

Briarcliffe Acres, South Carolina  
Code of Ordinances

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[THE CODE](#)  
[OF THE TOWN OF](#)  
[BRIARCLIFFE ACRES](#)  
[SOUTH CAROLINA](#)

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Published by Order of the Town Council

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OFFICIALS

OF THE TOWN OF

BRIARCLIFFE ACRES, SOUTH CAROLINA

AT THE TIME OF THIS RECODIFICATION

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Kenneth Corbett

*Mayor*

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Nancy Edelman

Dennis Herron

Gary Pell

Abigail Stewart

*Town Council*

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Sheila Hamilton

*Town Clerk*

PREFACE

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

Source materials used in the preparation of the Code were the 1977 Code and ordinances subsequently adopted by the town council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1977 Code and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been provided catchlines to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

#### *Chapter and Section Numbering System*

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

#### *Page Numbering System*

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

<b>CHARTER</b>	<b>CHT:1</b>
<b>RELATED LAWS</b>	<b>RL:1</b>
<b>CHARTER COMPARATIVE TABLE</b>	<b>CHTCT:1</b>
<b>RELATED LAWS COMPARATIVE TABLE</b>	<b>RLCT:1</b>
<b>CODE</b>	<b>CD1:1</b>
<b>CODE APPENDIX</b>	<b>CDA:1</b>
<b>CODE COMPARATIVE TABLES</b>	<b>CCT:1</b>
<b>STATE LAW REFERENCE TABLE</b>	<b>SLT:1</b>
<b>CHARTER INDEX</b>	<b>CHTi:1</b>
<b>CODE INDEX</b>	<b>CDi:1</b>

*Index*

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

#### *Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

#### *Acknowledgments*

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

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

#### *Copyright*

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the Town of Briarcliffe Acres, South Carolina. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the Town of Briarcliffe Acres, South Carolina.

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## [CODE OF ORDINANCES](#)

### [Chapter 1 - GENERAL PROVISIONS](#)

#### **| [Sec. 1-1.](#) - Designation and citation of Code.**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the Town of Briarcliffe Acres, South Carolina, 2010," and may be so cited. Such ordinances may also be cited as the "Briarcliffe Acres Town Code, 2010."

## **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 council or the context clearly requires otherwise:

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

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

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

*Council.* The term "council" means the council of the Town of Briarcliffe Acres, South Carolina.

*County.* The term "county" means the County of Horry, State of South Carolina.

*Gender.* Words importing masculine gender includes the feminine and neuter.

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

*Number.* Terms used in the singular number include the plural and the plural includes the singular number.

*Oath, swear, sworn.* The term "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 terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

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

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

*Personal property.* The term "personal property" includes every species of property, except real property, as defined in this section.

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

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

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

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

*Shall.* The term "shall" shall be mandatory.

*Signature of subscription.* The term "signature of subscription" includes a mark when a person cannot write.

*State.* The term "state" or "this state" means the State of South Carolina.

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

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

*Writing.* The term "writing" or "written" includes printing and any other mode of representing words and letters.

*Year.* The term "year" means a calendar year.

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(Code 1977, § 1.104)

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### **Sec. 1-3. - Catchlines of sections.**

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

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(Code 1977, § 1.103)

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

It is hereby declared to be the intention of the council if any section, paragraph, sentence, clause or phrase of this Code shall be declared unconstitutional by a 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 council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

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(Code 1977, § 1.102)

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### **Sec. 1-5. - General penalty; continuing violation.**

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 him or it, 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, where no specific penalty is provided for the violation thereof, the violation of any such provisions of this Code, ordinance, resolution, rule, regulation or order shall be punished by a fine not exceeding \$500.00 or by imprisonment for a period not exceeding 30 days; provided, however, that no penalty shall exceed the penalty provided by the state law for similar offenses. Each day any violation of this Code or any such ordinances, rules or regulations shall continue shall constitute a separate offense.

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*(Code 1977, § 1.105)*

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**| Sec. 1-6. - Violations of rules, regulations and orders.**

Except as otherwise provided in this Code, the violation of any rules, regulations or orders promulgated by any officer or agency of the town under authority vested in him or it by law, or by the provisions of this Code or any ordinance or resolution, shall be unlawful.

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*(Code 1977, § 1.106)*

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

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

(b) 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.

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*(Code 1977, § 1.107)*

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**| Sec. 1-8. - Effect of repeal or expiration of ordinance.**

(a) 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.

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

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*(Code 1977, § 1.108)*

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**| Sec. 1-9. - Municipal seal.**

(a) The town shall have a common seal, which shall be affixed to all ordinances passed by the council to all deeds of real estate executed on behalf of the town and to all notes, bonds and other evidences of indebtedness executed in behalf of the town.

(b) The seal shall consist of two concentric circles, the center of which shall contain the words "seal," and the border of which shall contain the words "The Town of Briarcliffe Acres, South Carolina."

