

STATE OF SOUTH CAROLINA)

COUNTY OF OCONEE)

ORDINANCE 2023-16

CITY OF WALHALLA)

AN ORDINANCE TO REPEAL CHAPTER 123 BUILDINGS AND BUILDING CONSTRUCTION OF THE CITY OF WALHALLA CODE OF ORDINANCES AND REPLACE WITH CHAPTER 123 BUILDING CODES

Whereas, Unsafe construction or alteration of buildings poses a significant public safety threat; and

Whereas, The City of Walhalla desires to adopt and direct enforcement of building codes to protect life and property, improving the community's overall quality of life; and

Whereas, The City of Walhalla desires to have safe buildings and structures for its citizens and visitors and minimize public nuisances that may affect the overall community; and

Whereas, the State of SC mandates that all municipalities shall appoint or contract with a building official and enforce building codes, related to the construction, livability, sanitation, erection, energy efficiency, alteration, repair, occupancy, classification, or removal of structures located within their jurisdictions; and

NOW THEREFORE: it is ordained and enacted that: by the Mayor and Council members of the Municipality of Walhalla, in Council assembled, that the Chapter 123 Buildings and Building Construction be repealed and replaced with the following:

Article 1. – PURPOSE, SCOPE, AUTHORITY

Section 123-1. - Title.

This chapter shall be known as the "Building Codes Ordinance of the City of Walhalla, South Carolina."

Section 123-2. - Authority.

This chapter is adopted pursuant to the authority conferred by the South Carolina Code of Laws upon the City.

Section 123-3. - Purpose.

The purpose of this chapter shall be to establish rules and regulations for the construction, alteration or demolition of buildings, issuance of permits pertaining thereto and the duties of the building official.

Section 123-4. - Violations; Penalties.

(a) The violation of any of the codes or regulations adopted pursuant to the provisions of this chapter is hereby declared to be a misdemeanor, and any person violating such codes or regulations shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with this section. Each day such violation shall continue shall be deemed a separate offense. In case of any violation of, or proposed violation of the codes or regulations adopted pursuant to this chapter, the building official or other appropriate authority of the City, or any adjacent or neighboring property owner who would be damaged by such violation may, in addition to other remedies, apply for injunctive relief, mandamus or other appropriate proceedings to prevent, correct or abate such violation or threatened violation.

(b) Any person who shall violate any of the provisions of this chapter shall be subject to a civil fine not to exceed two-hundred dollars (\$200) per offense, per day of violation.

(c) Any person who fails to correct a violation or submit a plan for correcting a violation within seven (7) days after citation or written notice shall be cited and subject to a civil fine not to exceed two thousand dollars (\$2,000), per day of violation.

(d) Any person removing or defacing any notice posted on any unsafe building/structure or unfit dwelling or dwelling unit by any authorized officer, under the terms of this chapter shall be similarly prosecuted and punished upon convicted.

(e) Any person, individually or as a representative, interfering in any way with the enforcement of the codes and regulations of this chapter, or receiving rentals after the expiration of the time limits set forth in any notice or order issued by the Community Development Department shall be similarly prosecuted and punished upon conviction.

Section 123-5. - Frontage requirements relative to issuance of building permits, erection of buildings.

No building permit shall be issued and no building other than an accessory building shall be erected on any piece of property in the City unless such piece of property shall have frontage on a road or street.

Section 123-6. - Exemption for public schools.

(a) No fees shall be charged and the City shall refrain from plan review, permit issuance and on-site inspections when the project involves a public school.

(b) If the school district desires inspections and/or plan review by the City building official, fees shall be charged and normal departmental procedures followed.

Article 2. - ADMINISTRATION

Section 123-7. – Building and Codes.

(a) *Establishment.* There is hereby established Building and Codes duties and responsibilities within the Community Development Department for the purposes of administering the provisions of City adopted, nationally recognized building codes.

(b) *Building Official.* The Building and Codes duties shall be the responsibility of a building official, serving at the pleasure of the City administrator or by services contracted through an outside agency. Compensation shall be determined at the time of appointment.

(c) *Administration.* The Community Development Department shall accept all applications for required permits, review plans and specifications, make required inspections and issue required certificates and permits. The Building Official shall be responsible for all administrative functions required by the adopted codes.

(d) *Enforcement.* The enforcement of the codes will commence after a building official has been appointed and the administrator has determined that the codes may be effectively and efficiently administered.

(e) *Fees Imposed.* The administration of the building codes shall be assisted through the collection of fees established by the City Council. Any fee changes shall be made by the City Council.

Section 123-8. - Maximum time permitted for building official or inspector to appear on site following notification of readiness for inspection; effect of failure to appear.

The Building Official shall perform an inspection in a reasonable time period, but not more than five (5) work days following notification that the work is ready. If the inspection is not performed within the allotted five (5) work days, the work may be covered and/or construction continued. Saturdays, Sundays and legal holidays shall not be included in the computation of the five (5) work days.

Section 123-9. - Construction Board of Adjustment and Appeals.

(a) *Establishment.* There is hereby established a Construction Board of Adjustment and Appeals, which shall consist of five (5) members appointed by City Council and subject to the terms and provisions contained in Chapter 7, with the following exceptions. Pursuant to the requirements of the Southern Building Code Congress International (SBCCI) standard building code, the board should be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors or building industry representatives. No board members shall participate in a case in which he or she has a personal financial interest. Whenever the words "Board of Adjustment and Appeals" appear in the standard building codes in force in the City at any time (the "building code"), they shall refer to the Construction Board of Adjustment and Appeals.

(b) *Quorum.* A simple majority of the board shall constitute a quorum.

(c) *Record.* The Building Official shall act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member and any failure of a member to vote.

Article 3. - CODES ADOPTED

Section 123-10. - Building Codes.

Pursuant to South Carolina Title 6, Chapter 9, as may be amended by the General Assembly, the City of Walhalla hereby adopts the latest editions of the following national codes and the standards referenced, or as adopted by the South Carolina Building Codes Council, as set forth herein for the regulations of construction within the City of Walhalla:

(a) Building, residential, gas, plumbing, mechanical, fire, energy codes, property maintenance, performance codes for buildings and facilities, existing building, and swimming pool codes as promulgated, published, amended or made available by the

International Code Council Inc.; and the National Electrical Code, as published by the National Fire Protection Association.

(b) Each code is published separately in book form and is adopted by reference as though copied fully in this section, as published by the International Code Council, Inc. and the National Fire Protections Code. Any provision identifying the jurisdiction shall be deemed to be the City of Walhalla.

(c) A file of record of these codes is in the office of the Building Official.

Section 123-11. - Height limit for weeds.

For purposes of section 302.4 of the International Property Maintenance Code regarding maintenance of weeds, all premises and exterior property shall be maintained free from weeds or plant growth, as described therein, in excess of 12 inches in height. This limitation on weed height shall only apply to tracts of land with a total area of less than ten acres.

Section 123-12. - Authority.

(a) The standards contained in the above building codes shall be controlling in the use, maintenance, and occupancy of all structures located within the City limits.

(b) The City Building Official shall have the authority to review and enforce the standards contained in the building codes. The Building Official shall work with the City Fire Chief and/or his designee to review and enforce those references to the building codes as contained in the fire code pertaining to plan review and new construction. The City Fire Chief and/or his designee shall have continued authority to review and enforce all maintenance and compliance items contained in the fire code.

(c) Applications for building permits of structures in excess of five thousand (5,000) square feet for commercial or industrial use are required to have a 3rd party administer the plan review and building inspection at the applicant's expense. Applicants are to coordinate with the City Building Official and 3rd party to ensure compliance of all statutes.

Section 123-13. - Exemption of property sold by the Master in Equity.

Any property that has been sold by the Master in Equity and is currently subject to a right of redemption period shall be exempt until such redemption period has expired. Such property shall be posted with a notice signifying such exemption.

Article 4. - PERMITS

Section 123-14. - Administration.

The Building Official or designated staff may require any person who is issued a building permit to keep accurate records of all costs of the improvement and such records shall be made available upon his request. If any person refuses to make such records available, it shall be presumed that the costs thereof are in excess of \$1,000.00 and a permit shall be required. The personal labor of any owner or members of his immediate family shall not be included in computing the first \$1,000.00. The building permit shall be issued for a period of twelve (12) months and may be renewed once for an additional six-month (6) period, at the end of the original twelve-month (12) period, upon the discretion of the building official if the construction or improvement is not completed. If construction is not completed in eighteen (18) months the permitting process must start anew, using the codes, standards and procedures then in effect.

Section 123-15. - Building Permit

(a) *Required.* No building, driveway, wall, structure, or other improvement shall be erected, installed, added to, or structurally altered without the owner or developer having first obtained a building permit from the Building Official, pursuant to this section and the standards of this section.

(b) *Application.* Applications for a building permit shall be filed on a form provided by the Building Official, and shall include the following:

- (1) A general description of the proposed work to be completed and the proposed use(s) being developed;
- (2) The zoning district designation of the land where development is proposed;
- (3) The name and signature of the land owner or owner's authorized agent;
- (4) The estimated cost of the construction, including labor and materials;
- (5) A plan, drawn to scale, showing:
 - (5.1) The dimensions of the lot being developed;
 - (5.2) The size and location of buildings and structures to be erected;
 - (5.3) The building height from the top of the first living floor surface;
 - (5.4) The percentage of the lot covered by impervious surfaces;

(5.5) The total heated square footage;

(5.6) The front, side, and rear yards or setbacks; and

(5.7) Right-of-way width;

(6) Any other information considered necessary by the Building Official in order to render a decision.

(c) *Standards.* A building permit shall be approved by the Building Official upon a finding that the application complies with the standards of this Chapter and all other applicable City ordinances. No building permit shall be issued unless and until a Zoning Permit has first been issued.

(d) *Conditions.* In approving a building permit, the Building Official may impose appropriate conditions on the permit approval.

(e) *Expiration.*

(1) If the work described in any building permit has not begun within twelve (12) months from the date of issuance, the building permit shall expire and be void.

(2) Upon written application submitted at least thirty (30) days prior to the expiration of the permit by the applicant and upon a showing of good cause, the Building Official may grant one (1) extension not to exceed six (6) months. Failure to submit an application for an extension within the time limits established by this section shall render the building permit void.

(f) *Amendments.* A building permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(g) *Revocation of Permit.* In the event that any person holding a building permit pursuant to this ordinance violates the terms of the permit or implements in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the building official may issue a stop work order and revoke the building permit.

Section 123-16. - Land Disturbance Permit (LDP).

(a) *Required.* A Land Disturbance Permit (LDP) is required for all residential, commercial and industrial land disturbing activity, including subdivision and PUD developments, that involve the construction of new structures, infrastructure (new roads, ponds or utilities), grading and infill. No grading or other land-disturbing activity over 5,000 square feet, including the addition or installation of any impervious surface, except as exempted by § 123-16(c), shall commence without first having obtained a land disturbance permit pursuant to this section.

(1) "Land-disturbing activity" means any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. Land-disturbing activity shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions or minor modifications to a single-family residence, and the cutting of firewood for personal use.

(b) *SC DHEC Approval.* If the activity will require SC DHEC approval through the South Carolina's NPDES Stormwater Program, this approval is required prior to issuance of a land disturbance permit.

(c) *Exemptions.* The following activities are not required to obtain a land disturbance permit, but should follow best management practices for erosion and sediment control:

(1) Agricultural uses, including forestry;

(2) Minor Landscaping;

(3) Land-disturbing activities undertaken for the purpose of fighting fires or other emergency activity that is immediately necessary for the protection of life, property, or natural resources; and

(4) Land-disturbing activities taking place on a lot containing a lawfully established single-family dwelling, provided such activities are located outside of any sensitive natural areas and provided they are limited to a maximum of 2,500 square feet.

(d) *Application.* Applications for a land disturbance permit shall be filed on a form provided by the Building Official, and shall include the following:

(1) The name(s) and address(es) of the owner and/or developer of the site;

(2) Site plan, including area to be disturbed;

- (3) Tree protection and/or tree replacement plan;
- (4) Erosion and sediment control measures to be implemented;
- (5) Temporary and permanent vegetation control measures, including, but not limited to seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching;
- (6) Land disturbing activities of two (2) or more acres shall also include:
 - (6.1) A natural resources map identifying soils, topography, tree cover, waterways and other natural resources; and
 - (6.2) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

(7) Filing fee.

(e) *Standards.* A land disturbance permit shall be approved upon a finding that the application complies with the standards of this Chapter and all other applicable city ordinances, including Chapter 287 Trees and Vegetation and Chapter 330 Zoning and Subdivision; and complies with the South Carolina Erosion and Sediment Control Act. No land disturbance permit shall be issued unless and until a Zoning Permit has first been issued.

- (1) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized;
- (2) Soil stabilization shall be completed within five (5) days of clearing or inactivity in construction;
- (3) If seeding or another vegetative erosion control method is used, it shall become established within two (2) weeks or may require the site to be reseeded or a nonvegetative option employed;
- (4) Special techniques on steep slopes or in drainage ways may be used to ensure stabilization;

(5) Soil stockpiles must be stabilized or covered at the end of each workday;

(6) Techniques that divert upland runoff past disturbed slopes shall be employed;

(7) Measures required in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains shall be implemented.

(f) *Conditions.* In approving a land disturbance permit, the Building Official or designee may impose appropriate conditions on the permit approval.

(g) *Expiration.* If the work described in any land disturbance permit has not begun within six (6) months from the date of issuance, the land disturbance permit shall expire and be void. Land-disturbing activity shall not proceed unless and until a new land disturbance permit is obtained.

(h) *Amendments.* A land disturbance permit may be amended, extended, or modified only in accordance with the procedures established for its original approval.

(i) *Revocation of Permit.* In the event that any person holding a land disturbance permit pursuant to this ordinance violates the terms of the permit or implements in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Building Official may issue a stop work order and revoke the land disturbance permit.

Section 123-17. - Occupancy.

It shall be unlawful for any person to begin residing in, operating or conducting business within any building until a certificate of occupancy has been issued and electrical, water and sewer service to such building has begun.

Section 123-18. - Property Identification Number.

All property upon which houses, dwellings, buildings, house trailers, businesses and other such structures are constructed or located within the City of Walhalla shall be considered developed property and shall have on the face and/or other appropriate side of the house, dwelling, business or structure identification numbers, in a manner and location so that said identification numbers are clearly and readily readable to a person of normal vision from the adjacent roadway.

All applicants for building permits for new construction of residences or businesses or other such structures shall be required to submit a plan showing the proposed

location of their property identification number before any building permit will be issued, and compliance with this article shall be a condition precedent to the issuance of a certificate of occupancy.

Section 123-19 - Exceptions.

No building permit shall be required for any construction performed by the owner himself, the cost for which is less than \$1,000.00. No building permit shall be required for the addition of siding of any type to a residence. No building permit shall be required for the removal of the remains of a burned home. The issuance of zoning permits still apply.

Section 123-20 - Permit fee schedule.

The schedule of fees for permits for building, construction, land disturbance and repair of buildings and structures within the City limits is set by City Council; adopted by reference and on file in the City offices.

Article 5. - CITY BUILDINGS

Section 123-21. - Applicability.

This Chapter shall be applicable to any and all buildings, structures or similar improvements presently existing, or to be erected, on real property owned by the City or any agency, department, board or commission established or regulated by the City Council pursuant to S.C. Code 1976, § 4-9-30(6) or whose governing board is appointed pursuant to S.C. Code 1976, § 4-9-170 and all such buildings, structures or similar improvements shall be hereinafter referred to as City buildings.

Section 123-22. - Council approval for alterations, repairs, other construction projects.

(a) The City Council shall give prior approval before any City building is altered, repaired, built, removed, modified, demolished, condemned, rehabilitated or improved, including additions and permanent fixtures thereto.

(b) The City Council shall also give prior approval before any lessee of City property shall alter, repair, build, remove, modify, demolish, condemn, rehabilitate, or improve any buildings or structures not owned by the City but located on City property, including additions and permanent fixtures thereto unless such alteration, repair, building, removal, modification, demolition, condemnation, rehabilitation, or improvement is expressly permitted in the current lease or other current written agreements.

Article 6 – MANUFACTURED HOUSING

Section 123-23. – Manufactured Housing

(a) *Zoning Compliance.* No moving or manufactured home permit shall be issued for any manufactured home brought into the City of Walhalla or relocated within the City after the adoption of this chapter, unless a current certificate of zoning compliance has been issued by the Zoning Administrator, to certify that the manufactured home is in full compliance with Chapter 330 of the Walhalla Code.

(b) *Standards.* All manufactured homes subject to this chapter shall meet or exceed the most current construction standards promulgated by the U.S. Department of Housing and Urban Development, as well as the South Carolina Manufactured Housing Board and Chapter 199 of the Walhalla Code.

