

THE CODE OF ORDINANCES
OF THE TOWN OF
ESTILL, SOUTH CAROLINA

Published in 2025 by Order of the Town Council



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OFFICIALS
of the
TOWN OF
ESTILL, SOUTH CAROLINA
AT THE TIME OF THIS RECODIFICATION

Corrin F. Bowers III
Mayor

Tammy Solomon
Mayor Pro Tem

James Williams
Synetria McQuire
Joe N. Hadwin, Jr.
Town Council

Joshua "Shane" Richardson
Town Administrator

Kenneth Davis
Town Attorney

Edna O'Banner
Town Clerk-Treasurer

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Town of Estill, South Carolina.

Source materials used in the preparation of the Code were the 2011 Code and ordinances subsequently adopted by the town council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2011 Code and any subsequent ordinances included herein.

Acknowledgments

This publication was under the direct supervision of Daniel F. Walker, Code Attorney, and Vanessa Alvarez, Editor, of CivicPlus, LLC, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Ms. Caryn Miller, Town Administrator, for her cooperation and assistance during the progress of the work on this publication. It is hoped that her efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS*

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- Sec. 1-2. Definitions and rules of construction.
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- Sec. 1-4. Severability of parts of Code.
- Sec. 1-5. Catchlines of sections.
- Sec. 1-6. Certain ordinances not affected by Code adoption.
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*State law reference—Codification required, S.C. Code 1976, § 5-7-290.

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters, articles and sections shall constitute and be designated "The Code of Ordinances of the Town of Estill, South Carolina," and may be so cited. (Code 2011, § 1-2-41)

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances of the town, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the town council or the context clearly requires otherwise:

And, or. The term "and" may be read as "or," and the term "or" as "and," where the sense requires it.

Computation of time. The time within which an act is to be done shall be computed by excluding the first day and including the last day, and if the last day be Sunday or a legal holiday, that shall be excluded.

Council or town council. The term "the council" or "the town council" means the Town Council of the Town of Estill, South Carolina.

County. The term "county" means the County of Hampton in the State of South Carolina.

Gender. Words of one gender include all genders.

Month. The term "month" means a calendar month.

Number. Words used in the singular include the plural, and the plural shall include the singular number.

Oath; swear, sworn. The term "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Official time standard. Whenever certain hours are named, they shall mean standard time or daylight-saving time, as may be in current use in the town.

Owner. The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

Person. The term "person" includes a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property. The term "personal property" means and includes every species of property except real property, as herein defined.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" includes real and personal property.

Real property, real estate. The terms "real property" and "real estate" include lands, tenements and hereditaments.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular travel.

Sidewalk. The term "sidewalk" means any portion of a street between the curblines, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

State. The term "the state" or "this state" shall be construed to mean the State of South Carolina.

Street. The term "street" includes avenues, boulevards, highways, roads, alleys, lanes, bridges and approaches thereto and viaducts, and all other public thoroughfares in the town, and means the entire width thereof between opposed abutting property lines; it shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the town council.

Tenant or occupant. The term "tenant" or "occupant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

Town. The term "the town" or "this town" means the Town of Estill in the County of Hampton and State of South Carolina, except as otherwise provided.

Year. The term "year" means a calendar year.
(Code 2011, § 1-2-42)

Sec. 1-3. Acts prohibited or punishable.

In the construction of this Code and of all ordinances of the town, all acts prohibited or punishable under this Code or under any particular ordinance shall, unless a contrary intent appear, be construed to refer to such acts when committed or occurring within the limits of the town or in other places over which the town municipal court and town police have authority or jurisdiction under the laws of the state, even though the code or the particular ordinance only provides that such acts shall be prohibited or punishable and shall not specifically designate the jurisdiction or scope thereof.
(Code 2011, § 1-2-43)

Sec. 1-4. Severability of parts of Code.

It is hereby declared to be the intention of the town council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.
(Code 2011, § 1-2-44)

Sec. 1-5. Catchlines of sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of the sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or re-enacted.
(Code 2011, § 1-2-45)

Sec. 1-6. Certain ordinances not affected by Code adoption.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following in effect at the time of adoption of this Code:

- (1) Any ordinance promising or guaranteeing the payment of money of the town, or authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness.
- (2) Any ordinance providing for public improvements and assessments therefor.
- (3) Any appropriation ordinance or ordinance providing for an annual budget or for the transfer of funds and any ordinance levying or imposing taxes.
- (4) Any ordinance annexing territory to the town or discontinuing territory as a part of the town.
- (5) Any ordinance granting any franchise, permit or other right.
- (6) Any ordinance approving, authorizing or otherwise relating to any contract or agreement.
- (7) Any ordinance setting charges, rates or fees.
- (8) Any ordinance setting salaries for town officials or employees.
- (9) Any personnel ordinance.
- (10) Any ordinance regarding sediment control and drainage, zoning, and subdivisions.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code, as later revised or until future repeal.

Sec. 1-7. Amendments to Code.

(a) All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of ordinances may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections and subsections or any part thereof by subsequent ordinances, the repealed portions may be excluded from the code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of the subsequent ordinances until the time that this Code of ordinances and subsequent ordinances numbered or omitted are readopted as a new code of ordinances.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section ____ of The Code of Ordinances of the Town of Estill, South Carolina, is hereby amended to read as follows:" The new provisions shall then be set out in full as enacted.

(c) In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "That The Code of Ordinances of the Town of Estill, South Carolina, is hereby amended by adding a section, to be numbered ____, which section reads as follows:" The new section shall then be set out in full as enacted.

(d) In lieu of subsection (c) of this section, when the town council desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, but which the town council desires to incorporate into the code, a provision in substantially the following language may be made a part of the ordinance: "It is the intention of the town council, and it is hereby ordained, that the provisions of this ordinance shall become and be made part of The Code of Ordinances of the Town of Estill, South Carolina, and the sections of this ordinance may be renumbered to accomplish that intention."

(e) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

(f) When necessary, sections and subsections to the Code may be renumbered by the official codifier for the town to fulfill the intent of the governing body, but all such changes shall be approved in advance by the town attorney.

(Code 2011, § 1-2-46)

Sec. 1-8. Altering Code.

It shall be unlawful for any person to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with the code in any manner whatsoever, which will cause the law of the town to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in section 1-9.

(Code 2011, § 1-2-47)

Sec. 1-9. General penalty; continuing violations.

Wherever in this Code, or in any ordinance or resolution of the town, or rule or regulation or order promulgated by any officer or agency of the town under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provisions of this Code, or any such ordinance, resolution, rule, regulation or order shall be punished by a fine of not more than \$500.00, or by imprisonment for not more than 30 days, or both. Each day any violation of this Code, or any such ordinance, resolution, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.

(Code 2011, § 1-2-48)

Chapter 2

ADMINISTRATION*

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***State law references**—General structure, organization, powers, duties, functions and responsibilities of all municipalities, S.C. Code 1976, § 5-7-10 et seq.; Freedom of Information Act, S.C. Code 1976, § 30-4-1 et seq.; municipal employees and officials subject to Ethics Reform Act, S.C. Code 1976, § 8-13-100.

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ARTICLE II. GOVERNING BODY***Sec. 2-19. Council.**

Except as otherwise provided, all powers of the town and the determination of all matters of policy shall be vested in the council, with each member, including the mayor, having one vote.
(Code 2011, § 1-1-2)

Sec. 2-20. Mayor pro tempore.

(a) The council shall, at the first meeting of the newly constituted council after any general election for municipal council, elect one of its members as mayor pro tempore for a term of two years.

(b) It shall be the duty of the mayor pro tempore to act as mayor during the absence or disability of the mayor, or in case of a vacancy in the office of the mayor.

(Code 2011, § 1-1-3; Ord. of 9-5-1978)

State law reference—Mayor pro tempore, S.C. Code 1976, § 5-7-190.

Sec. 2-21. Oath of mayor and councilmembers.

The mayor and councilmembers before entering upon the duties of their respective offices shall take the following oath, to-wit:

"I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States.

"As mayor (or councilmember) of the Town of Estill, I will equally, fairly, and impartially, to the best of my ability, and skill, exercise the trust reposed in me, and will use my best endeavor to preserve the peace and carry into effect according to law the purposes for which I have been elected. So help me God."

(Code 2011, § 1-1-4)

State law reference—Oath of mayor and councilmembers in addition to constitutional oath, S.C. Code 1976, § 5-15-150.

Sec. 2-22. Compensation.

Compensation of the mayor and councilmembers shall be fixed by the council, provided no change in the rate of compensation shall become effective until the date of commencement of the terms of councilmembers elected at the next general election following the change.

(Code 2011, § 1-1-5)

State law reference—Compensation of mayor and council, S.C. Code 1976, § 5-7-170.

***State law reference**—Council form of government, S.C. Code 1976, § 5-9-10 et seq.

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Sec. 2-68. Quorum and rules of order.

(a) A majority of councilmembers serving constitutes a quorum for the conduct of business at any meeting. The mayor or mayor pro tempore shall preside, except that, when both are absent, the members present shall elect a presiding member.

(b) A member present but disqualified from voting on a question by state law due to a conflict of interest shall be counted for purposes of a quorum.

(c) Questions of order shall be decided by the mayor without debate, subject to appeal to the council. (Ord. No. 03-2017, art. A(1), 6-8-2017)

Sec. 2-69. Council public invocation.

The town council, as a deliberative public body, may permit a public invocation before each meeting of the council for the benefit of the council. A public invocation may be offered on a voluntary basis at the beginning of the meeting by one of the public officials, elected or appointed to the town. (Ord. No. 03-2017, art. A(2), 6-8-2017)

Sec. 2-70. Public notice and agenda.

(a) For all regularly scheduled meetings, the clerk-treasurer shall give written public notice of the municipality's regular meetings at the beginning of each calendar year. The annual meeting notice shall include the dates, times, and places of all regularly scheduled meetings pursuant to S.C. Code 1976, § 30-4-80(a) and (d).

(b) For all council work sessions, special called or rescheduled meetings, the clerk-treasurer shall give written public notice of the meeting by posting the notice on a bulletin board in a publicly accessible place at the office or meeting place of council and on the town website at least 24 hours prior to such meetings.

(c) The public meeting notice shall include the agenda, date, time and place of the meeting and shall be posted as early as is practicable but not later than 24 hours before the meeting.

(d) Notice of meetings shall also be provided to all available members of council, and persons, organizations and news media which request notification.

(e) A written agenda, listing the items to be considered by council, is required for all regular, special called or rescheduled meetings and council work sessions. The required agenda shall be posted on a bulletin board in a publicly accessible place at the office or meeting place of council and on the town's website at least 24 hours prior to such meetings.

(f) Matters to be considered by council at a regular or special meeting shall be placed on a written agenda publicly posted by the town clerk-treasurer at least 24 hours prior to the meeting. The deadline for agenda item requests is the fourth Wednesday of the month prior to the regularly scheduled council meeting. Other than those matters specified on the agenda, no other business may be acted upon by the council.

(g) After the regular or special called meeting begins, an item upon which action can be taken only may be added to the agenda by a two-thirds vote of the members present and voting; however, if the item is one upon which final action can be taken at the meeting or if the item is one in which there has not been and will not be an opportunity for public comment with prior public notice given in accordance with this section, it only may be added to the agenda by a two-thirds vote of the members present and voting and upon a finding by the council that an emergency or exigent circumstance exists if the item is not added to the agenda. Nothing herein relieves a public body of any notice requirement with regard to any statutorily required public hearing.

(h) When voting to add an agenda item where there is an emergency or exigent circumstance, the motion to add the item shall state: "In accordance with S.C. Code 1976, § 30-4-80(a), the town council finds an emergency or exigent circumstance does or will exist if the (action or name of item) is not added to the current meeting agenda for the body's consideration and desired action before the conclusion of this meeting."

(Ord. No. 03-2017, art. A(3), 6-8-2017)

Sec. 2-71. Meeting schedule; work sessions; when open to public.

(a) Regular meetings of council shall be held at 6:00 p.m. on the second Wednesday in each month unless changed by majority vote of councilmembers present at any regular or special meeting. Special meetings of council may be held on the call of the mayor or a majority of members of council. The clerk-treasurer shall at least 24 hours prior to a special meeting post notice and agenda on the bulletin board and give notice to all available members of council, persons, organizations and news media which request notification.

(b) Council work sessions shall be classified as informal meetings of the council and may be held on the call of the mayor or a majority of members of council. A council work session may be held for the purpose of discussion by council and staff or others, receiving detailed information for clarification prior to a regular or special called meeting of the council. The council shall not vote on any agenda items listed on the agenda; nor discuss matters not listed on the agenda. The clerk-treasurer shall post notice and agenda at least 24 hours on the bulletin board and give notice to all available members of council, persons, organizations and news media which request notification.

(c) All regular and special meetings of council shall be open to the public unless closed pursuant to S.C. Code 1976, § 30-4-70 authorizing executive sessions. Council work sessions shall be open to the public and shall not be closed pursuant to S.C. Code 1976, § 30-4-70.

(d) No chance meeting, social meeting, or electronic communication may be used in circumvention of the spirit of requirements of this article to act upon a matter over which the council has supervision, control, jurisdiction or advisory power.
(Ord. No. 03-2017, art. A(4), 6-8-2017)

Sec. 2-72. Executive sessions.

(a) By majority vote in a public meeting and after stating the reason, council may hold an executive session as permitted by the South Carolina Freedom of Information Act, S.C. Code 1976, § 30-4-70.

(b) The motion to enter executive session shall include a detailed description of the purpose for the executive session and cite all of the specific subsections of S.C. Code 1976, § 30-4-70(a) that apply to the executive session. Authorized purposes include:

- (1) Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body. (The identity of the individual or entity being discussed is not required to be disclosed.)
- (2) Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim.
- (3) Discussion regarding the development of security personnel or devices.
- (4) Investigative proceedings regarding allegations of criminal misconduct.
- (5) Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body. (The identity of the individual or entity being discussed is not required to be disclosed.)

(c) No vote or formal action shall be taken in executive session except to adjourn or return to public session.

(d) Minutes of executive sessions shall not be taken unless required by majority vote of council. If minutes of executive sessions are kept, they shall not be public records under S.C. Code 1976, § 30-4-50(7).

(e) It shall be unlawful for a member of council or person in attendance to disclose to another person or make public the substance of a matter discussed in executive session.
(Ord. No. 03-2017, art. A(5), 6-8-2017)

Sec. 2-73. Voting requirements.

(a) All actions of council shall be by majority vote of members present at a public meeting, including suspension of a rule of order; provided that an ordinance amending rules of order shall be adopted by a majority of members serving. No proxy, mail, telephonic, facsimile, electronic or absentee vote may be cast.

(b) Every member of council present, including the mayor or presiding member, shall vote on every question except when required to refrain from voting by state law.

(c) If a member of council abstains from voting, such abstention from voting by each member of council shall be recorded in the minutes as a vote in favor of the motion.

(d) A roll call vote may be required by any member of council.

(e) The vote on every question shall be recorded in the minutes.

(f) No member of council may leave the council chamber while in public session without permission of the mayor or presiding member.

(Ord. No. 03-2017, art. A(6), 6-8-2017)

Sec. 2-74. Motions.

(a) A motion may be made orally or in writing; however, a motion shall be reduced to writing at the request of any member of council.

(b) A motion to reconsider must be made by a member who voted with the majority, and it must be made at the same or next meeting.

(c) A substitute motion may be made only to restate and clarify a pending motion and amendments; it may not be used to introduce a new or alternative proposal.

(Ord. No. 03-2017, art. A(7), 6-8-2017)

Sec. 2-75. Minutes of meetings.

The clerk-treasurer shall keep minutes of all public meetings of the council which shall be a matter of permanent public record. At each regular council meeting the minutes of the previous meeting must be presented for approval by council. Minutes do not constitute the official record of a meeting until approved by council. A member of council may place a written expression of position on a matter in the minutes not later than the next regular meeting.

(Ord. No. 03-2017, art. A(8), 6-8-2017)

Sec. 2-76. Public comment.

(a) Any citizen or resident of the town may appear at a regular or special called council meeting to speak on a matter pertaining to an item listed on the council meeting agenda, except personnel matters or matters otherwise private or confidential by providing written notification to the clerk-treasurer or

designee prior to the beginning of the meeting and must state the subject and purpose for speaking. Each person who gives notice may speak at a time designated by the mayor and will be limited to a three-minute presentation.

- (1) The speaker shall wait to be acknowledged by the mayor or presiding member before publicly speaking;
- (2) The speaker shall state his first and last name and physical address;
- (3) The speaker will be alerted when one minute remains. Unused time cannot be given to another speaker;
- (4) The speaker shall not use profane or vulgar language during his presentation;
- (5) The speaker shall refrain from making personal attacks against any person;
- (6) The speaker shall remain in the area designated for speaking during his presentation; and
- (7) The speaker shall address the mayor or presiding member and refrain from directing questions to councilmembers, employees of the town, or other members of the audience.

(b) The mayor or presiding member shall have the authority to suspend the speaker's time if he does not comply with the listed procedures.

(c) The council asks the audience to refrain from responding to the speaker's comments, including cheering, booing, applauding or other acts of encouragement or disparagement, so that all councilmembers can focus their attention entirely on the speaker. If, after at least one warning, any person continues to disrupt the meeting by his words or actions, the mayor or presiding member may request assistance from law enforcement officials to have the person removed from the meeting.

(d) Although the council may ask clarifying questions, the council cannot respond directly to any comments made by the speaker.

(e) When multiple speakers indicate a desire to speak on the same issue, the mayor or presiding member shall relate the board's desire that the speakers designate two people to speak for the group. (Ord. No. 03-2017, art. A(9), 6-8-2017)

Sec. 2-77. Attorney to attend.

The town attorney shall attend all meetings of council unless excused by the mayor. The town attorney may propose ordinances and resolutions; review ordinances, resolutions and documents presented to council; and give opinions on questions of procedure, form, and law to members of council. (Ord. No. 03-2017, art. A(10), 6-8-2017)

Sec. 2-78. Clerk-treasurer to attend; duties.

The clerk-treasurer is ex officio clerk of council. The clerk-treasurer shall give notices of meetings, post agendas, attend regular and special meetings, record votes of council, keep minutes of council

meetings and perform such other duties as may be assigned. In the absence of the clerk-treasurer, a clerk-to-council or other such official may be appointed by council to record the minutes and official proceedings of council. Statutory duties of the clerk are prescribed in S.C. Code 1976, § 5-7-220.

(Ord. No. 03-2017, art. A(11), 6-8-2017)

Sec. 2-79. Town administrator to attend.

The town administrator shall attend all meetings of the council unless excused by the mayor. The town administrator shall coordinate all administrative functions and activities conducted during the meeting.

(Ord. No. 03-2017, art. A(12), 6-8-2017)

Sec. 2-80. Hearings by committee.

Council may appoint a standing committee or ad hoc committee to assist in or hold a public hearing for council at any time upon any matter pending before it. Minutes or reports of hearings held by special committee shall be filed with the clerk-treasurer as a public record.

(Ord. No. 03-2017, art. A(13), 6-8-2017)

Secs. 2-81—2-103. Reserved.

ARTICLE IV. ORDINANCES AND RESOLUTIONS

Sec. 2-104. Ordinances required.

(a) Council shall act by ordinance in all matters required by law to be done by ordinance, including:

- (1) Adopt or amend an administrative code or establish, alter or abolish any municipal department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violation;
- (3) Appropriate funds and adopt a budget;
- (4) Grant, renew or extend franchises, licenses, or rights in public streets or public property, and close abandoned streets, after public newspaper notice and public hearing;
- (5) Levy taxes, assess property for improvements or establish service charges for services;
- (6) Annex area to the municipality;
- (7) Convey or lease or authorize the conveyance or lease of any lands of the municipality; and
- (8) Amend or repeal any ordinance.

(b) In all other matters, council may act either by ordinance or resolution, written or oral, recorded in the minutes. S.C. Code 1976, § 5-7-260.

(Ord. No. 03-2017, art. B(1), 6-8-2017)

Sec. 2-105. Form of ordinances and resolutions.

(a) Every proposed ordinance shall be introduced in writing in the form required for final adoption which shall include:

- (1) A title briefly describing the content;
- (2) Findings, reasons, or basis for the ordinance, if desired and appropriate;
- (3) An enacting clause;
- (4) The provisions of the ordinance, including section numbers if the ordinance is to be codified or amends an existing codified ordinance;
- (5) Citation of any ordinance repealed;
- (6) The effective date of the ordinance;
- (7) The name of the person requesting introduction of the ordinance;
- (8) The approval of the town attorney as to form and the assignment of an ordinance number;
- (9) Space for dates of readings and public hearing, if appropriate; and
- (10) Space for the signatures of the mayor or presiding member of council, council and the municipal officer attesting notice, if required, and adoption. S.C. Code 1976, § 5-7-270.

(b) Written resolutions may be in similar form approved by the town attorney.
(Ord. No. 03-2017, art. B(2), 6-8-2017)

Sec. 2-106. Introduction of ordinances.

An ordinance may be proposed by any member of council or the town administrator. A proposed ordinance may be referred to the town attorney for approval as to form. The town attorney may render assistance in the preparation of notices and ordinances. After an ordinance is in proper form, the town attorney may send the ordinance to the clerk-treasurer to be held for public inspection. An ordinance is considered to be introduced when it appears on an agenda, or is added to an agenda, for a public meeting of council and its title is read.

(Ord. No. 03-2017, art. B(3), 6-8-2017)

Sec. 2-107. Enactment of ordinances.

(a) An ordinance must be proposed in writing and introduced in the form required for final adoption as required by section 2-105.

(b) No ordinance may be adopted until it has been read two times and on separate days with at least six days between each reading.

(c) An emergency ordinance may be adopted on one reading without notice or hearing by affirmative vote of two-thirds of members present. An emergency ordinance may not levy taxes or relate to a franchise or a service fee. An emergency ordinance expires automatically on the 61st day following enactment.

(d) The introduction and reading of any ordinance shall be by the reading of the title only unless full reading is requested by a member of council.

(e) After the introduction of an ordinance, a member of council may request a public hearing which may be held if approved by a majority of council present and set for a time prior to final adoption of the ordinance. A public hearing may be held on the same date as the final reading.

(f) Any ordinance may be amended on final reading.

(g) Upon final adoption by vote of council, an ordinance shall be signed by the mayor or presiding member of council, councilmembers present, and attested by the clerk-treasurer, designee or other public official, who shall file the original with the minutes in the permanent public records.

(Ord. No. 03-2017, art. B(4), 6-8-2017)

Sec. 2-108. Introduction of resolutions.

A resolution must be proposed in writing and shall be introduced in the same manner as an ordinance.
(Ord. No. 03-2017, art. B(5), 6-8-2017)

Sec. 2-109. Adoption of resolutions.

Written resolutions may be adopted on one reading unless a public hearing is set by majority vote of councilmembers present.

(Ord. No. 03-2017, art. B(6), 6-8-2017)

Sec. 2-110. Codification of ordinances.

All ordinances shall be codified and updated annually in a looseleaf Code of Ordinances, except those adopted by reference and maintained in separate volumes, and copies shall be available for public inspection and purchase at reasonable cost.

(Ord. No. 03-2017, art. B(7), 6-8-2017)

State law reference—Similar state law, S.C. Code 1976, § 5-7-290.

Sec. 2-111. Electronic council or committee meeting attendance.

(a) Councilmembers may participate electronically in council or committee meetings and possess the same authority as members who are physically present at the meeting, provided that all of the following conditions are met:

- (1) A quorum of the councilmembers are physically present at the meeting place and remain physically present throughout the meeting;
- (2) The presiding member is physically present at the meeting;
- (3) Councilmembers, attending in person and by electronic means, and persons in attendance at the council meeting can hear any and all comments made at the meeting; and
- (4) All comments, motions and votes of the members attending telephonically are recorded in the minutes of the meeting.

(b) Electronic participation shall be limited to situations that prevent physical attendance at meetings and not used as the primary method of meeting attendance.
(Ord. No. 03-2017, art. B(8), 6-8-2017)

Secs. 2-112—2-135. Reserved.

ARTICLE V. ADMINISTRATIVE ORGANIZATION AND DEPARTMENTAL STRUCTURE

DIVISION 1. GENERALLY

Sec. 2-136. Council's authority to establish offices and departments.

The council may create and establish such town offices, departments and sections as they may deem proper for the orderly and efficient government of the town.
(Code 2011, § 1-3-1)

State law reference—Council's powers in regard to offices and departments, S.C. Code 1976, § 5-9-40.

Sec. 2-137. Officers—Term of office.

All appointed officers and employees shall serve at the pleasure of the appointing authority.
(Code 2011, § 1-3-2)

Sec. 2-138. Officers—Compensation.

The compensation of all appointed officers and employees of the town shall be fixed by the council.
(Code 2011, § 1-3-3)

Sec. 2-139. Creation of specific departments.

(a) There are hereby established and created the following departments for the town:

- (1) Administration;
- (2) Police;
- (3) Repealed.
- (4) Water and wastewater; and
- (5) Fire.

(b) Persons appointed as the head of the departments listed above shall be responsible for the functions and duties as prescribed in this Code and such other duties as the council may from time to time determine.

(Code 2011, § 1-3-4; Ord. No. 09-2009, 11-4-2009; Ord. No. 07-2017, § 1, 8-24-2017)

State law reference—Departments and offices established by ordinances, S.C. Code 1976, § 5-7-260.

Secs. 2-140—2-161. Reserved.

DIVISION 2. CLERK-TREASURER

Sec. 2-162. Appointment; term.

The council shall appoint an officer to be known as the clerk-treasurer.
(Code 2011, § 1-3-11)

State law reference—Appointment of municipal clerk, S.C. Code 1976, § 5-7-220.

Sec. 2-163. Bond.

Before entering upon the duties of office, the clerk-treasurer shall give bond in a sum as may be required and with a surety company approved by the council, for the faithful performance of the duties of office.
(Code 2011, § 1-3-12)

Sec. 2-164. Duties.

The clerk-treasurer shall collect all claims and accounts that may be due and payable to the town; receive all monies belonging to the town; issue all licenses for which provisions may be made; pay all bills owed by the town when approved by the council; deposit funds in a bank designated by the council; make statements of financial conditions of the town as ordered by the council; keep account of all monies and accounts and report to the council; give notice to the mayor and the members of the council of regular and special meetings; record the ordinances and minutes of meetings of the council; and perform other duties as may be required by the council.
(Code 2011, § 1-3-13)

State law reference—Duties of municipal clerk, see S.C. Code 1976, § 5-7-220.

Secs. 2-165—2-181. Reserved.

DIVISION 3. TOWN ATTORNEY

Sec. 2-182. Appointment.

The council shall appoint as town attorney a person who is a member of the South Carolina Bar Association and admitted to practice law in the state.
(Code 2011, § 1-3-21)

Sec. 2-183. Duties and compensation.

It shall be the duty of the town attorney whenever called upon by the council, or the necessity arises, to give his advice and direction to the council, or any member thereof, or to the clerk-treasurer or chief of police on any and all legal questions which may arise in the course of the administration of the town government, or in the discharge of the duties of their respective offices; and whenever required to do so by the council, he shall give his legal opinion in writing. He shall draw or supervise the drawing or drafting of all ordinances, and other instruments of writing relative to the business of the town when

required to do so by the council or any member thereof; and shall, whenever notified to do so, attend the meetings of the council and shall perform such other duties as required by the council. The town attorney shall receive compensation for the discharge of his duties as fixed by the council.

(Code 2011, § 1-3-22)

State law reference—Duties of municipal attorney, S.C. Code 1976, § 5-7-230.

Secs. 2-184—2-204. Reserved.

DIVISION 4. SOCIAL SECURITY

Sec. 2-205. Coverage extended to town employees.

The town hereby extends to its eligible employees, and eligible groups and classes of such employees, the benefits authorized by Title 11 of the Federal Social Security Act, as amended, and as authorized by Act of 1954, approved March 12, 1954, for and on behalf of all the officers and employees thereof and all of its departments and agencies, save and except any of such officers and employees now covered, or authorized to be covered, by any retirement system provided by law for any employee or official of this town, or any of its departments or agencies, or who occupies any position, office or employment not authorized to be covered by applicable state or federal laws or regulations.

(Code 2011, § 1-3-31)

Sec. 2-206. Salary withholdings.

There shall be withheld from any salary or compensation due any such officer or employee not excepted as aforesaid whose compensation qualifies him to participation therein the percentage of salary, wage, or compensation required to be withheld by said act, whether such compensation is computed in cash, quarters, subsistence, or in-kind, and reserved in the treasury for quarterly remittance to the state agency as provided by law.

(Code 2011, § 1-3-32)

Sec. 2-207. Appropriations by town.

There shall be made regularly an appropriation or appropriations from funds available to be appropriated for salaries, wages, and/or personal compensation from general and/or special funds derived from ad valorem or any other sources, sums sufficient to pay promptly, at the time and in the manner provided by law, the tax imposed on the town as employer under the conditions imposed by said Title 11 of said Social Security Act and acts of the state legislature conforming thereto, and to the extent such tax accrues against said employer such appropriations shall also be transmitted quarterly at the same time the tax on the officers and employees subject thereto is transmitted to the lawfully designated agency.

(Code 2011, § 1-3-33)

Sec. 2-208. Applicability of regulations.

The rules and regulations of the state agency for the enforcement of said act shall be adhered to, and reports relating to personnel, payrolls, and otherwise required by said state agent shall be promptly made and remittance of the tax on the employer and employees shall be promptly paid at the end of each quarter.

(Code 2011, § 1-3-34)

Sec. 2-209. Clerk-treasurer designated to administer.

The clerk-treasurer is hereby designated the custodian of all sums withheld from compensation of officers and employees and of the appropriate funds for the tax upon the town, and the clerk-treasurer is hereby made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purpose of this article.

(Code 2011, § 1-3-35)

Secs. 2-210—2-226. Reserved.

DIVISION 5. EMERGENCY CURFEW

Sec. 2-227. Findings and intent.

A state of emergency shall be deemed to exist whenever during times of great public crisis, disaster, rioting, civil disturbance, catastrophe or other reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety, health, welfare or property.

(Ord. No. 02-2013, § 1, 5-1-2013)

Sec. 2-228. Imposition of emergency curfew.

In the event of a state of emergency, the mayor is authorized and empowered to issue a public proclamation declaring the existence of a state of emergency, defining and imposing a curfew in areas and at times specifically designated in the designation, and exempting essential health and safety personnel.

(Ord. No. 02-2013, § 2, 5-1-2013)

Sec. 2-229. Prohibited acts during emergency curfew.

During the existence imposed by reason of a state of emergency, it shall be unlawful for any person subject to the curfew to:

- (1) Be present or travel upon any street, alley, roadway or public property, unless travel is necessary to obtain medical assistance;
- (2) Possess beyond a person's own private premises, buy, sell, give away, or otherwise transfer or dispose of any explosive, firearm, ammunition, or dangerous weapon of any kind;
- (3) Sell, possess, or consume beer, wine, liquor, or intoxicating beverages of any kind; or

(4) Sell or transfer gasoline or other petroleum products, combustible or flammable substances of any kind, except as expressly authorized by the terms of the curfew imposed.
(Ord. No. 02-2013, § 3, 5-1-2013)

Sec. 2-230. Liberal construction.

This division shall be liberally construed so as to further its purposes.
(Ord. No. 02-2013, § 4, 5-1-2013)

Sec. 2-231. Severability.

If any provision, clause, sentence, or section of this division or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this division which can be given effect without the invalid provision or application, and to this end the provisions of this division are declared to be severable.
(Ord. No. 02-2013, § 5, 5-1-2013)

Secs. 2-232—2-255. Reserved.

DIVISION 6. TOWN ADMINISTRATOR

Sec. 2-256. Appointment.

The mayor shall appoint a town administrator and fix such administrator's compensation. The town administrator shall be appointed solely on the basis of such person's executive and administrative qualifications and such other qualities as the mayor deems appropriate.
(Ord. No. 06-2017, § 1-3-40, 8-9-2017)

Sec. 2-257. Term.

Unless otherwise provided by a contractual agreement between the administrator and town council, the administrator shall serve at the pleasure of the mayor for an indefinite term. The administrator may be removed from office with or without cause by the mayor. The action of the mayor in removing the administrator shall be final. In the absence of contractual provisions to the contrary, the administrator shall be provided 90 days severance pay or more, at the option of the town council.
(Ord. No. 06-2017, § 1-3-41, 8-9-2017)

Sec. 2-258. Supervision.

The town administrator reports and shall be supervised directly by the mayor. In addition, the administrator shall advise the mayor specifically on day-to-day operational and other matters concerning the town. The administrator shall also compile information, investigate problems, perform administrative services and offer advice to the mayor and individual members of town council as requested by

such councilmembers; provided, however, that in any situation where the administrator deems it appropriate, such requests for administrative assistance may be presented to the entire town council for approval for individual or council collective requests.

(Ord. No. 06-2017, § 1-3-42, 8-9-2017)

Sec. 2-259. General duties, responsibilities and delegation of authority.

The town administrator performs such duties as directed by the mayor. Additional duties of the administrator include, but are not limited to, the following:

- (1) Supervise preparation of and submit to the mayor not later than June 1 of each year a balanced, proposed annual operating and capital budget for the ensuing fiscal year.
- (2) Recommend organizational changes and assist in formulation of internal plans, programs and policies of the town for consideration by the town council.
- (3) Supervise and direct all appointed department heads and their departments as well as non-department head employees reporting directly to the administrator. Plan, direct, organize, coordinate, staff, budget, control and monitor activities of all town departments and functions.
- (4) Coordinates the activities of town government with all other agencies, including other town agencies, county, state and federal agencies.
- (5) Appoint, with the approval of the mayor, all department heads.
- (6) Suspend department heads, upon providing notice to the mayor and receiving the consent of the mayor to do so.
- (7) Suspend other employees after consulting with their department heads and providing notice to the mayor.
- (8) Town administrator shall not have the authority or responsibility to terminate employees. Termination of employees shall be at the sole discretion of the mayor.
- (9) Administer the annual budget after adoption by town council. Administer the town personnel and procurement policies. Review policies and procedures for the town financial operations, investments, debt service and for the administrative functions and operational activities of the town, including administration, police, public works, water and wastewater, fire, planning, zoning, parks and recreation, vehicle maintenance and other functions of the town.
- (10) With the assistance of the clerk-treasurer, monitors the financial condition of the town, estimate present and future financial needs, and reports regularly to the town council on the financial condition and needs of the town.
- (11) Authorize changes in departmental budget line items, provided that the overall departmental appropriation does not change.
- (12) Review all legal matters affecting the town and serve as the primary point of contact with the town attorney.
- (13) Implement the policies of the town council. Attend all council meetings unless excused by the mayor or unless out of town on business or too ill to attend such meeting.

(14) Delegate to other employees under the administrator's supervision the authority to exercise specific official duties and responsibilities as may be appropriate. With the approval of the mayor, the administrator may also delegate a qualified employee of the town to act during the administrator's absence. In the absence of the administrator where no such designation has been made, the mayor may designate an acting administrator.

(15) Select and employ, with the approval of the mayor, a person to serve as assistant town administrator, provided that the town council has included funding for such provision in the annual budget.

(Ord. No. 06-2017, § 1-3-43, 8-9-2017)

Sec. 2-260. Authority.

Except for purposes of inquiry or routine reporting of problems including constituent requests, individual members of the town council shall deal with employees of the town only through the administrator. In order to avoid potential liability, deviation from town policies and practices, and conflicting instruction, no member of the town council shall give orders, directions, or instructions directly to town employees.

(Ord. No. 06-2017, § 1-3-44, 8-9-2017)

Sec. 2-261. Reporting.

The town administrator shall relate to and communicate with the mayor and members of the town council collectively to keep them up to date and well informed on any significant matters affecting or potentially affecting policy.

(Ord. No. 06-2017, § 1-3-45, 8-9-2017)

Sec. 2-262. Organizational chart; approval.

The town council shall approve, by resolution or ordinance, an organizational chart, on file in the office of the clerk-treasurer, which is not inconsistent with the provisions of this article.

(Ord. No. 06-2017, § 1-3-46, 8-9-2017)

Secs. 2-263—2-287. Reserved.

ARTICLE VI. FINANCIAL ADMINISTRATOR

DIVISION 1. GENERALLY

Sec. 2-288. Fiscal year.

The fiscal year of the town shall extend from July 1 through June 30 of the following calendar year.
(Code 2011, § 1-4-1)

Sec. 2-289. Budget adopted.

The prepared budget and the estimated revenue for the payment of the budget is hereby adopted and is hereby made a part hereof as fully as if incorporated herein. A copy of the current operating budget shall be maintained on file in the office of the clerk-treasurer.

(Code 2011, § 1-4-2)

State law reference—Annual adoption of budget, S.C. Code 1976, § 5-11-40.

Sec. 2-290. Budget administration; transfers of funds.

The mayor shall administer the budget and may authorize the transfer of appropriated funds within and between departments as necessary to achieve the goals of the budget.

(Code 2011, § 1-4-3)

Sec. 2-291. Levy of property tax.

A tax to cover the current fiscal year for the sums and in the manner as provided by annual ordinance, is and shall be levied, collected and paid into the treasury of the town for the use and service thereof. Such tax shall apply to all real estate and personal property of every description owned and used in the town, except such as is exempt from taxation under the constitution and laws of the state, and shall be levied and paid into the town treasury for the credit to the town for the corporate purposes, permanent improvements and for the purpose of paying current expenses of said municipality. Such tax is levied on such property as is assessed for taxation for county and state purposes.

(Code 2011, § 1-4-4)

Sec. 2-292. Collection of tax.

The billing dates, the penalty dates and the amount of the penalty which shall be levied for delinquent taxes shall be as fixed in the annual ordinance.

(Code 2011, § 1-4-5)

Sec. 2-293. Recovery of costs for towed and impounded vehicles.

(a) Any vehicle impounded that is not on an investigative hold may be released to the registered owner upon presentation of the following:

- (1) Valid driver's license if the vehicle is being driven from the lot. If the registered owner does not have a valid driver license, he can bring another person with a valid driver license to drive for them, or they can have the vehicle towed from the lot. The registered owner will still need to provide photographic identification.
- (2) Current vehicle registration indicating the owner's name.
- (3) Current vehicle insurance.
- (4) Cash or money order payable to the town for the cost of towing paid by the town, together with storage fee in an amount established by the town from time to time.

(b) Any other ordinances of the town that are in conflict with this section are hereby repealed.

(Ord. No. 13-2020, §§ 1, 2, 10-14-2020)

Sec. 2-294. Imposition of collection costs and administrative fees.

(a) The town may impose a collection cost of up to \$25.00 to defray its internal costs of collection for any delinquent debts that are sought to be collected pursuant to the provisions of the Setoff Debt Collection Act, S.C. Code 1976, § 12-56-10 et seq. This cost is hereby declared to be a collection cost that arises by operation of law and shall be added to the delinquent debt and recovered from the debtor.

(b) The town hereby declares that the administrative fee charged by the state municipal association is also a collection cost to the town, which shall also be added to the delinquent debt and recovered from the debtor.

(c) All ordinances in conflict with this section are hereby repealed.

(d) The ordinance from which this section is derived shall be effective on the date of final reading, provided however, that this section is declared to be consistent with prior law and practice and shall not be construed to mean that any fees previously charged to debtors as costs of collection under the Act were not properly authorized or properly charged to the debtor.

(Ord. No. 2019-11, §§ 1—4, 10-28-2019)

Secs. 2-295—2-321. Reserved.**DIVISION 2. PURCHASES*****Sec. 2-322. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bid bond means a bond with good and sufficient surety or sureties for the faithful acceptance of the contract payable to, in favor of, and for the protection of the governmental entity for which the contract is to be awarded.

Business means any corporation, partnership, individual, sole proprietorship, or any other legal entity.

Change order means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

Commodity means a physical substance, such as food, grains, fuel, and metals, which is interchangeable with another product of the same type, and which investors buy or sell, usually through future contracts. The price of the commodity is subject to supply and demand. Risk is actually the reason exchange trading of the basic commodities began. For example, a farmer risks the cost of producing a product ready for market at some time in the future because he doesn't know what the selling price will be.

***State law reference**—Local governments required to adopt procurement laws, S.C. Code 1976, § 11-35-50.

Competitive sealed bid means a method of soliciting contracts whereby the award is based upon the most responsive, responsible bid.

Competitive sealed proposal means a method of soliciting contracts whereby the award is based upon criteria identified in a request for proposals.

Construction means the process of building, altering, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. The term "construction" does not include the routine operation, repair and/or maintenance of existing structures, building or real property.

Contract means any town agreement, regardless of form or title, for the procurement or disposition of goods, commodities and services.

Contractor means any person having a contract with the town.

Emergency means a threat to public health, welfare, or safety under emergency conditions as defined by the state's emergency management agency or where the procurement will be in the best interest of the town.

Gift or favor means anything or any service of value.

Invitation for bids means a written or published solicitation issued for bids to contract for the procurement or disposal of stated supplies, services, information technology, or construction, which will ordinarily result in the award of the contract to the responsible bidder making the lowest responsive bid.

Minority-owned business enterprise (MBE) means a minority-owned business, a proprietorship, partnership, corporation or joint-venture that is 51 percent owned, operated and controlled by United States citizens who are members of the following racial groups: African American, Asian American, Hispanic American and Native American. The minority business must obtain certification by the state office of small and minority business assistance as a minority business enterprise before it will be recognized by the town as minority-owned.

Payment bond means a bond with good and sufficient surety or sureties payable to the town for the work to be done and intended for the use and protection of subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the contract.

Performance bond means a bond with good and sufficient surety or sureties for the faithful performance of the contract and to indemnify the governmental entity for any damages occasioned by a failure to perform the same within the prescribed time. Such bond shall be payable to, in favor of, and for the protection of the town.

Procurement means buying, purchasing, renting, leasing, or otherwise acquiring supplies, services, information technology, or construction. The term "procurement" also applies to all functions pertaining to the obtaining such purchases, including description of requirements, selection, and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

Purchase order means the document used by the town to obtain supplies, goods, commodities and services from vendors.

Purchasing agent means the principal purchasing official of the town.

Real property means any land, all things growing on or attached to, and all improvements made thereto, including buildings and structures located thereon.

Responsible bidder means a person or entity that has the capability in all respects to perform fully and reliably the contract requirements.

Responsive bidder means a person or entity that conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals and demonstrates the ability to respond quickly.

Services means the furnishing of labor, time, or effort by a contractor not required to deliver a specific end product, other than reports which are incidental to required performance. The term "services" includes consultant services, other than architectural, engineering, land surveying, construction management, and related services. This term does not include employment agreements.

Subcontractor means any person having a contract to perform work or render service to a prime contractor as a part of the prime contractor's agreement with the town.

Supplies means all personal property, including, but not limited to, equipment, materials, printing, and insurance.

Town administrator means the town administrator of the Town of Estill.

Town attorney means the town attorney of the Town of Estill.

Woman-owned business enterprise (WBE) means a woman-owned business, a proprietorship, partnership, corporation or joint-venture that is 51 percent owned, operated and controlled by United States citizens that are female. The woman-owned business must obtain certification by the state or other governmental agency before it will be recognized by the town as woman-owned.
(Ord. No. 08-2010, 11-15-2010)

Sec. 2-323. Purchasing agent.

The town administrator shall have the responsibilities and powers of the purchasing agent under this division; provided, however, the town administrator may delegate some or all of the responsibilities and powers to a subordinate town employee and may designate the employee as the purchasing agent.
(Ord. No. 08-2010, 11-15-2010)

Sec. 2-324. Powers and duties of the purchasing agent.

The purchasing agent shall have the following powers and duties:

- (1) Procure or oversee the procurement of all goods and services needed by the town and advertise for bids for such goods and services as required by competitive sealed bids. Consistent with this division, the purchasing agent may implement procedures related to the purchase of goods and services for the town and may publish a handbook or manual containing those procedures.

- (2) Provide for and oversee the development of specifications for goods and services purchased by the town; administer purchase contracts to which the town is a party, and provide for inspecting and accepting or rejecting of goods and services purchased by the town.
 - (3) Process or oversee the processing of all claims for loss, damage, breakage, or shortage, and claims for refund and adjustment concerning the purchase of goods or services for the town.
 - (4) Exercise general supervision and control over all inventories of goods belonging to the town, and provide for the transfer between town departments of surplus goods.
 - (5) Require bonds, insurance and other forms of protection for the town on the process of procuring goods and services for the town to include but not be limited to a valid certification of insurance evidencing automobile liability, general liability and worker's compensation.
 - (6) Terminate solicitations for bids for any goods or services when in the opinion of the town council, it is in the town's best interest to do so.
 - (7) Reject any and all bids when, in the opinion of the town council, it is in the best interest of the town to do so.
 - (8) Following consultation with the town administrator and town attorney, may recommend to the town council termination of the contract or recommend pursuit of other remedies when the party or parties with whom the town is contracting have breached the contract.
 - (9) Sell or oversee the sale of goods of the town as prescribed by this division.
- (Ord. No. 08-2010, 11-15-2010)

Sec. 2-325. Procurement procedure.

All supplies and contractual services, except as otherwise provided herein, shall be purchased by the following methods; supplies and contractual services valued at:

- (1) \$0.00 to \$500.99 require no formal procurement, but the purchaser will ensure that the lowest cost is sought when possible. A written quote shall be acquired for as many purchases as possible. The town administrator shall make the determination of the method of procurement and approve the purchase.
- (2) \$501.00 to 9,999.99 require that a minimum of three written quotes be obtained with the award given to the lowest responsible, responsive bidder. A written quote can consist of a fax, e-mail, mailings, or any similar means. The clerk-treasurer shall keep a record of all quotes submitted and the record shall be available for public inspection after the contract is awarded. The town administrator shall make the determination of the method of procurement and approve the purchase for budgeted expenditures. If the proposed purchase is a non-budgeted item, the recommended purchase must be approved by town council prior to purchase.
- (3) \$10,000.00 and over require that the purchase be advertised formally through local press publications, the South Carolina Business Opportunities (SCBO) publication, related trade journals, or other similar publications. The recommendation for the purchase shall be submitted to town council for approval before purchase. The clerk-treasurer shall keep a record of all bids

submitted and the record shall be available for public inspection after the contract is awarded, in the manner provided by law. The town administrator shall make the determination of the method of procurement.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-326. Limited gifts and favors.

The purchasing agent and every officer and employee of the town whose duties involve the purchase or sale of goods and/or services, or the preparation of specifications for the purchase of goods and/or services for the town, or deciding which goods shall be declared surplus are expressly prohibited from accepting any gift or favor, directly or indirectly, from any person, or company who seeks to do business with or contract with the town or has contracted with the town. However, this section will not be held to apply if the gift is an unsolicited item of nominal value (less than \$25.00).

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-327. Financial interest of town officials and employees prohibited.

No member of the town council, or any officer or employee of the town, shall have a financial interest in any contract or in the sale to the town or to a contractor supplying the town of any land or rights or interests in any land, material, supplies or services, except when a majority of the town determines such exception in the best interest of the town, provided that no councilmember whose interest is involved shall vote on the question. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the town found guilty thereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the town shall render the contract voidable by the town council.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-328. Evasion prohibited.

No purchase or sale shall be divided for the purpose of evading the provisions of this division.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-329. Tie bids.

If two or more bidders are tied in price, while otherwise meeting all of the required conditions, bid awards shall be determined in the following order of priority:

- (1) If there is a state firm tied with an out-of-state firm, the award must be made automatically to the state firm.
- (2) Tie bids involving state produced or manufactured products and items produced or manufactured out-of-state must be resolved in favor of the state business.
- (3) Tie bids involving state firms must be resolved in favor of the state firm located in the same taxing jurisdiction as the town.

- (4) In all other situations in which the bids are tied, the award must be made to the tied bidder offering the quickest delivery time, or if the bidders have offered the same delivery time, the tie must be resolved by the drawing of lots and witnessed by the purchasing agent.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-330. Competitive sealed bids.

(a) The town shall use the competitive sealed bid method of procurement whenever possible. Generally, the following conditions must be present: clear and adequate specifications, three or more responsible firms capable of submitting a bid. If these conditions are met, the procedure set forth herein shall be adhered to. The town council must approve any deviation in writing.

(b) Bids shall be invited by advertisement in a newspaper of legal organ for the county or by electronic means on an internet website of the town or one identified by the town. The advertisement shall state the time and place where specifications may be obtained and the time and place for opening of bids. At least 14 calendar days must pass between the day the advertisement appears and the day of the bid opening. The advertisement shall state that the town reserves the right to reject any and all bids and to make award that is in the best interest of the town.

(c) The town administrator may require that bid deposits be submitted with each bid. If bid deposits are required, they shall be in an amount equal to five percent of the amount of the bid and may be submitted in the form of a bid bond signed by a surety company authorized to do business in the state of, cashier's check, certified check issued by a bank or trust company and insured by the Federal Deposit Insurance Corporation, or any other form of bid security deemed sufficient by the town attorney or his designee. The bid deposit requirement, including the form in which the bid security may be submitted, shall be included in the specifications.

(d) Bids shall be sealed. All bids shall be publicly opened and the purchasing agent shall make or oversee the making of a record of the bids received. The record and the bids received shall be subject to public inspection after the bid opening in the manner prescribed by law and made available by the clerk-treasurer.

(e) Award of bid shall be made to the bidder that submits the lowest or most responsible and responsive bid that meets the specifications contained in the bid documents and is in the best interest of the town. The town reserves the right to make award if a single bid is received.

(f) All contracts of \$10,000.00 or more, excluding commodity purchases, to which this section applies shall be in writing and shall be approved by the town council. The town council may reject any and all bids.

(g) Commodity purchases shall be awarded through the purchase order process and shall require approval of the town council.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-331. Competitive sealed proposals.

(a) When use of the competitive sealed bid is either not practical or not advantageous to the town, a contract may be entered into by use of the competitive sealed proposal. Use of the proposal is dependent upon such factors as:

- (1) When the quality, availability or capability in overriding in relation to price in procurement of technical supplies or services;
- (2) When the initial installation needs to be evaluated together with subsequent maintenance and service capabilities and what priorities should be given these requirements in the town's best interest;
- (3) If a fixed price or cost type contract is more advantageous; or
- (4) Whether the marketplace will respond better to a solicitation permitting not only a range of alternative proposals, but evaluation and discussion of them before making the award.

(b) The procedural steps for competitive sealed proposals shall be as follows:

- (1) Proposals shall be requested by advertisement in a newspaper of legal organ for the county or by electronic means on an internet website of the town or one identified by the town. The advertisement shall state the time and place where specifications may be obtained and the time and place for opening of bids. At least 14 calendar days must pass between the day the advertisement appears and the day of the bid opening. The advertisement shall state that the town reserves the right to reject any and all bids and to make award that is in the best interest of the town.
- (2) Proposals shall be sealed. All proposals shall be received in public and the purchasing agent shall make or oversee the making of a record of the proposals received. The name of each proposer shall be announced but no other information shall be disclosed, nor shall the proposals be considered an "open record" until a contract is awarded. The record of the proposals received shall be subject to public inspection after the deadline for receipt in the manner prescribed by law.
- (3) Award of contract shall be made to the proposer that submits the proposal deemed in the best interest of the town taking into account the evaluation factors outlined in the proposal documents. A team consisting of no less than three persons shall conduct evaluation of proposals. This team shall include the town administrator or designee, the head of the using department, and a town councilmember or representative selected by the town council.
- (4) The purchasing agent may require the successful proposer to furnish a performance bond to secure the faithful performance of all the terms of the contract. The performance bond shall be in a form approved by the town attorney and the form of the bond shall be included in the specifications. The town council may reject the bond of any proposer if they find it to be unacceptable.

(c) All contracts of \$10,000.00 or more to which this section applies shall be in writing and shall be approved by town council. The town council may reject any and all proposals.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-332. Multi-step competitive sealed procurement.

The multi-step competitive sealed procurement method may be used when the town desires to award a contract not necessarily based on price, and when specifications may not be readily available or when technical qualifications are essential for the decision-making process. This type shall take the form of request for proposals (RFP) or request for qualifications (RFQ) and shall follow the following format. If time is critical, the two steps can be combined with the priced offer submitted in a separate sealed envelope at the time of submission of the technical offer. The pricing data is to remain unopened until evaluation of technical offers is complete.

- (1) The solicitation shall be advertised in a newspaper of legal organ for the county or by electronic means on an internet website of the town or one identified by the town. The advertisement shall state the time and place where specifications may be obtained and the time and place for opening of bids. At least 14 calendar days must pass between the day the advertisement appears and the day of the bid opening. The advertisement shall state that the town reserves the right to reject any and all bids and to make award that is in the best interest of the town.
- (2) The initial step shall consist of solicitation of technical offers with no costs or prices included. Un-weighted evaluation criteria shall be included in the solicitation documents. A team consisting of no less than three persons shall evaluate the results of this solicitation. The team shall include the town administrator or designee, the head of the using department, and a town councilmember. Evaluation shall follow the same criteria as under request for proposals (RFP).
- (3) In the second step, those who submitted technical offers deemed responsible and responsive in the initial step are then asked to submit price bids.
- (4) Bids shall be sealed. All bids shall be publicly opened and the town administrator or his designee shall make or oversee the making of a record of the bids received. The record and the bids received shall be subject to public inspection after the bid opening in the manner prescribed by law and made available by the clerk-treasurer.
- (5) Award of bid shall be made to the bidder that submits the most responsible and responsive bid that meets the specifications contained in the bid documents and is in the best interest of the town. The town reserves the right to make award if a single bid is received.
- (6) The town administrator or his designee may require the successful bidder to furnish a payment and/or performance bond to secure the faithful performance of all the terms of the contract. The pay and/or performance bond shall be in a form approved by the town attorney and the form of the bond shall be included in the specifications.
- (7) All contracts of \$10,000.00 or more to which this section applies shall be in writing and shall be approved by town council. The town council may reject any and all bids.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-333. Competitive online bidding.

