

Public Safety Committee
9:00 a.m., Monday, June 3, 2019

The regular meeting of the Public Safety Committee was called to order at 9:00 a.m. in the City Hall Conference, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bell and Ward, Chair Buckhannon, City Administrator Fragoso, Battalion Chief Hathaway, Police Chief Cornett, Captain Swain and City Clerk Copeland; a quorum of the Committee was present to conduct business.

1. Chair Buckhannon welcomed Chief Kevin Cornett on his first day as the new Chief of Police for the City of Isle of Palms. The Chair called the meeting to order and acknowledged that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.

2. **Approval of Previous Meeting's Minutes**

MOTION: Councilmember Bell moved to approve the minutes of the regular meeting of May 6, 2019 as submitted; Councilmember Ward seconded and the motion PASSED UNANIMOUSLY.

3. **Citizens' Comments – none**

4. **Old Business**

A. Discussion of beach parking along Palm Boulevard

Captain Swain reported that the parallel parking “held its own” through one of the busiest traffic weekends he has seen on the island in a long time and that officers and BSOs wrote a lot of tickets, about twice what were written on the Memorial Day weekend last year.

Councilmember Bell said that he would like to be proactive toward beach parking, but, on the Memorial Day weekend, he saw fifteen (15) blocks of double and triple parking on Palm Boulevard, and he knows that BSOs cannot be there twenty-four (24) hours a day. He said that when one car double parks, the next car decides he can do the same starting a chain reaction for blocks. He said that he would prefer to see the BSOs on Palm warning drivers that what they are about to do is not allowed over counting how many tickets were written. He opined that a visitor to the island would prefer a kind warning to a fifty dollar (\$50) ticket.

After talking with Captain Swain, the Administrator noted that most people do not know where the rights-of-way end and the property owner's yard begins. She added that there were so many cars on the island that there was a lot of confusion – even with officers out in force directing traffic. The officers expected challenges with the very busy, holiday weekend, and staff has already discussed what they can do differently in the future.

Councilmember Bell was pleased with the impact the parallel parking was having on Palm; his overall opinion was that it has reduced some of the chaos.

Captain Swain reported that he has been sending the BSOs out early in the morning to see those first parking illegally and to educate them about the current regulations. If the driver was no longer

with the car, a ticket should be written for those who would tend toward repeating the same illegal parking issue.

Chair Buckhannon wanted to initiate a dialogue with Charleston County Park personnel about the line of cars waiting to get into the park at 8:00 a.m. and finding the gate still locked; by 8:15 a.m., cars are stacking up into the intersection and blocking traffic down Palm Boulevard. He noted that the City pays off-duty Charleston County officers to assist with parking on the weekends, but they end up managing the traffic trying to get into the County Park. He suggested that the park should be treated as a parking garage, i.e. cars go in and park then pay when they leave and not when they enter; he saw this as a way to eliminate the line into the intersection at 14th Avenue and Palm.

Having spoken with Cynthia Wilson who manages the County Park, Administrator Fragoso reported that they would be willing to sit down with the City to work out any problems; she is trying to schedule a meeting this week to include Chief Cornett and Captain Swain to brainstorm about ways to ease line forming to get into the park. At the suggestion of pay-when-you-leave, Ms. Wilson explained that every Charleston County park operates with pay-as-you-enter; to pay upon leaving would be a dramatic change for them.

Chair Buckhannon mentioned that Kiawah, Edisto and Seabrook outsource their beach services officers; these persons give first aid, look for missing children, treat jellyfish stings, code enforcement, etc. taking part of the load off the City's personnel. With the difficulty in hiring BSOs this year, he questioned how much code enforcement was being done on the beach.

Captain Swain explained that BSOs were allowed to write tickets for cars but not for people; when they see a person violating a City ordinance, they try to correct the action and educate the person about the ordinance. When they encounter issues of non-compliance or belligerence, they put a call in for an officer.

The Chair asked what had to be done to allow BSOs to write City citations, and Captain Swain thought that to write tickets for City Code infractions, a person must be a Class 3 officer certified by the State.

