

Sponsor(s) : County Council
First Reading : June 1, 2010
Committee Referral : N/A
Committee Consideration Date : N/A
Committee Recommendation : N/A
Second Reading : June 29, 2010
Public Hearing : September 7, 2010
Third Reading : September 7, 2010
Effective Date : Immediately

I, Ruth Mayer, clerk to
Council, certify that this
Ordinance was advertised
for Public Hearing on 9-7-10.

Planning

ORDINANCE NO. 10-O-09 AMENDED

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR COLLETON COUNTY

(To Amend Title 9, Public Peace and Welfare by Repealing in Its Entirety, Chapter 9.02 Public Nuisances Generally and Replacing It With An Updated Nuisance Ordinance.)

WHEREAS:

1. In order to separate responsibilities and enforcement of Nuisance issues from those covered under the Building and Construction Codes, it has been determined that an amendment to the current Nuisance statutes is required; and
2. The most efficient means for achieving that amendment is to repeal in its entirety the existing Nuisance Chapter of the Code of Ordinances of Colleton County and replace it with an updated Nuisance Ordinance; and
3. County Council has the authority to enact such amendment.

NOW THEREFORE BE IT ORDAINED BY THE COLLETON COUNTY COUNCIL DULY ASSEMBLED THAT:

Title 9, Public Peace and Welfare, of the Colleton County Code of Ordinances is hereby amended by repealing in its entirety Chapter 9.02, Public Nuisances Generally and replacing said Chapter by the following:

1. Public Nuisances - General

a. Public nuisances can substantially degrade residential and business areas and promote rural blight and deterioration and often violate health and sanitation requirements. This law has been adopted for the citizens of Colleton County to provide for steady and consistent improvement of the general safety, welfare, health, and economic value preservation of properties in the unincorporated area of Colleton County.

2. Definitions

a. *Abate/Abatement:* action to terminate, stop, cease, repair, rehabilitate, replace, demolish, correct or otherwise remedy nuisance activity, condition, premises or conduct by such means and in such manner

as to bring the activity, condition, premises or conduct into compliance with the laws or regulations of Colleton County and/or the State of South Carolina or in such manner as is necessary to promote the health, safety or general welfare of the public.

b. *County*: Colleton County, South Carolina.

c. *Compliance Officer*: The County Planning and Development Director or anyone *qualified* he designates to act in such capacity on his behalf or anyone designated as such by the County Administrator.

d. *Minor*: any person under the age of eighteen (18) years, and who is not emancipated.

e. *Owner*: The owner or owners of any premises or real or personal property.

f. *Premises*: In context, any location, manufactured home, lot, parcel, land or portion thereof, whether improved or unimproved.

g. *Public Nuisance*: Any condition, instrumentality or machine located on premises, which constitutes a health hazard and/or which is or may be unsafe or dangerous to members of the general public by reason of their inability to appreciate the peril therein, and/or which may reasonably be expected to attract children to the premises and risk injury by their playing with, in, or on it.

h. *Responsible party or person*: Any individual, business or entity responsible for creating, causing, maintaining or permitting the nuisance activity, premises, condition or conduct; and includes, but is not limited to, the property owner (both real and personal), tenant, lessee, possessor, or occupant of real property, the president or other officer of the corporation, a business owner or manager of a business.

3. Unlawful Property Nuisance. It is unlawful for any person owning, renting, leasing, occupying, managing or having charge, or possessing of any real or personal property in this County to maintain such premises or property in such a manner that any of the following conditions are found to exist thereon:

a. An abandoned manufactured home such as:

- 1) An unoccupied and unsecured manufactured home;
- 2) A partially set up, reconstructed, or demolished manufactured home where work is abandoned for 120 consecutive days;
- 3) A damaged or partially destroyed manufactured home not removed or repaired within 120 days after the damage or destruction, or, if the removal or repair cannot reasonably be accomplished within 120 days, upon which removal or repair has not been commenced within such period and prosecuted diligently toward completion.
- 4) A manufactured home that is damaged, extensively deteriorated, does not have approved utilities, water, and septic service.

b. Property maintained in a condition so defective, unsightly, or in a state of such deterioration, disrepair or neglect that it causes a health, safety or fire hazard or a public nuisance to children or others such as:

- 1) The accumulation of dirt, litter, refuse, trash or debris in carports, parking areas, driveways, front yards, side yards, rear yards, vestibules, doorways of buildings, the adjoining sidewalk or alley;

- 2) Storage of personal property (other than items designated for outdoor use) in front, exterior side, or rear yard areas visible to public view, including, but not limited to unregistered, inoperative or dismantled vehicles or vehicle parts, building materials not currently being used for the construction of improvements on the site, appliances, household furnishings or equipment, tools, machines, garbage cans, packing boxes, debris, rubbish, and broken or discarded furniture.
- c. Trees, weeds, grass, vines, brush, or other vegetation which are dead, decayed, infested, diseased, overgrown, or likely to harbor rats or vermin, or which are detrimental to neighboring property or property values. This paragraph shall be applicable to every tract of land upon which any building, facility or other structure of any type is located, regardless of the condition of the structure. This paragraph shall not be applicable to:
 - 1) Tracts of land in its natural forested or unimproved state that have not been subdivided, platted, or recorded for development purposes;
 - 2) Tracts of land used primarily for agricultural purposes;
 - 3) Tracts of land that have not been improved or occupied for a period of at least 25 years and upon which no structure exists;
 - 4) Natural wildlife areas, open fields, or other similar situated tracts of land.
 - d. Abandoned and broken equipment or machinery, or parts thereof.
 - e. The discharge of sewage or untreated wastewater into any yard, open ditch, storm sewer line or any other open public or private property area.
 - f. A motor vehicle that is inoperable, abandoned, or derelict upon any public street, road or thoroughfare, or private property.
 - g. Clothing, linen, towels, laundry, rugs, mattresses, and other similar material hung, placed, or attached to power lines, trees, bushes, fences, buildings, railings, or walls and visible from public property or an area open to the public.
 - h. Waste matter or personal property placed on rooftops.
 - i. Any manufactured home which is a public nuisance under common law.
 - j. Any violation of the zoning ordinances or occupying or otherwise using property in violation of the provisions of any conditional use permit, planned development permit, variance or other land use entitlement or land use permit.
 - k. Any condition or activity which is a "nuisance" or a "public nuisance" as defined by the State of South Carolina.

4. Public Nuisance Declared: Any property found to be maintained in violation of any one or more of the provisions of Section 3 of this Ordinance is hereby declared to be a public nuisance and shall be abated pursuant to the procedures set forth herein. The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the County from enforcing other County ordinances or abating public nuisances in any manner provided by law.

5. Responsibility for Property Maintenance: Every responsible party who owns or is in possession of premises within the County is required to maintain such premises in a manner so as not to violate the provisions of this Chapter.

6. Right to Enter Property to Inspect or Abate: Any officer, employee, or agent of the County must secure permission from the owner of the premises to inspect or abate any manufactured home or premises whenever necessary to secure compliance with, or prevent violation of, any provision of this Ordinance. Where a violation is in clear view from a public road or adjoining property, on which permission has been granted to enter, the officer, employee or agent of the County may issue a summons for the violation.

7. Abatement Procedure/Compliance Order: Whenever the Compliance Officer determines that any property is maintained in violation of one or more of the provisions of this Ordinance, he or she shall serve on one or more of the responsible parties a written Compliance Order citing:

- a. The date and location of the violation;
- b. The section of the code violated and a brief description of the violation;
- c. The actions required to correct the violation(s) or abate the condition(s);
- d. The time period after which the County will enter the property to abate the conditions;
- e. The time period for abatement shall be at least thirty (30) days, unless it is determined by the Compliance Officer that the conditions constitute an imminent threat to the public health, safety or welfare. The Compliance Officer may grant an extension of one hundred eighty (180) days or less upon good cause, provided the responsible party signs a written agreement to abate the nuisance within a time certain. The Board of Zoning Appeals may grant a one-time extension of one hundred eighty (180) days or less in addition to the time provided by the Compliance Officer where the Board deems such extension is warranted.
- f. Service under this section may be accomplished by delivery to and/or served upon such persons personally, but if the whereabouts of the responsible persons are unknown and cannot be ascertained in the exercise of reasonable diligence, the serving of the Compliance Order may be made by publishing it once each week for two (2) consecutive weeks in a newspaper of general circulation in the county and notice shall be posted on the property and allowed to remain for up to thirty (30) days and shall indicate the nature of the violation, identification of the property affected, with date of posting, and contact information.

