



First Reading: 02/11/2008
 Second Reading: 02/25/2008
 Third Reading: 04/28/2008
 Public Hearing 04/14/2008

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FAIRFIELD)

ORDINANCE NO 541

AN ORDINANCE TO REGULATE ABANDONED BUILDINGS, MOBILE HOMES AND MANUFACTURED HOMES, REGULATE PUBLIC NUISANCES, AND REGULATE ABANDONED, DISMANTLED, JUNKED, WRECKED OR INOPERATIVE VEHICLES IN THE UNINCORPORATED AREAS OF FAIRFIELD COUNTY; TO PROVIDE FOR DEFINITIONS; AND TO PROVIDE FOR ENFORCEMENT AND PENALTIES.

WHEREAS, the Fairfield County Council wishes to insure the peace, health, safety, and welfare of the citizens of the County, and

WHEREAS, the Fairfield County Council wishes to remove and abate public nuisances including but not limited to abandoned buildings including mobile homes and manufactured home, overgrown yards, accumulations of trash rubbish and debris, and

WHEREAS, the Fairfield County Council wishes to provide regulations concerning noise pollution.

NOW THEREFORE, BE IT ENACTED BY THE FAIRFIELD COUNTY COUNCIL that the following regulations concerning public nuisances shall be placed into effect immediately:

**ARTICLE I.
 DEFINITIONS**

Definitions for the purpose of this Ordinance are hereby defined to mean as follows:

- (1) Abandoned Building means any building that is both:
 - a. Vacant and/or dangerous or in need of repair greater than 50% of its fair market value and
 - b. Not occupied by the property owner, family member, renter, lessee or other legal occupant.
- (2) Abandoned Manufactured Home/Mobile Home means any manufactured home/mobile home that is:
 - a. Not connected to electricity or not connected to a source of safe potable water supply sufficient for normal residential needs; or
 - b. Not connected to a DHEC approved wastewater disposal system; or
 - c. Unoccupied for a period of at least 30 days and for which there is clear and convincing evidence that the occupant does not intend to return on a temporary or permanent basis; and

- d. That is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a hazard to the health or safety of the occupants, the persons using the mobile home, or the public.
- (3) Abandoned/ Junk Vehicle means any vehicle damaged so as not to comply with state or federal safety regulations, incapable of self-propulsion, does not display a current license plate, or is partially dismantled if retained on the premises for more than seventy-two (72) hours whether for repair or not. This does not include a vehicle (only one allowed) that the owner is using for parts where he is reconditioning/repairing a classic or antique vehicle.
- (4) Building means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons or property.
- (5) Code Enforcement Officer means the person designated by the County as the person responsible for enforcement of the provisions of this Ordinance.
- (6) County means Fairfield County.
- (7) County Council means Fairfield County Council.
- (8) Derelict Manufactured home/Mobile Home see definition for Abandoned Manufactured Home/Mobile Home.
- (9) 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.
- (10) Junk means any materials consisting of waste, discarded or salvage matter consisting of a total of more than six (6) cubic feet in 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, tire carcasses, rubber debris, old vehicle parts, non-working major appliances, and other old ferrous or non-ferrous material.
- (11) Land Owner means any person, persons, organization, or corporation that owns, in whole or part, the land, structure or other property or is the purchaser of the property under contract for deed.
- (12) Lienholder means that person, persons, organization, or corporation that holds the property of a debtor as security or payment for a debt.
- (13) Local Governing Body means Fairfield County Council.
- (14) Local Official means the Fairfield County Zoning Official/Building Official.
- (15) Manufactured Home means a structure manufactured after June 15, 1976, bearing certification of compliance with HUD standards (Federal Manufactured Home Construction And Safety Standards)pursuant to SC Code 40-29-70, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the

required facilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it.