Chief Cornett stated that issuing a Municipal Summons did not require a sworn officer; they were not allowed to arrest someone, but were allowed to write municipal citation for municipal code violations.

Councilmember Bell said that he would like to get close the loop by getting the statistics from the courts on the disposition of tickets. A neighbor recently told him that, when she got a ticket, she just arrived for court a few minutes early, talked to the judge and the ticket was dismissed. In such a case, the full circle of law was not being met, and, if that was the case, he wanted to see statistics.

Returning to the outsourcing of BSOs, the Chair thought that it was a situation that deserved further research; he stated that this would free-up the City's BSOs and allow them to be proactive with parking and to issue tickets as necessary.

Chair Buckhannon stated that from what he has seen and heard, the Isle of Palms' parking plan was working better than others in the region.

Administrator Fragoso noted that signage has been installed at the beach access paths between 41st and 54th Avenues to create better visibility for pedestrians.

B. Update on Flowbird mobile app implementation

Captain Swain said that he was very pleased with the app's appearance on phones and that it was running perfectly now. Having taken the baby-steps along the way, he was now comfortable advertising the app. He said that he has some signs and stickers he needs to display promoting the service, but he has not yet determined the best place to do so. He indicated that he would be advertising it on social media for the coming weekend. He did say that he was disappointed in the response from Flowbird and from their "ambassadors" because they did not do much to aid in the implementation.

Councilmember Bell asked that a tutorial be added to the app when Flowbird was added to the City's website.

C. Status of public transit initiative

Due to some personnel turnover in their office, the purchase of the vans was not on the SCDOT agenda for the May meeting, and they do not meet in the summer. In the interim, the COG and SCDOT are working on the legal documents and agreements; currently the anticipated number of riders will require two (2) vans and their availability has been confirmed with the vendor. Potentially the service will be up and running by late summer.

From the CARTA meeting, Councilmember Ward and Jim Owens from Mount Pleasant were pushing for the service because they both felt that it had been pushed down the priority list, and they had been trying to get something in place since late last summer.

The Administrator noted that the money for the vans has been allocated, but the projects will be delayed waiting for the final SCDOT signature.

When asked what would happen to the vans in the winter, the Administrator answered that, if the need was there, they would continue to run between Mount Pleasant and the Isle of Palms.

Councilmember Ward stated that both CARTA and the COG should push for advertising of the service because, if it is not used, CARTA will not hesitate to shut it down.

D. Discussion and update on standards for dilapidated structures

Director Kerr explained that currently, if a house is vacant, the City insures that the house is secured from rodents, has no holes in it, is not "an attractive nuisance" to kids and not a safety concern; it is simply locked up. The Police Department insures that the grass/weeds are kept at an acceptable level; for a pool, the Livability Officer meets with the Mosquito Control people from Charleston County who put out pellets that develop an eco-system that eats the mosquito larva.

Per Director Kerr, staff looked at other tools available and found a state code provision that deals with blighted buildings; additionally, an International Property Maintenance Code deals with habitable structures that exist to prevent putting humans into living in squalor and/or unsafe conditions. He said that they were having a difficult time finding a code that goes beyond what the City is doing for vacant buildings.

Trying a different approach, Chair Buckhannon noted that the house on Forest Trail Court 1 has HVAC and electricity; he asked how it was different from the home next door if someone stays in it twice a week.

From an on-site visit accompanied by the City Administrator, Building Inspector and Livability Officer, they found the house to be structurally sound; it was sealed up, had electricity and HVAC to control the humidity and had no open windows. If the City had enacted the Property Maintenance Code and if it applied to vacant buildings, which it does not, staff thought it could cherry-pick parts of that code . . .

Councilmember Bell commented that this house was habitually vacant and appears as if it was not meant to be inhabited any time in the future. He asked if the City would be smart to adopt a code saying that “after a house has been vacant in excess of . . . years” He thought that these houses should fall into a category all of their own.

