infection.

Refuse means trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid waste, or other discarded materials.

Structural Defect means any physical damage to the designated load-bearing elements of the structure caused by failure of such load-bearing elements which affects the load-bearing function to the extent the structure becomes unsafe, unsanitary or unlivable.

Structure as defined by the latest version of the International Building Code as adopted by the State of South Carolina.

Temporary means anything lasting for only a limited period of time; not permanent.

Unsafe means if conditions exist in such dwelling or other structure which are dangerous or injurious to health or safety of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of Newberry County. Such conditions may include the following without limiting the generality of the foregoing: defects increasing the hazards of fire, accidents, or other calamities.

Unsafe Structure means any building or structure which has been determined to be unsafe by the Code Enforcement Officer or Building Official.

§ 157.003 PUBLIC NUISANCES IDENTIFIED.

The creation or maintenance of a public nuisance is prohibited. The following are hereby expressly declared to be public nuisances:

- A. Garbage, trash or refuse, except garbage, trash or refuse stored in authorized sealed receptacles specifically designated for trash collection, in an enclosed building or properly contained in a closed, insect and rodent proof container designed for such purpose, except for the immediate time preceding pick up by a refuse hauler.
- B. Accumulation of carcasses of animals, birds or fish by failing to bury or otherwise dispose of in a sanitary manner within twenty-four (24) hours after death. This provision shall not apply if the animals, birds, or fish are intended for human consumption.
- C. Accumulation of rubbish as to become dangerous or injurious to the health and safety of any individual or to the public.
- D. Accumulation of junk matter consisting of a total of more than three cubic yards in volume.
- E. Noxious and excessive accumulation of decaying animal matter, animal feces, trash, rubbish, litter, debris, rotting, packing materials, scrap metal, pallets fuel storage containers, tools, tires and wheels, furnaces, home appliances, furniture, plumbing fixtures, construction materials, metal, pipes, glass, machinery, wood, brick, cement block, or any other substances in which flies, mosquitoes, or other disease carrying insects, rodents or other vermin can harbor.
- F. Improper outdoor use of indoor or non-weather proofed furniture and appliances, dilapidated or unusable furniture, or upholstered furniture manufactured for indoor use including those which:
 - 1. Harbors, conceals or invites rodents, pests, or vermin refuse deposits;
 - 2. Gives off noxious odors; or
 - 3. Constitutes a fire or other safety hazard.
- G. Manufactured items intended for indoor use including but not limited to bedding, cardboard, glass, home goods, etc., which are stored or used outdoors.
- H. Pools of stagnant water, or vessels holding standing water, excluding required retention ponds, and excluding pools of stagnant water related to agricultural activities, in which mosquitoes and other insects are breeding and which impact adjoining properties.
- I. Structures being used for human habitation which do not have working electrical, water and septic/sewer services. If utilities are not present and/or in working order a structure will be classified as unsafe and uninhabitable.

- J. All structures determined to be unsafe. Unsafe structures shall be abated by alteration, repair, rehabilitation, demolition or removal in accordance with the procedures specified herein. Unsafe dwellings are hereby identified as unsafe structures where:
1. It is determined by the Code Enforcement Officer that a structure is in a state of decay, damaged by fire, earthquake, wind or flood, inadequate maintenance, dilapidation, abandonment or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public or adjoining property;
 2. Defects in the structure increase the hazard risk of fire, accidents or calamities;
 3. The structure contains filth or contamination;
 4. There is a lack of ventilation, light, sanitary or heating facilities or other essential equipment required by codes adopted by Newberry County;
 5. The structure provides a harbor for rodents, pests, stray animals, or persons engaged in controlled substance or sale;
 6. A structure has been abandoned so as to make such structure an attractive nuisance or hazard to the public; or
 7. Other conditions rendering such dwelling unsafe or unsanitary, dangerous or detrimental to the health, safety, or morals or otherwise detrimental to the welfare of the residents.

The enumeration of specific nuisances in this Ordinance shall not be deemed to make lawful any other act or condition declared to be a nuisance by any other County ordinance, state or federal law, or court decision.

§ 157.004 GENERAL REQUIREMENTS.

- A. Requirements for Occupied or Unoccupied Property. It is unlawful for any person, firm, or corporation to maintain or to permit to be maintained any premises including vacant lots or land upon which trash, garbage, insect-harboring stagnant water, or other matter detrimental to good health and public sanitation is permitted or caused to accumulate in any manner that is or may become a nuisance causing injury or sickness to the health or welfare of residents or the public in the vicinity of, or causing injury to, any neighboring property.
- B. Requirements for Residential Dwellings. The owner of the property shall maintain the dwelling's interior and exterior in compliance with the requirements of the Building Code that was adopted at the time of the completion of the dwelling. If any repairs or updates are needed and require a permit, the work must be completed to meet the current adopted building code. The owner shall be responsible for maintaining all inhabited and vacant

dwellings in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health and/or safety. This includes, but is not limited to, holes in roofs, openings in windows, walls or doors, unsecured structures, and foundational and structural concerns.

