

## Chapter 10 – Administration and Enforcement.

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## **CHAPTER 10 - Administration and Enforcement.**

### **ARTICLE 10.1. - PURPOSE.**

This Chapter defines the duties, powers, and limitations of officials, boards, commissions, and others responsible for or involved in the administration and enforcement of this Land Management Ordinance.

### **ARTICLE 10.2. - BUILDING AND PLANNING DIRECTOR.**

#### **Sec. 10.2.1. - Duties.**

The Building and Planning Director is hereby designated and duly charged with the authority to administer, interpret, and enforce the provisions of this Ordinance that are not the purview of the Building Official.

10.2.1.1 The Building and Planning Director shall accept and examine all applications for land use or reuse, including zoning, variance and special exception requests, and shall issue applicable permits where such applications are in accordance with the provisions of this Ordinance. The Building and Planning Director shall direct parties in conflict with this Ordinance, and cause to be kept records and files of any and all matters referred to them. The Building and Planning Director shall also maintain the Official Zoning Map.

10.2.1.2 It shall be the responsibility of an applicant to provide the Building and Planning Director required information to process a permit application or other applications related to the use or development of land, secure or renew a license, and present facts about circumstances which would justify a proposed change or modification to the terms and/or application of this Ordinance.

10.2.1.3 If the Building and Planning Director shall find that any one of the provisions of this Ordinance is being violated, he or she shall follow the procedures in this Chapter.

#### **Sec. 10.2.2. - Delegation of duties.**

The Building and Planning Director may, in his or her discretion and administrative authority, delegate duties and responsibilities to designated employees of the Building and Planning Department as needed and appropriate for the administration and enforcement of this Ordinance.

#### **Sec. 10.2.3. - Appeal of decision.**

Decisions of the Building and Planning Director may be appealed under the provisions in this Ordinance relating to appeals. See Chapter 11.

### **ARTICLE 10.3. - BUILDING OFFICIAL.**

#### **Sec. 10.3.1. - Appointment.**

The Building Official shall be appointed by the County Administrator.

### **Sec. 10.3.2. - Duties; general.**

10.3.2.1.1. The Building Official is hereby authorized and directed to enforce the provisions of this Land Management Ordinance that comprise the South Carolina Building Code ("Building Code"; see Chapter 1 of this Ordinance <sup>1</sup>).

10.3.2.1.2. The Building Official shall have the authority to render interpretations of the Building Code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of the Building Code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the Building Code.

### **Sec. 10.3.3. - Delegation of duties.**

In accordance with the prescribed procedures of Edgefield County and with the concurrence of the County Administrator, the Building Official shall have the authority to appoint a deputy Building Official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the Building Official.

### **Sec. 10.3.4. - Additional duties.**

#### 10.3.4.1 Applications and permits.

The Building Official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of the Building Code.

#### 10.3.4.2 Notices and orders.

The Building Official shall issue all necessary notices or orders to ensure compliance with the Building Code.

#### 10.3.4.3 Identification.

The Building Official shall carry proper identification when inspecting structures or premises in the performance of duties under the Building Code.

#### 10.3.4.4 Inspections; right of entry.

10.3.4.4.1. Where it is necessary to make an inspection to enforce the provisions of the Building Code, or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of the Building Code which makes the structure or premises unsafe, dangerous or hazardous, the Building Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by the Building Code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner of other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

#### 10.3.4.4.2. See also Sec. 10.3.5. - below

#### 10.3.4.5 Department records.

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<sup>1</sup> Articles 1 & 2 from existing Chapter 8 *Buildings and Building Regulations* will be incorporated into LMO Chapter 1.

The Building Official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

#### 10.3.4.6 Approved materials and equipment.

Materials, equipment and devices approved by the Building Official shall be constructed and installed in accordance with such approval. The use of used materials which meet the requirements of the Building Code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the Building Official.

#### 10.3.4.7 Alternative materials, design and methods of construction and equipment.

The provisions of the Building Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by the Building Code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of the Building Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Building Code in quality, strength, effectiveness, fire resistance, durability and safety.

##### 10.3.4.7.1. Research reports.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in the Building Code, shall consist of valid research reports from approved sources.