Director Kerr recalled maybe seven (7) properties on the island that would fall into this special category and stated that all of the owners come into the offices and ask about the fifty percent (50%) rule. He indicated that the owner of this property complies with whatever is asked of him, i.e. he keeps the property within the limits of the City’s Code. The Director pointed to the Mayor’s house that has been sitting empty for three (3) years in litigation. Director Kerr said that he did not know how to draw the line when a property owner must take action.

What was found in research was that no other municipality was doing this, but staff could pick and choose parts of the Property Maintenance Code, such as the house has rot on it, peeling paint, screens falling off, a pool filter that is not turned on, loose railing, etc. The Director thought that the City could pass those five (5) codes, but would likely get feedback that Council was over-reaching and getting into aesthetics. He reminded the Committee that one-third ($\frac{1}{3}$) of the homes on the island were second homes and do not have eyes on them every week.

Chair Buckhannon cautioned that the City has some buildings that would fall into one (1) or more of those categories.

Mount Pleasant described their ordinance as a passive ordinance, and Director Kerr was unsure exactly what that meant or if it was enforceable. The Director felt that the Building Official was telling him that it was not really enforced.

If the house was occupied and if the City had adopted the International Property Maintenance Code, the City would have more enforcement power. Chair Buckhannon contended that since the house has electricity and an operating HVAC system, the house was habitable, and someone could live there although it was currently empty. Since one-third ($\frac{1}{3}$) of the houses on the island were rental properties, they would not be considered vacant just because when a count was taken, it was not occupied.

Director Kerr stated that this house was not habitable.

Chair Buckhannon asked if a house could lose its Certificate of Occupancy.

The Director said that the property would have to be condemned, and this house has not reached that point. He stated that, when walking around the house, one would see rotten siding, peeling paint, screens falling off and a pool filter that is not on. Director Kerr reminded the Committee

that if they adopted the International Property Maintenance Code, it would apply to every house on the island.

Councilmember Ward asked if the house has a termite bond and if it was dangerous for the neighbors.

The Director did not know about the termite bond, but he did not think it was dangerous to the neighbors' properties. The peeling paint was only a small area of the house; the issue to him was the mildew over much of the exterior.

Administrator Fragoso explained that, in their research, they have not found anything that would address the situation without making it feel punitive.

Councilmember Ward stated that Mr. Page has asked on two (2) occasions for help from the City, and he thought the City owed him an answer.

Director Kerr asked about drafting an ordinance stating that the City prohibits peeling paint, rotten siding and a pool filter that was not operating. After talking about this house for two (2) months, the Committee was at a point where they must act, and the blowback will be that the ordinance would be so far reaching.

Councilmember Bell and Chair Buckhannon asked the Director to proceed with an ordinance listing those three (3) issues.

The Director stated that ten to fifteen (10 – 15) houses will be sent enforcement letters relating to peeling paint, and one might be sent to the Mayor.

Councilmember Bell was concerned about the pool, and he suggested that it should be filled in until the owner plans to use it again.

According to Councilmember Ward, the owner could, at least, cover the pool.

Director Kerr said that this pool has become a retention pond due to the lack of care.

Councilmember Bell said that people who come to the City asking for assistance need to understand that actions taken by a Committee start a process but that nothing would happen as quickly as they would want. He asked that the neighbors on Forest Trail Court 1 be aware that the Committee was diligently working toward a solution but it will take time.

Chair Buckhannon stated that an officer's discretion would also be a factor in enforcement, for instance, not everyone that was pulled over would be issued a ticket.

Relative to the pool, Director Kerr said that the current law was that the pool must be surrounded by a fence, but he understood the Committee advocated for the filter potentially turned on, and if the owner refused, then he must permanently cover it or fill it in.

Chair Buckhannon noted that simply covering the pool did not eliminate the problem if it was not treated.

