

CHAPTER 11 | VIOLATIONS, PENALTIES AND ENFORCEMENT

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CHAPTER 11 | VIOLATIONS, PENALTIES AND ENFORCEMENT**ARTICLE 11.1 ORDINANCE COMPLIANCE REQUIRED****§11.1.1 COMPLIANCE REQUIRED**

- A. No activity regulated by this Ordinance shall be undertaken except in full compliance with the express provisions of this Ordinance.
- B. No activity that is the subject of any permit or approval issued pursuant to the provisions of this Ordinance shall be undertaken except in full compliance with the subject permit or approval, including any attached conditions.
- C. The commencement or continuation of any activity regulated by this Ordinance that is not in compliance with the express provisions of this Ordinance, or that is not in compliance with the express provisions of any permit or approval, including any attached conditions, shall be a violation of this Ordinance, and subject to enforcement under the terms of this Chapter and South Carolina law.

ARTICLE 11.2 VIOLATIONS**§11.2.1 VIOLATIONS**

All of the following constitute violations of this Ordinance:

- A. To use or attempt to use land or a building in any way not consistent with the requirements of this Ordinance;
- B. To erect or attempt to erect a building or other structure in any way not consistent with the requirements of this Ordinance;
- C. To engage or attempt to engage in the development or subdivision of land in any way not consistent with the requirements of this Ordinance;
- D. To transfer title to any lots or parts of a development unless the subdivision has received all approvals required under this Ordinance and an approved plan or plat, if required, has been filed in the appropriate County office;
- E. To submit for recording with a County office any subdivision plat that has not been approved in accordance with the requirements of this Ordinance;
- F. To install or use a sign in any way not consistent with the requirements of this Ordinance;
- G. To engage in the use of a building or land, the use or installation of a sign, the subdivision or development of land or any other activity; requiring one or more approvals or permits under this Ordinance without obtaining all such required approvals or permits;
- H. To engage in the use of a building or land, the use or installation of a sign, the subdivision or development of land or any other activity requiring one or more

approvals or permits under this Ordinance in any way inconsistent with any such approval or permit and any conditions imposed;

- I. To violate the terms of any approval or permit granted under this Ordinance or any condition imposed on such approval or permit;
- J. To obscure or obstruct any notice required to be posted or otherwise given under this Ordinance;
- K. To violate any lawful order issued by any person or entity under this Ordinance; or
- L. To continue any violation as defined above, with each day of continued violation to be considered a separate violation for purposes of computing cumulative civil or criminal penalties.

ARTICLE 11.3 ENFORCEMENT RESPONSIBILITY, COMPLAINTS

§11.3.1 RESPONSIBILITY

The responsibility for the enforcement of this Ordinance is delegated to the Planning Director. The Planning Director may utilize other County Department/Agencies as necessary to enforce the provisions of this Ordinance.

§11.3.2 NOTICE

If the Planning Director finds that any of the provisions of this Ordinance are being or have been violated, the Planning Director may notify in writing the person responsible for such violation, setting forth the nature of the violation and the action necessary to correct it, or issue a Uniform Ordinance Summons for the violation.

§11.3.3 COMPLAINTS

- A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file in writing a complaint with the County. Such complaint shall state fully the causes and basis thereof.
- B. The Planning Director shall properly record such complaint, immediately investigate to determine the validity of the charge, and take whatever action is necessary to assure compliance with this Ordinance.

§11.3.4 AUTHORITY

Any staff member of the Planning Department who is authorized by County Council shall have the authority to enforce the provisions of this Ordinance.