8. Voluntary Correction:

A. Applicability. This section applies when the designated Planning and Development Department Official (hereinafter Compliance Officer) determines that a violation of a regulation has occurred or is occurring.

1. **General.** The Compliance Officer shall pursue a reasonable attempt to secure voluntary correction by causing written notice to be given to the person responsible for the violation where possible, or to the owner of record at the public address of record or 9-1-1 address, explaining the violation and the abatement and appeals process.

2. **Issuance of Voluntary Correction Agreement.** A Voluntary Correction Agreement may be entered into between the person responsible for the violation and the County, acting through the Planning and Development Director.

B. Content - Voluntary Correction Agreement. The Voluntary Correction Agreement is a contract, between the County and the person responsible for the violation, under which such person agrees to abate the violation within a specified time and according to specified conditions. Time frame shall be as short as possible, not to exceed one hundred eighty (180) days, and shall have measurable milestones at a maximum of forty-five day intervals. The Voluntary Correction Agreement shall include the following:

1. The name and address of the person responsible for the violation;

2. The street address or a description sufficient for identification of the premises, manufactured home or land upon or within which the violation has occurred or is occurring;
3. A description of the violation and a reference to the provision(s) of the County Code of Laws Section, Ordinance, or Regulation which has been violated;
4. The necessary corrective action to be taken, and a date or time by which correction must be completed, phased if necessary with defined requirements for task completion at specific intervals;
5. An agreement by the person responsible for the violation that the County may abate the violation and recover its costs and expenses and a monetary penalty pursuant to this Chapter from the person responsible for the violation, if the terms of the Voluntary Correction Agreement are not met; and
6. An agreement that by entering into the Voluntary Corrective Agreement, the person responsible for the violation waives the right to an administrative appeal of the violation and/or the required corrective action.

C. Right to a Hearing Waived: The person responsible for the violation waives the right to an administrative appeal of the violation and the required corrective action upon entering into a Voluntary Corrective Agreement.

D. Abatement by the County. The County may abate the violation if the terms of the Voluntary Corrective Agreement are not met.

9. Demolition Permit Fee Waiver: The demolition permit fee charged by Colleton County is waived for any responsible party who is correcting a condition citable under this Chapter.

10. Mobile Home Moving Permit – Fee Waived for Salvage: The Delinquent Tax Office is authorized to waive the permit for moving a mobile home for the purpose of salvage. Such permits shall be issued only in cases where the mobile home is being dismantled in a salvage operation, and the permit shall include the address where the salvage or dismantling operation will occur; the name, address, and telephone number of the Salvage Company; the address of the location from which the home is being moved; the name, address, and telephone number of the current owner of the mobile home; and any other information required by the Delinquent Tax Office.

11. Abatement by County:

A. Should any property owner, agent or occupant fail to comply with order to abate violations of such property, the county reserves the right in addition to other penalties to cause by proper means such property to be abated of violations. Cost of such abatement shall be billed to the owner, agent, or occupant to be paid in full within thirty (30) days. In addition, an administrative fee of fifty dollars (\$50.00) or fifteen (15) percent of the actual cost of abatement whichever being the greater amount shall be applied to the cost. Whenever said bill has not been paid within the prescribed time period, the County shall apply all costs as a lien on the property; and/or such costs shall be applied to the annual tax levied and shall be collected by the County in addition to annual property tax; or collection shall be achieved by other means as may be available and provided by law.

B. Payment of such liens placed by the County against abated property may be negotiated by the County Administrator when such negotiation is deemed to be in the best interest of the County. The Administrator shall be authorized to waive fifty percent (50%) of the lien within the first five years after

the recording of the lien, and twenty-five percent (25%) within five to seven years after recording. No negotiation shall occur for any lien beyond seven years from recording. Such liens must be paid in full.

12. Penalties:

1. Any person who violates any provision of this Chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars (\$500.00) and/or be imprisoned for not less than two days nor more than thirty (30) days. No fine imposed pursuant to this Chapter may be suspended to less than two hundred fifty dollars (\$250.00). No sentence of imprisonment imposed pursuant to this Chapter may be suspended. Any punishment including fines imposed pursuant to a criminal conviction for a violation of this Chapter shall be separate and apart from any inspection costs and clean-up or abatement costs incurred by the County in abating said nuisances; and shall be in addition to all other remedies available to the County under State law and local ordinances.