5. New Business

A. Discussion of policy for golf carts abandoned on the beach due to an emergency

Captain Swain stated that the Police Department would treat the golf cart abandoned on the beach the same as any vehicle abandoned due to an emergency. He cautioned that he was not guaranteeing that they would be able to get every golf cart off the beach, but with due diligence, officers would do their best to get it off the beach.

Councilmember Bell questioned that it should be made clear that it is “best effort” in order not to place any liability on the City.

B. Discussion of installing a camera at Beach Inlet

The Chair clarified that this camera would face the water, not the Breach Inlet Bridge to track traffic.

The Administrator stated that this camera was more about water safety than traffic monitoring; she noted that swimming was not allowed in that area. The Communication Specialists will monitor the camera feed along with the other surveillance cameras at Front Beach. Since this was mentioned at the City Council meeting, the Administrator has hesitated to do much work on it until she received guidance from this Committee.

Captain Swain spoke to Joe Shivers from the City’s IT contractor, and he recommended a handheld zoom camera that was much cheaper now. If someone wanted to monitor traffic, the camera could be turned away from the water to capture the traffic on the Breach Inlet Bridge.

When Councilmember Bell asked what constituted “much cheaper,” Captain Swain was quoted five to six thousand dollars (\$5,000 - \$6,000) for the camera and installation; in addition, the camera would need a dedicated connection line that was installed by Comcast in the past and would carry a monthly fee.

Since SCDOT owns the parking lot at Breach Inlet, the City would have to get an encroachment permit to erect a structure for the camera installation.

Councilmember Ward was pleased that the camera would have the zoom feature.

Although swimming in Breach Inlet carries with it an eleven hundred dollar (\$1,100) fine, people who do not know about the currents go right into the water.

Administrator Fragoso said that this could be added to the FY20 budget and could be paid from tourism funds.

Battalion Chief Hathaway asked how difficult it would be for the feed to go to the Fire Department as well. He explained that, being able to see what was going on when the distress call comes in would provide the Battalion Chief the visual he needed to decide whether he needed to go to the beach or to go by boat.

Captain Swain and Administrator Fragoso agreed that the cost would be nominal for the additional line to the Fire Department.

C. Discussion of requiring all dogs that live or visit the Isle of Palms to have proof of current rabies vaccination

Chair Buckhannon stated this subject made it to the Agenda based on Citizens' Comments at the last Council meeting when a gentleman reported that his six-year-old daughter was bitten by a dog when visiting the IOP beach. The dog involved was visiting from out of town and had not had a rabies vaccination in three plus (3+) years despite State law requiring all dogs to have current vaccinations for rabies. Enforcement of State law must be done by sworn uniformed officers; the goal here was to duplicate the State code in the City's code so that the Animal Control Officer. . .

Councilmember Bell commented that any new ordinance should eliminate the five dollar (\$5) fee paid only by citizens for a dog license and then add the language from the State code to the municipal code.

The recommendation from the Administrator was to follow the Mount Pleasant Code that makes dog registration voluntary and to require that all dogs have proof of current rabies vaccination.

By adopting the language of the State Code, the Animal Control Officer would be in a position to enforce it.

Councilmember Bell suggested that staff learn what the other beach communities were doing about dogs on the beach in an effort to be consistent with neighboring communities. He stated that Folly Beach now prohibits dogs on the beach.

MOTION: Chair Buckhannon moved to adopt the State Code that required all dogs to have current rabies vaccinations, to make the IOP registration requirement voluntary and to eliminate the \$5 fee; Councilmember Bell seconded and the motion PASSED UNANIMOUSLY.

Councilmember Bell suggested promoting the fee-free dog registration to get more dogs registered.

D. Discussion of installation of bike lanes on Palm Boulevard

The Chair said that this also was brought to Council in the May City Council meeting and that it came up every few years. He agreed that it was a wonderful idea, but he did not know where the money would come from to do the project.

Councilmember Ward recalled that, when Councilmember Kinghorn was first on City Council, he advocated for bike lanes from the Connector to Breach Inlet, and somehow it happened.