**Sec. 1-10. - Certain ordinances, rights, etc., not affected by Code.**

- (a) Nothing in this Code, or the ordinance adopting this Code, shall affect the following:
- (1) 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 of this Code;
  - (2) Any ordinance or resolution promising or guaranteeing the payment of money for the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligations assumed by the town;
  - (3) The administrative ordinances or resolutions of the town not in conflict with the provisions of this Code;
  - (4) Any ordinance or resolution fixing salaries of officers or employees of the town, unless superseded;
  - (5) Any appropriation ordinance or resolution;
  - (6) Any right of franchise granted by the council to any person, firm or corporation;
  - (7) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, closing, opening, paving, widening, vacating, etc., any street or public way in the town;
  - (8) Any ordinance or resolution establishing and prescribing the street grades of any streets in the town;
  - (9) Any ordinance or resolution providing for local improvements or assessing taxes therefor;
  - (10) Any ordinance or resolution dedicating or accepting any plat or subdivision in the town, or providing regulations for the same;
  - (11) Any ordinance annexing property to the town;
  - (12) Any zoning ordinance or amendments thereto, and any ordinance establishing a board of zoning appeals, board of architectural review, or planning commission, including joint commissions;
  - (13) Any ordinance or resolution regulating the erection, alteration, repair, demolition, moving or removal of buildings or other structures;
  - (14) Ordinances or resolutions prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not inconsistent with this Code;
  - (15) Any ordinance or resolution fixing utility rates and charges;
  - (16) Any ordinance of agreement with another political subdivision;
  - (17) Any ordinance concerning issuance of tax anticipation notes or other debt;
  - (18) Any ordinance regulating adult-entertainment or sexually oriented businesses;
  - (19) Any ordinance regarding a board of trustees of firemen's insurance and inspection fund, or concerning membership in the state firemen's association and duties accompanying said membership;
  - (20) Any other ordinance or resolution, or part thereof, which is not of a general and permanent nature; or which is referred to elsewhere in this Code as continuing in effect;
- and all such ordinances and resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances and resolutions are on file in the clerk's office.

(b) Nor shall the repeal be construed to revive any ordinance or part of an ordinance that has been repealed or superseded by a subsequent ordinance which is repealed by the ordinance of adoption of this Code.

(c) Ordinances noted in subsection (a) of this section, in effect at the time of adoption of this Code, shall remain in effect until later revised or repealed.

**Sec. 1-11. - Parenthetical and reference matter.**

The matter in parentheses at the ends of sections is for information only and is not a part of the Code. Citations to the previous Code (Code of Ordinances) indicate only the source; and the text may or may not be changed by this Code. Reference matter not in parentheses is for information only and is not a part of this Code.

**Sec. 1-12. - Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may

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

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

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

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

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

### **Sec. 1-13. - Supplementation of Code.**

(a) By contract or by city personnel, supplements to this Code may be prepared and printed whenever authorized or directed by the town council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the town council 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, when 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 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, nonsubstantive 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 catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, 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 nonsubstantive 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.

## Chapter 2 - ADMINISTRATION

**State law reference—Powers conferred upon municipalities, S.C. Code 1976, § 5-7-30; general structure and functions of all municipalities, S.C. Code 1976, § 5-7-10 et seq.; municipal powers vested in council, S.C. Code 1976, § 5-7-160; local fee imposition limitations, S.C. Code 1976, § 6-1-330; appointment of municipal attorney, S.C. Code 1976, § 5-7-230; clerk duty to file certificate of existence of fire department, S.C. Code 1976, § 23-9-380; conflicts of interest of officers and employees, S.C. Code 1976, § 5-7-130; towns over 200 population must publish**

financial statements, S.C. Code 1976, § 5-21-50; Municipal Bond Act, S.C. Code 1976, § 5-21-210 et seq.; bonded indebtedness of political subdivisions, S.C. Const. art. X, § 14.

## ARTICLE I. - IN GENERAL

### **Sec. 2-1. - Form of government.**

Pursuant to the Code of Laws of South Carolina, the form of government for the town shall be mayor-council.

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*(Code 1977, § 2.100)*

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**State law reference—Mayor-council form of government, S.C. Code 1976, § 5-9-20 et seq.**

### **Sec. 2-2. - Composition and election of the council.**

The council shall be composed of a mayor and four councilmembers who shall be elected at large at an election held as provided in article II of this chapter and as provided in the applicable state law.

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*(Code 1977, § 2.101)*

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### **Sec. 2-3. - Compensation of mayor and council.**

The mayor and councilmembers shall receive no salaries. However, the mayor and councilmembers may receive payment for actual expenses incurred in the performance of their official duties.