##### 10.3.4.7.2. Tests.

Whenever there is insufficient evidence of compliance with the provisions of the Building Code, or evidence that a material or method does not conform to the requirements of the Building Code, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to Edgefield County. Test methods shall be as specified in the Building Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the Building Official for the period required for retention of public records.

#### 10.3.4.8 Modifications.

Wherever there are practical difficulties involved in carrying out the provisions of the Building Code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of the Building Code impractical and the modification is in compliance with the intent and purpose of the Building Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the Building and Planning Department.

#### 10.3.4.9 Evacuation.

The Building Official and/or the fire department official in charge of an incident shall be authorized to order the immediate evacuation of any occupied building deemed unsafe when such building has hazardous conditions that present imminent danger to building occupants. Persons so notified shall immediately leave the structure or premises and shall not enter or re-enter until authorized to do so by the Building Official and/or the fire department official in charge of the incident.

**Sec. 10.3.5. - Inspections.****10.3.5.1 Authorization.**

The Building Official shall make all of the required inspections, or the Building Official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the County Administrator.

**Sec. 10.3.6. - Authorization; service utilities.****10.3.6.1 Connection of service utilities.**

No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by the Building Code for which a permit is required, until released by the Building Official.

**10.3.6.2 Temporary connection.**

The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

**10.3.6.3 Authority to disconnect service utilities.**

The Building Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by the Building Code and the codes referenced therein in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

**Sec. 10.3.7. - Liability.**

The Building Official, member of the Building Code Board of Adjustment and Appeals or employee charged with the enforcement of the Building Code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by the Building Code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of the Building Code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of the Building Code.

**ARTICLE 10.4. - PLANNING COMMISSION.****Sec. 10.4.1. - Establishment of Planning Commission.**

The Edgefield County Planning Commission is hereby established under the provisions of the S.C. Code § 6-29-320.

**Sec. 10.4.2. - Powers and duties.**

The Planning Commission shall have the power and duty to:

10.4.2.1 Review and recommend for adoption to the County Council a Comprehensive Plan and updates thereof;

10.4.2.2 Review and recommend for adoption to the County Council zoning ordinances to include zoning district maps and appropriate revisions thereof, and regulations for the subdivision or development of land;

10.4.2.3 Oversee the administration of regulations for the subdivision or development of land, including the approval of major subdivisions and land development applications.; and

10.4.2.4 Undertake other duties and functions as provided in S.C. Code § 6-29-310 et seq.

**Sec. 10.4.3. - Membership.**

10.4.3.1 The Planning Commission shall be comprised of seven members, with two members being appointed to serve at-large and one member being appointed to serve from each of the five County Council districts.

10.4.3.2 In the appointment of Planning Commission members, the County Council shall consider members' professional expertise, knowledge of the community, and concern for the future welfare of the total community and its citizens. Members shall represent a broad cross section of the interests and concerns within the jurisdiction and to the extent possible shall be representative of the racial and gender composition of the county.

10.4.3.3 None of the members shall hold any other public office or position in the county.

**Sec. 10.4.4. - Officers.**

10.4.4.1 The Planning Commission shall organize itself electing one of its members as chairman and one as vice-chairman whose terms must be for one year.

10.4.4.1 The chairman shall preside at all meetings.

10.4.4.2 If the chairman shall be temporarily absent or unable to serve, the vice-chairman shall serve as Planning Commission chairman.

10.4.4.3 The Planning Commission shall appoint a secretary who may be an officer or an employee of Edgefield County and who shall be responsible for taking and distributing minutes.

10.4.4.4 The Planning Commission shall meet at the call of the chairman and at such times as the Chairman or Commission may determine.

10.4.4.5 Meeting agendas will be compiled at the direction of the Planning Commission chairman by the Secretary or such other person as may be designated.

**Sec. 10.4.5. - Terms of office.**

10.4.5.1 Members shall serve 2-year, staggered terms without regard to term limitations. Terms for the two at-large appointees shall begin on November 1 in odd-numbered years. Terms for council district appointees shall begin on November 1 in even-numbered years. All members shall be eligible to succeed themselves, subject to the appointive powers of the County Council.