Administrator Fragoso said that the bike lanes for both sides of Palm Boulevard to Breach Inlet was a repeated request to SCDOT, and they finally put them in. In her opinion, the problems with extending bike lanes down both sides of Palm to 57th Avenue were parking and extending the right-of-way; additional costs would come from surveying, marking utility line locating, and the large number of palm trees in the right-of-way.

Chair Buckhannon told the Administrator that bike lanes on both sides of Palm to 57th has been a request from the City to SCDOT for many years, but the project has not gained any traction to get funding.

The Administrator said that one (1) of her plans was to revamp the narrative of the proposal and to use a different strategy in hopes of getting better results. She also suggested that the cost of the project would lend it toward a phased approach.

Chair Buckhannon recommended that staff look to some of the other groups in the area promoting cycling for cost sharing possibilities.

E. Discussion of installation of crosswalks from 41st Avenue to second gate at Wild Dunes

The Administrator explained that crosswalks require SCDOT permission for installation, but the City assumes the expense for the installation and maintenance.

Captain Swain reported recently filing two (2) requests for crosswalks on Palm at intersections in the higher twenties blocks. The crosswalks themselves cost approximately six thousand dollars (\$6,000) with the additional cost for signage. The Captain did not see a plan for the crosswalk installations other than, wherever Wild Dunes wanted a crosswalk, one (1) appeared.

Although it was prior to her employment with the City, Administrator Fragoso remembered seeing an application for crosswalks on the north end of the island that she thought were denied. She would go back into the records and confirm this information.

Captain Swain said that SCDOT makes its determinations on what it decides is the need, and they do not consider the funding source, i.e. the City of Isle of Palms or Wild Dunes.

The Chair suggested that, if some crosswalks were approved in that area, the City should go to Wild Dunes to share in the cost. He thought this was particularly appropriate when they have a new hotel under construction that will increase the number of people crossing Palm to get to the beach.

During Citizens' Comments, someone asked about enforcement at crosswalks, and the Chair acknowledged that, to use the crosswalk, one must be in the crosswalk in order for a violation to occur.

Captain Swain said that he has seen crosswalks in Summerville, where as one approaches a crosswalk, yellow caution lights begin to flash.

Councilmember Bell commented that another problem was people crossing wherever was closest to their vehicle and not using the crosswalks.

G. Discussion of possible sourcing of a beach patrol vendor

Administrator Fragoso commented that staff would research this idea, look into the cost and look into how these people would tie in with the Police Department. She noted that each year the City budgets for ten (10) BSOs, but the City has only been successful in hiring that number one (1) year.

Councilmember Bell stated that, if the City was going to change the municipal code to give BSOs the authority to write tickets via the municipal code ticket books, the City should provide more active patrolling of the beach and less for parking control.

Battalion Chief Hathaway repeated that to have some people with the qualifications Chair Buckhannon spoke of earlier would lessen the pull of Fire Department personnel, i.e. first aid training to deal with jellyfish stings and provide other first aid, looking for missing children, etc. to deal with other issues that arise on a summer day.

F. Discussion of submitting an SCDOT encroachment permit for Palm Boulevard golf cart path

The Chair commented that this path runs parallel to 21st and across it to get on the golf cart path at Carmen R. Bunch Park, but, despite its heavy use, it has never been authorized by SCDOT. He wanted the City to reach out to SCDOT for an encroachment permit so that it can be properly maintained.

Administrator Fragoso said that she would research the cost of maintaining the path and get back to the Committee.

6. Highlights of Departmental Reports

Fire Department (The monthly reports can be found on the City's website.)
Police Department

Councilmember Bell suggested that the Fire Department advertise their CPR classes to the community; although he has been trained, he would like to take the class again to be familiar with the most recent change(s). He was certain that other people on the island would be interested as well, and he opined that the City cannot have too many people trained.

Captain Hathaway stated that Department personnel dealt with some serious medical issues over the last month, and he was proud of "how well the guys handled them."

Councilmember Bell complimented Chief Hathaway on the shortened report.