(c) *Registration.* Manufactured homes must be registered with Oconee County, per Oconee Code § 30-145 prior to applying for a permit.

(d) *Moving Permit.* Prior to the movement of any manufactured home being transported out of or within the boundaries of the county, a county moving permit must be acquired per Oconee Code § 30-150.

(e) *Permit.* Manufactured homes must apply for and obtain a Manufactured Home permit that includes moving within city limits, inspections for one (1) unit set up, supporting foundation, tie downs, connections, and any exterior HVAC unit. Permits for accessory decks, screened enclosures, room additions, or other accessory structures, are subject to a zoning permit and the fees set by City Council.

(f) *Installation.* Manufactured home installers must be properly licensed by the State of South Carolina Manufactured Housing Board. Installation shall be in compliance with the regulations of Chapter 79, South Carolina Department of Labor and Licensing-Manufactured Housing Board.

ARTICLE 7 - UNSAFE BUILDINGS/STRUCTURES AND UNFIT DWELLINGS

Section 123-24. - Authority.

This section is authorized by S.C. Code 1976, § 5-7-30; 5-7-32; 5-7-80; 31-15-10 et seq.

Section 123-25. - Generally.

(a) All buildings/structures regulated by this chapter which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, are for the purposes of this chapter unsafe.

(b) Any dwellings regulated by this chapter which are dangerous or injurious to the health, safety or morals of the occupants, neighbors or community, are for the purposes of this chapter unfit.

(c) Any use of buildings or structures constituting a hazard to safety, health or public welfare by reasons of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment are for the purposes of this chapter unsafe uses.

(d) All such unsafe buildings/structures or appendages are hereby declared to be public nuisances and shall be abated by alteration, repair, rehabilitation, demolition or removal in accordance with the procedures set forth in this chapter.

(e) It shall be unlawful for any owner or party in interest thereof to keep or maintain any building/structure or part thereof which is an unsafe building/structure as herein defined.

Section 123-26. - Definitions.

(a) *Abate*. As used in this chapter, means repair, replace, remove, destroy or otherwise remedy the condition in question by such means, in such time, in such a manner and to such an extent as the Building Official or City Council shall determine to be in the best interest of the public, taking into account all facts and circumstances.

(b) *Enforcement officer*. As used in this chapter is the Building Official or his designee.

(c) *Public nuisance*. As used in this chapter, any condition located in a building or on premises, which constitutes a health hazard and/or which is or may be unsafe or dangerous by reason of inability to appreciate the peril therein, and/or affects the

economic value preservation of property and the surrounding properties as determined by the Building Official or his designee based upon the facts and circumstances found after reasonable inquiry, investigation or upon citizen report.

(1) A building, structure, or portion thereof in a dilapidated or dangerous condition to be unsafe or unsuitable for human occupancy.

(1.1) Inadequate or inoperable mechanical, electrical, plumbing, or sanitation;

(1.2) Lack of sound and effective exterior walls or roof covering to provide weather protection;

(1.3) Lack of structural integrity, including deteriorated or inadequate foundations, joints, vertical or horizontal support;

(1.4) Broken, missing or inoperable windows, doors constituting a hazardous condition or potential attraction to trespassers;

(1.5) Broken, deteriorated structures presenting a risk to public safety.

(2) An abandoned building, manufactured home, or structure that violates health, safety, sanitation requirements and/or economic value preservation of properties such as:

(2.1) An unoccupied and unsecured building or structure;

(2.2) A partially constructed, partially reconstructed, or partially demolished building or structure where work is abandoned for a period of one-hundred and eighty (180) days;

(2.3) A manufactured home that is damaged, extensively deteriorated, does not have approved utilities, water, and septic service, or is deteriorated or is being used as other than residential occupancy.

(d) Unfit dwelling. As used in this chapter, "unfit dwelling" means any dwelling for human habitation with conditions that are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings or other residents in the City, as determined by the Building Official. Such conditions may include the following, without limiting the generality of the foregoing: defects increasing the hazards of fire, accidents or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; and breeding areas for insects or vermin.

(e) Unsafe building/structure. As used in this chapter, "unsafe building/structure" means any building/structure which has been determined to be unsafe by the Building Official or his designee. A vacant structure that is not secured against entry shall be deemed unsafe.

Section 123-27. – Enforcement; Powers of Building Official.