2. Each day that the nuisance continues to exist shall constitute a separate violation.

13. Exemptions:

A. The motor vehicle provisions of this ordinance shall not apply to the following:

- a. Authorized auto salvage yards and other related businesses duly operated, regulated, and in compliance with all other Colleton County Ordinances.
- b. Vehicles which bear current "Antique" vehicle license plate as issued by the South Carolina Department of Highways and Public Transportation.
- c. Any motor vehicle which is in relatively good condition, is capable of being moved under its own power, and is able to pass a vehicle safety inspection, yet does not have current license plates due to owner's illness or other reasonable verifiable causes as determined by the Planning & Development Director, or his designated agent.
- d. Motor vehicles properly stored within an enclosed building or an opaque fence or enclosure, so as not to be visible, as determined by the Planning and Development Director or his designated agent.
- e. Where a permit or authorization has been attained from the Planning & Development Department for vehicles for sale, when such vehicles are operable yet do not bear current license plate (such permit/authorization should not to exceed one hundred and twenty (120) days).
- f. Authentic/verifiable stock race cars, dirt track race cars, drag race cars or other relevant race cars which are being used on a regular basis, are able to move under their own power, and have been determined by the Planning & Development Director or his designated agent to be true race cars.

B. This Chapter shall not be applicable to farm storage vessels, such as school buses or storage containers, when such containers are screened from public view, used primarily for agricultural purposes, and are clearly used regularly.

14. Means of Appeal: The Zoning Board of Appeals, established in Section 14.44.020 of this Code, shall hear all appeals originating from actions taken pursuant to this Chapter.

A. Application for Appeal. Any person directly affected by a decision of the Compliance Officer or a notice or order issued under this Chapter shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within thirty (30) days after the day the decision, notice, or order was served at the property, to the person responsible, or to the owner. An

application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted hereunder have been incorrectly interpreted, the provision of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means, or that the strict application of any requirement of this Code would cause undue hardship.

B. Notice of Meeting. The Board shall meet upon notice from the Chairman, within thirty (30) days of the filing of an appeal, or at stated periodic meetings.

C. Open Hearing. All hearings before the Board shall be open to the public and shall be publicly posted in a newspaper of general circulation fifteen (15) days prior to the hearing. The appellant, the appellant's representative, the Compliance Officer, and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than a majority of the Board membership.

D. Procedure. The Board shall adopt and make available to the public, through the secretary, procedures under which a hearing shall be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

E. Board Decision. The Board shall modify or reverse the decision of the Compliance Officer or grant a one-time extension of no more than one hundred eighty (180) days additional to the time period already provided by the Compliance Officer for abatement. Such decisions shall be made only by a concurring vote of a majority of the total number of Board members present at a meeting.

F. Records and Copies. The decision of the Board shall be recorded. Copies shall be furnished to the appellant and to the Planning and Development Director.

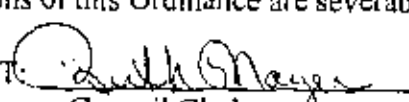
G. Administration. The Planning and Development Director shall cause the Compliance Officer to take immediate action in accordance with the decision of the Board.

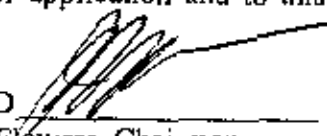
H. Court Review. Any person, whether or not a previous party of the appeal, shall have the right to appeal to the Circuit Court.

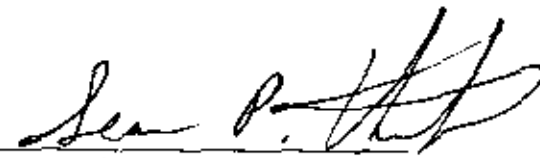
I. Stays of Enforcement. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Appeals Board.

15. Precedence: Provisions in other County Ordinances, Resolutions, policies or by-laws in conflict with this Ordinance are hereby repealed.

16. Severability: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

ATTEST: 
Ruth Mayer, Council Clerk

SIGNED 
Joseph Flowers, Chairman


Approved as to Form
Sean P. Thornton, County Attorney

COUNCIL VOTE: Unanimous
OPPOSED: