



AMENDMENT TO TITLE 12 PUBLIC NUISANCE ORDINANCE NO.10-2009

**TOWN OF ATLANTIC BEACH
TITLE 3**

**PUBLIC NUISANCE
ORDINANCE**

Version: JANUARY 25, 2019 (current)

ADOPTING ORDINANCE NO. 1-2019 – SECOND READING

An Ordinance of the town of Atlantic Beach, South Carolina, Adopting a Revision and Codification of the Ordinances of the town of Atlantic Beach, South Carolina, Entitled "The Code of Ordinances, town of Atlantic Beach, South Carolina," Providing for the Repeal of Certain Ordinances Not Included Therein, With Certain Exceptions, and for Other Purposes Hereinafter Set Out.

The Town Council of the Town of Atlantic Beach, South Carolina, Hereby Ordains:

Section 1. There is hereby adopted by the town council of the town of Atlantic Beach, South Carolina, that certain Code entitled "The Code of Ordinances, town of Atlantic Beach, South Carolina," containing certain ordinances of a general and permanent nature as revised, compiled, consolidated and codified in the following chapters, namely, Chapters 1 to 10, both inclusive.

Section 2. The provisions of such Code shall be in force on and after the effective date specified in section 1 hereof, and all ordinances of a general and permanent nature enacted on or prior to March 4, 2019, and not contained in such Code or recognized as continuing in effect by reference therein, are hereby repealed from and after the effective date hereof, except as hereinafter provided.

Section 3. This ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date hereof, nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered on or prior to the effective date hereof.

Section 4. Wherever in such 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 such officer or agency 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 such Code or any such ordinance, resolution, rule, regulation or order shall be punished by a fine of not more than two hundred dollars (\$200.00) or by imprisonment for not more than thirty (30) days. Each day any violation of such Code or any such ordinance, resolution, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.

Section 5. That any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the town council to make the same a part thereof shall be deemed to be incorporated in such Code so that reference to the Code of Ordinances shall be understood and intended to include such additions and amendments.

Section 6. That in case of the amendment of any section of such Code for which a penalty is not provided, the general penalty as provided in section 1 of this ordinance and [section 1-6](#) of such Code shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned

general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 7. That a copy of such Code shall be kept on file in the office of the clerk, preserved in loose-leaf form or in such other form as the town council may consider most expedient. It shall be the express duty of the town clerk, or someone authorized by the town clerk to insert in their designated places all amendments or ordinances which indicate the intention of the town council to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which may be from time to time repealed by the town council. This copy of such Code shall be available at all times for all persons desiring to examine the same.

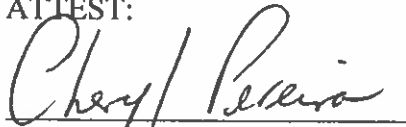
Section 8. That it shall be unlawful for any person to change or amend by additions or deletions, any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the town to be misrepresented thereby. Any person violating this section shall be punished as provided in section 4 of this ordinance.

Section 9. That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 10. That this ordinance shall become effective on the 1st day of April 2019.

DONE IN COUNCIL ASSEMBLED THIS 1ST DAY OF APRIL 2019.

ATTEST:

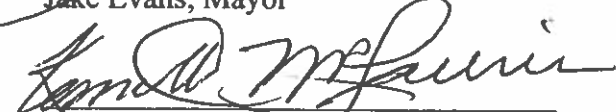

Town Clerk

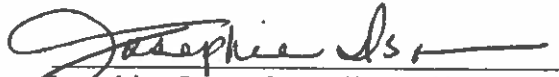

Town Manager

First Reading: February 11, 2019

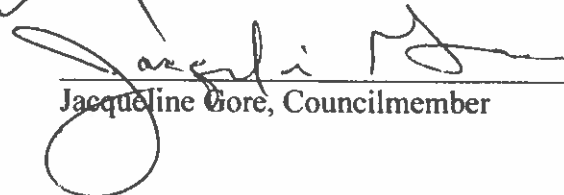
Second Reading: April 1, 2019


Jake Evans, Mayor


Kenneth McLaurin, Mayor Pro Tem


Josephine Isom, Councilmember


Lenearl Evans, Councilmember


Jacqueline Gore, Councilmember

Atlantic Beach, South Carolina - Code of Ordinances

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Chapter 1 - GENERAL PROVISIONS

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Chapter 1 - GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, town of Atlantic Beach, South Carolina" and may be so cited; it may also be cited as the "Atlantic Beach Code."

State Law reference— Codification required, S.C. Code 1976, § 5-7-290.

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 word "and" may be read as "or" and the word "or" as "and" where the sense requires it.

Bond. When a bond is required, an undertaking in writing shall be sufficient.

Town. The words "the town" shall mean the Town of Atlantic Beach in the County of Horry and State of South Carolina.

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

State Law reference— For similar provision, see S.C. Code 1976, § 15-1-20.

Council, town council, governing body. The words "council," "town council" or "governing body" shall mean the town council of the Town of Atlantic Beach, South Carolina.

County. The words "county" or "the county," shall mean the County of Horry, in the State of South Carolina.

Gender. Words importing one gender shall include the other genders.

State Law reference— Gender, S.C. Code 1976, § 2-7-30.

In the town. The words "in the town" shall mean and include any territory, jurisdiction of which for the exercise of its regulatory power has been conferred on the town by public or private law.

Month. The word "month" shall mean a calendar month.

Number. A word importing the singular number shall extend and be applied to several persons and things, and a word importing the plural number may apply to one person or thing.

State Law reference— Similar provisions, S.C. Code 1976, § 2-7-30.

Oath. The word "oath" shall be construed to include 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."

Occupant. The word "occupant" applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Owner. The word "owner," applied to building or land, shall include any part owner, joint owner, tenant in common or joint tenant, of the whole or a part of such building.

Person. The word "person" shall include a trustee, receiver, corporation, firm, partnership, association, organization or other group acting as a unit, as well as an individual.

State Law reference— Similar provisions, S.C. Code 1976, § 2-7-30.

Personal property. The term "personal property" includes every species of property other than real property.

State Law reference— Personal property defined, S.C. Code 1976, § 15-1-40.

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

Property. The word "property" shall include real and personal property.

State Law reference— Similar provisions, S.C. Code 1976, § 15-1-50.

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

State Law reference— For similar state law, see S.C. Code 1976, § 15-1-30.

Roadway. The word "roadway" shall mean that portion of a street improved, designed or ordinarily used for vehicular travel.

Shall. The word "shall" is mandatory.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line, 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 word "state" when referring to a political entity shall mean the State of South Carolina.

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

Tenant. The word "tenant" applied to a building or land, shall mean any person who holds a written or oral lease of or actually occupies the whole or part of such building or land, either alone or with others.

Writing, written. The words "writing" and "written" shall include printing and any other mode of representing words and letters.

Year. The word "year" shall mean a calendar year.

Sec. 1-3. - Catch lines of sections.

The catch lines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or reenacted.

Sec. 1-4. - Effect of repeal or expiration of ordinance.

The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.

When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

Sec. 1-5. - Severability of parts of Code.

It is hereby declared to be the intention of the town council that if any section, paragraph, sentence, clause or phrase of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the town council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Sec. 1-6. - General penalty.

Whenever in this Code or in any ordinance or resolution of the town, or rule, regulation or order promulgated by any officer or agency of the town under authority duly vested in such officer or agency, any act is prohibited or is made or 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 misdemeanor, where no specific penalty is provided for the violation thereof, the violation of any such provision of this Code, ordinance, resolution, rule, regulation or order shall be punished by a fine not exceeding five hundred dollars (\$500.00), imprisonment for a period not exceeding thirty (30) days, or both. This section shall not be construed to impose criminal liability on officers or employees of the town for violation of administrative duties, unless specifically so provided.

Cross reference— Jurisdiction of municipal court, § 3-7 et seq.

State Law reference— As to maximum penalty for violating town ordinances, see S.C. Code 1976, § 5-7-30; see also § 14-25-50.

Sec. 1-7. - Liability of corporations, etc., and agents for violations of Code.

Any violation of this Code by an officer, agent or other person acting for or employed by any corporation or unincorporated association or organization while acting within the scope of such person's office or employment, shall in every case also be deemed to be a violation by such corporation, association or organization.

Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any provision of this Code, where such violation was the act or omission, or the result of the act, omission or order of any such person.

Sec. 1-8. - Jurisdiction.

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, unless a contrary intent appears, shall 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.

Sec. 1-9. - Enforcement of ordinances, etc., by officers and employees—Required.

All officers and employees of the town shall enforce obedience to such statutes, provisions of this Code or any ordinances, resolutions or rules and regulations or orders issued thereunder as may relate to their regular duties and any other statutes, provisions of this Code or ordinances, resolutions, rules, regulations or orders with which enforcement they are properly chargeable, by any measure provided therein, by the proper report of any violation thereof and by instituting such proceedings as may be necessary to such enforcement.

Sec. 1-10. - Same—Right-of-entry therefor.

Whenever any officer or employee of the town is required or authorized by statute, the provisions of this Code or any ordinance, resolution, rule, regulation or order issued thereunder, in order to carry out official duties thereunder, to enter any premises or vehicle, such officer or employee shall have the right to enter any such premises or vehicle at any reasonable time in pursuance of such duties.

Cross reference— Resisting or interfering with officers, § 4-3.

Sec. 1-11. - Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the governing body. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted by during the period covered by the supplement and all changes made thereby in the Code. The pages of a

supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, no substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catch lines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catch lines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other no substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-12. - Corporate limits.

The corporate limits of the town shall be as shown on the official map of the town, which map shall be signed by the mayor, attested by the town clerk and the town seal affixed. Such map shall be filed and kept in the town clerk's office.

Sec. 1-13. - Ordinances and resolutions not affected by Code.

Nothing contained in this Code shall affect any of the following ordinances or resolutions:

(1) Any ordinance or resolution promising or guaranteeing the payment of money by or for the town or authorizing the issuance of any bonds of the town or any evidence of indebtedness or any contract or obligation assumed by the town;

(2) Any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such Code;

(3) Any right or franchise conferred by ordinance or resolution on any person or corporation;

(4) Any ordinance adopted for purposes which have been consummated or any ordinance which is temporary, although general in effect, or special, although permanent in effect;

- (5) Any appropriation ordinance;
- (6) Any ordinance levying or imposing taxes;
- (7) Any ordinance relative to licenses or imposing license fees or taxes;
- (8) Any ordinance providing for any public improvement;
- (9) Any ordinance making any assessment;
- (10) Any ordinance opening, establishing or reestablishing the lines of, relocating, closing or altering any streets, sidewalks or alleys;
- (11) Any ordinance establishing or changing the name of any street or alley;
- (12) Any ordinance relative to salaries, compensation or bonds of town employees and officials or members of town boards or commissions not in conflict with this Code;
- (13) Any ordinance relative to zoning or zoning map changes;
- (14) Any ordinance relative to subdivisions;
- (15) Any ordinance establishing, extending or contracting the corporate limits of the town;
- (16) Any ordinance relative to building lines or setback lines; or
- (17) Any ordinance or resolution prescribing permit, inspection, certificate of occupancy, or municipal service fees under the various building, construction, land improvement and service regulatory codes and ordinances adopted by reference or included in this Code.

Sec. 1-14. - Uniform ordinance summons.

Any person who violates any provision of this Code or any code adopted pursuant to this Code may be issued an ordinance summons in a form prescribed and authorized by S.C. Code Ann. Section 56-7-80 (1992 Supp.) which shall vest jurisdiction in the Municipal Court to hear and dispose of the charge for which the ordinance summons was issued and served. The ordinance summons may be issued by any town law enforcement officer or any other town official designated by the town manager. The amount of the bond prescribed by the municipal judge for the offense and the procedure for posting the bond by cash or money order within five (5) days shall be noted on the ordinance summons at the time it is issued. The town official issuing the ordinance summons shall not accept a bond. The ordinance summons shall contain a notice that failure to appear before the court as required, without first posting bond is a misdemeanor punishable by fine of two hundred dollars (\$200.00) or thirty (30) days in jail.

Chapter 2 - PERSONNEL

ARTICLE I. - IN GENERAL

Sec. 2-1. - Establishing administrative procedures and policies.

The town manager is hereby authorized and directed to establish and amend written administrative procedures and policies regarding town employees. Such procedures and policies shall not be in conflict with the provisions of this chapter or state or federal law.

Sec. 2-2. - Employee personnel manual incorporated by reference.

The employee personnel manual for the town, adopted by the council, copies of which are on file in the town clerk's office, is hereby incorporated herein by reference and made a part hereof, including all amendments thereto.

ARTICLE II. - POLICE DEPARTMENT

Sec. 2-3. - Department established; composition.

There shall be a police department, headed by the chief of police. The police department shall consist of such number of other persons as may be appointed to act as regular police officers, and of such persons as may be appointed to act as police officers on any special occasion or for any length of time other than as regular police officers.

Sec. 2-4. - Responsibilities of chief generally.

The chief of police shall be responsible to the town manager for the enforcement of state laws, this Code and other town ordinances, protection of life and property, preservation of law and order, traffic control, investigation of crimes, apprehension and custody of criminals, and the suppression of vice, and the prevention and control of juvenile delinquency. The chief shall direct the assignment of police officers, establish training programs, establish departmental procedures pursuant to this Code and other ordinances and administrative regulations issued by the town, and shall cooperate with other law enforcement agencies.

Sec. 2-5. - Authority of police officers—Generally.

All police officers of the town, both regular and special police, when on duty are authorized to arrest and commit to the county prison for trial before the municipal court any person who may be guilty within the town of a breach of the peace, or of public drunkenness, or open indecency, or of resisting a police officer or any disorderly conduct injurious to the peace, safety and good order of the town, or of its citizens, and any person who may violate any provision of this Code or other ordinance of the town.

Cross reference— Powers and duties of chief of police as to traffic regulations, § 7-2; duties of police in connection with court, § 3-6; resisting arrest, § 4-3; assisting peace officer upon request, § 4-4.

Sec. 2-6. - Same—Posse comitatus.

Police officers of the town shall, whenever necessary in the discharge of their duty, have authority to call the posse comitatus of the town to their assistance.

State Law reference— Authority, S.C. Code 1976, § 23-15-70.

Sec. 2-7. - Shifts; reporting for inspection and instruction.

The police force shall be divided into three or two (3)(2) shifts. Before each tour of duty, each shift shall report to headquarters for the purpose of inspection and instruction.

Sec. 2-8. - Police officers not to leave beat.

No police officer while on duty shall leave such officer's beat at any time without authority and permission of such officer's superior officer and without first notifying the police officer on the adjoining beat of the place to which such officer is going and the reason therefor.

Sec. 2-9. - Police officers not to leave town without permission.

No police officer shall leave the town unless permission so to do has been granted by the proper official.

Sec. 2-10. - Record to be kept.

The chief of police shall keep a record, in the police station, on which such officer shall record all arrests made by the members of the police department, the offense charged, and the articles taken from the persons arrested.

Sec. 2-11. - Outside police response policy.

The police department shall:

- (1) In accordance with section 5-7-110, Code of Laws of South Carolina 1976, respond to any public utility, agency or private business holding a valid contract with the town.
- (2) Honor mutual aid agreements with other municipalities and the county entered into by the mayor and town council.

Chapter 3- MUNICIPAL COURT

ARTICLE I. - IN GENERAL

Sec. 3-1. - Established.

A municipal court is hereby established, which shall be known as the Atlantic Beach Municipal Court.

State Law reference— Authority to establish, S.C. Code 1976, § 14-25-5.

Sec. 3-2. - Municipal judges—Determining number; appointment; term; compensation; oath of office.

(a) Determining number: The council shall determine the number of part-time and full-time judges necessary and proper to serve the needs of justice, and the council shall have the power to increase or decrease the number of judges from time to time as it best sees fit.

(b) Appointment: Each judge shall be appointed by majority vote of council.

(c) Term of office: Each judge appointed as herein provided shall serve a term not to exceed four (4) years, at the pleasure of council.

(d) Compensation: The compensation of each judge shall be determined by council.

(e) Oath of office: Before entering upon the discharge of the duties of the office of municipal judge, the person appointed to such office shall take and prescribe to the usual oath of office for judicial officers of this state.

State Law reference— Appointment, term, compensation, oath of judges, S.C. Code 1976, § 14-25-15.

Sec. 3-3. - Same—Qualifications.

(a) A municipal judge shall not be required to be a resident of the town.

(b) No municipal judge who is admitted to practice in the courts of this state shall practice law in the municipal court for which such person is appointed.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-25.

Sec. 3-4. - Same—Filling vacancy; acting judge.

Compare versions

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

(b) In case of the temporary absence, sickness or disability of a municipal judge, the court shall be held by a judge of another municipality or by a practicing attorney or some other person who has received training or experience in municipal court procedure, who shall be designated by the mayor and take the prescribed oath of office before entering upon such duties.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-25.

Sec. 3-5. - Clerk of court.

The town clerk or other town employee shall be appointed by the town manager to serve as clerk of the court. The clerk of the court shall keep such records and make such reports as may be determined by the state court administrator.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-35.

Sec. 3-6. - Duties and powers of police in connection with court.

The chief of police, or someone designated by the chief, shall attend upon the sessions of the court. The chief of police and the police officers of the town shall be subject to the orders of the court and shall execute the orders, writs and mandates thereof. The chief of police and police officers shall also be invested with the same powers and duties as are provided for magistrates' constables.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-55.

Sec. 3-7. - Jurisdiction and powers—Generally.

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. The court shall have no jurisdiction in civil matters.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-45.

Sec. 3-8. - Same—Imposition of fine and imprisonment; disposition of fines and penalties.

(a) Whenever the municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of such court, the judge may impose a fine of not more than five hundred dollars (\$500.00), imprisonment for a period not exceeding thirty (30) days, or both.

(b) All fines and penalties collected by the municipal court shall be forthwith turned over by the clerk to the finance director of the municipality for which such court is held.

Cross reference— Penalty generally for violating Code, § 1-6.

State Law reference— Similar provisions, S.C. Code 1976, §§ 14-25-65, 14-25-85.

Sec. 3-9. - Same—Suspension of sentences.

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

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-75.

Sec. 3-10. - Same—Promulgation of orders and rules of court.

The judge, or chief judge if more than one judge is appointed, shall have the authority to issue such orders and rules as may be necessary or convenient to provide for the proper and efficient administration of justice.

State Law reference— Term, S.C. Code 1976, § 14-25-920.

Sec. 3-11. - Sessions of court.

The judge shall designate the places where sessions of court shall be held, the days upon which such sessions will be held and the hours in which the court will be in session.

Sec. 3-12. - Recording testimony.

Any party shall have the right to have the testimony given at a jury trial in the municipal court taken steno graphically or mechanically by a reporter; provided, that nothing herein shall operate to prevent any such party from personally mechanically recording the proceedings. The requesting party shall pay the charges of such reporter for taking and transcribing testimony if recorded by a court reporter.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-195.

Sec. 3-13. - Appeals—Right to; notice; bond.

Any party shall have the right to appeal from the sentence or judgment of the municipal court to the court of general sessions of the county. 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 (10) 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 general sessions or shall pay the fine assessed.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-95.

Sec. 3-14. - Same—Return by municipal judge; docketing for trial, scope.

In the event of an appeal, the municipal judge shall make a return to the court of general sessions, and the appeal shall be heard by the presiding judge upon such return. The return of the municipal judge shall consist of a written report of the charges preferred, the testimony, the proceedings, and the sentence or judgment. When the testimony has been taken by a reporter as provided herein, the return shall include the reporter's transcript of the testimony. The return shall be filed with the clerk of the court of general sessions and the cause shall be docketed for trial in the same manner as is now provided for appeals from magistrate's courts. There shall be no trial de novo on any appeal from the municipal court. The cost of the preparation of the transcript of testimony shall be paid by the appellant.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-105.

ARTICLE II. - MINISTERIAL RECORDER

Sec. 3-15. - Appointment of ministerial recorder; powers and duties.

The office of ministerial recorder is hereby established for the town. Council may appoint one or more full-time or part-time ministerial recorders, who shall hold office at the pleasure of council. Before entering upon the discharge of duties of the office of ministerial recorder, the person appointed shall take and subscribe the prescribed oath of office and shall be certified by the municipal judge as having been instructed in the proper method of issuing warrants. Ministerial recorders shall have the power to issue summonses, subpoenas, arrest warrants and search warrants in all cases arising under the ordinances of the municipality, and in criminal cases as are now conferred by law upon magistrates but shall have no other judicial power.

ARTICLE III. - JURY

Sec. 3-16. - Right to demand jury trial; composition; waiving jury trial.

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 (6) persons drawn from the qualified electors of the municipality in the manner prescribed herein. The right to a jury trial shall be deemed to have been waived unless demand is made prior to trial.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-125.

Sec. 3-17. - Jury commissioners—Appointment; composition.

The council shall appoint not less than three (3) nor more than five (5) persons to serve as jury commissioners for the municipal court; provided, however, that the council may act as jury commissioners in lieu of appointing such commissioners.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-135.

Sec. 3-18. - Same—Preparing jury box.

The jury commissioners shall, within the first thirty (30) days of each year, prepare a box to be known as the jury box. Such box shall contain two (2) compartments, designated as "A" and "B," respectively.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-145.

Sec. 3-19. - Jury list; place ballots in compartment "B."

The jury list shall be composed of all names on the official list of qualified electors of the town furnished by the state election commission each year or copied from the official voter registration list of the town.

Compartment "A" of the jury box shall contain a separate ballot or number for each name on the jury list.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-155.

Sec. 3-20. - Drawing and composing of jury.

(a) The drawing and composing of juries for single trials or terms of court shall be conducted, *mutatis mutanda*, according to the statutes relating to the drawing and composing of juries in magistrates' courts, except as otherwise specifically provided by this chapter. A person appointed by the municipal judge who is not connected with the trial of the case for either party shall draw out of compartment "A" of the jury box thirty (30) names and the list of names so drawn shall be delivered to each party or to the attorney for each party.

(b) In addition to the procedure for drawing a jury list as provided for in subsection (a) above, if the court schedules terms for jury trials, the judge may select a jury list in the manner provided by this subsection. Not less than ten (10) nor more than twenty (20) days prior to a scheduled term of jury trials, a person selected by the presiding judge shall draw at least forty (40) jurors to serve one week only. Immediately after such jurors are drawn the judge shall issue such judge's writ of *venire facias* for such jurors requiring their attendance on the first day of the week for which they have been drawn and such writ shall be forthwith delivered to the chief of police or may be served by regular mail by the clerk of court.

(c) The names drawn pursuant to either subsection (a) or (b) shall be placed in a box or hat and individual names randomly drawn out one at a time until six (6) jurors and four (4) alternates are selected. Each party shall have a maximum of six (6) peremptory challenges as to primary jurors and four (4) peremptory challenges as to alternate jurors and such other challenges for cause as the court may permit. If for any reason it is impossible to select sufficient jurors and alternates from the names drawn, names shall be randomly drawn from compartment "A" until sufficient jurors and alternates are selected.

(d) Where a jury is drawn and composed for a single trial, as provided in subsection (a) above, the parties shall exercise peremptory challenges in advance of the trial date, and only persons selected to serve, and alternates shall be summoned for the trial.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-165.

Sec. 3-21. - Returning names to compartments "B" and "A."

Upon the adjournment of the court, the clerk having the custody of the names drawn under any method in this chapter shall take the names or numbers of the jurors who appeared and shall return these ballots or numbers to compartment "B" of the jury box, and the ballots or numbers corresponding to the names of the jurors who were unable to appear or who were excused by the municipal judge shall be returned to compartment "A" of the jury box. When all names or numbers in compartment "A" have been exhausted, the names or numbers from compartment "B" shall be returned to compartment "A" and thereafter juries shall continue to be drawn therefrom in the manner provided herein.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-175.

Sec. 3-22. - Failure of juror to appear.

Any juror who, being duly summoned, shall neglect or refuse to appear in obedience to any summons issued by the municipal court, and shall not within forty-eight (48) hours render to the

municipal judge a sufficient reason for such person's delinquency, may be punished for contempt.

State Law reference— Similar provisions, S.C. Code 1976, § 14-25-185.

Chapter 4 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

Sec. 4-1. - Aiders and abettors.

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 provisions of this Code or other ordinance of the town. Such person shall be held and deemed to be as a principal.

State Law reference— Accessories, S.C. Code 1976, § 16-1-40 et seq.

Sec. 4-2. - Disobeying a police officer.

It shall be unlawful for any person to disobey any lawful order directed to such person by a police officer provided:

- (1) The person giving or issuing such order is readily identifiable, or has in fact identified himself or herself as a police officer;
- (2) The order or directive is reasonable and given by the police officer in carrying out such officer's regular police duties;
- (3) The person to whom the order is directed is aware of the order;
- (4) The person to whom such order is directed can comply with the order without undue hardship or prejudice to such person or others within such person's company.

Sec. 4-3. - Resisting arrest; interference with official in the performance of duty; threatening an official in performance of duty; giving false name and address.

(a) The term "law enforcement officer", as outlined in this section, shall mean an official or employee hired by the state or any of its political subdivisions, or by any private entity, or code enforcement officer, who is granted authority to enforce all or some of the criminal laws of the state or any of its political subdivisions, and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed.

(b) It shall be unlawful for any person to knowingly or willfully resist an arrest that is being made by a law enforcement officer, or to hinder or obstruct any law enforcement officer in the act of arresting any person.

(c) It shall be unlawful for any person to interfere with, or hinder, obstruct, impair or impede any public official, public employee, fireman, law enforcement officer, or law enforcement animal while attempting to act or acting in the course and scope of the discharge of his official duty.

(d) It shall be unlawful for any person to threaten violence, reprisal, or any other injurious act to any public official, public employee, fireman or law enforcement officer who is engaged in the performance of his or her official duties, or to make such a threat by reason or on account of the performance or attempted performance of his or her official duties.

(e) It shall be unlawful for any person to give an assumed or fictitious name, or a false place of residence or address, or any other than his true name and the true place of his residence or address upon the request of a law enforcement officer during the course of an interview or investigation or when given a written or oral notice by any such officer to appear before any court to answer for an offense against any laws of this state or nation, or any ordinance of the town.

(f) This law is not intended to abridge the right of the people to assemble and address their grievances, or the right to dissent, or the right to freedom of expression.

Cross reference— Right-of-entry of officers and employees, § 1-10; obedience to officers during emergency, § 10-9; interfering with firefighters, § 10-6.

Sec. 4-4. - Assisting peace officer upon request.

No person shall neglect or refuse to assist a peace officer in making an arrest when so requested or commanded by such officer.

State Law reference— Similar provisions, S.C. Code 1976, § 23-15-70.

Sec. 4-5. - Prisoner escaping; communicating with prisoners without permission.

(a) It shall be unlawful for any person under arrest or for any prisoner or convict of the town to make or effect such prisoner's escape or to endeavor or attempt to do so.

(b) It shall be unlawful for any person except town officials to take anything to or in any way communicate with any prisoner confined in the jail or at work upon the streets of the town unless leave so to do shall have first been obtained from the chief of police.

Sec. 4-6. - Public disorderly conduct generally.

Any person who shall (a) be found on any highway or at any public place or public gathering in a grossly intoxicated condition or otherwise conducting such person's self in a disorderly or boisterous manner, (b) use obscene or profane language on any highway or at any public place or gathering or in hearing distance of any schoolhouse or church, or (c) discharge any gun, pistol or other firearm, shall be deemed guilty of a misdemeanor and upon conviction shall be fined as provided in section 1-6.

Sec. 4-7. - Public disorderly conduct in motor vehicle.

It shall be unlawful for any person to engage in any public disorderly conduct in any motor vehicle.

State Law reference— Public disorderly conduct, S.C. Code 1976, § 16-17-530.

Sec. 4-8. - Breach of the peace.

(a) It shall be unlawful for any person on or upon any public street or other public place within the town to commit any breach of the peace, public disturbance or riot, or to take any action which because of its nature is likely to incite, provoke or otherwise bring on any public disturbance or riot; and furthermore it shall be unlawful for any such act to be committed on private premises within the town when located in such proximity to the public streets or other public places as to be likely to bring about a disturbance therein.

(b) It shall be unlawful to cause a public disturbance of a nature that will disturb or interfere with the quiet enjoyment of the public peace by other property owners in the vicinity.

State Law reference— Offenses tending to breach of peace, S.C. Code 1976, § 16-7-110 et seq.

Sec. 4-9. - Assault; assault and battery.

It shall be unlawful for any person to commit assault or assault and battery upon any person within the town.

State Law reference— Similar provisions, S.C. Code 1976, § 16-3-610 et seq.

Except participants engaged in sporting events, entertainment events and/or exhibition events such as boxing, kick boxing, wrestling, karate, etc. who have received any required state or federal permits or licenses and who have received written exemption from the provisions of this section from the town manager or his designee or participants in any school sporting event or class instruction event, it shall be unlawful for any person to engage or offer to engage by challenge or otherwise in mutual combat.

Sec. 4-10. - Fighting.

Except participants engaged in sporting events, entertainment events and/or exhibition events such as boxing, kick boxing, wrestling, karate, etc. who have received any required state or federal permits or licenses and who have received written exemption from the provisions of this section from the town manager or his designee or participants in any school sporting event or class instruction event, it shall be unlawful for any person to engage or offer to engage by challenge or otherwise in mutual combat.

Sec. 4-11. - Disturbing religious worship.

It shall be unlawful for any person in the town willfully or maliciously to disturb or interrupt any meeting, society, assembly or congregation convened for the purpose of religious worship, or to enter such a meeting while in a state of intoxication, or to use or sell spirituous liquors or use blasphemous, profane or indecent language at or near the place of a meeting.

State Law reference— Similar provisions, S.C. Code 1976, § 16-17-520.

Sec. 4-12. - Trespass in public buildings; interference with public business.

(a) Definitions: Public buildings, including premises surrounding, shall mean: structures or areas owned and operated by any governmental unit for the conduct of governmental functions

including, but not limited to, schools and colleges, public and private libraries, parks, playgrounds, airports, holding ponds, courthouses; jails and reformatories; town, county, state or federal administrative offices.

(b) Trespass: It shall be unlawful for any person to remain in a public facility or upon its premises after being requested to leave said premises by persons lawfully responsible for the control of the facility, when the continued presence of any person shall injure or endanger the safety of said buildings or its occupants, or unreasonably interfere with the administration of public business thereof.

(c) Interference with public business: It shall be unlawful for any person to willfully harass, disrupt, interfere with or obstruct any public or governmental business or function being conducted within or upon the premises or grounds of any public building.

(d) This law is not intended to abridge the right of the people to assemble and address their grievances, or the right to dissent, or the right to freedom of expression.

Sec. 4-13. - Public meetings, parades—On town property.

(a) Notice of the intention of calling any public meeting or parade on public property by any person, group, organization or association shall be given to the town council not less than fifteen (15) days before such meeting is proposed, and the council may by a majority vote grant or refuse permission to hold such meeting or parade. Refusal shall be only for cause and only in cases wherein the holding of such meeting is likely to interfere with the good order and peace of the town, to unduly disturb the residents thereof, to interfere with or make hazardous the use of the public streets or to violate any of the terms of this Code or other ordinances of the town.

(b) The notice to town council shall specify:

- (1) The name and address of the individual or organization sponsoring such meeting;
- (2) The specific activities to be conducted, with a time table of activities;
- (3) A reasonable estimate of the number of people to be involved in such meeting, including spectator crowd size;
- (4) Crowd and traffic measures to be employed by the individual or organization sponsoring such meeting.

(c) If a permit be issued by the town council for the conduct of such meeting, the sponsor individual or organization shall:

- (1) Provide responsible persons on site to implement the crowd and traffic control measures specified in the notice to council;
- (2) Name and personally identify the responsible persons to the chief of police and town manager;
- (3) Acquire and keep in full force and effect during the period of activities a public liability insurance policy having minimum limits of one million dollars (\$1,000,000.00) personal injury and one million dollars (\$1,000,000.00) property damage.

Cross reference— Control of vehicles and individuals within emergency areas, § 10-10; driving through procession, § 7-2.

Sec. 4-14. - Same—Crowd and traffic control.

It shall be unlawful for any person to conduct a public meeting on private or public property without making adequate provision, through the police officers of the town, for the handling of traffic and the parking of vehicles of those attending such meeting, so as not to interfere with or obstruct the use of the streets of the town.

Sec. 4-15. - Entering or remaining in parks, recreation areas when closed.

It shall be unlawful for any person other than town personnel conducting town business therein, to occupy or be present in town parks and recreation areas during hours in which the park or recreation area is not open to the public.

Sec. 4-16. - Loitering.

It shall be unlawful for any person to loiter or congregate on any of the public sidewalks, streets or other public places or commercial establishments of this town in such manner as to interfere with or obstruct the use of the same by the public.

Sec. 4-17. - Masks, etc.; restrictions on wearing.

(a) No person over sixteen (16) years of age shall appear or enter upon any lane, walk, alley, street, road, public way or highway or upon the public property under control of the town while wearing a mask or other device which conceals such person's identity; nor shall any such person demand entrance or admission to or enter upon the premises or into the enclosure or house of any other person while wearing a mask which conceals such person's identity; nor shall any such person, while wearing a mask or device which conceals such person's identity, participate in any meeting or demonstration upon the private property of another unless such person shall have first obtained the permission of the owner and occupant of such property.

(b) The provisions of this section shall not affect the following:

- (1) Any person wearing traditional holiday costumes while attending a holiday function.
- (2) Any person engaged in a trade or employment in which a mask is worn for the purpose of ensuring the physical safety of the wearer or because of the occupation, trade or profession.
- (3) Any person using a mask in a theatrical production or masquerade ball while performing in such production or attending such ball.
- (4) Any person wearing a gas mask prescribed in a civil defense drill or exercise or in an emergency.

State Law reference— Similar provisions, S.C. Code 1976, § 16-7-110.

Sec. 4-18. - Cross burning.

It shall be unlawful for any person to place or cause to be placed in a public place in the town a burning or flaming cross or any manner of exhibit in which a burning or flaming cross, real or simulated, is the whole or a part, without first obtaining written permission of the owner and occupier of the premises to do so.

State Law reference— Similar provision as to public property, S.C. Code 1976, § 16-7-120.

Sec. 4-19. - Conspiracy against civil rights.

If any two (2) or more persons shall band or conspire together or go upon the public streets or upon the premises of another within the town with intent to injure, oppress or violate the person or property of any citizen because of such citizen's political opinion or expression or exercise of the same or shall attempt by any means, measure or act to hinder, prevent or obstruct any citizen in the free exercise and enjoyment of any right or privilege secured to the citizen by the constitution of the United States or by the constitution and laws of this state, each such person shall be guilty of a misdemeanor.

State Law reference— Similar provisions, S.C. Code 1976, § 16-5-10.

Sec. 4-20. - Nudity.

(a) Except as live entertainment within a lawfully established adult cabaret, it shall be unlawful for any person to intentionally appear in any public place in such a state of undress so as to expose to the view of others the human male or female genitals, pubic area, pubic hair, buttocks, anus, vulva, or any portion of the female breast at or below the areola thereof.

(b) In an adult cabaret as referenced above, it shall be unlawful for any person to appear as live entertainment in a state of undress so as to expose the human male or female genitals, pubic area, or buttocks cavity with less than a full opaque covering.

(c) In an adult cabaret which features films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical area, it shall be unlawful for any person to intentionally appear in such a state of undress so as to expose to the view of others the human male or female genitals, pubic area, pubic hair, buttocks, anus, vulva, or any portion of the female breast at or below the areola thereof.

Sec. 4-21. - Public defecation or urination.

It shall be unlawful for any person to defecate or urinate or attempt to defecate or urinate in any public place, within view of any other person except within an enclosed restroom facility.

State Law reference— Definitions of obscenity, S.C. Code 1976, §§ 16-15-150, 16-15-260.

Sec. 4-22. - Obscene books, papers, films, performances, etc.

Obscene books, papers, films, performances, etc. It shall be unlawful for any person to import, print, publish, sell, distribute or with intent to distribute, or exhibit or show any book, pamphlet, printed paper, picture, photograph, film, motion picture, live performance or other thing

containing any obscene, indecent or improper print, picture, figure or description of an obscene or indecent character or message.

Sec. 4-23. - Transmitting obscene messages.

It shall be unlawful for any person in the town to write, print, telephone or by any other manner or means to communicate, send or deliver to any person any obscene, profane, indecent, vulgar, suggestive or immoral message.

State Law reference— Similar provisions, S.C. Code 1976, § 16-15-250.

Sec. 4-24. - Peeping tom.

It shall be unlawful for any person to enter upon the private property of another or to spy or look into the doors or windows of any building located on such private property.

Sec. 4-25. - Dressing, etc., in motor vehicle.

It shall be unlawful for any person to dress or undress in any motor vehicle in such a manner as to expose such person's body to view outside the vehicle.

Sec. 4-26. - Sleeping in motor vehicles.

It shall be unlawful for any person to sleep in any motor vehicle in the town between the hours of 9:00 p.m. and sunrise.

Sec. 4-27. - Prostitution, assignation, lewdness, etc.

It shall be unlawful for any person to:

- (1) Engage in prostitution.
- (2) Aid or abet prostitution knowingly.
- (3) Procure or solicit for the purpose of prostitution.
- (4) Expose indecently the private person for the purpose of prostitution or other indecency.
- (5) Reside in, enter or remain in any place, structure, building, vehicle, trailer or conveyance for the purpose of lewdness, assignation or prostitution.
- (6) Keep or set up a house of ill fame, a brothel or a bawdy house.
- (7) Receive any person for purpose of lewdness, assignation or prostitution into any vehicle, conveyance, trailer, place, structure or building.
- (8) Direct, take or transport, or offer or agree to take or transport or aid or assist in transporting any person to any vehicle, conveyance, trailer, place, structure, building or to any other place with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation.
- (9) Lease or rent or contract to lease or rent any vehicle, conveyance, trailer, place, structure or building or part thereof believing or having reasonable cause to believe that it is intended to be used for any purpose herein prohibited.

(10) Procure an inmate for a house of prostitution.

(11) Cause, induce, persuade or encourage by promise, threat, violence or by any schemes or device, a person to become a prostitute or to remain an inmate of a house of prostitution.

(12) Receive or give or agree to receive any money or thing of value for procuring or attempting to procure any person to become a prostitute or an inmate of a house of prostitution.

(13) Accept or receive knowingly any money or thing of value for procuring or attempting to procure any person to become a prostitute or an inmate in a house of prostitution.

(14) Accept or receive knowingly any money or thing of value without due consideration from a prostitute.

(15) Aid, abet or participate knowingly in the doing of any of the acts herein prohibited.

Sec. 4-28. - Trespass.

Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the premises of another person after having been warned not to do so or any person who, having entered into the dwelling house, place of business, or on the premises of another person without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction, be fined not more than two hundred dollars (\$200.00) or imprisoned for not more than thirty (30) days.

No person shall enter the premises owned or occupied by a state, county or municipal agency during those hours of the day or night when the premises are regularly closed to the public, and no person shall refuse or fail without justifiable cause, to leave those premises upon being requested to do so by a law enforcement officer or guard, watchman or custodian responsible for the security or care of the premises.

State Law reference— Trespass, S.C. Code 1976, § 16-11-600 et seq.

Sec. 4-29. - Unauthorized use of vehicle.

It shall be unlawful for any person knowingly or willfully to take or use any vehicles of any kind, without the consent of the owner thereof, and with the intent to steal the same.

Sec. 4-30. - Destroying, etc., property—Real property.

No person shall willfully and maliciously cut, mutilate, deface or otherwise impair or destroy the real property of another, when the injury or damage to such property is less than fifty dollars (\$50.00).

Sec. 4-31. - Same—Personal property.

No person shall willfully and maliciously cut, shoot, maim, wound, mutilate, deface, or otherwise injure, damage or destroy any kind, class, article, or description of personal property, or the goods and chattels of another, when the injury or loss of the property does not exceed one thousand dollars (\$1,000.00).

State Law reference— Similar provisions, S.C. Code 1976, as amended, Supp. 1995, § 16-11-501(A, (B)(3).

Sec. 4-32. - Same—Town property.

It shall be unlawful for any person to destroy, mutilate, break, move, tear up or carry away any property of any kind of nature belonging to the town.

Sec. 4-33. - Same—Trees, cutting of limbs for utility wires regulated.

(a) No person shall willfully break down, destroy, damage, mutilate or remove any trees of any of the boxes which shall or may encompass them, or shall walk upon or damage any grass plots planted by the town in its parks, in any street, land, alley or open court within the town.

(b) It shall not be lawful to cut away the limbs or branches of any tree for the purpose of erecting posts or suspending wires for electric lights, telegraph or telephone, or fire alarm service without the express permission, in writing, of the town council.

Sec. 4-34. – Larceny.

It shall be unlawful for any person to steal, take or carry away or attempt to steal, take or carry away goods, choses in action, bank bills, bills receivable, chattels, or other articles of personal property or any fixture or part or product of the soil which was severed from the soil by an unlawful act, when the value thereof is two thousand dollars (\$2,000.00) or less.

State Law reference— Similar provisions, S.C. Code 1976, as amended, Supp. 1995, § 16-13-30(A).

Sec. 4-35. - Breaking into vending machines or newspaper racks.

It shall be unlawful for any person to break or attempt to break into any vending machine or newspaper rack or any compartment thereof with intent to steal the same or anything of value therefrom.

Sec. 4-36. - Receiving stolen goods.

(a) It is unlawful for a person to buy, receive, or possess stolen goods, chattels, or other property if the person knows or has reason to believe the goods, chattels, or property is stolen. A person is guilty of the offense whether or not anyone is convicted of the property theft.

(b) It is unlawful for a person to knowingly receive or possess property from an agent of a law enforcement agency that was represented to the person by the same or other agent of the law enforcement agency as stolen. For purposes of this section, the person receiving or possessing the property need not know the person is receiving or has received the property from an agent of a law enforcement agency, and the property need not be actually stolen.

(c) A person who violates this section is guilty of a misdemeanor and punishable as provided for in section 1-6, if the value of the property is two thousand dollars (\$2,000.00) or less.

State Law reference— Similar provisions, S.C. Code 1976, as amended, Supp. 1995, § 16-13-180(1).

Sec. 4-37. - Obtaining signature or property by false pretenses.

A person who by false pretenses or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal with the intent to cheat and defraud a person of that property is guilty of a misdemeanor triable in municipal court and punishable as provided for in section 1-6 if the value of the property is two thousand dollars (\$2,000.00) or less.

State Law reference— (S.C. Code 1976, as amended, Supp. 1995, § 16-13-240(3)).

Sec. 4-38. - Breach of trust with fraudulent intent.

(a) A person committing a breach of trust with a fraudulent intention or a person who hires or counsels another person to commit a breach of trust with a fraudulent intention is guilty of larceny.

(b) A person who violates the provisions of this section is guilty of a misdemeanor triable in municipal court and punishable as provided for in section 1-6 if the amount is two thousand dollars (\$2,000.00) or less.

State Law reference— (S.C. Code 1976, as amended, Supp. 1995, § 16-13-230(A), (B)(1)).

Sec. 4-39. - Defrauding keeper of hotel, motel, inn, boardinghouse, rooming house, cafe or restaurant.

(a) Any person who shall:

(1) Obtain any food, lodging or other service or accommodation at any hotel, motel, inn, boarding or rooming house, cafe or restaurant and intentionally abscond without paying for it;

(2) While a guest at any hotel, motel, inn, boarding or rooming house, cafe or restaurant, intentionally defraud the keeper in any transaction arising out of such relationship as guest, shall be deemed guilty of a misdemeanor and upon conviction shall be punished;

(3) Enter a hotel, motel, inn, boardinghouse, rooming house, or residence used for rental purposes, without legal cause to so enter shall be punished.

(b) Under this section prima facie evidence of intent to defraud is shown by:

(1) The second refusal of payment upon presentation when due and the return unpaid of any bank check or order for the payment of money given by any guest to any hotel, motel, inn, boarding or rooming house, cafe or restaurant in payment of any obligation arising out of such relationship as guest. Such facts shall also be deemed prima facie evidence of an intent to abscond without payment.

(2) The failure or refusal of any guest at a hotel, motel, inn, boarding or rooming house, cafe or restaurant to pay, upon written demand, the established charge for food, lodging or other service or accommodation.

(3) The giving of false information on a lodging registration form or the presenting of false or fictitious credentials for the purpose of obtaining lodging or credit.

(4) The drawing, endorsing, issuing or delivering to any hotel, motel, inn, boarding or lodging house, cafe or restaurant of any check, draft or order for payment of money upon any bank or other depository in payment of established charges for food, lodging or other service or accommodation, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

State Law reference— Obtaining property under false letters, pretenses, S.C. Code 1976, §§ 16-13-240, 16-13-250.

Sec. 4-40. - Obtaining credit or property with expired, false, etc., credit card.

It shall be unlawful for any person to knowingly use for the purpose of obtaining credit or for the purchase of goods, property or services:

- (1) A credit card which has not been issued to such person and which is not used with the consent of the person to whom issued;
- (2) A credit card which has been revoked or cancelled by the issuer of such card and notice thereof has been given to such person;
- (3) A credit card which has expired; or
- (4) A credit card which is false, fictitious or counterfeit.

State Law reference— Similar provisions, S.C. Code 1976, § 16-13-280.

Sec. 4-41. - Weapons—Discharge of firearms, slingshots, air rifles, explosives, etc.

It shall be unlawful for any person to discharge or cause to be discharged any firearms of any nature, any air rifle, slingshot or explosives at any place.

State Law reference— Regulation of firearms, S.C. Code 1976, § 23-31-10 et seq.; offenses involving weapons, § 16-23-10 et seq.

Sec. 4-42. - Same—Carrying concealed or unconcealed weapon.