10.4.5.2 Members shall serve until their successors are appointed and qualified.

10.4.5.3 A vacancy in the membership must be filled for the unexpired term in the same manner as the original appointment.



**Sec. 10.4.6. - Compensation.**

Members shall serve without compensation. Reimbursement for actual expenses incurred in the performance of official duties may be reimbursed from budgeted funds pursuant to reimbursement policies and procedures for employees of the County.

**Sec. 10.4.7. - Removal of members.**

Members of the Planning Commission may be removed at any time by the County Council for cause. The existence of cause shall be discussed by the Council in executive session as permitted by the Freedom of Information Act, S.C. Code § 30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of the Council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.

**Sec. 10.4.8. - Procedural rules and records.**

The Planning Commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record.

**ARTICLE 10.5. - BOARD OF ZONING APPEALS.****Sec. 10.5.1. - Establishment of Board of Zoning Appeals.**

The Edgefield County Board of Zoning Appeals (BZA) is hereby established under the provisions of the S.C. Code § 6-29-780.

**Sec. 10.5.2. - Powers and duties.**

10.5.2.1 The Board of Appeals shall have the following powers and duties:

10.5.2.1.1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Building and Planning Director;

10.5.2.1.2. To hear and decide appeals for variance from the requirements of the Land Management Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship;

10.5.2.1.3. To permit uses by special exception subject to the terms and conditions for the uses set forth for such uses in the Land Management Ordinance; and

10.5.2.1.4. To remand a matter to the Building and Planning Director if the Board determines the record is insufficient for review.

10.5.2.2 In the administration of these powers, the Board may administer oaths and compel attendance of witnesses by subpoena and, in case of contempt, may certify such fact to the circuit court having jurisdiction.

**Sec. 10.5.3. - Membership.**

10.5.3.1 The Board of Zoning Appeals shall consist of three members appointed by the County Council.

10.5.3.2 No more than one person shall represent a given profession. To the extent possible, membership shall be representative of the racial and gender composition of the county. No member shall be the holder of an elected public office in the county.

10.5.3.3 None of the members shall hold any other public office or position in the county.

**Sec. 10.5.4. - Officers.**

10.5.4.1 The Board shall elect one of its members chairman, who shall serve for 1 year or until he or she is re-elected or his or her successor is elected and qualified.

10.5.4.2 The Board shall appoint a secretary who may be an officer or an employee of Edgefield County and who shall be responsible for taking and distributing minutes.

**Sec. 10.5.5. - Terms of office.**

10.5.5.1 Members shall serve for staggered overlapping at-large terms of not less than 3 nor more than 5 years or after that time until their successors are appointed. Terms shall begin on March 1.

10.5.5.2 A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment.

**Sec. 10.5.6. - Compensation.**

Members of the Board of Zoning Appeals shall serve without compensation. Reimbursement for actual expenses incurred in the performance of official duties may be reimbursed from budgeted funds pursuant to reimbursement policies and procedures for employees of the County.

**Sec. 10.5.7. - Removal of members.**

Members of the BZA may be removed at any time by the County Council for cause. The existence of cause shall be discussed by the council in executive session as permitted by the Freedom of Information Act, S.C. Code § 30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of Council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.

**Sec. 10.5.8. - Procedural rules and records.**

10.5.8.1 The Board of Zoning Appeals shall adopt rules of procedure for the conduct of its meetings and hearings as required by S.C. Code 1976, § 6-29-790.

10.5.8.2 A majority of the Board shall constitute a quorum.

10.5.8.3 Meetings of the Board shall be held at the call of the chairperson or at such times as the Board may determine.

10.5.8.4 The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote by reason of conflict, and shall keep records of its examinations and other official actions filed in the office of the secretary of the Board as public records.

**ARTICLE 10.6. - BUILDING CODE BOARD OF ADJUSTMENT AND APPEALS**

**Sec. 10.6.1. - Duties; composition.**

10.6.1.1 Duties.

10.6.1.1.1. Notwithstanding any specific requirement within any code adopted by reference in this Ordinance, there is hereby established a board to be called the "Building Codes Board of Adjustments and Appeals," whose duty shall be to hear and to render decisions on appeals resulting from the enforcement of the building-related codes adopted by this Ordinance.