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*(Code 1977, § 2.102)*

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### **Sec. 2-4. - Term of mayor and councilmember.**

Commencing with the general election of November 2011, the term of office for the mayor shall be for four years and the term of office for council shall be four years as herein described: The council candidate who receives the highest number of votes shall have a four-year term, the candidate with the second highest number of votes shall have a four-year term, the candidates who receive the third and fourth highest number of votes shall have a two-year term of office. Should the number of votes be tied between two candidates, the tying candidates will decide their respective term of office with a simple coin toss, the loser then becoming the next highest vote getter. In the general election of November 2013 there shall be an election for two members to serve a term of four years, thereafter there shall be an election every two years for two members of council.

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(Code 1977, § 2.103; Ord. No. 2009-04, 12-14-2009)

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### **Sec. 2-5. - Oath of mayor and councilmember**

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

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

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

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(Code 1977, § 2.104)

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**State law reference—Oath required, S.C. Code 1976, § 5-15-150.**

### **Sec. 2-6. - Ordinances and resolutions.**

- (a) Council shall act by ordinance in all matters required by law to be done by ordinance, including:
- (1) Adopt or amend an administrative code or ordinance, create, alter or abolish any municipal department, office or agency;
  - (2) Provide for a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violations;
  - (3) Appropriate funds and adopt a budget;
  - (4) Grant, renew or extend franchises, licenses or rights in public streets or public property, and close abandoned streets;
  - (5) Authorize the borrowing of money or the issuance of bonds;
  - (6) Levy taxes, assess property for improvements or establish charges for services;
  - (7) Annex area to the town;
  - (8) Convey or lease or authorize the conveyance or lease of any lands of the town; and
  - (9) Amend or repeal any ordinance described in subsections (a)(1) through (8) of this section.
- (b) In all other matters council may act either by ordinance or resolution, written or oral, recorded in the minutes.

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(Code 1977, § 2.105)

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**State law reference—Certain actions must be done by ordinance, S.C. Code 1976, § 5-7-220.**

### **Sec. 2-7. - Codification of ordinances.**

All ordinances of a general and permanent nature shall be codified, and updated periodically, in a looseleaf Code of Ordinances. Standard codes, technical regulations and zoning ordinances are among the ordinances which may be cited in the Code by reference and copies thereof shall be made

available by the town clerk for distribution or for purchase at a reasonable price.

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*(Code 1977, § 2.105.1)*

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### **Sec. 2-8. - Notice required.**

Prior to the introduction of any ordinance granting a franchise, license or right for the use of any street or public property, or for the permanent closing of any abandoned street, the applicant for such an ordinance shall publish a notice in three issues of a newspaper having general circulation in the town stating the nature of the franchise, license or right sought or a description of the street sought to be closed, and the date on which the application is to be presented to town council which shall be at least one week after the last notice. This requirement shall not apply to the temporary closing of a public street initiated by town council.

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*(Code 1977, § 2.105.2)*

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### **Sec. 2-9. - Form of ordinances.**

- (a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption which shall include:
- (1) A title briefly describing the content;
  - (2) Findings, reasons or basis for the ordinance, if desired and appropriate;
  - (3) An enacting clause;
  - (4) Citation of any ordinance repealed;
  - (5) The provisions of the ordinance including section numbers if the ordinance is to be codified or amends an existing codified ordinance;
  - (6) The effective date of the ordinance;
  - (7) The name of the person requesting introduction of the ordinance;
  - (8) The approval of the town attorney (if elected by council) as to form and the assignment of an ordinance number; and
  - (9) Space for the signatures of the mayor or presiding member of the council and the town clerk attesting notice, if required, and adoption.
- (b) Written resolutions shall be in such similar form as deemed appropriate by the council or town attorney (if elected by council).

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*(Code 1977, § 2.105.3)*

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### **Sec. 2-10. - Introduction of ordinances.**

An ordinance may be proposed by any member of the council. A proposed ordinance shall be referred to the town attorney, if elected by council, for approval as to form. The town attorney shall render assistance in the preparation of notices and ordinances. After an ordinance is in proper form and required notices have been given, the town attorney shall send the ordinance to the town clerk to be held for public inspection. An ordinance shall be deemed to be introduced when it appears on an agenda for a public meeting of the council and its title is read.

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*(Code 1977, § 2.105.4)*

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**Sec. 2-11. - Introduction of resolutions.**

A voice motion of a member of the council shall be considered to be the introduction of an oral resolution which shall require no written record other than a notation of the town clerk in the council minutes. A resolution proposed in writing shall be introduced in the same manner as an ordinance.

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*(Code 1977, § 2.105.5)*

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**Sec. 2-12. - Enactment of ordinances.**

- (a) An ordinance to levy a tax, adopt a budget, appropriate funds, grant a franchise, license or right to use or occupy a public street or public property for commercial purposes shall be complete in the form in which it is finally passed, and in such form remain on file with the town clerk for public inspection at least one week before final adoption.
- (b) No ordinance shall be adopted until it shall have been read two times and on two separate days with at least six days between each reading.
- (c) Emergency ordinances may be adopted on one reading without notice or hearing by affirmative vote of two-thirds of members present. An emergency ordinance may not levy taxes, relate to a franchise or a service rate and shall expire automatically on the 61st day following enactment.
- (d) The introduction and reading of any ordinance shall be by the reading of the title only unless full reading is requested by a member of the council.
- (e) After the introduction of an ordinance, any member of the council or any citizen of the town interested therein may request a public hearing which may be held at any time designated by council prior to final adoption.
- (f) Upon final adoption by vote of the council, an ordinance shall be signed by the mayor or presiding member and attested by the town clerk, who shall file the original in the council minutes.