It shall be unlawful for any person to carry, either concealed or not, any pistol, dirk, slingshot, metal buckler, razor or other deadly weapon used for the infliction of injury to the person or property. Upon conviction thereof besides such penalty as may be imposed by the court, the defendant shall forfeit the weapon to the town.

Sec. 4-43. - Display and sale of sexually oriented merchandise to children.

(a) Definitions. For purposes of this section, the following words and phrases are defined as follows:

- (1) Child or children shall mean any person less than eighteen (18) years of age.

(2) Merchandise shall include, but not be limited to, any banner, button, clothing, hat, figurine, game, greeting card, magnet, photograph, postcard, novelty item, poster, sculpture, souvenir, sticker, towel or similar item, whether or not the item is offered for sale.

(3) Business operator shall mean any person who owns, leases, manages, operates or is employed by a business establishment.

(4) Sexually oriented merchandise shall mean any merchandise which graphically depicts or describes human or animal sexual activities or bodily organs in an indecent manner. This shall include, but not be limited to, any depiction or description, by pictorial representation or language, of any sexual intercourse, masturbation, sadomasochistic abuse, sexual penetration with an inanimate object, sodomy, bestiality, sexual acts by and between animals or other creatures, uncovered genitals, buttocks or female breasts, covered genitals in a state of sexual stimulation or arousal, or the fondling or other erotic touching of genitals, the pubic region, buttocks, or the female breast.

(5) Knowingly shall mean having general knowledge of, or a reason to know, or a belief or ground for belief which warrants further inquiry into the age of a person.

(b) Open display or sale to children unlawful.

(1) It shall be unlawful for any business operator to display sexually oriented merchandise unless such merchandise is confined to an area of the business establishment that is separate and enclosed so that the merchandise is inaccessible to and out of the plain view of children and cannot be viewed from outside the business establishment.

(2) It shall be unlawful for any business operator to knowingly sell sexually oriented merchandise to a child or to permit a child to enter the area where sexually oriented merchandise is displayed unless the child is accompanied by a parent, guardian or other adult person having care, custody and control of such child.

(c) Signage required. Any business owner who displays sexually oriented merchandise shall prominently display a clearly legible sign or signs as necessary to notify anyone entering an area where such merchandise is displayed that sexually oriented merchandise is displayed and that no one under the age of eighteen (18) may enter the area unless accompanied by a parent or legal guardian. Such sign shall have a white background with the text in block letters no less than one inch in height which shall be black in color.

(d) Penalty. Any person violating any provision of the section shall be guilty of a misdemeanor and shall be punished as provided in section 1-6.

(e) State and local law not superseded. This shall not be deemed to supersede any state or town ordinances relating to the sale, communication or display of obscene matter, nor shall this section be interpreted to authorize the display or sale of obscene materials.

Sec. 4-44. - Shoplifting.

(a) Terms used in this section have the following meanings:

(1) Conceal means to hide merchandise on the person or among the belongings of a person so that, although there may be some notice of its presence, it is not visible through ordinary observation.

(2) Full retail value means the merchant's stated or advertised price of merchandise.

(3) Merchandise means any goods, chattels, foodstuffs or wares of any type and description, regardless of value.

(4) Merchant means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee or independent contractor of the owner or operator.

(5) Store or other retail mercantile establishment means a place where merchandise is displayed, held, stored or sold or offered to the public for sale.

(b) A person is guilty of shoplifting if he or she:

(1) Takes possession of, carries away, transfers from one person to another or from one area of a store or other retail mercantile establishment to another area, or causes to be carried away or transferred any merchandise with a value of one thousand dollars (\$1,000.00) or less, that is displayed, held, stored, or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use, or benefit of the merchandise without paying the full retail value;

(2) Alters, transfers, or removes any label, price tag marking, indicia of value, or any other markings which aid in determining value affixed to any merchandise with a value of one thousand dollars (\$1,000.00) or less that is displayed, held, stored, or offered for sale in a store or other retail mercantile establishment and attempts to purchase the merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of the merchandise;

(3) Transfers any merchandise with a value of one thousand dollars (\$1,000.00) or less, that is displayed held, stored, or offered for sale by any store or other retail mercantile establishment from the container in which it is displayed to any other container with intent to deprive the merchant of the full retail value.

(c) Presumptions from concealment of unpurchased goods. It is permissible to infer that any person willfully concealing unpurchased goods or merchandise of any store or other mercantile establishment either on the premises or outside the premises of the store has concealed the article with the intention of converting it to his own use without paying the purchase price thereof within the meaning of § 16-51(a). It is also permissible to infer that the finding of the unpurchased goods or merchandise concealed upon the person or among the belongings of the person is evidence of willful concealment. If the person conceals or causes to be concealed the unpurchased goods or merchandise upon the person or among the belongings of another, it is also permissible to infer that the person so concealing such goods willfully concealed them with the intention of converting them to his own use without paying the purchase price thereof within the meaning of § 16-51(a).

Sec. 4-45. - Definitions.

The following words or phrases, as used in this chapter, shall have the following respective meanings as set out in this section, unless a different meaning clearly appears from the context:

Contraband means:

- (a) Any laser pointer or device that is used unlawfully,
- (b) Any laser pointer or device that is greater than one (1) milliwatt, as shown by the manufacturer's or distributor's technical specifications as shown on the pointer or device or otherwise,
- (c) Any laser pointer or device for which the merchant who offers the device for distribution, sale or barter has no technical specifications showing the manufacturer's or distributor's confirmation that the laser pointer or device is one (1) milliwatt or less in output.

Excluded from this definition are:

- (1) Lasers used by an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations;
- (2) Lasers used by members or elements of the Department of Defense or Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing or training;
- (3) Lasers used by an individual as an emergency signaling device to send an emergency distress signal;
- (4) Lasers used by public safety officials in the regular conduct of their duties;
- (5) Laser uses specifically permissible by federal or state law;
- (6) Lasers used for legitimate educational purposes;
- (7) Lasers used for testing in the course of product manufacturing;
- (8) Lasers used for legitimate business purposes and during the normal course of such business;
- (9) Lasers in the possession of individuals if such possession is necessary for the individual's employment, education, trade or occupation, and when not in use;
- (10) Lasers possessed and/or used as part of a gun sight, so long as such are possessed and/or used in a lawful manner.

Handheld means any light emitting device whose longest dimension is 15 inches or less.

High divergence refers to the rapid spreading out of laser light in such a manner as to avoid concentration of such light into a beam.

Laser means is a device that emits light through a process of optical amplification based on the stimulated emission of photons.

Laser pointer or device means a device that is designed to amplify electromagnetic radiation by stimulated emission that emits a beam designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object. Such term also means a device that projects a beam or point of light by means of light amplification by

stimulated emission of radiation or other means or that emits light which simulates the appearance of a beam of light.

Minor means any person who has not attained seventeen (17) years of age.

Pico projector means a small-format projector that can be used as a standalone projector or as an integrated component in mobile devices and uses the same technology that powers standard projectors for purposes of projecting images or videos or other similar displays onto a surface.

Portable laser means any laser light emitting device that is not affixed to an immovable base, or any component of a fixed device that can be separated from its base and activated.

Structure means anything constructed, erected or established, including but not limited to swimming pools, buildings, trailers, screened enclosures, patio walls, decks, or similar man-made features.

Sec. 4-46. - Possession by minors unlawful; exception.

(a) It shall be unlawful for any minor to possess a laser pointer or device, while not under the direct supervision of a parent, guardian or teacher, which parent, guardian or teacher takes full responsibility for its possession and use under this article and bears the full consequences of its misuse.

(b) Laser pointers or devices in the unlawful possession of minors are subject to immediate confiscation as contraband.

(c) It shall be unlawful for any person, other than a parent, guardian or teacher, to knowingly provide a laser pointer or device to a minor.

(d) Business license holders that distribute, sell or barter laser pointers or devices to minors are subject to the suspension and ultimate revocation of their business licenses.

Sec. 4-47. - Prohibited uses; exceptions.

(a) It shall be unlawful for any person to direct the light from a laser pointer or device from public or private property upon another person, a person's means of conveyance, or an animal, on public or private property, or upon a watercraft, airplane, helicopter or other aircraft, in public airspace or waterways at any time. Excluded are the possession and use of laser gun sights when possessed and used for lawful hunting purposes, or for self-defense as defined by law.

(b) It shall be unlawful for any parent, guardian, person acting in loco parentis, or responsible adult to purchase and give to any minor or permit any minor in their custody to possess or use, a laser pointer or device while not under the direct supervision of such parent, guardian, person acting in loco parentis, responsible adult, or teacher.

(a) It shall be unlawful for any person to distribute, sale or barter, any laser pointer or device to any adult except under the following conditions:

(1) Any distribution of any laser pointer or device shall be verified by the manufacturer's or distributor's technical specifications confirming that the pointer or device is not more than one (1) milliwatt, and the proof of wattage as shown by the technical specifications which must be maintained by the merchant, to be available upon demand of law enforcement. It is the

merchant's responsibility to obtain proof from the seller/vendor wholesaler. Laser pointers or devices offered for distribution, sale or barter that do not have the proper proof of wattage limitations are subject to immediate confiscation as contraband. Laser pointers and devices offered for sale in their original unopened packaging which confirms that the devices are one (1) milliwatt or less in output are sufficient proof of compliance. If greater than one (1) milliwatt, the distribution, sale or barter must be accompanied by a statement concerning their use limitations, as set forth in this article, with a written acknowledgment on the part of the buyer as to which exception(s) apply to the possession and use of such laser pointer or device.

(2) Any distribution, sale or barter of each individual laser pointer or device must be accompanied by the written warnings of use as required herein, and a signed customer receipt that the warnings of use have been provided in conjunction with the distribution, sale or barter. After verifying the adult status of the customer, the merchant shall require the customer to affix his signature under the legible printed name affirming that the warning has been provided and read.

(b) REQUIRED WARNINGS OF USE.

I, the undersigned, have read and understand the warnings of use that are required to accompany the receipt of this laser pointer or device.

**WARNING ON POSSESSION AND USE OF A LASER POINTER OR DEVICE
PARENTS! DO NOT BUY THIS PRODUCT FOR MINORS!
THIS PRODUCT CAN BE CONSIDERED A WEAPON!**

- Laser beams can temporarily blind or disorient an operator of an airplane, helicopter or vehicle when the beam is directed toward them. The beam is much larger at long distances than you might think. Even though the laser projects a small, millimeter-sized dot close up, at longer distances the beam can be many inches across. When the beam hits the windscreen of a cockpit, or the bubble of a helicopter, imperfections in and on the glass spread the light out even more, making it impossible for the pilot to safely navigate. Pilot exposure to the beam can result in flash blindness, glare and distraction in the immediate task of piloting the aircraft. Pointing a laser at an aircraft places all the persons aboard in mortal jeopardy.
- It is a federal felony crime to aim a laser pointer at an aircraft, or at the flight path of an aircraft. The federal penalty is up to five (5) years in a federal prison and/or a fine of several thousand dollars. The U.S. Federal Aviation Administration "will pursue the toughest penalties" against persons who deliberately aim lasers at aircraft, Transportation Secretary Ray LaHood announced on May 16, 2012. Since June 2011, FAA has taken action against twenty-eight (28) persons, with an average fine of eleven thousand dollars (\$11,000.00) per laser strike. The highest penalty sought so far is thirty thousand eight hundred dollars (\$30,800.00). FAA has directed its staff not to seek warning notices or counseling, but to use "moderately high civil penalties" for inadvertent laser illuminations, and maximum penalties for deliberate violations. Horry County will inform the federal authorities of any arrests relating to this crime so that appropriate prosecution to the fullest extent of the law can be achieved at the federal level.
- Section 55-3-130 of the South Carolina Code of Laws also makes it criminal offense to point, aim, or discharge a laser device at an occupied aircraft, in the air or on the ground, providing a potential sentence for a first offense of one (1) year in prison, a fine of two thousand dollars

(\$2,000.00), or both. A second or subsequent violation triggers the possibility of even greater sentencing.

- A laser's light is concentrated into a narrow beam. If aimed at a person's eye from close up, most or all of the light goes through the pupil. The already-concentrated light is further focused by the lens onto a sharp ("diffraction-limited") dot on the retina. Even at the lower power outputs, the power density from a one (1) milliwatt laser, focused to a point, is brighter than the equivalent area of the sun's surface. This can cause a detectable injury to the retina, if the laser stays in one (1) spot for a few seconds. Laser beams can permanently blind a person or animal when the beam is directed into their eyes.

- Any person of seventeen (17) years or older who possesses a laser pointer or device unlawfully, or who points a laser beam toward any vehicle, person or animal is subject to a conviction for violation of city ordinance, for assault and battery, and/or for mistreatment of animals, with a five hundred dollar (\$500.00) fine and up to thirty (30) days imprisonment, or both, as well as being civilly liable for any personal injury to a person or animal, or damage to property, that might result from this illegal act.

- **PARENTS, GUARDIANS, RESPONSIBLE ADULTS: YOU WILL BE HELD PERSONALLY RESPONSIBLE FOR THE MISUSE OF THIS DEVICE BY ANY MINOR TO WHOM YOU PROVIDE THIS DEVICE, OR BY ANY OTHER PERSON TO WHOM THAT MINOR PROVIDES THIS DEVICE.**

- Any parent, guardian, person acting in loco parentis, or responsible adult person, who purchases a laser pointer or device for a minor, or who allows a minor in their custody to access, possess or use a laser pointer or device within the unincorporated area of Horry County, and that laser pointer or device is possessed or used unlawfully, is subject to arrest and prosecution, and upon conviction, is further subject to a fine of five hundred dollars (\$500.00) and up to thirty (30) days imprisonment, or both. The parent is chargeable as a principal to the crime along with the minor in possession, or who illegally uses the device as a weapon, and is also subject to prosecution for contributing to the delinquency of a minor.

- Any minor sixteen (16) years or younger, who is in possession of, or who uses, a laser pointer or device unlawfully, is subject to service of a juvenile summons and will be prosecuted in family court by the solicitor's office.

- Lasers in the unlawful possession of minors are subject to immediate confiscation as contraband, in addition to any other law enforcement action.

- Laser pointers or devices that are used illegally are contraband, and subject to immediate confiscation, in addition to any other law enforcement action.

Date:

Print merchant name and signature that adult status has been verified, and that manufactures technical specifications are available to prove that the device is one (1) milliwatt or less, or if greater than one (1) milliwatt, set forth specific exception(s) applicable to possession and use.

Print customer's name and signature that affirms the warning has been received and read.

Sec. 4-48. - Laser pointers are considered weapons; assault and battery on person; mistreatment or abuse of animal.

(a) A laser pointer, or any other similar article, which consists of a hand-held, battery-operated device of any output, designed or adapted to emit a laser beam and that may be used for the purposes of aiming, targeting or pointing, is considered a weapon when used unlawfully.

(b) When a laser pointer is directed to a person, or upon a conveyance piloted, operated or occupied by a person, such conduct is deemed an assault and battery.

(c) When a laser pointer is directed to an animal (other than for lawful hunting purposes), such conduct is considered abuse or mistreatment of animals.

Sec. 4-49. - Penalty; immediate confiscation.

(a) Any person violating any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as the law allows for a misdemeanor crime, with a fine not greater than five hundred dollars (\$500.00) or thirty (30) days imprisonment, or both, per incident.