- (16) Mobile Home means a structure manufactured prior to June 15, 1976, or manufactured after June 15, 1976 without certification of compliance with HUD standards (Federal Manufactured Home Construction And Safety Standards)pursuant to SC Code 40-29-70, which is a movable or portable dwelling unit over thirty (30) feet in length constructed to be towed on its own chassis, without permanent foundation, consisting of a single or two or more connected components. The term does not include prefabricated, or modular dwelling on a permanent foundation, or travel trailer, camper, or similar recreational unit.
- (17) Motor Vehicle or Vehicle includes any machine designed or intended to travel over land or water by self propulsion or while attached to a self propelled vehicles and includes boat, boat trailer, travel trailer, storage trailer, recreational vehicle, etc.
- (18) Outdoor Storage of debris means the accumulation or storage of disassembled, inoperable, or unlicensed motor vehicles or vehicles, decaying animal or vegetable matter, animal or human feces, trash, rubbish, garbage, rotting lumber, packing materials, old or scrap copper, brass, aluminum, rope, rags, paper, trash, tire carcasses, rubber debris, old vehicle parts, non-working major appliances, and other old ferrous or non-ferrous material.
- (19) Owner means the holder of the title in fee simple and every mortgagee of record.
- (20) Parties of Interest means all individuals, associations, corporations and others who have interests of record in a dwelling.
- (21) Public Nuisance means any activity or failure to act that adversely affects the public and shall include, but not 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 of transmission or infections.
- (22) Structure (as defined by the latest version of the International Building Code as adopted by the State of South Carolina.
- (23) Unfitness means if conditions exists 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 Fairfield County. Such conditions may include the following, without limiting the generality of the foregoing: Defects increasing the hazards of fire, accidents, or other calamities.
- (24) Vegetation means any object of natural growth.
- (25) Vehicle (see definition for Motor Vehicle or Vehicle).

ARTICLE II
ABANDONED/DANGEROUS BUILDING

SECTION 1. Prohibitions

It is unlawful to maintain or permit the existence of an abandoned building which is dangerous or injurious to the health or safety to the occupants of surrounding dwellings or to the public at large. Dangerous or injurious means:

- A. Any condition of the building which may cause or aid in the spread of disease, or injury to the occupants of surrounding dwellings.
- B. Any condition of the building which may cause it to be especially liable to fire and constitutes or creates a fire hazard.
- C. Any condition of the building which may make it liable to cause injury or damage or by a collapse or fall of such structure.
- D. Any condition of the building which may cause which because of its condition or because of lack of doors or windows is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.

SECTION 2. Abatement

A building or structure which is abandoned/dangerous as defined by this Ordinance, may be brought up to the current building code and all dangerous or injurious conditions are eliminated.

SECTION 3. Demolition

Any building or structure which is abandoned/dangerous as defined by this Ordinance shall be torn down and removed, or the dangerous conditions are abated and corrected.

SECTION 4. Notification

Upon determination that a building or structure is abandoned and dangerous, the Code Enforcement Officer shall notify the County Administrator.

The County Administrator shall then appoint three (3) persons to determine whether or not such building or structure is abandoned and is dangerous or injurious to the health or safety to the occupants of surrounding dwellings or to the public at large.

A copy of the notice of appointment of this Board of three (3) persons to determine whether or not such building or structure is abandoned and is dangerous or injurious shall be served upon the owner of the premises by personal service or by registered mail at his last known address. If the whereabouts of such person or persons are unknown and cannot be ascertained in the exercise of reasonable diligence, the County Administrator or his assigned representative shall make an affidavit to that effect, then the serving of such notice or order may be made by publishing it once each week for two (2) consecutive weeks in a newspaper printed and published in this area. A

copy of such notice or order shall be posted in a conspicuous place on the subject premises. A copy of such notice or order shall also be filed with the Fairfield County Clerk of Court and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

SECTION 5. Enforcement

If this finding is verified by the board of three (3) members and it determines that the building or structure is abandoned and dangerous or injurious to the health or safety to the occupants of surrounding dwellings or to the public at large, it shall be the duty of the owner to tear down and remove said building or structure within thirty (30) days after the owner(s) have received a copy of the board's written notice of their determination. This notice shall be served in person, by certified mail, or by an officer authorized to serve a warrant.

