

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

FILED
NEWBERRY COUNTY

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ELIZABETH P FOLK
CLERK OF COURT

ORDINANCE NO. 06-02-2024

AN ORDINANCE ESTABLISHING A BUILDING, FIRE AND NUISANCE CODES BOARD OF APPEALS FOR THE COUNTY OF NEWBERRY, S.C.

WHEREAS, Newberry County Council possesses discretionary authority to establish a Board of Appeals to hear building and fire code appeals in furtherance of the county’s obligation to enforce standard building and fire codes in accordance with the provisions of Title 6, Chapter 9 and Title 23, Chapter 9 of the Code of Laws of the State of South Carolina; and

WHEREAS, Newberry County Council desires also to establish a Board of Appeals to hear appeals as provided in Chapter 157 – Public Nuisances and Unfit Dwellings - of the Code of Ordinances of Newberry County, S.C.

NOW, THEREFORE BE IT ORDAINED by the County Council of the County of Newberry, in Council duly assembled this 7th day of August 2024 that:

- (a) *Establishment.* The Building, Fire and Nuisance Codes Board of Appeals (hereinafter referred to as the “Board”) is hereby established and shall consist of seven (7) members. All members shall be residents of the county, shall be appointed by County Council, and shall serve without compensation. When making appointments to the Board, County Council may take into consideration the expertise offered by prospective members with preference given to residents with backgrounds in architecture, engineering, construction, real estate and related fields.
- (b) *Term of office.* All appointments shall be for three (3) year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made.
- (c) *Quorum.* For any scheduled meeting, four (4) members of the Board shall constitute a quorum. In modifying an order of the Building Official, Fire Official, or Code Enforcement Officer, affirmative votes of the majority present, but not less than three (3) affirmative votes, shall be required. No member shall act in a case in which he or she has a conflict of interest and, in such cases, shall recuse him or herself.
- (d) *Records.* The Director of Building and Zoning, or his or her designee, shall act as Secretary of the Board and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member participating therein, the absence of a member, and any failure of a member to vote.
- (e) *Procedures.* The Board shall establish rules of procedure not inconsistent with the provisions of this ordinance. The Board shall meet at regular intervals, to be determined by the Chairman, and shall also meet within ten (10) days after notice of appeal is received from the Secretary.
- (f) *Notice of appeal.* Notice of appeal shall be in writing and filed within 30 calendar days after the decision is rendered by the Building Official, Fire Official, or Code Enforcement Officer. Appeals shall be submitted on a form developed by the Department of Building and Zoning and approved by the County Administrator.

(g) *Unsafe or dangerous buildings or service systems.* In case of a building, structure or service system which, in the opinion of the Building Official, is unsafe or dangerous, the Building Official, Fire Official, or Code Enforcement Officer may, in his or her order, limit the time for such appeals to a shorter period.

(h) *Variances and modifications.*

- 1) The Board shall hear and decide appeals of orders, decisions, or determinations made by the Building Official or Fire Official relative to the application and interpretation of the adopted building and fire codes of Newberry County, and after a hearing, may modify or reverse the interpretation of the Building Official or Fire Official.
- 2) The Board shall also hear and decide appeals of demolition orders issued by a Code Enforcement Officer designated by the County Administrator as provided in Chapter 157 of the Code of Ordinances of Newberry County regulating public nuisances and unfit dwellings.
- 3) A decision of the Board to modify an order of the Building Official or Fire Official shall specify in what manner such variation or modification is made, the conditions upon which it is made and the reason thereof.
- 4) A decision of the Board sustaining, modifying or reversing a demolition order issued by the Code Enforcement Officer shall specify the reason and, if varied or modified, shall specify in what manner such variation or modification is made and the conditions upon which it is made.
- 5) The Board shall have no authority to waive the requirements of any currently adopted code dealing with existing or proposed structures within Newberry County.
- 6) The Board, when so appealed to and after a hearing, may vary the application of any provisions of the adopted building and fire codes of Newberry County to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:
 - i. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
 - ii. That the special conditions and circumstances do not result from the action or inaction of the applicant.
 - iii. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other buildings, structures or service system.
 - iv. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.

v. That the grant of the variance will be in harmony with the general intent and purpose of this Code and will not be detrimental to the public health, safety and general welfare.

(i) *Conditions of the variance.* In granting the variance, the Board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the Board may prescribe appropriate conditions and safeguards in conformity with the building and fire codes of Newberry County. Violation of the conditions of a variance shall be deemed a violation of the code.

(j) *Decisions.*

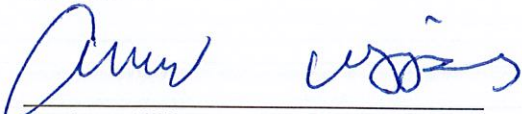
- 1) Every decision of the Board shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. It shall be in writing and shall indicate the vote on the decision. Every decision shall be promptly filed in the office of the Department of Building and Zoning and shall be open to public inspections; a certified copy shall be sent by registered mail or otherwise delivered to the appellant.
- 2) The Board shall, in every case, reach a decision without unreasonable or unnecessary delay.
- 3) If a decision of the Board reverses or modifies a refusal, order, or disallowance of the Building Official, Fire Official, or Code Enforcement Officer, such local official shall immediately take action in accordance with such decision.

(SEAL)

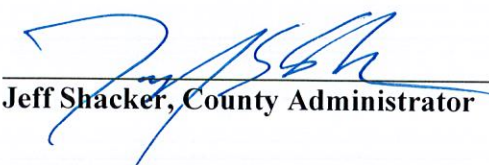
BY:


Todd Johnson, Chairman

ATTEST:


Andrew Wigger, Clerk to Council

Approved as to form:


Jeff Shacker, County Administrator

1st Reading: June 19, 2024
2nd Reading: July 17, 2024
Public Hearing: July 17, 2024
3rd Reading: August 7, 2024