10.6.1.1.2. The Building Codes Board of Adjustments and Appeals shall also hear and decide requests for variances from the requirements of the Flood Damage Prevention Article in Chapter 5. <sup>2</sup>

10.6.1.1.3. Composition.

The Board shall consist of five members. At least 50% of the members of such board shall be engaged in the building trades; that is, involved in a trade or profession relating to the construction, livability, sanitation, erection, equipment, alteration, repair, occupancy or removal of buildings and structures located within the county. The Board shall be appointed by the County Council.

**Sec. 10.6.2. - Terms of office; vacancies; absenteeism.**

Of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, one for a term of three years, and thereafter they shall be appointed for terms of four years; all shall serve until their successors are appointed. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from regular meetings of the Board shall render any such member liable to immediate removal from office.

**Sec. 10.6.3. - Quorum; voting.**

Three members of the Board shall constitute a quorum. In varying the application of any provisions of this Ordinance or in modifying an order of the Building Official charged with enforcing the Building Codes, affirmative votes of the majority present, but not less than three affirmative votes, shall be required. A board member shall not act in a case in which he has a personal interest.

**Sec. 10.6.4. - Secretary; records.**

The Building Official shall appoint a reliable employee to act as secretary of the Building Codes of Adjustments and Appeals who shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member participating therein, the absence of a member, and any failure of a member to vote.

**Sec. 10.6.5. - Procedures and meeting.**

The Board shall conduct its meetings in accordance with the Edgefield County Rules of Parliamentary Procedure. The Board shall meet as required and as determined by the chairperson, or in any event, the board shall meet on the third Thursday of each month at 10:00 a.m. after notice of appeal has been received, but no sooner than 15 days after any notice of appeal has been received.

**Sec. 10.6.6. - Appeals to Board; time limit.**

10.6.6.1 Whenever the Building Official shall reject or refuse to approve the mode or manner of construction proposed to be followed or materials to be used in the erection or alteration of a building structure, or when it is claimed that the provisions of the Building Codes do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of the Building Codes or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner

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<sup>2</sup> Duplicative language is in Draft Chapter 5 & needs to be deleted there

of such building or structure, or his duly authorized agent, may appeal from the decision of the Building Official to the Building Codes Board of Adjustments and Appeals. Notice of appeal shall be in writing and filed within 90 days after the decision is rendered by the Building Official. A fee in an amount as established from time to time by the County shall accompany such notice of appeal.

10.6.6.2 In case of a building structure which in the opinion of the Building Official is unsafe or dangerous, the Building Official may, in his order, limit the time for such appeal to a shorter period. Appeals hereunder shall be on forms provided by the County.

#### **Sec. 10.6.7. - Variations and modifications.**

10.6.7.1 The Building Codes Board of Adjustments and Appeals, when so appealed to and after a hearing, may vary the application of any provision of these codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of the Building Codes or public interest, or when, in the board's opinion, the interpretation of the Building Official should be modified or reversed.

10.6.7.2 A decision of the Building Codes Board of Adjustments and Appeals to vary the application of any provision of the Building Codes or to modify an order of the Building Official shall specify in what manner such variation or modification is made, the conditions upon which it is made, and the reasons therefor.

#### **Sec. 10.6.8. - Decisions.**

Every decision of the Building Codes Board of Adjustments and Appeals shall be final, subject, however, to such remedy as any aggrieved party might have pursuant to the South Carolina Administrative Procedures Act 2. The decision shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the Building Official and shall be open to public inspection; a certified copy shall be sent by mail or otherwise to the appellant, and a copy shall be kept publicly posted in the above office of the County for two weeks after filing.

#### **Sec. 10.6.9. - Time for decision.**

The Building Codes Board of Adjustments and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

#### **Sec. 10.6.10. - Action on decision.**

If a decision of the Building Codes Board of Adjustments and Appeals reverses or modifies a refusal, order, or disallowance of the Building Codes or varies the application of any provision of these codes, the Building Official shall immediately take action in accordance with such decision.