(b) Any laser pointer or device found upon the person of a minor, or used by any person in a prohibited manner, or found in a business as an item for sale without manufacturer's technical specification showing that the output is one (1) milliwatt or less, may be immediately seized as contraband by law enforcement, a court of competent jurisdiction to determine the temporary or permanent nature of the confiscation.

Sec. 4-50. - Severability.

If any section, subsection, or part of this ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that section, subsection or part of this ordinance shall be deemed ineffective, but the remaining parts of this ordinance shall remain in full force and effect.

Chapter 5 - ALCOHOLIC BEVERAGES

Sec. 5-1. Definition.

For the purposes of this chapter the term "alcoholic beverage" shall be construed to mean any spirituous, malt, vinous, fermented, brewed, or other liquor, beer or wine, or any compound or mixture thereof, by whatever name known, which contains alcohol and is used as a beverage.

State Law reference— Similar provisions, S.C. Code 1976, § 61-3-20(1); nonalcoholic and nonintoxicating beverages defined, § 61-9-10.

Sec. 5-2. - Sunday sales; hours of sale on other days.

It shall be unlawful for any person to sell or offer for sale, except as may be authorized by state law, any alcoholic beverage in the town on Sundays, or before sunrise on Mondays, or between 2:00 a.m. and sunrise on the other days of the week.

Sec. 5-3. - Prohibited activities for holders of permit.

It shall be unlawful for any person holding a permit authorizing the sale of any alcoholic beverage in the town to sell such alcoholic beverages to a person under the age of twenty-one (21) years or to an intoxicated person, or to permit gambling, games of chance, nudity or public nuisance at the licensed premises.

State Law reference— Similar provisions, S.C. Code 1976, § 61-9-410; sale to minors, § 61-9-40; sale of alcoholic liquor to intoxicated person, § 61-5-30.

Sec. 5-4. - Giving or selling to person to whom sales are illegal.

It shall be unlawful for any person on licensed premises to sell or give any alcoholic beverage to a person to whom such alcoholic beverages cannot lawfully be sold.

State Law reference— Similar provisions, S.C. Code 1976, § 61-9-60.

Sec. 5-5. - Minors—Sale, delivery or purchase by.

It shall be unlawful for any person under the age of twenty-one (21) years to sell, deliver, purchase or receive any alcoholic beverage.

State Law reference— Possession by minor, S.C. Code 1976, §§ 61-9-80, 61-13-270.

Sec. 5-6. - Same—Permitting minors to sell or deliver.

It shall be unlawful for any person to allow any person under the age of twenty-one (21) years to sell or deliver any alcoholic beverage.

Sec. 5-7. - Same—Purchaser misrepresenting age.

It shall be unlawful for any person to whom alcoholic beverages cannot be lawfully sold to knowingly give false information concerning such person's age for the purpose of purchasing alcoholic beverages.

State Law reference— Similar provisions, S.C. Code 1976, §§ 61-9-50, 61-13-270.

Sec. 5-8. - Consumption of alcoholic beverage, beer or wine prohibited in public places.

Except as authorized at any festival or event sponsored by the town, while in an area depicted on a diagram attached to the application for the festival or event:

(a) It shall be unlawful for any person to consume any alcoholic beverage, beer or wine on any beach, public street, roadway, boulevard, sidewalk, thoroughfare, park, or any property used or designed for use by the general public.

(b) It shall be unlawful for any person to consume any alcoholic beverage, beer or wine in any public alley or parking lot or area designed for use by the general public in connection with any commercial or public facility.

(c) The possession of any opened container or alcoholic beverage, beer or wine in any place prohibited by this section shall constitute prima facie evidence of the consumption of the alcoholic beverage, beer or wine at the prohibited place.

(d) Any person, firm or corporation violating any provision of this section shall be punished as provided.

State Law reference— Drinking in public conveyance, S.C. Code 1976, § 61-13-360; municipal jurisdiction, § 61-13-760.

Sec. 5-9. - Public possession of open containers.

Except as authorized at any festival or event sponsored by the town while in an area depicted on a diagram attached to the application for the festival or event:

No person shall possess in any public place not licensed for on-premises consumption of alcoholic beverages any opened container of any alcoholic beverage.

Chapter 6 - BEACHES AND WATERWAYS

Sec. 6-1. - Definitions.

As used in this chapter, the following terms shall have the respective meanings ascribed to them:

Public beach: That area of land lying between the low water mark of the Atlantic Ocean and either the high-water mark of the Atlantic Ocean, or the private property line, whichever point is of greater distance from the low water mark.

Surfboard: Any surfboard device, whether or not modified by sail or otherwise.

Sec. 6-2. - Motor vehicles on beach.

(a) It shall be unlawful for any person to drive any motor vehicle, of any nature or description, upon the public beach within the town. This prohibition shall not apply to governmental, emergency or other authorized vehicles.

(b) This section in no way prohibits rights conferred upon the handicapped in accordance with South Carolina Code Annotated, Section 43-33-25 (1976 as amended).

Sec. 6-3. - Driving on dunes.

It shall be unlawful for any person to drive any vehicle, whether motorized or self-propelled, upon any sand dunes located within the town limits of Atlantic Beach.

Sec. 6-4. - Riding or driving animals on beach.

It shall be unlawful for any person to ride a horse or any other animal on the public beach.

Sec. 6-5. - Sleeping on public beach after 9:00 p.m.

It shall be unlawful for any person to sleep on the public beach between 9:00 p.m. and sunrise.

Sec. 6-6. - Surfboards.

(a) It shall be unlawful for any person to ride a surfboard or skim board on the public beach or any waters thereto, between the hours of 9:00 a.m. and 4:00 p.m. during the period from May fifteenth to September fifteenth, except in the following designated areas:

(a) All surfers shall be required to wear a surfing leash at all times.

(b) The director of the police department or his designee may temporarily prohibit surfboarding and/or skim boarding in the areas designated above for police department purposes.

Sec. 6-7. - Maximum swimming distance from beach and maximum depth of swimmers; obedience to lifeguards.

(a) No person shall be in the ocean waters a distance of more than fifty (50) yards from the point where the ocean adjoins the strand or be in the ocean waters at a depth greater than shoulder height.

(b) Any person who shall fail to obey the directions and instructions of any lifeguard authorized by the town with regard to activities on the beach and ocean shall be guilty of a misdemeanor.

Sec. 6-8. - Jumping or diving from piers.

It shall be unlawful for any person to dive or jump from any pier into the ocean waters.

Sec. 6-9. - Depositing litter on beach or in water.

It shall be unlawful for any person to throw or deposit, or cause or permit to be thrown or deposited, any glass, bottle, glassware, can or pieces thereof, or any garbage, waste, litter, trash, debris, or refuse of any kind, on the public beach or in the waters adjacent to the public beach.

State Law reference— Pollution Control Act, S.C. Code 1976, § 48-1-10 et seq.

Sec. 6-10. - Carrying glass containers on beaches.

It shall be unlawful for any person to carry any glass, bottle or glassware on the public beaches of the town.

Sec. 6-11. - Regulations regarding recreational fishing.

(a) Any person who fishes in saltwater within the town shall obtain, as required by the South Carolina Code of Laws, a saltwater fishing license from the state before engaging in saltwater fishing within the town.

(b) It shall be unlawful for any person to bait, fish for, catch, or otherwise attract sharks in the area of the beach from the shoreline extending seaward for the distance of one (1) mile into the Atlantic Ocean and/or in any saltwater area within the town including but not limited to inlets, marshes, channels and any portion of the Atlantic Intracoastal Waterway located within the jurisdictional limits of the town. In addition, no person shall chum for any marine life in the above referenced areas.

In the event a person engaged in saltwater fishing catches a shark or any other marine animal that he or she reasonably knows may pose a danger to persons swimming, wading or otherwise engaged in activities in the above referenced areas, such person shall release the same at the place where the shark or other dangerous marine animal was caught immediately upon recognizing the catch as a shark or other dangerous marine animal.

(c) Lifeguards and public safety officers shall have the authority to require persons engaged in saltwater fishing to cease fishing if circumstances indicate that cessation of fishing is in the interest of public safety. In the event a lifeguard or public safety officer determines that fishing is unsafe, the lifeguard or public safety officer may order any person engaged in saltwater fishing

to immediately cease fishing. Any person engaged in saltwater fishing ordered to cease fishing shall immediately comply with the order until such time as the lifeguard or public safety officer indicates that it is safe to resume fishing. The lifeguard or public safety officer may indicate that saltwater fishing may occur at an alternate location during the time that the cease fishing order is effective.

(d) All debris, bait, fish line, hooks, and other fishing equipment or tackle must be contained and not allowed to be placed uncontained upon the beach or any area where saltwater fishing activities occur and shall be removed from the beach or saltwater fishing area immediately after any fishing has been concluded.

(e) Penalty. A person who violates any provision of this section shall be subject to punishment under section 1-6 upon conviction.

Sec. 6-12. - Operation of boats in manner endangering bathers.

(a) It shall be unlawful for any watercraft conducting parasailing activities within one (1) mile seaward of the high-water mark of the shoreline of Atlantic Beach, to conduct parasailing activities less than one thousand five hundred (1,500) [yards] from the shoreline which shall include the watercraft, towline and rider(s).

(b) All rental watercraft, motorized watercraft, including jet skis and/or similar devices will be required to be launched or beached only in specified areas so designated by the town for these purposes. Other nonpowered watercraft that are not used for rental or commercial purposes may be launched or beached in areas outside the designated launch areas for motorized watercraft and rental craft.

(c) No motorized watercraft, including jet skis and/or similar devices, shall be launched or beached upon the public beaches between the hours of 9:00 a.m. and 5:00 p.m. from May 15 to September 15 of each year. This prohibition shall not apply to governmental and/or another authorized motorized watercraft. Any exception hereto must have been first authorized and licensed by the town manager or his appointed designee.

Sec. 6-13. - Operation of boats, etc., in reckless, etc., manner.

No person shall operate any boat, including sailboats and catamarans, or operate jet skis, manipulate skis, sail boards or similar devices in a reckless or negligent manner so as to endanger the life, limb or property of any person.

Sec. 6-14. - Operation of boats, etc., while intoxicated.

No person shall operate any boat, including sailboats and catamarans, or operate jet skis, manipulate skis, surfboard, sail boards or similar device while intoxicated or under the influence of any narcotic drug, barbiturate, marijuana, intoxicating beverage or other similar substance.

Sec. 6-15. - Selling or leasing goods—Prohibited, exceptions.

(a) Upon the public beaches, public waters or any public property except as otherwise authorized by town ordinance, no person shall sell, lease or rent any goods, wares or other property except that this provision shall not prohibit the holder of a beach franchise or license from exercising the rights and privileges granted therein, nor shall it prohibit the town from

granting to the holder of a beach service franchise or license the right and privilege of selling or renting upon the public beaches or waters such items of personal property as are customarily sold or rented by the holders of such franchises or licenses, nor shall it prohibit town council from authorizing activities of a promotional nature on public property with the consent of council for each occurrence. Furthermore, this provision shall not prohibit the town of Atlantic Beach and its authorized employees from selling and or renting goods and wares such as beach umbrellas and chairs and concession items in conjunction with the town providing lifeguard services.

(b) Upon the public beaches or public waters, no person shall construct a pier or other amenity, except that this provision shall not prohibit the holder of a pier franchise exercising the rights and privileges granted therein, nor shall it prohibit the town from granting the holder of a pier franchise or license the rights and privileges of conducting such activity from such pier as the provisions of the franchise or license allow.

Sec. 6-16. - Same—Invitations therefor.

Upon the public beaches, no person shall extend any invitation to any meeting which has as its purpose the sale, lease or rental of any goods, wares or other property, nor shall any person distribute any literature, token, photograph or other device which advertises, promotes or encourages the sale, lease or rental of any goods, wares or other property unless a written permit shall first be obtained from the town manager as provided herein.

Sec. 6-17. - Same—Permit therefor.

Any person desiring a permit for the conduct of the activities specified in section 6-15 shall submit an application to the town manager providing such information as the town manager may require, together with an application fee according to the schedule of fees of the town.

Sec. 6-18. - Same—Revocation of permit.

The permit issued shall be revoked by the town manager and shall not be reissued for the same business if the town manager determines that:

- (1) The permit holder or any of the holder's officers, agents, or employees has, in connection with such activities, made to any person any false, misleading or deceptive representations; or,
- (2) If any literature distributed by the permit holder creates a significant amount of litter; or,
- (3) If the permit holder or any of the holder's officers, agents or employees harasses any individual.

Sec. 6-19. - Return of sand from coastal critical areas to beach.

(a) All persons wishing to relocate sand which has drifted onto their property from coastal critical areas must spread the sand on the beach near the base of the primary dunes. No sand placed on the beach shall be construed as altering a critical area line as it existed prior to the work.

(b) The relocation of sand shall comply with all other requirements of the South Carolina Coastal Council.

Sec. 6-20. - Possession or consumption of alcoholic liquors, beer or wine prohibited on beach.

Possession or consumption of an alcoholic liquor, beer or wine is prohibited on the beaches. It shall be unlawful for any person to possess or consume any alcoholic liquors, beer, ale, porter, wine or any other similar malt or fermented beverage on the beaches.

Sec. 6-21. - Opened container of alcoholic liquor, beer or wine on beaches prohibited.

The possession of any opened container of alcoholic liquor, beer or wine on the beaches shall be prohibited and shall constitute prima facie evidence of the consumption of the alcoholic liquor at the prohibited place.

Sec. 6-22. - Destruction of sea oats, beach grass and sand fencing.

It shall be unlawful for any person to destroy, mutilate, break, move, tear up, carry away or alter in any manner the sea oats, sea grass, sand fencing or other plants or fixtures with a value of one thousand dollars (\$1,000.00) or less, planted or erected by the town or its agents as part of any beach nourishment or preservation. Said conduct shall constitute destruction of public property and shall be punishable as set forth in section 1-6.

State Law reference— Similar provisions, S.C. Code 1976, § 16-11-520.

Sec. 6-23. - Placing obstructions on the beach.

(a) Hours. Except for municipal beach service equipment or equipment authorized by franchise agreement, it shall be unlawful between the hours of 7:00 pm and 8:00 am for any person to place upon, set upon or leave upon any equipment or other items on the beach including but not limited to beach umbrellas or other shading devices, surfboards, floats, life rafts, volleyball nets, etc.

(b) Placement of shading devices on the beach from May 15 through September 15. Other than umbrellas with a center pole no greater than seven (7) feet six (6) inches in height and with a circular shade no greater than nine (9) feet in diameter and shading devices no larger than thirty-six (36) inches in height by thirty-six (36) inches in width and thirty-six (36) inches in depth used to provide shade to persons eighteen (18) months of age or younger, all shading devices including but not limited to: tents, tarps, cabanas, pavilions, sports-belles or devices similar to sports-belles, or any material mounted on supports are prohibited from being placed on the beach from May 15 through September 15. An umbrella is defined as a collapsible circular shade consisting of a natural or synthetic fabric stretched over hinged ribs radiating from a center pole without grounding lines or ropes.

(c) No umbrellas or other shading devices may be placed within the emergency vehicle access lane which is the area approximately twenty (20) to twenty-five (25) feet seaward of the dune line and parallel to the shoreline which will be marked by city trash cans, pylons and/or flags. The director of the department of public safety or his designee shall have the authority to establish unobstructed emergency access lanes perpendicular to the shoreline for emergency vehicles, personnel and/or other emergency equipment to access the surf or other areas of the beach in the event of an emergency. Emergency access lanes perpendicular to the shoreline

shall remain open and unobstructed until the director of public safety or his designee determines the emergency access lane is no longer necessary.