The Building Official is hereby authorized and directed to exercise the powers prescribed in this chapter. He may exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers, in addition to others granted by this chapter or the enabling legislation:

- (a) To investigate building/structure conditions in the City, in order to determine whether building/structure is unsafe.
- (b) To investigate dwelling conditions in the City, in order to determine whether dwellings therein are unfit for human habitation.
- (c) To administer oaths and affirmation, examine witnesses and receive evidence.
- (d) To enter into and upon any property, located within the City, with proper credentials, for the purpose of inspecting and enforcing the provisions of this Code, provided such entries are made in such manner as to cause the least possible inconvenience to the persons in possession. If the responsible party, owner, occupant or the agent of any owner or occupant of any property located within the City refuses to allow inspection of such property, the City is authorized to seek an administrative order or search warrant from any authorized judicial officer having jurisdiction over subject property.

Section 123-28. - Declared public nuisance.

All structures found to be maintained in violation of any one or more of the provisions of this chapter are hereby determined to be public nuisances and shall be abated by alteration, repair, rehabilitation, demolition or removal in accordance with the procedures specified hereinafter.

Section 123-29. – Complaint procedure.

(a) Whenever a complaint is made with the Community Development Department by the City Council, or authorized City personnel, or a public authority, or a petition is filed by at least five (5) residents of the City, charging that any building/structure is unsafe and/or that any dwelling is unfit for human habitation, or any lot or property in the municipality is not clean and free of rubbish, debris and other unhealthy and unsightly material so as to constitute a public nuisance, the Building Official shall

establish by his own investigation that the building/structure is unsafe and/or that the dwelling is unfit for human habitation or the lot or property in the municipality is not clean and free of rubbish, debris and other unhealthy and unsightly material and constitutes a public nuisance.

(b) If his preliminary investigations disclose a basis for such charges and the uninhabited and/or habited building/structure or portion thereof is found to be a public nuisance and/or unfit dwelling, as defined in this chapter, he shall commence proceeding to cause the alteration, repair, rehabilitation, demotion or removal of the building or structure.

Section 123-30. - Notice and Order.

(a) *Unsafe Buildings/Structures.* The Building Official shall issue a notice and order directed to the owner or party in interest of the unsafe building/structure stating the defects thereof. This notice shall require the owner or party in interest of the unsafe building/structure or premises within thirty (30) days to commence either the required alterations, repairs, improvements, demolition or removal of the unsafe building/structure or portions thereof, and all such work shall be completed within such period of time as the Building Official shall determine to be reasonable to accomplish the work, which period shall be stated in the notice. If necessary, such notice shall also require the unsafe building/structure or portion thereof not to be used until the required repairs and improvements are completed, inspected and approved by the Building Official.

(b) *Unfit dwellings.*

(1) The Building Official shall issue and cause to be served upon the owner of and all parties in interest in such dwelling a complaint stating the charges that the dwelling has been found to be unfit and/or a public nuisance and containing a notice that a hearing will be held before the Building Official or his designated agent at a place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of such complaint; that the owners 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 in courts of law or equity shall not be controlling in hearings before the Building Official.

(2) If, after such notice and hearing, the Building Official 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 described in Section 123-30 (a).

Section 123-31. - Service of notice and order.

Service of the notice and order shall be made upon the owner or party in interest either personally or by:

- (a) Mailing a copy of such notice and order, by certified mail to each owner of or party in interest in the property as indicated by the records of the county tax assessor; or
- (b) If no address so appears or is known to the Building Official, a copy of the notice and order shall be mailed to the owner or party in interest at the address of the unsafe building/structure and/or unfit dwelling, and a copy of the notice shall also be posted in a conspicuous place on the unsafe building/structure and/or unfit dwelling.
- (c) The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing. The receipt card, return and acknowledgement of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the Building Official.

Section 123-32. - Posting of signs.

- (a) The Building Official shall cause to be posted at the main entrance of such an uninhabited, unsafe building/structure a notice to read: "DANGER—THIS BUILDING/STRUCTURE IS DECLARED UNSAFE." Such notice shall remain posted until the required repairs, demolition or removal is completed. Such notice shall not be removed without written permission of the Building Official, and no person shall enter this unsafe building/structure except for the purpose of making repairs required or demolition of the unsafe building/structure.
- (b) The Building Official shall cause to be posted at the main entrance of such an inhabited or uninhabited, unfit dwelling a notice to read: "THIS BUILDING IS UNFIT FOR HUMAN HABITATION; THE USE OR OCCUPATION OF THIS BUILDING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL."