### **ARTICLE 10.7. - VIOLATIONS.**

#### **Sec. 10.7.1. - Unlawful activities.**

10.7.1.1 It shall be unlawful for any person, firm, business or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this Ordinance, including the Building Code, or cause same to be done, in conflict with or in violation of any of the provisions of this Ordinance, including the Building Code.

10.7.1.2 It is unlawful to construct, reconstruct, alter, demolish, change the use of or occupy any land, building, or other structure without first obtaining the appropriate permit or permit approval.

10.7.1.3 No permit may be issued or approved unless the requirements of this Ordinance are complied with.

10.7.1.4 It is unlawful for other officials to issue any permit for the use of any land, building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure without the approval of the Building and Planning Director or Building Official, as appropriate.

10.7.1.5 No subdivision plat or other land development plan shall be filed or recorded in the County Clerk of Court until it bears the stamp of approval and is properly signed by the Chairman of the Planning Commission or the Building and Planning Director, as appropriate.

10.7.1.6 A property owner or his/her agent may not transfer title to any lots or parts of the development unless the land development plan or subdivision has been approved by the Planning Commission or Building and Planning Director, as applicable, and the approved plan or plat has been recorded in the County Clerk of Court.

#### **Sec. 10.7.2. - Complaints.**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, the Building and Planning Director shall record and investigate such complaint, and take such action as provided by this Chapter. Complaints may be filed in writing or verbally, stating fully the cause and basis thereof.

#### **Sec. 10.7.3. - Notice of violation.**

The Building Official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this Ordinance, which include the Building Code, or in violation of a permit or certificate issued under the provisions of this Ordinance. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

#### **Sec. 10.7.4. - Misdemeanor.**

A violation of this Land Management Ordinance is a misdemeanor.

### **ARTICLE 10.8. - ENFORCEMENT; REMEDIES FOR VIOLATIONS.**

#### **Sec. 10.8.1. - Generally.**

10.8.1.1 The County may enforce the requirements and regulations of this Land Management Ordinance, including the Building Code, by means of the withholding of building or zoning permits, or both; and the issuance of stop orders against any work undertaken by an entity not having a proper building or zoning permit, or both; and by additional remedies cited herein.

10.8.1.2 Enforcement of environmental regulations.

See Chapter 5 for provisions pertaining to the enforcement of Soil Erosion and Sediment Control and Flood Damage Prevention regulations.

#### **Sec. 10.8.2. - Stop work orders.**

10.8.2.1 Authorization.

10.8.2.1.1. In case a building, structure, or land is or is proposed to be used in violation of this Ordinance, the Building and Planning Director may, in addition to other remedies, issue and serve upon a person pursuing the activities a stop work order requiring that entity stop all activities in violation of this Ordinance.

10.8.2.1.2. Whenever the Building Official finds any work regulated by the Building Code being performed in a manner either contrary to the provisions of the Building Code or dangerous or unsafe, the Building Official or county attorney is authorized to issue a stop work order.

#### 10.8.2.2 Issuance.

The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

#### 10.8.2.3 Unlawful continuance.

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

### **Sec. 10.8.3. - Additional remedies.**

#### 10.8.3.1 Use violations.

10.8.3.1.1. In case a building, structure, or land is or is proposed to be used in violation of this Ordinance, the Building and Planning Director, county attorney or other appropriate authority of the County, or an adjacent or neighboring property owner who would be specially damaged by the violation, may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land.

10.8.3.1.2. Each day the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues is considered a separate offense.

#### 10.8.3.2 Building Code violations.

10.8.3.2.1. For a violation of the Building Codes, the Building Official, county attorney or an adjacent or neighboring property owner who would be damaged by the violation, in addition to other remedies, may apply for injunctive relief, mandamus, or other appropriate proceeding. A court may grant temporary injunctive relief upon receipt of a verified complaint of an imminent danger or emergency situation.

10.8.3.2.1.1. A person, firm, business or corporation found to be in violation of the Building Codes or regulation adopted pursuant to the provisions of the Building Codes must be cited and fined, by civil fine, in an amount not more than \$200.00. Before being charged with a second violation, the person, firm, business or corporation must be given seven calendar days to remedy the violation or submit a plan for correcting the violation.