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*(Code 1977, § 2.105.6)*

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**Sec. 2-13. - Adoption of resolutions.**

Written or oral resolutions may be adopted on one reading unless a public hearing is set by a majority of the members of the council present.

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*(Code 1977, § 2.105.7)*

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**Sec. 2-14. - Style of ordinances.**

The style of all ordinances shall be as follows:

"Be it ordered and ordained by the Town of Briarcliffe Acres, South Carolina, in council assembled and by the authority thereof."

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*(Code 1977, § 2.106)*

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**Sec. 2-15. - Ordinances—Entered in book.**

The clerk and treasurer shall enter in a well-bound book copies of all ordinances passed by the council. The book in which ordinances are thus entered shall be known as the "Ordinance at large of the Town of Briarcliffe Acres" and shall be indexed.

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*(Code 1977, § 2.107)*

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**Sec. 2-16. - Same—Notation of amending or repealing.**

The clerk and treasurer shall write on the first page of every ordinance if the same has been amended or repealed, as the case may be, the words "amended," or "repealed" with a reference to the page of the ordinance book and where the amending or repealing ordinance can be found.

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*(Code 1977, § 2.108)*

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**Sec. 2-17. - Emergency powers of mayor.**

- (a) A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, civil disturbance, catastrophe, or for any other reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety, health, welfare or property.
- (b) In the event of a state of emergency threatening or endangering the lives, safety, health and welfare of the people within the town or threatening damage to or destruction of property. The mayor 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 the lives, safety and property of the town, to define and impose a curfew applicable to all persons within the jurisdiction of the town.
- (c) The mayor is hereby authorized and empowered to limit the application of such a curfew to any area specifically designated and described within the jurisdiction of the town and to specific hours of the day or night; and to exempt from the curfew policemen, firefighters, doctors, nurses and such others as may be essential to the preservation of public order and immediately necessary to serve the needs of the people within the town.

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*(Code 1977, § 2.109)*

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**Sec. 2-18. - Powers and duties of the mayor.**

The mayor shall be the chief administrative officer of the town. He shall be responsible to the council for the administration of all city affairs placed in his charge by or under this chapter. He shall have the following powers and duties:

- (1) To appoint and, when he deems it necessary for the good of the town, suspend or remove all municipal employees and appointive administrative officers provided for by or under this chapter except as otherwise provided by law, or personnel rules adopted pursuant to this chapter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (2) To direct and supervise the administration of all departments, offices and agencies of the town except as otherwise provided by this chapter;
- (3) To preside at meetings of the council and vote as other councilmembers;
- (4) To act to ensure that all laws, provisions of this chapter and ordinances of the council, subject to enforcement by him or by offices subject to his direction and supervision, are faithfully executed;

- (5) To prepare and submit the annual budget and capital program to the council;
- (6) To submit to the council and make available to the public a complete report on the finances and administrative activities of the town as of the end of each fiscal year; and
- (7) To make such other reports as the council may require concerning the operations of municipal departments, office and agencies subject to his direction and supervision.

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*(Code 1977, § 2.110)*

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**State law reference—Responsibilities and powers of mayor, S.C. Code 1976, § 5-9-30.**

**Secs. 2-19—2-39. - Reserved.**

## ARTICLE II. - MUNICIPAL ELECTIONS<sup>2</sup>

**State law reference—Nominations and elections for municipal offices, S.C. Code 1976, § 5-15-10 et seq.; election law generally, S.C. Code 1976, § 7-1-10 et seq.**

**Sec. 2-40. - Day of general election.**

The time for the general elections shall be the first Tuesday after the first Monday in November in each odd-numbered year. All newly elected town council members or a newly elected mayor shall be inducted into office at the December town council meeting following the election.

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*(Code 1977, § 2.201; Ord. No. 2006-04, 5-15-2006)*

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**Sec. 2-41. - Polling places and hours.**

All municipal elections shall be conducted in accordance with the election laws of the state, with the polls open from 7:00 a.m. to 7:00 p.m. The polling place for the town shall be designated by the municipal election commission.

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*(Code 1977, § 2.202)*

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**Sec. 2-42. - Election laws governing.**

All elections in the town shall be held in accordance with the laws, rules and regulations as adopted by the ordinance from which this article is derived.

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*(Code 1977, § 2.203)*

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**Sec. 2-43. - Municipal election commission.**

There is hereby established the municipal election commission, to consist of three members who shall serve terms of six years.

