

**AN ORDINANCE**

**AN ORDINANCE OF THE CITY OF NEWBERRY, SOUTH CAROLINA  
TO ADD AN ARTICLE IV TO CHAPTER 8.5 (HOUSING), WHICH  
SECTION SHALL PROVIDE FOR THE REPAIR, CLOSURE OR  
DEMOLITION OF DWELLINGS EXISTING IN THE CITY OF  
NEWBERRY WHICH ARE UNFIT FOR HUMAN HABITATION**

**WHEREAS**, the City of Newberry finds that there exists in the City of Newberry dwellings which are unfit for human habitation due to (a) dilapidation, (b) defects increasing the hazards of fire, accident or other calamities, (c) lack of ventilation, light or sanitary facilities or (d) other conditions rendering such dwellings unsafe or insanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the City; and

**WHEREAS**, the City of Newberry, South Carolina desires to avail itself of the remedies available pursuant to Chapter 15 of Title 31 of the SC Code of Laws so that such dwellings may be repaired, closed or demolished; and

**WHEREAS**, the City of Newberry has determined that the health, safety and welfare of its residents would be served by the enactment of the following addition to the code.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF  
THE CITY OF NEWBERRY, SOUTH CAROLINA:**

That the Code of Ordinances of the City of Newberry, South Carolina, is hereby amended by adding an Article IV to Chapter 8.5 - Housing, which section shall read as follows:

## **Article IV - Unfit Housing**

### **Section 8.5-45 - Definitions**

The following terms whenever used are referred to in this Article shall have the following respective meanings for the purposes of this Article, unless a different meaning clearly appears from the context:

**Dwelling** shall mean any building or structure or part thereof, used and occupied for human habitation or intended to be so used and includes any outhouses and appurtenance belonging thereto or usually enjoyed therewith.

**Governing Body** shall mean the City of Newberry City Council.

**Municipality or Town** shall mean the City of Newberry, S.C.

**Owner** shall mean the holder of the title in fee simple and every mortgagee of record.

**Parties in interest** shall mean all individuals, associations, corporations and other who have interest of record in a dwelling and any who are in possession thereof; and

**Public Authority** shall mean any housing authority or any officer who is in charge of any department or branch of government of the City of Newberry or State of South Carolina relating to health, fire or building regulations or to other activities concerning dwellings in the City of Newberry.

**Public Officer** shall mean the officer(s) who are authorized by the City of Newberry pursuant to this Article to exercise the powers prescribed by such ordinances of this Article.

### **Section 8.5-46 - Repairing, Closing or Demolishing Unfit Dwellings**

Whenever it is found that there exists in the City of Newberry dwellings which are unfit for human habitation 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 residence of the City of Newberry, the City of Newberry shall exercise its police powers to repair, close or demolish any such dwelling in the manner described in this Article.

### **Section 8.5-47 - Enforcement Procedure**

Dwellings which are unfit for human habitation shall be repaired, closed or demolished in the following manner:



1. The Director of the City of Newberry Planning and Development Services Department (hereinafter "Director") is designated to exercise the powers described by this Section;
2. That whenever the Director on his own motion believes that a dwelling is unfit for human habitation, the Director shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the Owner of and all parties in interest in such dwelling a Complaint stating the charges and containing a Notice that a hearing will be held before the Director or his designee at a place therein fixed not less than ten (10) days and no more than thirty (30) days after the serving of such Complaint;
3. 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 on Courts of law or equity shall not be controlling in hearings before the Director;
4. If, after such notice and hearing, the Director 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 as follows:
  - 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, 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, requiring the Owner, within the time specified in the Order, to remove or demolish such dwelling.
5. If the Owner fails to comply with an Order to repair, alter or improve or to vacate and close the dwelling, the Director may cause such dwelling to be repaired, altered or improved or to be vacated and closed; the Director may further cause to be posted on the main entrance of the 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";
6. If the Owner fails to comply with the Order to remove or demolish the dwelling, the Director may cause such dwelling to be removed or demolished; and
7. The amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the Director shall be a lien against the real property upon which such cost was incurred and shall be collectable in the same manner as municipal taxes.

8. If the City in demolishing the unfit dwelling as authorized herein contracts with a third party not employed by the municipality to do the work, it must bid the work in conformity with the procurement code applicable to the City of Newberry.

**Section 8.5-48 - Power of City to Declare Nuisance Not Impaired.**

Nothing in this Article shall be construed to impair or limit in any way the power of the City to define and declare a nuisance and to cause the removal and abatement by summary proceedings or otherwise.

**Section 8.5-49 - Standards for Determining Fitness of Dwelling for Human Habitation.**

The Director may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings or the residents of such municipality. Such conditions may include the following (without limiting the generality of the foregoing): Defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation; light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness.

**Section 8.5-50 - Service of Complaints and Orders; Posting and Filing Copies.**

Complaints or Orders issued by the Director pursuant to this Article shall be served upon all parties in interest either personally or by certified mail, but if the whereabouts of such person is unknown and cannot be ascertained by the Director in the exercise of reasonable diligence and the Director shall make an Affidavit to that effect, then the serving of such Complaint or Order upon such persons may be made by publishing it once per week for three consecutive weeks in a newspaper printed and published in the City of Newberry or, in the absence of such newspaper, in one printed and published in the County of Newberry and circulated in the municipality in which the dwelling is located. A copy of such Complaint or Order shall be posted in a conspicuous place on the premises affected by the Complaint or Order. A copy of such Complaint or Order shall also be filed with the Clerk of Court for Newberry County and such filing of the Order or Complaint shall have the same force and effect as other Lis Pendens notice as provided by law.

**Section 8.5-51 - Rights of Persons Affected by Orders.**

Any person affected by an Order issued by the Director may within sixty (60) days after the posting and service of the Order petition the Circuit Court for an injunction restraining the Director from carrying out the provisions of the Order and the Court may, upon such petition, issue a temporary injunction restraining the Director pending the final disposition of the cause. Hearings shall be had by the Court on such petitions within twenty (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 Director 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 Director shall be entitled to recover any damages for action taken pursuant to any Order of the Director or because of compliance by such person with any Order of the Director.

#### **Section 8.5-52 - Powers of Director.**

The Director is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Article, including the following powers in addition to others herein granted:

1. To investigate the dwelling conditions in the City 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 this Article; and
5. To delegate any of his functions and powers under this Article to such officers and agents of his office as he may from time to time designate.

#### **Section 8.5-53 - Sale of Materials From a Removed or Demolished Dwelling.**

If a dwelling is removed or demolished by Director he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of removal or demolition and any balance remaining shall be deposited in the Circuit Court by the Director, 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.

#### **Section 8.5-54 - Budgeting of Estimated Annual Expense**

The City of Newberry shall upon the adoption of this Article prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in the City of Newberry for the purpose of determining the fitness of such dwellings for human habitation and for the enforcement and administration of this Article.

#### **Section 8.5-55 - Article Provisions Are Cumulative.**

Nothing in this Article shall be construed to abrogate or impair the powers of the Courts or any department of the City of Newberry to enforce any provisions of its charter or its ordinances or regulations, or to prevent or punish violations thereof and the powers conferred by this Article shall be in addition and supplemental to the powers conferred by any other law.

DONE, RATIFIED AND PASSED THIS 14<sup>th</sup> DAY OF August, 2018.

Foster Senn  
Foster Senn, Mayor

Jennie O'Shields  
Attest: Jennie O'Shields, Clerk  
City of Newberry

Read this 1<sup>st</sup> time this 10<sup>th</sup> day of July, 2018.

Read this 2<sup>nd</sup> and final time this 14<sup>th</sup> day of August, 2018.