(a) When the town determines that online bidding is more advantageous than other procurement methods, a contract may be entered into by competitive online bidding.

(b) The solicitation must designate both an opening date and time and a closing opening date and time. The closing opening date and time need not be a fixed point in time, but may remain dependent on a variable specified in the solicitation. At the opening date and time, the town must begin accepting real-time electronic bids. The solicitation must remain open until the closing opening date and time. The town may require bidders to register before the opening date and time and, as a part of that registration, to agree to any terms, conditions, or other requirements of the solicitation. Following receipt of the first bid and after the opening date and time, the lowest bid price must be posted electronically to the internet and updated on a real-time basis. At any time before the closing opening date and time, a bidder may lower the price of its bid, except that after opening date and time, a bidder may not lower its price unless that price is below then lowest bid. Bid prices may not be increased after opening date and time. Except for bid prices, bids may be modified only as otherwise allowed by this Code. A bid may be withdrawn only in compliance with competitive sealed bidding procedures. If a bid is withdrawn, a later bid submitted by the same bidder may not be for a higher price. If the lowest responsive bid is withdrawn after the closing opening date and time, the state may cancel the solicitation in accordance with this Code or reopen electronic bidding to all preexisting bidders by giving notice to all preexisting bidders of both the new opening date and time and the new closing opening date and time. Notice that electronic bidding will be reopened must be given as specified in the solicitation.

(c) Other than price, any information provided to the town by a bidder must be safeguarded, including modifications received before the time of opening and, must be kept secure.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-334. Bid deposits/bid bonds.

When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. The town may determine that a bond is required as part of a project, and may require that a bond be submitted during the procurement process and prior to award. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the purchasing agent has required such. A successful bidder shall forfeit any bid deposit required by the purchasing agent upon failure on his part to enter into a contract within ten calendar days after the award; provided, however, that the town, at its discretion, may waive this forfeiture.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-335. Performance bonds.

The town administrator or his designee shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonably necessary to protect the best interest of the town.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-336. Payment bond/labor and material bond.

The town administrator or his designee may require a payment bond and a labor and material bond before entering into a contract, in such form and amount as he shall deem necessary to protect the best interest of the town.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-337. Professional services.

(a) Professional services purchased from independent contractors such as accountants, architects, attorneys, auditors, consultants, counselors, engineers, land surveyors, medical professionals, other treatment services and foster care shall be specifically exempted from other sections of this division. Accounting, architectural, audit, consulting, engineering, and land surveying services shall, where feasible, be acquired on the basis of competitive proposals. However, in no event shall the town be required to accept the lowest cost proposal. All professional service agreements shall require town council approval.

(b) All professional service agreements shall require the review of the town attorney prior to execution by the town council. Original copies of all signed professional service agreements shall be forwarded by the originating department and kept on file in the clerk-treasurer's office.

- (1) When services exceed \$25,000.00 statements of qualifications and performance data shall be requested by advertisement in a newspaper of legal organ for the county or by electronic means on an internet website of the town or one identified by the town. The advertisement shall state the time and place for deadline for receipt of qualifications and performance data. At least 14 days shall pass between the day the advertisement appears and the day of the bid opening. The advertisement shall state that the town reserves the right to reject any and all proposals and to make award that is in the best interest of the town.
- (2) A selection committee consisting of no less than three persons shall evaluate the results of this solicitation. The team shall include the town administrator or designee, the head of the using department, and a town councilmember. The selection committee will solicit discussions with no less than three firms regarding the proposed contract and the relative utility of alternative methods of approach for furnishing required services. Selection shall be made in order of preference by the selection criteria. Evaluation shall be made primarily on the basis of competence and qualifications. Cost may be a factor in the determination of the firm to be selected.
- (3) The town administrator shall be authorized to enter into negotiations with the firm considered to be the most qualified in order to determine compensation that is deemed fair and reasonable to the town. If no agreement can be reached with the firm selected to be the most qualified, negotiations shall be ended with that firm.
- (4) The town administrator shall then enter into negotiations with the firm selected as the second most qualified firm. If no agreement is reached; then additional firms shall be selected according to the rankings of the selection committee until an agreement is reached that is determined to be fair and reasonable to the town.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-338. Waiver based on other government purchases.

(a) When the town council determines it to be in the best interest of the town to do so, the requirements of the division may be waived for the purchase of goods and/or services from any person or entity that has, within the previous 12 months, after having completed a public, formal bid process or contracted to furnish the same type of goods to:

- (1) The United States of America or any federal agency;

- (2) The state or any agency or political subdivision of the state; or
- (3) Any other state or public agency or political subdivision of that state.

(b) If the person or entity is willing to furnish the goods at the same or more favorable price, terms, and conditions as those provided under contract with the other unit or agency and provided the bid procedures are the same or more stringent than those of the town.
(Ord. No. 08-2010, 11-15-2010)

Sec. 2-339. Exceptions.

The provisions of this division do not apply to the purchase of goods or services when:

- (1) A good is available from only one source or when standardization or compatibility is the overriding consideration;
- (2) The purchase is pursuant to a contract with the United States of America or an agency thereof or any government unit or agency thereof within the United States for the purchase, lease, or other acquisition of goods;
- (3) A special emergency exists involving the health and safety of the people or their property; or
- (4) The purchase is for:
 - a. Works of art for public places.
 - b. Printed copyright material, including published book, maps, periodicals and technical pamphlets (not including software for computer systems), except where a greater savings can be realized by a quantity purchase.
 - c. Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property and other related costs of acquisition of real property.
 - d. Subscriptions, dues, memberships and board member fees.
 - e. Services provided directly to individual citizens and employees, including reimbursements and other miscellaneous payments.
 - f. Utilities, including, but not limited to, electricity, and telephone service.
 - g. Licensed health professions.
 - h. Training, travel and lodging or meal expenses.
 - i. Items for resale that require a particular manufacturer to enhance their marketability.
 - j. Legal advertisements.
 - k. Repair of equipment.
 - l. Repair of buildings where the extent of the project cannot be determined.
 - m. Professional services not covered in this division.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-340. Stock reports.

All offices, departments or agencies of the town government shall submit to the town administrator or his designee, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-341. Goods declared surplus.

When goods of the town are no longer necessary or useful to the town, the town council may declare such goods to be surplus and authorize the town administrator to dispose of the goods in the manner prescribed in this division.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-342. Disposal procedures for surplus goods.

(a) The procedures shall be subject to the approval of the town council and shall be designed to obtain for the town fair market value for the property disposed of and to accomplish the disposal in an efficient and economical manner. The clerk-treasurer shall maintain a record that describes generally the goods disposed of, to whom the goods were conveyed, and the consideration received for the goods. The town administrator shall make periodic reports to the town council concerning disposition of goods made pursuant to this section.

(b) The town council may dispose of surplus goods by any of the following methods:

- (1) *Advertisement for sealed bids.* The procedure specified in this division for the purchase of goods by sealed bid shall be used, except that the sale shall be made to the highest bidder.
- (2) *Public auction.* A notice of the auction shall be published in a newspaper of legal organ for the county or by electronic means on an internet website of the town or one identified by the town. The notice shall be published at least seven calendar days prior to the date of the auction. The notice shall identify the goods to be sold and set out in the date, time, place, and terms of the sale, as determined by the town council.
- (3) *Exchange.* The town council may exchange surplus goods belonging to the town for other goods by private negotiation if the town receives full and fair consideration in exchange of its surplus goods.
- (4) *Other.* The town council may authorize the disposition of goods by any other lawful means when, because of the unusual character of the goods to be disposed of or unusual circumstances affecting the disposition of the goods, it appears to the town council to be in the town's best interest to do so.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-343. Contract modification.

Every contract modification, change order or contract price adjustment shall be subject to prior approval by the town council.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-344. Travel expenses.

(a) Reimbursement for travel expenses will be paid to an employee only after the submission of an itemized statement of expenses based upon prior travel approval by the department head and town administrator. Reimbursement requests shall be submitted on the approved reimbursement request form along with appropriate receipts. Reimbursement rates and per diems shall be established by the town council.

(b) Vehicle mileage reimbursement for employees who use a private vehicle while on official town business shall be reimbursed at the current Internal Revenue Service (IRS) standard mileage rate. Any employee proposing to use a private vehicle while on official town business must receive prior approval from the town administrator.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-345. Materials testing.

The town administrator or his designee shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the town government or any outside laboratory.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-346. Bidders and contractors in default to the town.

The town administrator or his designee shall not accept the bid or quote of a vendor or contractor who is delinquent in the payment of taxes, license, or other monies due to the town.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-347. Women- or minority-owned business participation.

The town encourages women-owned businesses and minority-owned businesses to participate in the provision of products and services.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-348. Emergency procurement.

The mayor or mayor pro-tem may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions as defined by the state's emergency management agency or where the procurement will be in the best interest of the town; provided that, emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of a particular contractor shall be included in the contract file. A full report of the circumstances of an emergency purchase shall be approved by the mayor or mayor pro tem and filed with the town council and shall be entered in the minutes of the council.

(Ord. No. 08-2010, 11-15-2010)

Sec. 2-349. Protest procedure.

(a) Any potential contactor may protest a procurement award if they feel they have been wronged in the solicitation and/or award process. The protest must be filed, in writing, within seven calendar days of the solicitation or award. The notice of appeal must be either mailed via U.S. mail or hand-delivered to the office of the town administrator, prominently stating "Notice of Appeal."

(b) The basis for protest is generally procedural such as the failure to comply with the solicitation process as outlined in the request-for-proposals, or the procurement ordinance. Except in cases where it is in the best interests of the town and as determined by the town council, the solicitation or award process will be stayed until resolution of the protest.

(c) The town council has authority to hear and deliver a decision on the protest of a solicitation or contract award. The protest must outline the reasons the aggrieved party is adversely affected by the decision of the town council and state the desired outcome of a hearing. The request will be heard by council at the next scheduled town council meeting. The decision of the town council shall be final.

(d) All hearings and other meetings of the board shall be noticed to all parties to the appeal and to the public and shall be open meetings as required by law.
(Ord. No. 08-2010, 11-15-2010)

Secs. 2-350—2-371. Reserved.**DIVISION 3. EMERGENCY SERVICES COST RECOVERY****Sec. 2-372. Short title.**

This division shall be known and may be cited as the "Town of Estill Emergency Services Cost Recovery Ordinance."
(Ord. No. 2019-12, § 1, 11-13-2019)

Sec. 2-373. General purpose.

This division is adopted in order to provide reimbursement to town for a portion of the costs incurred by the town fire department for certain emergency services provided.
(Ord. No. 2019-12, § 2, 11-13-2019)

Sec. 2-374. Fee collection authorized.

The owner or occupant of a structure, vehicle, or property to which the fire department or other department of the service area provides fire suppression, emergency management services, vehicle extrication, hazardous material mitigation, emergency medical care, or other fire department services (collectively referred to in this division as "emergency response services") or any person or entity causing the need for the fire or emergency services department to respond and/or provide any emergency response service (the responsible party) shall pay the cost of such service. Cost recovery fees are set forth in the amounts established by the town from time to time and are hereby found to not exceed the town's actual expense in providing such emergency response services. The fees enacted herein apply to any

services rendered by any town department to whatever property or person, whether within the town/ county or if requested by any other entity, or if supplied by the town pursuant to any interlocal cooperation agreement.

(Ord. No. 2019-12, § 3, 11-13-2019)

Sec. 2-375. Fees and charges.

The cost recovery fees will be collected in the amounts established by the town from time to time, which may be revised periodically by the adoption of a resolution by the town council.

(Ord. No. 2019-12, § 4, 11-13-2019)

Chapter 3

RESERVED

Chapter 4

ANIMALS

Article I. In General

- Sec. 4-1. Definitions.
- Secs. 4-2—4-20. Reserved.

Article II. Enforcement

- Sec. 4-21. Interference with animal control officer.
- Sec. 4-22. Removal of feces from public and private property.
- Sec. 4-23. Dogs and cats in estrus.
- Sec. 4-24. Identification for animals required.
- Sec. 4-25. Nuisance animals.
- Sec. 4-26. Trapping of domesticated nuisance animals.
- Sec. 4-27. Surrendering of animals.
- Sec. 4-28. Dangerous animals.
- Sec. 4-29. Seizure, impoundment, reclaiming and destruction procedures.
- Sec. 4-30. Adoption; impoundment; redemption; fees.
- Secs. 4-31—4-48. Reserved.

Article III. Rabies

- Sec. 4-49. Inoculation required; inoculation of pets; certificates and tags.
- Sec. 4-50. Inoculation tag required to be attached.
- Sec. 4-51. Quarantine of any animal which bites a person required.
- Sec. 4-52. Disposal of animal suspected of having rabies.
- Secs. 4-53—4-77. Reserved.

Article IV. Cruelty and Abuse

- Sec. 4-78. Abuse of animals.
- Sec. 4-79. Confinement of animals.
- Secs. 4-80—4-101. Reserved.

Article V. Dogs

- Sec. 4-102. Dogs which chase vehicles, attack persons, etc.
- Sec. 4-103. Habitual and persistent barking.
- Sec. 4-104. Kennel permit required.
- Secs. 4-105—4-121. Reserved.

Article VI. Cats

- Sec. 4-122. Limitations on cats.

ARTICLE I. IN GENERAL**Sec. 4-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment and/or maltreatment means a situation in which an owner of a pet does not provide for humane disposal of the pet, or transfer ownership to a responsible person, or who does not provide or arrange for adequate food, water, shelter and humane care.

Animal means any live vertebrate creature, domestic, or wild, except Homo Sapiens.

Animal control officer means the officer of the county described under section 4-29(a).

Animal shelter means any facility designated by the county council to house, impound or quarantine animals in a humane fashion.

County administrator means the county administrator, or the designated agent.

County council means the county council of Hampton County.

Dangerous or vicious animal means any animal:

- (1) With the propensity or inclination to attack unprovoked; to cause injury to, or otherwise to endanger the safety of humans or domesticated pets;
- (2) Which has attacked a human being or domesticated animal without provocation; or
- (3) Which is trained to fight or attack humans or other animals.

Impound means the placing of animals in an animal shelter or location otherwise specified by the animal control officer.

Kennel means any enclosure for the purpose of housing three or more pets.

Owner or keeper means any person, partnership or corporation owning, keeping or harboring a pet.

Pet means any owned domestic animal.

Pet shop/grooming salon means an establishment where animals are bought, sold, exchanged, offered for sale or exchange to the public, or any establishment designated for the grooming of animals.

Public nuisance means an animal which does any of the following:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Trespasses on school grounds;
- (4) Is repeatedly at large;
- (5) Damages private or public property;
- (6) Barks, whines, or howls in an excessive, continuous, or untimely fashion; or

(7) Exhibits behavior described under section 4-25.

Running at large. Any animal shall be deemed to be running at large when off or away from the premises of the owner, possessor, or keeper or his agent, or a member of his family, and not on a leash, cord or chain not more than 16 feet in length in the hands of the person immediately in charge of such animal.

Shelter means enclosures or surroundings that reasonably may be expected to protect the animal from physical suffering or impairment of such animal.

Sustenance means adequate food provided at suitable intervals, including quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight; and adequate quantities of water, with constant access to a supply of clean, fresh, and potable water; and all provided in a suitable manner for the species.

Wild or feral animal means any animal which is untamed, feral, or not naturally tame or gentle; or which is of a wild nature or disposition; or which is capable of killing, inflicting serious injury on, or causing disease among humans or domesticated animals; or has known tendencies as a species to do so. The term "wild or feral animal" shall include, but not be limited to:

- (1) Any non-domesticated member of the order Carnivore;
 - (2) All non-domesticated members of the family Felidae;
 - (3) Wolves, wolf-dog hybrids containing any percentage of wolf, coyotes and foxes;
 - (4) Badgers, wolverines, weasels, skunks and mink, raccoons;
 - (5) Bears;
 - (6) Non-human primates, to include apes, monkeys, baboons, macaques, lemurs, marmosets, tamarins, and other species of the order Primates;
 - (7) Bats;
 - (8) Alligators, crocodiles, caimans, and turtles;
 - (9) Scorpions;
 - (10) Any venomous snakes or venomous reptiles; and
 - (11) Lizards over two feet in length which are members of the family Varanidae.
- (Ord. No. 09-2014, § 1.1, 9-10-2014)

Secs. 4-2—4-20. Reserved.

ARTICLE II. ENFORCEMENT

Sec. 4-21. Interference with animal control officer.

It shall be unlawful for any person to interfere with, damage, molest, move or remove any traps or restraining devices used by an animal control officer, or any other authorized agent of the county that may be used from time to time; or to release any animals from such traps or restraining devices.

(Ord. No. 09-2014, § 2.1, 9-10-2014)

Sec. 4-22. Removal of feces from public and private property.

Any owner, keeper, or other person having control or supervision of an animal must remove promptly all feces left by the animal on any street, sidewalk, parking lot, public park, school ground, or on private property other than the premises of the owner or person having custody of the animal.
(Ord. No. 09-2014, § 2.2, 9-10-2014)

Sec. 4-23. Dogs and cats in estrus.

(a) All female dogs or cats in season shall be kept inside a building, or within a secure fence or other enclosure which limits the dog or cat to a particular confined area so that the dog or cat cannot come into contact with a male dog or cat, except for planned breeding. Persons who plan the breeding of dogs or cats and the selling of the resulting puppies or kittens must obtain a county business license.

(b) When allowed outdoors to relieve itself, a female dog or cat in season shall be on a hand-held leash and under the observation of its owner or keeper and must remain on the property of the owner or keeper. Female dogs or cats in season are not permitted to be walked on any public roadway or property.
(Ord. No. 09-2014, § 2.3, 9-10-2014)

Sec. 4-24. Identification for animals required.

All dogs and cats within the county shall, at all times, wear a collar that displays the owner's name, address and telephone number. A current inoculation tag must also be displayed on the collar at all times.
(Ord. No. 09-2014, § 2.4, 9-10-2014)

Sec. 4-25. Nuisance animals.

It shall be unlawful for any person to permit any animal they own, keep, hold, board or harbor to:

- (1) Damage the property of anyone other than its owner;
- (2) Enter the property of anyone other than its owner or kill or maim domestic animals or wildlife;
- (3) Enter the property of anyone other than the owner and interfere with the ordinary use or enjoyment of the property;
- (4) Excessively make disturbing noises, including, but not limited to, continued and repeated caterwauling, howling, whining, or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others;
- (5) Foul the air with odor and thereby cause unreasonable annoyance or discomfort to neighbors or others near the premises where the animal is kept or harbored;
- (6) Cause unsanitary conditions in enclosures or surroundings where the animal is kept or harbored; or
- (7) Be offensive or dangerous to public health, safety or welfare by virtue of the number and/or types of animals maintained.

(Ord. No. 09-2014, § 2.5, 9-10-2014)

Sec. 4-26. Trapping of domesticated nuisance animals.

The owner or lawful resident of property on which any nuisance domesticated animals are present may request a live trap from animal control in which to trap and remove the nuisance animals. The live trap must be inspected at a minimum of once every 12 hours by the person who requested the trap, and animal control or the public safety department contacted immediately upon the trapping of an animal therein. Traps will not be placed when an animal control officer will be unavailable to pick it up the next day (i.e., weekends, holidays, or when all animal control officers will be off duty.)

(Ord. No. 09-2014, § 2.6, 9-10-2014)

Sec. 4-27. Surrendering of animals.

The owner of a domesticated animal may surrender ownership of said animal by contacting an animal control officer and signing a surrender of animal form. Upon surrendering the animal to the county, the animal automatically and irrevocably becomes the sole property of the county. The animal may be put up for adoption, delivered to an animal shelter, or humane society, or rescue group, or humanely euthanized by a property licensed animal shelter employee. The surrendering of an animal after receiving a citation for a violation of any section of this article, will not release the owner or person having control over the animal from any civil or criminal proceedings arising from the violation.

(Ord. No. 09-2014, § 2.7, 9-10-2014)

Sec. 4-28. Dangerous animals.

Any person witnessing an animal attacking a human being or pet shall notify an animal control officer or other law enforcement officer authorized to enforce this article. If an animal control officer or a law enforcement officer has determined that an animal has bitten or attacked a person, an animal control officer shall promptly notify the South Carolina Department of Health and Environmental Control (DHEC) of the bite or attack and shall cooperate with the health department in the capture and impounding of the animal.

(Ord. No. 09-2014, § 2.8, 9-10-2014)

Sec. 4-29. Seizure, impoundment, reclaiming and destruction procedures.

(a) A law enforcement officer, animal control officer, or any appointed for the purpose by the county shall take into custody and impound or cause to be taken into custody and impounded, and disposed of as provided by in this article, any dog running at large in the town, except as specifically excluded herein. An animal control officer may impound or cause to be taken into custody and impounded, and disposed of as provided in this article, any cat running at large in the town.

(b) After any unidentifiable animal has been impounded for five days and is unclaimed by its owner, the animal shelter may, unless the animal must be kept pending disposition of a criminal or civil trial involving the animal, or pending a hearing on the disposition of the animal, dispose of the animal by adoption or by euthanasia or the animal may be turned over to any organization established for the purpose of caring for animals such as the Humane Society.

(c) When an identifiable animal is impounded by the county and the name and address of the owner appears on the collar of the animal, the town shall attempt to notify such owner by telephone or by posting a notice on the owner's residence within two days of the time the animal was seized. Notwithstanding the foregoing, no positively identifiable dog shall be destroyed by an animal control officer or any animal shelter until the owner of such dog has been provided written notice by registered mail delivered to such owner's last known address that the dog is in the possession of an animal control officer or animal shelter. Subject to the other provisions of this article, the dog may be destroyed by euthanasia if the owner does not pick up the dog within two weeks after the date such notification was mailed. In addition to any impoundment fee and other costs or fees provided for elsewhere in this article or otherwise lawfully established by an animal control officer or animal shelter, such owner must also pay all reasonable costs associated with the extended holding period described in this subsection, including the cost of mailing the notice, before the dog is returned to the owner.

(d) Any owner or keeper of an animal which has been impounded, with the exception of an animal abused by its owner or impounded as dangerous, quarantined on suspicion of contraction of rabies, or being held in connection with any criminal or civil trial, may claim the animal upon payment of redemption fee as outlined in section 4-30 and of all other fees set by the applicable animal shelter associated with the animal being in the custody of such animal shelter. A dog abused by its owner or impounded as dangerous can only be released to the owner by the court following adjudication of any case pending related to the animal.

(e) Notwithstanding anything in this article to the contrary, any animal impounded in an animal shelter that is feral, wild or otherwise dangerous or vicious or a threat to animal shelter staff may, in the discretion of an animal control officer, be humanely euthanized by licensed animal shelter personnel at any time with no required hold period.

(f) No animal in possession of the county under this article shall be donated or sold to any laboratory or research facility.

(Ord. No. 09-2014, § 2.9, 9-10-2014)

Sec. 4-30. Adoption; impoundment; redemption; fees.

A redemption fee shall be paid to the county animal shelter before reclaiming of an animal in accordance with the procedures of this article. This redemption fee is in addition to any other fees charged by the county animal shelter. This redemption fee for all animals shall be in the amounts established by the town from time to time.

(Ord. No. 09-2014, § 2.10, 9-10-2014)

Secs. 4-31—4-48. Reserved.

ARTICLE III. RABIES

Sec. 4-49. Inoculation required; inoculation of pets; certificates and tags.

It shall be unlawful for any person to own, harbor, maintain or have in possession with the county any pet over four months old, unless such pet has been currently inoculated against rabies by a duly licensed veterinarian or person authorized to administer the vaccine.

(Ord. No. 09-2014, § 3.1, 9-10-2014)

Sec. 4-50. Inoculation tag required to be attached.

At the time a pet's inoculation against rabies, the owner shall obtain from the veterinarian a metal tag to be attached to the pet's collar. The tag shall bear an inscription showing that such pet has been inoculated against rabies and the year of such inoculation, and must be worn by such pet at any time such pet is not on the owner's premises for any reason.

(Ord. No. 09-2014, § 3.2, 9-10-2014)

Sec. 4-51. Quarantine of any animal which bites a person required.

Any animal which bites a person shall be quarantined for ten days if ordered by the state department of environmental health control health officer. During quarantine, the animal shall be securely confined and kept from contact with any other animal. At the discretion of the state department of environmental control health officer, the quarantine may be on the premises of the owner. If the state department of environmental health control county health officer requires other confinement, the owner shall surrender the animal for quarantine period to an animal shelter or veterinary hospital approved by such county health officer at its own expense.

(Ord. No. 09-2014, § 3.3, 9-10-2014)

Sec. 4-52. Disposal of animal suspected of having rabies.

After any animal has been quarantined pursuant to the South Carolina Rabies Control Act and is unclaimed by its owner, after the animal shelter employees have made a good faith effort to contact the identified owner and complied with the provisions of section 4-29 (if the animal is a dog), the animal shelter employees, unless the animal must be kept pending disposition of a criminal or civil trial, may dispose of the animal by adoption or by euthanasia, or the animal may be turned over to any organization established for the purpose of caring of animals, such as the Humane Society. If euthanized, the head of such animal may be sent to a laboratory for pathological examination and confirmation of the diagnosis.

(Ord. No. 09-2014, § 3.4, 9-10-2014)

Secs. 4-53—4-77. Reserved.

ARTICLE IV. CRUELTY AND ABUSE**Sec. 4-78. Abuse of animals.**

It shall be unlawful for any person to negligently or willfully:

- (1) Fail to provide adequate medical attention for any sick, diseased or injured animal he owns, possesses, or harbors;
- (2) Keep any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare, or fail to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; or
- (3) Fail to provide a living area free of accumulated waste and debris so that the animal is free to walk or lie down without coming in contact with any waste or debris.

(Ord. No. 09-2014, § 3.5, 9-10-2014)

Sec. 4-79. Confinement of animals.

(a) No person shall tether, fasten, chain, tie or restrain an animal or permit such tying or restraint on premises in his control, to a tree, fence, post, dog house or any other stationary object unless the tethering device used is at least ten feet in length and attached in such a manner as to prevent strangulation or other injury to the animal and entanglement with objects other than the stationary objects to which the device is attached.

(b) No person shall tether, fasten, chain, tie or restrain an animal, or cause such restraining of an animal, to a cable trolley system that allows movement of the animal unless the length of the cable along which the tethering device can move must be at least ten feet; and the tethering device must be of such length that the animal is able to move at least ten feet away from the cable perpendicularly.

(c) No person shall tether, tie, stake or chain any animal where the animal can obstruct, block, or hamper the normal use of any public property or private property without the landowner's consent.

(d) No person shall tether, tie, stake or chain any animal to any metering device or attempt to obstruct the device in such a way that it prevents any service to be read, disconnected, shut off or interrupted.

(e) It is unlawful to attach a chain, wire or any other tethering device to, or cause such attachment to, a choke-type or pronged collar.

(f) It is unlawful to attach a chain or wire or other tethering device in such a manner that it does not allow the animal access to food, water and/or proper shelter.

(g) It is unlawful for any chain or wire or other restraining device to exceed one-eighth of the animal's weight.

(h) Any animals, confined within a fenced yard must have an adequate space for exercise, provided that where animals are kept or housed on property without a fenced yard, the owner of such animals or persons having custody of such animals shall provide an enclosure for such animals. The animal shall be

provided with shade and protection from the elements. Enclosures shall be maintained in a sanitary condition. Properly installed electronic dog containment systems may be utilized, provided the public is visually advised of its existence from the street and/or sidewalk.

(i) An animal shall not be considered enclosed by a fence or containment system or restrained if the animal can pass through, under or over the fence, or the gate of the fence is not, or cannot be, securely latched.

(j) An animal that can snap or bite a person through the fence or electronic containment system shall not be considered enclosed by the fence or restrained.

(k) Persons found in violation of this section will, upon their first offense, be given a warning and allowed five days to meet the requirement of this section. If after the fifth day the violation continues, a citation shall be issued by an animal control officer. Upon a repeat offense by the same person, any animals under the control of the person found in violation of this section may, in the discretion of an animal control officer, be impounded and placed in an animal shelter or other safe location until ordered by the court to be released. The owner of the impounded animals shall be responsible for any costs associated with the animal's placement.

(l) This section does not apply to walking an animal on a hand-held leash.
(Ord. No. 09-2014, § 3.6, 9-10-2014)

Secs. 4-80—4-101. Reserved.

ARTICLE V. DOGS

Sec. 4-102. Dogs which chase vehicles, attack persons, etc.

It shall be unlawful for any person to keep or have within the county a dog that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicyclists, or vehicles.
(Ord. No. 09-2014, § 3.7, 9-10-2014)

Sec. 4-103. Habitual and persistent barking.

(a) No person shall allow a dog to unreasonably disturb any person habitually and/or persistently bark, howl, whine or make other noises. It shall constitute a violation of this section if the howling or barking occurs continually and is audible beyond the property line of the premises on which the dog is located.

(b) Any complainant must provide on a barking dog the dog owner's address, description of the dog, and the dates, times and duration of the violations. Upon receipt of the complainant's information, an animal control officer will issue a written warning to the owner of the dog, and the dog owner will be allowed three days from the issuance of the written warning notice to correct the problem before being charged under this section.

(c) Should the violation continue after the issuance of a written warning notice and the three days grace period, a citation carrying a civil penalty of not more than \$549.00 may be issued to the owner of the dog in question. If the complainant is willing to testify at trial to the persistent, habitual and offensive noise generated by the barking dog.

(d) A dog owner shall be deemed to have received the written warning notice of an animal control officer under this section if the written warning was personally served on the said owner, posted on the residence where the dog is located, or sent to the residence where the dog is located by certified mail.

(e) It shall be a defense to violation of this section if the owner of the dog proves by preponderance of the evidence that the reason the dog was howling or barking was that the dog was being provoked by a person through such activity as entering the property or badgering or teasing the dog.

(Ord. No. 09-2014, § 3.8, 9-10-2014)

Sec. 4-104. Kennel permit required.

(a) No kennel facility shall be constructed or operated without an application having been made to the county building and zoning department for a permit. No permit shall be issued to a rental unit or property without the written and notarized consent of the owner/management company.

(b) No permit shall be issued except a temporary permit for construction until a final inspection is made by the county building and zoning department and an animal control officer. An annual inspection of kennels may be conducted by an animal control officer to verify compliance.

(c) Any person submitting an application for the construction or operation of a kennel facility to the county building and zoning department must provide with the application a site plan describing the acreage of the property on which the proposed kennel facility is to be located, the location and size of all existing and proposed physical improvements to be located, the location and size of all physical improvements to be contained in each structure or enclosed area, the location and dimensions for an existing or proposed outdoor or indoor runs and exercise area, with descriptions of intended materials and surfaces, and the location of any existing wells or sewage treatment areas on site.

(Ord. No. 09-2014, § 3.9, 9-10-2014)

Secs. 4-105—4-121. Reserved.

ARTICLE VI. CATS

Sec. 4-122. Limitations on cats.

(a) No owner of any cats shall allow the cats to freely roam out of doors unless it has been spayed or neutered. The owner of each spayed or neutered cat shall keep a record for each cat from a duly licensed veterinarian containing:

- (1) A description of the cat;
- (2) The name of the owner; and
- (3) The date on which spaying or neutering took place.

(b) All cats allowed to roam out of doors shall be required to wear a collar at all times, and the collar shall contain the owner's identification and proof of current rabies vaccination in accordance with S.C. Code 1976, § 47-5-60, Inoculation of pets, and title 47, chapter 5, Rabies control.
(Ord. No. 09-2014, § 3.10, 9-10-2014)

Chapter 5

RESERVED

Chapter 6

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

Secs. 6-1—6-18. Reserved.

Article II. Administration and Enforcement

Sec. 6-19. Office of building inspector created.

Secs. 6-20—6-41. Reserved.

Article III. Building Code

Sec. 6-42. Fire limits.

***State law references**—Building, housing, electrical, plumbing and gas codes, S.C. Code 1976, § 6-9-10 et seq.; mandamus and injunctive relief for violation of code or regulation, S.C. Code 1976, § 6-9-80; codes applicable to building inspections, S.C. Code 1976, § 6-9-130; building codes modification procedure, S.C. Code Reg. 8-240; qualifications for building codes amendments, S.C. Code Reg. 8-245; local adoption of building codes, S.C. Code Reg. 8-265; dwellings unfit for human habitation, S.C. Code 1976, § 31-15-10 et seq.; municipality may not enforce national building code provisions regulating farm structures, S.C. Code 1976, § 6-9-65(B); municipal responsibility to enforce barrier-free building design standards, S.C. Code Reg. 19-400.3(B).

ARTICLE I. IN GENERAL

Secs. 6-1—6-18. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 6-19. Office of building inspector created.

(a) There is hereby created and established the office of building inspector who shall be appointed by the town council.

(b) The building inspector shall serve at the pleasure of the council and shall have the responsibility for the enforcement of the standard codes adopted by this chapter and shall perform other duties as may be prescribed by the council.

(Code 2011, § 5-1-1)

Secs. 6-20—6-41. Reserved.

ARTICLE III. BUILDING CODE*

Sec. 6-42. Fire limits.

The fire limits of the town shall be as shown and indicated on the official fire limits map of the town on file in the office of the town clerk-treasurer.

(Code 2011, § 5-1-13)

*State law reference—Building codes and fire prevention, S.C. Code 1976, title 5, chapter 25.

Chapter 7

RESERVED

Chapter 8

BUSINESSES AND BUSINESS REGULATIONS

Article I. In General

Secs. 8-1—8-18. Reserved.

Article II. Business Licenses

Sec. 8-19. License required.
Sec. 8-20. Definitions.
Sec. 8-21. Purpose and duration.
Sec. 8-22. License tax.
Sec. 8-23. Registration required.
Sec. 8-24. Temporary businesses.
Sec. 8-25. Deductions, exemptions, and charitable organizations.
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Article III. Alcoholic Beverages

Sec. 8-69. Hours for public consumption of beer and wine.
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Article IV. Miscellaneous Regulations

Sec. 8-97. Solicitations.

ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. BUSINESS LICENSES*

Sec. 8-19. License required.

Every person engaged or intending to engage in any calling, business, occupation or profession, in whole or in part, within the limits of the town, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

(Ord. No. 2019-10, § 1, 10-9-2019)

Sec. 8-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means a calling, occupation, profession, or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly.

Charitable organization means an organization that is determined by the Internal Revenue Service to be exempt from federal income taxes under 26 USC 501(c)(3), (4), (6), (7), (8), (10) or (19).

Charitable purpose means a benevolent, philanthropic, patriotic, or eleemosynary purpose which does not result in personal gain to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization.

Classification means that division of businesses by major groups subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by the council.

Gross income means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the municipality, excepting therefrom income earned outside of the municipality on which a license tax is paid by the business to some other municipality or a county and fully reported to the municipality. Gross income for agents means gross commissions received or retained, unless otherwise specified. Gross income for insurance companies means gross premiums written. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds which are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the state department of revenue, the state department of insurance, or other government agencies.

License official means a person designated to administer this article.

***State law reference**—Authority to impose license tax based on gross receipts, S.C. Code 1976, § 5-7-30.

Licensee means the business, the person applying for the license on behalf of the business, an agent or legal representative of the business, a person who receives any part of the net profit of the business, or a person who owns or exercises control of the business.

Municipality means the town.

Person means any individual, firm, partnership, LLP, LLC, cooperative nonprofit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principal.

(Ord. No. 2019-10, § 2, 10-9-2019)

Sec. 8-21. Purpose and duration.

The business license levied by this article is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. Each yearly license shall be issued for the 12-month period of May 1 to April 30. The provisions of this article and the rates herein shall remain in effect from year to year as amended by the council.

(Ord. No. 2019-10, § 3, 10-9-2019)

Sec. 8-22. License tax.

(a) The required license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the due date of April 30 of each year, except for those businesses in Rate Class 8 for which a different due date is specified.

(b) A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the license tax shall be computed on the combined gross income for the classification requiring the highest rate. A license tax based on gross income shall be computed on the gross income for the preceding calendar or fiscal year, and on a 12-month projected income based on the monthly average for a business in operation for less than one year. The tax for a new business shall be computed on the estimated probable gross income stated in the license application for the balance of the license year. The initial tax for an annexed business shall be prorated for the number of months remaining in the license year. No refund shall be made for a business that is discontinued.

(Ord. No. 2019-10, § 4, 10-9-2019)

Sec. 8-23. Registration required.

(a) The owner, agent or legal representative of every business subject to this article, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year, provided, a new business shall be required to have a business license prior to operation within the municipality, and an annexed business shall be required to have a business license within 30 days of the annexation. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued a state alcohol, beer or wine permit or license and will have actual control and management of the business.

(b) Application shall be on a form provided by the license official which shall contain the social security number and/or the federal employer's identification Number, the business name as reported on the state income tax return, and all information about the applicant and the licensee and the business deemed appropriate to carry out the purpose of this article by the license official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.

(c) The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported, or estimated for a new business, without any unauthorized deductions, and that all assessments, personal property taxes on business property and other monies due and payable to the municipality have been paid.

(Ord. No. 2019-10, § 5, 10-9-2019)

Sec. 8-24. Temporary businesses.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Business means any marketing activity conducted for the sale of goods or services for a profit.

Goods means and includes food and food products.

Temporary business means the sale of goods or services sold by a business being operated in a permanent building or structure in the town for less than 48 hours or being operated out of a vehicle, truck, trailer, or other mobile unit.

(b) *Permit required.* No person shall operate a temporary business within the town without a permit from the town clerk-treasurer.

(c) *Application for permit.* An application for a permit to operate a temporary business under this article shall be made at the town clerk-treasurer's office upon forms provided by the town. Such application shall be sworn to or affirmed and filed with the permit applied for shall become effective. The application herein required shall contain the following information:

- (1) The name, and permanent address or headquarters of the person applying for the permit;
- (2) If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers;
- (3) The name and address of the person or persons who will be in direct charge of conducting the temporary business;
- (4) The time within which the temporary business will be operated and the location of the business in the town; and
- (5) Any application for permit must also be signed by the party on whose property the temporary business shall be located.
- (6) All temporary businesses must also abide by section 3.11 of the zoning ordinance.

(d) *Investigation by the town clerk-treasurer's office.* The town clerk-treasurer shall examine each application filed under this section for a permit and shall make, or cause to be made, such further investigation of the application and the applicant as the town clerk-treasurer shall deem necessary. The permit will also be issued when the town clerk-treasurer determines the following facts:

- (1) That all of the statements made in the application are true;
- (2) That the applicant has not engaged in any fraudulent transaction or enterprise; and
- (3) Nothing in the proposal will violate any provision of the zoning ordinance of the town, or any other law or ordinance.

(e) *Fees for permit.* Before a permit is issued, there shall be paid to the town finance director the sum of \$30.00 for a permit which allows a temporary business to operate at one location for 48 hours or less within the town.

(f) *Permit nontransferable.* Any permit issued under this section shall be nontransferable.
(Ord. No. 14-2020, § 1(5.A), 9-9-2020)

Sec. 8-25. Deductions, exemptions, and charitable organizations.

(a) No deductions from gross income shall be made except income earned outside of the municipality on which a license tax is paid by the business to some other municipality or a county and fully reported to the municipality, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to state or federal law. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.

(b) No person shall be exempt from the requirements of this article by reason of the lack of an established place of business within the municipality, unless exempted by state or federal law. The license official shall determine the appropriate classification for each business in accordance with the latest issue of the North American Industry Classification System (NAICS) for the United States published by the Office of Management and Budget. No person shall be exempt from this article by reason of the payment of any other tax, unless exempted by state law, and no person shall be relieved of liability for payment of any other tax or fee by reason of application of this article.

(c) A charitable organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A charitable organization, or any for-profit affiliate of a charitable organization, that reports income from for-profit activities, or unrelated business income, for Federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.

(d) A charitable organization shall be deemed a business subject to a business license tax on its total gross income if any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a charitable organization as defined in this article, or any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a

charitable purpose as defined in this article. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

(Ord. No. 2019-10, § 6, 10-9-2019)

Sec. 8-26. False application unlawful.

It shall be unlawful for any person subject to the provisions of this article to make a false application for a business license, or to give or file, or direct the giving or filing of, any false information with respect to the license or tax required by this article.

(Ord. No. 2019-10, § 7, 10-9-2019)

Sec. 8-27. Display and transfer.

(a) All persons shall display the license issued to them on the original form provided by the license official in a conspicuous place in the business establishment at the address shown on the license. A transient or nonresident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the municipality.

(b) A change of address must be reported to the license official within ten days after removal of the business to a new location and the license will be valid at the new address upon written notification by the license official and compliance with zoning and building codes. Failure to obtain the approval of the license official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable, and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

(Ord. No. 2019-10, § 8, 10-9-2019)

Sec. 8-28. Administration of article.

The license official shall administer the provisions of this article, collect license taxes, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or suspension and revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this article, and perform such other duties as may be duly assigned.

(Ord. No. 2019-10, § 9, 10-9-2019)

Sec. 8-29. Inspection and audits.

(a) For the purpose of enforcing the provisions of this article, the license official or other authorized agent of the municipality is empowered to enter upon the premises of any person subject to this section to make inspections, examine and audit books and records. It shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of license tax shall constitute a separate offense.

(b) The license official shall have the authority to make inspections and conduct audits of businesses within the municipality to ensure compliance with the article. Financial information obtained by inspections and audits shall not be deemed public records, and the license official shall not release the amount of license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this article, state or federal law, or proper judicial order. Statistics compiled by classifications are public records.
(Ord. No. 2019-10, § 10, 10-9-2019)

Sec. 8-30. Assessments; payment under protest; appeal.

(a) If a person fails to obtain a business license or to furnish the information required by this article or the license official, the license official shall examine such records of the business or any other available records as may be appropriate, and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a license tax and penalties as provided herein.

(b) A notice of assessment shall be served by certified mail or personal service. An application for adjustment of the assessment may be made to the license official within five days after the notice is mailed or personally served or the assessment will become final. The license official shall establish a uniform procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment.

(c) A final assessment may be appealed to the council only by payment in full of the assessment under protest within five days and the filing of written notice of appeal within ten days after payment pursuant to the provisions of this section relating to appeals to council.
(Ord. No. 2019-10, § 11, 10-9-2019)

Sec. 8-31. Delinquent license taxes; partial payment.

(a) For non-payment of all or any part of the correct license tax, the license official shall levy and collect a late penalty of five percent of the unpaid tax for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any license tax remains unpaid for 60 days after its due date, the license official shall report it to the municipal attorney for appropriate legal action.

(b) Partial payment may be accepted by the license official to toll imposition of penalties on the portion paid; provided, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.
(Ord. No. 2019-10, § 12, 10-9-2019)

Sec. 8-32. Notices.

The license official may, but shall not be required to, mail written notices that license taxes are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the municipality three times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.
(Ord. No. 2019-10, § 13, 10-9-2019)

Sec. 8-33. Denial of license.

(a) The license official shall deny a license to an applicant when the license official determines:

- (1) The application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact;
- (2) The activity for which a license is sought is unlawful or constitutes a public nuisance per se or per accident;
- (3) The applicant, licensee or prior licensee or the person in control of the business has been convicted, within the previous ten years, of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- (4) The applicant, licensee or prior licensee or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the municipality or in another jurisdiction;
- (5) The applicant, licensee or prior licensee or the person in control of the business is delinquent in the payment to the municipality of any tax or fee; or
- (6) The license for the business or for a similar business of the licensee in the municipality or another jurisdiction has been denied, suspended or revoked in the previous license year.

(b) A decision of the license official shall be subject to appeal to council as herein provided.

(c) Denial shall be written with reasons stated.

(Ord. No. 2019-10, § 14, 10-9-2019)

Sec. 8-34. Suspension or revocation of license.

(a) When the license official determines:

- (1) A license has been mistakenly or improperly issued or issued contrary to law;
- (2) A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this article;
- (3) A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application;
- (4) A licensee has been convicted, within the previous ten years, of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- (5) A licensee has engaged in an unlawful activity or nuisance related to the business; or
- (6) A licensee is delinquent in the payment to the municipality of any tax or fee;

the license official shall give written notice to the licensee or the person in control of the business within the municipality by personal service or certified mail that the license is suspended pending a hearing before council for the purpose of determining whether the license should be revoked.

(b) The notice shall state the time and place at which the hearing is to be held, which shall be at a regular or special council meeting within 30 days from the date of service of the notice, unless continued by agreement. The notice shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this article.

(Ord. No. 2019-10, § 15, 10-9-2019)

Sec. 8-35. Appeals to council.

(a) Any person aggrieved by a decision, final assessment, proposed revocation, suspension, or a denial of a business license by the license official may appeal the decision to the council by written request stating the reasons therefor, filed with the license official within ten days after service by mail or personal service of the notice of decision, final assessment, proposed revocation, suspension or denial.

(b) An appeal or a hearing on proposed revocation shall be held by the council within 30 days after receipt of a request for appeal or service of notice of suspension at a regular or special meeting of which the applicant or licensee has been given written notice, unless continued by agreement. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence and to cross examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by council shall govern the hearing. Council shall by majority vote of members present render a written decision based on findings of fact and application of the standards herein which shall be served upon all parties or their representatives and shall be the final decision of the municipality.

(Ord. No. 2019-10, § 16, 10-9-2019)

Sec. 8-36. Consent, franchise or license required for use of streets.

(a) It shall be unlawful for any person to construct, install, maintain or operate in, on, above or under any street or public place under control of the municipality any line, pipe, cable, pole, structure or facility for utilities, communications, cablevision or other purposes without a consent agreement or franchise agreement issued by the council by ordinance that prescribes the term, fees and conditions for use.

(b) The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or be credited against business license taxes unless specifically provided by the franchise or consent agreement.

(Ord. No. 2019-10, § 17, 10-9-2019)

Sec. 8-37. Confidentiality.

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any official or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this article. Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the

identification of particular reports or returns. Any license data may be shared with other public officials or employees in the performance of their duties, whether or not those duties relate to enforcement of the license ordinance.

(Ord. No. 2019-10, § 18, 10-9-2019)

Sec. 8-38. Violations.

Any person violating any provision of this article shall be deemed guilty of an offense and shall be subject to a fine of up to \$500.00 or imprisonment for not more than 30 days, or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties and costs provided for herein.

(Ord. No. 2019-10, § 19, 10-9-2019)

Sec. 8-39. Severability.

A determination that any portion of this article is invalid or unenforceable shall not affect the remaining portions.

(Ord. No. 2019-10, § 20, 10-9-2019)

Sec. 8-40. Classification and rates.

(a) The classifications of businesses included in each rate class are listed with the North American Industry Classification System (NAICS) codes, by sector, sub-sector, group or industry. The business license class schedule (appendix B to the ordinance from which this section is derived) is a tool for classification and not a limitation on businesses subject to a license tax. The business classification, pursuant to the most recent version of the business license class schedule adopted by the council, most specifically identifying the subject business, shall be applied to the business. The license official shall have the authority to make the determination of the business classification most specifically applicable to a subject business.

(b) The license tax for each class of businesses subject to this article shall be computed in accordance with the current business license rate schedule, designated as appendix A to the ordinance from which this section is derived, which may be amended from time to time by the council. A copy of the class schedule and rate schedule shall be filed in the office of the municipal clerk (clerk-treasurer?).

(Ord. No. 2019-10, § 21, 10-9-2019)

Secs. 8-41—8-68. Reserved.

ARTICLE III. ALCOHOLIC BEVERAGES

Sec. 8-69. Hours for public consumption of beer and wine.

It shall be unlawful for any person, firm or corporation to sell or offer for sale any beer or wine in the town between the hours of 12:00 midnight Saturday night and 8:00 a.m. on the following Monday.

(Code 2011, § 7-2-4)

Secs. 8-70—8-96. Reserved.

ARTICLE IV. MISCELLANEOUS REGULATIONS

Sec. 8-97. Solicitations.

(a) Any person soliciting or canvassing within the town shall be required to register with the town and obtain a permit as provided in this section.

(b) Application for the permit shall be made to the clerk-treasurer, accompanied by a permit fee in an amount as established from time to time by the council. Nonprofit civic, religious and charitable organizations located within the town shall be issued a permit without payment of a fee on completion of the application. Farmers selling produce raised on their own farms may be issued a permit without payment of a fee, provided that no fee exemption shall be allowed for produce purchased for resale.

(c) Any person peddling goods or produce purchased for resale shall be required to obtain a town business license as provided in article II of this chapter.

(d) Each registrant or licensee shall at all times while in the town have upon his person the permit or license and shall exhibit the same when requested to do so by any law enforcement officer or by any municipal authority or by any person being solicited. Possession of a permit or license shall in no way represent an endorsement or approval of any product or project by the town.

(e) It shall be unlawful for any person to:

- (1) Peddle, canvass or solicit after sundown without the express prior written permission of the occupant of the premises;
- (2) Peddle, canvass or solicit without having obtained a business license or having registered with the town clerk-treasurer in accordance with this section;
- (3) Solicit, canvass or call at any residence, apartment complex, or shopping mall, other than areas open to public parking, where there is posted a sign forbidding such activity;
- (4) Remain on private premises after being asked to leave the premises; or
- (5) Continue solicitation after being refused upon the public streets, areas or parks; such action constituting harassment.

(Code 2011, § 7-3-1)

Chapter 9

RESERVED

Chapter 10

COURT*

Sec. 10-1.	Creation.
Sec. 10-2.	Chief municipal judge and associate municipal judge.
Sec. 10-3.	Clerk.
Sec. 10-4.	Jurisdiction.
Sec. 10-5.	Penalties imposed by court.
Sec. 10-6.	Suspended sentences.
Sec. 10-7.	Disposition of fines and penalties.
Sec. 10-8.	Appeals to court of common pleas.
Sec. 10-9.	Return made to court of general sessions in event of appeal.
Sec. 10-10.	Jury trials.
Sec. 10-11.	Jury commissioners.

***Editor's note**—The municipal court may (1) under S.C. Code 1976, § 56-5-6150, try and determine certain criminal cases involving violations of S.C. Code 1976, title 56, chapter 5, occurring within the respective limits of this municipality, when the penalty prescribed by S.C. Code 1976, title 56, chapter 5 for such violations does not exceed 30 days' imprisonment nor a \$100.00 fine, and may have trial jurisdiction over such criminal cases the same as magistrates; and (2) under S.C. Code 1976, § 61-6-4500, try and determine all cases involving a violation of S.C. Code 1976, title 61, chapter 6, art. 13, except § 61-6-4720, per § 61-6-4500. This is not an exhaustive list of statutory provisions for municipal court jurisdiction.

State law references—Municipal courts generally, S.C. Code 1976, § 14-25-5 et seq.; powers, duties and jurisdiction of municipal court, S.C. Code 1976, § 14-25-45; trial jurisdiction of municipal courts for violations of uniform act regulating traffic, S.C. Code 1976, § 56-5-6150; trial of persons charged with violations of ordinances or state law, S.C. Code 1976, § 5-7-90; municipal judges generally, S.C. Code 1976, § 14-25-15; appointment and duties of clerk of court, S.C. Code 1976, § 14-25-35; appeals to court of Common Pleases, S.C. Code 1976, § 14-25-94; appointment, duties and powers of ministerial recorder, S.C. Code 1976, § 14-25-115; maximum penalties imposed by municipal court, S.C. Code 1976, § 14-25-65; judge may suspend sentences, S.C. Code 1976, § 14-25-75; municipal judge to make return, S.C. Code 1976, § 14-25-105; demand for jury trial, composition of jury, S.C. Code 1976, § 14-25-125; jury commissioners, S.C. Code 1976, § 14-25-135; drawing and composing juries, S.C. Code 1976, § 14-25-165; failure of juror to appear, S.C. Code 1976, § 14-25-185.

Sec. 10-1. Creation.

There is hereby established a municipal court for the town, which shall be a part of the unified judicial system of the state, pursuant to Act No. 480 of 1980, for the trial and determination of all cases within its jurisdiction.

(Code 2011, § 1-5-1)

Sec. 10-2. Chief municipal judge and associate municipal judge.

(a) The court shall be presided over by a chief municipal judge and an associate municipal judge, each of whom shall be appointed by council for a term of two years. Before entering upon the discharge of the duties of the offices of chief municipal judge or an associate municipal judge, the person appointed shall take and subscribe the oath of office prescribed by the S.C. Const. art. VI, § 5.

(b) The compensation of the chief municipal judge and the associate municipal judge shall be determined from time to time by council. The compensation, once determined by council, shall be considered payment for all duties performed by the judges and the town is not required to make any payments to the judges other than the compensation approved by council.

(c) In case of a vacancy in either office, a successor shall be appointed in the manner of original appointment for the unexpired term.

(d) Powers and duties.

(1) The chief municipal judge shall have primary jurisdiction to try all cases arising under the ordinances of the town. The chief municipal judge shall also have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates. The chief municipal judge shall have the power to punish for contempt of court by imposition of sentences up to the limits imposed on municipal courts. The chief municipal judge shall have no jurisdiction in civil matters.

(2) In case of the temporary absence, sickness, or disability of the chief municipal judge, court shall be held by the associate municipal judge.

(e) In between court sessions, the associate municipal judge shall have concurrent jurisdiction with the chief municipal judge to set and accept bonds and recognizances and to issue summonses, subpoenas, arrest warrants, and search warrants in all cases arising under the ordinances of the town, and in criminal cases as are conferred by law upon magistrates.

(f) Neither the chief municipal judge nor the associate municipal judge shall be required to be a resident of the town.