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*(Code 1977, § 2.204)*

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**State law reference—Functions, powers and duties of municipal election commission, S.C. Code 1976, § 5-15-100; composition and terms of commission members, S.C. Code 1976, § 5-15-90; political activities prohibited by commission members, S.C. Code 1976, § 7-13-75.**

**| Sec. 2-44. - Election methods for town.**

- (a) Elections in the town shall be by at large, non-partisan plurality method.
- (b) Candidates for municipal office shall be nominated by petition with the municipal election commission. The percentage of electors required on such petition shall be not less than three and not more than five percent of the qualified electors of the town. The candidate shall file the necessary petition with the municipal clerk 45 days prior to the general or special election concerned and the clerk shall deliver the petition to the commission. The commission shall examine the petition and determine its validity not later than 30 days prior to the general or special election concerned and when so validated the commission shall place the name of the petition candidate on the ballot.
- (c) Election results shall be determined by the following rules:
  - (1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be elected.
  - (2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.

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*(Ord. No. 78-1, 2-2-1978; Ord. No. 88-4, 10-17-1988)*

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**| Secs. 2-45—2-61. - Reserved.**

**ARTICLE III. - MEETINGS OF COUNCIL**

**State law reference—Council meetings, rules and procedures, S.C. Code 1976, § 5-7-250; notice of meetings, S.C. Code 1976, § 30-4-80.**

**| Sec. 2-62. - Time of meetings.**

The regular meeting of the council shall be held at the Parish Hall on the third Monday of each month at 7:30 p.m. Special meetings shall be held when called by the mayor in cases of emergency or when in his judgment, the good of the town requires it, or when notice is given in writing, signed by at least a majority of the members of the council. This notice shall be all the notice necessary and when said notice states the time and place of such meeting and if quorum be present, the meeting shall proceed with all the validity of a regular council meeting.

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*(Code 1977, § 2.301)*

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**Sec. 2-63. - Minutes of council meetings.**

The clerk and treasurer shall attend all regular and special meetings of the council and keep minutes of the proceedings of the council. He shall write such minutes out in a book designated as "The Minutes of the Council of Briarcliffe Acres" and make an index thereto.

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*(Code 1977, § 2.302)*

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**State law reference—Minutes of public body meetings, S.C. Code 1976, § 30-4-90.**

**Sec. 2-64. - A presence of quorum.**

Immediately at the hour appointed for meetings, the mayor shall take the chair, and if a quorum be present shall proceed to do business. In the event of the absence of the mayor, the mayor pro tempore shall take the chair. It shall be necessary that a majority of the councilmembers be present to constitute a quorum.

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*(Code 1977, § 2.303)*

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**Sec. 2-65. - Order of proceedings of council.**

The order of the proceedings of the council shall be as follows:

- (1) Reading of the minutes of the last meeting of the council.
- (2) Reports or communications from municipal officers.
- (3) Unfinished business, ordinances, resolutions, etc., reports from committees and suggestions from members.
- (4) Reports from the various department heads as required by council.
- (5) Report from special committees.
- (6) Reports from board of health if desired by council.
- (7) Report from treasury given with amount collected from all sources and payments made in accordance with vouchers approved.
- (8) Auditing and approval of bills and vouchers.
- (9) New business.
- (10) Adjournment.

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*(Code 1977, § 2.304)*

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**Sec. 2-66. - Addressing the council.**

Every member of the council, when about to speak, shall address the mayor as "Mr. Mayor" and in speaking, shall avoid all disrespect to the council and all personalities, and shall confine himself to the subject under consideration.

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*(Code 1977, § 2.305)*

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**Sec. 2-67. - Recognition of speakers.**

The mayor, when addressed by a member who rises in order, shall name the member. The member who shall rise first in order shall be first heard. If several members rise about the same time, the mayor shall decide who shall speak first.

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*(Code 1977, § 2.306)*

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**Sec. 2-68. - Requests to be heard.**

Should any person, group or organization request to be heard upon any matter at a regular or special meeting of the council, such person, group or organization should request the mayor to place such matter on the agenda for the meeting at least two days prior to the date set for such meeting. In addition any two members of the council may petition the mayor for persons, groups or organization to appear before council. This requirement may be waived by the mayor or a majority of the council in cases of great urgency if the matter is presented in writing and every member of the council provided with a copy prior to the commencement of the meeting or as otherwise specified in the agenda.

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*(Code 1977, § 2.307)*

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**Sec. 2-69. - Matters not within the council's jurisdiction.**

No matter shall be entered on the agenda or heard by the council unless it is within the council's authority or jurisdiction, provided, the council may entertain requests that it make recommendations to other governmental bodies, departments or agencies.

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*(Code 1977, § 2.308)*

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**Sec. 2-70. - Recognition of persons.**

When any person, including employees of the Town of Briarcliffe Acres, is heard by the council as provided in section 2-68, that person when he has completed his presentation, shall be seated and no person other than a member of the council will be recognized to make any statement on such matter unless requested to do so by the council or by any member of the council through the mayor.