An extension of time to complete demolition and removal of said building or structure may be granted if justified. Such request must be in writing and be received by the Code Enforcement Office within thirty (30) days following receipt of the notice. The request must contain the reasons why the extension is necessary and contain the specific time requested. The Code Enforcement Officer shall present the request for time extension to the board of three (3) members for their approval. Notice of their decision shall be served to the owner as detailed in paragraph above.

SECTION 6. Penalties

Any person deemed to be still in violation of after the thirty (30) days notice shall be issued a citation charging such person(s) with a misdemeanor. A guilty plea or judgment by the Fairfield County Magistrate's Office shall be punishable by a fine of no more that five hundred dollars (\$500.00), or imprisonment not to exceed thirty (30) days. Each day of violation shall constitute a separate offense.

In addition the Code Enforcement or other appropriate administrative officer, 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.

SECTION 7. Demolition and Removal by the County

The County in addition to the penalties as proscribed in Section 6 above may cause such building or structure to be removed or demolished. In such case, the total amount incurred by the County shall be a lien against the real property upon which such cost was incurred. The lien is to be entered up and enforced in the same manner as other liens.

SECTION 8. Rights of Persons Affected

Any person affected by order of the board may within thirty days (30) after the posting and service of the order petition the circuit court for an injunction restraining the County from carrying out the provisions of the order and the court may upon such petition, issue a temporary injunction restraining the County pending the final disposition of the case. In all such proceedings the findings of the Code Enforcement Officer as to facts, if supported by evidence, shall be conclusive. Cost shall be at the discretion of the court. The remedies provided herein shall be exclusive remedies and no person affected by an order of the Code Enforcement Officer shall be entitled to recover any damages for action taken pursuant to any order or because of compliance by such person with any order.

ARTICLE III ABANDONED MANUFACTURED HOMES/MOBILE HOMES

SECTION 1. Prohibitions

It is unlawful to maintain or permit the existence of an abandoned or derelict manufactured home/mobile home upon any property in the County.

SECTION 2. Demolition and Removal

Any manufactured home/mobile home which is abandoned or derelict as defined by this Ordinance shall be torn down and removed.

SECTION 3. Penalties

Any person deemed to be still in violation of after the thirty (30) days notice shall be issued a citation charging such person(s) with a misdemeanor. A guilty plea or judgment by the Fairfield County Magistrate' Office shall be punishable by a fine of no more that five hundred dollars (\$500.00), or imprisonment not to exceed thirty (30) days. Each day of violation shall constitute a separate offense.

In addition the Code Enforcement or other appropriate administrative officer, 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.

SECTION 4. Removal and Destruction by County

The County in addition to the penalties as proscribed in Section 6 above may cause such abandoned or derelict manufactured home/mobile home to be removed or demolished in accordance with S.C. Code of Laws 6-1-159 as follows:

A(1) If a local official determines that a derelict mobile home has value for which it may be sold, the local official may apply to a magistrate and follow the procedures in Section 29-15-10 to notify the owner of the mobile home and any lienholders that the local official has determined the mobile home is a derelict mobile home and has filed the required pleadings with the magistrate to seek to have the mobile home removed from the property and sold.

A(2) If a local official seeks to remove and destroy a derelict mobile home, the local official must follow the procedures in Section 29-15-10 to notify the owner of the mobile home and any lienholders that the local official has determined the mobile home is a derelict mobile home and has filed the required pleadings with the magistrate to seek to have the mobile home removed from the property and destroyed.

A(3) In addition to the notice requirements in the magistrates court, in order to (a) remove and sell, or (b) remove and destroy a derelict mobile home, a local official must post a notice on each door of the mobile home for thirty (30) consecutive days reading substantially as follows:

NOTICE

This mobile home is the subject of a proceeding in the magistrates court to determine if it will be removed from this property. For further information, please contact: (name and telephone number of local government office seeking removal) or (name and telephone number of magistrates court where action is pending).