Section 123-33. - Condemnation of unsafe building/structure or unfit dwelling.

If, at the expiration of any time limit and the notice provided for in Section 123-30, the owner or party in interest has not complied with the requirements thereof, the Building Official may recommend abatement in accordance with the provisions set out hereinafter.

- (a) *Notice of public hearing.* Notwithstanding any other provision of this chapter, when the whole or any part of any uninhabited building/structure or unfit dwelling is found to be in a dangerous or unsafe condition, the Building Official, having

ascertained that the time for providing a notice has expired and that the nuisance has not been abated, shall issue a notice to each owner of record or party in interest of record in whose name the property appears on the last local tax assessment record.

(1) If the Building Official has determined that the structure is in a condition that would require demolition, the owner of record or party in interest may appeal the decision before the City Council and show cause why the building/structure or dwelling should not be demolished.

(2) In matters other than demolition of a structure, the owner of record or party in interest shall appeal the Building Official's decision before the Construction Board of Adjustments and Appeals and show cause why the building/structure should not be abated or otherwise made safe.

(3) Notice shall be given to the parties in the same manner as provided for in Section 123-31 of this chapter to appear at the hearing on the date, time and place specified in the notice, which shall not be less than ten (10) days after the mailing of this notice. When the whereabouts of such persons are unknown and cannot be ascertained by the Building Official in the exercise of reasonable diligence, then the serving of such complaint upon or order upon such person shall be made by publishing it once every week for two (2) consecutive weeks in a newspaper of general circulation printed and published in the county.

(b) *Hearing.* City Council or the Construction Board of Adjustments and Appeals shall conduct the hearing at the time and location fixed by the complaint and notice.

(c) *Failure to appear.* Failure of any person to appear at the hearing set in accordance with the provisions of this chapter shall constitute a waiver of his rights to the administrative hearing on the notice.

(d) *Scope of hearing.* The hearing shall offer the owner or party in interest the opportunity to be heard on only those specified matters or issues raised by the notice of violation. The owner or party in interest may appear at the hearing in person or through an attorney or other designated representative.

(e) *Staying of notice under appeal.* Any notice issued by the Building Official under the provisions of this chapter shall be held in abeyance during the course of an appeal.

(f) *Provisions for hearing appeals.*

(1) *Rules.* A hearing shall not be required to be conducted in accordance with the technical rules regulating evidence and testimony prevailing in courts of

law or equity. Construction Board of Adjustments and Appeals may grant continuances for good cause.

(2) *Oaths, affirmations.* In any proceeding under this chapter, any member of City Council or the Construction Board of Adjustments and Appeals shall have the power to administer oaths and affirmations and certify official acts.

(3) *Evidence.* Relevant evidence shall be admitted if it is the type on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or evidence over objections in civil courts.

(4) *Inspections.* City Council or the Construction Board of Adjustments and Appeals may inspect any uninhabited, unsafe building/structure or unfit dwellings or premises involved in a hearing during the course of the hearing, provided the following are complied with:

(4.1) Notice of such inspection is given to the parties prior to making the inspection; and

(4.2) The parties are allowed to be present during inspection; and

(4.3) The inspector states for the record upon completion of the inspection the facts observed and any conclusions drawn.

(5) *Recourse.* If the owner or party in interest is aggrieved by the decision of City Council or the Construction Board of Adjustments and Appeals, nothing in this chapter shall be construed as depriving him of seeking redress in civil or other applicable courts. Said appeal must be filed within 30 days from the effective date of the final decision.

Section 123-34. - Implementation.

(a) *Failure to commence work.* Whenever the required repair, vacation or demolition is not commenced within thirty (30) days after the effective date of the City Council or Construction Board of Adjustments and Appeal order, the City may cause the uninhabited, unsafe building/structure or unfit dwelling to be repaired to the extent required to render it safe; or if the notice requires demolition, to cause the uninhabited, unsafe building/structure or unfit dwelling to be demolished and all debris be removed from the premises, as described in Section 123-32 (b) and (c).

(b) *Order to correct.* The order for such entry to correct the conditions specified shall be done by the Mayor and Council of the City of Walhalla.