10.8.3.2.1.2. A person, firm, business or corporation who fails to correct a violation or submit a plan for correcting a violation within seven calendar days after citation or written notice must be cited and fined, by civil fine, in an amount not to exceed \$2,000.00. Each day a violation continues is a separate offense.

## **ARTICLE 10.9. - UNSAFE STRUCTURES AND EQUIPMENT.**

### **Sec. 10.9.1. - Conditions.**

Structures or existing equipment that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the Building Official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

### **Sec. 10.9.2. - Record.**

The Building Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

### **Sec. 10.9.3. - Notice.**

If an unsafe condition is found, the Building Official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the Building Official acceptance or rejection of the terms of the order.

### **Sec. 10.9.4. - Method of service.**

10.9.4.1 Such notice shall be deemed properly served if a copy thereof is:

10.9.4.1.1. Delivered to the owner personally;

10.9.4.1.2. Sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or

10.9.4.1.3. Delivered in any other manner as prescribed by local law.

10.9.4.2 If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

### **Sec. 10.9.5. - Restoration.**

The structure or equipment determined to be unsafe by the Building Official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made, or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of the International Building Code and future amendments thereto.

## **ARTICLE 10.10. - DWELLINGS UNFIT FOR HUMAN HABITATION.**

### **Sec. 10.10.1. - Authority.**

Whenever the Building Official or his designated representative finds that there exist in the county dwellings or buildings which are unfit for human habitation and/or other use due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or other conditions rendering such dwellings or buildings unsafe or unsanitary, dangerous or detrimental to the health, safety or morals or otherwise

inimical to the welfare of the residents of Edgefield County, the Building Official or his designated representative(s) may, upon the approval of a majority of the members of council, exercise the County's police powers to repair, close or demolish any such dwelling or building.

#### **Sec. 10.10.2. - Filing of complaint and investigation.**

Whenever a complaint or petition is filed with the Building Official, or his designated representative(s), by any one of the administrative heads of the County departments which routinely deal with areas relevant to this statute, or by at least five residents or property owners of the county who have some portion of their property within 2,000 feet of some portion of the property upon which the dwelling or building or other structure is located, charging that any dwelling or building or other structure is unfit for human habitation, or whenever it appears to the Building Official (on his own motion) that any dwelling or building or other structure is unfit for human habitation, the Building Official 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 or building or other structure, a complaint and notice in letter form (return receipt requested) stating the charges in that respect and that a hearing will be held before the Building Official or his designated representative(s) not less than 10 calendar days nor more than 30 calendar days after the service of such complaint or letter, that the owner and parties in interest shall be given the right to file an answer to the complaint in letter form 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 the courts of law or equity shall not be controlling in such hearings.

#### **Sec. 10.10.3. - Notice to owner and necessary action by owner.**

If, after such notice and hearing, the Building Official or his designated representative(s) determines that a dwelling or building or other structure under consideration is unfit for human habitation, it shall be stated in writing, such writing to include the findings of fact in support of such determination, and this writing shall be issued and caused to be served upon the owner of such property together with or in the form of a notice.

##### **10.10.3.1 Order to repair.**

If the repair, alteration or improvement of the dwelling or building or other structure can be made at a reasonable cost in relation to the value of the dwelling or building or other structure, the owner shall be required within the time specified in such order, to repair, alter or improve such dwelling or building or other structure to render it fit for human habitation; or

##### **10.10.3.2 Order to remove or demolish.**

If the repair, alteration or improvement of the dwelling or building or other structure cannot be made at a reasonable cost in relation to the value of the dwelling or building or other structure, the owner shall be required, within the time specified in the order, to remove or demolish such dwelling or building.

#### **Sec. 10.10.4. - Failure to comply.**

If the owner fails to comply with the order to repair, alter or improve or remove and demolish, the Building Official, or his designated representative(s), may cause such dwelling or building or other structure to be repaired, altered or improved, or removed or demolished.