Captain Swain told the Committee that Police Department personnel responded to eighteen (18) founded noise violations. In the month of May, officers made nine (9) alcohol arrests and four (4) drug-related arrests. He took the opportunity to comment on the Fire and Police Department and how well they worked together to handle the traffic issues on the island for the Memorial Day weekend; he said, "All the City employees really did a good job in handling an incredibly crowded island." He agreed with the Administrator that the problem was not the number of people, but the number of cars on the island trying to park legally.

Chair Buckhannon opined that signage should be on the Mount Pleasant side of the Connector telling people that parking was full on the Isle of Palms in an attempt to divert people away from the island.

Captain Swain announced that one (1) officer has completed the Justice Academy and would be returning to the island to begin field training for a month. Currently three (3) officers are attending the Academy, and one (1) will be completing his training in the month of June.

When the Chair asked about coyote management, Captain Swain stated that very few sightings were reported in May and that the traps had successfully caught possums and raccoons, but no coyotes.

7. Miscellaneous Business

Next Meeting Date: 9:00 a.m., Monday, July 1 in the Conference Room

As the meeting was ending, Chief Cornett said that he was glad to be on the island.

8. Executive Session – not needed

9. Adjournment

MOTION: Chair Buckhannon moved to adjourn the meeting at 10:25 a.m.; Councilmember Bell seconded and the motion Passed unanimously.

Respectfully submitted:

Marie Copeland
City Clerk

CHAPTER 15
Dwellings Unfit for Human Habitation

ARTICLE 1
In Municipalities of Over 1,000

SECTION 31-15-10. Definitions.

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

- (1) "Municipality" shall mean any city or town regardless of population;
- (2) "Governing body" shall mean the council or other legislative body charged with governing a municipality;
- (3) "Public officer" shall mean the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinances and by this article;
- (4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the municipality or State relating to health, fire or building regulations or to other activities concerning dwellings in the municipality;
- (5) "Owner" shall mean the holder of the title in fee simple and every mortgagee of record;
- (6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof; and
- (7) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

HISTORY: 1962 Code Section 36-501; 1952 Code Section 36-501; 1942 Code Section 5271-82; 1939 (41) 347; 1945 (44) 156; 1982 Act No. 311, Section 1; 1997 Act No. 100, Section 1.

SECTION 31-15-20. Repairing, closing, or demolishing unfit dwellings.

Whenever any municipality of this State finds that there exist in such municipality dwellings which are unfit for human habitation due to (a) dilapidation, (b) defects increasing the hazards of fire, accidents or other calamities, (c) lack of ventilation, light or sanitary facilities or (d) other conditions rendering such dwellings unsafe or insanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of such municipality, such municipality may exercise its police powers to repair, close or demolish any such dwelling in the manner herein provided.

HISTORY: 1962 Code Section 36-502; 1952 Code Section 36-502; 1942 Code Section 5271-81; 1939 (41) 347; 1945 (44) 156.

SECTION 31-15-30. Provisions permitted to be included in ordinances relating to unfit dwellings.

Upon the adoption of an ordinance finding that dwelling conditions of the character described in Section 31-15-20 exist within a municipality, the governing body of such municipality may adopt ordinances relating to the dwellings within such municipality which are unfit for human habitation. Such ordinances may include the following provisions:

- (1) That a public officer be designated or appointed to exercise the powers prescribed by the ordinances;
- (2) That whenever a petition is filed with the public officer by a public authority or by at least five residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and all parties in interest in such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer or his designated agent at a place

therein fixed not less than ten days nor more than thirty days after the serving of such complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;

(3) That if, after such notice and hearing, the public officer 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

(a) if the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation or

(b) if the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to remove or demolish such dwelling;

(4) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered or improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful";

(5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished; and

(6) That the amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and shall be collectible in the same manner as municipal taxes.

(7) If a municipality in demolishing unfit dwellings as permitted by this article contracts with a third party not employed by the municipality to do the work, it must bid the work in conformity with the procurement code applicable to the municipality.