- C. Requirements for Owners. Regardless of who created the public nuisance, the property owner and/or the occupant is responsible for taking all corrective actions to remedy the situation.
- D. Requirements for Exterior Structures. For purposes of this section, these standards apply to any portion of the property that is not within the interior of a dwelling or other enclosed structure. Unless completely enclosed, porches, balconies, decks, carports, or other similar structures shall be included within this standard. Temporary materials cannot be used to enclose a structure.
- E. Requirements for Other Structures. Pools, walls, fences and other accessory structures shall be considered a structure.

§ 157.005 EXCEPTIONS.

- A. This chapter shall not apply to structures that are actively used for legal agricultural purposes or forestry operations, including but not limited to, barns, sheds, and storage buildings, which are not utilized as a dwelling for human habitation. No accumulation of waste, debris, or junk defined in this ordinance is allowed in the setback areas adjacent to a residence as defined in the Newberry County Zoning Ordinance. Structures designed for or related to agricultural and forestry operations, including but not limited to barns, sheds, and storage buildings, that are not utilized as a dwelling for human habitation are exempt from this Chapter.
- B. This chapter shall not apply to agricultural activities.
- C. This chapter shall not apply to a business that is permitted by the Zoning Ordinance of Newberry County, or is a legally nonconforming use allowed by the Zoning Ordinance of Newberry County, where such activities listed above are a normal and customary activity associated with that business. In the case of outside storage in conjunction with a business, the materials in question must be screened from the public rights-of-way and from any adjacent residential property.

§ 157.006 AUTHORITY.

Any local official designated by the County Administrator is authorized to determine that a structure is unfit for human habitation if found that conditions exist where the structure is dangerous or injurious to the health and safety of the occupants of such structure or the occupants of neighboring structures. Such conditions may include, but are not limited to, defects therein increasing the hazards of fire, accident or other calamities; dilapidation; disrepair; structural defects; uncleanliness; and other standards described herein.

An aggrieved property owner or occupant may enter into a correction agreement process as outlined in §157.015 or request review of the matter by the Newberry County Building, Fire and Nuisance Codes Board of Appeals in accordance with §157.011.

PROCEDURE

§ 157.007 NUISANCE IDENTIFICATION.

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written or verbal complaint. Such complaint stating fully the causes and basis thereof, shall be filed with the Code Enforcement Officer. The Code Enforcement Officer shall record the complaint properly, investigate promptly, and take action thereon as provided by this Ordinance. To protect the privacy of individuals, such complaints can be anonymous.

§ 157.008 NOTIFICATION.

Upon investigating a complaint of possible violation, and determination of violation of this Ordinance, the Code Enforcement Officer shall serve a notice of violation. Notices of violations or orders hereunder shall be deemed to be properly served to the owner or occupant if a copy thereof is:

- A. Delivered personally;
- B. Sent by first class mail addressed to the last known address whose address is maintained by Newberry County Tax Assessor; or
- C. A copy thereof posted in a conspicuous place on the lot affected or on or about the structure affected by such notice.

For purposes of notice of violation to properties with more than one owner, notice shall be made to the owner of record whose name and address is maintained by the Newberry County Tax Assessor. Co-owners jointly and severally are liable for the upkeep and maintenance of the property. Such notices of violations shall:

- A. Be in writing;
- B. Include property location by street address and Tax Map Number for the parcel;
- C. Date of inspection where the violation was determined;
- D. Specific orders for abatement or remediation of the violation; and
- E. A date for completion of the abatement not to exceed seven (7) calendar days following notification.

The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this article.

The Building Official or Code Enforcement Officer shall post at each entrance of the designated unsafe structure a notice to read: "DANGER – THIS BUILDING IS DECLARED UNSAFE FOR HUMAN OCCUPANCY."

Such notice shall remain posted until the required repairs, demolition or removal is completed. Such notice shall not be removed without written permission of the Building Official or Code Enforcement Officer except for the purpose of making required repairs or demolition of the building.

Notwithstanding any other provision of this article, any building or structure that has been determined to be an immediate danger to life, health, safety or property shall be abated immediately in order to protect life, health, safety or property. The Building Official or Code Enforcement Officer may take any steps that are necessary to make the structure safe including, but not limited to, demolition of the structure.

§ 157.009 EXTENSION PROCESS.

An extension of time to complete abatement may be granted if justified. Such request must be in writing and be received by the Code Enforcement Officer not later than seven (7) calendar days following notification. The request must contain the reasons for which the extension is necessary and contain the specific length of time requested.

§ 157.010 TIMEFRAME FOR ABATEMENT.