(c) *Petition to demolish.* If the owner fails to comply with an order to remove or demolish an unsafe building/structure or unfit dwelling, the Building Official may petition the courts to cause such structure or dwelling to be removed or demolished. If the City, in demolishing unsafe buildings/structures or unfit dwellings, as permitted by this section, contracts with a third party, not employed by the City to do the work, it must bid the work in conformity with the City's procurement code.

Section 123-35. - Recovery of cost of repair or demolition.

If the owner or party in interest of any uninhabited building/structure or unfit dwelling which has been condemned as unsafe or unfit by the Building Official, after being notified by the Building Official in writing of the unsafe building/structure or unfit dwelling, shall permit it to stand or continue in that condition, he shall be subject to penalties as prescribed by Section 223-29, general criminal penalty, continuing violations, of the City of Walhalla Code of Laws for each day such unsafe building/structure continues in such condition after such notice. The costs of repair or demolition shall be borne by the owner or party in interest to the extent permitted by law.

Section 123-36. - Liability for cost of repair or demolition.

City Council may direct the expenditure of public resources to abate the nuisance condition. The cost of abatement shall include an administrative assessment of \$250.00, any attorney's fees and costs, in addition to the actual cost of labor and materials expended in public abatement. The person shall be served with a notice of assessment within seven (7) days of the completion of the abatement. The notice of assessment shall include the administrative fee and a statement of public cost, attested to by affidavit and shall be issued and served, as provided in Section 123-31, upon the person responsible for payment who shall make payment within thirty (30) days of the date of service. Upon the expiration of the thirty (30) day period, if the amount has not been paid in full or contested before City Council, the City Council may direct that a lien upon the real estate, in that amount, be filed with the County Clerk of Court or Register of Deeds and with the City Clerk that shall be collectable in the same manner as municipal taxes. The lien shall be of record in the County Courthouse until paid or recovered, or otherwise released.

Article 8. – LEGAL STATUS PROVISIONS

Section 123-37. - Rights of person affected by order.

In accordance with S.C. Code 1976, § 31-15-370, any person affected by an order issued by the Building Official pursuant to this chapter may, within sixty (60) days after the posting and service of the order, petition the Circuit Court for an injunction restraining the Building Official from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the Building Official pending the final disposition of the cause. Hearings shall be heard by the Court on such petitions within twenty (20) days or as soon thereafter as possible and shall be given preference over the 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 Building Official as to facts, if supported by evidence, shall be conclusive. Costs shall be at the discretion of the Court. The remedies provided in this section shall be exclusive remedies and no person affected by an order shall be entitled to recover any damages for action taken pursuant to any order of the Building Official or because of compliance by such person with any order of the Building Official.

Section 123-38. - Preservation of rights and actions.

Nothing in this chapter hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.

Section 123-39. - Conflicts

In the event any conflict may arise between the provisions of these codes with amendments thereto, adopted by this section, and any other state law or city ordinance, rules or regulations, the most restrictive provisions shall prevail and be controlling.

Section 123-40. - Zoning Ordinance preserved

Nothing contained in these codes shall repeal any of the provisions of the Zoning and Subdivision Ordinance, and in the event, there should be any conflict between the terms of these Codes and of the Zoning Ordinance, the provisions of the Zoning and Subdivision Ordinance shall prevail and be controlling.

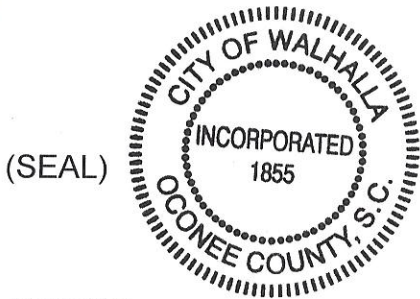
Section 123-41. Separability.


The provisions and sections of this chapter shall be deemed to be separable, and the invalidity of any portion of this chapter shall not affect the facility of any other

article, section or provision hereof, which is not itself void or invalid.

This Ordinance shall be effective immediately upon final reading.

AND IS DONE AND RATIFIED in Council Duly assembled this 20TH Day of JUNE 2023.





Danny Edwards, Mayor

ATTEST:



Timothy B. Bufton, City Administrator

Introduced By: MR. PACE

First Reading: MAY 16, 2023

Public Hearing,
Second Reading
And Adoption: JUNE 20, 23