ARTICLE 11.4 REMEDIES AND ENFORCEMENT POWERS

On behalf of the County, the Planning Director may take any one or more of the following actions as a remedy for any violation of this Ordinance:

- A. Withholding and/or revocation of any approvals or permits required by this Ordinance or direct other officials to withhold such approval or permits;

- B. Issuing stop orders against any work undertaken by an entity not having a proper approval or permit required by this Ordinance;
- C. Issuing stop orders against any actions in violation of this Ordinance;
- D. Bringing an action for an injunction (or, in appropriate cases, for mandamus) to prevent the violation and/or to prevent the occupancy or use of any site or structure involved in the violation;
- E. Bringing an action for injunction or mandamus to abate a violation; or
- F. Issuing the violator a Uniform Ordinance Summons for each separate violation(s).
- G. Deferral or postponement of zoning applications scheduled for public meetings or hearings in accordance with Article 11.9.

A violation of this Ordinance is considered a misdemeanor.

ARTICLE 11.5 PRIVATE ENFORCEMENT ACTIONS

Any individual who is specifically damaged by any 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. This is in addition to the right of the County to bring an enforcement action.

ARTICLE 11.6 TREE PROTECTION AND PRESERVATION VIOLATIONS

In addition to the provisions of Article 11.4 of this Chapter, the following shall apply.

§11.6.1 TREES REMOVED WITHOUT PERMITS

A. Generally

If commercial sites are cleared of protected trees prior to obtaining a zoning permit (a violation), trees shall be replaced in accordance with a replacement schedule approved by the Planning Director. The Planning Director's replacement schedule shall specify the number, species, caliper and location of replacement trees, according to the following minimum criteria:

1. Combined caliper of which equals or exceeds 80 inches per acre; and
2. One-half of individual replacement trees are four inches or greater caliper.

B. Grand Trees

1. Where Grand Trees have been removed in violation of this Ordinance or where removal is necessitated at any time due to acts of negligence, trees shall be replaced in accordance with a replacement schedule approved by the Planning Director. The replacement schedule shall

establish the number, species, caliper, and location of replacement trees, and at a minimum shall require:

- a. That the combined caliper of replacement trees is equal to or greater than three times the caliper of the Grand Tree removed; and
 - b. Individual replacements of trees are of the largest transplantable caliper available or equal to the loss of DBH inches.
2. Where Grand Tree removal is necessitated by emergencies as defined in Chapter 9 of this Ordinance, or death and disease of trees due to natural causes, as determined by the Planning Director, replacement will not be required.

§11.6.2 RECOVERY FROM TREE VIOLATIONS

- A. Any person, firm, organization, society, association, corporation, or any agent or representative thereof who commits, participates, or assists in a violation of the Tree Protection and Preservation standards of this Ordinance may each be found guilty of a separate offense and suffer the penalties herein provided. Each unauthorized removal, destruction or failure to replace a tree shall constitute a separate offense. Failure to pay all or any part of the Tree Fund mitigation fee within 30 days of the fee's imposition is a violation of the Tree Fund provision of this Ordinance. Failure to pay fees may result in a collection action in the same manner as prescribed by law for the collection of other fees. Failure to pay the mitigation fee may also result in a criminal proceeding. If a matter is brought in criminal court, upon conviction, the maximum penalty is \$500.00 per violation and/or 30 days imprisonment, and restitution of the Tree Fund mitigation fee. Restitution shall be paid to the County Treasurer who will place all funds in the Tree Fund Account.
- B. Should violations be noted during the course of a project or at final inspection, the Planning Director shall take appropriate actions, including, but not limited to the following:
1. Requiring replacement of illegally removed trees and vegetative buffer;
 2. Requiring replacement of required trees and vegetative buffer that are damaged, diseased, dying, or dead;
 3. Requiring protection of trees and vegetative buffer during construction;
 4. Revoking Zoning Permits; and
 5. Denying Certificates of Occupancy.
- C. Nothing herein shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violations.

ARTICLE 11.7 SIGN VIOLATIONS**§11.7.1 SIGNS SUBJECT TO IMPOUNDMENT**

In addition to other remedies and enforcement powers of this Chapter, the Planning Director shall have the authority to remove and hold any of the following types of signs or sign structures.