(Code 2011, § 1-5-2; Ord. No. 10-2012, § 1-5-2, 11-7-2012; Ord. No. 14-2015, § 1, 12-16-2015)

Sec. 10-3. Clerk.

The council shall designate a clerk of municipal court, who shall keep such records and make such reports as may be required by the municipal judge or the state court administrator. Council may designate the town clerk-treasurer or other municipal employee to serve as clerk of court.

(Code 2011, § 1-5-3)

Sec. 10-4. Jurisdiction.

The municipal court shall have jurisdiction to try all cases arising under the ordinances of the town. The court shall also have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates. The court shall have the power to punish for contempt of court by imposition of sentences up to the limits imposed on municipal courts. The court shall have no jurisdiction in civil matters.

(Code 2011, § 1-5-4)

Sec. 10-5. Penalties imposed by court.

Whenever the municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine or imprisonment, or both, not to exceed \$500.00 or 30 days, or both.

(Code 2011, § 1-5-5)

Sec. 10-6. Suspended sentences.

The municipal judge may suspend sentences imposed by him upon such terms and conditions as he deems proper, including, without limitation, restitution or public service employment.

(Code 2011, § 1-5-6)

Sec. 10-7. Disposition of fines and penalties.

All fines and penalties collected by the municipal court shall be forthwith turned over to the clerk-treasurer for deposit to the general fund of the town.

(Code 2011, § 1-5-7)

Sec. 10-8. Appeals to court of common pleas.

Any party shall have the right to appeal from the sentence or judgment of the municipal court to the court of common pleas. Notice of intention to appeal, setting forth the grounds for appeal, shall be given in writing and served on the municipal judge or the clerk of the municipal court within ten days after sentence is passed or judgment rendered, or the appeal shall be deemed waived. The party appealing shall enter into a bond, payable to the town, to appear and defend such appeal at the next term of the court of common pleas or shall pay the fine assessed.

(Code 2011, § 1-5-8)

Sec. 10-9. Return made to court of general sessions in event of appeal.

In the event of an appeal, the municipal judge shall make a return to the court of common pleas as provided by S.C. Code 1976, § 14-25-105.

(Code 2011, § 1-5-9)

Sec. 10-10. Jury trials.

Any person to be tried in the municipal court may, prior to trial, demand a jury trial, and such jury when demanded, shall be composed of six persons drawn from the qualified electors of the municipality in the manner prescribed by law. The right to a jury trial shall be deemed to have been waived unless demand is made prior to trial.

(Code 2011, § 1-5-10)

Sec. 10-11. Jury commissioners.

The town council shall serve as jury commissioners for the municipal court.

(Code 2011, § 1-5-11)

Chapter 11

RESERVED

Chapter 12

ELECTIONS*

- Sec. 12-1. Nonpartisan elections adopted.
- Sec. 12-2. Regular election date.
- Sec. 12-3. Public notice.
- Sec. 12-4. Method of determining election results.
- Sec. 12-5. Time of filing.
- Sec. 12-6. Time of taking office.

***State law references**—Mayors and councilmembers shall be qualified electors of the municipality, S.C. Code 1976, § 5-15-20; 30 days' residency as condition of registration to vote in municipal elections, S.C. Code 1976, § 7-5-610.

Sec. 12-1. Nonpartisan elections adopted.

All regular and special elections for the offices of mayor and council shall be nonpartisan elections held pursuant to applicable state statutes. No political party affiliation shall be placed on any ballot for any candidate.

(Code 2011, § 1-6-1)

Sec. 12-2. Regular election date.

Regular elections for the offices of mayor and council shall be held in odd numbered years on the first Tuesday of April.

(Code 2011, § 1-6-2)

Sec. 12-3. Public notice.

Public notice of all elections shall be given at least 60 days prior to such elections.

(Code 2011, § 1-6-3)

State law reference—60 days' notice required, S.C. Code 1976, § 5-15-50.

Sec. 12-4. Method of determining election results.

Candidate nominations and election results shall be determined according to the nonpartisan plurality method as prescribed in S.C. Code 1976, § 5-15-61.

(Code 2011, § 1-6-4; Ord. of 8-27-1980)

Sec. 12-5. Time of filing.

Candidates must file candidacy statements of intent pursuant to state election law.

State law reference—Municipal election commissions, S.C. Code 1976, §§ 5-15-90 and 5-15-100.

Sec. 12-6. Time of taking office.

(a) Newly elected officers shall assume office on the second Tuesday in May following the date of the regular election.

(b) Newly elected officers at a special election shall assume office 48 hours after closing of the polls of the special election.

(c) If the results of the election are contested, the incumbent who fills the contested office shall hold over until the contest is finally determined.

(Code 2011, § 1-6-7)

State law reference—Contested elections, S.C. Code 1976, §§ 5-15-130 and 5-15-140.

Chapter 13

RESERVED

Chapter 14

ENVIRONMENT

Article I. In General

- Sec. 14-1. Maintenance of premises.
- Secs. 14-2—14-20. Reserved.

Article II. Weeds and Nuisances

- Sec. 14-21. Purpose.
- Sec. 14-22. Accumulation on premises prohibited.
- Sec. 14-23. Power exercised by building official.
- Sec. 14-24. Building official; powers and duties.
- Sec. 14-25. Orders and notices to clear or abate.
- Sec. 14-26. Appeals.
- Sec. 14-27. Removal by town; authority.
- Sec. 14-28. Costs, violations, penalties.
- Secs. 14-29—14-59. Reserved.

Article III. Public Nuisances

Division 1. Generally

- Secs. 14-60—14-76. Reserved.

Division 2. Nuisances and Unfit Dwellings

- Sec. 14-77. Definitions.
- Sec. 14-78. Unlawful property nuisance.
- Sec. 14-79. Abandoned buildings, structures and manufactured homes.
- Sec. 14-80. Public nuisance declared.
- Sec. 14-81. Trespassing prohibited.
- Sec. 14-82. Costs, violation and penalties.
- Sec. 14-83. Order to repair and demolish.
- Sec. 14-84. Procedure before zoning board of appeals.
- Sec. 14-85. Removing or demolishing structure.
- Sec. 14-86. Costs; lien upon the property.
- Sec. 14-87. Bidding on demolition work.
- Sec. 14-88. Precedence.
- Sec. 14-89. Limitation of liability.
- Secs. 14-90—14-106. Reserved.

Article IV. Abandoned and Derelict Vehicles

- Sec. 14-107. Findings.
- Sec. 14-108. Declaration of public nuisance.
- Sec. 14-109. Exemptions.
- Sec. 14-110. Parking or storage on public street or private property prohibited.

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- Sec. 14-111. Notice, removal and disposal of vehicles.
- Sec. 14-112. Duties of code enforcement officer; regulations.
- Sec. 14-113. Entry upon private property for removal or abatement authorized.
- Sec. 14-114. Failure to remove; misdemeanor.
- Sec. 14-115. Penalty.
- Sec. 14-116. Appeals.

ARTICLE I. IN GENERAL**Sec. 14-1. Maintenance of premises.**

(a) It shall be unlawful for any person to maintain or to permit to be maintained any premises, including vacant lots or land, upon which grass, weeds, undergrowth, trash, garbage, offal, stagnant water, building materials, glass, wood or other matter deleterious to good health and public sanitation is permitted or caused to accumulate in any manner which is or may become a nuisance, causing injury to the health or welfare of residents of the public in the vicinity or causing injury to neighboring property.

(b) It shall be the duty of the chief of police and/or the fire chief, to summon the owner of such premises, and if, after fully hearing the matter and any statement the owner may make and any testimony he may offer in his behalf concerning such matter, the chief of police and/or fire chief should find such premises or lot in a condition tending to injure the public health, the chief of police and/or fire chief shall issue a written order or notice directed to the owner, directing and requiring him within a certain specified time to clear such premises or lot in order to abate such nuisance.

(c) Should any property owner fail to keep such property cleared, the town may cause the property to be kept cleared and in a sanitary condition for health purposes or cleared for fire prevention, and the cost of keeping such property cleared shall be an assessment against the property owner, and the expense shall be added to the annual tax levied, and shall be collected by the town in the same manner as the annual property tax.

(Code 2011, § 6-1-1)

State law reference—Ordinances authorized relating to upkeep of property, S.C. Code 1976, § 5-7-80.

Secs. 14-2—14-20. Reserved.

ARTICLE II. WEEDS AND NUISANCES***Sec. 14-21. Purpose.**

There exists within the town certain properties which are unsightly and harbor such defects that increase the hazards of fire, or other unsafe or unsanitary conditions detrimental to the health, safety, morals and welfare of the residents of the town.

(Ord. No. 06-2013, 7-3-2013; Ord. No. 07-2015, 8-12-2015)

Sec. 14-22. Accumulation on premises prohibited.

(a) It shall be unlawful for any person, including the owner, agent or occupant of such premises to maintain or to permit to be maintained, any premises, including vacant lots of land, upon which grass, weeds, undergrowth, trash, garbage, household appliances, furniture, discarded clothing, building

***State law references**—Authority of municipalities to abate nuisances, S.C. Code 1976, § 5-7-30; ordinances relating to upkeep of property within municipality, S.C. Code 1976, § 5-7-80.

materials, glass, wood or miscellaneous refuse is permitted or caused to accumulate in any manner which is or may become a public nuisance, or to place or leave same adjacent to his premises or in any public place unless done pursuant to ordinances provided for its collection.

- (1) Any of the conditions outlined in subsection (a) of this section may be declared a public nuisance when, in the judgment of the building official or his designated representative, such conditions are unsightly, unsanitary or threatening to the health, safety or welfare of the general public.
- (2) The words "weeds" and "undergrowth" as used herein include, but are not limited to, poison ivy, kudzu, weeds and grasses causing hay fever, those which serve as a breeding ground for mosquitoes or as a refuge for snakes or rats, or any growth that creates a fire or traffic hazard or nuisance due to unsightliness.
- (3) Nothing herein shall be applicable to such grass, weeds or undergrowth less than one foot in height or 12 inches, nor to such grass, weeds or undergrowth more than 150 feet from any building, structure, recreational area (not including the width of the intervening street) or to such grass, weeds or undergrowth more than 125 feet from any street right-of-way.

(b) It shall be unlawful for any person to have, keep, maintain, cause or permit, within the town, any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as effectually to prevent such breeding.

(Ord. No. 06-2013, 7-3-2013; Ord. No. 07-2015, 8-12-2015)

Sec. 14-23. Power exercised by building official.

Whenever it is determined that any of the conditions exist as described above, the police powers of the town may be exercised by the building official or other designated representative to abate such nuisances in the manner provided for in this article.

(Ord. No. 06-2013, 7-3-2013; Ord. No. 07-2015, 8-12-2015)

Sec. 14-24. Building official; powers and duties.

The building official or other designated representative may exercise such powers and duties as may be necessary or convenient to carry-out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:

- (1) To investigate the property or premises to determine what may be in violation of this article; and
- (2) To enter upon premises for the purpose of making examinations, provided such entries be made in such a manner as to cause the least possible inconvenience to the person or persons in possession.

(Ord. No. 06-2013, 7-3-2013; Ord. No. 07-2015, 8-12-2015)

Sec. 14-25. Orders and notices to clear or abate.

(a) It shall be the duty of the building official or other designated representative to summon the owner of such premises, or his agent, and if, after fully hearing the matter and any statement the owner may make and any testimony he may offer in his behalf concerning such matter, the building official

should find such premises or lot in a condition tending to cause injury as stated above, the building official or other designated representative shall issue a written order or notice to the owner, or his agent, directing and requiring that within 15 calendar days, he should clear such premises or lot in order to abate such nuisance. In addition, if the building official determines that a property is causing an immediate threat to the public health or cleanliness of area property by debris, trash or other matter being transported by wind, animal or other means, he shall have the authority to immediately cause the property to be cleared of such harmful or unsightly debris without advance notification to the property owner.

(b) Costs for recovery of expenditures by the town shall be collected as prescribed in this article with the exception that an administrative fee shall not be charged in the absence of advance notification being forwarded to a property owner.

(Ord. No. 06-2013, 7-3-2013; Ord. No. 07-2015, 8-12-2015)

Sec. 14-26. Appeals.

(a) *Generally.* The municipal court shall have the authority and duty to consider and act upon any application submitted for adjustment of standards provided herein.

(b) *Who may appeal.* Appeals to the municipal court may be taken by any person aggrieved under this article or by any officer, department, board or commission of the town affected by the decision.

(c) *Notice filed.* Such appeal shall be taken within ten calendar days after notice of the filing of the order, requirement or decision complained of. The appeal application shall clearly state the relief being sought and the reasons such relief is warranted. A fee established and from time to time modified by action of town council shall be paid by the applicant prior to processing an appeal. A timely appeal will automatically stay the decision of the building officials that is being appealed.

(d) *Hearing on appeals.* The municipal court shall fix a time for the hearing of the appeal, and provide notice to the parties in interest.

(e) *Order of municipal court.* In exercising their above powers, the municipal court may, in conformity with the provisions of this article, reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination and shall have all the powers of the officer from whom the appeal is taken.

(f) *Appeal from municipal court.* A person who may have a substantial interest in any decision of the municipal court or an officer or agent of the appropriate governing authority may appeal from a decision of the municipal court to the circuit court in and for the county, by filing with the clerk of court, a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 calendar days after the decision of the municipal court is mailed.

(g) *Property owner.* A property owner whose land is the subject of a decision of the municipal court may appeal either:

- (1) As provided above; or
- (2) By filing notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with S.C. Code 1976, § 6-29-825.

(h) *Assessing appellant.* Any notice of appeal and request from a particular municipal court decision pursuant to the provisions of this section must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to S.C. Code 1976, §§ 6-29-820 and 8-21-310. (Ord. No. 06-2013, 7-3-2013; Ord. No. 07-2015, 8-12-2015)

Sec. 14-27. Removal by town; authority.

Should any property owner fail to clear such premises or fail to keep such property cleared, the town may cause such property to be kept cleared and kept in a sanitary condition for health purposes or cleared and kept cleared for fire prevention or suppression. (Ord. No. 06-2013, 7-3-2013; Ord. No. 07-2015, 8-12-2015)

Sec. 14-28. Costs, violations, penalties.

The expense of causing such property to be brought into compliance with this article, plus a handling charge established from time to time, shall be a lien upon the premises. Whenever a bill for such charges remains unpaid, an assessment against the property owner shall become a lien on the property and shall be collected by the town in the manner provided for and at the same time as collection of municipal property taxes. Any person who violates any provisions of this article shall be fined not less than \$200.00 or fined and/or imprisoned, according to provisions of this Code such other regulation as may apply. (Ord. No. 06-2013, 7-3-2013; Ord. No. 07-2015, 8-12-2015)

Secs. 14-29—14-59. Reserved.

ARTICLE III. PUBLIC NUISANCES

DIVISION 1. GENERALLY

Secs. 14-60—14-76. Reserved.

DIVISION 2. NUISANCES AND UNFIT DWELLINGS

Sec. 14-77. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abate/abatement means an action to terminate, stop cease, repair rehabilitate, replace, demolish, correct or otherwise remedy nuisance activity, condition, premises, or conduct by such means and in such manner as to bring the activity, condition, premises or conduct into compliance with the laws or regulations of the town and/or the or in such manner as is necessary to promote the health, safety or general welfare of the public.

Building official means the town building inspector or a designee of the town administrator who with proper credentials acts in such capacity on his behalf.

Dilapidated means falling to pieces, broken down, shabby and neglected.

Owner means the owner or owners of any real or personal property, lots, parcels or areas within the town.

Premises or *real property* means, in context any location, a building structure, residence, garage, room, shed dwelling, lot, parcel, land or portion thereof, whether improved or unimproved.

Private property means and includes but is not limited to yards, grounds, driveways, entranceways, passageways, parking areas, work areas, storage areas, recreation areas and vacant or wooded lots and land owned by private individuals, firms, corporations, partnerships, institutions or organizations.

Public nuisance (nuisance activity) means any condition, instrumentality or machine located in a building or on premises (old washing machines, dryers, refrigerators, freezers, etc.) 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 which may be reasonably expected to attract children to the premises and risk injury by playing with, in or on it.

Public street means a right-of-way for vehicular travel which has been dedicated or accepted or declared public by any town, county, or state. The term "street" also means highways, roads, avenues, boulevards, lanes, drives, parkways and other vehicular travel ways.

Responsible party or person means any individual, business or entity responsible for creating, causing, maintaining or permitting the nuisance activity, premises, condition or conduct; and includes, but is not limited to, the property owner (both real and personal), tenant, lessee, possessor, or occupant of real property, the president or other officer of the corporation, a business owner or manager of a business. The owner, occupant or the agent of any owner or occupant of lots, parcels or areas within the town. (Ord. No. 01-2020, § 2(1.1), 5-7-2020)

Sec. 14-78. Unlawful property nuisance.

(a) It is unlawful for any person owning, renting, leasing, occupying, managing, having charge, or possessing any real or personal property in the town to maintain such premises or property in such a manner that violate health, safety, sanitation, and/or the economic value and preservation of surrounding properties.

(b) It is unlawful for any person owning, renting, leasing, occupying, managing, having charge or possessing any real or personal property in the town to allow a building, structure or portion thereof to remain in a dilapidated or dangerous condition determined to be unsafe or unsuitable for human occupancy. Such conditions include, but are not limited to:

- (1) Inadequate or inoperable mechanical, electrical, plumbing, or sanitation;
- (2) Lack of sound and effective exterior walls or roof covering to provide weather protection;
- (3) Lack of structural integrity, including deteriorated or inadequate foundations, joints, vertical or horizontal support;
- (4) Broken, missing or inoperable windows or doors constituting a hazardous condition or a potential attraction to trespassers;

- (5) Broken, deteriorated or substantially defaced structures presenting a risk to public safety;
 - (6) Building conditions that do not comply with the building codes adopted by the town.
- (Ord. No. 01-2020, § 2(1.2), 5-7-2020)

Sec. 14-79. Abandoned buildings, structures and manufactured homes.

Any abandoned building, manufactured home, or structure that violates health, safety, or sanitation requirements or otherwise tends to diminish the economic value of surrounding properties include, but are not limited to:

- (1) An unoccupied and unsecure building or structure.
- (2) A partially constricted, partially reconstructed, or partially demolished building or structure where work is abandoned for a period of 180 consecutive days after the time the work is commenced.
- (3) A damaged or partially destroyed building or structure not removed or repaired within 180 days after the damage or destruction, or, if the removal or repair cannot reasonably be accomplished within 180 days, upon which removal or repair has not been commenced within such period and prosecuted diligently toward completion.
- (4) A manufactured home that is damaged, extensively deteriorated, does not have approved utilities, water and septic service, or is deteriorated and is being used as a storage unit.
- (5) Any property maintained in a condition so defective, substantially defaced, or in a state of such deterioration, disrepair or neglect that it causes a health, safety, sanitation, public nuisance and/or affects the economic value of surrounding properties, including, but not limited to:
 - a. The accumulation of dirt, litter, refuse, trash or debris in carports, parking areas, drive-ways, front yards, rear yards, outside vestibules, doorways of buildings, the adjoining sidewalk or alley no longer than 30 days;
 - b. Excessive storage of personal property (other than items designated for outdoor use) in front, exterior, side, or rear yard areas visible to public view, including, but not limited to, unregistered, inoperative or dismantled vehicles or vehicle parts, building materials not currently being used for the construction of improvements on the site, appliance, household furnishings or equipment, tools machine, packing boxes, debris, rubbish and broken or discarded furniture, no longer than 30 days;
 - c. Abandoned and broken equipment or machinery, appliances, or parts thereof;
 - d. The discharge of sewerage into any yard, open ditch, storm sewer line or any other open public or private property area;
 - e. A motor vehicle that is inoperable, abandoned, or derelict upon any public street, road or thoroughfare, or private property.

- (6) The provisions of S.C. Code 1976, §§ 56-5-510 through 56-5-5950, as amended, are incorporated by reference and applied as to the treatment and disposition of abandoned vehicles. A vehicle shall be considered abandoned if the vehicle is left on:
- Property owned or operated by town for a period of more than 48 hours;
 - Any private property without the consent of the property owner, occupant or lessee thereof for a period of more than 24 hours; or
 - Any public street or highway for a period of more than 48 hours.
- (Ord. No. 01-2020, § 2(1.3), 5-7-2020)

Sec. 14-80. Public nuisance declared.

All property found to be maintained in violation of any one more of the provisions of this division is hereby to be a public nuisance and shall be abated pursuant to the procedure set forth herein. The procedure for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the town from enforcing other town ordinances or abating public nuisances in any manner provided by law.

- (1) *Responsibility for property maintenance.* Every owner or responsible party or person who owns or is in possession of premises within the town is required to maintain such premises in a manner so as not to violate the provisions of this division or the town's zoning ordinance.
 - (2) *Right to enter property to inspect of abate power exercised by building official.* The town building official is authorized (with just cause) to enter into and upon any property located within the town for the purpose of inspecting and enforcing the provisions of this division. If any owner or responsible party or person, occupant or the agent of any owner or occupant of any property located within the town refuses to allow the building official to inspect any such property, the building official is authorized to seek a search warrant from the municipal judge or magistrate judge having jurisdiction over the subject property.
- (Ord. No. 01-2020, § 2(1.4), 5-7-2020)

Sec. 14-81. Trespassing prohibited.

(a) With respect to any building or structure on private property which has been declared unsafe by the town building official:

- (1) It shall be unlawful for any person to trespass upon the land of a condemned building or structure.
- (2) It shall be unlawful for any person to remove any baffle used to close windows, doors, underpinning, or other openings in a condemned building or structure.
- (3) It shall be unlawful to remove or deface public notices of "Condemned Structure-Unsafe" or "No Trespassing" which are required by this section to be posted upon the condemned building.

(b) The building official shall ensure trespassing notices are filed and notice of "No Trespassing" posted on four sides of the building or structure.

(c) There shall be no violation of this section for entry upon the land, building or structure by any employee or contractor of the town acting in an official capacity.

(d) The owner or responsible party or person may enter upon the land only when accompanied by the town building official.

(Ord. No. 01-2020, § 2(1.5), 5-7-2020)

Sec. 14-82. Costs, violation and penalties.

(a) *Civil.* Any person who intentionally, accidentally or negligently violates any provision of this division may be civilly liable to the town in the sum of not less than \$100.00 but not to exceed \$250.00 per day for each day in which such violation occurs or continues. The civil penalty provided in this subsection excludes inspection costs and cleanup or abatement costs; is cumulative and not exclusive; and shall be in addition to all remedies available to the town under state law and local ordinances.

(b) *Criminal.* Any person who is found to be in violation of any provision of this division shall be guilty of a misdemeanor and may be punished by a fine of up to \$500.00 or shall serve a sentence of up to 30 days in jail for violation of this division. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. No. 01-2020, § 2(1.6), 5-7-2020)

Sec. 14-83. Order to repair and demolish.

(a) *Claims of dilapidation.* Whenever a petition is filed with the building official 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 building official (on his own motion) that any dwelling is unfit for human habitation, the building official shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and responsible party or person of such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the zoning board of appeals at a place therein fixed not less than ten days nor more than 30 days after the serving of such complaint. The owner and responsible party or person 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. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the zoning board of appeals. In the event an emergency arises whereby it appears that human life or safety is involved, the building official may shorten the notice of the hearing to no less than 24 hours.

(b) *Notice and opportunity to be heard.* Complaints or orders issued by the building official pursuant to this section 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 building official in the exercise of reasonable diligence the building official 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. 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 county clerk 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.

(Ord. No. 01-2020, § 2(2.1), 5-7-2020)

Sec. 14-84. Procedure before zoning board of appeals.

(a) In exercising their powers granted herein, the zoning board of appeals may, in conformity with the provisions of this article, reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination of the building official. The concurring vote of a majority of a quorum of members of the zoning board of appeals shall be necessary to reverse any order, requirement, decision or determination of the building official or to decide in favor of the owner.

- (1) If, after such notice and hearing, the zoning board of appeals determines that the dwelling under consideration is unfit for human habitation it shall state in writing its findings of fact in support of such determination and shall issue and cause to be served upon the owner and responsible party together with or in the form of an order to repair or demolish;
- (2) 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 owner shall be required, within the time specified in such order, to repair, alter or improve such dwelling to render it fit for human habitation within a fixed period of time or to vacate and close the dwelling as a human habitation; or
- (3) 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 owner shall be required, within the time specified in the order, to vacate, close and remove or demolish such dwelling.

(b) Any challenge by the owner or responsible party or person to the building official's complaint shall be according to South Carolina Code of Laws.

(Ord. No. 01-2020, § 2(2.2), 5-7-2020)

Sec. 14-85. Removing or demolishing structure.

(a) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the building official may cause such dwelling to be repaired, altered or improved or to be vacated and closed; the building official 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."

(b) If the owner fails to comply with an order to remove or demolish the dwelling, the building official may cause such dwelling to be removed or demolished.

(Ord. No. 01-2020, § 2(2.3), 5-7-2020)

Sec. 14-86. Costs; lien upon the property.

The amount of the cost of such repairs, alterations or improvements, vacating and closing, or removal or demolition by the building official 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.

(Ord. No. 01-2020, § 2(2.4), 5-7-2020)

Sec. 14-87. Bidding on demolition work.

If the building official deems it necessary when demolishing an unfit dwelling as permitted by this article to contract with a third party not employed by the municipality to do the work, it must seek competitive bids for the work in conformity with any procurement code applicable to the town.
(Ord. No. 01-2020, § 2(2.5), 5-7-2020)

Sec. 14-88. Precedence.

Provisions in other town ordinances, resolutions, policies or bylaws in conflict with this division are hereby repealed.
(Ord. No. 01-2020, § 2(3.1), 5-7-2020)

Sec. 14-89. Limitation of liability.

It is the purpose of this division to protect the health, safety, sanitation and or economic preservation of properties and general welfare of the people of the town. It is not the intent or purpose of this section to protect any specific individuals or groups of individuals or class of persons within or without the town. To this end, neither the town, its officers, officials, agent or employees shall be liable in any way whatsoever to anyone as a result of any acts, errors or omissions that may occur because of the enforcement or failure to enforce any of the terms in this division.
(Ord. No. 01-2020, § 2(3.3), 5-7-2020)

Secs. 14-90—14-106. Reserved.**ARTICLE IV. ABANDONED AND DERELICT VEHICLES*****Sec. 14-107. Findings.**

There exist within the town certain areas where the accumulation and storage of abandoned or derelict motor vehicles is hereby found to create an undue and unnecessary traffic hazard when on public streets and an unsightly and unwarranted condition when on private property, tending to reduce the value of private property, to invite plundering, to create fire hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. Such accumulation and storage of vehicles is, further, found to promote urban blight and deterioration in the community, and such abandoned or derelict motor vehicles are in the nature of rubbish, litter, and unsightly debris and in violation of health and sanitation laws.
(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

Sec. 14-108. Declaration of public nuisance.

The abandonment, accumulation or storage of such vehicles on public streets or on private property is hereby declared to constitute a public nuisance, which remedy shall be cumulative and in addition to any other remedy provided by law.
(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

*State law reference—Abandoned vehicles, S.C. Code 1976, § 56-5-5620 et seq.

Sec. 14-109. Exemptions.

(a) The provisions of this article shall not apply to junkyards operated by duly licensed dealers, whose operations are regulated by other provisions of law.

(b) The provisions of this article shall not apply to vehicles which bear a current antique vehicle license as issued by the state department of highways and public transportation and when such vehicle remains in a roadworthy and operable condition.

(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

Sec. 14-110. Parking or storage on public street or private property prohibited.

No person shall park, store or leave, or permit the parking, storage or leaving of, any abandoned or derelict vehicle or any vehicle which is in a rusted, wrecked, junked, partially dismantled or inoperative condition upon any public street within the town for a period in excess of 48 hours, or on any private property within the town for a period in excess of seven calendar days. Not more than one derelict vehicle may be allowed, however, on any occupied one- and two-family private property, provided it is located in the rear yard as defined by zoning regulations, or is housed or protected from the elements and is, along with the area within ten feet circumferential of such vehicle, maintained free of unsafe, unsanitary or unsightly conditions. If such vehicle is not completely enclosed within a structure, it shall be covered by a material specifically designed as a vehicle cover. The cover must be properly maintained free of defects, must cover the entire vehicle and must be properly secured to prevent removal by wind or other elements. No derelict or abandoned vehicles may be stored or placed for any length of time on nonresidential properties unless derelict or abandoned vehicles are considered customarily accessory to the use of such property. In addition, no derelict or abandoned vehicles may be stored or placed for any length of time on any vacant lots of land. Property zoned as a manufactured home park or a multifamily district. Enforcement of the provisions of this article may be suspended for a period not exceeding 30 calendar days upon issuance by the code enforcement officer of a permit authorizing offering of a vehicle for sale, where such vehicle is operable but does not bear a current license tag.

(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

Sec. 14-111. Notice, removal and disposal of vehicles.

Whenever it shall appear that a violation of the provisions of this article exists in reference to any vehicle situated upon any public street or on private property, the code enforcement officer shall cause a colored tag to be placed on the motor vehicle which shall be notice to the owner, the person in possession of the motor vehicle or any lienholder that it is considered to be derelict or abandoned and is subject to forfeiture to the town. The colored tag shall serve as the only legal notice that if the vehicle is not removed within 48 hours from the date and time of the tag when located upon any public street and within seven calendar days from the date and time of the tag when located on private property, unless appealed, it shall become the property of the town, and it will be removed to a designated place to be sold. It shall be unlawful for any person to tamper with, remove or destroy any colored tag placed on any vehicle pursuant to the provisions of this article.

- (1) Upon the expiration of the appropriate time period as outlined above, the code enforcement officer shall cause the vehicle to be towed pursuant to the established towing procedure of the town police department.

- (2) The towing and storage operator shall follow S.C. Code 1976, § 56-5-5635, as may be amended from time to time, regarding the identification and notification of the registered owner and any lienholders, charging any towing and storage costs, and allowing the removal of personal property
- (3) If the towed vehicle has not been reclaimed in the manner provided for in S.C. Code 1976, § 56-5-5635, the towing and storage operator shall follow S.C. Code 1976, § 56-5-5640, as may be amended from time to time, regarding the sale of the unclaimed vehicle and the disposition of proceeds.

(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

Sec. 14-112. Duties of code enforcement officer; regulations.

The code enforcement officer is vested with the power and is charged with duties of administering the provisions of this article. The town may adopt such rules and regulations as may be necessary to carry out the provisions of this article. Following notice, the code enforcement officer shall dispose of abandoned or derelict vehicles by sealed bid, competitive negotiation or contract with private enterprises to purchase for recycling with the objective of obtaining the highest possible return to the town.

(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

Sec. 14-113. Entry upon private property for removal or abatement authorized.

The code enforcement officer and his inspectors are hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this article. It shall be unlawful for any person to interfere with, hinder or refuse to allow any public official to enter upon private property for the purpose of enforcing the provisions of this article.

(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

Sec. 14-114. Failure to remove; misdemeanor.

Any person who fails, neglects or refuses to remove the abandoned, wrecked, junked, partially dismantled or inoperative motor vehicle, or to house such vehicle and abate such nuisance in accordance with the notice given pursuant to the provisions of this article, shall be guilty of a misdemeanor.

(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

Sec. 14-115. Penalty.

Any person violating the provisions of this article shall be punished by a fine and shall pay all costs of vehicle removal, storage and disposal to the extent such costs have not been recovered by the town at the time of conviction, or imprisonment, or both as provided by law. Each day of violation shall constitute a separate offense.

(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

Sec. 14-116. Appeals.

(a) *Who may appeal.* Any vehicle owner aggrieved by the code enforcement officer's enforcement of this article has the right to appeal to the municipal court within five calendar days of the date the vehicle has been determined derelict or abandoned under this article by filing an appeal application with the

municipal court. The appeal application shall clearly state the relief being sought and the reasons such relief is warranted. A fee established and from time to time modified by action of the town council shall be paid by the applicant prior to the processing of an appeal.

(b) *Hearing on appeals.* The municipal court shall fix a time for the hearing of the appeal and provide notice to the parties in interest.

(c) *Order of municipal court.* In exercising their above powers. The municipal court may, in conformity with the provisions of this article, reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination and shall have all the powers of the officer from whom the appeal is taken.

(d) *Appeal from municipal court.* A person who may have a substantial interest in the decision of the municipal court or an officer or agent of the appropriate governing authority may appeal from a decision of the municipal court to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 calendar days after the decision of the municipal court is mailed.
(Ord. No. 09-2015, 8-12-2015; Ord. No. 17-2020, § 1, 12-9-2020)

Chapter 15

RESERVED

Chapter 16

FIRE PROTECTION*

- Sec. 16-1. Fire department created.
- Sec. 16-2. Duties and functions.
- Sec. 16-3. Interfering with firefighters.
- Sec. 16-4. False fire alarm.
- Sec. 16-5. Tampering with fire equipment.
- Sec. 16-6. Unauthorized riding on fire apparatus.
- Sec. 16-7. Right-of-way for fire apparatus.
- Sec. 16-8. Driving over fire hose.
- Sec. 16-9. Firemen's insurance fund.

***State law references**—Fire departments, S.C. Code 1976, § 5-25-20; fire chiefs and inspectors, S.C. Code 1976, § 5-25-110 et seq.; local permits for fireworks displays, S.C. Code 1976, § 23-35-60; local government may regulate explosive materials as or more strictly than the state, S.C. Code 1976, § 23-36-150.

Sec. 16-1. Fire department created.

(a) There is hereby created and established a fire department for the town which shall consist of a fire chief and such other paid and volunteer members as may be determined necessary by council.

(b) The fire chief shall be appointed by the mayor. The fire chief shall be the head of the department and shall have supervision over all members thereof.

(Code 2011, § 2-2-1)

Sec. 16-2. Duties and functions.

(a) It shall be the duty and function of the fire department and every member thereof to extinguish accidental or destructive fires and to prevent the occurrence or spread of such fires.

(b) The fire chief shall be responsible for the direction of all firefighting, fire prevention and fire service activities. The fire chief shall direct the assignment of fire personnel, establish training programs, and subject to approval of council shall promulgate administrative regulations governing the operation of the fire department.

(Code 2011, § 2-2-2)

Sec. 16-3. Interfering with firefighters.

It shall be unlawful to hinder or obstruct any firefighter while such firefighter is answering a fire call or any other emergency call, or to hinder or obstruct a firefighter who is attempting to extinguish a fire or remedy any emergency.

(Code 2011, § 2-2-3)

Sec. 16-4. False fire alarm.

It shall be unlawful for any person to make, report, turn in or in any manner communicate a false fire alarm.

(Code 2011, § 2-2-4)

Sec. 16-5. Tampering with fire equipment.

It shall be unlawful for any person to tamper with any vehicle, firefighting apparatus, supplies, facilities or any other equipment belonging to the town.

(Code 2011, § 2-2-5)

Sec. 16-6. Unauthorized riding on fire apparatus.

No person, except officers and employees of the fire department, shall be allowed to ride on the engines or apparatus of the fire department, unless specifically authorized by the fire chief.

(Code 2011, § 2-2-6)

Sec. 16-7. Right-of-way for fire apparatus.

The town fire engines or apparatus shall at all times have the right-of-way over all other traffic on the streets and ways of the town. Upon the sounding of the siren on the fire apparatus giving warning of its

approach, all automobiles and other traffic traveling on the streets shall immediately pull over to the curb and come to a stop and those automobiles or other vehicles shall proceed only after the apparatus has passed.

(Code 2011, § 2-2-7; Ord. of 10-14-1947)

Sec. 16-8. Driving over fire hose.

It shall be unlawful for any person to drive any automobile or other vehicle over any fire hose that may be laid for firefighting or for other purposes.

(Code 2011, § 2-2-8; Ord. of 10-14-1947)

State law reference—Similar state law, S.C. Code 1976, § 56-5-3850.

Sec. 16-9. Firemen's insurance fund.

(a) The town accepts the benefits of the state statutes in reference to the creation of a fund by foreign fire insurance companies doing business in the state, for the creation, maintenance, support and encouragement of fire departments.

(b) A board of trustees, to be known as the trustees of the firemen's insurance and inspection fund of the town, is hereby created and shall be composed of three members, who are hereby designated as the mayor, the chairperson of the fire committee of the council, and the chief of the fire department. The trustees shall serve without compensation, and the town clerk-treasurer shall act as treasurer of the board and be custodian of all its funds.

(Code 2011, § 2-2-9)

State law reference—Firemen's insurance fund, S.C. Code 1976, title 38, chapter 57.

Chapter 17

RESERVED

Chapter 18

FLOOD PROTECTION

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ESTILL CODE

Article V. Legal Status Provisions

- Sec. 18-136. Effect on rights and liabilities under the existing flood damage prevention ordinance.
- Sec. 18-137. Effect upon outstanding building permits.

ARTICLE I. IN GENERAL**Sec. 18-1. Purpose.**

It is the purpose of this chapter to protect human life and health, minimize property damage, and encourage appropriate construction practices to minimize public and private losses due to flood conditions by requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction. Uses of the floodplain which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion are restricted or prohibited. These provisions attempt to control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters, and control filling, grading, dredging and other development which may increase flood damage or erosion. Additionally, this chapter prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 01-2012, intro. ¶, 2-1-2012)

Sec. 18-2. Objectives.

(a) The objectives of this chapter are to protect human life and health, to help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood blight areas, and to ensure that potential home buyers are notified that property is in a flood area. The provisions of this chapter are intended to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets and bridges located in the floodplain, and prolonged business interruptions. Also, an important floodplain management objective of this chapter is to minimize expenditure of public money for costly flood control projects and rescue and relief efforts associated with flooding.

(b) Floodplains are an important asset to the community. They perform vital natural functions such as temporary storage of floodwaters, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities, and aesthetic quality. These functions are best served if floodplains are kept in their natural state. Wherever possible, the natural characteristics of floodplains and their associated wetlands and water bodies should be preserved and enhanced. Decisions to alter floodplains, especially floodways and stream channels, should be the result of careful planning processes that evaluate resource conditions and human needs.

(Ord. No. 01-2012, intro., 2-1-2012)

Sec. 18-3. Findings of fact.

(a) The special flood hazard areas of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) Furthermore, these flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(Ord. No. 01-2012, intro., 2-1-2012)

Sec. 18-4. Statutory authorization.

The legislature of the state has in S.C. Code 1976, title 5, chapters 7, 23, and 25 (articles 5 and 7) and title 6, chapter 7, and amendments thereto, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(Ord. No. 01-2012, intro., 2-1-2012)

Sec. 18-5. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the town as identified by the Federal Emergency Management Agency in its flood insurance study, dated September 29, 2010, with accompanying maps and other supporting data that are hereby adopted by reference and declared to be a part of this chapter. Upon annexation any special flood hazard areas identified by the Federal Emergency Management Agency in its flood insurance study for the unincorporated areas of the county, with accompanying map and other data are adopted by reference and declared part of this chapter.

(Ord. No. 01-2012, art. I, § A, 2-1-2012)

Sec. 18-6. Establishment of development permit.

A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

(Ord. No. 01-2012, art. I, § B, 2-1-2012)

Sec. 18-7. Compliance.

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. No. 01-2012, art. I, § C, 2-1-2012)

Sec. 18-8. Interpretation.

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the town council, and deemed neither to limit nor repeal any other powers granted under state law. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 01-2012, art. I, § D, 2-1-2012)

Sec. 18-9. Partial invalidity and severability.

If any part of this chapter is declared invalid, the remainder of this chapter shall not be affected and shall remain in force.

(Ord. No. 01-2012, art. I, § E, 2-1-2012)

Sec. 18-10. Warning and disclaimer of liability.

The degree of flood protection required by this chapter, is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. No. 01-2012, art. I, § F, 2-1-2012)

Sec. 18-11. Penalties for violation.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 01-2012, art. I, §§ G, H, 2-1-2012)

Sec. 18-12. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure (appurtenant structure) means structures that are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, shall not be used for human habitation, and shall be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds pole barns, and hay sheds.

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction regardless as to whether the addition is a substantial improvement or not. Where a firewall or load-bearing wall is provided between the addition and the existing building, the additions shall be considered a separate building and must comply with the standards for new construction.

Agricultural structure means a structure sed solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Agricultural structures are not exempt from the provisions of this chapter.

Appeal means a request for a review of the local floodplain administrator's interpretation of any provision of this chapter.

Area of shallow flooding means a designated AO or VO zone on a community's flood insurance rate map (FIRM) with base flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of being equaled or exceeded in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any enclosed area of a building that is below grade on all sides.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to velocity wave action from storms or seismic sources.

Critical development means a development that is critical to the community's public health and safety, is essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, fire stations, nursing homes, wastewater treatment facilities, water plants, and gas/oil/propane storage facilities.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls parallel to the flow of water.

Executive Order 11988 (Floodplain Management). Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

Existing construction means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM, or before July 17, 1986, for FIRMs effective before that date.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before May 7, 2003.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation of runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as zone A.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Flood-resistant material means any building material capable of withstanding direct and prolonged contact (minimum 72 hours with floodwaters without sustaining damage that requires more than low-cost cosmetic repair). Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood resistant. Please refer to Technical Bulletin 2, Flood-Resistant Materials Requirements, dated August 2008, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. The term "freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior (DOI)) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places;
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior, or directly by the Secretary of Interior in states without approved programs.

Some structures or districts listed on the state or local inventories may not be historic, as cited above, but have been included on the inventories because it was believed that the structures or districts have the potential for meeting the historic structure criteria of the DOI. In order for these structures to meet NFIP historic structure criteria, it must be demonstrated and evidenced that the state department of archives and history has individually determined that the structure or district meets DOI historic structure criteria.

Increased cost of compliance (ICC). The term "increased cost of compliance" applies to all new and renewed flood insurance policies effective on and after June 1, 1997. The NFIP shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under Section 1361 of the National Flood Insurance Act of 1968. It provides coverage for the payment of a claim to help pay for the cost to comply with state or community floodplain management laws or ordinances after a flood event in which a building has been declared substantially or repetitively damaged.

Limited storage means an area used for storage and intended to be limited to incidental items that can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant or breakaway material, void of utilities except for essential lighting and cannot be temperature controlled. If the area is located below the base flood elevation in an A, AE and A1-A30 zone, it must meet the requirements of section 18-68(4). If the area is located below the base flood elevation in a V, VE and V1-V30 zone, it must meet the requirements pertaining to coastal high hazard areas in this chapter.

Lowest adjacent grade (LAG) means an elevation of the lowest ground surface that touches any deck support, exterior walls of a building or proposed building walls.

Lowest floor means the lowest floor of the lowest enclosed area. Any unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of applicable non-elevation design requirements.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means for the purpose of this chapter, the Nations Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which the base flood elevations shown on a community's flood insurance rate maps (FIRM) are shown.

National Geodetic Vertical Datum (NGVD) of 1929 means, as corrected in 1929, the elevation reference points set by National Geodetic Survey based on mean sea level.

New construction means a structure for which the start of construction commenced on or after May 7, 2003. The term also includes any subsequent improvements to such structure.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after May 7, 2003.

North American Vertical Datum (NAVD) of 1988 means the vertical control, as corrected in 1988, used as the reference datum on flood insurance rate maps.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and subject to erosion and overtopping from high tides and waves during coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Repetitive loss means a building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

Section 1316 of the National Flood Insurance Act of 1968 means the act that provides that no new flood insurance shall be provided for any property found by the Federal Emergency Management Agency to have been declared by a state or local authority to be in violation of state or local ordinances.

Stable natural vegetation means the first place on the oceanfront where plants such as sea oats hold sand in place.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other man-made facility or infrastructure that is principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Such repairs may be undertaken successively, and their costs counted cumulatively. Please refer to the definition of *Substantial improvement*.

Substantial improvement means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

- (1) Any project of improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions (does not include Americans with Disabilities Act compliance standards); or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Permits shall be cumulative for a period of five years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur.

Substantially improved existing manufactured home park or subdivision means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

Variance means a grant of relief from a term or terms of this chapter.

Violation means the failure of a structure or other development to be fully compliant with these regulations.

(Ord. No. 01-2012, art. II, § A, 2-1-2012)

Secs. 18-13—18-42. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 18-43. Designation of local floodplain administrator.

The county building official is hereby appointed to administer and implement the provisions of this article.

(Ord. No. 01-2012, art. III, § A, 2-1-2012)

Sec. 18-44. Adoption of letter of map revisions (LOMR).

All LOMRs that are issued in the areas identified in section 18-5 are adopted.

(Ord. No. 01-2012, art. III, § B, 2-1-2012)

Sec. 18-45. Development permit and certification requirements.

(a) *Development permit.* Application for a development permit shall be made to the local floodplain administrator on forms furnished by him prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

- (1) *Plot plan requirements for floodplain/floodway determinations.* A plot plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either the duties and responsibilities of the local floodplain administrators of section 18-46(a) or the standards for subdivision proposals of section 18-69(12) and the standards for streams without estimated base flood elevations and/or floodways of section 18-70. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified

pursuant to either the duties or responsibilities of the local floodplain administrators of section 18-46(a) or the standards for subdivision proposals of section 18-69(12) and the standards for streams without estimated base flood elevations and/or floodways of 18-70.

- (2) *Requirements where base flood elevation data is provided.* Where base flood elevation data is provided as set forth in section 18-5 or the duties and responsibilities of the local floodplain administrators of section 18-46(a), the application for a development permit within the flood hazard area shall show:
 - a. The elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures, and
 - b. If the structure will be floodproofed in accordance with the nonresidential construction requirements of section 18-69(2) the elevation (in relation to mean sea level) to which the structure will be floodproofed.
 - (3) *Where base flood elevation data is not provided.* If no base flood elevation data is provided as set forth in section 18-5 or the duties and responsibilities of the local floodplain administrators of section 18-47(a)(11), then the provisions in the standards for streams without estimated base flood elevations and/or floodways of section 18-70 must be met.
 - (4) *Alteration of watercourse.* Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.
- (b) *Certification.*
- (1) *Floodproofing certification.* When a structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the nonresidential, floodproofed structure meets the floodproofing criteria in the nonresidential construction requirements of section 18-72(2)b.
 - (2) *Certification during construction.* A lowest floor elevation or floodproofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local floodplain administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. Any work done prior to submission of the certification shall be at the permit holder's risk. The local floodplain administrator shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

- (3) *V-zone certification.* When a structure is located in zone V, VE, or V1-30, certification shall be provided from a registered professional engineer or architect, separate from submitted plans, that new construction or substantial improvement meets the criteria for the coastal high hazard areas outlined in this chapter.
 - (4) *As-built certification.* Upon completion of the development a registered professional engineer, land surveyor or architect, in accordance with state law, shall certify according to the requirements of subsections (b)(1) through (3) of this section that the development is built in accordance with the submitted plans and previous pre-development certifications.
- (Ord. No. 01-2012, art. III, § C, 2-1-2012)

Sec. 18-46. Local floodplain administrator.

(a) Duties and responsibilities of the local floodplain administrator shall include, but not be limited to:

- (1) *Permit review.* Review all development permits to ensure that the requirements of this article have been satisfied.
- (2) *Requirement of Federal and/or state permits.* Review proposed development to ensure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or law, including Section 404 of the Federal Clean Water Pollution Control Act Amendments of 1972, 33 USC 1344.
- (3) *Watercourse alterations.*
 - a. Notify adjacent communities and the state department of natural resources, land, water and conservation division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - b. In addition to the notifications required watercourse alterations per subsection (3)a of this section, written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.
 - c. If the proposed project will impact the configuration of the watercourse, floodway, or base flood elevation for which a detailed flood insurance study has been developed, the applicant shall apply for and must receive approval for a conditional letter of map revision with the Federal Emergency Management Agency prior to the start of actual construction.
 - d. Within 60 days of completion of an alteration of a watercourse referenced in the certification requirements of section 18-45(b)(4), the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.

- (4) *Floodway encroachments.* Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of section 18-69(5) are met.
- (5) *Adjoining floodplains.* Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
- (6) *Notifying adjacent communities.* Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood-related erosion hazards.
- (7) *Certification requirements.*
 - a. Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in section 18-45(b)(2) or the coastal high hazard area requirements outlined in this chapter.
 - b. Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with the floodproofing certification outlined in section 18-45(b)(2).
 - c. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the nonresidential construction requirements outlined in section 18-69(2).
 - d. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in the coastal high hazard area requirements outlined in this chapter.
- (8) *Map interpretation.* Make the necessary interpretation where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (9) *Prevailing authority.* Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in section 18-69(7)b.
- (10) *Use of best available data.* When base flood elevation data or floodway data has not been provided in accordance with section 18-5, obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to the standards for subdivision proposals outlined in section 18-69(12), in order to administer the provisions of this section. Data from preliminary, draft, and final flood insurance studies constitutes best available data from a federal, state, or

other source. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR ch. 1, parts 67.5 and 67.6, the data does not have to be used.

- (11) *Special flood hazard areal/topographic boundaries conflict.* When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site the property owner may apply and be approved for a letter of map amendment (LOMA) by FEMA. The local floodplain administrator in the permit file will maintain a copy of the letter of map amendment issued from FEMA.
 - (12) *On-site inspections.* Make on-site inspections of projects in accordance with the administrative procedures outlined in section 18-47(d).
 - (13) *Administrative notices.* Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in section 18-47.
 - (14) *Records maintenance.* Maintain all records pertaining to the administration of this section and make these records available for public inspection.
 - (15) *Annexations and detachments.* Notify the state department of natural resources land, water and conservation division, within six months of any annexations or detachments that include special flood hazard areas. The community must incorporate applicable maps from surrounding jurisdictions into this section within 90 days of date of the annexation.
 - (16) *Federally funded development.* The president issued Executive Order 11988, Floodplain Management, May 1977. E.O. 11988 directs federal agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments must go through an eight-step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.
 - (17) *Substantial damage determination.* Perform an assessment of damage from any origin to the structure using FEMA's residential substantial damage estimator (RSDE) software to determine if the damage equals or exceeds 50 percent of the market value of the structure before the damage occurred.
 - (18) *Substantial improvement determinations.* Perform an assessment of permit applications for improvements or repairs to be made to a building or structure equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five years. If the improvement project is conducted in phases the total of all cost associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur.
- (b) The market values shall be determined by one of the following methods:
- (1) The current assessed building value as determined by the county's assessor's office or the value of an appraisal performed by a licensed appraiser at the expense of the owner within the past six months.

- (2) One or more certified appraisals from a registered professional licensed appraiser in accordance with the state laws. The appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, less the cost of site improvements and depreciation for functionality and obsolescence.
- (3) Real estate purchase contract within six months prior to the date of the application for a permit. (Ord. No. 01-2012, art. III, § D, 2-1-2012)

Sec. 18-47. Administrative procedures.

(a) *Inspections of work in progress.* As the work pursuant to a permit progresses, the local floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(b) *Stop-work orders.* Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this section, the administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(c) *Revocation of permits.* The local floodplain administrator may revoke and require the return of the development permit by notifying the permit holder in writing, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(d) *Periodic inspections.* The local floodplain administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(e) *Violations to be corrected.* When the local floodplain administrator finds violations of applicable state and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law on the property he owns.

(f) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the administrator shall give him written notice, by certified or registered mail to his last known address or by personal service, that:

- (1) The building or property is in violation of the flood damage prevention ordinance;

- (2) A hearing will be held before the local floodplain administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- (3) Following the hearing, the local floodplain administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(g) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of the flood damage prevention ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the administrator may prescribe, provided that where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(h) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the local elected town council by giving notice of appeal in writing to the administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The local town council shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(i) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the town council following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

(j) *Denial of flood insurance under the NFIP.* If a structure is declared in violation of this section and the violation is not remedied then the local floodplain administrator shall notify the Federal Emergency Management Agency to initiate a Section 1316 of the National Flood insurance Act of 1968 action against the structure upon the finding that the violator refuses to bring the violation into compliance with this section. Once a violation has been remedied the local floodplain administrator shall notify FEMA of the remedy and ask that the Section 1316 be rescinded.

(k) *Guidance documents.* The following documents are incorporated by reference and may be used by the local floodplain administrator to provide further guidance and interpretation of this section as found on FEMA's website at www.fema.gov:

- (1) FEMA 55, Coastal Construction Manual.
 - (2) All FEMA technical bulletins.
 - (3) All FEMA floodplain management bulletins.
 - (4) FEMA 348, Protecting Building Utilities from Flood Damage.
 - (5) FEMA 499, Home Builder's Guide to Coastal Construction Technical Fact Sheets.
- (Ord. No. 01-2012, art. III, § E, 2-1-2012)

Secs. 18-48—18-67. Reserved.

ARTICLE III. FLOOD HAZARD REDUCTION**Sec. 18-68. General standards.**

Development may not occur in the special flood hazard area (SFHA) where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the SFHA and that encroachments onto the SFHA are minimized. In all areas of special flood hazard, the following provisions are required:

- (1) *Anchoring.* All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) *Flood resistant materials and equipment.* All new construction and substantial improvements shall be constructed with flood resistant materials and utility equipment resistant to flood damage in accordance with Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, dated August 2008, and available from the Federal Emergency Management Agency.
- (3) *Minimize flood damage.* All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) *Critical development.* Shall be elevated to the 500-year flood elevation or be elevated to the highest known historical flood elevation (where records are available), whichever is greater. If no data exists establishing the 500-year flood elevation or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates 500-year flood elevation data.
- (5) *Utilities.* Electrical, ventilation, plumbing, heating and air conditioning equipment (including ductwork), and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of the base flood plus one foot.
- (6) *Water supply systems.* All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (7) *Sanitary sewage systems.* New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) *Gas or liquid storage tanks.* All gas or liquid storage tanks, either located above ground or buried, shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (9) *Alteration, repair, reconstruction, or improvements.* Any alteration, repair, reconstruction, or improvement to a structure that is in compliance with the provisions of this section, shall meet the requirements of "new construction" as contained in this section. This includes post-FIRM development and structures.
- (10) *Nonconforming buildings or uses.* Nonconforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance

with the provisions of this section; provided, however, nothing in this section shall prevent the repair, reconstruction, or replacement of an existing building or structure located totally or partially within the floodway, provided that the bulk of the building or structure below base flood elevation in the floodway is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this section.

