

ARTICLE 23. - UNCLEAN LOTS OR LAND, UNFIT STRUCTURES, JUNKED AUTOMOBILES

23.1. - Purpose and enactment clause.

Be it recognized that there exists within the County of Berkeley, South Carolina, certain dwellings and other structures which are unfit for human habitation and/or use due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, and/or other conditions rendering such dwellings and/or structures unsafe or unsanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the County of Berkeley, and that county council, pursuant to the authority set forth in the South Carolina Code of Laws, (1976), as amended, namely, S.C. Code §§ 31-15-310 through 31-15-400, S.C. Code § 56-5-5810, et seq., and S.C. Code § 4-9-30, does therefore enact this ordinance.

Be it further recognized that there exists unclean lots and/or land which are also unsafe, unsanitary, dangerous, or detrimental to the health, safety, or otherwise adverse to the welfare of the residents of Berkeley County and Berkeley County Council pursuant to the police power does therefore enact this ordinance. The powers to be exercised under this ordinance shall be exercised by the County Supervisor or his designated representatives (the "public officer").

(Ord. No. 04-11-68, 11-23-2004; Ord. No. 15-10-43, 10-26-2015)

23.2. - Maintenance responsibilities.

The owner or person in control of any real property in all zoning classifications shall at all times maintain the premises, including structures situated on these premises. Litter and debris, junked vehicles, and discarded furniture and appliances are hereby found to create an unsightly and unwarranted condition when found on private premises. Such accumulation tends to reduce the value of private property and may constitute an attractive nuisance. Such accumulation is further found to promote unacceptable blight and deterioration in the community. Unused furniture and appliances shall be removed from the property or be placed in enclosed storage. Refrigerators and similar equipment shall not be discarded without first removing the doors.

(Ord. No. 04-11-68, 11-23-2004)

23.3. - Unclean lots, land and unsafe accessory structures.

23.3.1. *Requirement for the owner to maintain lots, land and unsafe accessory structures.* It shall be unlawful for any person, firm or corporation to maintain or to permit to be maintained any premises including vacant lots or land, upon which grass, weeds, undergrowth, trash, garbage, stagnant water, building materials, glass, wood, discarded furniture and appliances, unsafe accessory structures such as pods, sheds, carports, garages, or other matter deleterious to good health and public sanitation is permitted or caused to accumulate in any manner causing injury to the health or welfare of residents or the public in the vicinity or causing injury to neighboring property.

Whenever the public officer finds that a property owner has failed to maintain lots, land, or accessory structures in accordance with this article, the public officer may declare the premises a nuisance.

23.3.2. *Notice to owner.* Whenever the public officer declares a nuisance pursuant to this article, the public officer may notify the owner of such premises by letter (return receipt requested) describing the particular violation of the ordinance and stating that the owner has:

- A. 30 calendar days from the date of receipt of the letter to abate the nuisance; or

- B. 10 calendar days from the date of receipt of the letter to contact the public officer to discuss abatement of the nuisance. Upon a finding by the public officer of mitigating circumstances, the period for abatement of the nuisance may be extended at the sole discretion of the public officer.

23.3.3. *Reserved.*

23.3.4. *Penalties.* Any person who violates any provision of this article may be charged with a misdemeanor and upon conviction shall pay a fine of not more than \$500.00 or imprisoned for a period not exceeding 30 days. Each day of violation shall constitute a separate offense.

(Ord. No. 04-11-68, 11-23-2004; Ord. No. 10-04-04, 4-26-2010; Ord. No. 15-10-43, 10-26-2015)

23.4. - Abandoned or derelict motor vehicles.

23.4.1. *Definition of abandoned or derelict motor vehicle.* For the purpose of this article an "abandoned or derelict motor vehicle" is defined as in S.C. Code § 56-5-5810 (b) and (c). Whenever the public officer finds that a vehicle is abandoned or derelict, the public officer may declare the vehicle a nuisance.

23.4.2. *Notice to owner.* Whenever the public officer declares a nuisance pursuant to this article, the public officer may notify the owner of such vehicle by letter (return receipt requested) describing the particular violation of the ordinance and stating that the owner has:

- A. 30 calendar days from the date of receipt of the letter to abate the nuisance; or
- B. 10 calendar days from the date of receipt of the letter to contact the public officer to discuss abatement of the nuisance.

23.4.3. *Failure to abate nuisance.* The public officer shall direct Berkeley County code enforcement officials or other authorized law enforcement to initiate removal of the abandoned or derelict motor vehicle against any person who fails to abate a nuisance involving an abandoned or derelict vehicle in accordance the provisions of S.C. Code § 56-5-5810, et seq.

23.4.4. *Penalties.* In addition to, or alternately to, any remedies provided under this article, any person who violates any provision of this article may be charged with a misdemeanor and upon conviction shall pay a fine of not more than \$500.00 or imprisoned for a period not exceeding 30 days. Each day of violation shall constitute a separate offense.

23.4.5. *Reserved.*

(Ord. No. 04-11-68, 11-23-2004; Ord. No. 10-04-04, 4-26-2010; Ord. No. 15-10-43, 10-26-2015)

Editor's note— Ord. No. 15-10-43, adopted Oct. 26, 2015, amended § 23.4, and in so doing changed the title of said section from "Junked or abandoned vehicles" to "Abandoned or derelict motor vehicles," as set out herein.

23.5. - Unfit dwellings.

23.5.1. *Authority.* Whenever the public officer finds that there exist in the county dwellings which are unfit for human habitation and/or other use due to (a) dilapidation, (b) defects increasing the hazards of fire, accidents or other calamities, (c) lack of ventilation, light or sanitary facilities; or, (d) other conditions rendering such dwellings unsafe or unsanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of Berkeley County, the public officer may, deem a dwelling unfit and the property owner shall be responsible for repairing, removing or demolishing the dwelling in accordance with any applicable local, state and/or federal regulations.

23.5.2. *Filing of complaint and investigation.* Whenever a petition is filed with the public officer by at least five residents of the county charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and all parties with interest in, such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than 30 days after the serving of such complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

23.5.3. *Notice to owner and necessary action by owner.* If, after such notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

- A. If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling (as determined by the public officer), requiring the owner, within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or,
- B. If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (as determined by the public officer), requiring the owner, within the time specified in the order, to remove or demolish such dwelling.

23.5.4. *Failure to comply.* That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered or improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words:

"This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

23.5.5. *Removal or demolition.* That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished.

23.5.6. *Cost.* That the amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and shall be collectible in the same manner as county taxes.

23.5.7. *Definition of unfitness.* An "unfit dwelling" is any dwelling as defined in S.C. Code §§ 31-15-320 and 31-15-350.

23.5.8. *Service of complaint.* Complaints by letter or orders hereunder shall be delivered to and/or served upon such persons either personally or by certified mail (restricted delivery, return receipt requested), but if the whereabouts of such persons are unknown and cannot be ascertained in the exercise of reasonable diligence, the county supervisor or his designated representative(s) shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made publishing it once each week for two consecutive weeks in a newspaper of general circulation in the county.

A copy of such complaint or order shall also be posted in a conspicuous place on the premises affected by the complaint or order.

A copy of such complaint or order shall further be filed with the Berkeley County clerk of court's office in the county's miscellaneous records book, and such filing of the complaint or order shall have the same force and effect as other *lis pendens*.

23.5.9. *Rights of persons affected by orders.* Any person affected by an order issued by a public officer may within 60 days after the posting and service of the order petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order and the court may, upon such

petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause. Hearings shall be had by the court on such petitions within 20 days or as soon thereafter as possible and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer or because of compliance by such person with any order of the public officer.

23.5.10. *Powers and duties.* The county supervisor, or his designated representative(s), may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this ordinance, including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the county in order to determine which dwellings therein are unfit for human habitation;
- (2) To administer oaths and affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examinations, provided such entries be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the ordinances; and
- (5) To delegate any of his functions and powers under the ordinances to such officers and agents as he may designate.

23.5.11. *Proceeds of sale of materials.* If a dwelling is removed or demolished by a public officer he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the circuit court by the public officer, shall be secured in such manner as may be directed by such court and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

(Ord. No. 02-08-33, 8-26-2002; Ord. No. 04-11-68, 11-23-2004; Ord. No. 10-04-04, 4-26-2010; Ord. No. 15-10-43, 10-26-15)

23.6. - Penalties.

In addition to, or alternately to, any remedies provided under this article, any person who violates any provision of this article may be charged with a misdemeanor and upon conviction shall pay a fine of not more than \$500.00 or imprisoned for a period not exceeding 30 days. Each day of violation shall constitute a separate offense.

(Ord. No. 15-10-43, 10-26-15)