(Date of Notice)

A(4) In a court proceeding with the proper notice, a magistrate must determine whether a derelict mobile home may be either (a) removed and sold, or (b) removed and destroyed. In order for the mobile home to be removed and destroyed, it must meet the requirements of a derelict mobile home as defined in this section.

A(5) If the magistrate determines that the mobile home is derelict and is to be removed and sold, the local official must follow the procedures in Section 29-15-10.

A(6) If the magistrate determines that the mobile home is derelict and is to be removed and destroyed, the local official or the landowner must remove and dispose of the derelict mobile home and send proof of the removal and disposal to the county auditor as provided in Section 12-49-85(D).

(B)(1) All costs of removal and disposal are the responsibility of the owner of the derelict mobile home, and may be waived only by order of the magistrates court or if a local governing body has a program that covers removal and disposal costs.

B(2) A lienholder of the derelict mobile home is not responsible for the costs of removal and disposal unless the lienholder or his agent effects a recovery of the mobile home under its lien and subsequently the lienholder or his agent knowingly abandons the mobile home on the property and allows the mobile home to become a derelict mobile home.

B(3) If the landowner is the owner of the derelict mobile home and is unwilling or unable to pay the costs of removal and disposal, a lien for the costs of removal and disposal may be placed on the landowner's real property where the derelict mobile home was located.

SECTION 5. Removal and Destruction by Landowner

The Owner of the land on which the abandoned/derelict manufactured home/mobile home is located may also remove the home and either sell or destroy the manufactured home/mobile home by applying to the local magistrate and following the procedures in S.C. Codes 6-1-150 and 29-15-10.

**ARTICLE IV
UPKEEP OF LOTS**

SECTION 1. Requirements for Upkeep of Lots

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 grass, weeds, undergrowth, trash, garbage, stagnant water, or other matter detrimental to good health and public sanitation which is permitted or caused to accumulate in any manner which is or may become a nuisance causing injury or sickness to the health or welfare of residents or the public in the vicinity or causing injury to neighboring property.

SECTION 2. Exception

This section shall not apply to property being actively used for legal agricultural purposes except in the setback area where adjacent to residential property. Setbacks shall be as defined in the Fairfield County Zoning Ordinance.

**ARTICLE V
ABANDONED, DISMANTLED, JUNKED, WRECKED OR INOPERATIVE VEHICLES**

SECTION 1. Prohibitions

No person in charge or control of any property, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, inoperative, wrecked, junked or discarded vehicle to remain on the property longer than seventy-two (72) hours. The presence of such a vehicle, or parts thereof, is hereby declared a public nuisance.

SECTION 2. Exceptions

- A. This subsection does not apply to temporarily parking inoperable or disabled vehicles on the premises of the owner of such vehicles for the purpose of maintenance and repair. Temporary parking shall not exceed seven consecutive days.
- B. This section shall not apply to a business which is a permitted use or legally nonconforming use as allowed by the Fairfield County Zoning Ordinance where such activities listed above are a normal and customary associated activity with that business. In the case of outside storage in conjunction with the business, the materials in question must be screened from the public right-of-way or residential property.

- C. One partially dismantled, inoperative, wrecked, junked or discarded vehicle is allowed where the owner of the property is in the process of restoring a classic or antique. Such vehicle must be the same make and model of the vehicle being restored.
- D. This subsection does not apply to any vehicle stored in a garage or enclosed storage building or where the vehicle is screened from the public right-of-way or residential property.

SECTION 3. Responsibility

Regardless of ownership, the property owner on which the partially dismantled, inoperative, wrecked, junked or discarded vehicle is located, is responsible for taking all corrective actions to remedy the situation.