- (11) *American with Disabilities Act (ADA)*. A building must meet the specific standards for floodplain construction outlined in section 18-69, as well as any applicable ADA requirements. The ADA is not justification for issuing a variance or otherwise waiving these requirements. Also, the cost of improvements required to meet the ADA provisions shall be included in the costs of the improvements for calculating substantial improvement.
- (Ord. No. 01-2012, art. IV, § A, 2-1-2012)

Sec. 18-69. Specific standards.

In all areas of special flood hazard (zones A, AE, AH, AO, A1-30, V, and VE) where base flood elevation data has been provided, as set forth in section 18-5 or outlined in the duties and responsibilities of the local floodplain administrator in section 18-47, the following provisions are required:

- (1) *Residential construction*. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor elevated no lower than three feet above the base flood elevation. No basements are permitted. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the elevated buildings requirements in subsection (4) of this section.
- (2) *Nonresidential construction*.
 - a. New construction and substantial improvement of any commercial, industrial, or nonresidential structure (including manufactured homes) shall have the lowest floor elevated no lower than three feet above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the elevated buildings requirements in subsection (4) of this section. No basements are permitted. Structures located in A zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
 - b. A registered, professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in the floodproofing certification requirements in section 18-45(b)(2). A variance may be considered for wet-floodproofing agricultural structures in accordance with the criteria outlined in section 18-71. Agricultural structures not meeting the criteria of section 18-71 must meet the nonresidential construction standards and all other applicable provisions of

this chapter. Structures that are floodproofed are required to have an approved maintenance plan with an annual exercise. The local floodplain administrator must approve the maintenance plan and notification of the annual exercise shall be provided to it.

(3) *Manufactured homes.*

- a. Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than three feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- b. Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions for residential construction in subsection (1) of this section must be elevated so that the lowest floor of the manufactured home is elevated no lower three feet than above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
- c. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with S.C. Code 1976, § 40-29-10 (the state manufactured housing board regulations), as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis at least 36 inches or less above the grade at the sight, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height an engineering certification is required.
- d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within floodprone areas. This plan shall be filed with and approved by the local floodplain administrator and the local emergency preparedness coordinator.

(4) *Elevated buildings.* New construction and substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

- a. *Minimum criteria.* Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 1. Designs must provide a minimum of two openings on different walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

2. The bottom of each opening must be no more than one foot above the higher of the interior or exterior grade immediately under the opening.
 3. Only the portions of openings that are below the base flood elevation (BFE) can be counted towards the required net open area.
 4. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 5. Fill placed around foundation walls must be graded so that the grade inside the enclosed area is equal to or higher than the adjacent grade outside the building on at least one side of the building.
- b. *Hazardous velocities.* Hydrodynamic pressure must be considered in the design of any foundation system where velocity waters or the potential for debris flow exists. If flood velocities are excessive (greater than five feet per second), foundation systems other than solid foundations walls should be considered so that obstructions to damaging flood flows are minimized.
- c. *Enclosures below lowest floor.*
1. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 2. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose a single storage area and must be void of utilities except for essential lighting as required, and cannot be temperature controlled.
 3. One wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in the specific standards outlined in subsections (1), (2) and (3) of this section.
 4. All construction materials below the required lowest floor elevation specified in the specific standards outlined in subsections (1), (2) and (3) of this section should be of flood resistant materials.
- (5) *Floodways.* Located within areas of special flood hazard established in section 18-5 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:
- a. No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted unless:
 1. It has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the local floodplain administrator.

2. A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision must be obtained upon completion of the proposed development.
 - b. If subsection (5)a of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.
 - c. No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of subsection (c) of this section and the encroachment standards of subsection (5)a of this section are met.
 - d. Permissible uses within floodways may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also, lawns, gardens, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. Substantial development of a permissible use may require a no-impact certification. The uses listed in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations or changes to the floodway configuration.
- (6) *Recreational vehicles.*
- a. A recreational vehicle is ready for highway use if it is:
 1. On wheels or jacking system;
 2. Attached to the site only by quick-disconnect type utilities and security devices; and
 3. Has no permanently attached additions.
 - b. Recreational vehicles placed on sites shall either be:
 1. On site for fewer than 180 consecutive days; and
 2. Be fully licensed and ready for highway use, or meet the development permit and certification requirements of section 18-45, general standards outlined in section 18-68, and manufactured homes standards in subsections (3) and (4) of this section.
- (7) *Map maintenance activities.* The National Flood Insurance Program requires flood data to be reviewed and approved by FEMA. This ensures that flood maps, studies and other data identified in section 18-5 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:
- a. *Requirement to submit new technical data.*
 1. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be

submitted to FEMA as soon as practicable, but no later than six months of the date such information becomes available. These development proposals include, but are not limited to:

- (i) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - (ii) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - (iii) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 - (iv) Subdivision or large-scale development proposals requiring the establishment of base flood elevations in accordance with section 18-70(1).
2. It is the responsibility of the applicant to have technical data, required in accordance with subsection (7)a.1 of this section, prepared in a format required for a conditional letter of map revision or letter of map revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall also be the responsibility of the applicant.
3. The local floodplain administrator shall require a conditional letter of map revision prior to the issuance of a floodplain development permit for:
 - (i) Proposed floodway encroachments that increase the base flood elevation; and
 - (ii) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
4. Floodplain development permits issued by the local floodplain administrator shall be conditioned upon the applicant obtaining a letter of map revision from FEMA for any development proposal subject to subsection (7)a.3 of this section.
- b. *Right to submit new technical data.* The floodplain administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the local jurisdiction and may be submitted at any time.

(8) *Accessory structures.*

- a. A detached accessory structure or garage, the cost of which is greater than \$3,000.00, must comply with the requirements as outlined in FEMA's Technical Bulletin 7-93 Wet Floodproofing Requirements or be elevated in accordance with subsection (8)b.1 of this section.
- b. When accessory structures of \$3,000.00 or less are to be placed in the floodplain, the following additional criteria shall be met:
 1. Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
 2. Accessory structures shall be designed to have low flood damage potential;

3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 4. Accessory structures shall be firmly anchored to prevent flotation, collapse or lateral movement of the structure
 5. Service facilities such as electrical and heating equipment shall be installed in accordance with section 18-68(5);
 6. Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with subsection (4)a of this section; and
 7. Accessory structures shall be built with flood resistance materials in accordance with Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, dated August 2008, and available from the Federal Emergency Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.
- (9) *Swimming pool utility equipment rooms.* If the building cannot be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:
- a. Meet the requirements for accessory structures in subsection (8) of this section.
 - b. The utilities must be anchored to prevent flotation and shall be designed to prevent water from entering or accumulating within the components during conditions of the base flood.
- (10) *Elevators.*
- a. Install a float switch system or another system that provides the same level of safety is necessary for all elevators where there is a potential for the elevator cab to descend below the BFE during a flood per FEMA's Technical Bulletin 4-93, Elevator Installation for Buildings Located in Special Flood Hazard Areas.
 - b. All equipment that may have to be installed below the BFE such as counterweight roller guides, compensation cable and pulleys, and oil buffers for traction elevators and the jack assembly for a hydraulic elevator must be constructed using flood-resistant materials where possible per FEMA's Technical Bulletin 4-93, Elevator Installation for Buildings Located in Special Flood Hazard Areas.
- (11) *Fill.* An applicant shall demonstrate that fill is the only alternative to raising the building to meet the residential and nonresidential construction requirements of subsections (1) and (2) of this section, and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. The following provisions shall apply to all fill placed in the special flood hazard area:
- a. Fill may not be placed in the floodway unless it is in accordance with the requirements in subsection (5)a of this section.
 - b. Fill may not be placed in tidal or non-tidal wetlands without the required state and federal permits.

- c. Fill must consist of soil and rock materials only. A registered professional geotechnical engineer may use dredged material as fill only upon certification of suitability. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain.
- d. Fill used to support structures must comply with ASTM Std. D-698, and its suitability to support structures certified by a registered, professional engineer.
- e. Fill slopes shall be no greater than two horizontals to one vertical. Flatter slopes may be required where velocities may result in erosion.
- f. The use of fill shall not increase flooding or cause drainage problems on neighboring properties.
- g. Fill may not be used for structural support in the coastal high hazard areas.
- h. Will meet the requirements of FEMA Technical Bulletin 10-01, Ensuring That Structures Built On Fill In or Near Special Flood Hazard Areas Are Reasonable Safe From Flooding.

(12) *Standards for subdivision proposals and other development.*

- a. All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- b. All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- c. All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage.
- d. The applicant shall meet the requirement to submit technical data to FEMA in subsection (7) of this section when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

(Ord. No. 01-2012, art. IV, § B, 2-1-2012)

Sec. 18-70. Standards for streams without established base flood elevations and floodways.

Located within the areas of special flood hazard (zones A and V) established in section 18-5 are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

- (1) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or five acres, whichever is less.
- (2) No encroachments, including fill, new construction, substantial improvements and new development shall be permitted within 100 feet of the stream bank unless certification with support-

ing technical data by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (3) If subsection (1) of this section is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of this article and shall be elevated or floodproofed in accordance with elevations established in accordance with section 18-47(11).
- (4) Data from preliminary, draft, and final flood insurance studies constitutes best available data. Refer to FEMA Floodplain Management Technical Bulletin 1-98, Use of Flood Insurance Study (FIS) Data as Available Data. If an appeal is pending on the study in accordance with 44 CFR ch. 1, part 67.5 and 67.6, the data does not have to be used.
- (5) When base flood elevation (BFE) data is not available from a federal, state, or other source one of the following methods may be used to determine a BFE. For further information regarding the methods for determining BFEs listed below refer to FEMA's manual, Managing Floodplain Development in Approximate zone A Areas.
 - a. *Contour interpolation.*
 1. Superimpose approximate zone A boundaries onto a topographic map and estimate a BFE.
 2. Add one-half of the contour interval of the topographic map that is used to the BFE.
 - b. *Data extrapolation.* A BFE can be determined if a site within 500 feet upstream of a reach of a stream reach for which a 100-year profile has been computed by detailed methods, and the floodplain and channel bottom slope characteristics are relatively similar to the downstream reaches. No hydraulic structures shall be present.
 - c. *Hydrologic and hydraulic calculations.* Perform hydrologic and hydraulic calculations to determine BFEs using FEMA approved methods and software.

(Ord. No. 01-2012, art. IV, § C, 2-1-2012)

Sec. 18-71. Standards for streams with established base flood elevations but without floodways.

Along rivers and streams where base flood elevation (BFE) data is provided but neither floodway is identified for a special flood hazard area on the FIRM or in the FIS, the following provisions apply within such areas: No encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. 01-2012, art. IV, § D, 2-1-2012)

Sec. 18-72. Standards for areas of shallow flooding (AO zones).

Located within the areas of special flood hazard established in section 18-5 are areas designated as shallow flooding. The following provisions shall apply within such areas:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three feet above the highest adjacent grade.
- (2) All new construction and substantial improvements of nonresidential structures shall:
 - a. Have the lowest floor elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three feet above the highest adjacent grade; or
 - b. Be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in section 18-45.
- (3) All structures on slopes must have drainage paths around them to guide water away from the structures.

(Ord. No. 01-2012, art. IV, § E, 2-1-2012)

Secs. 18-73—18-102. Reserved.**ARTICLE IV. VARIANCE PROCEDURES****Sec. 18-103. Establishment of appeal board.**

The board of adjustments and appeals as established by the county shall hear and decide requests for variances from the requirements of this article.

(Ord. No. 01-2012, art. V, § A, 2-1-2012)

Sec. 18-104. Right to appeal.

Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the court.

(Ord. No. 01-2012, art. V, § B, 2-1-2012)

Sec. 18-105. Historic structures.

Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(Ord. No. 01-2012, art. V, § C, 2-1-2012)

Sec. 18-106. Functionally dependent uses.

Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section are met, no reasonable alternative exist, and the development is protected by methods that minimize flood damage and create no additional threat to public safety. (Ord. No. 01-2012, art. V, § D, 2-1-2012)

Sec. 18-107. Agricultural structures.

Variances may be issued to wet floodproof an agricultural structure provided it is solely for agricultural purposes. In order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of section 18-111 and the following standards:

- (1) Use of the structure must be limited to agricultural purposes as listed below:
 - a. Pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment;
 - b. Steel grain bins and steel frame corncribs;
 - c. General-purpose barns for the temporary feeding of livestock that are open on at least one side;
 - d. For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures that were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of section 18-69(2).
- (2) The agricultural structure must be built or rebuilt, in the case of an existing building that is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation.
- (3) The agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement. All of the structure's components must be capable of resisting specific flood-related forces, including hydrostatic, buoyancy, hydrodynamic, and debris impact forces. Where flood velocities exceed five feet per second, fast-flowing floodwaters can exert considerable pressure on the building's enclosure walls or foundation walls.
- (4) The agricultural structure must meet the venting requirement of section 18-69(4).
- (5) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation (BFE) so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with section 18-68(5).
- (6) The agricultural structure must comply with the floodway encroachment provisions of section 18-69(5).
- (7) Major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed areas within the building, the use of equipment hoists for

readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risk to lives and that the contents will be located to a specified site out of the floodplain.

(Ord. No. 01-2012, art. V, § E, 2-1-2012)

Sec. 18-108. Considerations.

In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (8) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (9) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and
- (10) Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the special flood hazard area and no other alternative locations for the structure are available.

(Ord. No. 01-2012, art. V, § F, 2-1-2012)

Sec. 18-109. Findings.

Findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance. Additionally, comments from the department of natural resources, land, water and conservation division, state coordinator's office, must be taken into account and included in the permit file.

(Ord. No. 01-2012, art. V, § G, 2-1-2012)

Sec. 18-110. Floodways.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to ensure the project is built in compliance with the CLOMR for which the variance is granted, the applicant must provide a bond for 100 percent of the cost to perform the development.

(Ord. No. 01-2012, art. V, § H, 2-1-2012)

Sec. 18-111. Conditions.

Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article. The following conditions shall apply to all variances:

- (1) Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
- (2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (3) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.
- (5) The local floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (6) Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this article. Violations must be corrected in accordance with section 18-47(e) of this article.

(Ord. No. 01-2012, art. V, § I, 2-1-2012)

Secs. 18-112—18-135. Reserved.**ARTICLE V. LEGAL STATUS PROVISIONS****Sec. 18-136. Effect on rights and liabilities under the existing flood damage prevention ordinance.**

This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted May 7, 2003, as amended, and it is the intention to repeal than rather to

re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the town enacted on May 7, 2003, are repealed.

(Ord. No. 01-2012, art. VI, § A, 2-1-2012)

Sec. 18-137. Effect upon outstanding building permits.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the chief building inspector or his authorized agents before the time of passage of this article; provided, however, that when construction is not begun under such outstanding permit within a period of 60 days subsequent to passage of this article, construction or use shall be in conformity with the provisions of this article.

(Ord. No. 01-2012, art. VI, § B, 2-1-2012)

Chapter 19

RESERVED

Chapter 20

HUMAN RELATIONS

Article I. In General

Secs. 20-1—20-18. Reserved.

Article II. Fair Housing

Sec. 20-19.	Short title.
Sec. 20-20.	Policy.
Sec. 20-21.	Definitions.
Sec. 20-22.	Purposes; construction and effect.
Sec. 20-23.	Unlawful housing practices.
Sec. 20-24.	Blockbusting.
Sec. 20-25.	Exemptions from housing provisions.
Sec. 20-26.	Complaints.
Sec. 20-27.	State fair housing law.
Sec. 20-28.	Conspiracy to violate this article unlawful.

ARTICLE I. IN GENERAL

Secs. 20-1—20-18. Reserved.

ARTICLE II. FAIR HOUSING*

Sec. 20-19. Short title.

This article shall be known as the "Fair Housing Ordinance."
(Ord. No. 2021-02, § 1(10-01), 3-10-2021)

Sec. 20-20. Policy.

It is the policy of the town that no person shall be discriminated against in the sale or rental of housing on the basis of race, color, religion, sex, age, national origin, familial status or handicap.
(Ord. No. 2021-02, § 1(10-02), 3-10-2021)

Sec. 20-21. Definitions.

The definitions of terms in 42 USC 3602, and successor provisions, shall apply to the use of those terms in this article, mutatis mutandis. Except where the context clearly indicates otherwise, the following terms as used in this article shall have the following meanings:

Discrimination means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differential or preference in the treatment of a person or persons because of race, color, religion, national origin, age, sex, familial status, or handicap, or the aiding, abetting, inciting, coercing or compelling thereof.

Housing accommodations means a building, structure, lot or part thereof which is used or occupied as a home or residence of one or more individuals.

Real estate broker or *real estate salesman* mean an individual who, on behalf of others, for a fee, commission, salary or other valuable consideration, or who with the intention or expectation of receiving or collecting such consideration, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds themselves out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting whereby he undertakes to promote the sale, purchase, exchange, rental or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these.

Real estate operator means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trust, incorporated organizations, trustees in bankruptcy, receivers or other legal

***State law reference**—The South Carolina Fair Housing Law, S.C. Code 1976, § 31-21-10 et seq.

or commercial entity, the town or county or any of its agencies, or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereof, including options, or that derived income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

Real property means buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, mobile homes, and hereditaments, or any interest in such buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, mobile homes, and hereditaments. (Ord. No. 2021-02, § 1(10-03), 3-10-2021)

Sec. 20-22. Purposes; construction and effect.

(a) The general purposes of this article are to:

- (1) Provide for execution within the town of the applicable policies embodied in Title VIII of the Federal Civil Rights Act of 1968, as amended (Fair Housing Act);
- (2) Safeguard individuals within the town from discrimination in housing opportunities because of race, color, religion, age, national origin, sex, familial status, or handicap;
- (3) Protect their interest in personal dignity and freedom from humiliation;
- (4) Preserve the public health and general welfare; and
- (5) Further the interests, rights, and privileges of individuals within the town.

(b) Nothing contained in this article shall be deemed to repeal any other ordinance of the town relating to discrimination because of race, color, religion, age, national origin, sex, familial status, or handicap.

(Ord. No. 2021-02, § 1(10-04), 3-10-2021)

Sec. 20-23. Unlawful housing practices.

It is an unlawful practice for a real estate owner or operator or for a real estate broker, real estate salesman, or any individual employed by or acting on behalf of any of such persons to:

- (1) Refuse to sell, exchange, rent or lease or otherwise deny to or withhold real property from an individual because of his race, color, age, religion, national origin, sex, familial status, or handicap;
- (2) Discriminate against an individual because of his race, color, age, religion, national origin, sex, familial status, or handicap, in terms, conditions, or privileges of the sale, exchange, rental or lease of real property or in the furnishings of facilities or services in connection therewith;
- (3) Refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property from an individual because of his race, color, age, religion, national origin, sex, familial status, or handicap;
- (4) Refuse to negotiate for the sale, rental, or lease of real property to an individual because of his race, color, religion, national origin, sex, familial status, or handicap;

- (5) Represent to an individual that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his race, color, religion, age, national origin, sex, familial status, or handicap;
 - (6) Print, circulate, post or mail, or cause to be printed, circulated, posted or mailed, an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, race, national origin, sex, familial status, or handicap, or an intent to make such a limitation, specification or discrimination;
 - (7) Offer, solicit, accept, use or retain a listing of real property for sale, rental, or lease with the understanding that an individual may be discriminated against in the sale, rental, or lease of that real property or in connection therewith because of race, color, age, religion, national origin, sex, familial status, or handicap; or
 - (8) Otherwise deny to or withhold real property from an individual because of race, color, religion, age, national origin, sex, familial status, or handicap.
- (Ord. No. 2021-02, § 1(10-05), 3-10-2021)

Sec. 20-24. Blockbusting.

It is an unlawful practice for a real estate owner or operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which that person may benefit financially:

- (1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, age, national origin, sex, familial status, or handicap of the owners or occupants in the block, neighborhood, or areas in which the real property is located; or
 - (2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.
- (Ord. No. 2021-02, § 1(10-06), 3-10-2021)

Sec. 20-25. Exemptions from housing provisions.

Nothing in section 20-23 shall apply to:

- (1) The rental of housing accommodations in a building which contains housing accommodations for not more than four families living independently of each other, if the owner or family member of his family resides in one of the housing accommodations;
- (2) The sale of single-family dwellings provided that the owner is a private individual who does not own more than three such single-family houses, does not advertise the sale or rental of such houses in a newspaper, magazine, or advertising circular, and does not employ the services of a real estate operator, real estate broker, or real estate salesman;

- (3) The rental of one room or one-room units in a housing accommodation by an individual if the owner or a member of the owner's family resides therein; or
- (4) A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or giving preference to such persons, unless membership in such a religion is restricted on account of race, color, age, national origin, sex, familial status, or handicap.

(Ord. No. 2021-02, § 1(10-07), 3-10-2021)

Sec. 20-26. Complaints.

All complaints of violations of this article shall be made, referred, and reported to the state human affairs commission for the purpose of the commission receiving, reviewing, and resolving the complaint pursuant to the powers granted it by the laws of this state. All such complaints also shall be reported to the town manager for informational purposes.

(Ord. No. 2021-02, § 1(10-08), 3-10-2021)

Sec. 20-27. State fair housing law.

This article shall not establish or be construed to establish any requirements or prohibitions different or greater than those in the South Carolina Fair Housing Law, S.C. Code 1976, § 31-21-10 et seq. In the event of any conflict between the provisions of this article and those of the South Carolina Fair Housing Law, the latter provisions shall control.

(Ord. No. 2021-02, § 1(10-09), 3-10-2021)

Sec. 20-28. Conspiracy to violate this article unlawful.

It shall be an unlawful practice for a person, or for two or more persons to conspire:

- (1) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this article, or because he has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, or proceedings, or hearings under this article;
- (2) To aid, abet, incite, compel or coerce a person to engage in any of the acts or practices declared unlawful by this article;
- (3) To obstruct or prevent a person from complying with the provisions of this article or any order issued thereunder; or
- (4) To resist, prevent, impede, or interfere with the enforcing agent or officials, housing board of appeal, or any of its members or representatives in the lawful performance of duty under this article.

(Ord. No. 2021-02, § 1(10-10), 3-10-2021)

Chapter 21

RESERVED

Chapter 22

LAW ENFORCEMENT*

- Sec. 22-1. Police department created.
- Sec. 22-2. Residency requirement for chief.
- Sec. 22-3. Powers, duties, and functions.
- Sec. 22-4. Police dogs.

***State law references**—Municipal power to provide law enforcement, S.C. Code 1976, § 5-7-30; appointment of police officers, S.C. Code 1976, § 5-7-110; appointment of reserve police officers, S.C. Code 1976, § 23-28-20.

Sec. 22-1. Police department created.

(a) There is hereby created and established a police department for the town which shall consist of a chief of police and such other officers and employees as may be provided for by council.

(b) The chief of police shall be the head of the department and shall have supervision over all officers and employees thereof.

(Code 2011, § 2-1-1)

Sec. 22-2. Residency requirement for chief.

(a) The town chief of police shall be required to live within the limits of the county by establishing and maintaining his primary residence within the boundaries of the county within 30 days of his employment starting date. In the event the police chief is unable to relocate within 30 days, he may present the reasons therefor to the town council, who may grant an extension for relocation in appropriate circumstances.

(b) The police chief's establishment of a primary residence in the county does not establish a contractual relationship between the town and the police chief and the relationship between the parties remains at-will.

(c) A police chief who fails to meet the residence requirement established herein shall be subject to disciplinary action up to and including termination.

(d) The above requirements shall not apply to a law enforcement officer serving temporarily in the role of acting police chief or interim police chief.

(Ord. No. 01-2016, §§ A—D, 2-10-2016)

Sec. 22-3. Powers, duties, and functions.

(a) All sworn police officers of the town shall be invested with all the powers and subject to all the duties conferred by law upon constables.

(b) In addition to any other duties and functions prescribed by ordinance, the police department shall:

- (1) Provide protection for persons and property against unlawful acts;
- (2) Provide police patrol services, in all areas of the town;
- (3) Investigate crimes;
- (4) Apprehend, arrest and assist in the prosecution of perpetrators of crimes; and
- (5) Maintain an active crime prevention and control program.

(Code 2011, § 2-1-2)

Sec. 22-4. Police dogs.

(a) The chief of police and members of the police force are hereby authorized to use dogs, commonly known as police dogs, to assist them in enforcement of law and the ordinances of the town.

(b) It shall be unlawful for any person to interfere with the dogs while they are being used in the investigation and enforcement of the ordinances of the town, and such interference shall be deemed the same as if such person interfered with an authorized officer in the discharge of his duties.

(c) It shall be unlawful for any person to interfere or hinder any police officer in his use of the dogs in the enforcement of the ordinances or in his investigation of crimes.

(Code 2011, § 2-1-3; Ord. of 12-14-1963)

State law references—Interference with police officers during arrest, S.C. Code 1976, § 16-5-50; purchase of bloodhounds by counties, S.C. Code 1976, § 23-1-100.

Chapter 23

RESERVED

Chapter 24

MANUFACTURED HOUSING

Article I. In General

- Sec. 24-1. Definitions.
- Secs. 24-2—24-19. Reserved.

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- Sec. 24-20. Purpose.
- Sec. 24-21. Mobile homes allowed in the town.
- Sec. 24-22. Registration and licensing of mobile homes.
- Sec. 24-23. Proof of license required prior to connecting electricity.
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- Sec. 24-25. Moving permit; certificate concerning taxes, notice to electric supplier.
- Sec. 24-26. Submission of moving permit to building official of new jurisdiction; issuance of new permit; transmission of paper to new jurisdiction.
- Sec. 24-27. Exceptions.
- Sec. 24-28. Copies of applications and permits submitted to the county assessor.
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Article III. Mobile Home Regulations

- Sec. 24-47. Zoning.
- Sec. 24-48. Habitability.
- Sec. 24-49. Compliance required.
- Sec. 24-50. Mobile home setup.
- Sec. 24-51. Enforcement.
- Sec. 24-52. Checklist.
- Sec. 24-53. Remodeling and repairs.
- Sec. 24-54. Mobile home park owners.
- Sec. 24-55. Derelict mobile homes.
- Sec. 24-56. Penalties.
- Sec. 24-57. Provisions of other ordinances that conflict with the article.

ARTICLE I. IN GENERAL**Sec. 24-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building official means the town building inspector/code enforcement officer.

DHEC means the South Carolina Department of Health and Environmental Control.

Manufactured home, residentially designed, means a single-family dwelling built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code.

Mobile home, as defined in S.C. Code 1976, § 6-1-150(A)(5), means a structure, not including a modular home, designed for temporary or permanent habitation and constructed to permit its transport on wheels, temporarily or permanently attached to its chassis, from its place of construction or sale to a location where it is intended to be a housing unit.

Move means to transport or change of place that requires the intentional disconnection of any utilities of a mobile home to relocate, excluding natural disasters.

Property owner means the owner of real property on which a mobile home is located.
(Ord. No. 10-2009, 10-7-2009)

Secs. 24-2—24-19. Reserved.**ARTICLE II. MANUFACTURED HOUSING****Sec. 24-20. Purpose.**

The town finds that the public safety, health and welfare of the citizens necessitates that manufactured homes be regulated and that the current regulations are inadequate to afford the safety, and safeguard the health and welfare of the public and the residents of manufactured homes that is desired.
(Ord. No. 10-2009, 10-7-2009)

Sec. 24-21. Mobile homes allowed in the town.

(a) *Mobile homes not existing in the town.* A mobile home not already located within the town which was manufactured prior to January 1, 15 years prior to the date of the application for relocation, shall not be moved into the town. Any mobile home that is determined to have been moved into the town illegally shall be considered "derelict" for the purposes of this chapter.

(b) *Mobile homes currently existing in the town.* Mobile homes already existing within the town shall be permitted, established, or moved within the jurisdiction of this chapter only when the following requirements are met:

- (1) The mobile home must be currently set up and registered with the building official, have any taxes from the previous year and the current year paid and must also pay any permit fees currently due prior to approval of requests to relocate, or if no relocation is required, before a power permit is issued.
- (2) If not previously registered with the town, an applicant must provide acceptable proof to the building official that the mobile home has been continuously located within the town for the past five years based on tax assessor records or other official records.
- (3) The mobile home must meet all applicable federal, state, zoning, habitability, and setup requirements included in this chapter and/or by other applicable ordinance.

(c) *Additional mobile homes allowed in the town.* An owner of real property located within the town may place a mobile home on that same property that was manufactured prior to 15 years from the date of the application if that person previously owned a mobile home which was located on the property which was older than the mobile home included in the application.

(d) *Habitability and setup requirements.* The mobile home must meet all applicable federal, state, zoning, habitability and setup requirements included in this article and/or by other applicable ordinances.

(Ord. No. 10-2009, 10-7-2009; Ord. No. 05-2014, §§ 1, 2, 5-19-2014)

Sec. 24-22. Registration and licensing of mobile homes.

(a) Within 15 calendar days, after locating a mobile home in the town, or the purchase of a mobile home in the county for dwelling purposes, or the movement of a mobile home from one site to another within the town, the owner, rental agent, or person in possession of such mobile home shall obtain a mobile home license from the building official. If the mobile home is to be relocated in the town from another jurisdiction, the mobile home owner or agent must submit the moving permit from such jurisdiction to the building official.

(b) To obtain a mobile home license, the mobile homeowner, rental agent, or person in possession must submit to the building official the following:

- (1) The sale contract, notarized bill of sale, or other title document evidencing ownership.
- (2) The lien holder's name and address, if any.
- (3) A copy of the moving permit (if the mobile home or manufactured home has been moved from one site to another).
- (4) A copy of DHEC certificate confirming that a septic tank has been install and approved for locations without wastewater services or documentation showing connection to town wastewater service.
- (5) The names of the owner and person to be in possession, if other than the owner.

- (6) The year, make, model, size and complete serial number of the mobile home or manufactured home.
 - (7) The name, tax map number and mailing address of the owner of the land where the mobile home or manufactured home will be located.
 - (8) Proof that all taxes have been paid on the mobile home and on any mobile home traded for the subject mobile home.
 - (9) Payment of a registration fee and late fee, if applicable.
- (Ord. No. 10-2009, 10-7-2009)

Sec. 24-23. Proof of license required prior to connecting electricity.

A mobile home license issued by the building official shall be valid until title to such mobile home is transferred to a new owner or until the mobile home is relocated. The license shall be evidenced by a decal to be delivered to the owner or his agent on such form as shall be prescribed by the state department of revenue and shall be displayed on the mobile home so as to clearly and readily visible from the outside. If a mobile home decal which has been on display is lost or destroyed, said mobile homeowner or his agent shall be required to purchase a replacement decal.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-24. New license required upon transfer of mobile home.

If the title to a mobile home is transferred to a new owner, the new owner or his agent shall within 15 calendar days after the date of such transfer obtain a new license from the building official.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-25. Moving permit; certificate concerning taxes, notice to electric supplier.

(a) If a mobile home is to be relocated, the owner shall, prior to relocation, obtain a moving permit from the building official. Before issuing a moving permit, the building official shall require a certificate from the county treasurer that there are no unpaid taxes due on the mobile home. If the mobile home is to be moved beyond the boundaries of the town, any taxes that have been assessed for the calendar year shall be paid in full, and if taxes have not yet been assessed for the calendar year in which the move is being made, the assessor shall provide the county auditor with an assessment and the auditor shall apply the previous year's millage. The county treasurer shall collect such taxes before issuing the requisite certificate to the building official.

(b) The building official shall promptly notify the present electric supplier that a permit has been issued. The permit required by this section shall not be required of mobile home dealers when they are moving a mobile home from their sales lot to a customer's lot, provided that the mobile home dealer shall not be relieved from obtaining a permit required from the department of transportation for such relocation.

(c) The moving permit shall accompany the mobile home while it is in transit. The moving permit shall be designed and displayed in accordance with regulations to be issued by the state department of revenue, which shall adopt such regulations as may be necessary to ensure uniform licensing and moving

permit procedures. It shall be the responsibility of the mobile home transporter that the required moving permit is properly displayed and accompanies the mobile home while it is be transported. It shall be a violation of this article for any mobile home dealer or transporter of a mobile home to move a mobile home, unless the owner or agent of such mobile home has obtained the moving permit as required by this article.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-26. Submission of moving permit to building official of new jurisdiction; issuance of new permit; transmission of paper to new jurisdiction.

If the relocation is from one jurisdiction to another, the mobile homeowner shall within 15 calendar days after his mobile home is relocated, submit the moving permit to the building official of the jurisdiction wherein such mobile home is relocated and obtain a new license. The building official issuing the moving permit shall promptly furnish the building official of the jurisdiction to which the mobile home is being transported with a copy of the license application or permit.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-27. Exceptions.

Exceptions to this article shall include the following:

- (1) A mobile home or manufactured home temporarily located within the town for the express pre-determined purpose of conveyance outside the town within ten calendar days after arrival.
- (2) A mobile home or manufactured home held for display or exhibition purposes by a mobile home dealer licensed by the state as such.
- (3) A mobile home or manufactured home passing through the town on a public street, road, or highway for conveyance elsewhere.
- (4) Temporary registration may be obtained for mobile homes moved and stored for evictions, repossessions and other court orders. Proof of court order or affidavit of repossession required.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-28. Copies of applications and permits submitted to the county assessor.

A copy of all license applications and moving permits shall be furnished to the county assessor within ten calendar days of date of issuance.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-29. Mobile home fees.

All fees, as established from time to time, are to be collected by the building official and shall be paid into the general fund of the town.

(Ord. No. 10-2009, 10-7-2009)

Secs. 24-30—24-46. Reserved.

ARTICLE III. MOBILE HOME REGULATIONS**Sec. 24-47. Zoning.**

Mobile homes which are established after the effective date of the ordinance from which this article is derived shall meet the requirements of all zoning ordinances of the town except the following provision for mobile homes also applies.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-48. Habitability.

(a) No mobile home or manufactured home shall be permitted, used or occupied, nor shall public utilities be extended to or activated in any such home unless and until the home has been inspected and found to be habitable by the building official.

(b) The term "habitable," as used in this section, means that there is no defect, damage, or deterioration to the home which creates a dangerous or unsafe situation or condition; that the plumbing, heating, and electrical systems are in safe working order; that the walls, floor, and roof are free from any holes, breaks, loose or rotting boards and are structurally sound; and that all exterior doors and windows are in place and free from breaks. Further, the term "habitable" includes the provisions of the following facilities:

- (1) *Sanitary facilities.* Every mobile home or manufactured home shall contain not less than a kitchen sink, lavatory, tub or shower, and a toilet with all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and free from defects, leaks, and obstructions.
- (2) *Hot and cold water supply.* Every mobile home or manufactured home shall have connected to the plumbing a kitchen sink, lavatory, and tub or shower with separate cold and hot running water. All water shall be supplied through an approved system connected to a potable water supply.
- (3) *Heating facilities.* Every mobile home or manufactured home shall have heating facilities which are properly installed and maintained in a safe and good working condition, and are capable of safely and adequately heating all habitable rooms and bathrooms. Where a central heating system is not provided, each mobile home or manufactured home shall be provided with alternative system, approved by the building official.
- (4) *Cooking and heating equipment.* All cooking and heating equipment and facilities shall be installed in accordance with the Federal Manufactured Home Construction and Safety Standards.
- (5) *Smoke detector.* Every mobile home and manufactured home shall be provided with an approved listed smoke detector, installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-49. Compliance required.

(a) Where upon inspection by the building official, a mobile home or manufactured home is found not meeting the minimum requirements of habitability described herein, said building official shall take appropriate action to require the owner to make the necessary improvements to render the unit habitable; or block the use and placement of said unit by denying electricity to the unit and/or requiring the removal of said unit at the owner's expense.

(b) Failure to secure inspection and approval prior to occupying such unit shall be a violation of this article.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-50. Mobile home setup.

(a) Manufactured housing must meet or exceed the following criteria:

- (1) Be installed in accordance with the manufacturer's installation manual. In the absence of such a manual, the home must be installed in accordance with the requirements of section 19-425.39 of the South Carolina Manufactured Housing Board Regulations. The following conditions must also apply:
 - a. In either instance, the mobile home must be set up by a currently licensed installer or contractor licensed by the state manufactured housing board. A photocopy of the current license of the installer or contractor, issued by the state manufactured housing board, must be provided before the home can be occupied. The copy must be signed and currently dated by the installer or contractor.
 - b. If a retail dealer is installing the home, a current photocopy of the retail dealer's license, issued by the state manufactured housing board, must be provided before the home can be occupied.
- (2) Have skirting or a curtain wall around the entire home with brick or masonry or similar materials designed and manufactured for permanent outdoor installation.
- (3) Have installed or constructed and attached firmly to the home and anchored securely to the ground, permanent landing steps with handrails at each exterior doorway, in accordance with applicable building codes.
- (4) Have all moving or towing apparatus removed or concealed, including hitch, wheels, and axles.
- (5) Be provided with sanitary sewer system approved by DHEC. Evidenced of such approval shall accompany each and every permit request to install a manufactured home.
- (6) Be served by a separate electric meter. It shall be unlawful for any such home to receive electricity except by use of a separate meter. Any existing home not in compliance with this subsection upon the effective date of the ordinance from which this article is derived shall be served by a separate meter within 90 calendar days of the effective date, or be declared by the building official to be in violation of this article. It shall be unlawful for any public utility or electrical supplier to connect power to any manufactured home in the absence of an approved permit issued by the building official.

(b) Additionally, no mobile home or manufactured home shall be used or occupied unless and until the home has been installed in accordance with the regulations and inspected for compliance by the building official.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-51. Enforcement.

The responsibility for the enforcement of this article is assigned to the building official. At the discretion of the town administrator, additional personnel may be assigned to assist with the enforcement of this article.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-52. Checklist.

The town administrator, or his designee, may develop a detailed checklist containing all elements of this article and any other previously adopted laws or relevant ordinance.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-53. Remodeling and repairs.

All work performed on single- and two-family residences, including mobile homes, is required to meet the International Residential Code as adopted by the state.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-54. Mobile home park owners.

Each mobile home park owner, as defined by state law, shall, on or before January 1 of each year, provide to the building official a map or plat showing the lots and the location of all mobile homes in his mobile home park and shall furnish the building official with a list of mobile home owners in his park. Such list shall show the full name of the owner and the year, make, and model of the mobile home owned by such owner.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-55. Derelict mobile homes.

(a) *Defined.* The term "derelict mobile home" means a mobile home that is:

- (1) Not connected to electricity or not connected to a source of safe potable water supply sufficient for normal residential needs, or both;
- (2) Not connected to a DHEC-approved wastewater disposal system or town sewer system; or
- (3) So damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a hazard to the health or safety of the occupants, the persons using the mobile home, or the public.

(b) *Removal.* The building official may seek to remove the home and either sell or destroy the home by applying to the magistrate and following the procedures in S.C. Code 1976, §§ 6-1-150 and 29-15-10. The property owner on which the derelict mobile home is located may also remove the home and either sell or destroy the home by applying to the magistrate and following the procedures in S.C. Code 1976, §§ 6-1-150 and 29-15-10.

(c) *Procedure for removal.*

- (1) If the property owner seeks to have a mobile home removed from his property and sold, the property owner may apply to the magistrate and follow the procedures in S.C. Code 1976, § 29-15-10. The property owner does not have to have the mobile home determined to be a derelict mobile home in order to have it removed from his property and sold following the procedures of the S.C. Code 1976, § 29-15-10.
- (2) If a property owner seeks to have a mobile home determined to be derelict so it may be removed from the property owner's land and destroyed, the property owner must:
 - a. Apply to the building official to have the mobile home inspected.
 - b. Receive written confirmation from the building official that the mobile home has been inspected and meets the requirements for removal and disposal as provided in this section;
 - c. File the required pleadings with the magistrate to seek to have the mobile home removed from the property and destroyed and follow the procedures in the S.C. Code 1976, § 29-15-10 to notify the owner of the mobile home and any lienholders that the building official has determined that the mobile home is a derelict mobile home and that the matter is the subject of a proceeding in the magistrate court; and
 - d. Post a notice on each door of the mobile home for 30 calendar days reading substantially as follow:

NOTICE

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

(Date of Notice)

- (3) If in a court proceeding with the proper notice, the magistrate determines that the mobile home is derelict, as provided in this section, and orders the derelict home to be removed and destroyed, the property owner must remove and dispose of the derelict mobile home and send proof of the removal and disposal to the county auditor.
- (4) If the building official determines that a derelict mobile home has value for which it may be sold, the building official may apply to the magistrate and follow the procedures in S.C. Code 1976, § 29-15-10 to notify the owner of the mobile home and any lien holders that the building official has determined the mobile home is a derelict mobile home and has filed the required pleadings with the magistrate to seek to have the mobile home removed from the property and sold.

- (5) If the building official seeks to remove and destroy a derelict mobile home, the building official must follow the procedures in the S.C. Code 1976, § 29-15-10 to notify the owner of the mobile home and any lienholders that the building official has determined the mobile home is a derelict mobile home and has filed the required pleadings with the magistrate to seek to have the mobile home removed from the property and destroyed.
- (6) In addition to the notice requirements in the magistrate court, in order to remove and sell or remove and destroy a derelict mobile home, a building official must post a notice on each door of the mobile home for 30 calendar days reading substantially as follows:

NOTICE

This mobile home is the subject of a proceeding in the magistrate court to determine if it will be removed from this property. For further information, please contact (name and telephone number of the local government office seeking removal) or (name and telephone number of magistrate court where action is pending).

(Date of Notice)

- (7) In a court proceeding with the proper notice, a magistrate must determine whether a derelict mobile home may be either removed and sold, or removed and destroyed. In order for the mobile home to be removed and destroyed, it must meet the requirements of a derelict mobile home as defined in this section.
 - (8) If the magistrate determines that the mobile home is derelict and is to be removed and sold, the building official must follow the procedures in S.C. Code 1976, § 29-15-10.
 - (9) If the magistrate determines that the mobile home is derelict and is to be removed and destroyed, the building official or the property owner must remove and dispose of the derelict mobile home and send proof of the removal and disposal to the county auditor as provided in S.C. Code 1976, § 2-49-85(D).
- (d) *Cost of removal and disposal.*
- (1) All costs of removal and disposal are the responsibility of the owner of the derelict mobile home, and may be waived only by order of the magistrate court if the town has a fund that covers removal and disposal costs.
 - (2) A lien holder of the derelict mobile home is not responsible for the costs of removal and disposal unless the lien holder or his agent affects a recovery of the mobile home under its lien and subsequently the lien holder or his agent knowingly abandons the mobile home on the property and allows the mobile home to become a derelict mobile home.
 - (3) If the property owner is the owner of the derelict mobile home and is unwilling or unable to pay the costs of removal and disposal, a lien for the costs of removal and disposal shall be placed on the property owner's real property where the derelict mobile was located and shall be collectable in the same manner and at the same time as municipal property taxes.

- (4) A registration fee of \$60.00 shall be paid when a manufactured home or mobile home is registered with the town. This fee is in addition to all other fees and charges relating to a manufactured home or mobile home and must be paid before electrical and water/sewer connection.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-56. Penalties.

(a) Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalties of a fine or forfeiture not exceeding \$500.00, or imprisonment not exceeding 30 days, or both allowable for such offense in magistrate's court.

(b) Additionally, any owner moving a mobile home into the town without a moving permit must pay a penalty fee of \$400.00 to the town before utility connections will be established.

- (c) (1) In addition to the penalties set forth in subsections (a) and (b) of this section, any mobile home that has been moved into the town in violation of this article shall be removed from the town within 15 calendar days after proper notice of the violation has been given to the owner and/or notice of the violation has been posted on the mobile home.

- (2) If the mobile home is not removed from the town within the 15 calendar days, the building official shall seek injunctive relief from the magistrate court to compel the owner to remove the mobile home at the owner's expense. If necessary, the town reserves the right to move the mobile home. All expenses incurred by the town in carrying out this provision of this article shall become a lien against the property on which the mobile home was situated.

(d) The town reserves the right to waive any penalties set forth by this section if the violations are satisfied to the satisfaction of the building official prior to any court hearing date after the issuance of a citation by the building official.

(Ord. No. 10-2009, 10-7-2009)

Sec. 24-57. Provisions of other ordinances that conflict with the article.

Provisions of this Code in conflict with this article are hereby repealed.

(Ord. No. 10-2009, 10-7-2009)

Chapter 25

RESERVED

Chapter 26

OFFENSES*

Article I. In General

- Sec. 26-1. Adoption of state criminal law.
- Sec. 26-2. Aiding and abetting.
- Sec. 26-3. Penalty.
- Sec. 26-4. Loitering and prowling.
- Sec. 26-5. Consumption of certain alcoholic beverages prohibited on town properties and roads.
- Secs. 26-6—26-28. Reserved.

Article II. Offenses Against Property

- Sec. 26-29. Sales from vehicles.
- Secs. 26-30—26-46. Reserved.

Article III. Offenses Against the Public Peace

- Sec. 26-47. Disorderly conduct.
- Sec. 26-48. Carrying concealed weapons.
- Sec. 26-49. Discharge of firearms.
- Sec. 26-50. Fireworks prohibited.
- Sec. 26-51. Public drunkenness.
- Secs. 26-52—26-113. Reserved.

Article IV. Smoke-Free Air

- Sec. 26-114. Title.
- Sec. 26-115. Findings and intent.
- Sec. 26-116. Definitions.
- Sec. 26-117. Application of article to town-owned facilities.
- Sec. 26-118. Prohibition of smoking—Enclosed public places.
- Sec. 26-119. Prohibition of smoking—Enclosed places of employment.
- Sec. 26-120. Prohibition of smoking—Private clubs.
- Sec. 26-121. Prohibition of smoking—Enclosed residential facilities.
- Sec. 26-122. Prohibition of smoking—Outdoor areas.
- Sec. 26-123. Where smoking not regulated.
- Sec. 26-124. Declaration of establishment as nonsmoking.
- Sec. 26-125. Posting of signs and removal of ashtrays.
- Sec. 26-126. Nonretaliation; nonwaiver of rights.
- Sec. 26-127. Enforcement.
- Sec. 26-128. Violations and penalties.
- Sec. 26-129. Public education.

***State law references**—Crimes and offenses, S.C. Code 1976, title 16; preemption of most firearms-related matters from scope of local government authority, S.C. Code 1976, § 23-31-510; local government may regulate careless discharge of firearm or public brandishing of firearms, S.C. Code 1976, § 23-31-520.

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- Sec. 26-130. Governmental agency cooperation.
- Sec. 26-131. Other applicable laws.
- Sec. 26-132. Liberal construction.
- Secs. 26-133—26-162. Reserved.

Article V. Juvenile Curfew

- Sec. 26-163. Purpose.
- Sec. 26-164. Curfew for minors established; exception.
- Sec. 26-165. Responsibility of parents.
- Sec. 26-166. Duties of police.
- Sec. 26-167. Penalties.
- Secs. 26-168—26-187. Reserved.

Article VI. Noise Regulation

- Sec. 26-188. Disturbing the public peace.
- Sec. 26-189. Enforcement factors.
- Sec. 26-190. Definitions.
- Sec. 26-191. Classification of use occupancies.
- Sec. 26-192. Detection location.
- Sec. 26-193. Data documentation.
- Sec. 26-194. Exceptions.
- Sec. 26-195. Enforcement.
- Sec. 26-196. Penalty.

ARTICLE I. IN GENERAL**Sec. 26-1. Adoption of state criminal law.**

All acts and conduct that constitute violations of the common law and the statutory law of the state as set forth in the S.C. Code 1976, as amended, are declared unlawful when such acts, conduct or violations occur insofar as such provisions and violations can have application to and the punishment of which is within the jurisdiction of the town.

Sec. 26-2. Aiding and abetting.

It shall be unlawful for any person to counsel, advise, incite, abet, procure, or aid any other person in the violation of any of the ordinances of the town. Such person shall be held and deemed a principal. (Code 2011, § 9-1-1)

Sec. 26-3. Penalty.

Whoever violates any provision of this chapter for which no penalty is otherwise provided, shall be punished as provided in section 1-9; provided, however, that the municipal judge may suspend sentences imposed by him upon such terms and conditions as he deems proper, including, without limitation, restitution or public service employment. (Code 2011, § 9-1-2)

Sec. 26-4. Loitering and prowling.

(a) *Loitering.* No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a police officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a police officer, and prior to any arrest for an offense under this subsection, shall afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of violating this subsection if the police officer did not comply with the preceding sentence or if it appears at trial that the explanation given was true and would have dispelled the alarm and disclosed the person's lawful purpose. The provisions of the two preceding sentences are applicable to this subsection and subsections (b) through (h) of this section.

(b) *Dwelling areas.* No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.

(c) *Public restrooms.* No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(d) *Schools and public grounds.* No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this subsection, the term "loiter" means to delay, to linger or to idle in or about any school or public place without a lawful purpose for being present.

(e) *Buildings.* No person shall loiter or lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.

(f) *Restaurants, taverns.* No person shall loiter in or about a restaurant, tavern or other building open to the public. As used in this subsection, the term "loiter" means to, without just cause, remain in a restaurant, tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.

(g) *Parking lots.* No person shall loiter in or upon any public parking lot, either on foot or in or upon any conveyance being driven or parked thereon, without the permission of the owner or person entitled to possession or in control thereof. As used in this subsection, the term "public parking lot" means five or more ground level parking spaces, or any portion thereof, upon which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

(h) *Private or public residential property.* No person shall loiter in or on private or public residential property in residential neighborhoods. As used in this subsection, the term "loiter" means to, without just cause, linger, remain in or on private or public residential property, or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof, or where "No Loitering" signs are posted.

(i) *Requirements of identification.* A person being asked for identification pursuant to this section shall provide the police officer with his name and address either verbally or by providing the officer with written evidence of the person's name and address, including, but not limited to, a driver's license or picture identification.

(j) *Penalty; continuing violations.* For any person convicted of any violation of this section, the court before whom an offender shall be tried may sentence him to pay a fine not exceeding the maximum fine permitted by law or serve a term not exceeding 30 days in jail, or both. Each day any violation of this chapter shall continue shall constitute a separate offense.

(k) *Court order on jurisdictional limits.* In addition to the penalty that may be imposed pursuant to subsection (j) of this section, any person who is arrested for and/or convicted of violating any provision of this section may be subject to an order of the court which shall impose a jurisdictional limit on said person prohibiting his presence in a specific geographic area of the town. Failure to comply with the court order shall constitute a violation of the court order and shall result in the following:

- (1) In the case of a bond where jurisdictional limits have been imposed, the bond may be revoked, and the person shall be incarcerated until trial; and/or
- (2) In the case of a sentence where jurisdictional limits have been imposed, the suspended sentence may be revoked, and the person shall be incarcerated until he has served the original sentence imposed by the court without any portion thereof suspended.

(Ord. No. 06-2020, § 1, 5-7-2020)

Sec. 26-5. Consumption of certain alcoholic beverages prohibited on town properties and roads.

No person shall at any time of day or night drink beer, wine, liquor or any beverage containing more than 3.0 percent alcohol upon the sidewalks, streets, highway or roads of the town or upon the grounds of any facility within the corporate limits of the town that is considered government property, including, but not limited to, parks, playgrounds, schools, and government office buildings.

(Ord. No. 06-2020, § 2, 5-7-2020)

Secs. 26-6—26-28. Reserved.**ARTICLE II. OFFENSES AGAINST PROPERTY****Sec. 26-29. Sales from vehicles.**

(a) It shall be unlawful for any person, firm or corporation, to sell, or offer for sale, any article of merchandise at retail from vehicles parked upon the public streets or highways of the town.

(b) No part of this section shall be construed as prohibiting the sale of goods from vacant lots.

(Code 2011, § 9-2-4; Ord. of 11-5-1934)

Secs. 26-30—26-46. Reserved.**ARTICLE III. OFFENSES AGAINST THE PUBLIC PEACE****Sec. 26-47. Disorderly conduct.**

Any person who shall do or engage in any of the following shall be guilty of disorderly conduct:

- (1) Any person who shall act in a violent or tumultuous manner toward another, whereby any person is placed in fear of safety of his life, limb or health;
- (2) Any person who shall act in a violent or tumultuous manner toward another, whereby property of any person is placed in danger of being destroyed or damaged;
- (3) Any person who shall endanger lawful pursuits of another by acts of violence, angry threats and abusive conduct;
- (4) Any person who shall cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
- (5) Any person who shall assemble or congregate with another or others for the purpose of causing, provoking or engaging in any fight or brawl;
- (6) Any person who shall be found jostling or roughly crowding or pushing any person in any public place;
- (7) Any person who shall collect in bodies or in crowds for unlawful purposes;
- (8) Any person who shall assemble or congregate with another or others, for the purpose of or with the intent to engage in gaming;

- (9) Any person who shall frequent any public place with intent to obtain money from another by an illegal and fraudulent scheme, trick, artifice or device;
 - (10) Any person who assembles with another or others for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the town, or who shall aid or abet therein;
 - (11) Any person who utters, while in a state of anger, in the presence of another, any lewd or obscene words or epithets;
 - (12) Any person who frequents any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated;
 - (13) Any person who shall act in a dangerous manner toward others;
 - (14) Any person who shall use "fighting words" directed towards any person who becomes outraged and thus create turmoil;
 - (15) Any person who shall assemble or congregate with another or other person for the purpose of doing bodily harm to another;
 - (16) Any person who shall, by acts of violence, interfere with another's pursuit of a lawful occupation;
 - (17) Any person who shall congregate with another or others in or on any public ways so as to halt the flow of vehicular or pedestrian traffic and refuses to clear any public way when ordered to.
- (Code 2011, § 9-3-1)

Sec. 26-48. Carrying concealed weapons.

It shall be unlawful for any person to carry a dirk, slingshot, metal knuckles, or other deadly weapon usually used for the infliction of personal injury, concealed about his person. Nothing in this section shall be construed to apply to persons carrying concealed weapons upon their own premises or to peace officers in the actual discharge of their duties as such.

(Code 2011, § 9-3-4)

State law reference—Similar state law, S.C. Code 1976, § 16-23-460.

Sec. 26-49. Discharge of firearms.

(a) It is unlawful for any person, without just cause or excuse, to discharge any gun, pistol or other firearm within the town limits.

(b) It is unlawful for any person to discharge any slingshot, BB gun, air gun, bow, sling or other like weapon or device for the propulsion of missiles within the town limits.

(c) For purposes of this article, the discharge of rifles, shotguns and other instruments allowed for use in hunting by the state department of natural resources on property owned by the town during hunting hours as may be allowed by S.C. Code 1976, § 50-11-355 and regulations attendant thereto promulgated by the state department of natural resources shall constitute just cause and/or excuse.

(Code 2011, § 9-3-5; Ord. No. 2020-10, § 1(9-3-5), 7-22-2020)

Sec. 26-50. Fireworks prohibited.

It shall be unlawful for any person to sell or offer for sale fireworks of any kind or description whatsoever within the limits of the town.

(Code 2011, § 9-3-6; Ord. of 7-26-1947)

Sec. 26-51. Public drunkenness.

It shall be unlawful for any person or persons to be or appear upon any public street, or at any public place or gathering, within the corporate limits of the town, in a grossly intoxicated condition.

(Code 2011, § 9-3-7)

State law reference—Similar state law, S.C. Code 1976, § 16-17-530.

Secs. 26-52—26-113. Reserved.**ARTICLE IV. SMOKE-FREE AIR****Sec. 26-114. Title.**

This article shall be known as the "Town of Estill Smoke-Free Air Ordinance."

(Ord. No. 01-2013, § 1, 4-3-2013)

Sec. 26-115. Findings and intent.

(a) The mayor and council do hereby find that:

- (1) The 2006 U.S. Surgeon General's Report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, has concluded that:
 - a. Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke;
 - b. Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children;
 - c. Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer;
 - d. There is no risk-free level of exposure to secondhand smoke;
 - e. Establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to second-hand smoke; and
 - f. Evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services (DHHS), "The Health Consequences of Involuntary Exposure to To-

tabacco Smoke: A Report of the Surgeon General." U.S. Department of Health and Human Services, Centers for Disease control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.)

- (2) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually. (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco control Monograph 10," Bethesda, MD: National Institutes of Health, NCI, August 1999.)
- (3) The public health service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), "Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens," U.S. DHHS Public Health Service, NTP, 2000; reaffirmed by the NTP in subsequent reports on carcinogens, 2003, 2005.)
- (4) Based on a finding by the California Environmental Protection Agency in 2005, the California Air Resources Board has determined that secondhand smoke is a toxic air contaminant, finding that exposure to secondhand smoke has serious health effects, including low birth-weight babies; SIDS; increased respiratory infections in children; asthma in children and adults; lung cancer, sinus cancer, and breast cancer in younger, premenopausal women; heart disease; and death. (California Air Resources Board (ARB), "Appendix II Findings of the Scientific Review Panel: Findings of the Scientific Review Panel on Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant as adopted at the Panel's June 24, 2005 Meeting," ARB, September 12, 2005.)
- (5) Scientific evidence has firmly established that there is no safe level of exposure to secondhand tobacco smoke, a pollutant that causes serious illness in adults and children. There is also indisputable evidence that implementing 100 percent smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to secondhand smoke. (World Health Organization (WHO), "Protection from exposure to secondhand smoke: policy recommendations," (WHO), 2007.)
- (6) A study of hospital admissions for acute myocardial infarction in Helena, Montana before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smoke-free workplaces and public places may be associated with a reduction in morbidity from heart disease. (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., "Reduced incidence of admissions for myocardial infarction associated with public smoking ban: before and after study," British Medical Journal 328: 977-980, April 24, 2004.) Similar studies have been conducted in numerous places, including Bowling Green, Ohio; Monroe County, Indiana; Pueblo, Colorado; New York State; France; Greece; Italy; and Scotland. All of these studies have reached the conclusion that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smoke-free laws. ([n.a.], "Bibliography of Secondhand Smoke Studies." American Nonsmokers' Rights

Foundation, February 26, 2008.) In reviewing 11 such studies, the Institute of Medicine of the National Academies concluded that data consistently demonstrate that secondhand smoke exposure increases the risk of coronary heart disease and heart attacks and that smoke-free laws reduce heart attacks. (Institute of Medicine (IOM) of the National Academies, Board on Population Health and Public Health Practice, Committee on Secondhand Smoke Exposure and Acute Coronary Events, "Secondhand smoke exposure and cardiovascular effects: making sense of the evidence," Washington, DC: National Academies Press, October 2009.)

- (7) A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25 to 50 percent higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chrysoshoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," Tobacco control 11(3): 220-225, September 2002.)
- (8) Studies measuring nicotine (metabolized nicotine) and NNAL (metabolized nitrosamine NNK, a tobacco-specific carcinogen linked to lung cancer) in hospitality workers find dramatic reductions in the levels of these biomarkers after a smoke-free law takes effect. Average nicotine levels of New York town restaurant and bar workers decreased by 85 percent after the town's smoke-free law went into effect. ([n.a.], "The State of Smoke-Free New York town: A One Year Review," New York town Department of Finance, New York town Department of Health and Mental Hygiene, New York town Department of Small Business Services, New York town Economic Development Corporation, March 2004). After the implementation of Ontario, Canada's Smoke-free Indoor Air Law, levels of NNAL were reduced by 52 percent in nonsmoking casino employees and nicotine levels fell by 98 percent. (Geoffrey T. Fong, et al., "The Impact of the Smoke-Free Ontario Act on Air Quality and Biomarkers of Exposure in Casinos: A Quasi-Experimental Study," Ontario Tobacco control Conference, Niagara Falls, Ontario, December 2, 2006.)
- (9) Following a health hazard evaluation of Las Vegas casino employees' secondhand smoke exposure in the workplace, which included indoor air quality tests and biomarker assessments, the National Institute of Occupational Safety and Health (NIOSH) concluded that the casino employees are exposed to dangerous levels of secondhand smoke at work and that their bodies absorb high levels of tobacco-specific chemicals NNK and nicotine during work shifts. NIOSH also concluded that the "best means of eliminating workplace exposure to secondhand smoke is to ban all smoking in the casinos." (Health hazard evaluation report: environmental and biological assessment of environmental tobacco smoke exposure among casino dealers, Las Vegas, NV. By Achutan C, West C, Mueller C, Boudreau Y, Mead K. Cincinnati, OH: U.S. Department of Health and Human Services, Centers for Disease control and Prevention, National Institute for Occupational Safety and Health, NIOSH HETA No. 2005-0076 and 2005-0201-3080, May 2009.)
- (10) Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with

obstructive airway disease. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke," Tobacco control 6(4): 346-353, Winter, 1997.) The Americans with Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," Nonsmokers' Voice 15(1): 8-9.)

- (11) The U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is nonlinear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?" British Medical Journal 328: 980-983, April 24, 2004.)
- (12) Given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smoke-free environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smoke-free in their entirety. (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE position document on environmental tobacco smoke," ASHRAE, 2005.)
- (13) During periods of active smoking, peak and average outdoor tobacco smoke (OTS) levels measured in outdoor cafes and restaurant and bar patios near smokers rival indoor tobacco smoke concentrations. (Klepeis, N.; Ott, W.R.; Switzer, P., "Real-time measurement of outdoor tobacco smoke ordinances," Journal of the Air and Waste Management Association 57: 522-534, 2007.) Nonsmokers who spend six-hour periods in outdoor smoking sections of bars and restaurants experience a significant increase in levels of nicotine when compared to the nicotine levels in a smoke-free outdoor area. (Hall, J.C.; Bernert, J.T.; Hall, D.B.; St Helen, G.; Kudon, L.H.; Naeher, L.P., "Assessment of exposure to secondhand smoke at outdoor bars and family restaurants in Athens, Georgia, using salivary nicotine," Journal of Occupational and Environmental Hygiene 6(11): 698-704, November 2009.)
- (14) Residual tobacco contamination, or thirdhand smoke, from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins. Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings. Gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds. (Singer, B.C.; Hodgson, A.T.; Nazaroff, W.W., "Effect of sorption on exposures to organic gases from environmental tobacco smoke (ETS)," Proceedings: Indoor Air 2002, 2002.) Tobacco residue is

noticeably present in dust throughout places where smoking has occurred. (Matt, G.E.; Quintana, P.J.E.; Hovell, M.F.; Bernert, J.T.; Song, S.; Novianti, N.; Juarez, T.; Floro, J.; Gehrman, C.; Garcia, M.; Larson, S., "Households contaminated by environmental tobacco smoke: sources of infant exposures," Tobacco control 13(1): 29-37, March 2004.) Given the rapid sorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, this recently identified process represents an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion. (Sleiman, M.; Gundel, L.A.; Pankow, J.F.; Jacob III, P.; Singer, B.C.; Destailats, H., "Formation of carcinogens indoors by surface-mediated reactions of nicotine with nitrous acid, leading to potential thirdhand smoke hazards," Proceedings of the National Academy of Sciences (Epub ahead of print), February 8, 2010.)

- (15) The Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity. (Behan, D.F.; Eriksen, M.P.; Lin, Y., "Economic Effects of Environmental Tobacco Smoke," Society of Actuaries, March 31, 2005.)
- (16) Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smoke-free. Creation of smoke-free workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. and Smith, L., "The effect of ordinances requiring smoke-free restaurants on restaurant sales in the United States." American Journal of Public Health, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco control Unit, Nova Scotia Department of Health," GPI Atlantic, September 2001.)
- (17) Hundreds of communities in the U.S. and 22 states (as of July 1, 2010) have enacted laws requiring all workplaces, restaurants, bars, and other public places to be smoke-free, as have numerous countries, including France, Iceland, Ireland, New Zealand, Norway, and the United Kingdom.
- (18) There is no legal or constitutional "right to smoke." (Graff, S.K., "There is No Constitutional Right to Smoke: 2008," Tobacco control Legal Consortium, 2nd edition, 2008.) Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous. (Graff, S.K.; Zellers, L., "Workplace Smoking: Options for Employees and Legal Risks for Employers," Tobacco control Legal Consortium, 2008.)
- (19) Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ("The high price of cigarette smoking," Business and Health 15(8), Supplement A: 6-9, August 1997.)
- (20) The smoking of tobacco is a form of air pollution, a positive danger to health, and a material public nuisance.

- (21) E-cigarette manufacturers sued the Food and Drug Administration (FDA), claiming their products should be regulated as tobacco products, not as drugs. The court of Appeals for the District of Columbia ruled in favor of the manufacturers on the issue. The FDA did not appeal this decision and will regulate e-cigarettes as tobacco products (*Sottera, Inc. v. Food and Drug Administration*).
- (22) Prohibiting the use of e-cigarettes in areas where the use of traditional tobacco products is not permitted can prevent confusion in the enforcement of a smoke-free law as the use of e-cigarettes simulates smoking. The omission of e-cigarettes from a smoke-free law can lead users of traditional tobacco products to wrongly assume smoking is permitted.
- (b) Accordingly, the mayor and council find and declare that the purposes of this article are to:
- (1) Protect the public health and welfare by prohibiting smoking in public places and places of employment; and
 - (2) Guarantee the right of nonsmokers to breathe smoke-free air; and
 - (3) Recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.
- (Ord. No. 01-2013, § 2, 4-3-2013)

Sec. 26-116. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

E-cigarette means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term "e-cigarette" shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-cigarillo, e-pipe, or under any other product name or descriptor.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his services for a nonprofit entity.

Employer means a person, business, partnership, association, corporation, including a municipal corporation, trust, or nonprofit entity that employs the services of one or more individual persons.

Enclosed area means all space between a floor and a ceiling that is bounded on all sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

Health care facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. The term "health care facility" shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Place of employment means an enclosed area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a place of employment unless it is used as a childcare, adult day care, or health care facility.

Playground means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on town grounds.

Private club means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 USC 501.

Public place means an enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, bars, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a public place unless it is used as a childcare, adult day care, or health care facility.

Restaurant means an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

Retail tobacco store means any establishment which does not possess a retail food or retail beer/wine/alcohol permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and accessories used for smoking tobacco products, in which the sale of other products is merely incidental (defined as less than five percent of gross sales for all other products combined), and in which the entry of persons under the age of 18 years is prohibited at all times.

Service line means an indoor or outdoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including, but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

Shopping mall means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. The term "smoking" also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.

Sports arena means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.
(Ord. No. 01-2013, § 3, 4-3-2013)

Sec. 26-117. Application of article to town-owned facilities.

All enclosed areas, including buildings, and vehicles owned, leased, or operated by the town, shall be subject to the provisions of this article.
(Ord. No. 01-2013, § 4, 4-3-2013)

Sec. 26-118. Prohibition of smoking—Enclosed public places.

Smoking shall be prohibited in all enclosed public places within the town, including, but not limited to, the following places:

- (1) Aquariums, galleries, libraries, and museums.
- (2) Areas available to the general public in businesses and nonprofit entities patronized by the public, including, but not limited to, banks, laundromats, professional offices, and retail service establishments.
- (3) Bars.
- (4) Bingo facilities.
- (5) Child care and adult day care facilities.
- (6) Convention facilities.
- (7) Educational facilities, both public and private.
- (8) Elevators.
- (9) Gaming facilities.
- (10) Health care facilities.
- (11) Hotels and motels.
- (12) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- (13) Polling places.

- (14) Public transportation vehicles, including buses and taxicabs, under the authority of the town, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
 - (15) Restaurants.
 - (16) Restrooms, lobbies, reception areas, hallways, and other common-use areas.
 - (17) Retail stores.
 - (18) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the town or a political subdivision of the state, to the extent the place is subject to the jurisdiction of the town.
 - (19) Service lines.
 - (20) Shopping malls.
 - (21) Sports arenas, including enclosed places in outdoor arenas.
 - (22) Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.
- (Ord. No. 01-2013, § 5, 4-3-2013)

Sec. 26-119. Prohibition of smoking—Enclosed places of employment.

(a) Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

(b) This prohibition on smoking shall be communicated to all existing employees by the effective date of the ordinance from which this article is derived and to all prospective employees upon their application for employment.

(Ord. No. 01-2013, § 6, 4-3-2013)

Sec. 26-120. Prohibition of smoking—Private clubs.

Smoking shall be prohibited in all private clubs.

(Ord. No. 01-2013, § 7, 4-3-2013)

Sec. 26-121. Prohibition of smoking—Enclosed residential facilities.

Smoking shall be prohibited in the following enclosed residential facilities:

- (1) All private and semi-private rooms in nursing homes.
 - (2) At least 90 percent of hotel and motel rooms that are rented to guests.
- (Ord. No. 01-2013, § 8, 4-3-2013)

Sec. 26-122. Prohibition of smoking—Outdoor areas.

Smoking shall be prohibited in the following outdoor places:

- (1) Within a reasonable distance of 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas.
 - (2) In, and within 20 feet of, outdoor seating or serving areas of restaurants and bars.
 - (3) In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 20 feet of, bleachers and grandstands for use by spectators at sporting and other public events.
 - (4) In, and within 20 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the town.
 - (5) In all outdoor service lines.
 - (6) In, and within 20 feet of, outdoor playgrounds.
- (Ord. No. 01-2013, § 9, 4-3-2013)

Sec. 26-123. Where smoking not regulated.

Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from the provisions of sections 26-118 and 26-119:

- (1) Private residences, unless used as a childcare, adult day care, or health care facility, and except as provided in section 26-121.
- (2) Not more than ten percent of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this article. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- (3) Retail tobacco stores, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this article.
- (4) Outdoor areas of places of employment except those covered by the provisions of section 26-122.

(Ord. No. 01-2013, § 10, 4-3-2013)

Sec. 26-124. Declaration of establishment as nonsmoking.

Notwithstanding any other provision of this article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of section 26-125(1) is posted.

(Ord. No. 01-2013, § 11, 4-3-2013)

Sec. 26-125. Posting of signs and removal of ashtrays.

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this article shall:

- (1) Clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
- (2) Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
- (3) Clearly and conspicuously post on every vehicle that constitutes a place of employment under this article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.
- (4) Remove all ashtrays from any area where smoking is prohibited by this article, except for ashtrays displayed for sale and not for use on the premises.

(Ord. No. 01-2013, § 12, 4-3-2013)

Sec. 26-126. Nonretaliation; nonwaiver of rights.

(a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this article or reports or attempts to prosecute a violation of this article. Notwithstanding section 26-128, violation of this subsection shall be a misdemeanor, punishable by a fine not to exceed \$1,000.00 for each violation.

(b) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

(Ord. No. 01-2013, § 13, 4-3-2013)

Sec. 26-127. Enforcement.

(a) This article shall be enforced by the town administrator or an authorized designee.

(b) Notice of the provisions of this article shall be given to all applicants for a business license in the town.

(c) Any citizen who desires to register a complaint under this article may initiate enforcement with the town administrator.

(d) The health department, fire department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this article.

(e) An owner, manager, operator, or employee of an establishment regulated by this article shall direct a person who is smoking in violation of this article to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

(f) Notwithstanding any other provision of this article, an employee or private citizen may bring legal action to enforce this article.

(g) In addition to the remedies provided by the provisions of this section, the town administrator or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.
(Ord. No. 01-2013, § 14, 4-3-2013)

Sec. 26-128. Violations and penalties.

(a) A person who smokes in an area where smoking is prohibited by the provisions of this article shall be guilty of an infraction, punishable by a fine of \$25.00.

(b) Except as otherwise provided in section 26-126(a), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by a fine of \$25.00.

(c) In addition to the fines established by this section, violation of this article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

(d) Violation of this article is hereby declared to be a public nuisance, which may be abated by the town administrator by restraining order, preliminary and permanent injunction, or other means provided for by law, and the town may take action to recover the costs of the nuisance abatement.

(e) Each violation of this article shall be considered a separate and distinct violation.
(Ord. No. 01-2013, § 15, 4-3-2013)

Sec. 26-129. Public education.

The town shall engage in a continuing program to explain and clarify the purposes and requirements of this article to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this article.
(Ord. No. 01-2013, § 16, 4-3-2013)

Sec. 26-130. Governmental agency cooperation.

The town shall annually request other governmental and educational agencies having facilities within the town to establish local operating procedures in cooperation and compliance with this article. This includes urging all federal, state, town, and school district agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.
(Ord. No. 01-2013, § 17, 4-3-2013)

Sec. 26-131. Other applicable laws.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. No. 01-2013, § 18, 4-3-2013)

Sec. 26-132. Liberal construction.

This article shall be liberally construed so as to further its purposes.

(Ord. No. 01-2013, § 19, 4-3-2013)

Secs. 26-133—26-162. Reserved.**ARTICLE V. JUVENILE CURFEW****Sec. 26-163. Purpose.**

Pursuant to S.C. Code 1976, § 5-7-30, as amended, the town council has determined, after consideration of the activities and conditions affecting juveniles or minors; persons not yet a legal adult, after certain hours of the day, that it is in the public interest to adopt a curfew ordinance for the protection of the public from illegal acts of minors committed after the curfew hour; the protection of minors from improper influences and criminal activity occurring after the curfew hour; and helping parents control their children.

(Ord. No. 03-2013, § 1, 5-1-2013)

Sec. 26-164. Curfew for minors established; exception.

(a) It shall be unlawful for any minor under the age of 17 years to be present on foot or by vehicle on any public street, playground, park, public building, vacant lot, place of amusement or other public place between the hours of 11:00 p.m. and 6:00 a.m. of the following day; provided, however, this section shall not apply in the following instances:

- (1) When a minor is accompanied by his parent or guardian or other adult person having the lawful care and custody of such minor;
- (2) When the minor is upon an emergency errand directed by his parent or guardian or other adult person having the lawful care and custody of such minor;
- (3) When the minor is returning directly home from lawful employment that makes it necessary to be in the above-referenced places during the prescribed period of time;
- (4) When the minor is returning directly home within 30 minutes from an organized school or religious activity;
- (5) When the minor is in a motor vehicle with parental consent for normal travel, which travel through the town is excepted in all cases from the curfew.

(b) Each violation of this section shall constitute a separate offense.

(Ord. No. 03-2013, § 2, 5-1-2013)

Sec. 26-165. Responsibility of parents.

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 17 years to knowingly permit such minor to be in a public place in violation of section 26-164. Each violation of this section shall constitute a separate offense.

(Ord. No. 03-2013, § 3, 5-1-2013)

Sec. 26-166. Duties of police.

Any police officer finding or apprehending a minor in violation of this article shall ascertain the name and address of the minor, instruct the minor to go straight home, notify the parents or guardian of the minor, and report the incident to the police chief. If the minor refuses to cooperate with the officer, refuses to go home, or has been warned about a prior violation, the minor shall be detained until the parents or guardian are called to come and transport the minor home. If the parents or guardian cannot be located, the minor shall be transported home and the offending parties shall be issued an ordinance summons for the violation.

(Ord. No. 03-2013, § 4, 5-1-2013)

Sec. 26-167. Penalties.

Upon conviction of violation of any provision of this article, a person shall be subject to a fine not to exceed \$500.00, or imprisonment in jail for not longer than 30 days, or both.

(Ord. No. 03-2013, § 5, 5-1-2013)

Secs. 26-168—26-187. Reserved.

ARTICLE VI. NOISE REGULATION

Sec. 26-188. Disturbing the public peace.

(a) It shall be unlawful for any person to:

- (1) Use, operate or play any electronic device which produces, reproduces or amplifies sound;
- (2) Attempt to attract the attention of the public to any political or commercial activity by the use of a loudspeaker or other sound amplification device; or
- (3) Engage in personal conduct of an excessively loud nature; for any purpose so as to unreasonably disturb the peace, quiet, comfort or repose of any person in his home or dwelling, or in any public area or place of public accessibility, including, but not limited to, commercial establishments; provided, however, that upon application to and approval by the mayor or police chief, written special permits may be granted to responsible organizations to broadcast programs of music, speeches, general entertainment or announcements as a part of and incident to community celebrations of national, state or municipal occasions, or public festivals, provided that traffic on the streets is not obstructed by reason thereof.

(b) The following acts, among others, are declared to be loud, disturbing of the public peace and declared to be unnecessary noises hereby constituting a public nuisance in violation of this article, but said enumeration shall not be deemed to be exclusive, namely:

- (1) *Horns, signaling devices, etc.* The sounds of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the town, except as a warning or danger signal, the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity, the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- (2) *Radios, phonographs, music boxes, disc players, etc.* The noncommercial playing, use or operation, or permitting to be played, used or operated, of any radio receiving set, musical instrument, phonograph, music box, disc player or other machine or device for the producing or reproducing of sound in such a manner as to be plainly audible and distinctive to such a degree that when the sound or vibration is detected, specific attention can be directed to the source of the sound by the hearer. For the purpose of this subsection, the term "plainly audible" means any sound which clearly can be heard, by unimpaired auditory senses based on a direct line of sight, however, words or phrases need not be discernible and said sound shall include bass reverberation. Further, for the purpose of this section, the term "distinctive" means sound that is distinguishable from the ambient sound without regard to time or location. When the noise is identified as originating from a vehicle, the operator of the vehicle when moving or the person responsible for the vehicle when stationary shall be deemed the responsible party for the creation or maintenance of the unusually loud or excessive noise.
- (3) *Loud speakers, amplifiers for advertising.* The playing, use or operation, or permitting to be played, used or operated, of any radio receiving set, musical instrument, phonograph, loud-speaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is broadcast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (4) *Yelling, shouting, etc.* Yelling, shouting, hooting or whistling on the public streets, particularly between the hours of 11:00 p.m. and 7:00 am, or at any time or place so as to annoy or disturb the quiet or comfort of persons of reasonable sensitivity in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.
- (5) *Animals, birds, etc.* The keeping of any animal or bird on residential or commercial premises that causes frequent or long continued noise which disturbs the comfort of any persons in the vicinity.
- (6) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises originating from said engine.

- (7) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or operated in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (8) *Construction or repairing of buildings.* The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 11:00 p.m., except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the appropriate authority, which permit may be granted for a period not to exceed three days while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.
- (9) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court.
- (10) *Hawkers, peddlers, etc.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet in residential neighborhoods.
- (11) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale when creating sound levels in excess of the allowable limits of this article.
- (12) *Pile drivers, hammers, etc.* The operation between the hours of 11:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- (13) *Motorized vehicles not in compliance or operated to create noise.*
 - a. For the purpose of this subsection (b)(13), a muffler system is a combination of components that provide for the enclosed flow of exhaust gas from the engine exhaust port to the atmosphere, so that engine noise and noxious emissions are suppressed.
 - b. The motor vehicle found in violation under the provisions herein may not be driven or operated within the town limits, and constitutes a public nuisance when found in the town limits, and may be subject to impoundment and immediate towing to prevent operation as a nuisance vehicle. The police department hold on the release of the vehicle is deemed satisfied when the owner pays all applicable towing and storage charges, and redeems the vehicle with the apparent and present ability to remove the vehicle from the town limits without operation within the town limits in violation of this article.
 - c. It shall be unlawful and a public nuisance to operate within the town limits any type of motor vehicle, excluding emergency response vehicles, when the operation of such automobile, motorcycle, boat, vehicle, machine, machinery or equipment with a nonfunctioning or disabled muffler or after-market muffler with cut-outs so as to create undue and unnecessary noise.

- d. It shall be unlawful and a public nuisance to operate any motor vehicle of any size and regardless of the year of manufacture in violation of S.C. Code 1976, §§ 56-5-5020 and 56-5-5030.
- e. Regardless of subsections (b)(13)a through d of this section, it shall be unlawful to operate any motor vehicle within the town limits so as to make any loud or unnecessary noise that results from any one or more of the following actions by the operator to create a per se loud and unnecessary noise:
 - 1. Misuse of acceleration or braking power that exceeds tire traction limits, sometimes known as "burn-outs," "burning rubber," "laying down rubber" or "peeling rubber."
 - 2. Excessive acceleration or deceleration while in motion where there is no emergency need.
 - 3. Rapid acceleration by means of quick up shifting of transmission gears with either a clutch or manual transmission or automatic transmission.
 - 4. Rapid deceleration by means of quick downshifting of transmission gears with either a clutch or manual transmission or an automatic transmission.
 - 5. Racing or revving of engines by manipulation of the accelerator, gas pedal, or carburetor in applying fuel to the engine in a greater amount than is necessary whether the vehicle is either in motion or standing still.
 - 6. Operation of the vehicle by intentionally applying unnecessary excessive acceleration from a stationary position, or unnecessary, deliberate or intentional bursts of acceleration while moving in a non-emergency situation.

(Ord. No. 08-2014, 9-10-2014)

Sec. 26-189. Enforcement factors.

In the enforcement of standards established in this article, a law enforcement officer may be required to exercise judgment in determining if a particular noise is sufficiently loud or otherwise so offensive that it would unreasonably disturb other persons in the vicinity. If the noises are the result of a legally operating business engaged in their normal operations, the law enforcing agency may consider the subjective noise as listed in this section. However, this does not eliminate the ability and responsibility of the police department or other law enforcing agency to make a subjective determination of excessive noise at the time of the complaint or enforcement. When making such determinations, the law enforcement office shall consider the following factors:

- (1) The intensity (sound pressure level) of the noise;
- (2) Whether the nature of the noise is usual or unusual;
- (3) Whether the origin of the noise is natural or man-made;
- (4) The volume and intensity of the background noise, if any;
- (5) The proximity of the noise to residential sleeping facilities during the sleeping hours of 11:00 p.m. to 7:00 a.m.;
- (6) The nature and zoning of the area within which the noise emanates;

- (7) The time of the day or night along with day of week and time of year the noise occurs;
 - (8) The duration of the noise;
 - (9) Whether the noise is recurrent, intermittent or constant.
- (Ord. No. 08-2014, 9-10-2014)

Sec. 26-190. Definitions.

All technical language used in this article not defined in this section shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency work means any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril. Emergency work may also be declared by the town as outlined above.

Muffler means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Outdoor amplified sound means any sound using sound equipment, whose source is outside or whose source is inside, and the sound propagates to the outside of the building or structure housing the source.

Person means any individual, association, partnership, or corporation and includes any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression, and rarefaction of that medium resulting in air pressure variations perceptible by the human ear. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound receptor means the location or property boundary receiving a noise from a sound source.

Sound source means the location or property boundary from which a sound emanates.

(Ord. No. 08-2014, 9-10-2014)

Sec. 26-191. Classification of use occupancies.

Use occupancies shall be as follows:

- (1) *Residential use.* All premises containing habitually occupied sleeping quarters. Hospitals, nursing homes, assisted living homes, schools, libraries, fraternity and sorority houses and churches are considered residential uses.
- (2) *Public space.* Any area owned, utilized, or occupied by a municipal, county, state, or federal agency, including, but not limited to, park or recreation areas, streets and sidewalks.

- (3) *Commercial.* All premises where sales, professional or other commercial activity is legally permitted, except that residentially zoned properties with lawful home occupations are considered residential.
- (4) *Industrial.* All premises where goods or wares are made, warehoused or stored or where manufacturing is legally permitted.
- (5) *Amusement/outdoor activity.* All premises which are designated for indoor and outdoor entertainment and/or recreational activities.

(Ord. No. 08-2014, 9-10-2014)

Sec. 26-192. Detection location.

The auditory detection of sound must be made at the property line or on the property of the noise source if source and receptor properties share a common property line. In the event that a public roadway, park, body of water, etc., is between the noise source and the receptor properties, the noise shall be measured on the far side of the public space from the noise source property.

(Ord. No. 08-2014, 9-10-2014)

Sec. 26-193. Data documentation.

A record of all auditory sound detection must be completed and signed by the person making the detection. The record sheet should include the:

- (1) Date.
- (2) Time of detection.
- (3) Location (street address, if possible).
- (4) Noise source.
- (5) Name of the complainant, if available.

(Ord. No. 08-2014, 9-10-2014)

Sec. 26-194. Exceptions.

The following are exempt from the provisions of this article:

- (1) Sound emanating from scheduled outdoor athletic events or festivals, concerts or activities operating under permit from the town.
- (2) Noise of safety signals, warning devices, emergency pressure relief valves.
- (3) All church bells, church chimes, either actual or electronic, or artificial sound reproduction system intended to sound like church bells or chimes operated between the hours of 7:00 a.m. and 11:00 p.m.
- (4) Noise resulting from any authorized emergency vehicle.
- (5) Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or federal law, for which a local permit has been granted by the town, provided such activity is of a temporary duration lasting no longer than two hours during any 24-hour

period. Regulation of noise emanating from activities under permit shall be according to the conditions and limits stated in this article and according to any additional conditions stated on the permit.

- (6) Unamplified sound at public affairs conducted, sponsored or sanctioned by the town.
 - (7) All noises coming from the normal and legal operations of properly equipped aircraft (not including scale model aircraft and not including aerial drones not certified and/or permitted by the Federal Aviation Administration).
 - (8) Fireworks at times allowed under a pyrotechnics permit.
 - (9) Noise from trains and associated railroad rolling stock when operated in proper repair and manner.
 - (10) Emergency work, as defined in section 26-190. The town administrator or his designated representative may temporarily waive the requirements of this article to permit work of an emergency nature necessary to restore property to a safe condition following a public calamity or work required to protect persons or property to protect persons or property from imminent exposure to danger or work by public or private utilities when restoring utility service.
 - (11) Special event permits. The mayor or police chief may issue special event permits for events such as, but not limited to, concerts, festivals, parades, and athletic events to permit reasonable and limited exceptions to the provisions of this article. Any special event permit issued shall contain specific provisions as to the activities which will be conducted, dates and times during which the provisions of this article are to be suspended. Specific sources of the noise which may exceed the subjective sound limits shall be identified. Special conditions may be established in the permit which will minimize the noise impact of the special event on the community.
- (Ord. No. 08-2014, 9-10-2014)

Sec. 26-195. Enforcement.

The provisions of this article shall be enforced by the police officers or other duly authorized law enforcement personnel.

Sec. 26-196. Penalty.

The violation of any section of this article shall constitute a misdemeanor and shall be punishable by a fine in municipal court up to \$500.00.

(Ord. No. 08-2014, 9-10-2014)

Chapter 27

RESERVED

Chapter 28

PLANNING

- Sec. 28-1. Establishment.
- Sec. 28-2. Powers and duties of the planning commission.
- Sec. 28-3. Composition of the commission.
- Sec. 28-4. Removal of members.
- Sec. 28-5. Organization; meetings; procedural rules; records; purchases.
- Sec. 28-6. Referral of matters to planning commission; reports.
- Sec. 28-7. Funding of planning commission; expenditures; contracts.

Sec. 28-1. Establishment.

The town planning commission is hereby established under the provisions of the S.C. Code 1976, § 6-29-320.

(Ord. No. 04-2011, 4-20-2011)

Sec. 28-2. Powers and duties of the planning commission.

In general, the planning commission has the powers as may be necessary to enable it to perform its functions and promote the planning of the town.

- (1) It shall be the duty of the planning commission to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the town. The plans and programs shall be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare as well as the efficiency and economy of the town. Specific planning elements shall be based upon careful and comprehensive surveys and studies of existing conditions and probable future development and include recommended means of implementation. The planning commission may make, publish, and distribute maps, plans, and reports and recommendations relating to the plans and programs and the development of its area of jurisdiction to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, such available information as it may require for its work. The planning commission, its members and employees, in the performance of its functions, may enter upon any land with consent of the property owner or after ten days' written notification to the owner of record, make examinations and surveys, and place and maintain necessary monuments and marks on them; provided, however, that the planning commission shall be liable for any injury or damage to property resulting there from.
- (2) In the discharge of its responsibilities, the local planning commission has the power and duty to:
 - a. Prepare and revise periodically plans and programs for the development and redevelopment of its area as provided in this chapter; and
 - b. Prepare and recommend for adoption to the appropriate governing authority or authorities as a means for implementing the plans and programs in its area:
 1. Zoning ordinances to include zoning district maps and appropriate revisions thereof, as provided in this chapter;
 2. Regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that may be adopted as provided in this chapter;
 3. An official map and appropriate revision on it showing the exact location of existing or proposed public street, highway, and utility rights-of-way, and public building sites, together with regulations to control the erection of buildings or other structures or changes in land use within the rights-of-way, building sites, or open spaces within its political jurisdiction or a specified portion of it, as set forth in this chapter;

4. A landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;
5. A capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the governmental bodies responsible for implementation prior to preparation of their capital budget; and
6. Policies or procedures to facilitate implementation of planning elements.

(Ord. No. 04-2011, 4-20-2011)

Sec. 28-3. Composition of the commission.

The planning commission shall consist of five members appointed by town council for overlapping terms of four years. A quorum of the board shall mean any three members of the board. Members shall be citizens of the town or business owners in the town. In the appointment of planning commission members the town council shall consider their professional expertise, knowledge of the community, and concern for the future welfare of the total community and its citizens. To the extent possible, membership should be representative of the racial and gender composition of the town, and represent a broad cross section of the interests and concerns of the town. No member shall be the holder of an elected office in the town or the county.

(Ord. No. 04-2011, 4-20-2011)

Sec. 28-4. Removal of members.

Members of the planning commission may be removed any time by town council for cause. The existence of cause shall be discussed by the council in executive session as permitted by the Freedom of Information Act, S.C. Code 1976, § 30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.

(Ord. No. 04-2011, 4-20-2011)

Sec. 28-5. Organization; meetings; procedural rules; records; purchases.

(a) The planning commission shall organize itself electing one of its members as chairperson and one as vice-chairperson whose terms must be for one year. The planning commission shall appoint a secretary who may be an officer or an employee of the town or of the planning commission. The planning commission shall meet at the call of the chairperson and at such times as the chairperson or commission may determine.

(b) The commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The planning commission may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated.

(Ord. No. 04-2011, 4-20-2011)

Sec. 28-6. Referral of matters to planning commission; reports.

The town council may provide for the reference of any matters or class of matters to the local planning commission, with the provision that final action on it may not be taken until the planning commission has submitted a report on it or has had a reasonable period of time, as determined by the town council to submit a report.

(Ord. No. 04-2011, 4-20-2011)

Sec. 28-7. Funding of planning commission; expenditures; contracts.

The planning commission may cooperate with, contract with, or accept funds from federal government agencies, state government agencies, local general-purpose governments, school districts, special purpose districts, including those of other states, public or eleemosynary agencies, or private individuals or corporations; it may expend the funds; and it may carry out such cooperative undertakings and contracts as it considers necessary.

(Ord. No. 04-2011, 4-20-2011)

Chapter 29

RESERVED

Chapter 30

SOLID WASTE

- Sec. 30-1. Definitions.
- Sec. 30-2. Compliance with chapter provisions; penalty.
- Sec. 30-3. Accumulation and collection, generally.
- Sec. 30-4. Duty of persons generally.
- Sec. 30-5. Duty of owners and occupants of real property.
- Sec. 30-6. Containers—Required.
- Sec. 30-7. Containers—Maintenance; replacement.
- Sec. 30-8. Containers—Replacement upon notice.
- Sec. 30-9. Collection procedures; responsibilities.
- Sec. 30-10. Disposition of material unsuitable for containers.
- Sec. 30-11. Liquid garbage, trash to be drained.
- Sec. 30-12. Permit required for collection by private persons.
- Sec. 30-13. Collection, disposition of certain items.
- Sec. 30-14. Disposal in streets, alleys, etc., prohibited.
- Sec. 30-15. Meddling, tampering with garbage prohibited.
- Sec. 30-16. Littering prohibited—Generally.
- Sec. 30-17. Littering prohibited—Duty of business owners, occupants.
- Sec. 30-18. Littering prohibited—Duty of customer.

Sec. 30-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dry kitchen refuse means and includes all solids remaining after liquids and slop have been drained off kitchen garbage.

Kitchen garbage means and includes all dry kitchen refuse, meat, vegetable and fruit refuse, small dead animals and dead fowl.

Premises means any business house, business establishment, grocery store, dry goods store, mercantile store, department store, boardinghouse, hotel, tourist camp, apartment house, hospital, roominghouse, school, theater, barbershop, beauty parlor, filling station, garage, cafe, restaurant, lumberyard, electric shop, plumbing shop, tailor shop, private residence, vacant lot and all other places of business or places in the town where garbage, trash or rubbish accumulates.

Rubbish means and includes all tin cans, bottles, glass, scraps of iron, tin, wires or other metals and any other articles to which the term "rubbish" is usually applied.

Trash means and includes paper of all kinds, rags, old clothing, paper containers, pieces of wood, boxes, barrels, crates, feathers and any other articles to which the term "trash" is usually applied.
(Code 2011, § 6-2-1)

Sec. 30-2. Compliance with chapter provisions; penalty.

The streets and sanitation department shall not make collection of kitchen garbage, trash or rubbish or tree limbs where the same is not prepared for collection and placed as designated by the terms of this chapter. Failure to comply with this provision will be an offense and each day's failure to comply will constitute a separate offense.

(Code 2011, § 6-2-2)

Sec. 30-3. Accumulation and collection, generally.

(a) The emptying or disposing of any garbage, trash, refuse or rubbish, or the accumulation of such matter in any place within the town is hereby prohibited and no one except the duly authorized agents and employees of the town shall collect garbage and refuse or empty containers containing garbage or refuse substances, or convey or transport garbage or refuse substances on the streets, alleys and public thoroughfares of the town, except as otherwise expressly provided in this chapter.

(b) Collection of garbage and trash shall be accomplished in accordance with the schedule established from time to time by the town council. Fees for collection shall be as fixed from time to time by the council.

(Code 2011, § 6-2-3)

Sec. 30-4. Duty of persons generally.

It shall be unlawful for any person within the town to permit kitchen garbage, dry kitchen refuse, trash or rubbish to accumulate on any premises in the town without suitable provision being made to keep the same collected in containers as provided in S.C. Code 1976, § 6-2-6 and without collecting the same to be removed and disposed of as provided in this chapter.

(Code 2011, § 6-2-4)

Sec. 30-5. Duty of owners and occupants of real property.

Every person owning, leasing, managing, operating, using or occupying any building, apartment, house, structure, grounds or premises within the town shall keep such building, apartment, house, structure, grounds or premises clean, free and clear of all garbage, kitchen garbage, dry kitchen refuse, trash, rubbish; manure from lots, stables and poultry yards; all wastes, oils and greases of garages and filling stations; and all other articles and accumulations that may cause such premises to become unsanitary or unsightly.

(Code 2011, § 6-2-5)

Sec. 30-6. Containers—Required.

(a) All households shall be provided by the town with one mobile rollout container which shall remain the property of the town. Additional mobile containers may be purchased from the town.

(b) Mobile rollout containers shall be plastic containers of substantial construction having a capacity of not less than 32 gallons nor more than 100 gallons. The rollout container shall have a hinged lid with a positive animal lock. Mobile rollout containers shall be designed so that they can be emptied mechanically by specially designed lift devices attached to the town sanitation trucks. All mobile containers shall be subject to approval of the director of streets and sanitation.

(c) Bulk containers are authorized per the specifications as set forth by the director of streets and sanitation. Distributors of bulk containers who wish to sell or lease such containers in the town are subject to approval of the director of streets and sanitation.

(Code 2011, § 6-2-6)

Sec. 30-7. Containers—Maintenance; replacement.

(a) Rollout containers shall be maintained in sanitary condition and tightly closed. The contents of all receptacles shall be so protected that the wind cannot blow out and scatter same over the streets, alleys and premises of the town.

(b) Mobile rollout containers shall remain the property of the town and are provided and assigned to householders for their health, safety, convenience, and general welfare. Containers which are damaged, destroyed, or stolen through abuse, neglect, or improper use by the householder shall be replaced by the town at the expense of the householder. Containers which are damaged in the course of normal and reasonable usage, or which are damaged, or stolen through no abuse, neglect, or improper use by the householder shall be repaired or replaced by the town at no charge. The householder shall notify the director of streets and sanitation of loss or damage in any event, regardless of how occasioned, and the

director of streets and sanitation shall dispatch a representative to confer with householder, ascertain the facts and circumstances of the loss or damage, and determine responsibility therefor. The containers shall not be damaged, destroyed, defaced or removed from the premises by any person. Markings and identification devices on the containers, except as placed or specifically permitted by the town, are expressly prohibited and shall be regarded as damage to the containers.

(Code 2011, § 6-2-7)

Sec. 30-8. Containers—Replacement upon notice.

It shall be the duty of every person owning, controlling, managing, operating, policing, renting or occupying any premises where garbage and/or trash accumulates to replace within ten days after receipt of condemnation notice issued by the town, acting through its duly designated officials, any containers that have deteriorated or that have jarred edges capable of causing injuries to those whose duty it is to handle the containers or that have been damaged to such an extent. In the event such containers are not replaced within such ten-day period, the same shall be confiscated by the town.

(Code 2011, § 6-2-8)

Sec. 30-9. Collection procedures; responsibilities.

(a) On the day of collection, unless otherwise provided by this chapter, it shall be the responsibility of the owner or occupant to place rollout containers at the curbside or at the edge of the vehicular travel way. Mobile containers which are not out when the truck passes will not be collected until the next regularly scheduled pickup date. No container, unless otherwise provided in this chapter, shall be stored in front of a building or dwelling except on the day of collection.

(b) Mobile rollout containers returned to curbside after collection shall be removed to the approved storage location by 7:00 p.m. of the day of collection. The property owner or occupant shall be responsible for such removal.

(c) Hardship cases such as age, disability or infirmity, when confirmed by the director of public works may be afforded the special service of container carryout and carryback upon application.

(Code 2011, § 6-2-9)

Sec. 30-10. Disposition of material unsuitable for containers.

Limbs and cuttings under three feet in length and four inches in diameter stacked at the garbage pickup point will be picked up. Larger trees and branches will be picked up only when time is available and at such charge as fixed from time to time by the town council. A request must be filed with the town for this extra service.

(Code 2011, § 6-2-10; Ord. of 10-10-1967)

Sec. 30-11. Liquid garbage, trash to be drained.

Garbage and trash must be drained of liquid substances and sacked or wrapped in paper before the parcel is placed in a container for collection.

(Code 2011, § 6-2-11)

Sec. 30-12. Permit required for collection by private persons.

The collecting by persons other than the town personnel of garbage, trash and/or rubbish within the town limits is prohibited except with written permission of the town.

(Code 2011, § 6-2-12)

Sec. 30-13. Collection, disposition of certain items.

(a) No building materials or refuse from building operations or landscape contract work will be handled by town forces. Large accumulations of glass, shavings or other waste shall be removed by the contractor in charge of such building operation.

(b) The responsibility of the disposal of any object of such weight that it cannot be manually picked up by the collectors shall be that of the individual resident.

(Code 2011, § 6-2-13; Ord. of 10-10-1967)

Sec. 30-14. Disposal in streets, alleys, etc., prohibited.

It shall be unlawful for any person to place or dispose of any kitchen garbage, dry kitchen refuse, trash or rubbish in or upon any street, alley, sidewalk or other public place within the town. Every owner or operator of any premises shall keep the alleys, streets, sidewalks and such other public places abutting on such premises free and clear of all such garbage, trash and rubbish.

(Code 2011, § 6-2-14)

Sec. 30-15. Meddling, tampering with garbage prohibited.

It shall be unlawful for any person to meddle or tamper with any rollout container, or any other trash or rubbish receptacle, or with any garbage, trash or rubbish, or to in any manner pilfer such containers or receptacles or such garbage, trash or rubbish, or to scatter the contents thereof in any street, alley, sidewalk or premises in the town.

(Code 2011, § 6-2-15)

Sec. 30-16. Littering prohibited—Generally.

It shall be unlawful for any person to throw, drop, cast or deposit upon any street, alley, sidewalk or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, bottles or any other form of litter or waste matter.

(Code 2011, § 6-2-16)

Sec. 30-17. Littering prohibited—Duty of business owners, occupants.

(a) *Generally.* The owner or occupant of any store or other place of business situated within the town shall exercise reasonable diligence at all times to keep his premises clear of wastepaper, wrapping paper, paper napkins, cartons, package containers and other used or waste materials thrown or left on said premises by his customers, and to take reasonable measures to prevent same from drifting or blowing to adjoining premises.

(b) *Receptacles.* Receptacles of sufficient size and number shall be placed on the premises accessible to the customers of such business where the above referred to articles of waste may be disposed of.

(c) *Signs.* Each and every business establishment shall place upon its premises in a conspicuous place or places in close proximity to the receptacle or receptacles above referred to, a sign or signs which shall, in essence, convey to its customers a request that they use such receptacles for the disposal of waste material.

(Code 2011, § 6-2-17)

Sec. 30-18. Littering prohibited—Duty of customer.

It shall be unlawful for any customer going upon the premises of another to in any manner dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers and other used or waste materials except in receptacles provided for such purposes.

(Code 2011, § 6-2-18)

Chapter 31

RESERVED

Chapter 32

STREETS, SIDEWALKS, AND OTHER PUBLIC PROPERTY*

Article I. In General

- Sec. 32-1. Bicycles prohibited on sidewalks in business district.
Secs. 32-2—32-20. Reserved.

Article II. Parades and Processions

- Sec. 32-21. Permit required.
Sec. 32-22. Application for permit.
Sec. 32-23. Contents of permit.
Sec. 32-24. Matters considered in determining issuance of permit.
Sec. 32-25. Issuance.
Sec. 32-26. Deviation from permit.
Sec. 32-27. Display of permit.
Secs. 32-28—32-57. Reserved.

Article III. Street Names, Addresses, and Numbering

- Sec. 32-58. Findings.
Sec. 32-59. Purpose.
Sec. 32-60. Definitions.
Sec. 32-61. Jurisdiction, powers and duties of the town.
Sec. 32-62. Responsibility for naming ways-of-travel.
Sec. 32-63. Establishment of a uniform street naming, addressing and numbering system.
Sec. 32-64. Cartesian principles applied within the town limits.
Sec. 32-65. Approval for street names.
Sec. 32-66. Location, specification and installation.
Sec. 32-67. New ways-of-travel.
Sec. 32-68. Existing ways-of-travel.
Sec. 32-69. Addressing.
Sec. 32-70. Separate numbers.
Sec. 32-71. Written notice of the proper address.
Sec. 32-72. Assigned proper address to be displayed.
Sec. 32-73. Placement of proper address.
Sec. 32-74. Penalty for failure to comply.
Sec. 32-75. Notice of violation.
Sec. 32-76. Coordination of street naming, addressing and numbering.
Sec. 32-77. Petition to change way-of-travel names.
Sec. 32-78. Signs for private ways-of-travel.
Sec. 32-79. Technical standards for way-of-travel selection.
Sec. 32-80. Applicability.
Secs. 32-81—32-105. Reserved.

***State law references**—Municipal authority to regulate streets, S.C. Code 1976, § 5-7-30; putting foreign substances on highways, S.C. Code 1976, § 57-7-20; obstructions in highways, S.C. Code 1976, § 57-7-210.

ESTILL CODE

Article IV. Parks

- Sec. 32-106. Driving motor vehicles in parks.
- Sec. 32-107. Closing hours.
- Sec. 32-108. Throwing missiles.

ARTICLE I. IN GENERAL**Sec. 32-1. Bicycles prohibited on sidewalks in business district.**

It shall be unlawful for any person or persons to ride bicycles upon the sidewalks in the business section of the town; provided, however, bicycles may be pushed on the sidewalks.

(Code 2011, § 3-1-1; Ord. of 9-3-1968)

Secs. 32-2—32-20. Reserved.**ARTICLE II. PARADES AND PROCESSIONS****Sec. 32-21. Permit required.**

It shall be unlawful for any person, firm or organization to stage any parade, procession or demonstration on any of the streets or other public places within the corporate limits of the town without first having applied for and secured a special permit from the town council. The permit shall be secured at least 24 hours in advance. Funeral processions, the armed forces of the United States, the military forces of the state and the forces of the police and fire departments of the town shall be exempt from the permit requirement.

(Code 2011, § 3-1-11; Ord. of 4-9-1968)

Sec. 32-22. Application for permit.

Any person desiring a permit required by the provisions of this article shall make application therefor, which application shall contain the following information:

- (1) The name and address of the applicant;
- (2) The name and address of the person the applicant represents;
- (3) The exact time and date of commencement and termination of each act or activity desired;
- (4) The purpose, location and/or route of such act or activity, if applicable; and
- (5) The person, group, association or body to be authorized under the permit to do such act or activity and the number of persons to participate.

(Code 2011, § 3-1-12)

Sec. 32-23. Contents of permit.

Upon issuance of a permit required by this article, the same shall contain therein all information contained in the application therefor and be signed by the mayor and a signed copy of the same shall be kept with the application, both on file in the office of the town clerk-treasurer.

(Code 2011, § 3-1-13)

Sec. 32-24. Matters considered in determining issuance of permit.

In deciding whether to issue a permit under the provisions of this article, the mayor or town council shall consider:

- (1) The number of persons to participate;
- (2) The anticipated traffic conditions at the time and date proposed for the activity;
- (3) The schedule of other similar activities for which permits may have been issued;
- (4) The adequacy of adult supervision for any minor scheduled to participate;
- (5) The availability of town personnel whose presence on duty may be required by the activity and by the necessity to protect the general public; and
- (6) The adequacy of public facilities in the location proposed for the activity to accommodate the proposed activity and the normal public use of public facilities in the proposed location.

(Code 2011, § 3-1-14)

Sec. 32-25. Issuance.

The permit required by the provisions of this article shall be issued by the mayor upon application therefor; provided, however, such permit may be denied or refused if it shall appear that the applicant therefor or the act or activity requested by such application shall be violative of any applicable provision of this Code, state law or other town ordinance.

(Code 2011, § 3-1-15)

Sec. 32-26. Deviation from permit.

It shall be unlawful for any person participating in any act or activity for which a permit has been granted under the provisions of this article to deviate from or alter any of the terms or contents of such permit.

(Code 2011, § 3-1-16)

Sec. 32-27. Display of permit.

Every person having a permit issued under the provisions of this article shall have such permit in his possession during the activity permitted thereby and shall display such permit upon the request of any law enforcement officer. Failure to display such permit shall be deemed a misdemeanor.

(Code 2011, § 3-1-17)

Secs. 32-28—32-57. Reserved.

ARTICLE III. STREET NAMES, ADDRESSES, AND NUMBERING***Sec. 32-58. Findings.**

- (a) There exists within the town inconsistent and confusing street names and locations.
- (b) There exists within the town property owners who have failed to adopt the official E-911 addresses for houses, buildings, and structures and premises for compliance with S.C. Code 1976, § 23-47-60. (Ord. No. 12-2009, 12-2-2009)

Sec. 32-59. Purpose.

The purpose of this article is to provide a system of unique way-of-travel and addresses, which are essential to the successful implementation and maintenance of the enhanced (E-911) emergency services system, and is, therefore, essential to the efficient and effective provision of such services as police, fire, emergency medical services, and wayfaring. (Ord. No. 12-2009, 12-2-2009)

Sec. 32-60. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a public or private way-of-travel 20 feet or less in width not designated or improved for general travel and used as a means of secondary access or access to the rear of residential, commercial or other property.

Assumed address means the address of a location prior to the adoption of the E-911 system.

Avenue means a way-of-travel which runs generally north and south.

Boulevard means a way-of-travel that meanders and crosses several grids separated by a maintained planting area.

Building official means the building inspector or code enforcement officer appointed by the town council.

Circle means a way-of-travel which begins and returns back to end on itself.

Court means a way-of-travel under two grid blocks ending in a dead end or cul-de-sac.

Designate means to name a way-of-travel whether by name or number.

Drive means an irregular or diagonal way-of-travel over two grid blocks in length.

Highway means a designated state or federal thoroughfare, such as U.S. routes and state primary roads.

***State law references**—Addressing, S.C. Code 1976, § 23-47-60; official map defined, S.C. Code 1976, § 6-7-1210; authorization for and purpose of official maps, S.C. Code 1976, § 6-7-1220; establishment of official map, S.C. Code 1976, § 6-7-1230.

Lane means a publicly or privately owned way-of-travel. Private lanes shall be designated with the suffix "pvt" or "private."

Loop means a short drive which begins and ends on the same street.

Number means numbers and/or alphabetical letters assigned to designate any house, building, premises, or structure.

Official map means the town thoroughfare and addressing map.

Place means a cul-de-sac or permanent dead-end way-of-travel, usually short in length.

Road means a way-of-travel which has been designated as a road.

Street means a way-of-travel which runs generally east and west.

Way-of-travel means a roadway, including, but not limited to, avenues, boulevards, circles, courts, drives, lanes, loops, places, roads, and streets, which is capable of carrying vehicular traffic.
(Ord. No. 12-2009, 12-2-2009)

Sec. 32-61. Jurisdiction, powers and duties of the town.

The provision set forth in this article shall apply only to those vehicular ways-of-travel, which are or will be located within the town limits. The town is authorized and empowered to adopt reasonable rules and regulations to implement, effect, and ensure the proper operation of the way-of-travel, naming, addressing and grid system.
(Ord. No. 12-2009, 12-2-2009)

Sec. 32-62. Responsibility for naming ways-of-travel.

The town council is hereby assigned the overall responsibility for the naming, addressing and numbering of public and private ways-of-travel as directed by the provisions of this article.
(Ord. No. 12-2009, 12-2-2009)

Sec. 32-63. Establishment of a uniform street naming, addressing and numbering system.

The town council shall develop and maintain a uniform system of naming public and private ways-of-travel.
(Ord. No. 12-2009, 12-2-2009)

Sec. 32-64. Cartesian principles applied within the town limits.

Within the town limits as existing on December 2, 2009, the town shall apply the following principles. All ways-of-travel shall be designated by names, assigned at intervals from the base lines (east-west) or meridian lines (north-south) herein established.

- (1) *East and west.*
 - a. The base line for way-of-travel names shall be 3rd Street and shall bear the suffix "E" (east) on the east side of Railroad Avenue (U.S. Highway 321) for ways-of-travel that cross the meridian line Railroad Avenue (U.S. 321) and the suffix "W" (west) on the west side of Railroad Avenue (U.S. Highway 321) and that are continuous ways-of travel.

- b. Ways-of-travel running generally east-west, north of 3rd Street shall bear the suffix "NE" (northeast) on the east side of Railroad Avenue (U.S. Highway 321) and "NW" (northwest) on the west side of Railroad Avenue (U.S. Highway 321) for ways-of-travel wholly contained within quadrants defined by 3rd Street and Railroad Avenue (U.S. Highway 321).
 - c. Ways-of-travel running generally east-west, south of 3rd Street shall bear the suffix "SE" (southeast) on the east side of Railroad Avenue (U.S. Highway 321) and "SW" (southwest) on the west side of Railroad Avenue (U.S. Highway 321) for ways-of-travel wholly contained within quadrants defined by 3rd Street and Railroad Avenue (U.S. Highway 321).
- (2) *North and south.*
- a. The meridian line for ways-of-travel, running generally north-south shall be Railroad Avenue (U.S. Highway 321) and shall bear the suffix "N" (north) on the north side of 3rd Street and the suffix "S" (south) on the south side of 3rd Street for ways-of-travel that cross the base line 3rd Street and that are continuous ways-of travel.
 - b. Ways-of-travel running generally north-south, north of 3rd Street shall bear the suffix "NE" (northeast) on the east side of Railroad Avenue (U.S. Highway 321) and "NW" (northwest) on the west side of Railroad Avenue (U.S. Highway 321) for ways-of-travel wholly contained within quadrants defined by 3rd Street and Railroad Avenue (U.S. Highway 321).
 - c. Ways-of-travel running generally north-south, south of 3rd Street shall bear the suffix "SE" (southeast) on the east side of Railroad Avenue (U.S. Highway 321) and "SW" (southwest) on the west side of Railroad Avenue (U.S. 321) for ways-of-travel wholly contained within quadrants defined by 3rd Street and Railroad Avenue (U.S. Highway 321).
 - d. Ways-of-travel running generally north-south, north of 3rd Street shall bear the suffix "N" (east) on the north side of 3rd Street and "S" (south) on the south side of 3rd Street for ways that cross the base line 3rd Street and that are continuous ways-of travel.
 - e. Block or grid numbering shall be pattern shall be as follows:
 - 1. Beginning at the east-west base line of 3rd Street (the zero point), all blocks or grids shall be numbered from one, with consecutively increasing numbers both to the north and to the south.
 - 2. Likewise, beginning at the north-south meridian line of Railroad Avenue (U.S. Highway 321) (the zero point), all blocks or grids shall be numbered from one, with consecutively increasing numbers both to the east and to the west.
 - f. In the assignment of numbers, the town may take into consideration: driveways, principal entrances, topography, and existing field conditions.
 - g. The houses, structures, or premises located on the south and/or west side of such ways-of-travel shall receive odd numbers and the houses, structures or premises on the north and/or east side of such ways-of-travel shall receive even numbers. The geographic

direction of a way-of-travel shall be determined by observing its overall length and noting its general or predominant direction. When possible, even and odd numerical designations shall be assigned consecutively and opposite one another.

- h. Houses, structures, buildings and premises situated on a circle, court, or loop shall be numbered consecutively beginning at the point of origin and proceeding progressively around such circle, court, or loop.
- i. Buildings, such as apartments, with multiple tenantable or habitable units may receive one numerical designation. Individual units may be designated.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-65. Approval for street names.

All street names selected shall be in compliance with the provisions of this article.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-66. Location, specification and installation.

Street (way-of-travel) sign location, specification and installation shall be in accordance with of the state department of transportation and generally accepted practices for street naming, addressing and numbering.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-67. New ways-of-travel.

The naming of new ways-of-travel, singular or those associated with subdivisions, shall be approved according to procedures herein. New way-of-travel names assigned shall not duplicate or be similar to an existing street name.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-68. Existing ways-of-travel.

All public ways-of-travel maintained by the state department of transportation, the county and the town shall be named, and appropriate street signs erected, only when such streets provide access for at least two structures. Existing duplicate street names must be changed as necessary to ensure efficiency of the emergency response system.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-69. Addressing.

The term "addressing" means the assigning of a numerical address and way-of-travel names to each location within the town's geographical area necessary to provide public safety and wayfaring service. The address shall replace any route and box number in place in the E-911 database and shall be for the purpose of facilitating timely response by public safety agencies.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-70. Separate numbers.

Each house, building, premises or other occupied structure must be assigned a separate number. A number or alphabetical letter must be assigned for each occupancy within a building or other occupied structure. Examples include apartments, companies, suites, etc.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-71. Written notice of the proper address.

Written notice of the proper address of each house, building, premises, or structure must be given to its owner, occupant, or agent in all instances where a new E-911 number has been assigned. Existing ways-of-travel and assumed addresses must receive verification of the correct E-911 address.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-72. Assigned proper address to be displayed.

The owner, occupant, or agent of each house, building, or other structure assigned a number or letter under a uniform numbering system shall place or cause to be placed the number on the house, building, or other structure within 21 calendar days after receiving notification of the proper address assignment. Costs and installation of the number shall be paid for by the property owner or occupant. Residential numbers must not be less than four inches in height. Business or commercial numbers must not be less than four inches in height. All numbers and letters must be made of a durable, clearly visible material and must contrast with the color of the house, building, premises or structure.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-73. Placement of proper address.

Numbers must be conspicuously placed immediately above, on, or at the side of the appropriate door so that the number is clearly visible from the way-of-travel. In cases where the building is situated more than 50 feet from the way-of-travel, the building number must also be placed near the walk, driveway, or common entrance to the building, or upon the mailbox, gatepost, fence or other appropriate place so as to clearly be visible from the way-of-travel.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-74. Penalty for failure to comply.

Residents, businesses, owners or others who fail to comply with this article, or affixing to or displaying upon any house, building, premises or structure, shall be assessed a misdemeanor civil penalty in municipal court and, upon conviction, must be fined not more than \$200.00 or imprisoned not more than 30 days. Each day in violation constitutes a separate offense.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-75. Notice of violation.

When the building official determines that a violation exists, the building official may issue a notice of civil penalty to the person responsible for the violation. The notice shall include the name and address of the person responsible for the violation, the street address or other description of the building, structure

or premises affected by the violation, a description of the violation and the required corrective action, the date, time and location of an appeal hearing before the town council which shall be at least ten calendar days from the date of the notice, but no more than 30 calendar days from the date of the notice. The notice shall also include a statement indicating the appeal hearing will be cancelled and no monetary penalty assessed if the building official approves the completed corrective action at least 48 hours prior to the hearing and a statement that the monetary penalty may be assessed as ordered.
(Ord. No. 12-2009, 12-2-2009)

Sec. 32-76. Coordination of street naming, addressing and numbering.

The town shall coordinate street naming, addressing, numbering and mapping with the United States Postal Service, telephone companies, appropriate state agencies, and public utility companies.
(Ord. No. 12-2009, 12-2-2009)

Sec. 32-77. Petition to change way-of-travel names.

Any existing way-of-travel name may be changed with submittal of a change of street name petition as follows:

- (1) The petition shall propose the alternative way-of-travel name and list all property owners and residents along the concerned way-of-travel.
- (2) The requesting party has sole responsibility subsequent to preparing and circulating the petition, and to have property owners and residents sign it, return it to the town council within 30 calendar days for verification.
- (3) A petition will be considered if a minimum of 67 percent of the property owners and residents agree by their signature to the proposed name.
- (4) If two or more people own or reside on the same tract of land, then only one signature will be counted towards the 67 percent required.
- (5) If the name change is requested by local residents, the town's expenses connected with renaming and remarking the way-of-travel will be borne by the residents.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-78. Signs for private ways-of-travel.

Private ways-of-travel shall be officially named in accordance with the provisions of this article and as authorized by the town council. The expense of such signs and their erection shall be borne by the private property owner and shall be paid at the time the private way-of-travel petition form is submitted to the town council.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-79. Technical standards for way-of-travel selection.

(a) Any way-of-travel which is obviously aligned with an existing named way-of-travel shall be given the name of the existing named way-of-travel.

(b) Priority in consideration shall be given to:

- (1) Historical documentation of common name.
- (2) Names selected by local residents.
- (3) Names which reflect local community interest or landmarks, lakes, hills, historical incidents, etc.
- (4) Names which other themes, such as names of trees, flowers, animals, etc.

(c) Proper names (e.g., John Doe Street) shall be discouraged because of the possibility of promoting disharmony in the community. If used, proper names shall reflect historical persons or those prominent in the community and shall consist of only the surname (Doe Street, rather than both given and surname (John Doe Street), unless the use of the given name is necessary to differentiate the way-of-travel from another existing way-of-travel name.

(Ord. No. 12-2009, 12-2-2009)

Sec. 32-80. Applicability.

The provisions of this article apply to the naming of public and private ways-of-travel.

(Ord. No. 12-2009, 12-2-2009)

Secs. 32-81—32-105. Reserved.

ARTICLE IV. PARKS

Sec. 32-106. Driving motor vehicles in parks.

It shall be unlawful for any person to drive a vehicle upon or across any part of any public park of the town except upon roadways laid out and maintained for vehicular travel. This section shall not apply to park employees whose duties require them to drive park maintenance equipment over parks.

(Code 2011, § 3-2-1)

Sec. 32-107. Closing hours.

Every public park in the town shall be closed to all persons at 10:00 p.m. and shall not be reopened until 6:00 a.m. of the following day. It shall be unlawful for any person to remain in any public park between the hours of 10:00 p.m. and 6:00 a.m., except with the express authorization of the council.

(Code 2011, § 3-2-2)

Sec. 32-108. Throwing missiles.

It shall be unlawful for any person in any park to throw bottles, cans, stones, sticks or other missiles.

(Code 2011, § 3-2-3)

Chapter 33

RESERVED

Chapter 34

SUBDIVISIONS*

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- Sec. 34-80. Flag lots.

***State law references**—Subdivision regulations, S.C. Code 1976, § 6-7-1010 et seq.; Uniform Land Sales Practice Act, S.C. Code 1976, § 27-29-10 et seq.; S.C. Code 1976, title 6, ch. 29, art. 7, §§ 6-29-1110 through 6-29-1200, 1994.

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ARTICLE I. IN GENERAL**Sec. 34-1. Purpose and jurisdiction.**

(a) *Purpose.* The purpose of this chapter is to protect and promote the public health, safety and general welfare of the present and future residents of the town, providing for the orderly development of land. These regulations are established for the following specific purposes, among others, as stated in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (S.C. Code 1976, § 6-29-1120):

- (1) To encourage the development of an economically sound and stable town;
- (2) To ensure the timely provision of required streets, utilities and other facilities and services to new land development;
- (3) To ensure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;
- (4) To ensure the provision of needed public open space and building sites in new land developments through the dedication or reservation of land for recreational, educational, and other public purposes; and
- (5) To ensure, in general, the wise and timely development of new areas in the town and to further provide a mechanism for redevelopment of existing areas.

(b) *Jurisdiction.* The regulations contained herein shall govern all land subdivision within the corporate limits of the town. Where uncertainty exists with respect to the boundary of the jurisdiction of the town, the location of such boundary shall be determined by scaling the distance on the official copy of the map.

(Ord. No. 06-2010, intro. ¶, 8-4-2010)

Sec. 34-2. Enabling act.

The town hereby exercises the authority granted under S.C. Code 1976, §§ 6-29-1110 through 6-29-1200, to adopt regulations governing the subdivision of land.

(Ord. No. 06-2010, intro. ¶, 8-4-2010)

Sec. 34-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building setback line means a line establishing the minimum allowable distance between the nearest portion of any building, excluding steps, gutters and similar fixtures, and the front, side and rear property line when measured perpendicularly thereto.

Cluster development means a tract of land, at least three acres in area, under single, corporation, firm, partnership, or association ownership, planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved development plan for cluster development.

Density means the quantity of anything per unit of volume or area, e.g., persons per acre, families per acre.

High density multiple-family development means a residential housing development consisting of one or more multiple-family dwellings or two or more two-family dwellings located on a single tract of land in which the lot area requirement is less than that normally required in the zoning district in which the development is located because of the nature of the intended residential use, developed under an approved site plan in a single development operation or a definitely programmed series of development operations. Proposals for high density multiple-family developments submitted to the building official shall meet all applicable requirements of this chapter and the town zoning ordinance.

Land development means development activities which cause a change in land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, manufactured home parks or similar developments for sale, lease or any combination of owner and rental characteristics.

Lot means a parcel of land having its boundaries marked by irons at each change in direction of its boundaries and designated by number or other symbol as a part of a legally approved and recorded subdivision or as described by metes and bounds.

Lot, corner, means a lot abutting upon two or more streets at their intersection, or upon two parts of the same street, forming an interior angle of less than 135 degrees. The point of intersection of the street lines, or of the street lines as extended, is the corner.

Monument means a permanent monolithic structure marking the intersection of property lines in subdivisions of land, being at least four inches in diameter or four inches square by two feet long and constructed of concrete or ferrous metal without voids. Concrete monuments shall have a rebar not less than one-half inch in diameter placed in the center throughout its length and have a yield strength of at least 3,000 pounds per square inch. Monuments shall be placed such that a mark is stamped or placed near its center delineating property lines intersecting on the monument.

Multiple-family development means a residential housing development consisting of one or more multiple-family dwellings or two or more two-family dwellings located on a single tract of land developed under an approved site plan in a single development operation or a definitely programmed series of development operations. Proposals for multiple-family developments submitted to the building official shall meet all applicable requirements of this chapter as well as applicable sections of the town zoning ordinance.

Official maps or plans means any maps or plans officially adopted by the town council as a guide for the development of the town and surrounding area.

Street means a dedicated public right-of-way which affords the principal means of access to abutting property and which has been accepted for maintenance by the town, the county or the state highway department. For the purposes of these regulations, the term "street" or "streets" shall also mean avenues, boulevards, roads, lanes and other public ways. All setbacks shall mean beginning at the right-of-way line of said public ways.

Street, alley, means a vehicular way used primarily for providing service access along the rear or side of properties which are also served by one of the other types of streets defined herein.

Street, collector, means a public way designed primarily to connect residential service streets with arterial streets or to provide a direct connection between two arterial streets and which may be expected to carry a significant volume of traffic having neither origin nor destination on the street.

Street, commercial, means a street that is predominantly used to provide access to abutting commercial or industrial properties.

Street, cul-de-sac, means a short street having one end permanently terminated by a vehicular turnaround.

Street, major thoroughfare, means a street or highway which is used primarily to move fast or heavy traffic from one section of the urban area to another; an arterial street.

Street, marginal access, means a street, located parallel to and adjacent to a major thoroughfare; and which provides access to abutting properties and protection from through traffic.

Street, residential, means a street which is used primarily for access to abutting residential properties.

Subdivider means any person who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision means and includes all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease or building development, and includes all division of land involving a new street or a change in existing streets and includes re-subdivision which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law and includes combinations of lots of record. However, the following exceptions are included within this definition only for the purpose of requiring that the local planning commission be informed and have record of such subdivisions:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the town council.
- (2) The division of land into parcels where no new street is involved.
- (3) The combination or recombination of entire lots of record where no new street or change in existing streets is involved.

Subdivision, major, means those subdivisions resulting in more than five lots or which involve the platting, construction, improvement or opening of new streets, or the construction of new water distribution or wastewater collection lines. Such subdivisions are subject to all requirements of this chapter.

Subdivision, minor, means those subdivisions resulting in five or fewer lots which do not involve the platting, construction, improvement or opening of new streets or the construction of new water supply or wastewater collection mains. Such subdivisions are subject to an abbreviated review and approval process.

Town council means the governing body, including the mayor, of the town having both executive and legislative authority.

(Ord. No. 06-2010, art. I, 8-4-2010)

Sec. 34-4. Filing of chapter and subdivision plats with the county clerk of court; submission to and approval by town engineer and building official required.

Upon the enactment of the ordinance from which this chapter is derived by the town council, a copy of said ordinance shall be filed in the office of the county clerk of court. After that time, no subdivision plat for any land within the subdivision jurisdiction of the town shall be filed with or recorded by the county clerk until such plat has been submitted and approved according to the procedures set forth in this chapter. All plat information shall be submitted by a registered surveyor or registered engineer who shall certify to the accuracy of the Information on such plat and any other information required by the zoning ordinance to be on such plat.

(Ord. No. 06-2010, art. I, 8-4-2010)

Sec. 34-5. Scope.

No street or other public way or land shall be accepted or maintained; nor shall any water lines, sewerage, street lighting or similar improvements be extended or connected; nor shall any permits be issued by any department of the municipality or county for construction of a building or other improvement in any subdivision established hereafter which does not meet the requirements set forth in this chapter.

(Ord. No. 06-2010, art. I, 8-4-2010)

Sec. 34-6. Effect of plat approval on dedications.

Approval of a plat shall not be deemed to constitute or affect an acceptance by the town council of the dedication of any street or other ground shown upon the plat.

(Ord. No. 06-2010, art. I, 8-4-2010)

Sec. 34-7. Violations and penalties.

(a) *Development plan to comply with regulations, submission of unapproved plan for recording is a misdemeanor.* After the town council has adopted land development regulations, no subdivision plat or other land development plan within the jurisdiction of the regulations may be filed or recorded in the office of the county clerk of court, and no building permit may be issued until the plat or plan bears the stamp of approval and is properly signed by the designated authority. The submission for filing or the recording of a subdivision plat or other development plan without proper approval as required by this chapter is declared a misdemeanor and, upon conviction, shall be fined not less than \$200.00 nor more than provided in state law.

(b) *Recording unapproved land development plan or plat; penalty; remedies.* The county clerk of court may not accept, file, or record a land development plan or subdivision plat involving a land area subject to land development regulations adopted pursuant to this chapter unless the development plan or subdivision plat has been properly approved. If a public official violates the provisions of this section, he is, in each instance, subject to the penalty provided in this chapter and the affected governing body, private individual, or corporation has rights and remedies as to enforcement or collection as provided, and may enjoin any violations of them.

(c) *Transfer of title to follow approval and recording of development plan; violation is a misdemeanor.* The owner or agent of the owner of any property being developed within the town may not transfer title to any lots or parts of the development unless a land development plan or subdivision has been approved by the town planning commission or designated authority and an approved plan or plat recorded in the office of the county clerk of court. A transfer of title in violation of this provision is a misdemeanor and, upon conviction, must be punished in the discretion of the court. A description by metes and bounds in the instrument of transfer or other document used in the process of transfer does not exempt the transaction of these penalties. The town may enjoin the transfer by appropriate action.
(Ord. No. 06-2010, art. I, 8-4-2010)

Sec. 34-8. Filing fees.

Filing and related fees are established from time to time.
(Ord. No. 06-2010, art. I, 8-4-2010)

Sec. 34-9. Land subject to flooding.

Land subject to flooding and land deemed by the building official to be uninhabitable shall not be placed for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation.
(Ord. No. 06-2010, art. I, 8-4-2010)

Sec. 34-10. Inappropriate fill material.

The use of inappropriate fill material within the town limits shall not be allowed in areas which are subject to future development. Inappropriate fill material shall be considered to be bricks, cement/concrete blocks, trash, debris, appliances or any other materials deemed inappropriate by the enforcement agency.
(Ord. No. 06-2010, art. I, 8-4-2010)

Secs. 34-11—34-38. Reserved.

ARTICLE II. PLAT REQUIREMENTS AND REVIEW PROCEDURES

Sec. 34-39. Sketch plan—Submission optional.

(a) Prior to filing an application for preliminary plat approval, the subdivider or his representative may submit a project description of the proposed subdivision to the town building official. This description shall contain general information but must contain: name of developer, location of project,

number and type of structures to be constructed, date utilities required, and any other pertinent information. This project description may be in the form of a letter with accompanying sketches. Oral request shall not be substituted for the written description.

(b) After reviewing the project description, the town building official shall respond as to the development's feasibility and availability of utilities. If streets are to be constructed which are to ultimately become the property of the town, they shall also be addressed at this time. The town building official's review shall be presented in the form of a written report.

(Ord. No. 06-2010, art. II, 8-4-2010)

Sec. 34-40. Sketch plan—Appeal.

If the subdivider disagrees with comments provided, the subdivider may request review by the town planning commission provided the planning commission chairperson is notified in writing of such request at least 15 calendar days prior to the next regularly scheduled planning commission meeting. If commission review is not requested, then changes necessary to accommodate sketch plan comments shall be a condition preceding acceptance of a preliminary plat submitted.

(Ord. No. 06-2010, art. II, 8-4-2010)

Sec. 34-41. Preliminary plat—Required.

The subdivider shall prepare and submit five copies of the preliminary plat and of any supplemental material required for submission to the town planning commission.

(Ord. No. 06-2010, art. II, 8-4-2010)

Sec. 34-42. Preliminary plat—Contents.

The plat shall be drawn on a standard sheet of 24-inch by 36-inch paper and to a scale of one-inch equals 100 feet or one inch equals 50 feet, and shall contain or be accompanied by the following information:

- (1) *General information.*
 - a. Names and locations of adjoining subdivisions and streets and the location and ownership of adjoining un-subdivided property.
 - b. Boundaries of the tract to be subdivided with all bearings and distances indicated.
 - c. Existing zoning classification of the tract, if any.
- (2) *Existing site data.*
 - a. Town limits lines; property lines; rights-of-way; easements; streets; railroads; utility transmission lines; storm sewers, ditches and culverts; sanitary sewers; water mains; bridges and buildings.
 - b. Wooded areas, marshes, watercourses, ponds and any other similar conditions affecting the site.
 - c. Contours showing the topography of the site at a vertical interval of either two, five or ten feet, as required by the building official.

- d. Areas subject to flooding, accompanied by high water elevation, if available.

(3) *Proposed site data.*

- a. Street rights-of-way, pavement widths, grades and street names. Street profiles and cross sections shall be provided when required by the building official.
- b. Preliminary plans prepared by an engineer registered in the state for sanitary sewers, storm sewers, water, electric and gas lines, showing connections to existing systems or proposals for developing new water supply, storm drainage and sewage disposal systems. Storm and sanitary sewer profiles, cross sections and sizes shall be provided.
- c. Other easements and rights-of-way, including locations, dimensions and purposes.
- d. Contour changes to be made by grading.
- e. Lot lines, lot dimensions, lot and block numbers and minimum building setback lines along street rights-of-way and rear and side property lines.
- f. Parks, school sites and other public areas, if any.
- g. Areas to be used for purposes other than residential and public, if any, with the purpose, location and dimensions of each indicated.

(4) *Other information.*

- a. Name of subdivision and surveyor or engineer.
- b. Name and address of owner or owners.
- c. Date of survey and plat preparation, north point, graphic scale.
- d. Surveyor's certificate of accuracy, certifying that the error of closure is at least 1:10,000.
- e. Site data; total acreage in tract; acreage in public or other land usage; average lot size; total number of lots; linear feet in streets.
- f. Other supplemental materials; any deed restrictions proposed for the subdivision and any other information considered by either the subdivider or the building official to be pertinent to the review of the preliminary plat.

(Ord. No. 06-2010, art. II, 8-4-2010)

Sec. 34-43. Town planning commission—Action.

(a) *Review; decision.* The town planning commission shall review and shall approve, approve conditionally or disapprove the preliminary plat within 60 calendar days of the date of its submission by the applicant. If no action is taken by the town planning commission at the end of 60 calendar days after submission, the preliminary plat shall be deemed to have been approved.

(b) *Approval.* If the preliminary plat is found to conform to all of the requirements of this article, approval shall be given by the town planning commission. Action of the commission shall be noted on at least four copies of the preliminary plat. One copy shall be retained in the records of the building official; one copy shall be retained in the records of the town planning commission; one copy shall be retained in the records of the town administrator; and one copy shall be given to the subdivider.

(c) *Disapproval; conditional approval.* If the preliminary plat is disapproved or approved conditionally, the reasons for such actions shall be stated in writing and signed by the planning official or designee. The reasons for disapproval shall refer specifically to those parts of the general plan or ordinance or regulation with which the plat does not conform. One copy of the reasons shall be retained in the records of the building official; one copy shall be retained in the records of the town planning commission; one copy shall be retained in the records of the town administrator; and one copy shall be given to the subdivider. On conditional approval, the town planning commission may require the subdivider to resubmit the preliminary plat with all recommended changes before approving the plat. (Ord. No. 06-2010, art. II, 8-4-2010)

Sec. 34-44. Town planning commission—Appeal.

(a) A person who may have a substantial interest in any decision of the town planning commission or an officer or agent of the appropriate governing authority may appeal a decision of the planning commission to the circuit court in and for the county by filing with the clerk of such court a petition in writing setting forth plainly, fully and distinctly why the decision is contrary to law. The appeal shall be filed within 30 calendar days after the decision of the planning commission is mailed to the applicant.

(b) If the planning staff is designated as the approving authority, a party may appeal a staff action to the town planning commission. The commission must act on the appeal within 60 calendar days of the day the staff made a decision on the plat. A party may appeal the decision to circuit court within 30 calendar days after the decision of the commission is mailed to the applicant. (Ord. No. 06-2010, art. II, 8-4-2010)

Sec. 34-45. Final plat—General submission requirements; contents.

(a) *Copies required.* The subdivider shall submit four copies of the final plat and any required supplemental material before receiving final approval from the planning official or designee. At the same time there shall be submitted one set of the proposed plans and specifications for all improvements and the proposed deed restrictions.

(b) *Minor subdivisions.* Subdivisions resulting in five lots or less which do not involve the platting, construction or opening of new streets, water or sewer facilities, or improvements to existing streets may be accepted and approved by the building official in the form of a final plat. Such subdivisions shall comply with dimensional requirements established by article III of this chapter along with providing for a storm drainage system as required by the town engineer. No more than five lots may be subdivided from any parent tract using the minor subdivision approval process, regardless of whether such lots are created at one time or over a period of time. Along with the plat submitted for approval, the applicant shall provide a tax map depicting the entire parent tract from which lots are to be subdivided and all prior subdivision there from during the last five years.

(c) *Time of submission.* The final plat of the proposed subdivision shall be submitted to the planning official for final approval within one year of the date on which the preliminary plat was approved. If not submitted for final approval within such time, the preliminary plat shall be considered as having been disapproved, unless the town planning commission agrees, in writing, to an extension of time.

(d) *Recording.* The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time. The final plat shall be filed in the office of the county clerk of court within one week after approval, or if not, approval shall be considered void.

(e) *Contents.* The final plat shall conform substantially to the preliminary plat as it was approved. The final plat shall be prepared by a state registered surveyor or engineer who shall affix his official seal thereto and shall be drawn on a standard sheet of 24-inch by 36-inch paper and to a scale of one inch equals 100 feet or one inch equals 50 feet. Plats shall be prepared and survey data entered thereon in accordance with the most recent version of the "Minimum Standards Manual of the Practice of Surveying in South Carolina" established by the state board of registration for professional engineers and surveyors provided that all elevations information shall refer to mean sea level datum. Accuracy of plats and attendant shall be no less than that required in said manual for urban and surveys or as appropriate. The final plat shall contain or be accompanied by the following information:

(1) *Survey data.*

- a. Exact boundary of the tract to be subdivided, the error of closure shall be at least 1:10,000.
- b. Names and locations of adjoining subdivisions and streets and the location and ownership of adjoining un-subdivided property.
- c. Accurate location and description of all monuments, markers and control points.
- d. Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line and setback line, including linear dimensions, bearings or deflection angles, tangents, radii, acres, chords and central angles (all dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second).
- e. The error of linear closure for lots shall be at least 1:10,000.

(2) *Site data.*

- a. All rights-of-way, easements and areas to be dedicated to public use with the purpose of each stated.
- b. Areas to be used for purposes other than residential and public, if any, with the purpose, location and dimensions of each indicated.
- c. Lot and block numbers; street names.
- d. Such cross sections and profiles of streets, as may be required by the building official.
- e. Such plans for water mains, sanitary sewers and storm sewers, showing sizes, cross sections and profiles, as required by the building official.

(3) *Other information.*

- a. Name of subdivision, owner, surveyor, or engineer.
- b. Date of survey and plat preparation; north arrow; graphic scale.
- c. Deed restrictions proposed for the subdivision, if any.

- d. Any other information considered by either the subdivider or the building official to be pertinent to the review of the final plat.
 - (4) *Certificates.* The following signed certificates shall be shown on the original and all copies of the final plat submitted to the building official:
 - a. Certificate of ownership and dedication.
 - b. Certificate of approval of water supply and sewage disposal systems.
 - c. Certificate of surveying and mapping.
 - d. Certificate of approval of the design and construction of streets, utilities and other required improvements.
 - e. A statement signed by the town administrator as to the town's acceptance of utilities and/or streets.
- (Ord. No. 06-2010, art. II, 8-4-2010)

Sec. 34-46. Final plat—Action.

(a) *Approval.* The planning official or designee, or the building official in the case of a minor subdivision, shall approve or disapprove the final plat within 60 calendar days after it has been submitted for final approval. Approval and the date thereof shall be shown on the plat over the signature of the certifying official. If no action is taken by the building official at the end of 60 calendar days after submission, the plat shall be deemed to have been approved.

(b) *Disapproval.* If the final plat is disapproved, the grounds for such action shall be stated in writing. The reasons for disapproval shall refer specifically to those parts of the general plan or ordinance or regulation with which the plat does not conform. One copy of the reasons for disapproval shall be retained in the records of the building official, and another shall be given to the subdivider.

(c) *Reconciliation with preliminary plat.* During review of the final plat, the final plat shall be checked against the preliminary plat. The town engineer or town surveyor may be appointed to check the accuracy of the subdivision layout and the final plat. If substantial errors are found, the cost of checking the plat shall be charged to the subdivider.

(d) *Post-approval procedure.* After final approval, the subdivider shall file the original approved final plat with certificates with the county clerk of court. The subdivider shall provide the building official with one dark line print thereof.

(Ord. No. 06-2010, art. II, 8-4-2010)

Sec. 34-47. Final plat—Appeal.

(a) A subdivider or any party materially affected by the approving authority decision may appeal to the town planning commission in writing within 15 calendar days of said decision. The planning commission shall schedule a hearing, conduct said hearing, and render a decision within 60 calendar days of the date of appeal.

(b) The decision of the planning commission may be appealed to circuit court within 30 calendar days after the decision of the commission is mailed to the applicant.
(Ord. No. 06-2010, art. II, 8-4-2010)

Sec. 34-48. Dedication of streets or property.

Approval of a land development plan or subdivision plan does not automatically mean the local government body or the public has accepted the dedication of any street, easement or other property shown on the approved plat.
(Ord. No. 06-2010, art. II, 8-4-2010)

Secs. 34-49—34-69. Reserved.

ARTICLE III. DESIGN STANDARDS

Sec. 34-70. Minimum requirements.

The design standards set forth in this article shall be considered minimum requirements; however, higher standards are to be encouraged in subdivision design. If only minimum standards are used, the result will be a standardized and monotonous urban area. Subdivision design should carry out the purpose of the general plan and this article but not be limited to the minimum requirements.
(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-71. Streets.

(a) *Thoroughfare plans.* Major thoroughfares and collector streets shall be in conformance with the thoroughfare plan of the town.

(b) *Public.* All streets shall be public streets and shall be opened to the exterior property lines of the subdivision unless permanently terminated by a vehicular turnaround or an intersection with another street.

(c) *Continuation of adjoining.* Proposed streets shall be coordinated with the town's existing grid street system and provide for the continuation of principal streets. Curvilinear streets and/or streets ending in cul-de-sac shall not be allowed, except where there is clearly a demonstrated need as determined by topography or natural limitations.

(d) *Marginal access with major thoroughfares.* Where a subdivision abuts or contains an existing or proposed major thoroughfare, the building official may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(e) *Marginal access with highways and railroads.* Where land to be subdivided for commercial or industrial purposes borders or contains a railroad right-of-way or limited access highway right-of-way, a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land may be required. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

(f) *Reserve strips.* Reserve strips controlling access to streets shall be prohibited.

(g) *Jogs.* Street jogs with centerline offsets of less than 125 feet shall be avoided.

(h) *Tangents.* A tangent of at least 100 feet on minor streets, 150 feet on collector streets, and 200 feet on major thoroughfares shall be introduced between reverse curves.

(i) *Intersections.* The centerlines of no more than two streets shall intersect at any one point. Streets shall be laid out to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 60 degrees. The maximum grade approaching intersections shall not exceed five percent for a distance of not less than 100 feet from the centerline of such intersection.

(j) *Property lines at intersections.* Property lines at street intersections shall be rounded with a radius of 20 feet.

(k) *Horizontal curves.* Where horizontal street alignment deflects at an angle greater than ten degrees, a curve with the following minimum radii shall be introduced:

- | | |
|-------------------------------|-----------|
| (1) Major thoroughfares | 300 feet. |
| (2) Collector streets | 200 feet. |
| (3) Other streets | 100 feet. |

(l) *Vertical curves.* All changes in grade shall be connected by vertical curves of minimum length equal to 15 times the algebraic difference in rates of grade for major thoroughfares and collector streets and one-half of this minimum for all other streets.

(m) *Grade.* Unless necessitated by unusual topographic conditions and specifically approved, the minimum grade on any street shall be 0.5 percent. The maximum grade shall not exceed ten percent.

(n) *Rights-of-way.* Street rights-of-way shall be not less than the following:

- | | |
|----------------------------------------------------|-----------|
| (1) Major thoroughfares with service streets | 140 feet. |
| (2) Major thoroughfares | 80 feet. |
| (3) Collector streets | 60 feet. |
| (4) Commercial streets | 60 feet. |
| (5) Residential streets. | |
| a. Single-family area | 50 feet. |
| b. Multifamily area | 60 feet. |
| (6) Culs-de-sac | 50 feet. |

(o) *Pavement widths.* Pavement widths shall be not less than the following:

- | | |
|---------------------------------------------------------------------------------------|----------|
| (1) Major thoroughfares | 44 feet. |
| a. Collector streets | 36 feet. |
| b. Commercial streets | 29 feet. |
| c. Residential streets. | |
| 1. Single-family area | 27 feet. |
| 2. Multifamily area | 34 feet. |
| (2) Culs-de-sac | 27 feet. |
| (3) Where curbs and gutters are not provided, the pavement width shall be as follows: | |
| a. Major thoroughfares | 45 feet. |
| b. Collector streets | 26 feet. |
| c. Commercial streets | 26 feet. |
| d. Residential streets | 24 feet. |
| e. Marginal access streets | 20 feet. |
| f. Culs-de-sac | 20 feet. |

(p) *Culs-de-sac.* Streets ending in a cul-de-sac shall not be allowed, except where there is clearly a demonstrated need as determined by topography or natural limitations. Dead-end streets designed to be permanently terminated shall not exceed 600 feet in length, except where no other access is practical due to topographic reasons. Such streets shall be provided at the closed end with a turnaround (cul-de-sac). A turnaround shall have a radius of not less than 50 feet at the property line and not less than 40 feet at the curbline.

(q) *Temporary dead-end streets.* Temporary dead-end streets which extend for a greater distance than the depth of one abutting lot shall be provided with a temporary turnaround having a diameter of 80 feet, or other suitable turnaround.

(r) *Half streets.* Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of this article; and where it is found practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

(s) *Names.* No street names shall be used which will duplicate or be confused with existing streets. Street names shall be subject to specific approval and governed by the provisions of the street names, addresses and numbering ordinance.

(t) *Additional right-of-way.* In subdivisions which include an existing platted street or road that does not conform to the minimum right-of-way requirements of this article, additional width along one or both sides of such street or road shall be provided so that the minimum right-of-way required by

ordinance is established. In subdivisions abutting only one side of such a street, the street shall be widened to provide one-half of the required right-of-way, measured from the centerline of the existing right-of-way.

(u) *Right-of-way conveyance and dedication.* The right-of-way described in subsection (n) of this section shall be conveyed and dedicated to the appropriate governmental entity by deed referring to an accurate survey.

(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-72. Alleys.

(a) *Commercial and industrial areas.* Alleys shall be provided in commercial and industrial districts, except that this requirement may be waived where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed. Alleys serving commercial and industrial areas shall be not less than 30 feet in width.

(b) *Residential areas.* Alleys are not required for residential areas, but when provided shall be not less than 20 feet in width.

(c) *Intersections.* Alley intersections and sharp changes in alignment should be avoided, but where necessary, the curve radius shall permit safe vehicular movement.

(d) *Dead ends.* Dead-end alleys should be avoided, but where necessary shall be provided with adequate turnaround facilities at the dead end.

(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-73. Driveways.

Driveways shall be located, designed, constructed and permitted according to SCDOT standards for residential, commercial, and industrial uses.

(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-74. Easements.

(a) Easements not less than 20 feet wide centered on side or rear lot lines shall be provided where necessary for use by public or private utilities.

(b) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and of sufficient width to carry off stormwater.

(c) The town council shall maintain only those easements it accepts for public maintenance as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-75. Blocks.

(a) *Length.* The lengths, widths and shapes of blocks shall be determined with due regard for the following:

- (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
- (2) Zoning requirements as to lot sizes and dimensions.
- (3) Needs for convenient access, circulation, control and safety of street traffic.
- (4) Limitations and opportunities of topography. Blocks for residential use shall not be longer than 2,400 feet, and shall not be less than 600 feet in length, measured along the centerline of the block.

(b) *Width.* Blocks used for residential purposes should be of sufficient width to allow for two tiers of lots and appropriate depth. Blocks intended for business and industrial use should be of a width suitable for the intended use, with due allowance for off-street parking and loading facilities.

(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-76. Lots.

Lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated. All lots shall conform to the following requirements, except where superseded by the requirements of the zoning ordinance:

- (1) *Width, generally.* Residential lots shall be not less than 60 feet in width at the front building line and shall abut a public street a distance of not less than 40 feet; except that a corner lot shall have additional width to accommodate the side yard setback required in the applicable zoning classification.
- (2) *Side lines.* Side lot lines should be approximately at right angles or radial to street lines, except where, due to topographic conditions, an alternate orientation is approved.
- (3) *Depth.* The depth of residential lots should be not less than 100 feet.
- (4) *Area.* In all residential subdivisions, lot area shall be in conformance with the applicable zoning classifications and the following requirements:
 - a. *Commercial and industrial.* Lots are not required in subdivisions for commercial and industrial uses, but when provided, lots should be of appropriate size and arrangement to provide for adequate off-street parking and loading facilities based on the intended use.
 - b. *Double frontage.* Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen estimate of at least 20 feet shall be provided along the portion of the lots abutting such a traffic artery or other use where screening is required. There shall be no right of access across a planting screen easement.

(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-77. Building lines.

In all residential subdivisions, the minimum setback from the street right-of-way line or property line shall be in conformance with the applicable zoning classification.

(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-78. Public sites and open spaces.

Where a proposed public park, playground, school or other public use shown in the general plan is located in whole or in part in a subdivision, the reservation of such area may be required for a period not exceeding 90 calendar days from the date of approval of the preliminary plat, to give the governing or public body concerned opportunity to acquire such site.

(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-79. Areas subject to flooding.

A plat of a proposed subdivision which contains lands subject to flooding shall have such areas delineated as being subject to flooding. A lot having more than one-quarter of its area subject to flooding shall not be approved as a buildable lot for the purposes of constructing a habitable structure. An exception to this requirement shall be given to a lot or lots created for conservation purposes. Lots created for conservation purposes shall be allowed to have any or all of the land to be subdivided, subject to flooding. The term "conservation purposes" means the land is to be acquired by a duly recognized land trust, conservation group or other duly recognized group or individual, for the purpose of preserving land areas or dedicated for conservation purposes. A note shall be added to all plats created and approved for this type of lot which shall read as follows: "This lot is being created for conservation purposes and need not have access or be adjacent to a public street, highway, road or other public-way nor shall provisions of areas subject to flooding be applicable, pursuant to local regulations."

(Ord. No. 06-2010, art. III, 8-4-2010)

Sec. 34-80. Flag lots.

The creation of new flag lots shall be permissible only under the following circumstances:

- (1) Flag lots shall be created only:
 - a. To avoid providing direct access onto arterial or collector streets; or
 - b. When a property owner demonstrates that, because of the irregular shape of a tract or its difficult topography or for some other substantial reason, the creation of a flag lot is reasonably necessary to avoid extreme hardship to the property owner and can be accomplished without creating substantially adverse effects on neighboring properties or the public health or safety.
- (2) Under no circumstances shall a flag lot be created if the effect is to increase the number of access points onto an arterial street.

(Ord. No. 06-2010, art. III, 8-4-2010)

Secs. 34-81—34-103. Reserved.

ARTICLE IV. IMPROVEMENTS**Sec. 34-104. Conditions and specifications for final plat approval.**

Final plat approval shall not be given until the subdivider has installed the required improvements or has guaranteed to the satisfaction of the town council that such improvements will be installed. One set of as-built plans and specifications, certified by a registered engineer, shall be filed with the building official prior to any improvement installed by the subdivider.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-105. Surety bond.

In lieu of completion of the improvements herein required, the town council may require the subdivider to file a surety bond to ensure the actual construction of such improvements according to the plans and specifications filed. Such bond shall be in the amount of 100 percent of the estimated cost of the improvement, as determined by the building official, and with surety and conditions satisfactory to the town attorney and the building official. The building official shall enforce such bond by all appropriate legal means within its authority.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-106. Monuments and markers.

(a) Permanent monuments, four inches in diameter or square and three feet long, shall be placed at four places in each subdivision or portion of subdivision to be developed at one time. Three permanent monuments, four inches in diameter or square and two feet long, shall be placed in each block.

(b) All lot and block corners, all angle points and points of curve in each street shall be marked with rebar not less than one-half inch in diameter and not less than 24 inches long, placed so as to be one inch above the finished grade.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-107. Streets.

(a) The subdivider of any subdivision designed to be used for residential, commercial, industrial or other purposes shall lay out, grade and install necessary drainage facilities, and must pave all streets that are designated on the approved plat or that directly serve the subdivision. Paved streets must meet the specifications of the state department of transportation.

(b) Design standards; minimum. The design standards hereinafter set out shall be considered minimum requirements. The design standards in this document pertain to the construction of proposed streets for the purpose of subdividing land or development of property. Design guidelines shall meet the state department of transportation road design standards.

(c) Streets must be designed utilizing either concrete curb and gutter or open ditch. The combination of the two can only be used along entranceways.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-108. Sidewalks.

The subdivider may be required to construct sidewalks within the right-of-way of public streets to connect with existing or proposed sidewalks in areas where sidewalks are needed for pedestrian circulation. Sidewalks shall be constructed in accordance with the state department of transportation specifications and standards.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-109. Curbs and gutters.

Combination curbs and gutters may be required in accordance with applicable town standards.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-110. Water lines; fire hydrants.

Every lot in every subdivision shall be provided with town public water supply. Whenever a water main is reasonably accessible, as determined by the town engineer, the subdivider shall install water lines that are sufficient to take care of the demand of the subdivision when it is completely developed. Water lines shall be installed in accordance with town specifications and standards. The subdivider shall install fire hydrants in accordance with town specifications.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-111. Sanitary sewerage system.

Every lot in every subdivision shall be served by the town public sewerage system.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-112. Sanitary sewer lines.

The subdivider shall install sanitary sewers that are large enough to provide adequate service to every house in the subdivision when it is completely developed. Sanitary sewers shall be installed in accordance with town specifications and standards and as approved by the town engineer.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-113. Storm sewers and drainage.

An adequate storm drainage system designed to protect proposed development from flooding shall be installed in accordance with good engineering practice. The system shall be adequate to carry all stormwater in its drainage area and shall complement systems on adjacent properties. Where a public storm sewer is reasonably accessible, as determined by the town engineer, the subdivider shall connect with such drainage system. The town reserves the right to require that any construction or development plans, submitted by any party, be reviewed by the town engineer. All costs associated with development review services engaged at the discretion of the town shall be paid by the owner, agent or developer.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-114. Street lighting.

Before final approval is given to a subdivision plat, the subdivider shall submit a street lighting plan to adequately serve the area.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-115. Electrical and telephone service.

Electrical and telephone wires shall be installed underground; except, that this requirement may be waived at the request of the applicant in cases where the installation will result in practical difficulty or hardship. Whenever the requirement for underground installation is waived, all overhead wiring shall be placed in rear easements.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-116. Street signs.

The subdivider shall place street name signs which meet town specifications at all street intersections within the town subdivision jurisdiction.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-117. Survey accuracy.

The error of linear closure for land surveys shall not exceed one foot per 10,000 feet of perimeter of land (1:10,000).

(Ord. No. 06-2010, art. IV, 8-4-2010)

Sec. 34-118. Street names.

The town planning commission is responsible for approving re-naming existing street names in its area of jurisdiction. Street names shall be in compliance with the street names, addressing and numbering ordinance.

(Ord. No. 06-2010, art. IV, 8-4-2010)

Secs. 34-119—34-149. Reserved.**ARTICLE V. ADMINISTRATION AND AMENDMENT****Sec. 34-150. Variances.**

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this article would result in substantial hardship or inequity, the town planning commission may vary or modify, except as otherwise indicated, requirements of design, but not of procedure or improvements or requirements contained in the town zoning ordinance, so that the subdivider may develop his property in a reasonable manner, but so, at the same time, the public welfare is protected and the general intent and

spirit of this article is preserved. Such modification may be granted upon written request of the subdivider stating the reasons for each modification and may be waived by an affirmative vote of three-fourths of the membership of the town planning commission.

(Ord. No. 06-2010, art. V, 8-4-2010)

Sec. 34-151. Cluster development purpose.

(a) The purpose of the cluster development is to encourage the development of planned residential neighborhoods and communities that provide a full range of residential types. It is recognized that only through ingenuity, imagination and high quality design can residential developments be produced, which are in keeping with the intent of the zoning ordinances while departing from the strict application of the dimensional requirements of the zoning districts.

(b) Proposals for cluster development submitted to the building official shall meet all applicable requirements of this article as well as applicable sections of the zoning ordinance. Where in conflict, the requirements established in the zoning ordinance shall prevail.

(Ord. No. 06-2010, art. V, 8-4-2010)

Sec. 34-152. Multiple-family developments.

Proposals for multiple-family developments submitted to the building official shall meet all applicable requirements of this article as well as applicable sections of the zoning ordinance. Where in conflict, the requirements of the zoning ordinance shall prevail.

(Ord. No. 06-2010, art. V, 8-4-2010)

Sec. 34-153. High density multiple-family developments.

Proposals for high density multiple-family developments submitted to the building official shall meet all applicable requirements of this article as well as applicable sections of the zoning ordinance. Where in conflict, the zoning ordinance shall prevail.

(Ord. No. 06-2010, art. V, 8-4-2010)

Sec. 34-154. Review and reporting on amendments.

This article may be amended from time to time by the town council; however, no amendment shall become effective unless it shall have been submitted to the town planning commission for review and recommendation. The town planning commission shall have 60 calendar days within which to submit its report. If the town planning commission fails to submit a report within the specified time, it shall be deemed to have approved the proposed amendment.

(Ord. No. 06-2010, art. V, 8-4-2010)

Secs. 34-155—34-176. Reserved.

ARTICLE VI. FORMS

Sec. 34-177. Authorization and required use.

Town staff and the town planning commission are authorized and directed to develop subdivision application and other appropriate forms for use in the administration and enforcement of this article. Use of such forms by applicants hereunder is mandatory.
(Ord. No. 06-2010, art. VI, 8-4-2010)

Chapter 35

RESERVED

Chapter 36

TAXATION

- Sec. 36-1. Local hospitality tax.
- Sec. 36-2. Collection of payment.
- Sec. 36-3. Vendor remittance.
- Sec. 36-4. Penalty.
- Sec. 36-5. Local hospitality tax account.
- Sec. 36-6. Validity of chapter.

Sec. 36-1. Local hospitality tax.

There is hereby imposed a local hospitality tax of two percent on the gross proceeds of the sale of prepared meals and beverages in establishments within the town (hereinafter "vendor"). Payment of the hospitality tax established hereby shall be the liability of the customer.

(Ord. No. 16-2020, § 1, 12-9-2020)

Sec. 36-2. Collection of payment.

The tax imposed by this chapter shall be collected from the customer when payment for meals or beverages is tendered and shall be held in trust for the benefit of the town until remitted as provided in section 36-3.

(Ord. No. 16-2020, § 2, 12-9-2020)

Sec. 36-3. Vendor remittance.

Payment of the hospitality tax established herein shall be remitted by the vendor to the town on a monthly basis, along with such return or form as may be established by the town for such purposes, not later than the 20th day of the month and shall cover the tax due for the previous month. Any tax not timely remitted shall be subject to a penalty of five percent of the sum owed for each month or portion thereof until paid. The failure to collect from the customer the tax imposed by this chapter shall not relieve the vendor from making the required remittance.

(Ord. No. 16-2020, § 3, 12-9-2020)

Sec. 36-4. Penalty.

The failure of any vendor subject to this chapter to remit to the town the tax imposed by the provisions of this chapter shall constitute a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for up to 30 days, or both.

(Ord. No. 16-2020, § 4, 12-9-2020)

Sec. 36-5. Local hospitality tax account.

There is hereby established a special account to be known as the local hospitality tax account into which the taxes remitted shall be deposited by the town and used solely for the purposes provided by law.

(Ord. No. 16-2020, § 5, 12-9-2020)

Sec. 36-6. Validity of chapter.

This chapter is subject to the constitution and the laws of the state. If any section, phrase, sentence or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 16-2020, § 6, 12-9-2020)

Chapter 37

RESERVED

Chapter 38

TRAFFIC AND VEHICLES*

Article I. In General

- Sec. 38-1. Adoption of Uniform Act Regulating Traffic on Highways.
- Sec. 38-2. Only licensed operators may drive vehicles.
- Sec. 38-3. Obedience to traffic signals.
- Sec. 38-4. Speed restrictions.
- Secs. 38-5—38-26. Reserved.

Article II. Stopping, Standing and Parking

- Sec. 38-27. Parking prohibited in certain places.
- Sec. 38-28. Parking prohibited during certain hours.
- Sec. 38-29. Parking time limited in designated places.
- Sec. 38-30. Double parking.
- Sec. 38-31. Vehicles to be positioned within markings.
- Secs. 38-32—38-50. Reserved.

Article III. All-Terrain Vehicles

- Sec. 38-51. Definitions.
- Sec. 38-52. Parties to a misdemeanor offense.
- Sec. 38-53. Offenses by persons owning or controlling all-terrain vehicles.
- Sec. 38-54. Training, protective gear.
- Sec. 38-55. Public nuisance.
- Sec. 38-56. Enforcement.
- Sec. 38-57. Seizure, impoundment, reclaiming confiscated all-terrain vehicles.
- Sec. 38-58. Penalty.

***State law references**—Motor vehicles, S.C. Code 1976, title 56; Uniform Act Regulating Traffic on Highways, local authority, S.C. Code 1976, § 56-5-30; general rules regarding maximum speed limits, S.C. Code 1976 § 56-5-1520; alteration of speed limits by local authorities, signs and approval by state, S.C. Code 1976 § 56-5-1540; powers of local authorities concerning traffic laws, S.C. Code 1976, § 56-5-710; local authority to regulate standing or parking of vehicles, S.C. Code 1976 § 56-5-710(1); municipalities with marked parking spaces must designate spaces for disabled persons, S.C. Code 1976, § 56-3-1965; local authority to regulate operation of bicycles, S.C. Code 1976 § 56-5-710(8); power of local authorities to require strict pedestrian compliance with traffic control signals, S.C. Code 1976, § 56-5-3120; municipality may by ordinance require drivers involved in accidents to file report with designated town department, S.C. Code 1976, § 56-5-1360.

ARTICLE I. IN GENERAL**Sec. 38-1. Adoption of Uniform Act Regulating Traffic on Highways.**

The town hereby adopts by reference and makes a part of this Code as fully and completely as if set forth herein verbatim those provisions of state law contained in S.C. Code 1976, title 56, ch. 5, as amended, cited as the "Uniform Act Regulating Traffic on Highways."
(Code 2011, § 8-1-1)

Sec. 38-2. Only licensed operators may drive vehicles.

It shall be unlawful for any person to drive or operate any motor vehicle upon the streets and highways of the town who does not have a duly authorized driver's license in his possession.
(Code 2011, § 8-1-2)

Sec. 38-3. Obedience to traffic signals.

Drivers of all vehicles shall abide by signals of traffic officers and all automatic and stationary signals within the town limits.

Sec. 38-4. Speed restrictions.

(a) No person shall drive or ride a vehicle within the town limits at a speed greater or less than is reasonable or prudent under conditions then existing.

(b) The speed limit within the town shall be as indicated by signs giving notice thereof that are erected upon the streets with approval of the council.
(Code 2011, § 8-1-3)

Secs. 38-5—38-26. Reserved.**ARTICLE II. STOPPING, STANDING AND PARKING****Sec. 38-27. Parking prohibited in certain places.**

It shall be unlawful for any person to park or leave standing any vehicle on any of the streets or ways of the town designated by no parking signs.
(Code 2011, § 8-2-1; Ord. of 6-11-1941)

Sec. 38-28. Parking prohibited during certain hours.

When signs are erected giving notice that parking is prohibited during certain hours, no person shall park a vehicle between the hours so designated on any day except Sundays and public holidays.
(Code 2011, § 8-2-2)

Sec. 38-29. Parking time limited in designated places.

When signs are erected giving notice that parking is limited to a certain period of time, no person shall park a vehicle for longer than the period and between the hours so designated except on Sundays and public holidays.

(Code 2011, § 8-2-3)

Sec. 38-30. Double parking.

It shall be unlawful for any person to double park any vehicle on any of the streets of the town.
(Code 2011, § 8-2-4; Ord. of 6-11-1941)

Sec. 38-31. Vehicles to be positioned within markings.

It shall be unlawful for any person to park or leave standing any vehicle on any of the streets or ways of the town where parking space is designated by parking lines, except in the designated parking space.
(Code 2011, § 8-2-5; Ord. of 8-9-1948)

Secs. 38-32—38-50. Reserved.**ARTICLE III. ALL-TERRAIN VEHICLES*****Sec. 38-51. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

All-terrain vehicle (ATV) means a motorized vehicle designed primarily for off-road travel on low-pressure tires which has three or more wheels and handlebars for steering, but does not include lawn tractors, battery-powered children's toys, or a vehicle that is required to be licensed or titled for highway use. The term "ATV" includes Type I single passenger all-terrain vehicles and Type II tandem passenger all-terrain vehicles.

ANSI/SVIA means the American National Standard Institute/Specialty Vehicle Institute of America.

FMVSS means the Federal Motor Vehicle Safety Standard.

Motor vehicle means every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, is a motor vehicle. S.C. Code 1976, § 56-5-130.

Operate means and includes any attempt to operate and shall be construed to mean all matters connected with the presence and use of all-terrain vehicles whether such vehicle is in motion or at rest.

***State law reference**—All-Terrain Vehicle Safety Act, S.C. Code 1976, § 50-26-10 et seq.

Public nuisance means a class of common law offence in which the injury, loss or damage is suffered by the community as a whole rather than by individual victims. Examples of a public nuisance with regard to operating an all-terrain vehicle may include any of the following:

- (1) Disturbing the peace, quiet, comfort or repose of any person in his home or dwelling;
- (2) Disturbing the peace, quiet, comfort or repose of any person in any public area or place of public accessibility;
- (3) Damaging public or private property;
- (4) Reckless operation;
- (5) Operating with removal of or alteration of an effective muffler system;
- (6) Operating with removal of or alteration of a USDA Forest Service approved spark arrester;
- (7) Operating between the hours of 9:00 p.m. through 8:00 a.m. Sunday through Saturday.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks, is a vehicle. S.C. Code 1976, § 56-5-120.
(Ord. No. 04-2015, § 2, 6-24-2015)

Sec. 38-52. Parties to a misdemeanor offense.

(a) *Commission of any act declared herein to be a misdemeanor offense.* Every person who commits, attempts, to commit, conspires to commit or aids or abets in the commission of any act declared herein to be a crime, whether individually or in connection with one or more other persons shall be guilty of such offense and every person who induces, causes, permits or directs another to violate any provisions of this article is likewise guilty of a misdemeanor offense.

(b) *Violations by minors.* The parent of any minor child or the guardian of any minor child shall not authorize or knowingly permit any such minor to violate any of the provisions of this article. The parent of any minor or the guardian of any minor who authorizes or knowingly permits said minor to violate any of the provisions of this article is likewise guilty of a misdemeanor offense.

(Ord. No. 04-2015, § 3, 6-24-2015)

Sec. 38-53. Offenses by persons owning or controlling all-terrain vehicles.

(a) *Areas where unlawful to operate.* It is unlawful for the owner or any other person employing or otherwise directing the operator of an all-terrain vehicle (ATV) to require or knowingly permit the operation of such ATV upon any public street, private street, public right-of-way, alley, public park, sidewalk, public parking lot or private parking lot within the town limits of the town. The owner or person controlling the ATV who operates or authorizes or knowingly permits another person to operate an ATV upon any public street, private street, public right-of-way, alley, public park, sidewalk, public parking lot or private parking lot within the town limits of the town shall be guilty of a misdemeanor offense.

(b) *Time of operation.* All-terrain vehicles shall not be operated within the town limits between the hours of 9:00 p.m. and 8:00 am, Sunday through Saturday.

(c) *Age restriction warning label.*

- (1) It shall be unlawful to remove from an ATV the manufacturer age restriction warning label required by ANSI/SVIA.
- (2) It shall be unlawful for a parent or guardian of a person less than 16 years of age to knowingly allow that person to operate an ATV in violation of the age restriction warning label affixed by the manufacturer as required by standard ANSI/SVIA 1-2007.

(Ord. No. 04-2015, § 4, 6-24-2015)

Sec. 38-54. Training, protective gear.

(a) *Possess safety certificate.* Every person 15 years old and younger who operates an all-terrain vehicle (ATV) must possess a safety certificate indicating successful completion of "hands-on" all-terrain vehicle safety course approved by the All-terrain Vehicle Safety Institute.

(b) *Safety helmet and eye protection.* A person 15 years of age or younger may not operate, ride, or otherwise be propelled on an all-terrain vehicle (ATV) unless the person wears a safety helmet meeting standard FMVSS #218 and eye protection.

(Ord. No. 04-2015, § 5, 6-24-2015)

Sec. 38-55. Public nuisance.

The operation of an all-terrain vehicle in violation of any provision of this article shall be declared a public nuisance.

(Ord. No. 04-2015, § 6, 6-24-2015)

Sec. 38-56. Enforcement.

(a) *Town police department charged with primary enforcement of this article.* The town police department shall be charged with the primary enforcement of this article; but this article may also be enforced by other duly authorized law enforcement personnel.

(b) *Unlawful to interfere with a law enforcement officer.* It shall be unlawful for any person to interfere with a law enforcement officer during the prosecution of any law enforcement officer's duties involving the investigation, apprehension, seizure, impoundment associated with violations of this article.

(Ord. No. 04-2015, § 7, 6-24-2015)

Sec. 38-57. Seizure, impoundment, reclaiming confiscated all-terrain vehicles.

The seizure, impoundment, and reclaiming confiscated all-terrain vehicles shall be as follows:

- (1) A police officer or other duly authorized law enforcement officer may seize and impound or cause to be seized and impounded, as provided by this article, any ATV operating on public or private property contrary to the provisions of this article, except as specifically excluded herein. Such seized and impounded ATV shall be declared a public nuisance and shall remain in the custody of law enforcement until such time as such charges against the owner of the ATV be adjudicated by the municipal court.

- (2) After any unidentifiable ATV has been impounded for 14 days and is unclaimed by its owner, the police department or other duly authorized law enforcement agency, unless the ATV must be kept pending disposition of a criminal or civil trial involving the ATV, or pending a hearing on the disposition of the all-terrain vehicle, may dispose of the ATV by forfeiture instituted by applicable state law.
- (3) When an identifiable ATV is impounded by the police department or other duly authorized law enforcement agency and the all-terrain vehicle has a valid title from the department of motor vehicles, the town shall attempt to notify such owner by telephone or by registered mail at the owner's last known residence within five days of the time the ATV was seized. Notwithstanding the foregoing, no positively identifiable ATV shall be forfeited to the town until the owner of the ATV has been provided written notice by registered mail delivered to such owner's last known address that the ATV is in the possession of law enforcement. Subject to the other provisions of this article, the ATV may be forfeited to the town if the owner does not claim the ATV within 21 days after the date such notification was mailed. In addition to any impoundment fee and other costs or fees provided for elsewhere in this article or otherwise lawfully established, such owner must also pay all reasonable costs associated with the extended holding period described in this subsection, including the cost of mailing the notice, before the ATV is returned to the owner.
- (4) Any owner of an ATV which has been seized and impounded, with the exception of an ATV being held in connection with any criminal or civil trial, may claim the ATV upon payment all fines and fees set by the municipal court applicable to the ATV being in the custody of such law enforcement agency.

(Ord. No. 04-2015, § 8, 6-24-2015)

Sec. 38-58. Penalty.

A person violating this article is guilty of a misdemeanor and, upon conviction, must be fined not less than \$50.00 nor more than \$200.00.

(Ord. No. 04-2015, § 9, 6-24-2015)

Chapter 39

RESERVED

Chapter 40

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- Sec. 40-127. Prohibited discharges; exceptions.
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Division 3. Permissive Use of Public Sewers

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- Sec. 40-272. Self-monitoring and reporting requirements.
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ARTICLE I. IN GENERAL**Sec. 40-1. Purpose and jurisdiction.**

(a) *Purpose.* The purpose of this chapter is to protect and promote the public health, safety and general welfare of present and future residents of the town, provide for the effective delivery of utility services and to provide a uniform chapter to address pretreatment of wastewater, water and wastewater infrastructure extension, sewer use, and general operations and control.

(b) *Jurisdiction.* The regulations contained in this chapter shall apply to all properties within the corporate limits of the town and to such properties outside the corporate limits where the utility services herein are provided by the town.

(Ord. No. 03-2010, intro. ¶, 8-4-2010)

Sec. 40-2. Definitions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approving authority means the town council.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 30 degrees Centigrade, expressed in milligrams per liter and as further defined in standard methods.

Building drain means that part of lowest horizontal piping of a drainage system which receives the discharge from soil waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

CFR means the Code of Federal Regulations of the United States of America.

Color means optical density at the visible wavelength of maximum absorption.

Combined sewer means a sewer receiving both surface runoff and sewage.

DHEC means the South Carolina Department of Health and Environmental Control.

Domestic sewage means liquid waste from bathrooms, toilet rooms, kitchens and home laundries.

EPA means the United States Environmental Protection Agency.

Garbage means solid wastes from the domestic and commercial preparation of cooking and dispensing of food from the handling, storage and sale of produce, any household waste and commercial waste, but excluding industrial hazardous waste.

Grease, oil and sand separators or traps means devices designed to remove trash, debris, sediments, grease and oil from deposition into sanitary sewer or stormwater systems.

Industrial wastes means the liquid waste from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.

Industrial wastewater means the liquid wastes from commercial and industrial processes and operations, as distinct from domestic sewage.

Natural outlet means any outlet into watercourse, pond, ditch, lake or other body of surface water or groundwater.

Person means an individual or partnership, or corporation.

pH means the logarithm of the reciprocal of weight of hydrogen ions in grams per liter of solution.

Properly shredded garbage means the waste from the preparation of cooking and dispensation of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

Sanitary sewer means a sewer which carries sewage to which stormwater, surface water and groundwater are not intentionally admitted.

Sewage means a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present. The term "sewage" is to be used interchangeably with the term "wastewater."

Sewage or wastewater treatment plant means any arrangement of the devices and structures used for treating sewage/wastewater.

Sewer means a pipe or conduit for carrying sewage.

Sewer service line means the sewer service line as located on private property from the sanitary sewer stub-out to the building. For the purposes of this chapter, a sewer service line is considered plumbing.

Sewerage system or works means all facilities for collecting, pumping, treating and disposing of sewage or wastewaters.

Slug means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration occurring during normal operation.

Standard methods means the examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution control Federation.

Storm drain or *storm sewer* means a pipe which carries stormwaters and surface waters and drainage but excludes sewage and industrial wastes.

Street means streets, avenues, drives, boulevards, roads, alleys, courts, lanes, and all other public highways.

Suspended solids means solids that either float on the surface of, or are in suspension, in water, sewage or other liquids which are removable by laboratory filtering and is further defined in standard methods.

Total solids means the sum of suspended matter, settleable matter and dissolved matter, both volatile and nonvolatile, and as further defined in standard methods.

Treatment works means all facilities for pumping, treating, and distributing potable water and all facilities for collecting, pumping, treating and disposing of wastewater.

Wastewater means sewerage, to be used interchangeably.

Water service line means the water line located on private property from the water meter to the building. For the purposes of this chapter, a water service line is considered plumbing.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

(b) All other words shall be construed as having the meaning defined in Glossary: Water and Sewage Control Engineering, published by the Water Pollution Control Federation, Washington, D.C., or by their general usage if undefined.

(Ord. No. 03-2010, art. I, 8-4-2010)

Sec. 40-3. Systems combined.

The waterworks and sewerage systems of the town are hereby combined into a single system, to be known as the water and wastewater systems of the town. The combined systems shall be under the supervision of the water and wastewater superintendent, direction of the town administrator and control of the town council.

(Ord. No. 03-2010, art. I, 8-4-2010)

Sec. 40-4. Applicability to persons living beyond town limits.

Persons living outside the corporate limits of the town, using the town's water and/or sewer service and garbage services, shall be subject to the provisions of this chapter, except where otherwise noted.

(Ord. No. 03-2010, art. I, 8-4-2010)

Secs. 40-5—40-47. Reserved.

ARTICLE II. CHARGES, DEPOSITS, AND SERVICE

Sec. 40-48. Uniform charges for services.

(a) There are hereby established uniform service charges, including penalties and other necessary charges, for water, wastewater, and garbage services. The council may, by ordinance, modify charges or adopt other rates or requirements.

(b) The service charges, together with penalties and other charges, as may be determined from time to time by council, shall be on file in the clerk's office and are incorporated herein by reference.

(c) The service charges for water, sewer and garbage shall be listed separately on the same document for billing purposes.

(Ord. No. 03-2010, art. II, 8-4-2010)

Sec. 40-49. Utility deposits.

(a) In addition to all other charges, fees or penalties provided for in this article, prior to commencement of water, wastewater and/or garbage service, a consumer shall make a deposit with the town as provided in the schedule of fees as established from time to time.

(b) Deposits shall be refundable only after service has been disconnected and all water bills, sewage bills, garbage bills, and other debts which are due the town have been paid.

(c) Deposits may be transferred from one location to another, provided all bills owing on the former location have been paid.

(d) Deposits shall remain in the custody of the town during continuation of service. In the event service is discontinued for more than 60 calendar days, the deposit shall be applied to any indebtedness incurred by the consumer to the town. Service shall not be restored to the consumer, until the deposits shall have been reinstituted and brought to the status of current deposits as indicated in the schedule of fees as established from time to time.

(Ord. No. 03-2010, art. II, 8-4-2010)

Sec. 40-50. Differential rates for customers inside and outside town.

A differential in water, wastewater, and garbage rates for customers inside town and outside of the town, is expressly recognized, and are set forth in the schedule of fees as established from time to time.

(Ord. No. 03-2010, art. II, 8-4-2010)

Sec. 40-51. Responsibility of owner when rental units are vacant.

It shall be the responsibility of the owner of any rental units to make payment of all water, sewer and garbage rates, fees and penalties if service is required when the rental units are vacant.

(Ord. No. 03-2010, art. II, 8-4-2010)

Sec. 40-52. Restoration of service after discontinuance.

(a) If for any cause, the water and/or sewer and garbage service of any consumer shall be cut off, the service shall not be renewed until the consumer shall pay, in advance, all charges due and owing, correct any default existing, pay for any damage incurred, and pay a late or reconnection fee as provided in the schedule of fees as established from time to time.

(b) If at any time a lock is broken on a water meter by a consumer and it is necessary for the town to remove the meter, the water consumer shall pay a charge, as provided in the schedule of fees established from time to time, for removal and reinstallation of the water meter before service is renewed. The aforementioned requirement shall be in addition to all other charges, fees or penalties provided in this article.

(Ord. No. 03-2010, art. II, 8-4-2010)

Sec. 40-53. Special rates contracts.

The town may modify any water, wastewater and garbage rates established by it by special contract, based on flat rates per month, or on other basis as may be approved by the town council. All such contracts shall be in writing and held on file with the clerk-treasurer.

(Ord. No. 03-2010, art. II, 8-4-2010)

Sec. 40-54. Adoption of further regulations by ordinance.

The town council may, by ordinance, adopt any other regulations as may, in its discretion, be considered advisable in the sale or servicing of water, sewerage or garbage.

(Ord. No. 03-2010, art. II, 8-4-2010)

Sec. 40-55. Extension of system.

(a) *Requests for extensions.* Requests for extensions of the water and/or sewer lines of the town's water and wastewater system to property located either within or without the corporate limits shall be subject to approval of the town council. The request for extension of water and/or sewer lines shall not be construed as approval for same.

(b) *Responsibility for construction and cost.* Responsibility for construction and cost of extensions of either water and/or sewer lines, either within or without the corporate limits of the town shall be as follows:

- (1) *Extensions of water and/or sewer lines.* Any person, firm or corporation requesting such extensions to his or its property shall employ a professional engineer registered in the state to design the water and/or sewer lines and appurtenant structures, and shall hire a state-licensed contractor, both approved by the town, to construct such extensions and shall be responsible for all costs of such extensions. The person, firm or corporation requesting such service shall be required to pay for all costs, including labor, materials and equipment. Upon inspection by the town engineer and approval by the town council, the extension shall be accepted and added to the treatment works of the town.
- (2) *Alternate procedure.* Any person, firm or corporation located within a densely populated area may, as an alternate procedure, petition the town council to install and pay for an extension of water and/or sewer lines to serve said area. Such petitions shall be considered by town council when developing capital improvement plans for the water and sewerage system during preparation of the town's annual budget on the basis of the following factors:
 - a. Consideration given by the comprehensive land use plan and zoning ordinance.
 - b. Town's overall plan of utilities extension.
 - c. Town's projected growth area plan.
 - d. Number of potential customers.
 - e. Cost effectiveness.
 - f. Engineering feasibility.
 - g. Available funding.

(c) *Approval required; subdividers responsible for costs.* Subdividers of land, as may be defined in the subdivision requirements of the town, when extending water and/or sewer lines within a subdivision, shall be required to have all such extensions designed by a professional engineer licensed in the state and installed by a licensed contractor, approved by the town, and shall be responsible for all costs of such extensions.

(d) *Design, plans and specifications.* The design, plans and specifications of all proposed extensions of water and/or sewer lines, and all proposed water and/or sewer lines to be constructed within subdivisions shall first be submitted, for approval, to the town and any other governmental agency having jurisdiction thereof, including DHEC. The plans and specifications in this subsection shall be in compliance with the subdivision regulations, if applicable.

(e) *Acceptance of system by town.* Upon completion of the water and/or sewerage system, or construction of water and/or sewer lines, the owner or subdivider shall submit system improvements to the town engineer for inspection. Upon inspection approval by the town engineer and approval by the town council, the subdivider shall convey the system to the town, together with all necessary easements for access thereto, for purposes of operation and maintenance. The town shall accept the system or lines into the town treatment works and thereafter operate and maintain the system at no further expense to the subdivider or developer.

(Ord. No. 03-2010, art. II, 8-4-2010)

Sec. 40-56. Mandatory connections.

Every existing habitable building and every future habitable building constructed within 250 feet of any water main or sewer collection line shall be connected thereto and shall utilize the same for water services and wastewater collection services on said premises. Such connections shall be made by the property owner and at the property owner's expense within 30 calendar days and for the purposes of the penal provisions hereof, each day after 30 calendar days during which such building shall not be connected to such water main or sewer collection line shall be a separate offense and punishable by fine up to \$200.00 per day.

(Ord. No. 03-2010, art. II, 8-4-2010)

Secs. 40-57—40-85. Reserved.

ARTICLE III. SEWERS

Sec. 40-86. Required facilities.

No surface toilet or privy shall be constructed or maintained within the town. Every habitable structure shall be required to have and maintain an operating toilet. Such toilet shall be connected with the sewer system of the town. Septic tanks or similar sewage disposal systems shall not be allowed within the town limits. It shall be unlawful to replace an existing septic or similar sewage disposal system within the town limits, if sanitary sewer services are available within 250 feet.

(Ord. No. 03-2010, art. III, 8-4-2010)

Sec. 40-87. Placement of private sewer lines to connect with public sewer.

Where there is no sewer in the street, and it is necessary to construct a private sewer line to connect with a sewer in an adjacent street or avenue, it shall be laid outside of the curb, underground and at the pavement edge of the street on which the house fronts, and not, when otherwise practicable, through yards and shall not be placed under permanent structures.

(Ord. No. 03-2010, art. III, 8-4-2010)

Sec. 40-88. Unlawful discharge of pollutants.

(a) It shall be unlawful for any person, firm or corporation to discharge into any of the storm drains, storm sewers, ditches, or other drainage facilities of the town, sewage, industrial waste, pollutants or other wastes, as defined in the pollution control act of the state, and further, specifically including, but without limiting the generality, oil, gasoline, petroleum, wastes, pesticides and detergents, whether this matter is discharged directly into the drainage systems, or whether it be discharged onto the street or on private premises in a manner that it ultimately flows into any part of the storm drainage system.

(b) Each discharge of such materials shall be considered as a separate offense. Each day that a continuing discharge is made, after notice from the water and wastewater superintendent to discontinue the discharge, shall be considered as a separate offense. These criminal provisions are nonexclusive, and the right of the municipality to injunctive relief or abatement of or penalty for a nuisance shall not be affected.

(c) This section is supplemental to the South Carolina Pollution Control Act, is not in conflict therewith and does not limit any right of the municipality under the terms of that state legislation.

(Ord. No. 03-2010, art. III, 8-4-2010)

Sec. 40-89. Service connection requirements; denial or discontinuance of service.

(a) *Connections.* Requirements relating to sewer connections are as follows:

- (1) The town reserves the right to require any owner to install on his service connection a tank, check valve or valves, cock or gate valve, pressure regulator or other appliances apparatus or equipment of such type and design as is approved by the town.
- (2) The town reserves the right to require any change, alteration, substitution or addition to any such tank, etc., as aforesaid. Failure upon the part of the property owner to comply with such requirements of the town within ten calendar days after written notice to the owner, or within some agreed extension beyond such ten days also in writing, shall authorize the town, without further notice, to cancel the provision of utility services.
- (3) The town further reserves the right, at its option, and without notice, to discontinue its service to any premises where and when the continuance of the service to such premises will reduce or in any manner affect the efficiency of any of the rest of the town's system.

(b) *Denial or discontinuance of service by town.* Service may be refused or discontinued for any of the reasons listed below. Unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued. The reasons shall be as follows:

- (1) Without notice in the event of a condition determined by the town to be hazardous or dangerous;
- (2) Without notice in the event of customer use of equipment in such a manner as to affect adversely the town's service to others;
- (3) Without notice in the event of unauthorized use of the town's service;
- (4) For customer-tampering with equipment furnished and owned by the town. The customer shall make every reasonable effort to prevent tampering and shall notify the town immediately of any tampering with, damage to or removal of any equipment;
- (5) For violation of and/or noncompliance with these rules and regulations;
- (6) For failure of the customer to fulfill his contractual obligations for service and/or facilities subject to regulations by the town;
- (7) For failure of the customer to allow the town reasonable and safe access to the town's equipment;
- (8) For failure of the customer to provide and maintain a utility deposit with the town, upon demand by the town;
- (9) For failure of the customer to furnish permits, certificates, easements and rights-of-way as necessary to obtain service or in the event such permissions are withdrawn or terminated;
- (10) For illegal and willful misuse of town's services by the customer;
- (11) For molesting or tampering with any service or sewerage pipe, or for illegally making connection into any sewerage line for the disposal of drainage surface waters;
- (12) The town shall not be required to furnish its sewerage service to any applicant who, at the time of such application, is indebted under an undisputed bill to the town for water, sewerage and/or garbage service or any other service previously furnished for such applicant or furnished any other member of the applicant's household;
- (13) The customer's use of the town's service conflict with, or violates, order, ordinances or laws of the state or any subdivision thereof, or the United States of America.

(c) *Notice to be given.* Before any sewerage service is disconnected, the town shall give ten calendar days' written notice to the customer, with copies forwarded to the county health department. At the expiration of the ten calendar day period, or at the expiration of same agreed extension beyond ten calendar days, the customer's service may be discontinued by the town at any time without further notice. After the physical discontinuance of any sewerage service, the division of sanitary engineering of the state department of health and environmental control (DHEC) shall be notified immediately of the action, including the name and physical address of the customer.

(Ord. No. 03-2010, art. III, 8-4-2010)

Secs. 40-90—40-106. Reserved.

ARTICLE IV. WASTEWATER SYSTEM

DIVISION 1. GENERALLY

Secs. 40-107—40-125. Reserved.

DIVISION 2. PROHIBITED USE OF PUBLIC SEWERS

Sec. 40-126. Pass through and interference prohibited.

No person shall discharge or cause to be discharged into any sewers any stormwater, surface water, uncontaminated groundwater, roof runoff, or subsurface drainage. No person shall discharge or cause to be discharged into any sewer any pollutant that will pass through or cause interference with the sanitary sewer collection system and/or the wastewater treatment plant.

(Ord. No. 03-2010, art. IV, div. 1, 8-4-2010)

Sec. 40-127. Prohibited discharges; exceptions.

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or waste into any public sanitary sewer:

- (1) Any clothing, rags, textile remnants or wastes, cloth, scraps, etc., except fibers, scraps, etc., which will pass through one-quarter-inch mesh screen or its equivalent in screening ability.
- (2) Any liquid or vapor in amounts which will inhibit biological activity at the treatment plant, resulting in interference or causing damage, but in no case in such quantities that the temperature exceeds 150 degrees at the town sewage system or 104 degrees at the treatment plant unless DHEC, upon request of the town, approves alternate temperature limits.
- (3) Any waters or wastes containing more than 100 parts per million by weight of fats, oils or grease.
- (4) Any liquids, solids, or gases which by reason of their nature or quality may cause a fire or explosion, hazard in the POTW or collection system, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit using test methods specified in 40 CFR 261.21.
- (5) Any liquid wastes in which the suspended solids exceed 400 parts per million by weight, except as hereinafter provided for.
- (6) Any liquid wastes having a BOD of more than 250 parts per million except as hereinafter provided for.
- (7) Any waters or wastes having a stabilized pH lower than 6.0 or higher than 9.0 or having other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewerage system.

- (8) Any waters or wastes containing a poisonous or toxic substance or any other materials in sufficient quantity to injure or interfere with any sewage treatment process, or constitute a hazard to humans or animals, or create any hazard in the receiving stream at the sewage treatment plant.
 - (9) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense will be required to handle such materials in the sewerage system.
 - (10) Any garbage that has not been properly shredded.
 - (11) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, bones, feathers, tar, plastics, wood, paunch manure, butcher's offal, or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage system.
 - (12) Any materials which form excessive amounts of scum that may interfere with the operation of the sewerage system or cause undue additional labor in connection with its operation.
 - (13) Any waters or wastes containing dyes or other color which cannot be removed by biological processes and which require special chemical treatment.
 - (14) Any waters or wastes containing lint in such quantities as to be detrimental to the sewerage system.
 - (15) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutants concentrated which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24 hour concentration, quantities, or flow during normal operation.
 - (16) Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
 - (17) Any trucked or hauled pollutants, except at discharge points designated by the approving authority.
- (Ord. No. 03-2010, art. IV, div. 1, 8-4-2010)

Sec. 40-128. Approving authority.

The approving authority, without limitation by other provisions of this article, may authorize any person to discharge industrial waste of unusual strength or character into the sewers of the town under approved conditions of pretreatment. The approving authority may prohibit entry of particular industrial wastes into the sanitary sewer whenever such action is necessary to prevent damage to the system or to determine the effects of such wastes on the sewerage system. The approving authority may revise or adjust specific discharge limits at any time to correct operational or maintenance problems at the wastewater treatment plant that are caused by the discharge of a particular material or pollutant. The

approving authority may develop, implement and enforce discharge limits that may be more stringent than federal or state limits in order to meet the NPDES limits placed upon the wastewater treatment plant.

(Ord. No. 03-2010, art. IV, div. 1, 8-4-2010)

Sec. 40-129. Pretreatment standards.

Upon the promulgation of any federal or state categorical pretreatment standards or individual standard, that standard, if more stringent than limitations imposed under this division, shall immediately supersede the limitations imposed under this division.

(Ord. No. 03-2010, art. IV, div. 1, 8-4-2010)

Secs. 40-130—40-156. Reserved.

DIVISION 3. PERMISSIVE USE OF PUBLIC SEWERS

Sec. 40-157. Town right to inspect and require tap fee.

The town shall reserve the right to inspect and grant permission for all connections to the sewerage system and receive the payment of a tap fee before permission to connect can be granted to any person. The tap fee shall be specified in the schedule of fees, as established from time to time, and shall be periodically revised by necessary amendments.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-158. Holding or storage tank for excessive volume of discharge.

Where necessary in the opinion of the approving authority, and whenever the total volume of sewage to be discharged by any person in any one day shall exceed 5,000 gallons, such person shall be required, at no expense to the town, to construct holding or storage tanks in order to equalize the discharge over a 24-hour period. Such tanks shall be so equipped as to thoroughly mix the sewage so that its quality shall be uniform when discharged to the sewer. The discharge rate shall be set by a waterworks type rate controller or other approved device, the operation and setting of which shall be directed by the approving authority.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-159. Pretreatment requirements.

(a) Whenever the waste characteristics of sewage being discharged by any person exceed those requirements of section 40-127 or where necessary in the opinion of the approving authority, the person discharging sewage shall construct or cause to be constructed at no expense to the town such preliminary handling or treatment as may be required to:

- (1) Reduce the BOD to 250 parts per million by weight, and the suspended solids to 400 parts per million by weight; or
- (2) Change the objectionable characteristics or constituents to come within the maximum limits provided for in section 40-127.

(b) The discharge limits set forth in subsection (a) of this section shall be standard except as established by industry-specific pretreatment programs.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-160. Approval required for plans of pretreatment facilities.

Plans, specifications and other pertinent information relating to proposed preliminary treatment or handling facilities shall be submitted for the approval of the approving authority and no construction of such facilities shall be commenced until such approval is obtained in writing. When required, a DHEC permit to construct shall be obtained, and a copy of said permit shall be provided to the approving authority.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-161. Maintenance of pretreatment facilities.

Where the preliminary treatment or holding facilities are provided for any purpose, they shall be maintained continuously in satisfactory and effective operation at no cost to the town.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-162. Sampling may be required.

Any person who is now discharging any sewage into the town public sewers may be required to make written application to the approving authority giving complete information as to the nature and characteristics of the sewage as determined by an analysis of a composite sample of the wastewater made by an independent laboratory.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-163. Change in nature or quantity of discharge.

Any person having been granted authority by the approving authority to discharge sewage into the town's public sewers and who shall change or cause to be changed the nature or quantity of such sewage, shall before making such change, submit for approval to the approving authority of such change and may be required to furnish the approving authority a complete analysis of a composite sample of the sewage as determined by an independent laboratory.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-164. Written application required.

Any person who should wish to make such connection and discharge such sewage as described above shall make written application to the approving authority, and may be required to furnish the approving authority a complete analysis of a composite sample of the sewage as determined by an independent laboratory, in addition to compliance with all other provisions of this division.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-165. Grease, oil and sand separators or traps.

Grease, oil and sand separators or traps shall be required when in the opinion of the approving authority they are necessary for the proper handling and control of liquid wastes containing grease, oil or sand in excessive amounts. Such separators shall not be required for private living quarters or dwelling units, but may be required for certain industrial or commercial establishments, public eating places, hospitals, hotels, schools, or other institutions. Such separators shall be readily accessible for inspection by the approving authority. The separators shall be maintained and cleaned by the property owner. The design and installation of such grease, oil and sand separators shall be subject to approval by the approving authority before installation.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-166. Control manhole.

Any person discharging industrial wastes into the public sewers may be required to construct and maintain a suitable control or inspection manhole either downstream from any pretreatment, storage or other approved works, or if pretreatment is not required, at the point where the sewage enters the public sewers. Such manhole shall be located so as to be readily accessible and shall be constructed in such a manner as may be approved by the approving authority so as to facilitate such inspection or measuring as may be necessary for proper sampling and/or control of the wastewater discharged.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-167. Wastewater discharge permit required.

All significant industrial users proposing to connect or discharge to the sewerage system shall obtain a wastewater discharge permit before connecting to or contributing to the system.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-168. Contents of permit.

Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the town. Permits may contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (2) Limits on the average and maximum wastewater constituents and characteristics;
- (3) Limits on average and maximum rate and time of discharge and sampling facilities;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Require the development of compliance schedules for the installation of pretreatment systems by the discharger or compliance with the pretreatment program requirements;
- (7) Requirements for submission of technical reports or discharge reports;

- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording town access thereof;
 - (9) Requirements for notification of the town for any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
 - (10) Requirements for notification of slug discharges;
 - (11) Other conditions as deemed appropriate by the town to ensure compliance with this article or state and federal pretreatment requirements; and
 - (12) Permission to discharge uncontaminated cooling water to the storm sewer.
- (Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-169. Permit transfer.

Wastewater discharge permits are issued to a specific person for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-170. Slug control plan.

If deemed necessary by the approving authority, the user shall prepare and submit a slug prevention and control program. The need for such a plan shall be evaluated by the town every two years.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Sec. 40-171. Bypass.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

Property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. The term "property damage" does not mean economic loss caused by delays in production.

(b) *Conditions allowing bypass.* A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) *Notification required.* Notification procedures as follows:

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the approving authority, at least ten days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the approving authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The approving authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) *Bypass prohibition and conditional approval.*

- (1) Bypass is prohibited, and the approving authority may take an enforcement action against a user for a bypass, unless:
 - a. Bypass was unavoidable in order to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The user submitted notices as required under subsection (c) of this section.
- (2) The approving authority may approve an anticipated bypass, after considering its adverse effects, if the approving authority determines that it will meet the three conditions listed in subsection (d)(1) of this section.

(Ord. No. 03-2010, art. IV, div. 3, 8-4-2010)

Secs. 40-172—40-195. Reserved.

DIVISION 4. SEPTIC TANK WASTE AT TOWN TREATMENT PLANT

Sec. 40-196. Criteria for acceptance of septic tank waste.

The town will accept septic tank waste generated and pumped from within the town upon the following criteria, terms, and conditions:

- (1) *Septic pH.* A representative sample of the septic waste shall have a pH reading between 6.0 and 9.0. This sample shall be measured by a wastewater treatment plant employee prior to disposal;
- (2) *Visible inspection.* A sample of at least one gallon shall be collected and presented by the pump truck hauler for a visual inspection by a wastewater treatment plant employee for verification

that the waste does not have excessive grease, stormwater, landfill leachate, industrial waste or any other properties which may be detrimental to the wastewater treatment process. The result of this test is entirely at the discretion of the wastewater treatment plant;

- (3) *Volume verification.* The estimated volume of the waste to be disposed shall be verified by either reading the septic tanker trucks level indicator gauge, estimated based on the manifest tickets, assuming a full load, or other acceptable means the wastewater treatment plant operator deems appropriate;
- (4) *Origin of waste.* The septic hauler shall present load manifests that clearly indicate the location of each septic tank pumped that is part or the entire current load. The location shall be an address located in the town. The manifest shall also include an estimated volume of septic waste pumped from the respective location.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Sec. 40-197. Town reserves right to suspend acceptance of septic tank waste.

The town reserves the right to suspend acceptance of septic tank waste at any time it deems such suspension to be in the best interest of the town.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Sec. 40-198. Waste from other counties or municipalities not accepted.

No septic tank waste will be accepted by the town which is generated outside of the town or generated by any other municipal corporation.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Sec. 40-199. Maximum daily volume limit.

The town will receive not more than 7,000 gallons per day pursuant to the terms of this division. This disposal limit will be adjusted only upon the recommendation of the wastewater treatment plant operator and upon the written approval of the town administrator. Any volume received in excess of the 7,000-gallon daily limit will be held for disposal the following day.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Sec. 40-200. Hours of operation.

Septic waste disposal shall be limited to Monday through Friday between the hours of 10:00 a.m. and 3:00 p.m. The wastewater treatment plant will not accept waste during inclement weather. Therefore, it is recommended to contact the wastewater treatment plant at by making an appointment at town hall prior to delivering any load.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Sec. 40-201. Septic tank hauler application fee.

Septic tank waste disposal haulers shall make an application for a one-time application fee which shall be valid for the period of one year. The fee is due upon the filing of the application and its approval. The septic tank hauler application fee shall be as per indicated in the schedule of fees as established from time to time.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Sec. 40-202. Septic tank disposal fees.

A septic tank disposal fee per 1,000 gallons is hereby imposed, to be paid at the time of disposal. Any partial load of less than 1,000 gallons will be billed at the 1,000-gallon rate. The septic tank disposal fee shall be as indicated in the schedule of fees as established from time to time.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Sec. 40-203. Responsibilities for septic tank effluent disposal.

The town reserves the right to refuse disposal of septic tank effluent by any permitted septic hauler in the event that said permitted septic hauler fails to follow any of the following conditions:

- (1) The failure to schedule the load with the wastewater treatment plant operator prior to arriving at the facility;
- (2) The failure of the permitted septic hauler to present a representative sample of the load to be disposed of prior to disposal;
- (3) The failure of the permitted septic hauler to present the required town septic waste disposal manifest prior to disposal;
- (4) The failure to obtain the approval of the wastewater treatment plant operator prior to disposal of septic waste;
- (5) The failure to the permitted septic hauler to connect to the septic disposal station;
- (6) The failure to obtain from the wastewater treatment plant operator verification of the load volume and the authority to initiate disposal of load procedure;
- (7) The failure to obtain from the wastewater treatment plant operator verification that the disposal station has been cleaned and that any spills have been completely moved prior to departure of the permitted septic hauler;
- (8) The failure to sign the certification form as required.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Secs. 40-204—40-229. Reserved.

DIVISION 5. OPERATIONS AND CONTROL

Sec. 40-230. Approving authority right to inspect.

The approving authority and/or his duly authorized representatives of the town shall be permitted to enter upon all properties for the purposes of inspecting and copying records, inspection of premises and processes, observation, measurement, sampling and testing in accordance with the provisions of this division. The town shall notify, if available, the person or a representative of the person prior to entering the premises.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-231. Protection of system.

In the event of imminent danger to the public health and safety, the approving authority and duly authorized representatives shall be permitted to take such emergency action as may be deemed necessary in the operation of the sewerage system, including, but not limited to, the right to close down any sewer or portion of the sewerage system for the purpose of making connections, alterations, or repairs. During such event approving authority will make every effort to minimize inconvenience and return the service to full operation as quickly as possible.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-232. Test and analysis standards.

All tests and analyses of the characteristics of sewage to which reference is made in this division shall be made in accordance with the latest amendments to 40 CFR 136, Guidelines Establishing Test Procedures for the Clean Water Act, as promulgated by the U.S. Environmental Protection Agency. Such tests and analyses shall be determined at the control manhole provided for in control manhole section, or at the point of discharge of any sewage at the site of their origin on the premises of any person discharging such sewage into the sewers.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-233. System user charges based on water consumption.

(a) The volume of flow used in computing wastewater system user charges and surcharges shall be based upon:

- (1) Metered water consumption as shown in the records of meter reading maintained by the town water and wastewater department or other water authority; or
- (2) Any means determined acceptable by the town.

(b) Customer may install sewer meter at their own expense to measure flow. In the event that a person discharging wastewater into the sanitary sewer system produces evidence satisfactory to the approving authority that greater than ten percent of his water does not reach the town sanitary sewer, the user may apply to the approving authority for a reduced percentage of total water consumption to be used in computing sewer charges.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-234. Sewer meter required for water supply from wells or other sources.

Where the person discharging wastewater into the sanitary sewers of the town procures any part, or all, of his water supply from sources other than water services of the town, all or part of which is discharged into the sanitary sewer, the person discharging said wastewater shall install and maintain, at his expense, sewer meters of a type approved by the approving authority for the purpose of determining the proper volume of flow to be charged. The approving authority has a right to read such private sewer meters.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Sec. 40-235. Sewer tap requirements.

All sewer taps shall conform to the requirements of the approving authority in location, size, type, materials and method used and shall be accomplished only by a licensed plumber authorized by the approving authority. It shall become the responsibility of each person requesting connection to the public sewer to notify the approving authority and arrange for final inspection of the connection before placing in use.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-236. User responsible for expenses incurred by damage or stoppage.

Any person using the public sewer shall be responsible for any stoppage or damage caused by abuse of the sewerage system through the sewer connection of that person and shall be held accountable for all expenses incurred by the town or other property owners as a result of the abuse. The town will not correct damage or stoppage on private property that is caused by abuse of the sewerage system by the resident or business operator.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-237. Usage required upon availability of system.

All existing sewage disposal and future sewage disposal shall be by public sewerage system except that where no public sewer exists within 250 radial feet of a building or where connections are impractical for technical reasons. Once sewer service becomes available, the sewage from this building shall be tapped at the expense of the property owner to the available sewer line within 30 calendar days of the date that sewer service was made available and septic tanks will be required to be pumped out and filled with sand. Privies and cesspools are prohibited, and no septic tank effluent shall be discharged to any open drain, ditch, stream or well penetrating water bearing formations. At no time shall any domestic or industrial wastewater be discharged to the storm sewer system. It shall be unlawful to replace an existing septic tank where sanitary sewer services are available within 250 radial feet of the affected property.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-238. Application for connection to system.

Any person desiring connection to be made with the sewerage system shall make application on the appropriate form to the approving authority stating the name of the owner of the property, the location of the lot, and kind of connection desired. Every such application shall be signed by the person making

the application and shall be accompanied by the appropriate connection fee. Fees shall be those as periodically adopted by the town council by means of amendments to the schedule of fees as established from time to time.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-239. Approving authority may discontinue service to protect system.

Upon ten calendar days' written notice, the approving authority reserves the right to prevent or discontinue sewer connection by any person until such time as the provisions of this division have been fulfilled to the satisfaction of the approving authority. When deemed necessary by the approving authority to protect the sewerage system or the public, the approving authority may discontinue or prevent sewer connection without notice to the person.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-240. Reconnection prohibited until approval.

It shall be unlawful for any person to reconnect a sewer when the same has been cut off for noncompliance with provisions of this division, or any other reason, until specifically approved in writing by the approving authority. Said approval shall be contingent upon satisfaction of all provisions of this division, including, but not limited to, payment of all penalties, charges, claims, damages, judgments, and costs incident thereto.

(Ord. No. 03-2010, art. IV, div. 4, 8-4-2010)

Sec. 40-241. Application and approval required before connection.

It shall be unlawful for any person to make or undertake to make or cause to be made, any connection to the sewerage system without first having made application, paid fee and received approval for such connection.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-242. Discharge to groundwater, surface water, etc., prohibited.

In no event shall any person be allowed to discharge or cause to be discharged any domestic sewage or industrial wastewater, whether or not treatment has been provided, to the groundwater, surface water, stream, watercourse, ditch, lake, other body of surface water, storm sewers, or storm drains.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-243. User subject to sewer provisions.

Any sewerage discharge within the town located within 250 radial feet of any public sewer may be considered by the approving authority as a user of the public sewer system, and is subject to all provisions of this division.

(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-244. Confidential information.

Information and data on a user obtained from reports, questionnaires, permit application, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this division, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment program; provided, however, that such portions of a report shall be available for use by the state and/or state agency in judicial review or enforcement proceedings involving the person furnishing the report.
(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-245. Pretreatment violations.

The town shall annually publish in the largest daily newspaper of local circulation a listing of industrial users who were in significant noncompliance with the pretreatment standards or regulations at least once during the 12 previous months. The notification shall also summarize enforcement actions taken against the person during the same 12 months.
(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Sec. 40-246. Tap fees.

Tap fees, cutting of pavement if required, and other such expenses concerning sewer connections shall be as periodically established by the town council.
(Ord. No. 03-2010, art. IV, div. 5, 8-4-2010)

Secs. 40-247—40-270. Reserved.**DIVISION 6. DETERMINATION OF CHARACTER AND CONCENTRATION OF WASTES****Sec. 40-271. Periodic inspection as deemed necessary.**

The wastewater of each industrial discharger into the town's sewerage system shall be subject to periodic inspection for a determination of character and concentration not less than semiannually or more often as may be deemed necessary by the approving authority. Such inspection and tests may also be made immediately after any approved process change which might affect the quantity or quality of the wastewater discharged.
(Ord. No. 03-2010, art. IV, div. 6, 8-4-2010)

Sec. 40-272. Self-monitoring and reporting requirements.

The wastewater of each industrial user is subject to routine self-monitoring and reporting requirements:

- (1) All sampling and analysis shall be in conformance with test and analyses section.
- (2) If any industrial user samples more frequently than required by the approving authority, the results of such sampling shall also be reported to the approving authority.
- (3) If sampling indicates a violation of this division or of any conditions of the wastewater discharge permit, the user must notify the approving authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the analysis to the approving authority within 30 calendar days. In case of accidental discharge or slug loading the approving authority must be notified immediately by telephone, followed by a written report of the incident within five calendar days.

(Ord. No. 03-2010, art. IV, div. 6, 8-4-2010)

Sec. 40-273. Determination of flow and character of industrial waste basis for charges.

The determination of the flow, character, and concentration of industrial wastes as provided herein shall be used as a basis for charges.

(Ord. No. 03-2010, art. IV, div. 6, 8-4-2010)

Secs. 40-274—40-294. Reserved.**DIVISION 7. PROTECTION FROM DAMAGE****Sec. 40-295. Tampering with town equipment or materials prohibited.**

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any equipment or materials belonging to the town. This protection shall also apply to any part of the wastewater system whether town-owned or not if it is such as to adversely affect the proper operation and maintenance of the town wastewater system. Any person violating this provision shall be subject to penalties outlined in revocation of permit section as well as prosecution if deemed appropriate.

(Ord. No. 03-2010, art. IV, div. 7, 8-4-2010)

Secs. 40-296—40-323. Reserved.**DIVISION 8. ENFORCEMENT AND PENALTIES****Sec. 40-324. Enforcement.**

The town may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes the town to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permits shall immediately stop or eliminate the contribution. In the event of a failure of any person to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the sewerage system or endangerment to any individuals. The town shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the person describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the town within 15 calendar days of the date of occurrence.

(Ord. No. 03-2010, art. IV, div. 8, 8-4-2010)

Sec. 40-325. Revocation of permit.

Any person who violates the following conditions of this division, or applicable state and federal regulations, is subject to having his permit revoked:

- (1) Failure to factually report the wastewater constituents and characteristics of their discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the premises for the purpose of inspection or monitoring; or
- (4) Violation of any conditions of the permit.

(Ord. No. 03-2010, art. IV, div. 8, 8-4-2010)

Sec. 40-326. Legal action.

If any person discharges sewage, industrial wastewater or other wastes into the town's wastewater system contrary to the provisions of this division, federal or state pretreatment requirements, or any order of the town, or a town official, the town attorney may commence an action for appropriate legal and/or equitable relief in the circuit court of the county.

(Ord. No. 03-2010, art. IV, div. 8, 8-4-2010)

Sec. 40-327. Penalties.

(a) Any person who is found to have violated an order of the town council or who willfully or negligently fails to comply with any provisions of this division, and the orders, rule, regulations and permits issued herein under, may be assessed a penalty in an amount not exceeding \$2,000.00 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the town may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate lawsuit against the person found to have violated this division or the order, rule, regulation and permit issued hereunder.

(b) Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other documentation filed as required to be maintained pursuant to this division, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders

inaccurate any monitoring device or method required under this division, upon conviction may be imprisoned or punished by a penalty of not more than \$2,000.00 per offense. Additional penalties are established in the pretreatment program enforcement response guide.

(Ord. No. 03-2010, art. IV, div. 8, 8-4-2010)

Sec. 40-328. Consent orders.

The approving authority may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to administrative orders section and shall be judicially enforceable. Such consent order shall not supersede nor be in conflict with a consent order issued by DHEC.

(Ord. No. 03-2010, art. IV, div. 8, 8-4-2010)

Sec. 40-329. Administrative orders.

When the approving authority finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the approving authority may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Administrative orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. An administrative order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does an administrative order relieve the user of liability for any violation, including any continuing violation. Issuance of an administrative order shall not be a bar against, or a prerequisite for, taking any other action against the user. Such documents shall have the same force and effect as the administrative orders issued pursuant to administrative orders section and shall be judicially enforceable. Such administrative order shall not supersede nor be in conflict with an administrative order issued by DHEC.

(Ord. No. 03-2010, art. IV, div. 8, 8-4-2010)

Secs. 40-330—40-346. Reserved.

DIVISION 9. SANITARY SEWER EXTENSIONS AND SERVICE CONNECTIONS

Sec. 40-347. Conformance to approving authority specifications required.

Any entity proposing to build local or lateral sewers or extensions to connect directly or indirectly into the town's sewerage system shall conform its plans and specifications to the requirements of the

approving authority. The plans and specifications shall be prepared by a registered engineer who is authorized by the laws of the state and approved or approvable by any and all local, county, and state authorities having jurisdiction.

(Ord. No. 03-2010, art. IV, div. 9, 8-4-2010)

Sec. 40-348. Administrative procedure.

The following administrative procedures shall be followed:

- (1) Submit preliminary construction plans to the approving authority in sufficient detail to indicate location, system layout, line sizes, service connections, flows, character of sewage, relationship with and connection to the town's system, and total development.
- (2) Receive preliminary acceptance from the approving authority and other jurisdictional agencies.
- (3) Prepare construction drawings and documents for approving authority acceptance.
- (4) Secure all other necessary agency approvals of construction drawings and contract documents.
- (5) Upon receipt of required approvals, proceed with construction, notifying the approving authority of construction schedules.
- (6) Provide the approving authority with permission for on-site inspection during construction.
- (7) Furnish to the approving authority a certificate of completion, instrument of conveyance and warranty together with such other legal documents as may be required for annexation, reimbursement and similar special provisions.

(Ord. No. 03-2010, art. IV, div. 9, 8-4-2010)

Sec. 40-349. Construction by state licensed contractor.

Construction of the proposed sewerage system shall be accomplished by a registered contractor licensed under the laws of the state who shall have paid all business license fees required by the town.

(Ord. No. 03-2010, art. IV, div. 9, 8-4-2010)

Sec. 40-350. Registered engineer inspection after construction.

Upon completion of construction, the registered engineer responsible for the design of the project shall inspect and furnish to the approving authority at no cost to the town, his certificate of completion indicating that the subject sewerage system has been constructed in accordance with the approved plans and specifications, and shall provide four copies of as-constructed or as-built drawings.

(Ord. No. 03-2010, art. IV, div. 9, 8-4-2010)

Sec. 40-351. Warranty required.

The owner or his authorized agent shall submit a warranty which is a legal instrument in which the owner warrants the materials, equipment, and construction of the system for 12 months. The owner shall further warrant to the approving authority that all fees have been paid by him such that there is no outstanding indebtedness remaining and holding the town harmless in each instance.

(Ord. No. 03-2010, art. IV, div. 9, 8-4-2010)

Sec. 40-352. Sewer taps to be made during construction and recorded.

All known sewer taps shall be made during construction and the location of all taps shall be recorded on the as-constructed drawings or as-built drawings.

(Ord. No. 03-2010, art. IV, div. 9, 8-4-2010)

Sec. 40-353. Extensions to be compatible with future plans of town.

All sewerage system extensions must be compatible with present and future plans and needs of the town.

(Ord. No. 03-2010, art. IV, div. 9, 8-4-2010)

Sec. 40-354. Instrument of conveyance after approval.

When all other requirements of this division have been met and approved, the owner shall prepare and submit to the approving authority an instrument of conveyance, conveying the constructed system to the town, at no cost to the town, and the system shall thereafter be owned, operated and maintained by the town as provided for in this division. The instrument of conveyance shall also include permanent easements and rights-of-way fully described and duly recorded at the appropriate authority.

(Ord. No. 03-2010, art. IV, div. 9, 8-4-2010)

Sec. 40-355. Building sewers and connections.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without obtaining a written permit from the town.

(b) There shall be two classes of building sewer permits:

- (1) For residential and commercial services; and
- (2) For service to establishments producing industrial wastewater.

In either case, the owner or his agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the town. A permit and inspection fee will be required at the time the application is filed.

(c) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(d) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer, but the town does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(e) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the town, to meet all requirements of this division.

(f) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF, Manual of Practice No. 9, shall apply.

(g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(h) No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer unless such connection is approved by the town for purposes of disposal of polluted surface drainage.

(i) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town, or the procedures set forth in appropriate specifications of the ASTM and the WPCF, Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the town before installation. Infiltration will not exceed 100 gallons/day/inch diameter/mile.

(j) The applicant for the building sewer permit shall notify the approving authority when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the town.

(k) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.
(Ord. No. 03-2010, art. IV, div. 9, 8-4-2010)

Secs. 40-356—40-383. Reserved.

ARTICLE V. WATER

Sec. 40-384. Water wells.

No person shall drill or bore a water well within the town where water is furnished by the town from the town's water supply and where such water supply is available within 250 feet of the affected property.
(Ord. No. 03-2010, art. V, 8-4-2010)

Sec. 40-385. Application for services; tapping permit.

(a) Application for water service shall be made to the town and, on approval of the application, a permit to tap the main at a designated point shall be issued for the use of the applicant to a licensed plumber of the town or to other competent persons. The applicant shall be charged a tap fee as provided in section 40-48, which shall be for service and not for the purchase of the water meter; the meter remaining the property of the town and part of the town water system.

(b) It shall be unlawful for any unauthorized person to tamper with any water meter or any other part of the water system. Any unauthorized person tampering with any water meter, or other part of the water system, shall be prosecuted to the full extent of the law, in addition to paying for any damages incurred. (Ord. No. 03-2010, art. V, 8-4-2010)

Sec. 40-386. Service line piping installation to be at cost of consumer.

Water meters for every consumer shall be placed from the supply main to the property line of the customer. All service line piping on the property of the customer shall be at the expense of the customer and shall be of a quality and standard as may be approved by the water and wastewater superintendent. (Ord. No. 03-2010, art. V, 8-4-2010)

Sec. 40-387. Separate connections required; exceptions.

A separate connection with a meter from water main to each dwelling or place of consumption shall be made. The owner may, with permission, join two or more apartments in the same house or two or more businesses within the same building, but no such connection shall be made without a written permit. In the event of joint service, the owner of the apartments or businesses so joined shall be responsible for payment of all water rates and fees of the several connected services. These shall include any bills incurred by a renter who has vacated the premises and those incurred while the apartment or business is vacant. Water charges for multi-units operating from one meter shall be made for each unit. No house or building so connected with the water main shall have a branch line to an adjoining property. (Ord. No. 03-2010, art. V, 8-4-2010)

Sec. 40-388. Connection of more than one premises to meter.

It shall be unlawful for any person to connect more than one dwelling or business to one water meter. (Ord. No. 03-2010, art. V, 8-4-2010)

Sec. 40-389. Connections and meters to remain property of town; change of meter or lateral.

(a) All meters, boxes, pipes and other equipment furnished and installed by the town for a water connection shall remain the property of the town.

(b) If, after an installation is completed, the property owner requests that a meter or service line be changed in size and this request is approved by the approving authority or authority representative, the property owner shall pay for cost of all hardware and the difference of the cost of meters in the original and new installations according to current costs. (Ord. No. 03-2010, art. V, 8-4-2010)

Sec. 40-390. Covering, alteration of location, damage to meter box.

Once the stopcock, meter box and meter have been set according to the application, it shall be unlawful for any consumer or owner to alter the location of the meter, cover the box, or damage the meter. If the consumer or owner desires the meter to be moved it may be done by the town at the expense of the consumer or owner.

(Ord. No. 03-2010, art. V, 8-4-2010)

Sec. 40-391. Water leak adjustments.

The town will adjust one bill, one time, one location every 12 months at the request of the customer. This adjustment does not apply to irrigation systems, toilets, water heaters or any other plumbing inside or outside the house. Any piping connected to the service line will not be considered for adjustment. Adjustments will be made at 50 percent of total water consumption; excluding the base rate. Example: (base rate) plus 50 percent times the consumption equals the adjusted bill. Sewer usage will be calculated using an average calculated from the three months prior to billing adjustment month. If the leak period covers more than one billing period, the adjustment will be given on the current bill, after repairs have been made. Receipts from plumbers or other related contractors must be provided at the time the adjustment is requested along with a written statement of work performed. If the customer repairs the leak; the customer must provide receipts and a written explanation of all work performed. A field check will be made by town water and wastewater staff to verify that the leak was repaired and also to obtain a current meter reading.

Sec. 40-392. Adjustments for pools.

The town recognizes that filling a backyard swimming pool annually results in higher water consumption for the month the pool is filled. The town will adjust one bill, one time, one location every twelve months upon a written request from the customer for filling a backyard swimming pool. Because the water filling the pool does not go through the sewer system, a one-time adjustment to the sewer portion of the bill related to the filling up of the pool will be allowed based on the average three months consumption prior to the pool being filled.

(Ord. No. 03-2010, art. V, 8-4-2010; Ord. No. 12-2020, § 1, 7-22-2020)

Secs. 40-393—40-412. Reserved.**ARTICLE VI. CONTRACT, RATES AND CHARGES****Sec. 40-413. Establishment of utility rates.**

Utility rates and charges for water, sewer and garbage services shall remain in effect until changed by the town council.

(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-414. Schedule of water rates.

The schedule of water rates shall be according to the schedule of fees as established from time to time. (Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-415. Schedule of sewer rates.

The schedule of sewer rates shall be according to the schedule of fees as established from time to time. (Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-416. Application and contract for utility services.

Any property owner or consumer desiring a supply of water, sewer services or garbage services shall first make a written application. This application shall contain the following information together with such other information as may be deemed necessary and reasonable by the administration department:

- (1) The name of the customer;
- (2) The address of the customer;
- (3) The type of services to be provided;
- (4) If applicant is a tenant, a document issued by the landlord verifying that the applicant is a tenant and the date of occupancy must be attached to the application.

(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-417. Tap fee required.

(a) Each applicant for new domestic water and sewer connection, for the person or firm applying for water service, shall pay a tap-in or cutoff fee. For each connection to the system, the person or firm applying for services shall pay a tapping fee equal to actual cost of making an initial connection from the main to the property line, and the cost of installing a meter, a meter box, and the fittings thereon.

(b) Such payment shall be made, in full, prior to the installation of the connection.

(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-418. No free water or sewer service permitted.

As required by the town's water and sewer bond ordinances, no water or sewer service shall be furnished or rendered free of charge to any person, firm or corporation inside or outside the town.

(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-419. Use of water for construction purposes.

Water to be used for construction purposes shall be by application containing the following information, together with such other information as may be deemed necessary and reasonable by the director of finance:

- (1) The name of the customer;
- (2) The address of the customer;

(3) The type of service to be provided.
(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-420. Taking or carrying away water from hydrant, public fountain, etc.

No person shall take water from any hydrant, public fountain or fireplug or carry away the same for any use whatever without authority from the town administrator or the administrator's designee. Water taken from a hydrant shall be metered.
(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-421. Determination of water and sewer availability.

Contractors, companies or persons desiring to determine the availability of water and sewer services to an area or parcel of property served by the town shall request such determination from the administration department. Town personnel will determine water and sewer availability, in consultation with the water and wastewater superintendent, and notify the applicant in writing.
(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-422. Late monthly readings.

Due to fluctuations in the weather and holidays, water meters are sometimes read later than every 30 days. When meters are read later, water bills appear higher because they are for a longer number of days. An estimated water bill shall be mailed for any month a meter reading is not available for any reason.
(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-423. Billing monthly; penalty for late payment; discontinued service.

All meters shall be read each month. Each bill shall be mailed at the end of every month and bills shall become due and payable by the tenth day of the following month. If bills are not paid by the tenth day of the following month, a ten percent penalty shall be added on the eleventh day of the month. If the bill is not paid by the fourth Monday of the month, the bill shall become delinquent and water service shall be discontinued. Water service shall remain discontinued until the user shall have paid all bills then in arrears, together with the ten percent penalty, and a reconnection fee as established in the schedule of fees as established from time to time. The town will not accept partial payments.
(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-424. Failure to receive a utility bill.

Failure to receive a utility bill does not relieve the customer from penalties incurred for late payment and service discontinuance. If a customer does not receive a bill by the fifth day of the month, the customer should contact the administration department at town hall.
(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-425. Deposits required; refunds.

(a) Each new customer obtaining a water and sewer connection shall make a deposit.

(b) Whenever service is discontinued, the amount of said deposit, without interest, shall be returned to the depositor, after first deducting all outstanding bills for water and sewer service.
(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-426. Tampering with connections; reconnections; when unlawful.

(a) It shall be unlawful for any person to:

- (1) Tamper with or change any water meter.
- (2) Make any connection to the system without written permission.
- (3) Reconnect service when it has been discontinued for nonpayment of a bill for service, until such bill has been paid in full, including the reconnection fee.

(b) Tampering with a meter connection shall be an unlawful offense and punishable by fine up to \$500.00. Any property upon which meter tampering has occurred shall suffer utility service discontinuance until all associated fines and restitution have been satisfied to the town's favor.
(Ord. No. 03-2010, art. VI, 8-4-2010)

Sec. 40-427. Uninterrupted service not guaranteed.

Uninterrupted service is not guaranteed. The town will not assume liability for damage to merchandise or equipment due to interruption in any utility service.
(Ord. No. 03-2010, art. VI, 8-4-2010)

Secs. 40-428—40-452. Reserved.

ARTICLE VII. DROUGHT RESPONSE*

Sec. 40-453. Declaration of policy and authority.

(a) The objective of this drought response article is to establish authority, policy and procedure by which the town will take the proper actions to manage water demand during a drought-related shortage. This article satisfies the requirements of the Drought Response Act of 2000 and has the goal of achieving the greatest public benefit from limited supplies of water needed for domestic water use, sanitation, and fire protection and of allocating water for other purposes in an equitable manner.

(b) This article outlines the actions to be taken for the conservation of water supplied by the town. These actions are directed both towards an overall reduction in water usage and the optimization of supply.

(c) To satisfy these goals, the town hereby adopts the following regulations and restrictions on the delivery and consumption of water. This article is hereby declared necessary for the protection of public health, safety and welfare and shall take effect upon its adoption by the town.

***State law references**—Authority for local drought response ordinances, S.C. Code 1976, § 49-23-90; development of drought response plans and ordinances, S.C. Code Reg. 121-11.12.

(d) If it becomes necessary to conserve water in its service area due to drought, the town is authorized to issue a proclamation that existing conditions prevent fulfillment of the usual water use demands. The proclamation is an attempt to prevent depleting the water supply to the extent that water use for human consumption, sanitation, fire protection, and other essential needs becomes endangered.

(e) Immediately upon issuance of such a proclamation, regulations and restrictions set forth under this article shall become effective and remain in effect until the water supply shortage has ended and the proclamation rescinded.

(f) Water uses that are regulated or prohibited under this article are considered to be non-essential and continuation of such uses during times of water supply shortages is deemed to constitute a waste of water, subjecting the offender to penalties.

(g) The drought management plan as outlined in Resolution No. 07-2008 is hereby approved and adopted.

(Ord. No. 4-2008, § A, 9-3-2008)

Sec. 40-454. Moderate drought phase.

Upon notification by the drought response committee that a moderate drought condition is present and is expected to persist and/or upon determination by the town water system that a moderate water supply shortage exists based on trigger levels, the town will seek voluntary reductions from its customers in the use of water for all purposes and voluntary reductions on using water during certain peak water demand periods. Specifically, the goal during this phase is to achieve a reduction of 20 percent in residential water use and 15 percent in other water uses such as commercial, industrial, institutional and irrigation; and a reduction in overall water use of 15 percent. To accomplish this, the town will take the following actions:

- (1) Issue a proclamation to be released to local media, town's water system customers and to the state department of natural resources drought information center that moderate drought conditions are present.
- (2) Provide written notification to the state department of natural resources drought information center and routinely publish in a newspaper of general circulation in the service area of the water system the voluntary conservation measures that the customers are requested to follow during moderate drought conditions, including:
 - a. Reduce residential water use to 75 gallons per person per day and a maximum of 300 gallons per household per day;
 - b. Eliminate the washing down of sidewalks, walkways, driveways, parking lots, tennis courts and other hard surfaced areas;
 - c. Eliminate the washing down of buildings for purposes other than immediate fire protection;
 - d. Eliminate the flushing of gutters;
 - e. Eliminate the domestic washing of motorbikes, boats, cars, etc.;

- f. Eliminate the use of water to maintain fountains, reflection ponds and decorative water bodies for aesthetic or scenic purposes, except where necessary to support aquatic life;
 - g. Reduce watering of lawns, plants, trees, gardens, shrubbery and flora on private or public property to the minimum necessary. Encourage outdoor watering to be done during off-peak hours;
 - h. Reduce the amount of water obtained from fire hydrants for construction purposes, fire drills or for any purpose other than firefighting or flushing necessary to maintain water quality; and
 - i. Limit normal water use by commercial and individual customers, including, but not limited to, the following:
 - 1. Stop serving water in addition to another beverage routinely in restaurants;
 - 2. Stop maintaining water levels in scenic and recreational ponds and lakes, except for the minimum amount required to support aquatic life;
 - 3. Cease water service to customers who have been given a ten-day notice to repair one or more leaks and have failed to do so;
 - 4. Limit the use of commercial car wash facilities.
- (3) Intensify maintenance efforts to identify and correct water leaks in the distribution system.
- (4) Cease to install new irrigation taps on the water system.
- (5) Continue to encourage and educate customers to comply with voluntary water conservation.
- (Ord. No. 4-2008, § B, 9-3-2008)

Sec. 40-455. Severe drought phase.

Upon notification by the drought response committee that a severe drought condition is present and is expected to persist and/or upon determination by the town water system that a severe water supply shortage exists based on trigger levels, the town will seek voluntary reduction in the use of water for all purposes and mandatory restrictions on non-essential usage and restrictions on times when certain water usage is allowed. Specifically, the goal during this phase is to achieve a reduction of 25 percent in residential water use, 20 percent in all other water use categories, and a reduction in overall water use of 20 percent. To accomplish these goals, the town will take the following actions:

- (1) Issue a proclamation to be released to the local media, town's water system customers and to the state department of natural resources drought information center that severe drought conditions are present.
- (2) Provide written notification to the state department of natural resources drought information center and routinely publish in a newspaper of general circulation in the service area of the water system the voluntary conservation measures and mandatory restrictions to be placed on the use of water supplied by the utility, including:
 - a. Voluntary reduction of residential water use by the utility's customers to 65 gallons per person per day and a maximum of 250 gallons per household or REU per day.
 - b. Control landscape irrigation by the utility's customers by staggering watering times.

- c. Mandatory restrictions on the use of water supplied by the utility for activities, including:
 - 1. Eliminate the washing down of sidewalks, walkways, driveways, parking lots, tennis courts and other hard surfaced areas;
 - 2. Eliminate the washing down of buildings for purposes other than immediate fire protection;
 - 3. Eliminate the flushing of gutters;
 - 4. Eliminate domestic washing of motorbikes, boats, cars, etc.;
 - 5. Eliminate the use of water to maintain fountains, reflection ponds and decorative water bodies for aesthetic or scenic purposes, except where necessary to support aquatic life;
 - 6. Eliminate filling or maintaining public or private swimming pools;
 - 7. Eliminate obtaining water from fire hydrants for construction purposes, fire drills or any purpose other than firefighting or flushing necessary to maintain water quality.
 - d. Limit use of water by commercial and individual customers, including, but not limited to, the following:
 - 1. Stop serving water in addition to another beverage routinely in restaurants;
 - 2. Stop maintaining water levels in scenic and recreational ponds and lakes, except for the minimum amount required to support aquatic life;
 - 3. Limit irrigating golf courses and any portion of its grounds;
 - 4. Cease water service to customers who have been given a one a-day notice to repair one or more leaks and have failed to do so;
 - 5. Limit expanding commercial nursery facilities, placing new irrigated agricultural land in production or planting or landscaping when required by site design review process;
 - 6. Restrict the use of commercial car wash facilities.
- (3) Intensify maintenance efforts to identify and correct water leaks in the distribution system.
 - (4) Continue to cease installation of new irrigation taps on the water system.
 - (5) Publicize widely the penalties to be imposed for violations of mandatory restrictions and the procedures to be followed if a variance in the restrictions is requested.
 - (6) Expand the use of education and public relations efforts and emphasize the penalties associated with violating the mandatory restrictions.
 - (7) Provide written notification monthly to the state department of natural resources drought information center regarding the success of the voluntary and mandatory restrictions.
- (Ord. No. 4-2008, § C, 9-3-2008)

Sec. 40-456. Extreme drought phase.

Upon notification by the drought response committee that an extreme drought condition is present and is expected to persist and/or upon determination by the town water system that an extreme water

supply shortage exists based on the trigger levels, the town will impose mandatory restrictions in the use of water for all purposes and on the times when certain water usage is allowed. Specifically, the goal during this phase is to achieve a reduction of 30 percent in residential water use, 25 percent in all other categories of water uses and a reduction in overall water use of 25 percent. To accomplish these goals, the town will take the following actions:

- (1) Issue a proclamation to be released to the local media, the town's water system customers and to the state department of natural resources drought information center that extreme drought conditions are present.
- (2) Provide written notification to the state department of natural resources drought information center and routinely publish in a newspaper of general circulation in the service area of the water system the mandatory restrictions to be placed on the use of water supplied by the utility, including:
 - a. Limiting residential water use to 55 gallons per person per day and a maximum of 225 gallons per household or REU per day.
 - b. Eliminate landscape irrigation by the utility's customers.
 - c. Mandatory restrictions on the use of water supplied by the utility for activities, including:
 1. Eliminate the washing down of sidewalks, walkways, driveways, parking lots, tennis courts and other hard surfaced areas;
 2. Eliminate the washing down of buildings for purposes other than immediate fire protection;
 3. Eliminate the flushing of gutters;
 4. No domestic washing of motorbikes, boats, cars, etc.;
 5. Eliminate the use of water to maintain fountains, reflection ponds, and decorative water bodies for aesthetic or scenic purposes, except where necessary to support aquatic life;
 6. Eliminate filling or maintaining public or private swimming pools;
 7. Eliminate obtaining water from fire hydrants for construction purposes, fire drills, or any purpose other than firefighting or flushing necessary to maintain water quality.
 - d. Limit normal water use by commercial and individual customers, including, but not limited to, the following:
 1. Stop serving water in addition to another beverage routinely in restaurants;
 2. Stop maintaining water levels in scenic and recreational ponds and lakes, except for the minimum amount required to support fish and wildlife;
 3. Limit irrigating golf courses and any portion of their grounds;
 4. Cease water service to customers who have been given a ten-day notice to repair one or more leaks and have failed to do so;

5. Limit expanding commercial nursery facilities, placing new irrigated agricultural land in production, or planting or landscaping when required by site design review process;
 6. Stop the use of commercial car washes.
- (3) Intensify maintenance efforts to identify and correct water leaks in the distribution system.
 - (4) Continue to cease installation of new irrigation taps on the water system.
 - (5) a. Outline other conservation measures, examples of which are:
 1. Place a moratorium on the issuance of all new water service connections and contracts for all new water main extensions. As part of the public information process, provide notice to developers of the moratorium;
 2. Encourage all residential water customers to voluntarily reduce overall monthly water usage to 70 percent of the customer's monthly average. If voluntary reduction of usage is not successful, the town may, at its option, implement the following excessive use rate schedule for water:
- | <i>Tier</i> | <i>Gallons/REU</i> | <i>Rate</i> |
|-------------|--------------------|--------------------------|
| I | 0—280 | Regular rate |
| II | 281—320 | Two times regular rate |
| III | Over 320 | Three times regular rate |
3. Impose a drought surcharge per 1,000 gallons of water that increases with higher usage. The general principle behind the drought surcharge is that the fee is imposed on water use in excess of 70 percent of normal 400 gpd use. The drought surcharge is a temporary fee imposed during the current water supply shortage and is not a cost-based rate. The drought surcharge is temporary and will be terminated at such time as the town water system determines the water supply is above the trigger levels.
 - b. If the conservation measures of this article or plan prove inadequate to mitigate the effects of the drought conditions or water supply availability, the town water system may take additional actions, including, but not limited to:
 1. Decreasing the gallon/REU limits in the different tiers; and
 2. Reduction of water system pressure as needed.
- (6) Publicize widely the penalties to be imposed for violations of mandatory restrictions and the procedures to be followed if a variance in the restrictions is requested.
 - (7) Expand the use of education and public relations efforts as conducted under the moderate and severe drought phase and emphasize the penalties associated with violating the mandatory restrictions.
 - (8) Provide written notification monthly to the state department of natural resources drought information center regarding the success of the mandatory restrictions.
- (Ord. No. 4-2008, § D, 9-3-2008)

Sec. 40-457. Rationing.

If a drought threatens the protection of public health and safety, the town is hereby authorized to ration water.

(Ord. No. 4-2008, § E, 9-3-2008)

Sec. 40-458. Enforcement of restrictions.

(a) If any customer of the town fails to comply with the mandatory water use restrictions of this article, the customer shall be given a written notice of such failure to comply, which cites the date of said violation, and shall be assessed surcharges in accordance with the following schedule:

- (1) First violation: \$50.00 surcharge shall be added to the customer's water bill;
- (2) Second violation: an additional \$100.00 surcharge shall be added to the customer's water bill;
- (3) Third violation: the customer's water service shall be terminated and restored only after payment of a surcharge of \$200.00 in addition to all previously assessed surcharges.

(b) Law enforcement agencies and other authorized agencies or designated employees in the respective jurisdiction which is being supplied water by the town shall diligently enforce the provisions of this article.

(Ord. No. 4-2008, § F, 9-3-2008)

Sec. 40-459. Variances.

(a) Customers who, in their belief, are unable to comply with the mandatory water use restrictions of this article may petition for a variance from restrictions by filing a petition with the town within ten working days after the issuance of the proclamation requiring water use restrictions. All petitions for variance shall contain the following information:

- (1) The name and address of the petitioner;
- (2) The purpose of water usage;
- (3) The special provision from which the petitioner is requesting relief;
- (4) A detailed statement as to how the curtailment declaration adversely affects the petitioner;
- (5) A description of the relief desired;
- (6) The period of time for which the variance is sought;
- (7) The economic value of the water use;
- (8) The damage or harm to the petitioner or others if the petitioner complies with this article;
- (9) Restrictions with which the petitioner is expected to comply and the compliance date;
- (10) Steps the petitioner is taking to meet the restrictions from which the variance is sought and the expected date of compliance.

(b) Other information as needed. In order for the variance to be granted, the petitioner must demonstrate clearly that compliance with the article cannot be technically accomplished during the duration of the water supply shortage without having an adverse impact upon the best interests of the community. The town is authorized to grant the request for variance.

(c) In addition, the town is authorized to grant temporary variances for existing water uses otherwise prohibited under the article if it is determined that failure to grant such variances could cause an emergency condition adversely affecting health, sanitation and fire protection for the public. No such variance shall be retroactive or otherwise justify any violation of this article occurring prior to the issuance of the variance. Variances granted by the town shall include a timetable for compliance and shall expire when the water supply shortage no longer exists, unless the petitioner has failed to meet specified requirements.

(Ord. No. 4-2008, § G, 9-3-2008)

Sec. 40-460. Status of article.

(a) If any portion of this article is held to be unconstitutional for any reason, the remaining portions of this article shall not be affected.

(b) The provisions of this article shall prevail and control in the event of any inconsistency between this article and other rules and regulations of the town.

(c) Nothing in this article shall be deemed to invalidate or be interpreted in a manner inconsistent with any covenants now in effect and given as security to holders of bonds secured by revenues of the system.

(Ord. No. 4-2008, § H, 9-3-2008)

Chapter 41

RESERVED

Chapter 42

VEHICLES FOR HIRE

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ARTICLE I. IN GENERAL

Secs. 42-1—42-18. Reserved.

ARTICLE II. WRECKER SERVICE***DIVISION 1. GENERALLY****Sec. 42-19. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business hours means hours of the day when business is normally conducted.

Class means a wrecker capability based upon size and weight handling characteristics. The term "class" is synonymous with the term "category" and shall be used interchangeably.

Fee means a monetary amount charged for a service provided. The term "fee" is synonymous with the terms "rate" and "charge" and shall be used interchangeably.

Hazardous materials mean and comprises all toxic chemicals that are flammable, explosive, caustic, corrosive, radioactive, biologic or infectious waste.

Motor vehicle means every vehicle or tractor-trailer combination, which is self-propelled by which any person or property is or may be transported or drawn upon a highway, except vehicles used exclusively upon stationary rails or tracks.

Night service means wrecker service operations which commence in the hours between 6:00 p.m. and 6:00 a.m. Commencement of operations shall be considered as the time a call for service is requested.

Police department means the town police department.

Rotation towing service means any person, firm, partnership or corporation which has been approved by the town police chief as being authorized to respond for wrecker or towing service and to participate on the police rotation.

Storage means the custody and control of a vehicle by a tow truck or wrecker operator as a result of a police-requested tow.

Towing means the moving or removing or the preparation of a motor vehicle for which a serve charge is made, either directly or indirectly of a motor vehicle.

Wrecker service means any truck operation used for the purpose of towing, winching, carrying or otherwise removing another vehicle from a given location for commercial purposes.

(Ord. No. 5-2008, div. 1, 2008)

***State law reference**—Wrecker regulations, S.C. Code Reg. 38-600.

Sec. 42-20. Financial interest of police officers or town employees.

No town police officer or other town employee shall hold any financial interest or any form of ownership interest in any wrecker service utilized by the town.

(Ord. No. 5-2008, div. 1, 2008)

Sec. 42-21. Choice of service.

Unless the owner or driver of a vehicle is incapacitated or unavailable, the owner or driver of a wrecked or disabled vehicle shall have the wrecker service of his choice called.

(Ord. No. 5-2008, div. 1, 2008)

Sec. 42-22. Recommending services.

No police officer or other town employee will recommend any wrecker service to the owner or driver of a wrecked or disabled vehicle during the performance of their duties.

(Ord. No. 5-2008, div. 1, 2008)

Sec. 42-23. Complaints.

(a) Complaints from or about wrecker services regarding an incident involving the police department or its operation of the wrecker rotation list must be received, in writing, within 15 business days of the alleged incident. All written complaints shall be directed to the chief of police.

(b) The complaint will be reviewed regarding its validity and the chief of police or a designee will determine a reasonable and fair solution to the complaint.

(Ord. No. 5-2008, div. 1, 2008)

Sec. 42-24. Suspension or removal procedures; penalties.

(a) A wrecker service may be suspended or removed from the wrecker rotation list in the following manner:

- (1) The violation of any traffic laws while responding to or returning from a call may result in the immediate removal of that wrecker service from the wrecker rotation list.
- (2) Any actions by any wrecker driver that adversely affects the reputation of the police department may result in the immediate removal of that wrecker service from the wrecker rotation list.
- (3) If the police department has reason to believe that a wrecker service has failed to remain in compliance with the qualification criteria set out in division 2 of this chapter, that the noncompliance continues, and that the noncompliance will be detrimental to the public may result in the immediate removal of that wrecker service from the wrecker rotation list.
- (4) The failure of any wrecker service to notify the police department of its unavailability, in a timely manner, may result in its suspension from the wrecker rotation list for a period of up to 90 days. Three suspensions from the rotation list in a two-year period shall result in a permanent removal from the list.

(b) Penalties for violations of this article that do not directly affect the safety of the public shall be as follows:

- (1) First offense: warning letter.
 - (2) Second offense: 90-day suspension from rotation.
 - (3) Third offense: removal from the list.
- (Ord. No. 5-2008, div. 1, 2008)

Secs. 42-25—42-51. Reserved.

DIVISION 2. QUALIFICATION CRITERIA

Sec. 42-52. Licensing.

The wrecker service must hold a valid business license from the town.
(Ord. No. 5-2008, div. 2, 2008)

Sec. 42-53. Responsiveness and availability.

(a) The wrecker service must be able to safely respond from the time of notification to any given location within the town within 20 minutes between the hours of 6:00 a.m. and 6:00 p.m. and 30 minutes between 6:00 p.m. and 6:00 a.m.

(b) The wrecker service offices and storage location must be within a reasonable distance from the corporate limits of the town in order to respond within the time specified in subsection (a) of this section and to be convenient for the owner or driver of the wrecked or disabled vehicle. The chief of police or a designee will make the determination of a reasonable distance.
(Ord. No. 5-2008, div. 2, 2008)

Sec. 42-54. Storage area and fee.

(a) The wrecker service shall maintain the towed vehicle in a safe storage area in a manner that would prohibit further damage and ensure protection of personal property. This may be a locked building or a secured, fenced-in area where the stored vehicle and other property shall not be accessible to the public. A wrecker service may charge a fee for storage. Such fees shall not begin prior to 12 hours after the vehicle is towed to the storage area and end when the vehicle owner or designee picks up the vehicle and pays the wrecker service's legitimate accrued charges and only if the vehicle is actually placed in storage. Fees shall be determined in accordance with division 5 of this chapter.

(b) Outside storage facilities must be sufficiently lighted, fenced, and locked for protection of vehicles and property.

(c) Fencing around storage facilities must be of adequate size to discourage theft of vehicles and property stored within, and may not be less than six feet in height.
(Ord. No. 5-2008, div. 2, 2008)

Sec. 42-55. Basic equipment and identification.

(a) All wreckers shall have appropriate safety equipment, fire extinguishers, warning devices, flash-lights and all other equipment necessary to protect the motoring public and shall be equipped with amber flashing lights visible in all directions for a distance of 500 feet in normal sunlight. Such equipment shall be maintained in good working order. All authorized amber flashing lights shall be activated and wrecker operators shall wear reflective traffic safety vests while performing recovery operations or when circumstances are such that the vehicles being transported create a potentially hazardous condition for other motorists.

(b) Each wrecker service on the rotation list must place a sign on the driver and front passenger door of each of its wreckers indicating the company name, address, and telephone number. This sign shall be painted on the doors of the wrecker or otherwise permanently affixed to the doors. The letters of the sign must be no less than two inches high. If the wrecker is registered in a name other than that of the wrecker service, the owner's name must also appear on the doors in letters no less than one inch high. All lettering on wreckers shall be plainly visible and shall be in a color in contrast to that of the wrecker.

(c) Each wrecker service on the rotation list must place a sign on the exterior of its business location clearly visible indicating the company name, telephone number, and business hours.
(Ord. No. 5-2008, div. 2, 2008)

Sec. 42-56. Insurance.

(a) Each wrecker service on the rotation list shall carry liability insurance on its wreckers and its premises in an amount not less than \$300,000.00 for a Class A wrecker, \$500,000.00 for a Class B wrecker and \$750,000 for a Class C wrecker.

(b) Each wrecker service on the rotation list shall carry insurance that covers vehicles, cargo, and other property in or on the vehicle during transit in an amount of not less than \$75,000.00 for a Class A wrecker, \$150,000.00 for a Class B wrecker and \$250,000.00 for a Class C wrecker.

(c) Each wrecker service on the rotation list shall carry garage keeper's liability insurance covering customer's vehicles in an amount not less than \$100,000.00 for a Class A wrecker, \$200,000.00 for a Class B wrecker and \$200,000.00 for a Class C wrecker.
(Ord. No. 5-2008, div. 2, 2008)

Sec. 42-57. Towing log.

Each wrecker owned by any wrecker service on a rotation list shall be equipped with a towing log. The towing log shall be maintained by the wrecker service and shall accurately reflect all towing done by the wrecker service at the request of the police department. Each wrecker service owner shall be responsible for producing this towing log upon request by a police officer. The police department dispatch shall maintain a towing log of all vehicles towed and the wrecker company conducting the tow. The police department shall design the wrecker log format.
(Ord. No. 5-2008, div. 2, 2008)

Sec. 42-58. Application to provide service.

(a) A new rotation list will be created each calendar year. A wrecker service currently on the list and desiring to be on the rotation list in the next year must apply in writing by October 1 and be inspected and qualified prior to December 31. On December 31 of each year, the police department will publish the wrecker rotation list to be effective January 1 of the following year.

(b) A wrecker service not currently on the police department wrecker rotation list and desiring to be added may apply in writing at any time but must first be inspected and qualified.

(c) A wrecker service that fails to pass inspection and qualification as prescribed by regulation will be notified of the deficiencies. When the wrecker service corrects the deficiencies, it may request a new inspection.

(Ord. No. 5-2008, div. 2, 2008)

Secs. 42-59—42-89. Reserved.**DIVISION 3. ROTATION LIST AND RESPONSIBILITIES****Sec. 42-90. Professional behavior.**

Wrecker service operators must display professional behavior when conducting business at the request of the police department.

(Ord. No. 5-2008, div. 3, 2008)

Sec. 42-91. Solicitation.

Wrecker services and operators shall be familiar with and shall comply with the laws regarding solicitation for the highway.

(Ord. No. 5-2008, div. 3, 2008)

State law reference—Pedestrians soliciting rides or business, S.C. Code 1976, § 56-5-3180.

Sec. 42-92. Response to police request and motorist preference.

Wreckers shall respond only upon the request of the police department. Response under any other condition may result in the removal of the wrecker service from the rotation list. Unless the owner or driver of a vehicle is incapacitated or unavailable, the investigating officer at the scene will make a determination of the owner's or driver's preference of a wrecker service. The investigating officer will use his discretionary authority to deny request for a specific wrecker service whenever the request will impair the timely restoration of safe traffic movement. In the event the owner or driver of the vehicle does not have a preference or preference cannot be determined, the investigating officer will utilize a wrecker from the rotation list. The wrecker service responding to such call shall provide the vehicle operator with a card containing the wrecker service name, address, telephone number and business hours.

(Ord. No. 5-2008, div. 3, 2008)

Sec. 42-93. Rotation lists for category wrecker service.

Separate rotation lists will be maintained for each category of wreckers. When the services of a categorized wrecker are needed and when the owner or driver of the vehicle to be towed has no preference as to which wrecker service he desires, a wrecker will be called from the appropriate wrecker rotation list. The investigating police officer will use his discretion to deny request for specific wrecker service whenever the request will delay the timely restoration of safe traffic movement.
(Ord. No. 5-2008, div. 3, 2008)

Sec. 42-94. Sufficient wrecker.

(a) The wrecker service must have a wrecker of sufficient size and strength to handle the job. The police department shall have the right not to call a wrecker service that, in its opinion, fails to meet this qualification for a specific job. Under these conditions, the wrecker service not called will remain on the top of the rotation list.

(b) A wrecker service may respond with a wrecker of a higher class than requested. However, the wrecker service call is limited to the rates of the requested classification.
(Ord. No. 5-2008, div. 3, 2008)

Sec. 42-95. Administration and order of calls.

The wrecker rotation list shall be administered fairly and in a manner designed to ensure that all wrecker services on the list have an equal opportunity for the towing business arising from the police rotation list. As such, the following will apply:

- (1) Subject to the provisions of choice of service, wrecker services shall be called from the rotation list in the order in which they appear on the list. If a particular wrecker service is unavailable when called, it shall be passed over and the next wrecker service on the list shall be called to the scene.
- (2) Wrecker services shall be available to the town and the public on a 24-hour basis. When a wrecker service or wrecker driver is unable to answer a call, the police dispatcher shall be promptly notified of that fact and the reason for unavailability.
- (3) A wrecker service shall respond, under normal conditions, in a timely manner. Failure to respond in a timely manner may result in a second rotation wrecker being requested. If the second wrecker is requested before the arrival of the first rotation wrecker, the initially requested wrecker will forfeit the call and will immediately leave the collision/incident scene.

(Ord. No. 5-2008, div. 3, 2008)

Sec. 42-96. Payment options.

Motorists utilizing the police department wrecker rotation list will have the option of paying by major credit card. The wrecker service may request prior to dispatching, if the motorist intends to pay by major

credit card. If the wrecker service does not accept major credit cards, the next wrecker or towing service that does accept credit cards will be utilized. Any wrecker or towing service called that does not accept credit cards will remain on the top of the rotation list.

(Ord. No. 5-2008, div. 3, 2008)

Sec. 42-97. Assistance.

A wrecker service may secure assistance from another wrecker service when necessary to complete the recovery; however, this does not permit wrecker services to accept a rotation call and dispatch the call to secondary wrecker services. Only one bill is to be submitted to the owner or operator for the work performed.

(Ord. No. 5-2008, div. 3, 2008)

Sec. 42-98. Release of vehicle and personal effects.

The wrecker service location shall have an agent present during business hours and, at the request of the owner of the towed vehicle or his designee, the wrecker service must immediately release personal items such as medicines, medical equipment, keys, clothing, and tools of the trade, child restraint systems and perishable items. The wrecker service shall also be available for the release of the towed vehicle to the vehicle owner or vehicle owner's designee on a reasonable after-hours basis, including weekends.

(Ord. No. 5-2008, div. 3, 2008)

Sec. 42-99. Disputes.

Should there be a dispute between the vehicle owner or designee and the wrecker service regarding any storage fees or charges, the vehicle or the vehicle owner's designee must provide the wrecker service written notification of the dispute. If the dispute is settled in favor of the wrecker service, the owner of the towed vehicle is liable for all charges which accrued pending the resolution. The wrecker service must cease any storage charges that would otherwise accrue from the time the wrecker service receives written notification of the dispute until the dispute is settled. Upon release of the vehicle, the wrecker service shall provide an itemized statement of all charges. If the vehicle owner is not available to sign a release, the wrecker service must release the vehicle to the owner's insurer or to the owner's designee.

(Ord. No. 5-2008, div. 3, 2008)

Sec. 42-100. Cleanup.

It shall be the responsibility of the wrecker service to perform a general cleanup of the accident area before leaving the scene of any motor vehicle accident. This responsibility requires the wrecker service to remove all debris such as broken glass, liquids, and materials from an accident area by sweeping up such debris and removing this material from the scene in a garbage can type container on each wrecker. All wreckers shall be equipped with brooms, shovels, commercial absorbent and all other equipment necessary to fulfill this responsibility.

(Ord. No. 5-2008, div. 3, 2008)

Secs. 42-101—42-128. Reserved.

DIVISION 4. WRECKER CLASSIFICATION

Sec. 42-129. Application to conform to standard.

The wrecker rotation lists will be generated and maintained for each category of wreckers. Any wrecker service making application to provide service shall classify its wreckers and towing assets in accordance with the standards of wrecker classes/categories.

(Ord. No. 5-2008, div. 4, 2008)

Sec. 42-130. Application for multiple classes.

A wrecker service that only has heavier class wreckers may make application to provide service for the lighter class rotation lists as well. For example, a wrecker service that has Class B wreckers only may make its application for both the Class A and Class B rotation lists.

(Ord. No. 5-2008, div. 4, 2008)

Sec. 42-131. Wrecker classes/categories.

Wreckers shall be divided into the following classes and categories:

- (1) *Class A; standard tow truck.* A tow truck or rollback capable of towing any two-axle vehicle which does not exceed 15,000 pounds. It must have a minimum towing equipment manufacturing rating of 8,000 pounds.
 - a. *Conventional wrecker.*
 1. Minimum gross vehicle weight rating (GVWR) of not less than 10,000 pounds.
 2. Individual boom capacity of not less than 8,000 pounds as rated by the manufacturer.
 3. Individual PTO or hydraulic power winch of not less than 8,000 pounds as rated by the manufacturer; with at least 100 feet of a three-eighths-inch cable drum.
 4. A manufactured wheel-lift with a retracting lifting capacity of not less than 3,500 pounds as rated by the manufacturer with safety chains.
 5. Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.
 6. Dual rear wheels.
 7. Additional safety equipment as specified by regulations.
 - b. *Rollback wrecker.*
 1. Minimum gross vehicle weight rating (GVWR) of not less than 11,000 pounds.
 2. Must have at least an 8,000 pound-winch as rated by the manufacturer with at least 50 feet of a three-eighths-inch cable or larger.
 3. Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.
 4. Additional safety equipment as specified by regulations.

(2) *Class B.*

- a. *Medium-duty tow truck.* A tow truck capable of towing any two-axle vehicle which does not exceed 32,000 pounds. It must have a minimum towing equipment manufacturing rating of 20,000 pounds.
 1. The tow truck chassis shall have a minimum gross vehicle weight rating (GVWR) of not less than 22,000 pounds.
 2. Must have at least a 12-ton boom assembly as rated by the manufacturer.
 3. Must have two winches, each of 10,000 pounds capacity, or more, as rated by the manufacturer.
 4. A manufactured wheel-lift with a retracting lifting capacity of not less than 6,500 pounds as rated by the manufacturer, with safety chains.
 5. Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.
 6. Additional safety equipment as specified by regulation.
- b. *Hazmat tow truck.* A hazardous material heavy-duty tow truck may tow any two-axle vehicle transporting a hazardous material or waste in a non-emergency situation which does not exceed 32,000 pounds. The hazmat tow truck operator must possess the proper hazmat endorsement on his driver's license, according to the provisions governing commercial driver's license. The wrecker service is required to have proper insurance as covered in section 42-187.

(3) *Class C; heavy-duty wrecker.* A tow truck capable of towing any two or more axle vehicle or combination of vehicles which weighs more than 32,001 pounds. It must have a minimum towing equipment manufacturer's rating of 40,000 pounds.

- a. Truck chassis having a minimum gross vehicle weight rating (GVWR) of not less than 46,000 pounds.
- b. Tandem axles or cab to axle length of not less than 102 inches.
- c. A single or double boom with a capacity of not less than 50,000 pounds as rated by the manufacturer.
- d. A single winch with a capacity of 50,000 pounds as rated by the manufacturer or an individual power winch capacity of not less than 25,000 pounds.
- e. A manufactured wheel-lift with a retracting lifting capacity of not less than 12,000 pounds as rated by the manufacturer, with safety chains.
- f. 150 feet of a five-eighths-inch cable or larger, plus 50 feet of a five-eighths-inch drop cable.
- g. Air brakes constructed so as to lock wheels automatically upon failure.
- h. Light and air brake hookups.
- i. Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.

j. Additional safety equipment as specified by regulations.
(Ord. No. 5-2008, div. 4, 2008)

Secs. 42-132—42-160. Reserved.

DIVISION 5. FEES, RATES AND CHARGES

Sec. 42-161. Applicability of fees.

Only wrecker services on the police department wrecker rotation lists shall be subject to the regulations of this division governing fees.
(Ord. No. 5-2008, div. 5, 2008)

Sec. 42-162. Determination of fees.

Fees charged for rotation list calls shall be reasonable and not in excess of those rates charged for similar services provided in response to requests initiated by any other public agency or private person. The reasonableness of the fees charged will be determined in the following manner:

- (1) A wrecker service shall submit proposed fees along with its annual application. Separate fee schedules shall be submitted for each class of wrecker and, for each class, the fee for standard towing, medium-duty, heavy-duty towing, storage, and special operations.
 - a. Standard tow operations are defined as responding to the scene, hooking up the vehicle, performing a general cleanup if the call involves responding to a collision scene and providing responsible assistance to the owner to get to a safe location.
 - b. Special operations are operations involving the process of uprighting an overturned vehicle or returning a vehicle to a normal position on the roadway which requires the use of auxiliary equipment due to the size or location of the vehicle and/or the recovery of a load which has spilled, or the offloading and reloading of a load from an overturned vehicle performed to right the vehicle.
- (2) The chief of police or a designee will determine the reasonableness of the fees based upon the average of the proposed fees submitted and a comparison of the police department's industry standards, within the town, for similar operations.
- (3) Separate fees, including, but not limited to, fuel charges and insurance, may not be charged. Exceptions to this will be the allowance of a fee for special operations as outlined in subsection (1)b of this section and the allowance of a fee for night service.
- (4) A wrecker service shall submit proposed fees with the annual application.
- (5) The fees that a wrecker service may charge shall comply with the classification of the type of service required, regardless of the class of wrecker used in the application or to complete the tow. For example, if a wrecker service uses a class B wrecker for class A towing requirements, then its fee structure shall be in accordance with the class A standard fees.

- (6) Failure to submit proposed fees with the annual application will result in utilizing the last proposed fees submitted.
 - (7) Wrecker services that submit fees that are determined to be excessive or unreasonable will be notified and allowed to resubmit fees within five business days of notification. A wrecker service will be allowed to resubmit fees once. Failure to resubmit reasonable fees will disqualify the wrecker service from the police department rotation list until January 1 of the following year.
- (Ord. No. 5-2008, div. 5, 2008)

Sec. 42-163. Review of fees.

The chief or a designee will complete a review of the fees for the police department rotation wrecker services during inspection and qualification to determine its validity and reasonableness. Validity will be based upon telephone quotes, posted rates, charges to retail customers, comparison with other public safety offices, etc. Reasonableness will be determined as compared to other rates.

(Ord. No. 5-2008, div. 5, 2008)

Sec. 42-164. Raising or lowering rates.

Wrecker services may lower rates at any time and may raise rates for non-police department calls at any time.

(Ord. No. 5-2008, div. 5, 2008)

Sec. 42-165. Towing of seized vehicles.

(a) The police department at times will seize vehicles pursuant to S.C. Code 1976, § 44-53-520. Wrecker services on the current police department wrecker rotation lists may enter into an agreement regarding these towed vehicles. The written signed agreement shall be entered into by the wrecker services and the following terms shall apply:

- (1) The police department will pay no tow fees for court-awarded vehicles.
- (2) The wrecker company will receive no compensation for these vehicles from the previous owner or the person from which the vehicle was seized.
- (3) Vehicles returned to the titled owner will not be released by the police department until the titled owner pays the tow bill.
- (4) Seized vehicles will be stored at the police department's impound facility until forfeiture is complete with no storage fees.

(b) Under the terms of this agreement, a special wrecker rotation list will be created for the specific towing of seized vehicles. The special rotation list will be created each calendar year with a signed written agreement. Any wrecker service that wishes to be added to the special wrecker rotation list can be added by a written request and a signed wrecker rotation agreement.

(Ord. No. 5-2008, div. 5, 2008)

Sec. 42-166. Violation.

This article will apply to any person, firm, partnership or company authorized to perform wrecking or towing service for the town police department. Violations of this article will be deemed sufficient justification for the chief of police to order that the approval and authority of a wrecking or towing service to respond to the request of the town police department be suspended or revoked.

(Ord. No. 5-2008, div. 5, 2008)

Secs. 42-167—42-184. Reserved.

DIVISION 6. INSPECTION

Sec. 42-185. Wrecker inspection form elements.

This division sets forth the elements of the police department's wrecker service inspection form, as revised October 30, 2008.

(Ord. No. 5-2008, att., 2008)

Sec. 42-186. Classification.

(a) *Class A; standard tow truck.* A tow truck or rollback capable of towing any two-axle vehicle which does not exceed 15,000 pounds. It must have a minimum towing equipment manufacturing rating of 8,000 pounds.

(1) *Conventional wrecker.*

- a. Minimum gross vehicle weight rating (GVWR) of not less than 10,000 pounds.
- b. Individual boom capacity of not less than 8,000 pounds as rated by the manufacturer.
- c. Individual PTO or hydraulic power winch of not less than 8,000 pounds as rated by the manufacturer, with at least 100 feet of a three-eighths-inch cable drum.
- d. A manufactured wheel-lift with a retracting lifting capacity of not less than 3,500 pounds as rated by the manufacturer with safety chains.
- e. Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.
- f. Dual rear wheels.
- g. Additional safety equipment as specified by regulations.

(2) *Rollback wrecker.*

- a. Minimum gross vehicle weight rating (GVWR) of not less than 11,000 pounds.
- b. Must have at least an 8,000 pound winch as rated by the manufacturer with at least 50 feet of a three-eighths-inch cable or larger.
- c. Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.
- d. Additional safety equipment as specified by regulations.

(b) *Class B.*

- (1) *Medium-duty tow truck.* A tow truck capable of towing any two-axle vehicle which does not exceed 32,000 pounds. It must have a minimum towing equipment manufacturing rating of 20,000 pounds.
 - a. The tow truck chassis shall have a minimum gross vehicle weight rating (GVWR) of not less than 22,000 pounds.
 - b. Must have at least a 12-ton boom assembly as rated by the manufacturer.
 - c. Must have two winches, each of 10,000 pounds capacity, or more, as rated by the manufacturer.
 - d. A manufactured wheel-lift with a retracting lifting capacity of not less than 6,500 pounds as rated by the manufacturer, with safety chains.
 - e. Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.
 - f. Additional safety equipment as specified by regulation.
- (2) *Hazmat tow truck.* A hazmat heavy-duty tow truck may tow any two-axle vehicle transporting a hazardous material or waste in a non-emergency situation, which does not exceed 32,000 pounds. The hazmat tow truck operator must possess the proper hazmat endorsement on his driver's license, according to the provisions governing commercial driver's license. The wrecker service is required to have proper insurance as covered in section 42-187.

(c) *Class C; heavy-duty wrecker.* A tow truck capable of towing any two or more axle vehicle or combination of vehicles which weighs more than 32,001 pounds. It must have a minimum towing equipment manufacturers rating of 40,000 pounds.

- (1) Truck chassis having a minimum gross vehicle weight rating (GVWR) of not less than 46,000 pounds.
- (2) Tandem axles or cab to axle length of not less than 102 inches.
- (3) A single or double boom with a capacity of not less than 50,000 pounds as rated by the manufacturer.
- (4) A single winch with a capacity of 50,000 pounds as rated by the manufacturer or an individual power winch capacity of not less than 25,000 pounds.
- (5) A manufactured wheel-lift with a retracting lifting capacity of not less than 12,000 pounds as rated by the manufacturer, with safety chains.
- (6) 150 feet of a five-eighths-inch cable or larger, plus 50 feet of a five-eighths-inch drop cable.
- (7) Air brakes constructed so as to lock wheels automatically upon failure.
- (8) Light and air brake hookups.
- (9) Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.

(10) Additional safety equipment as specified by regulations.
(Ord. No. 5-2008, att., 2008)

Sec. 42-187. Insurance.

A wrecker service continuously shall carry and show proof of insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property caused by the maintenance or use of a tow truck, or occurring on the business premises of a wrecker service in an amount not less than:

- (1) \$300,000.00 for a standard wrecker;
 - (2) \$500,000.00 for a medium-duty wrecker;
 - (3) \$750,000.00 for a heavy-duty wrecker;
 - (4) \$75,000.00 for on-hook/cargo insurance, light-duty;
 - (5) \$150,000.00 for on-hook/cargo insurance, medium-duty;
 - (6) \$250,000.00 for on-hook/cargo insurance, heavy-duty;
 - (7) \$100,000.00 standard wrecker garage keeper's liability insurance;
 - (8) \$200,000.00 medium-duty wrecker garage keeper's liability insurance;
 - (9) \$200,000.00 heavy-duty wrecker garage keeper's liability insurance.
- (Ord. No. 5-2008, att., 2008)

Sec. 42-188. Inspection by police department.

A business requesting a business license from the town and requesting to be placed on the town police department rotation list must be inspected by a representative of the town police department. At the completion of the inspection, the inspector must report his findings to the police chief or his designee for approval. The police chief or designee shall issue a letter of approval to the respective wrecker service or disapproval, stating any deficiencies. Once the deficiencies have been corrected, the police chief or designee shall issue a letter of approval to the respective wrecker service and to the business license official and the town administrator for any additional actions. An approval is valid for one calendar year from date of issue, unless the police chief has reason to believe re-inspection of the wrecker service is necessary. The inspection ensures that a business:

- (1) Maintains a safe storage consisting of a fenced in area or locked building where stored vehicles and other property are not accessible to the public; and
- (2) Is available to the police department and the general public on a 24 hour basis; and
- (3) Has tow trucks equipped with legally authorized lighting in good working order to protect the motoring public and be equipped with operator reflective safety vest, brooms, shovels, and a container to haul glass or other debris from the street; and
- (4) Has a fire extinguisher with five-pound capacity or equivalent and approved by the United States Department of Transportation and be ABC rated; and

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- (5) Has a lamp emitting a flashing or steady red or amber light, or both red and amber light, mounted on top of the cab of the tow truck or on top of the crane or hoist if the light cannot be seen from the front of the tow truck. The light from the lamp must be visible for a distance of 500 feet in normal sunlight. A red light may be only used at the scene of an accident; and
- (6) Has safety chains that must be used when towing a vehicle; and
- (7) Has tie-down chains that must be used on the front and rear of a vehicle hauled on a rollback or flatbed; and
- (8) Has tow lights displaying stop, turn, and tail lights on the rear of a disabled vehicle that must be used during the hours of darkness; and
- (9) Operates trucks that have signs on the doors indicating the company's name, address, and telephone number. The signs must be painted or affixed permanently to the door and not less than two inches high in a color which contrasts to that of the wrecker; and
- (10) Has manufacturers rating for towing equipment; and
- (11) Has an annual federal inspection sticker.

Tow truck owner: _____

Tow truck driver(s): _____

Company name: _____

Business address: _____

Mailing address: _____

Business telephone(s): _____

Police Department Inspector: _____

Inspection Date

Police Chief: _____

Date

Business license official: _____

Date

(Ord. No. 5-2008, att., 2008)

CODE COMPARATIVE TABLE

2011 CODE

This table gives the location within this Code of those sections of the 2011 Code which are included herein. Sections of the 2011 Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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