All required work shall be completed within such period of time as the Code Enforcement Officer shall determine to be reasonable to accomplish the work, as stated in the notice. If a building or demolition permit is required, such permit shall be obtained by the owner or their designee within thirty (30) calendar days of written notice.

§ 157.011 APPEALS.

An appeal may be requested by the owner where demolition is required. Appeals may be made to the Newberry County Building, Fire and Nuisance Codes Board of Appeals by such person. The board will consider the appeal, evaluate the determination made by the Code Enforcement Officer, and then render a decision either sustaining, modifying or reversing the demolition order. The board shall not levy fines or penalties on the property or owner/occupant or amend the standards of this ordinance.

§ 157.012 PENALTIES.

Any person deemed to be in violation of this Ordinance after having received a nuisance notification with an established timeframe for abatement shall be issued a citation charging such person(s) with a misdemeanor. A guilty plea or judgement by the Newberry County Magistrate's Office shall be punishable by a fine of no more than five hundred dollars (\$500) unless otherwise noted in this ordinance. Each day such violation continues after due notice to discontinue such violations shall be considered a separate offense. In addition, the Code Enforcement Officer or other appropriate administrative official, may in accord with the provisions of Section 56-7-80 of the South Carolina Code of Laws 1976, as amended, issue an ordinance summons, or institute

injunction, mandamus, or take any other appropriate actions or proceedings required to enforce this Ordinance.

§ 157.013 PUBLIC ABATEMENT PROCESS.

In the event that any owner or occupant of any lot or premises upon which there is a condition described in this ordinance fails to remedy the condition within the agreed upon timeframe, the County may, in its own discretion, do such work and make improvements, or contract with an authorized third-party, as is necessary to correct, remedy, or remove such condition or cause the same to be done, paid therefor and charge the expenses incurred thereby to any and all owners of such lot, in joint and severable liability for any and all expenses incurred. Such work shall not relieve such person from prosecution or failure to comply with such notice. Such expenses shall be assessed against the lot or real estate upon which the work was done, or the improvements made through a lien on property which shall be added to and collected in the same manner as property taxes.

§ 157.014 RECURRENT VIOLATIONS.

Any violation of any provision of this Ordinance or of any ordinance for which proper notice of violation has been provided pursuant to the applicable code section or ordinance which reoccurs, at the same location while under the same ownership, within the same calendar year of the previous notice, shall constitute a repeat violation. The occurrence of a repeat violation shall waive the county's requirement to provide a notice of violation and an abatement period, if applicable, prior to issuance of an Ordinance Summons.

§ 157.015 CORRECTION AGREEMENT.

Upon determination that an unsafe structure or other nuisance exists and notice of violation is provided to the property owner, such owner(s) may enter into a correction agreement with the County. Such correction agreement shall identify such person(s) responsible for the property and their agreement to promptly take all reasonable actions, which shall be set forth in the agreement, to mitigate the nuisance within a specified time and according to specified conditions. The County may give consideration to many factors when entering into a correction agreement with owners including, but not limited to, financial hardship. A correction agreement must be requested by the owner following the issuance of a notice of violation. The county must be in receipt of such request prior to the expiration of the abatement period specified in the notice of violation and prior to the issuance of a summons to appear in court. If the nuisance is not abated in accordance with the conditions of the correction agreement, a citation shall be issued as outlined in §157.012.

§ 157.016. CONFLICT/SEVERABILITY.

If any provision of any ordinance of the county is clearly in conflict with the provisions of this chapter, this chapter shall apply. Whenever the provisions of any other statute require more restrictive standards than are required by this ordinance, the provisions of such statute shall govern. If any section, sentence, clause or phrase of this ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence,


clause or phrase of this ordinance. In any case where any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained; or any structure or land is used in violation of this Ordinance, or regulations in furtherance hereof, the County Administrator, County Attorney, Zoning Administrator, Building Official, or any person aggrieved may, in addition to other remedies provided by law, institute injunction, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use. Such violations shall constitute a misdemeanor. The owner of any building, structure, premise, or part thereof, and any occupant, architect, surveyor, builder, engineer, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and be subject to the penalties herein provided. Nothing in this ordinance shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

NEWBERRY COUNTY COUNCIL

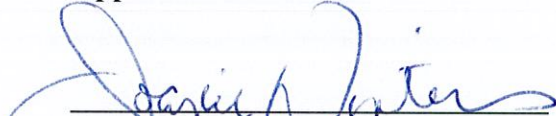
BY: 
Todd Johnson, Chairman

(SEAL)

ATTEST:


Andrew Wigger, Clerk to Council

Approved as to form:


Joanie Winters, Interim County Attorney


Jeff Shacker, County Administrator

1st Reading: April 17, 2024
2nd Reading: May 1, 2024
Public Hearing: May 1, 2024
3rd Reading: May 15, 2024