

ORDINANCE 4285

AMENDING AND RESTATING CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE CITY OF HARTSVILLE, SOUTH CAROLINA TO ADDRESS AND REGULATE ABANDONED AND DERELICT VEHICLES; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the City of Hartsville, South Carolina (the “*City*”) was created as a municipal corporation under the laws of the State of South Carolina (the “*State*”); and

WHEREAS, the City is authorized pursuant to Title 56, Chapter 5, Article 41 of the Code of Laws of South Carolina 1976, as amended (the “*Abandoned Vehicles Act*”), regulate and remove abandoned and derelict vehicles in order to protect the health and welfare of the citizens of the City; and

WHEREAS, City Council of the City of Hartsville, the governing body of the City (the “*Council*”), has determined that abandoned and derelict vehicles constitute a nuisance in that they are a hazard to the health and welfare of the citizens of the City and, therefore, it is in the best interest of the City to eliminate any accumulation of abandoned and derelict vehicles; and

WHEREAS, the Abandoned Vehicles Act sets forth certain procedures that the City must follow in order to remove abandoned and derelict vehicles from public or private property; and

WHEREAS, the City has adopted by reference the procedures set forth in the Abandoned Vehicles Act and finds that such procedures offer sufficient procedural due process to owners of real property and any vehicle that may be in violation of the provisions of this Ordinance; and

WHEREAS, in order to provide for the elimination of abandoned and derelict vehicles, the Council has determined to amend and restate the provisions of Chapter 54, Article V of the Code of Ordinances of the City (the “*Code of Ordinances*”) in the manner set forth herein.

NOW, THEREFORE, BEING DULY ASSEMBLED, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HARTSVILLE AS FOLLOWS:

Section 1. For the purposes set forth above, the provisions of Chapter 54, Article V of the Code of Ordinances are amended and restated in their entirety to read as set forth in Section 2 of this Ordinance (as amended and restated, the “*Nuisance Vehicles Code*”).

Section 2. The Nuisance Vehicles Code shall be codified into the City’s Code of Ordinances. By and through the enactment of this Ordinance, Chapter 54, Article V entitled “ABANDONED AND DERELICT VEHICLES” shall be added to Chapter 54 “NUISANCES” of the City’s Code of Ordinances and shall read, in its entirety, as follows:

Sec. 54-91. – Authority.

The City is empowered pursuant to Chapter 5, Article 41, Title 56 of the Code of Laws of South Carolina 1976 (the "Abandoned Vehicles Act"), as amended, to regulate Abandoned and Derelict Vehicles in order to protect the health and welfare of the citizens of the City.

Sec. 54-92. – Definitions.

- (a) "Abandoned Vehicle" means, for the purpose of this article, a Vehicle required to be registered in this State if operated on a public highway in this State, that is left unattended on a highway or other public right-of-way for more than forty-eight hours, or a Vehicle that has remained on private or other public property for a period of more than seven days without the consent of either the owner or person in control of the property upon which the Vehicle is situated.
- (b) "Derelict Vehicle" means a Vehicle required to be registered in this State if operated on a public highway in this State:
 - (1) whose certificate of registration has expired and the registered owner no longer resides at the address listed on the last certificate of registration on record with the South Carolina Department of Motor Vehicles (the "SC DMV") and cannot be located after a Reasonable Search; or
 - (2) whose motor or other major parts have been removed so as either to render the Vehicle inoperable or the operation of which would violate Section 56-5-4410 of the Code of Laws of South Carolina 1976, as amended (the "South Carolina Code"); or
 - (3) whose manufacturer's serial plates, motor Vehicle identification numbers, license number plates, and any other means of identification have been removed making it impossible to locate or identify the registered and legal owner of the Vehicle; or
 - (4) whose registered owner of record disclaims ownership or releases his rights thereto; or
 - (5) which is more than eight years old and does not bear a current registration; or
 - (6) a trailer, including semi-trailers, used as storage and (i) which does not bear a current license plate, (ii) is in a state of disrepair, or (iii) remains on private or public property in excess of 30 days.
- (c) "Enclosed Structure" means a building, garage, or other structure erected per requirements of applicable building codes that shields interior items from the view of neighbors and passers-by. Carports, garages without operable doors, tarps, and canvas covers are not considered Enclosed Structures.

- (d) “Reasonable Search” means (i) as to records related to Vehicle ownership, a search of the records of the SC DMV for the last known address of the person listed on the last certificate of registration for such Vehicle, and (ii) as to records related to property ownership, a search of the property records of Darlington County for the last known address of the person listed as the owner of such property.
- (e) “Vehicle” means any motorized transportation apparatus or any apparatus that can be attached to a motorized transportation apparatus, including but not limited to, cars, trucks, boats, motorcycles, trailers and other attachments.

Sec. 54-93. – Abandoned and Derelict Vehicles as hazard to health and welfare.

Abandoned and Derelict Vehicles constitute a hazard to the health and welfare of the citizens of the City in that such Vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens, and are hereby declared a nuisance. It is, therefore, in the public interest that any accumulation of Abandoned and Derelict Vehicles within the City be eliminated and that the future abandonment of such Vehicles be prevented.

Sec. 54-94. – Abandonment and keeping of Derelict Vehicles prohibited.

- (a) It shall be unlawful for any person to abandon any Vehicle on any highway, street, or other public right-of-way within the City for more than forty-eight hours, or abandon any Vehicle on private or public property, other than a public right-of-way, for a period of more than seven days without the consent of the owner or person in control of the property upon which the Vehicle is situated.
- (b) It shall be unlawful for any person, including the owner or person in control of private property, to keep on such property any Derelict Vehicle. Upon the issuance of an ordinance summons after notice has been given pursuant to section 54-97 of this article, each day that the Derelict Vehicle is kept upon such private property shall constitute and be punishable as a separate offense.

Sec. 54-95. – Exclusions.

- (a) This article does not apply to
 - (1) licensed automobile dealers, and body and auto repair shops, or to Vehicles in an enclosed building; or
 - (2) boat trailers under 2,500 pounds, farm trailers, and other utility trailers which are privately owned and not for hire and that need not be licensed or registered.

- (b) The enforcement of section 54-96 of this article shall be held in abeyance for a period of 365 days where the person to whom an ordinance summons is issued is serving in active military deployment; provided that the City must be given notice and satisfactory evidence of such deployment prior to the date of any hearing on the matter.

Sec. 54-96. – Removal of Abandoned Vehicles; Penalty for abandoning a Vehicle.

- (a) Where an Abandoned Vehicle has been left unattended on a public right-of-way, or other public or private property without the consent of the property owner or person in control of such property, the Abandoned Vehicle shall be tagged, removed, and disposed of in the manner set forth in Section 56-5-5850 of the Abandoned Vehicles Act, as it may be amended from time to time.
- (b) A person who abandons a Vehicle in violation of Section 54-94(b) of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars, and shall pay all costs of having such Abandoned Vehicle removed, stored, sold, or otherwise disposed of. The fact that an Abandoned Vehicle found in violation of section 54-94(b) of this article is registered in the name of a person shall be prima facie proof that such person was in control of the Vehicle at the time it was abandoned.

Sec. 54-97. – Removal of Derelict Vehicles; Penalty for keeping Derelict Vehicles.

- (a) Pursuant to Section 56-5-5880 of the Abandoned Vehicles Act, the code enforcement officer may enter onto private property for the purposes of enforcing this article and investigating any Vehicle reasonably suspected to be an Abandoned or Derelict Vehicle. When a Vehicle is found by the code enforcement officer to be a Derelict Vehicle, the code enforcement officer shall provide notice to the following person or persons of a violation of this article, to the extent that they may be located after a Reasonable Search:
 - (1) the registered owner of the Derelict Vehicle or the person listed as the registered owner on the last certificate of registration on record with the SC DMV, the notice of which shall be sent to the last known address of such person; and
 - (2) the owner of the property upon which the Derelict Vehicle is situated, the notice of which shall be sent to the address of such person used for property taxation purposes; and
 - (3) if the code enforcement officer is aware that such property is not under the control of the property owner, the person in control of the property upon which the Derelict Vehicle is located, which shall be mailed to the address of the property upon which the Derelict Vehicle is located. .

- (b) The notice sent pursuant to this section shall state that the presence of the Derelict Vehicle is in violation of section 54-94(b) of this article; shall include a description of the Derelict Vehicle and a description of the property upon which the Derelict Vehicle is situated; and shall state that if the violation is not cured within 30 days of the date that such notice is sent the individual may be issued an ordinance summons and, upon conviction, shall be fined not more than five hundred dollars for each offense, which shall be calculated as each day that such violation continues after the 30-day notice period has run. The notice shall also state that the violation may be cured by forfeiting the Derelict Vehicle to the City for sale or disposal pursuant to the provisions of section 54-98 of this article. The notice shall be personally delivered if the intended recipient resides within the City or may otherwise be mailed first class postage prepaid and shall be considered to have been issued upon personal delivery or upon mailing.
- (c) If the violation is not cured within 30 days of the issuance of notice, the code enforcement officer shall issue an ordinance summons as follows:
 - (1) upon the owner of the private property upon which the Derelict Vehicle is situated; or
 - (2) upon the person in control of the private property upon which the Derelict Vehicle is located where the person in control of such property, or a member of such person's household or family, is the registered owner of such Vehicle or is listed as the registered owner on the last certificate of registration for such Vehicle on record with the SC DMV.

Sec. 54-98. – Forfeiture of Derelict Vehicles.

Any person may forfeit a Derelict Vehicle to the City in the following instances:

- (a) Where the property owner or the person in control of the property upon which the Derelict Vehicle is located is the registered owner or is listed as the registered owner on the last certificate of registration for such Vehicle on record with the SC DMV, the person may forfeit the Derelict Vehicle to the City by surrendering the title certificate for the Vehicle to the City or to the City's representative;
- (b) Where, upon investigation it is determined that the Vehicle is in fact an Abandoned Vehicle such that it has remained on private property for a period of more than seven days without the consent of the property owner or, if such property is not under the control of the property owner, the person in control of the property upon which the Vehicle is located, and the property owner or person in control of the property consents to the forfeiture, the Vehicle shall be treated as an Abandoned Vehicle pursuant to section 54-96 of this article and removed pursuant to the provisions of that section.

Sec. 54.99. – Contracting for removal of Abandoned or Derelict Vehicles.

The City may contract with any qualified private contractor for the necessary collection, storage, transportation or any other services necessary to prepare Abandoned or Derelict Vehicles for sale, recycling, or other methods of disposal. Such private contractor shall bear the sole responsibility for compliance with Sections 29-15-10, 56-5-5636, or 56-5-5945 of the South Carolina Code, or any other provision of state law related to the sale, recycling, or disposal of Abandoned or Derelict Vehicles as may now or in the future exist.

Section 3. If any section, subsection, sentence, clause or phrase of the Nuisance Vehicle Code or this Ordinance is, for any reason, held or determined to be invalid, such decision shall not affect the validity of the remaining portions of the Nuisance Vehicle Code or this Ordinance.

Section 4. Nothing in this Ordinance or in the Nuisance Vehicle Code hereby enacted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause of causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 5. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of the conflict or inconsistency. This Ordinance and the provisions of the Nuisance Vehicle Code shall take effect immediately upon its enactment by the Council.

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DONE AND ORDAINED IN COUNCIL ASSEMBLED, this ____ day of _____, 2017.

CITY OF HARTSVILLE,
SOUTH CAROLINA

(SEAL)

By: _____
Carl M. (Mel) Pennington IV, Mayor

Attest:

By: _____
Sherron L. Skipper, City Clerk
City of Hartsville, South Carolina

First Reading: 02/14, 2017
Public Hearing: _____, 2017
Second Reading: _____, 2017