

ORDINANCE NO. 2010- _____

AN ORDINANCE TO AMEND SECTION 4-2.1 OF THE CITY CODE TO UPDATE AND STREAMLINE THE PROCESSES WITHIN THE CITY FOR THE IDENTIFICATION AND ABATEMENT OF UNSAFE COMMERCIAL BUILDINGS.

WHEREAS, S. C. Code Ann. §5-7-30 (1976) grants to municipalities the authority to abate nuisances and the city has the authority to protect the public from exposure to dangers associated with unsafe commercial buildings within the boundaries of the city; and

WHEREAS, it appears to Council that the fair and efficient identification and abatement of unsafe commercial buildings within the city requires ordinance provisions that clearly define unsafe commercial buildings and establish a fair and efficient process for enforcing the prohibition regarding unsafe commercial buildings ;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Florence that Section 4-2.1 of the City Code for Florence, South Carolina be, and are hereby, amended to read verbatim and provide as follows:

Sec. 4-2.1. Unsafe commercial buildings.

(a) *Definitions.*

(1) For the purpose of this section, the term “*unsafe commercial buildings*” shall include, but not be limited to, any commercial building, shed, fence, or other man-made structure wherein one (1) or more of the following conditions exist:

(i) Any structure, or part of a structure wherein the means of ingress and egress into the structure is of inadequate size or is not designed to provide exit, entry or internal movement in the event of fire or emergency; or

(ii) Any structure, or part of the structure, that has been damaged by fire, flood, earthquake, wind or other natural occurrence to the extent that the structural integrity of the structure, is less than the requirements of the Standard Building Code for New Structures; or

(iii) Any structure, or part of a structure, that as a result of natural decay, deterioration or dilapidation is in such a condition after inspection that there exists a danger, as determined by the building official, of structural collapse; or

(iv) Any structure, or part of a structure, that is in such condition to constitute a public nuisance as defined in §9-24 et seq. of the City Code; or

(v) Any structure, or part of a structure, that as a result of abandonment, dilapidation, obsolescence or, as it relates to the particular use of the structure, to become unsafe, unhealthy, or unsightly.

(2) *Business Days* means Monday through Friday.

(3) *Enforcement Officer* means a law enforcement officer, code enforcement official, or city employee or official as maybe designated in writing by the city manager to enforce the provisions of this division.

(4) *Person* means any landlord, property owner, manager, lessee, tenant, individual, group, association, corporation, partnership, trust, estate, or receiver having the capacity to sue or be sued.

(b) *Unsafe Commercial Buildings Prohibited and Unlawful.* No person or entity shall create any unsafe commercial building in the city, and no person shall, by failure to act, permit a unsafe commercial building to occur or continue on any real property under such person's control, whether the person's control is by recorded or unrecorded instrument or permission.

(c) *Inspection of Buildings.*

(1) Enforcement officers shall have the authority to inspect all commercial buildings within the City, whether occupied or not, in order to investigate to determine whether such commercial buildings are unsafe. Inspections of commercial buildings may be conducted by the enforcement officer or his designee due to any of the following reasons:

(i) A complaint from a tenant that the unit is unsanitary,

unsafe, has excessive utility bills, water leaks, or structural defects, which the owner/manager has refused to remedy.

- (ii) External building or yard inspections would lead a reasonable person to believe that the interior of the commercial buildings might also have sanitary, structural, or safety violations.
- (iii) A report from an independent third party, such as DSS case workers, electric or gas company technicians, law enforcement personnel, or other persons that they have personally seen safety, structural, or sanitary violations at the commercial buildings .
- (iv) Whenever any commercial buildings within the City makes application with the Water Department of the City to have water turned on or to have the name on such the water account for such unit changed, the Codes Enforcement Department of the City will be notified of such application and will inspect the commercial buildings to investigate to determine whether such commercial buildings is unsafe.

(c) *Institution of Criminal Process and Penalty or Other Enforcement.*

(1) As a result of the public nature of the dangers posed by the existence of an unsafe commercial building as determined by an enforcement officer or other appropriate governmental official, enforcement of this chapter's provisions may be accomplished upon the institution of criminal process by way of a municipal ordinance summons or warrant made only by an enforcement officer or appropriate government official. Each day a violation continues constitutes a separate misdemeanor offense subject to a fine up to \$500 and/or imprisonment up to thirty days for each offense. The enforcement officer issuing a municipal summons under the provisions of this section shall place on the summons the amount of the fine, and the municipal summons shall give to the accused party the right to either pay the fine through forfeiture of the bond amount or appear in the municipal court at the time and place specified to litigate the offense and/or penalty.

(2) A municipal ordinance summons as described herein shall be

served on the accused individual by personal service as attested to on an Affidavit of Service signed by an enforcement officer as defined herein.

(3) In its discretion, the city may elect to use other applicable code sections pertaining to remediation and abatement of a nuisance utilizing the provisions of §§9-27, 9-30, 9-31, and 9-32 of the City Code.

This Ordinance shall be effective immediately upon its passage on second reading.

ADOPTED THIS ____ DAY OF _____, 2010.

Stephen J. Wukela
Mayor

Approved as to form:

Attest:

James W. Peterson, Jr.
City Attorney

Dianne M. Rowan
Municipal Clerk