(d) Removal, disposal. Umbrellas or other items/equipment remaining on the beach between the hours of 7:00 pm and 8:00 am will be removed from the beach. All items removed from the beach will be marked with the date of removal and maintained in the city's storage yard for a period of thirty (30) days from the date of removal. If the item has not been reclaimed within thirty (30) days from the date of removal, the item shall be deemed forfeited and shall be disposed of in a manner to be determined by the town

manager or his designee, including but not limited to, selling the forfeited item(s) at auction, donating the item(s) for charitable purposes or disposing of the item(s) as refuse. A forty-dollar (\$40.00) administrative fee shall be charged for items claimed from the storage yard.

(e) Sand fencing and dune walkovers. Sand fences and dune walkovers have been constructed to rebuild and preserve the sand dunes; sand dunes serve as barriers that aid in protecting life and property during hurricanes and or other tidal events. It is prohibited to move, alter, obstruct, interfere with the sand fencing including but not limited to, chaining items to, locking items to, or connecting items to a sand fence. In addition, no items may be placed, put, chained to, locked to or stored under any dune walkover located on the public beach.

(f) Other obstructions. It shall be unlawful to build or erect any fence or other obstruction on the public beach so as to obstruct or impede the free use of the public beach or to interfere with or obstruct any maintenance operation of the beach.

(g) Penalty. Violations of this section are punishable as provided in section 1-6.

Sec. 6-24. - Digging of holes on the beach.

(a) In order to prevent persons from walking into a hole, trench, or depression and risking personal injury, to protect persons from hazards associated with collapsing sand, to allow public safety, emergency and beach cleaning vehicles to conduct necessary activities on the beach while minimizing the risk of personal injury or damage to equipment, and to help preserve and protect sea turtle habitat, it shall be unlawful for any person to dig a hole, trench or depression on the beach deeper than twelve (12) inches and then depart from the area of digging without having first completely filled such hole, trench, or depression.

(b) Any violation of this section shall subject the offender to a civil penalty of one hundred dollars (\$100.00).

Chapter 7- TRAFFIC

ARTICLE I. - IN GENERAL

Sec. 7-1. - Adoption of state law regulating traffic.

Unless otherwise specifically covered by this chapter, all of the provisions and requirements of the general law of the state regulating traffic on highways as contained in Title 56, Chapter 5 of the Code of Laws, 1976, as now in force or as hereafter amended and insofar as such provisions can have application within the town, are hereby adopted and made a part of this chapter as fully as though set out therein. All persons within the town shall strictly comply with all of the regulations imposed hereby, when so applicable.

State Law reference— Uniform applicability of traffic law throughout the state, S.C. Code 1976, § 56-5-30; powers of municipalities, § 56-5-710 et seq.

Sec. 7-2. - Driving through procession.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion, except as otherwise directed by police officers.

Cross reference— Parade permit, § 4-13.

Sec. 7-3. - Driving in parks.

It shall be unlawful for any person to drive any motorized vehicle in any portion of the town parks, except on a permanent or temporary driveway.

Sec. 7-4. - Careless operation of a vehicle.

It shall be unlawful for any person to operate any vehicle without care and caution and full regard for safety of persons or property. Any person failing so to do shall be guilty of careless driving or riding. The operation of any vehicle when the same or any of its accessories are not in proper repair or safe driving condition shall be prima facie evidence of careless driving or riding. Careless operation is unlawful and may be a lesser included offense of "reckless driving" but may not be a lesser included offense of "driving under the influence."

Sec. 7-5. - Riding on portion of vehicle not designed for passengers.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of duty, or to persons riding within truck bodies in space intended for merchandise.

Sec. 7-6. - Boarding or alighting from moving vehicle.

No person shall board or alight from any vehicle while such vehicle is in motion.

Sec. 7-7. - Driving at an unsafe slow speed.

No person shall drive at such a slow speed as to impede the normal and reasonable flow of traffic on a public street.

Sec. 7-8. - Unlawful impeding of traffic.

It shall be unlawful for any pedestrian to impede or obstruct the flow of vehicular traffic on any public street.

No operator of any vehicle shall tow or draw any person on a coaster, sled, roller skates, toy vehicle or other similar vehicle on a roadway.

Sec. 7-9. - Use of skates, toy vehicles, etc., in streets.

No person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway, except while crossing a street on a crosswalk.

Sec. 7-10. - Carrying passengers on bicycles or motorcycles.

The operator of a motorcycle or bicycle, when upon a street, shall not carry any other person upon the handlebar, frame or tank of any such vehicle, nor shall any person so ride upon any such vehicle.

Sec. 7-11. - Riding bicycles, etc., on sidewalks.

No person shall ride bicycles, coasters, skateboards or similar devices on the sidewalks of any business district.

Sec. 7-12. - Meddling or interfering with street.

No person shall render traveling or the passage of persons or vehicles dangerous or difficult by meddling or interfering with the street, nor shall any person spray or permit to be sprayed any water upon any street.

Sec. 7-13. - Lighting.

(a) It shall be unlawful for any property owner or other person or entity in possession or control of property in this town to permit any artificial or reflected light source to exist or to be installed on the property which shall emit a glaring light which is visible from any street or highway right-of-way and which could impair a driver's vision.

(b) All spotlights, floodlights, or similar light sources intended to direct light in a specific direction or towards a particular area shall be shielded or hooded to ensure that the light source is not visible from the street, or public right-of-way. No light source shall be directed away from the property upon which it is located. All lights shall be directed upon the property on which the light source is located, provided that this provision shall not apply to lights directed upon the public beach directly in front of the property.

(c) Upon determination that a violation exists, the owner or person in control of the property shall be notified of the violation. If the person notified does not eliminate the violation, then such

person shall be guilty of a misdemeanor and shall be punished as provided in section 1-6. Each day of violation of this section shall constitute a separate offense.

ARTICLE II. - STOPPING, STANDING AND PARKING

Sec. 7-14. - Owner responsible for illegal parking.

No person shall allow, permit or suffer any vehicle registered in such person's name to stand or park in any street in violation of any of the provisions of this Code or other ordinances or regulations of the town regulating the standing or parking of vehicles.

Sec. 7-15. - Twelve feet of roadway to be left free for traffic.

(a) No person shall stop, stand or park any vehicle upon a street in such a manner or under such conditions as to leave available less than twelve (12) feet of the width of the lane of traffic for free movement of vehicular traffic; except, that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals or a police officer.

(b) No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than twelve (12) feet of the lane of traffic for the free movement of vehicular traffic.

(c) No person shall leave any vehicle unoccupied by a licensed driver in any lane of traffic.

Sec. 7-16. - Parking prohibited in walkway areas.

No person shall stand or park a vehicle upon that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines, except at designated roadside parking areas.

Sec. 7-17. - Parking near intersections so as to obstruct view.

It shall be unlawful for any person to park any bus, truck, transport truck or any other vehicle equipped with a body with sides higher than five (5) feet from the ground or street, nearer to any corner or intersection than twenty-five (25) feet. It shall be unlawful for any person to park any vehicle within twenty-five (25) feet of a corner or intersection which will obstruct or interfere with the view of the traveling public.

Sec. 7-18. - Stopping in hazardous or congested places.

When signs are erected at hazardous or congested places, no person shall stop, stand or park a vehicle in any such designated place.

Sec. 7-19. - Washing, greasing or repairing vehicles in roadway.

No person shall park or stand a vehicle upon any roadway for the principal purpose of washing, greasing or repairing such vehicle, except repairs necessitated by an emergency.

Sec. 7-20. - Parking for display purposes prohibited.

No person shall stand or park a vehicle upon any roadway for the principal purpose of displaying it for sale.

Sec. 7-21. - Parking vehicle for advertising purposes.

It shall be unlawful for any person to park any vehicle on any street or in any parking space for the primary purpose of advertising.

Sec. 7-22. - Loading and unloading at business district.

No person shall load or unload any goods from a motor vehicle in a business district except from designated loading zones.

Sec. 7-23. - Parking limitations of commercial vehicles or buses.

No person shall park a bus or commercial vehicle rated in excess of eighteen thousand five hundred (18,500) pounds, gross vehicle weight, or any component part thereof, except for the purpose of loading and unloading, upon any street or right-of-way within the corporate limits of the Town of Atlantic Beach and upon any private property in a residential zone. Component part shall include the tractor unit or trailer unit of a tractor-trailer type vehicle. This section exempts the parking of vehicles used in transportation of passengers in multi-family parking lots.

Sec. 7-24. - Parking limitations of vehicles hauling hazardous materials.

No person shall park any vehicle designed or used to haul explosives, dangerous chemicals, gasoline, liquefied petroleum products, or other hazardous materials, except for the purpose of loading and unloading, upon any street or right-of-way or upon any private property in a residential zone.

Sec. 7-25. - Impounding unoccupied and unattended vehicles.

Any unoccupied or unattended vehicles found violating the terms of this chapter may be removed and impounded by any police officer or duly authorized person and shall be surrendered to the duly identified owner thereof only upon payment of any outstanding bonds, fines, fees, and costs of towing and impounding.

Sec. 7-26. - Issuance of parking citations.

A police officer or parking enforcement officer finding any vehicle parked, standing or stopped in violation of town ordinance or state law may, in lieu of immediately issuing a summons to its owner or driver, affix in a conspicuous place on said vehicle a traffic citation requiring the owner or driver to post a specified bond within seventy-two (72) hours at a specified location within the town.

The town manager, or his designee, is hereby authorized to adopt such rules and regulations, and cause forms to be printed, necessary to carry out the provisions of this chapter.

Sec. 7-27. - Consequences of failure to comply with parking citation.

(a) The parking citation authorized shall contain a warning that if the bond required by the citation is not posted within seventy-two (72) hours, it shall be increased by an additional fifty (50) percent of the specified amount and that failure to comply with the requirements of the citation shall result in the issuance of a summons.

(b) Any vehicle parked on any street or other public property, whether in an authorized or unauthorized zone, which is found to be the subject of seventy-five dollars (\$75.00) or more past due on a previous traffic or parking citation is hereby declared to be a public nuisance.

(c) Authorized; procedure; fee. Any vehicle identified as a public nuisance may be impounded by the town by giving authorization to a commercial towing or wrecker service to tow the vehicle away and store it in a safe place until claimed by the owner or by immobilizing the vehicle in such a manner as to prevent its operation.

(1) Immobilization shall be at the direction of a town police officer or other town employee charged with such responsibility.

(2) Upon immobilization, the officer or employee shall place upon the vehicle a notice sufficient to warn the owner or driver that the vehicle has been immobilized and that any attempt to move or drive it may result in damage. Such notice shall also inform the owner or driver of the reason for the immobilization.

(3) It shall be unlawful for any person to tamper with, damage, remove, destroy or take the immobilization device except as authorized pursuant to this ordinance.

(4) Immobilization shall remain in place for forty-eight (48) hours unless sooner released in accordance with subsection (d) of this section. If compliance with subsection (d) of this section has not occurred within forty-eight (48) hours, the vehicle shall be towed and impounded. The city assumes no liability for loss or damage to the impounded vehicle or its contents while immobilized or impounded.

(5) The owner of an immobilized vehicle shall be subject to a fee of fifty dollars (\$50.00) for the immobilization, which fee shall be exclusive of any bonds posted, fines imposed, or storage costs assessed.

(6) The parking restrictions and regulations otherwise applicable to the vehicle in accordance with the provisions of the town code shall not apply to any vehicle immobilized pursuant to this division during its period of immobilization.

(d) Release of vehicle to owner.

(1) No vehicle shall be released to the owner until all outstanding traffic citation and or parking citation charges, bonds and fees, as well as towing and storage charges, are paid and until satisfactory proof of ownership and liability coverage has been demonstrated.

(2) Towing and storage charges of a commercial towing or wrecker service shall be the responsibility of the owner of the vehicle.

Sec. 7-28. - Parking prohibited during certain hours and designated places.

When signs are erected in each block giving notice thereof, no person shall park a vehicle between the hours and on the days so designated except as otherwise provided in this chapter.

Sec. 7-29. - Parking time limited in designated places.

When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than the period and between the hours so designated, except as otherwise provided in this chapter.

Sec. 7-30. - Parking for loading only.

(a) No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place designated as a passenger zone during the hours when the regulations applicable to such passenger zone are effective.

(b) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of material in any place designated as a loading zone during hours when provisions applicable to loading zones are in effect.

Sec. 7-31. - Compliance with signs.

When signs prohibiting, limiting or restricting stopping, standing or parking are erected on streets, no person shall stop, stand or park a vehicle in violation of any such sign.

Sec. 7-32. - Owner responsible for illegal parking.

No person shall allow, permit or suffer any vehicle registered in his name, or which he has leased or rented from another person, to stand or park in any street in this town in violation of any of the ordinances of this town or this state regulating the standing or parking of vehicles.

Sec. 7-33. - Establishment of paid parking lots and/or parking zones.

The town manager is authorized to establish certain town owned public parking lots, public street-ends and parking areas within public rights-of-way as paid parking lots and/or parking zones which shall be identified as such; in addition, the town manager shall establish the method for payment of the posted parking fees via kiosks or meters, mobile parking apps, pay by internet or phone options, or any other method of payment that may be available.

Chapter 8 - ANIMALS AND FOWL

ARTICLE I. - IN GENERAL

Sec. 8-1. - Definitions.

For the purpose of this chapter, the following terms shall have meanings respectively ascribed to them:

Adequate food: The provision at suitable intervals, not to exceed twenty-four (24) hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition for the animal. Such foodstuff shall be served in a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

Adequate shelter: That shelter which will keep a non-aquatic animal dry, out of the direct path of winds and out of the direct sun and at a temperature level that is healthful for the animal. The containment area for the animal shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any waste or debris. A suitable method of draining shall be provided to rapidly eliminate excess water or moisture. Aquatic and semi-aquatic animals shall have an adequate amount of clean water in which to move.

Adequate water: A constant access to a supply of clean, fresh water provided for in a sanitary manner.

Animal: Any mammal, fowl or other domestic or wild animal of any kind or nature.

Animal control officer: Any person appointed by the town manager to carry out the requirements of this chapter.

Domestic animal: Any dog, cat, or domesticated ferret not defined as wildlife or livestock.

Nuisance animal: Any animal that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property.

Owner or keeper: Any person who keeps, harbors, maintains an animal; or has an animal within care, custody and control; or acts as custodian of any length of time; or permits an animal to remain on or about the premises occupied, owned, leased, rented or lawfully accessed by the person, within the city limits.

Vicious animal: Any animal that attacks, bites or injures human beings or domesticated animals without adequate provocation, or which, because of temperament, conditioning, or training, has a known propensity to attack, bite or injure human beings or domesticated animals.

State Law reference— Definition of "animal," S.C. Code 1976, § 47-1-10; definition of "dog" and "vicious dog," § 47-3-10; definition of "pet," "owner," "inoculation," etc., § 47-5-20; definition of stray, § 47-7-10; definition of "livestock" and "owner," § 47-9-210.

Sec. 8-2. - Animals running at large; removal of excretion from public property.

It shall be unlawful for any person having charge, care, ownership or control of any animal to:

(a) Allow any animal to run at large and beyond the limits of the property or lots owned, leased or occupied by such person.

(b) Allow any dog to be on the public beaches, whether leashed and under control or running at large from 9:00 a.m. to 5:00 p.m. during the period from May 15th through September 15th of each year.