HISTORY: 1962 Code Section 36-503; 1952 Code Section 36-503; 1942 Code Section 5271-83; 1939 (41) 347; 1945 (44) 156; 1954 (48) 1719; 1997 Act No. 100, Sections 2, 3.

SECTION 31-15-40. Power of municipality to declare nuisances not impaired.

Nothing in Section 31-15-30 shall be construed to impair or limit in any way the power of a municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

HISTORY: 1962 Code Section 36-504; 1952 Code Section 36-504; 1942 Code Section 5271-83; 1939 (41) 347; 1945 (44) 156.

SECTION 31-15-50. Standards in ordinances for determining fitness of dwelling for human habitation.

An ordinance adopted by a municipality under this article shall provide that a public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of such municipality. Such conditions may include the following (without limiting the generality of the foregoing): Defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness. The ordinance may provide additional standards to guide the public officer or his agents in determining the fitness of a dwelling for human habitation.

HISTORY: 1962 Code Section 36-505; 1952 Code Section 36-505; 1942 Code Section 5271-84; 1939 (41) 347; 1945 (44) 156.

SECTION 31-15-60. Service of complaints or orders; posting and filing copies.

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 municipality or, in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of 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.

HISTORY: 1962 Code Section 36-506; 1952 Code Section 36-506; 1942 Code Section 5271-85; 1939 (41) 347; 1945 (44) 156.

SECTION 31-15-70. Rights of persons affected by orders.

Any person affected by an order issued by a public officer may within sixty days after the posting and service of the order petition the circuit court for an injunction restraining the public officer 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 twenty days or as soon thereafter as possible and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer or because of compliance by such person with any order of the public officer.

HISTORY: 1962 Code Section 36-507; 1952 Code Section 36-507; 1942 Code Section 5271-86; 1939 (41) 347; 1945 (44) 156.

SECTION 31-15-80. Provisions in ordinances with respect to powers of public officer.

An ordinance adopted by the governing body of a municipality may authorize a public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the municipality in order to determine which dwellings therein are unfit for human habitation;

(2) To administer oaths and affirmations, examine witnesses and receive evidence;

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

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the ordinances; and

(5) To delegate any of his functions and powers under the ordinances to such officers and agents as he may designate.

HISTORY: 1962 Code Section 36-508; 1952 Code Section 36-508; 1942 Code Section 5271-87; 1939 (41) 347; 1945 (44) 156.

SECTION 31-15-90. Sale of materials of removed or demolished dwelling.

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.

HISTORY: 1962 Code Section 36-509; 1952 Code Section 36-509; 1942 Code Section 5271-83; 1939 (41) 347; 1945 (44) 156.

SECTION 31-15-100. Funds for enforcement; estimate of amount needed.

The governing body of any municipality adopting an ordinance under this article shall as soon as possible thereafter prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in such municipality for the purpose of determining the fitness of such dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this article. Any such municipality may make such appropriations from its revenues as it may deem necessary for this purpose and may accept and apply grants or donations to assist it in carrying out the provisions of such ordinances.

HISTORY: 1962 Code Section 36-510; 1952 Code Section 36-510; 1942 Code Section 5271-88; 1939 (41) 347; 1945 (44) 156.

SECTION 31-15-110. Establishment by municipality of commission to exercise powers of public officer.

Any municipality adopting an ordinance under the provisions of this article may establish a commission composed of not less than three nor more than seven duly qualified electors of such municipality, to exercise any of the powers authorized to be granted to the public officer by the terms of this article. The members of this commission shall be appointed by the mayor with approval of a majority of the council or governing body of the municipality and shall serve for such term and compensation as designated by the ordinance. The commission shall exercise the powers prescribed by the ordinance and formulate the rules of procedure before it; provided, that a majority of the members thereof must be present for the conduct of its business, and decisions must be by majority vote of the members present.

HISTORY: 1962 Code Section 36-510.1; 1954 (48) 1719.

SECTION 31-15-120. Article provisions are cumulative.

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

HISTORY: 1962 Code Section 36-511; 1952 Code Section 36-511; 1942 Code Section 5271-89; 1939 (41) 347.

ARTICLE 3
In Counties

SECTION 31-15-310. Definitions.

For the purposes of this article:

- (1) "County" shall mean that area comprising the county other than municipalities;

(2) "Public officer" shall mean the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinances;

(3) "Owner" shall mean the holder of the title in fee simple and every mortgagee of record;

(4) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof; and

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

HISTORY: 1962 Code Section 36-521; 1972 (57) 2622.

SECTION 31-15-320. Repairing, closing, or demolishing unfit dwellings.

Whenever the governing body of any county of this State finds that there exist in the county dwellings which are unfit for human habitation due to (a) dilapidation, (b) defects increasing the hazards of fire, accidents or other calamities, (c) lack of ventilation, light or sanitary facilities or (d) other conditions rendering such dwellings unsafe or insanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the county, such county may, upon the approval of a majority of the resident members of the county legislative delegation which the members represent, exercise its police powers to repair, close or demolish any such dwelling.

HISTORY: 1962 Code Section 36-522; 1972 (57) 2622.

SECTION 31-15-330. Provisions permitted to be included in ordinances relating to unfit dwellings.

Upon the adoption of an ordinance finding that dwelling conditions of the character described in Section 31-15-320 exist within the county, the county governing body may adopt ordinances relating to the dwellings within the county which are unfit for human habitation. Such ordinances may include the following provisions:

(1) That a public officer be designated or appointed to exercise the powers prescribed by the ordinances;

(2) That whenever a petition is filed with the public officer by at least five residents of the county charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and all parties in interest in such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than thirty days after the serving of such complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;

(3) That if, after such notice and hearing, the public officer 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

(a) If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the county may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation or

(b) If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the county may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to remove or demolish such dwelling;

(4) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered or improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful";

(5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished; and

(6) That the amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred and shall be collectible in the same manner as county taxes.

(7) If a 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.

HISTORY: 1962 Code Section 36-523; 1972 (57) 2622; 1997 Act No. 100, Sections 4, 5.

SECTION 31-15-340. Power of county to declare nuisances not impaired.

Nothing in Section 31-15-330 shall be construed to impair or limit in any way the power of a county to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

HISTORY: 1962 Code Section 36-524; 1972 (57) 2622.

SECTION 31-15-350. Standards in ordinances for determining fitness of dwelling for human habitation.

An ordinance adopted by the county governing body under this article shall provide that a public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings or other residents in 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; uncleanliness. The ordinance may provide additional standards to guide the public officer or his agents in determining the fitness of a dwelling for human habitation.

HISTORY: 1962 Code Section 36-525; 1972 (57) 2622.

SECTION 31-15-360. Service of complaints or orders; posting and filing copies.

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.

HISTORY: 1962 Code Section 36-526; 1972 (57) 2622.

SECTION 31-15-370. Rights of persons affected by orders.

Any person affected by an order issued by a public officer may within sixty days after the posting and service of the order petition the circuit court for an injunction restraining the public officer 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 twenty days or as soon thereafter as possible and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer or because of compliance by such person with any order of the public officer.

HISTORY: 1962 Code Section 36-527; 1972 (57) 2622.

SECTION 31-15-380. Provisions in ordinances with respect to powers of public officer.

An ordinance adopted by the county governing body may authorize a public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the county in order to determine which dwellings therein are unfit for human habitation;
- (2) To administer oaths and affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examinations, provided such entries be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the ordinances; and
- (5) To delegate any of his functions and powers under the ordinances to such officers and agents as he may designate.

HISTORY: 1962 Code Section 36-528; 1972 (57) 2622.

SECTION 31-15-390. Sale of materials of removed or demolished dwelling.

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.

HISTORY: 1962 Code Section 36-529; 1972 (57) 2622.

SECTION 31-15-400. Article provisions are cumulative.

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.

HISTORY: 1962 Code Section 36-530; 1972 (57) 2622.