- A. Any prohibited sign, as noted in Section 9.11.1.C, is subject to impoundment without notice to the owner.
- B. Any sign that is installed or used in any way that is not consistent with the requirements of this Ordinance, provided that notice has been given as set forth in Section 11.3.2 and no action has been taken by the owner within the specified time frame.
- C. Additionally, the land owner and/or candidate, party, organization, or business entity explicitly listed on a sign, may be designated as the sign owners or the responsible parties for the purpose of enforcement action.

§11.7.2 RECOVERY OF IMPOUNDED SIGNS

The owner of an impounded sign or sign structure may recover same upon the payment of \$50.00 for each sign. In the event it is not claimed within ten days from the date of impoundment, the Planning Director shall have authority to dispose of such sign or sign structure without notification and without compensation to the owner.

ARTICLE 11.8 VIOLATIONS CONTINUED

Any violation of the previous Zoning Ordinance or Subdivision Ordinance will continue to be a violation under this Ordinance and be subject to penalties and enforcement under this Chapter, unless the use, development, construction, or other activity complies with all applicable provisions of this Ordinance, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before April 21, 1999. Any prior lack of enforcement shall not constitute any degree of recognition, approval or other entitlement.

ARTICLE 11.9 OTHER ENFORCEMENT ACTIONS**§11.9.1 ZONING MAP AMENDMENT REQUESTS**

An application (along with related documents and fees) for a zoning map amendment shall not be accepted or processed when the property owner(s) has been notified, pursuant to §11.3.2, that a violation of this Ordinance exists on or in the use of land that is the subject of the requested zoning change. The Zoning & Planning Director, after consideration of the specific case, may waive this requirement and direct staff to process the application if it is found that a zoning map amendment serves to remedy the violation. However, this waiver does not release the property owner, applicant, and/or designated agent from compliance with Chapter 11 of this Ordinance nor does it guarantee approval of the requested zoning map amendment. If the zoning map amendment is disapproved by County Council, the property owner, applicant, and/or designated agent has a maximum of 30 calendar days from the date of disapproval to bring the subject property into compliance.

§11.9.2 BOARD OF ZONING APPEALS REQUESTS

An application (along with related documents and fees) to go before the Board of Zoning Appeals (BZA) shall not be accepted or processed when the property owner(s) has been notified that a violation of this Ordinance exists on or in the use of land that is the subject of the request. The Planning Director may, after consideration of the specific case, waive this requirement and direct staff to process the application, if the BZA request serves as a remedy for the violation. However, this waiver does not release the property owner, applicant, and/or designated agent from compliance with Chapter 11 of this Ordinance.

§11.9.3 CONTEMPT BEFORE THE BOARD OF ZONING APPEALS

In case of contempt by any party, witness or other person before the Board of Zoning Appeals, such Board may certify such fact to the Circuit Court of the County wherein such contempt occurs and the judge of the court, after hearing, may impose such penalty as the facts authorize or require.

§11.9.4 OTHER ACTIONS

Nothing herein shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 11.10 DERELICT MANUFACTURED HOMES**§11.10.1 DERELICT MANUFACTURED HOMES**

- A. 'Derelict manufactured home' means a manufactured home:
1. that is:
 - a. not connected to electricity or not connected to a source of safe potable water supply sufficient for normal residential needs, or both;
 - b. not connected to a Department of Health and Environmental Control approved wastewater disposal system; or
 - c. unoccupied for a period of at least thirty 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
 2. 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 manufactured home, or the public.
- B. 'Landowner' means the owner of real property on which a derelict manufactured home is located.
- C. 'Local governing body' means the governing body of a county.
- D. 'Local official' means the office or agency that is responsible for inspecting or zoning property in a county.
- E. 'Manufactured home' means a structure, not including a modular home, designed

for temporary or permanent habitation and constructed to permit its transport on wheels, temporarily or permanently attached to its frame, from its place of construction or sale to a location where it is intended to be a housing unit or a storage unit.