#### **Sec. 10.10.5. - Removal or demolition by County.**

If such owner fails to comply with the order to remove or demolish the dwelling or building or other structure, the Building Official, or other authorized representative, may cause such dwelling or building or other structure to be removed or demolished.



**Sec. 10.10.6. - Costs.**

The amount of the cost of such repairs, alterations or improvements, or removal or demolition by the County shall be a lien against the real property placed and collected through appropriate judicial process. If the County in demolishing unfit dwellings as permitted by this Article contracts with a third party not employed by the County to do the work, it must bid the work in conformity with the procurement code applicable to the County.

**Sec. 10.10.7. - Unfitness.**

A dwelling or building or other structure is unfit for human habitation if conditions exist in such dwelling or building or other structure which are dangerous or injurious to health or safety of the occupants of such dwelling, building or other structure, the occupants of neighboring dwellings or building or other structures, or other residents of the county. Such conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accidents, or other calamities, lack of adequate ventilation, light or sanitary facilities, dilapidation, disrepair, structural defects, uncleanness, and any other conditions in a reasonable way relating to unfitness for human habitation as previously set forth.

**Sec. 10.10.8. - Service of complaint.**

Complaints or orders issued by a public officer pursuant to an ordinance adopted under this article shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer 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 each week for two consecutive weeks in a newspaper printed and published in the county or, in the absence of such newspaper, in one printed and published in the municipality and circulating in the county. 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 of the county in which the dwelling is located and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

**Sec. 10.10.9. - Rights of persons affected by orders.**

Any person affected by an order issued by the Building Official or his designated representative(s), may within 60 days after the posting and service of the order, petition the circuit court for an injunction restraining the Building Official or his designated representative(s) 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 as authorized by S.C. Code 1976, § 31-15-370, as amended. 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 the facts, if supported by evidence, shall be conclusive. Costs shall be at 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 Building Official or his designated representative(s) or because of compliance by such person with any order of the public officer.

**Sec. 10.10.10. - Powers and duties.**

The Building Official, or his designated representative(s), may exercise such powers and duties 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.

10.10.10.1 To investigate the dwelling or building or other structure conditions in the county in order to determine which dwellings or buildings or other structures therein are unfit for human habitation;

10.10.10.2 To administer oaths and affirmations, examine witnesses and receive evidence;

10.10.10.3 To enter upon premises for the purposes of making examinations, provided such entries be made in such manner as to cause the least possible inconvenience to the persons in possession;

10.10.10.4 To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of the Ordinance; and

10.10.10.5 To delegate any of his functions and powers under this Article to such officers and agents as he may choose.

**Sec. 10.10.11. - 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.

**Sec. 10.10.12. - Article provisions are cumulative.**

10.10.12.1 Nothing in this Article shall be construed to abrogate or impair the powers of the courts or of any department of any municipality in the county 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.

10.10.12.2 Further, nothing in this Article shall be construed to impair or limit in any way the power of the County to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

**ARTICLE 10.11. - FEES.**

**Sec. 10.11.1. - Fees established.**

10.11.1.1 From time to time, the County Council may adopt fees for the issuance of permits, the submission of applications, and such other activities and authorizations as regulated by this Land Management Ordinance, and may adopt schedules of dates, times and places as appropriate and necessary to regulate the application, review and public hearing processes required by this Ordinance.

10.11.1.2 The schedule of fees shall be available in the Building and Planning Department, and may be altered or amended only by the County Council.

**Sec. 10.11.2. - Payment of fees required.**

10.11.2.1 Until all applicable fees have been paid in full, no action shall be taken on any application, permit or appeal.

10.11.2.2 On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the County Council.

10.11.2.3 A permit shall not be valid until the permit and other fees as prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fees, if any, have been paid.

**Sec. 10.11.3. - Building permit valuations.**

The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the Building Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Final building permit valuation shall be set by the Building Official.

**Sec. 10.11.4. - Work commencing before permit issuance.**

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a double fee.

**Sec. 10.11.5. - Related fees.**

The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

**Sec. 10.11.6. - Refunds.**

There shall be no refund unless it is due to a County mistake. All refunds caused by a County mistake are to be referred to the Building and Planning Department for processing.