(c) Fail to remove any of the animals' excretion deposited on the beach, boardwalk, dune crossover, public ways, recreational parks, or other public property.

All animals found unlawfully running at large within the town shall be taken into custody and impounded at the animal shelter.

State Law reference— Livestock at large, S.C. Code 1976, § 47-7-110.

Sec. 8-3. - Keeping of certain animals prohibited.

It shall be unlawful for any person to keep any wild animals, vicious animals, livestock or poultry, except at:

(1) Carnivals and circuses authorized by special permit in accordance with this Code, provided such use does not exceed a period of one (1) week;

(2) A zoo;

(3) A non-profit educational or research facility;

(4) A for-profit business where animals are displayed but are not sold, bartered, given or traded to the public.

State Law reference— Keeping vicious dog, S.C. Code 1976, § 47-3-50.

Sec. 8-4. - Manner of keeping and maintaining animals; female dogs in heat.

All animals shall be kept and maintained in such a manner as to not damage property or disturb the peace, comfort, health, safety or general welfare of any person within the town.

At the discretion of the animal control officer and when nuisance problems exist due to a female dog in heat, the owner of the female dog in heat shall maintain the dog in such a manner whereas not to excite or attract unwanted male dogs.

Sec. 8-5. - Cruelty to or poisoning of animals.

(a) It shall be unlawful for any person willfully or through neglect to override, overload, wound, injure, torment, torture, deprive of adequate food, adequate water, adequate shelter, cruelly beat, choke, needlessly mutilate or kill any animal or cause any of the aforesaid things to be done.

(b) Every act, or omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted is prohibited. Such acts or omissions shall include, but are not limited to: beating, choking, kicking, hanging, submerging under water, suffocating, poisoning, confining in a closed vehicle without engaging functioning air conditioning or ventilation whenever the ambient temperature exceeds seventy (70) degrees Fahrenheit, confining in the closed trunk of a vehicle, setting on fire and depriving of adequate food, water, shelter and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare.

State Law reference— Cruelty to animals, S.C. Code 1976, § 47-1-10 et seq.

Sec. 8-6. - Selling, releasing, displaying certain animals prohibited.

It shall be unlawful to:

- (1) To sell, give away, barter, exchange;
- (2) Display in any street, right-of-way, public property or private property open to the public;
- (3) Intentionally release from captivity from a confined container, cage or other containment device into any outdoor or unconfined and/or uncontained area;

Any "exotic animal" as defined below:

Exceptions to the prohibition against displaying exotic animals:

Zoos, non-profit educational or research facilities and for-profit businesses where reptiles are displayed but are not sold, bartered, given or traded to the public.

A. "Exotic animal" means any member of the following families, including hybrids thereof, and further defined as follows:

1. Class Reptilia:

i. Order Squamata:

- (i) Family Varanidae (water monitors and crocodile monitors);
 - (ii) Family Boidae (anacondas (Genus Euneptes), boas constrictors, Burmese pythons (Python morlurus), reticulated pythons (Python reticulatus), amethystine pythons (Morelia amethystinus), scrub pythons (Morelia kinghorni), Northern African pythons (Python sebae), Southern African pythons (Python natalensis), Ball Python (Python Regius), Brazilian Rainbow boa and all species whose adult length has the potential to exceed eight feet in length;
 - (iii) Family Colubridae (boomslangs (Dispholidus typus), twig snakes (Genus Thelotomis);
 - (iv) Family Elapidae (all species such as cobras, mambas, and coral snakes);
 - (v) Family Nactricidae (only keelback snakes);
 - (vi) Family Viperidae (all species such as rattlesnakes, pit vipers, and puff adders;
- ii. Order Crocodilia (such as crocodiles, alligators, caimans, gavials).

Sec. 8-7. - Impounding and disposition—Generally; record.

(a) All animals which are found within the town in violation of this chapter shall be taken into custody and impounded at the county pound.

(b) The officer shall take into custody any animals which are kept within the town without food, water or proper care.

(c) The officer shall take into custody any animal which has been determined to have been abused, neglected, or in immediate danger.

(d) The animal control officer or other authorized person who impounds or takes into possession or otherwise disposes of any animal shall maintain a record of such disposition, giving sufficient or satisfactory identifying marks or description of such animal for the record, the date of impoundment, the fees accrued and final disposition.

Sec. 8-8. - Same—Notice to owner of animals; disposition if not reclaimed.

When any animal is impounded, the town manager, or his authorized agent, shall immediately notify the owner. If the owner is unknown, the town manager or his authorized agent shall maintain a record at the animal shelter. Such record shall have a description of the animal. If the animal is not reclaimed within seven (7) days, the animal control officer or the shelter manager shall dispose of the animal in a humane way, except the following:

- (1) Wild cats;
- (2) Vicious dogs imposing a safety threat to shelter workers or visitors;
- (3) Badly injured, sick, or suffering animals requiring extensive treatment;
- (4) Animals with highly contagious or fatal diseases;

which shall be exempt from the seven (7) days impoundment, at the discretion of the shelter manager and/or the animal control officer. This section shall not apply to animals impounded under section 4-28.

Sec. 8-9. - Same—Fees.

(a) There shall be charged an impoundment fee of twenty-five dollars (\$25.00) for the first day or any part thereof for each animal impounded, plus a fee of ten dollars (\$10.00) each succeeding day thereafter.

(b) In the absence of proof of purchase of either current town license or rabies inoculation, an additional fee of ten dollars (\$10.00) will be charged; in the absence of proof of purchase of both rabies inoculation and town license, an additional fee of twenty dollars (\$20.00) will be charged.

(c) Fees shall be collected at the animal shelter before the animal is released to the owner.

Sec. 8-10. - Same—Rescue of animals.

No person shall rescue any animal which has been impounded or taken into custody by an authorized person.

State Law reference— Illegal release of dog, S.C. Code 1976, § 47-3-50.

Sec. 8-11. - Penalties.

The violation of this chapter shall subject the offender, upon conviction, to punishment as provided in section 1-6, in addition to the fees for board and expenses, and the impoundment charge provided in section 8-9, except, that in the case of a first offense, the court may, in its discretion, suspend the sentence and judgment upon payment of the fees set out in section 8-9.

Sec. 8-12. - Obstruction of animal control officer.

(a) It shall be unlawful for any person to hinder, interfere, harass or otherwise obstruct the performance of any officer of the animal control division in the official performance of his or her duties as provided for in this chapter.

(b) It shall be unlawful for any person to relocate, interfere with, or alter the operation of any device, equipment, or item of the animal control division.

(c) It shall be unlawful for any person to place any animal into or to remove without permission of animal control officers any animal confined within a trap or cage operated by the animal control division.

(d) It shall be unlawful for any person to give a false name, address or date of birth to any officer, employee or agent of the animal control division in the lawful discharge of his or her official duties with the intent to mislead such officer employee or agent in any way.

ARTICLE II. - DOMESTIC ANIMALS; RABIES CONTROL

Sec. 8-13. - Domestic animal license—Required.

Every person owning or having the custody or possession of any domestic animal four (4) months of age or over, within the town, shall obtain a license for such domestic animal.

Sec. 8-14. - Same—Fees; rabies inoculation required; issuance of tag.

(a) The town shall charge an annual license fee according to the schedule of fees for each domestic animal.

(b) Domestic animal licenses shall expire one (1) year from the date of purchase.

(c) Proof of rabies inoculation will be required before a town license is issued.

Sec. 8-15. - Same—Tag to be attached to collar or harness.

The domestic animal license tag issued hereunder shall be attached to a collar or harness worn by the domestic animal.

Sec. 8-16. - Same—Expiration date.

Domestic animal licenses issued hereunder shall expire one (1) year from the date of purchase.

Sec. 8-17. - Running at large prohibited; dogs in public to be on leash.

No person having the ownership, possession or control of any dog shall allow such dog to run at large within the town. Any dog which is off the property of the person having the ownership, possession or control of such dog, shall be on a leash not exceeding seven (7) feet in length and shall be under the control of the person having custody of such dog.

State Law reference— Dogs at large, S.C. Code 1976, §§ 47-3-50, 47-3-70.

Sec. 8-18. - Keeping dogs which chase vehicles, attack persons, etc.

No person shall keep or have within the town, a dog that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicyclists or vehicles.

Sec. 8-19. - Vicious, dangerous or nuisance animals.

(a) If any animal is determined to be vicious or dangerous, it shall be impounded or otherwise disposed of, in the discretion of the animal control officer, health officer and/or the shelter manager.

(1) If an animal control officer is unable to safely handle such a vicious animal whereby to impound said animal, the animal owner or person in control of said animal shall be required to transport the animal to the animal shelter upon the request of the animal control officer for proper disposition.

(2) In the discretion of the animal control officer, any dog that is aggressively offensive or has a recorded history of the same, shall be maintained in a properly secured fenced or penned area whereby the animal cannot run at large to intimidate people, children or other domesticated pets. The area in which such dog is maintained shall be posted on the fence with a sign that reads "BEWARE OF DOG."

(3) No animal shall be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing, or assaulting the animal or has, in the past, tormented, abused or assaulted the animal or was committing or attempting to commit a crime.

(b) Nuisance animals are unlawful if such animals unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to the enjoyment of life or property. Nuisance animals shall include animals that damage the property of anyone other than its owner, molest or intimidate pedestrians or people passing by, cause the fouling of air by odor, cause unsanitary conditions in enclosure or surroundings where the animal is kept or harbored, and/or are aggressively offensive or have a recorded history of viciousness to the health, safety or welfare of the public.

Sec. 8-20. - Rabies inoculation required.

Every owner or person having the custody or possession of a domestic animal four (4) months of age or older, shall have such domestic animal inoculated against rabies within seven (7) days after being instructed to do so by the county's animal control officer, health officer and/or shelter manager. Evidence of such inoculation shall consist of a certificate signed by a licensed graduate veterinarian or the duly authorized person administering the vaccine. This certificate shall be in a form prepared and issued by the state department of health and environmental control, and no other certificate shall be used. The veterinarian may stamp or write such veterinarian's name and address on such certificate. One (1) copy of the certificate shall be given to the owner, one (1) filed with the county health department and one (1) retained by the person administering the vaccine. Coincident with the issuance of the certificate of inoculation, the licensed graduate veterinarian, the rabies control officer or an assistant shall also furnish a serially numbered metal license tag bearing the same number and year as the certificate. The metal license tag, when issued by the licensed graduate veterinarian, shall bear the name of such veterinarian. The metal license tag shall at all times be attached to a collar or harness worn by the domestic animal for which the certificate and tag have been issued.

State Law reference— Annual inoculation of pets. S.C. Code 1976, § 47-5-60.

Sec. 8-21. - Procedure when animals have bitten persons or other animals.

(a) It shall be unlawful for any person, except the animal control officer, health officer or a licensed veterinarian, to destroy or dispose of any dog or other animal which has bitten any person or any other animal within a period of ten (10) days after such biting.

(b) When any dog or other animal bites any person within the town, such dog or other animal, when identified, shall be impounded and quarantined in the county pound by the animal control officer, or, upon request of the owner of such biting dog, or other animal, impounded under the jurisdiction and observation of a licensed veterinarian, for a period of ten (10) days to determine whether the dog or other animal has rabies. Any expense incurred for such impounding or veterinarian fee shall be paid by the owner of such animal impounded.

State Law reference— Similar provisions, S.C. Code 1976, § 47-5-100.

DEFECATION BY DOGS OR CATS (POOPER SCOOPER LAW)

This is an ordinance relating to picking up fecal matter deposited by owned dogs on property which does not belong to the owner of the dog or where the owner has consent to let his/her dog defecate. The text of the ordinances is as follows:

Sec. 8-22. – Defecation by dogs or cats

Town of Atlantic Beach pet owners are responsible for the actions of their animals, must remove all fecal material left by their pets and must never place feces in a recycle bin, storm drain or any body of water. The Town of Atlantic Beach Municipal declares that no person owning or caring for an animal "shall permit such animal to defecate on any public sidewalk, park, or building, or on any private property without the consent of the owner of such private property, unless such person removes any such defecation to a proper trash receptacle." Violations are

punishable but citation and fines of \$100.00 for the first violation, \$200.00 for the second violation and \$500.00 for subsequent violations.

(a) It is the duty of each person in control of a dog or cat to promptly remove and dispose of, in a sanitary manner, feces left by such dog or cat.

(b) It shall be the duty of each person in control of a dog or cat to be in possession of materials to remove feces left by a such dog or cat.

(c) It is an affirmative defense to prosecution under this section that the person in control of the dog or cat is the owner of the premises, or the owner's agent of the premises, where the dog or cat deposits feces.

(d) Violation of this section is unlawful and any violation shall be punishable upon conviction by a fine of not less than \$100.00 or more than \$500.00. Each act in contravention of this section is a separate offense.

Chapter 9 - FIRE PREVENTION

Sec. 11-1. - International Fire Code adopted.

Pursuant to Title 6, Section 6-9-50A of the 1976 South Carolina Code of Laws as amended, is hereby adopted by reference, for the purpose of establishing rules and regulations for life safety, fire prevention and maintenance of buildings, structures and premises, the following code is hereby adopted and incorporated as fully as set at length herein.

International Fire Code, 2003 Edition, Published by the International Code of Council, Inc.

The International Fire Code shall control within the town; however, that in the event any conflict that may arise between the provisions of the International Fire Code and this Code of Ordinances or state law, the provisions of state law or this code of Ordinances shall prevail and be controlling as provided in section 1-6.

Sec. 9-2. - Portable fire extinguishers.

(a) Definitions.

(1) Fire appliance as used in Section 603.1.1 of the 1997 Standard Fire Prevention Code, as adopted by section 9-1 of this Code of Ordinances, shall mean portable fire extinguisher.

(2) Portable fire extinguisher means any approved portable device that can be taken from its mounting location and operated by hand and containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing fires by the building occupants, customers, guests or passersby.

(b) Portable fire extinguishers required in certain occupancies.

(1) Portable fire extinguishers shall be required in all of the following occupancies, as defined by the 1997 Standard Building Code Chapter 3, Section 6-4, as adopted by section 9-1 of this

Code of Ordinances: Assembly, business, educational, factory industrial, hazardous, institutional, mercantile, residential and storage.

(2) The type, size, number and location shall be determined as set forth in the 1997 Standard Fire Prevention Code as adopted by section 9-1 of this Code of Ordinances.

(3) The requirement for portable fire extinguishers shall be in addition to any automatic fire sprinklers, standpipe and hose or other fixed protection equipment provided within the occupancy.

(4) All existing occupancies that have portable fire extinguishers shall maintain them in accordance with this section.

(5) All existing occupancies which portable fire extinguishers do not have shall install them within six (6) months after receiving written notification by the department of public safety.

Sec. 9-3. - Housing units used for short term rental.

(a) Definitions.

(1) Condominium means a multi-unit structure where the units are individually owned.

(2) Short term rental means a room or unit that is rented for a period of less than thirty (30) days.

(3) Smoke detector means an approved listed detector sensing either visible or invisible particles of combustion with an audible alarm to alert occupants of the presence of fire.

(4) Sprinkler systems means an automatic water-based fire suppression system installed within a structure that is intended to suppress or extinguish a fire and also allow the building occupants additional time to make their escape unharmed.

(5) Vacation beach home means a residential dwelling consisting of one or more units that is used for short term vacation rental.

(b) Smoke detectors in housing used for short-term rental.

(1) Condominiums and vacation beach homes that have one (1) or more units used for short-term rental shall comply with the 1997 Standard Building Code Section 905.2.1 and the 1997 Standard Fire Prevention Code Section 603.6.1 as they apply to motels, hotels, or dormitories.

(2) Existing condominiums and vacation beach homes shall install additional detectors to meet this requirement within six (6) months after receiving written notification from the public safety department.

(c) Sprinkler systems in condominiums used for short term rental. Newly constructed condominiums that are required by code to have an automatic fire sprinkler system, shall comply with the 1997 Standard Building Code Section 903.7.5 for a Group R-1 residential occupancy, the classification group for motels, hotels and dormitories. The sprinkler system shall be a NFPA 13 system.

Sec. 9-4. - Existing fire protection systems.

(a) Definitions.

(1) Existing fire protection systems as used in this section shall mean: all existing extinguishing systems, fire hydrant systems, standpipe systems, fire alarm or detection systems, portable or fixed fire extinguishers and other protection systems or appliances installed as required by current or previously adopted codes.

(b) Existing fire protection systems.

(1) Existing fire protection systems shall not be removed but shall be so maintained as to be capable of proper operation at all times.

(2) Equipment shall be replaced or repaired when found to be defective.

(3) Replacement parts approved for use by the system, device or appliance manufacturer shall be used. Maintenance shall be performed in accordance with applicable NFPA standards. Where no NFPA standard applies, maintenance shall be in accordance with other recognized standards and as approved by the fire official.

Sec. 9-5. - Opening fire hydrants.

It shall be unlawful for any person, except a member of the fire department or a person expressly authorized thereto by the public utilities superintendent, to open any fire hydrant operated by the town or connected to the town water system.

Sec. 9-6. - Fire flow calculations.

(a) Applicability: The provisions of this section are applicable to all newly constructed structures and those changing occupancy classification or sub-classification thereof located within the corporate limits of the Town of Atlantic Beach.

(b) Definitions:

(1) Fire flow means the amount of water needed to control and extinguish a fire within a burning structure.

(2) Fire hydrant flow test means a test conducted in accordance with AWWA Standards to determine the flow available from any public fire hydrant connected to the public water system.

(c) Fire flow calculations. The calculations used and published by ISO in their document "Guide for Determination of Needed Fire Flow" shall be the approved method used to determine fire flow requirements for structures.

(d) Additional flow. Any additional flow required to meet the fire flow calculations that area above the flow indicated by the fire hydrant flow test shall be provided by the owner/occupant of the structure. Additional flow may be provided via fire pump, sprinkler system, on-site storage, or other means as approved by the fire marshal.

Sec. 9-7. - Fireworks.

(a) Limitation on sale, exchange. It shall be unlawful for any person to sell, offer for sale, store, exchange, give away or possess for sale, commercial exchange or commercial gift, any fireworks, except in Limited Industrial Zones.

(b) Ignition or activation prohibited. It shall be unlawful for any person to use, fire, shoot, discharge, burn or in any manner ignite or activate any fireworks.

(c) Permit. It shall be unlawful for any person to use fireworks in public displays or exhibits, except when the person desiring to give such display or exhibit shall have first obtained a permit therefor from the town council. Council may, in its absolute discretion, grant or refuse to grant the permit so applied for, or may grant it subject to such restrictions and limitations as it may, in its absolute discretion, deem to be in the best interest of public safety and financial security in connection with such display or exhibit.

(d) Construction of section upon interstate commerce. Nothing herein shall be construed as prohibiting the use of signals necessary for the safe operation of buses, trucks or boats, nor shall the provisions of this section apply to any common carrier, while acting as such, lawfully transporting or having custody of fireworks in interstate commerce or for delivery within this state for use as provided in this section.

Sec. 9-8. - Open burning.

(a) Applicability. The provisions of this section are applicable to all areas located within the corporate limits of the Town of Atlantic Beach.

(b) Definitions.

Open burning means the intentional setting of a fire outside of a structure.

(c) Prohibition of open burning. Open burning is prohibited except as provided as follows:

(1) Fires set for the cooking of food for human consumption if:

(a) Contained within a device designed for the purposes of cooking food over open flame,

(b) Kept from beneath or under, and a minimum of ten (10) feet away from any multifamily or commercial building, and

(c) If the cooking fire is constantly attended until extinguished.

(2) Fires set for recreational purposes if:

(a) Contained within a device designed for the purpose of containing recreational fires to include: portable fire places, chimeras, grills, woodstoves, etc.;

(b) Kept twenty (20) feet from any structure or vegetation;

(c) Kept in areas designated for the purpose of recreational fires;

(d) Only nontreated lumber, clean wood or vegetative matter is burned; and,

(e) If the recreational fire is constantly attended until extinguished.

(3) Fires set for the training of firefighters if conducted within the boundaries of a recognized and designated fire training facility designed to conduct live burns.

(4) Fires set for the purpose of backfiring to contain previously ignited wildfires if performed by the organization responsible for fighting and containing the wildfire.

(5) Fires set for the disposal of debris as a result of an officially declared emergency or disaster if:

(a) Delivered to the area or location designated for such open burning;

(b) DHEC has approved the open burning;

(c) Burning is only conducted when safe to do so;

(d) Burning is conducted only when the wind direction and weather conditions will carry the smoke up and away from populated areas, or any school, medical facility or nursing home;

(e) Adequate personnel and heavy equipment are on site to monitor and control the fire;

(f) Adequate fire service access and fire lanes are provided in the event they should be needed;

(g) A water supply is available in the area; and,

(h) The use of accelerants (oil, tires, diesel fuel or any petroleum product) is strictly prohibited.

(6) Fires set for the disposal of debris comprised primarily of trees and vegetation on parcels of land comprised of twenty (20) acres or more when the removal of the debris is necessary for the purpose of creating a roadbed and the right-of-way associated with the road-bed and/or development of the property and

(a) The entity seeking to dispose of the debris is in compliance with DHEC regulations regarding open burning.

(b) The entity seeking to dispose of the debris has obtained a site inspection from the town manager or his designee, site approval from the town manager or his designee and has complied with all safety precautions required by the town manager or his designee.

(c) Only debris generated from the site may be burned; debris from other areas shall not be brought to the site approved of for open burning.

(d) Burning shall only be conducted when safe to do so as determined by the town manager or his designee.

(e) Burning shall only occur within a controlled forced air curtain burn pit or other approved method that controls smoke.

(f) The location of the burning must be a sufficient distance but not less than one thousand (1,000) feet from public roadways and all residential, commercial, and industrial sites not a part of the contiguous property on which the burning is conducted.

(g) Winds during the time of the burning must be away from any area in which the ambient air may be significantly affected by smoke from the burning if that area contains a public roadway or residential, commercial or industrial site.

(d) Penalties. Violation of this section shall be punishable pursuant to the general penalty provision, section 1-6.

(e) Miscellaneous. Nothing in this section shall be construed as to prevent the Department of Natural Resources (DNR) or the S.C. Forestry Commission from enforcing any statute or adopted regulation pursuant to their authority.

Sec. 9-9. - Key access systems.

When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes, the following requirements shall be met:

(1) Any multifamily structure having fifteen (15) or more units, or three (3) or more stories in height with a lockable alarm panel, electric center, generator room, mechanical center or elevator shall be equipped with a key box approved by the chief of fire suppression.

(2) Key boxes shall be installed at the expense of the owner.

(3) Key boxes shall be located as designated by the division of public safety.

(4) All existing structures that fall under paragraph (1) shall install an approved key box within six (6) months after receiving written notification by the division of public safety.

(5) It shall be the responsibility of the property manager and/or homeowners association to maintain the key box with all necessary keys and information, as designated by the division of public safety.

Sec. 9-10. - Board of adjustments and appeals.

The construction board of adjustments and appeals, as established in the Standard Building Code, shall serve as the board of adjustments and appeals as established in Section 105 of the Standard Fire Prevention Code.

Sec. 9-11. - False fire alarms.

(a) Definitions:

(1) Fire alarm system means any assembly of equipment, mechanical or electrical installed by a fire alarm business, arranged to signal the occurrence of a fire, smoke, water flow or other condition to which the fire department is expected to respond.

(2) Fire alarm user means a person, firm, partnership, association, corporation, company, or organization of any kind that is in control of any building, structure, or facility where a fire alarm system is present.

(3) False alarm means the reporting or transmitting by any means to the fire department or other emergency response organization false information which would reasonably be expected to result in any action or response by the fire department.

(b) Fire alarm system false alarm:

(1) Whenever fire department personnel respond to an activated fire alarm system the fire official in charge of the incident shall determine if the response was caused by a false alarm and shall indicate that fact upon the incident report.

(2) The fire department shall regularly review incident reports to monitor the accumulation of false alarms at any one location. When two (2) false alarms have occurred at the same location within any three hundred sixty-five-day period and the location is within the incorporated area of the Town of Atlantic Beach, the fire department shall notify the fire alarm user by letter, citing the location and date of each false alarm. The letter shall recommend that appropriate action be taken on the part of the fire alarm user to alleviate the cause of false alarms and shall include a statement that an accumulation of more than three (3) false alarms within any consecutive three hundred sixty-five-day period shall result in a charge for services. A similar letter shall be sent when three (3) false alarms have occurred at the same location within the period.

(3) False alarms that are activated by a manual pull station, be they intentional or accidentally pulled, shall not be considered false alarms under this section.

(4) False alarms that are activated by properly operating detection devices or sprinkler head activation shall not be considered false alarms under this section.

(5) False alarms that are activated by fire alarm or sprinkler system service personnel shall not be charged against the fire alarm user as false alarms. The service company shall be charged with the responsibility of the fire alarm.

(6) Fire alarm systems that are reset prior to the arrival of the fire department shall be considered false alarms as defined by this section regardless of the actual cause of the alarm.

(7) For the fourth and each subsequent false alarm which occurs at one location within any three hundred sixty-five-day period a user fee of one hundred dollars (\$100.00) shall be assessed against the fire alarm user. Such assessment shall be served on the alarm user by delivery of notice. If the assessment is not paid within thirty (30) days of service, the assessed fee shall increase to two hundred dollars (\$200.00) and the town may seek a civil judgment and execution against the fire alarm user. Notwithstanding the provisions of this section, no more than one user fee shall be assessed for false alarms at any one location during any twenty-four-hour period.

(8) If within ten (10) days of receipt of an assessment a fire alarm user submits a statement to the director of public safety from a licensed alarm business specifying repairs made to the alarm system to prevent recurrence of the false alarms, the assessed fee may be waived; provided that only one fee will be waived for any fire alarm user in any three hundred sixty-five-day period.

(9) Final appeal of an assessment fee may be made to the city manager within ten (10) days.

(10) Locations that have had three (3) or more false alarms may be checked by the local fire official to ensure that the fire alarm system has not been deactivated to avoid a fourth and subsequent user fee.

(11) A thirty-day grace period, during which no alarms will be counted, shall be permitted for each new installation.

Chapter 10 - CIVIL EMERGENCY PREPAREDNESS

Sec. 10-1. - When state of emergency deemed to exist.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe or similar public emergency, town public safety authorities are unable to maintain public order or afford adequate protection for persons or property.

Sec. 10-2. - Authority to issue proclamation and establish curfew and take other action.

(a) In the event of an existing or threatened state of emergency endangering the lives, health or welfare of the people within the town, or threatening damage to or destruction of property, the town council is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency; and, in order more effectively to protect life and property, the town council is hereby empowered and authorized to define and impose a curfew and take such other action as is authorized by statute, including the enacting of emergency measures as provided in section 5-7-250(d), Code of Laws of South Carolina, 1976.

(b) All ordinances, resolutions, proclamations and directives issued during such state of emergency shall be executed by the town manager and the town manager's appointees.

State Law reference— Duties of city government in an emergency, S.C. Code 1976, § 25-1-450.

Sec. 10-3. - Scope of declaration and curfew generally.

The town council is hereby authorized and empowered to limit the application of such emergency declaration and curfew to any area specifically designated and described within the town and to limit the curfew to specific hours of the day or night; and to exempt from the curfew police officers, firefighters, doctors, nurses and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town or to protect property within the town.

Sec. 10-4. - Declaration of end of state of emergency and curfew.

The town council shall proclaim the end of the state of emergency and/or curfew as soon as circumstances warrant or when directed to do so by the town council.

Sec. 10-5. - Unlawful acts during emergency.

During the existence of a proclaimed state of emergency, it shall be unlawful for any person other than as authorized:

(1) When a curfew has been imposed, be or travel upon any public street, alley, roadway, sidewalk or upon public property, unless in search of medical treatment, services or supplies

of food or other commodity or service immediately necessary to sustain life and health of such person or members of such person's family during the period of the curfew.

(2) Possess off one's own premises, buy, sell, give away or otherwise transfer or dispose of any explosives, firearms, ammunition or dangerous weapon of any kind. The term "explosives" as used herein is defined in its broadest sense as any substance or device or combination thereof which upon rapid decomposition or combustion fire or cause a violent bursting or explosion; the term specifically includes all materials classified under state law as fireworks, both permissible and impermissible, and, also, Molotov cocktails and smoke grenades.

(3) Sell beer, wine or intoxicating beverage of any kind or possess or consume the same off one's own premises.

(4) Sell or transport gasoline or any other similar petroleum products, or any other inflammable substances, except as expressly authorized by the provisions of the emergency declared or curfew imposed.

Sec. 10-6. - Authority of mayor pro tempore.

In the absence of or the inability of the mayor to perform the duties of such office the mayor pro tempore shall have all the power and authority granted by this article. In the absence of or the inability of the mayor and mayor pro tempore to perform the duties of such office, the vice mayor pro tempore shall have all the powers and authority granted by this article.

Sec. 10-7. - Emergency area.

The emergency area shall be deemed to include not merely the premises immediately involved but also all fire hydrants in proximity to a burning structure or being used or to be used in connection with combating the emergency and shall include also all public or private property over or across which lines or equipment of either the police or fire departments may be laid, strung or placed, as well as streets and avenues adjacent or in proximity to the structure or property affected or likely to be affected by the emergency. The powers hereby conferred upon the police and fire departments extend to the entire emergency area and are in addition to such powers as members of either department may already have by operation of law.

Sec. 10-8. - Police powers of firefighters.

In the event of fire, explosion, riot, tornado, hurricane or other disaster, members of the fire department shall, for the period of the emergency only and in connection with meeting such emergency only, be vested with police power.

Sec. 10-9. - Public to obey lawful orders of police and fire departments during period of emergency.

All members of the public shall obey the lawful commands, orders and directions of members of the police and fire departments issued during the period of an emergency as set out in section 10-8 and in connection with meeting such emergency.

Sec. 10-10. - Control of vehicles and individuals within emergency areas.

Included within the powers conferred upon members of the fire and police departments is the power to forbid all individuals or vehicles from entering any premises or area where an emergency exists and where the presence of such individuals or vehicles would impede the officers in combating the emergency; and such officers are likewise empowered to require the removal of any vehicle or other movable object from such areas.

Sec. 10-11. - Aid of other municipalities in an emergency.

With the approval of the town council, the town manager may, upon request, send law enforcement officers to assist the law enforcement officers of requesting municipalities in the performance of their duties in cases of emergency. A complete record of the request, together with the names of the officers sent, shall be recorded in the minutes of the next meeting of the town council of both the requesting and sending municipalities. Such assistance shall be rendered only in emergencies and such emergency shall be declared by the mayor of the requesting municipality.