1. If a landowner seeks to have a manufactured home removed from his property and sold, the landowner may apply to a magistrate and follow the procedures in Section 29-15-10 of State law. The landowner does not have to have the manufactured home determined to be derelict manufactured home in order to have it removed from his property and sold following the procedures of Section 29-15-10 of State law.
2. If a landowner seeks to have a manufactured home determined to be derelict so it may be removed from the landowner's property and destroyed, the landowner must:
 - a. Apply to the local official to have the manufactured home inspected;
 - b. Receive written confirmation from the local official that the manufactured home has been inspected and meets the requirements for removal and disposal and provided in this section;
 - c. File the required pleadings with the magistrate to seek to have the manufactured home removed from the property and destroyed, and follow the procedures in Section 29-15-10 of State law to notify the owner of the manufactured home and any lienholders that the local official has determined the manufactured home is a derelict manufactured home and that the matter is the subject of a proceeding in the magistrates court; and
 - d. Post a notice on each door of the manufactured home for thirty consecutive days reading substantially as follows:

NOTICE

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

(Date of Notice)

3. If, in a court proceeding with the proper notice, the magistrate determines that the manufactured home is derelict, as provided in this section, and orders the derelict manufactured home to be removed and destroyed, the landowner must remove and dispose of the derelict manufactured home and send proof of the removal and disposal to the county auditor as provided in Section 12-49-85(D) of State law.
 - a. If a local official determines that a derelict manufactured 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 of State law to notify the owner of the manufactured home and any lienholders that the local official has determined the manufactured home is a derelict manufactured home and has filed the required pleadings with the magistrate to seek to have the manufactured home removed from the property and sold.

- b. If a local official seeks to remove and destroy a derelict manufactured home, the local official must follow the procedures in Section 29-15-10 of State law to notify the owner of the manufactured home and any lienholders that the local official has determined the manufactured home is a derelict manufactured home and has filed the required pleadings with the magistrate to seek to have the manufactured home removed from the property and destroyed.
- c. In addition to the notice requirements in the magistrates court, in order to (a) remove and sell, or (b) remove and destroy a derelict a derelict manufactured home, a local official must post a notice on each door of the manufactured home for thirty consecutive days reading substantially as follows:

‘NOTICE

This manufactured 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 magistrate’s court where action is pending).

(Date of Notice)’

- d. In a court proceeding with the proper notice, a magistrate must determine whether a derelict manufactured home may be either (a) removed and sold, or (b) removed and destroyed. In order for the manufactured home to be removed and destroyed, it must meet the requirements of a derelict manufactured home to be removed and destroyed, it must meet the requirements of a derelict manufactured home as defined in this section.
- e. If the magistrate determines that the manufactured home is derelict and is to be removed and sold, the local official must follow the procedures in Section 29-15-10 of State law.
- f. If the magistrate determines that the manufactured home is derelict and is to be removed and destroyed, the local official or the landowner must remove and dispose of the derelict manufactured home and send proof of the removal and disposal to the county auditor as provided in Section 12-49-85(D) of State law.
 - 1. All costs of removal and disposal are the responsibility of the owner of the derelict manufactured home, and may be waived only by order of the magistrates court or if a local governing

body has a program that covers removal disposal costs.

2. A lienholder of the derelict manufactured home is not responsible for the costs of removal and disposal unless the lienholder or his agent effects a recovery of the manufactured home under its lien and subsequently the lienholder or his agent knowingly abandons the manufactured home on the property and allows the manufactured home to become a derelict manufactured home.
 3. If the landowner is the owner of the derelict manufactured home and is unwilling or unable to pay the costs of removal and disposal, a lien for costs of removal and disposal must be placed on the landowner's real property where the derelict manufactured home was located.
- F. To defray the costs of location, identification, and inspection of derelict manufactured homes, a local governing body may impose a registration fee of no more than twenty-five dollars to be paid when a manufactured home is registered with the county. This fee may be in addition to all other fees and charges relating to a manufactured home and may be required to be paid before electrical connection.

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