ARTICLE VI PUBLIC NUISANCES

SECTION 1. Prohibitions

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

- A. Failure to keep waste, refuse or garbage 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 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 consisting of a total of more than six (6) cubic feet in volume.
- E. Noxious and excessive accumulation of decaying animal or vegetable matter, animal feces, trash, rubbish, garbage, rotting lumber, packing materials, scrap metal, pallets, fuel storage containers, tools, tires and wheels, farm implements, furnaces, home appliances, furniture, plumbing fixtures, construction materials, metal, pipes, glass bottles, 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. Any noxious and excessive accumulations of materials or any activity that causes an emission of odorous gases or other odorous matter in such quantities as to be offensive at the property line.
- G. Dead trees that create a hazard by creating a potential for falling onto neighboring public right-of-way or neighboring adjacent residential property

SECTION 2. Exceptions

This section shall not apply to property being actively used for legal agricultural purposes except no accumulation of waste, debris or junk as defined above is allowed in the setback area adjacent to a residence as defined in the Fairfield County Zoning Ordinance.

This section shall not apply to a business which is a permitted use or legally nonconforming use as allowed by the Fairfield County Zoning Ordinance where such activities listed above are a normal and customary associated activity with that business. In the case of outside storage in conjunction with the business, the materials in question must be screened from the public right-of-way or residential property.

SECTION 3. Responsibility

Regardless of who is has created the public nuisances, the property owner is responsible for taking all corrective actions to remedy the situation.

ARTICLE VII ENFORCEMENT

Upon investigating a complaint of possible violation, and determination of violation of this Ordinance, the Code Enforcement Officer shall give written notice of his determination and order the property owner to abate the violation. This notice shall be served in person, by regular mail, or by an officer authorized to serve a warrant. The notice and contain the following:

- A. Property location by street address or Tax Map Number for the parcel.
- B. Information identifying the nature of the violation.
- C. Specific orders for abatement or remediation of the violation
- D. A date for completion of the abatement not to exceed thirty (30) days following receipt of the notice.
- E. 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 Office within thirty (30) days following receipt of the notice. The request must contain the reasons why the extension is necessary and contain the specific time requested.

ARTICLE VIII APPEAL

SECTION 1. Right of Appeal

Appeals to the Board shall be taken within 15 days of the date of the action which is appealed, by filing notice of appeal with the Building Official, who shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Building Official and on due cause shown.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give at least 15 days public notice thereof in a newspaper of general circulation in the community, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.

The County Council shall adopt by resolution the fee for filing an appeal before the Board of Zoning Appeals.

ARTICLE IX PENALTIES

Any person deemed to be in violation of this Ordinance shall first receive a warning from the County Code Enforcement Officer that they must cease any and correct any violation of this Ordinance found to be in violation of this Ordinance. Any person deemed to be still in violation of this Ordinance after having received a warning shall be issued a citation charging such person(s) with a misdemeanor. A guilty plea or judgment by the Fairfield County Magistrate's Office shall be punishable by a fine of no more that two hundred dollars (\$200.00) unless otherwise noted in this ordinance, or imprisonment not to exceed thirty (30) days. Each day of violation shall constitute a separate offense.

In addition the Code Enforcement or other appropriate administrative officer, 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.

ARTICLE X CONFLICT WITH OTHER LAWS

Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.

ARTICLE XI EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the date of its adoption by the County Council of Fairfield County.

ADOPTED THIS 28th DAY OF April, 2008, BY ORDER OF THE FAIRFIELD COUNTY COUNCIL.

David L. Ferguson
David L. Ferguson, Chairman

Kamau Marcharia
Kamau Marcharia, Vice Chairman

R. David Brown
R. David Brown, Member

Mary Lunn Kinley
Mary Lynn Kinley, Member

James E. (Eddie) Branham
James E. (Eddie) Branham, Member

Dwayne Perry
Dwayne Perry, Member

Mikel R. Trapp
Mikel R. Trapp, Member

ATTEST:

Shryll M. Brown
Shryll M. Brown, Clerk to Council