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*(Code 1977, § 2.309)*

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**Sec. 2-71. - Voting.**

The "yeas" and "nays" on any question shall always be recorded, when required by any member. When the question has been stated, and the first response has been made to the call of the clerk and treasurer, all debate shall cease and no member shall say more than "yea" or "nay." During the call, no member shall leave the council chamber. Every member present shall, when his name is

called, give his vote unless excused by the council.

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*(Code 1977, § 2.310)*

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**Sec. 2-72. - How often members may speak.**

No member shall speak more than twice on the same question without leave of the council, except to explain.

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*(Code 1977, § 2.311)*

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**Sec. 2-73. - Reasons for voting may be recorded.**

Any member of the council may, if he desires, have his reasons for voting for or against any measure recorded in the minutes.

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*(Code 1977, § 2.312)*

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**Sec. 2-74. - Interested member or mayor not to vote.**

No member of the council or the mayor shall vote on any question of a private nature, in the event of which he is personally or pecuniarily interested.

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*(Code 1977, § 2.313)*

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**Sec. 2-75. - Mayor's power to vote.**

The mayor may vote on all questions before the council, and must vote to prevent a tie.

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*(Code 1977, § 2.314)*

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**Sec. 2-76. - Devolution of powers and duties when mayor absent or incapacitated.**

The council shall, at the first meeting after inauguration, appoint one of the councilmembers as mayor pro tempore for a term of two years. It shall be the duty of the mayor pro tempore to act as mayor in the absence of the mayor or when the mayor is incapable of the duties of his office. In the absence or inability to act of both the mayor and mayor pro tempore, the duties of the mayor shall devolve on and be performed by such councilmember as the council may name.

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(Code 1977, § 2.315)

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**Sec. 2-77. - Appointment of committees.**

All regular and special committees shall be appointed by the mayor unless a ballot is called for by council or if any councilmember has any objections to any such committee appointee, the majority of the council shall make the appointment.

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(Code 1977, § 2.316)

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**Sec. 2-78. - Conference sessions.**

- (a) The town council may have conference meetings as permitted by the South Carolina Freedom of Information Act and this Code at such times and in such places as may be deemed necessary and in the public interest by the mayor or any member of the council.
- (b) No formal vote shall be taken upon any matter under discussion at any such conference, but an informal polling of the council may be made if desired by any member of the council.
- (c) The town clerk may, if time permits, give notice to the news media that a conference meeting will be held pursuant to law without stating the specific matters to be discussed. When advance notice is not given, the town clerk may give notice of such meeting after it has been held.
- (d) No vote of the council shall be necessary to call a conference meeting.

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(Code 1977, § 2.317)

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**Sec. 2-79. - Rules of order.**

Except as otherwise required by state law or ordinance, all proceedings of the council shall be governed by Robert's Rules of Order.

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(Code 1977, § 2.318)

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**Secs. 2-80—2-101. - Reserved.**

**ARTICLE IV. - OFFICERS AND EMPLOYEES**

**Sec. 2-102. - Meeting for the election of officers and employees.**

At the first regular meeting of the council after the inauguration or as soon thereafter as practicable, all municipal officers and employees provided for in this Code and any other officers deemed necessary by the council shall be elected by the council.

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(Code 1977, § 2.401)

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**Sec. 2-103. - Vacancies in offices.**

Whenever any of the officers of the town elected by the council shall be removed from office, die, resign, or is incapacitated to perform the duties incident thereto any longer, a new election by the council to fill the vacancy during the unexpired term for which the office had been conferred on the person so removed, dead, resigned, or incapacitated shall be held after notice to each of the council.

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*(Code 1977, § 2.402)*

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**Sec. 2-104. - Salaries.**

Except as otherwise provided, the salary of each officer of the town elected by the council shall be fixed, designated and regulated by resolution of the council from time to time as the council shall deem fit.

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*(Code 1977, § 2.403)*

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**Sec. 2-105. - Enforcement of ordinances, laws, etc.**

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 and regulations, or orders with whose enforcement they are properly chargeable, by any measures provided therein, by the proper report of any violation thereof, and by instituting such proceedings as may be necessary to such enforcement.

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*(Code 1977, § 2.404)*

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**Sec. 2-106. - Right of entry.**

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

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*(Code 1977, § 2.405)*

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**Sec. 2-107. - Resisting or interfering with municipal officers or employees.**

It shall be unlawful for any person to resist or interfere with any member of the police department, any member of the fire department, or any other municipal officer or employee in the discharge of his duties.

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(Code 1977, § 2.406)

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**Secs. 2-108—2-127. - Reserved.**

**ARTICLE V. - CLERK4**

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

**Sec. 2-128. - Appointment; term.**

After the regular election and seating of the officers of the town, there shall be appointed by the council an officer to be known as the clerk, who shall hold office for a two-year term or until his successor is duly appointed, unless removed from office by the council.

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(Ord. No. 81-2, § 2.501, 3-9-1981)

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**Sec. 2-129. - Duties.**

The clerk shall:

- (1) Give notice of all regular and special council meetings to the public and members of the council;
- (2) Attend all regular and special meetings of the council;
- (3) Keep minutes of council proceedings;
- (4) Write such minutes out in a book designated as "The Minutes of the Council of Briarcliffe Acres" and make an index thereto;
- (5) Enter into a well-bound book copies of all ordinances passed by the council, this book to be entitled "Ordinances at Large of the Town of Briarcliffe Acres," which shall be indexed;
- (6) Perform such other duties as may be assigned by the council; and
- (7) Provide copies of all ordinance to the mayor and members of the council, and the town attorney.

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(Ord. No. 81-2, § 2.502, 3-9-1981)

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**Secs. 2-130—2-156. - Reserved.**

**ARTICLE VI. - MUNICIPAL ATTORNEY5**

**State law reference—Appointment of election of attorney, S.C. Code 1976, § 5-7-230.**

**Sec. 2-157. - Election.**

There may be elected by the council at the time of the regular election of officers a lawyer of good reputable standing as municipal attorney. The said attorney shall hold office for two years and until the successor is elected and qualified. The municipal attorney shall receive such compensation

as may be fixed by council.

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*(Code 1977, § 2.601)*

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| **Secs. 2-158—2-182. - Reserved.**

**ARTICLE VII. - MUNICIPAL AUDITOR**

| **Sec. 2-183. - Provision for independent annual audit.**

(a) The council shall provide for an independent annual audit of all financial records and transactions of the town and of any agency funded in whole or in part by municipal funds. The council is given the authority to provide for more frequent audits if it deems it necessary. The council may at its discretion accept independent audits of municipal agencies and departments and include such audits in their general report of the audit of the town.

(b) The report of all audits must be made available for public inspection. All audits must be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town or with any of its officers. The council may designate such accountant or firm annually or for a period not to exceed four years. The designation of the auditor for any particular fiscal year must be made by the council no later than 30 days after the beginning of the fiscal year. Competitive bidding is not required in order to designate an auditor.

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*(Code 1977, § 2.701)*

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| **Secs. 2-184—2-199. - Reserved.**

**ARTICLE VIII. - TREASURER**

| **Sec. 2-200. - Appointment; term.**

After the regular election and seating of the officers of the town, there shall be appointed by the council an officer to be known as the treasurer who shall hold office for a two-year term or until his successor is duly appointed, unless removed from office by the council. There shall be no salary for this office.

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*(Ord. No. 81-2, § 2.801, 3-9-1981)*

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| **Sec. 2-201. - Bond.**

Before entering upon the duties of his office, the treasurer shall enter into a surety bond in such sum as may be required and with such surety company as shall be approved by the council, for the faithful performance of his duties. The cost of the bond shall be borne by the town.

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*(Ord. No. 81-2, § 2.802, 3-9-1981)*

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**Sec. 2-202. - Duties.**

The treasurer shall oversee the following:

- (1) Budget preparation;
- (2) Collect taxes, revenue sharing and other funds;
- (3) Collect all claims and accounts that may be due to the town;
- (4) Receive all monies belonging to the town;
- (5) Pay all accounts owed by the town when approved by the council;
- (6) Deposit funds in a bank designated by the council;
- (7) Make statements of the financial conditions of the town;
- (8) Provide monthly financial reports to the clerk;
- (9) Maintain accounts as budgeted subject to changes approved by council;
- (10) Advise council on availability of funds both internal and external;
- (11) Keep a record of all monies and accounts received and disbursed;
- (12) Advise council on methods for financing or investment;
- (13) Work with an auditor on annual audit and provide details as required; and
- (14) Handle all other financial matters properly related to the affairs of the town as instructed by council.

*(Ord. No. 81-2, § 2.803, 3-9-1981)*

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**Sec. 2-203. - Authority to sign checks issued for certain expenditures.**

The mayor, as the town administrator, and one alternate councilmember shall be, individually, authorized to sign checks for the payment of road fund expenditures as duly approved by town council.

*(Ord. No. 97-02, 9-15-1997)*

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**Secs. 2-204—2-230. - Reserved.**

**ARTICLE IX. - PURCHASING PROCEDURES**

**Sec. 2-231. - Purchasing agent; responsibilities.**

The mayor, as the town administrator, is the official purchasing agent for the town. However, the mayor may appoint a town employee, or member of council, as the purchasing agent for the town or delegate the authority to purchase budgeted items to other town officials. The administrator shall be responsible for:

- (1) The purchase of supplies, materials and equipment and contractual services required by any department of the town government.
- (2) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the town government.
- (3) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any department of the town government. Such specifications shall be definite and shall permit of competition.
- (4) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.
- (5) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a bidders list. The purchasing agent shall have authority to remove temporarily the names of

vendors who have defaulted on their quotations, attempted to defraud the town or who have failed to meet established specifications or delivery dates.

(6) Obtaining as full and open competition as possible on all major purchases, contracts and sales.

*(Ord. No. 2009-03, § 1, 12-14-2009)*

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### **Sec. 2-232. - Formal contract procedure.**

All supplies and contractual services, except as otherwise provided in this article, when the estimated cost thereof shall exceed \$5,000.00, shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals.

*(Ord. No. 2009-03, § 2, 12-14-2009)*

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### **Sec. 2-233. - Bidding.**

Competitive written bidding shall be encouraged for all contracts, purchases or sales with the following exceptions:

- (1) Small purchases not exceeding \$2,500.00 may be accomplished without securing competitive quotations if the prices are considered reasonable. Action to verify the reasonableness of the price need be taken only when the procurement officer suspects that the price may not be reasonable, comparison to previous price paid, or personal knowledge of the item involved.
- (2) For purchases or contracts from \$500.00 to \$5,000.00, a job specification shall be provided by the town and upon approval of a contract by the town administrator, a formal agreement shall be issued in the form of a purchase order. For these purchases, if possible, a minimum of three qualified sources of supply shall be solicited.
- (3) In the event of an emergency affecting the public welfare, health or safety, the provisions of this section shall not apply. A full report of the circumstances of an emergency purchase shall be entered in the minutes of the council.

*(Ord. No. 2009-03, § 2.1, 12-14-2009)*

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### **Sec. 2-234. - Award to lowest bidder; advertising; when required.**

All contracts for town improvements, materials, equipment, or services costing more than \$5,000.00 shall be awarded to the lowest responsible bidder after publication in a newspaper of general circulation in the county at least five days before the last day set for the receipt of proposals. The newspaper notice required herein shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured and the time and place for opening bids.

*(Ord. No. 2009-03, § 2.2, 12-14-2009)*

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### **Sec. 2-235. - Sealed bid procedures.**

Procedure for sealed bids shall be as follows:

- (1) *Sealing.* Bids shall be submitted to the purchasing agent securely sealed in an envelope, and shall be identified on the envelope in accordance with bid instructions.
- (2) *Opening.* Bids shall be opened in public at the time and place stated in the public notices.
- (3) *Tabulation.* A tabulation of all bids received shall be available for public inspection.
- (4) *Rejection of bids.* The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.
- (5) *Bidders in default to the town.* The purchasing agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, license, or other moneys due the town.

(Ord. No. 2009-03, § 2.3, 12-14-2009)

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### **| Sec. 2-236. - Award of contract.**

- (a) *Authority in agent.* The purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that contracts in excess of \$5,000.00 shall not be awarded without prior approval of town council.
- (b) *Lowest responsible bidder.* Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder," in addition to price, the purchasing agent shall consider:
  - (1) The ability, capacity and skill of the bidder to perform the contract or provide the level of service required or desired;
  - (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
  - (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder; references for past performance;
  - (4) The quality of performance of previous contracts or services with the town;
  - (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
  - (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  - (7) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
  - (8) The ability of the bidder to provide future maintenance and service for the use of the subject: of the contract;
  - (9) The number and scope of conditions attached to the bid.
- (c) *Award to other than low bidder.* When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than 12 months.
- (d) *Tie bids.*
  - (1) *Performance bonds.* The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonably necessary to protect the best interest of the city.
  - (2) *Payment bond and labor and material bond.* The purchasing agent may require a payment bond and a labor and material bond before entering into a contract, in such form and amount as he/she shall deem necessary to protect the best interest of the city.
- (e) *Negotiations after unsuccessful competitive sealed bidding.* When bids are considered unreasonable or the low bid exceeds available budgeted funds, a contract may be negotiated provided that:
  - (1) At least the two lowest bidders are given reasonable opportunity to negotiate;
  - (2) The negotiated price is lower than the lowest rejected bid by any responsible bidder under the original solicitation;
  - (3) The negotiated price is the lowest negotiated price offered by any responsible and responsive bidder.

(Ord. No. 2009-03, § 2.4, 12-14-2009)

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### **| Sec. 2-237. - Financial interest of town officials and employees prohibited.**

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

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*(Ord. No. 2009-03, § 3, 12-14-2009)*

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**Sec. 2-238. - Records of open market orders and bids.**

The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.

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*(Ord. No. 2009-03, § 4, 12-14-2009)*

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**Sec. 2-239. - Stock reports.**

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

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*(Ord. No. 2009-03, § 5, 12-14-2009)*

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**Sec. 2-240. - Supplies unsuitable for public use, sale or exchange.**

The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, and in conformance with sections 2-232 through 2-236. All moneys received from such sales shall be paid into the appropriate fund of the town.

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*(Ord. No. 2009-03, § 6, 12-14-2009)*

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**Sec. 2-241. - Gifts and rebates.**

The purchasing agent and every officer and employee of the town are expressly prohibited from accepting a gift or rebate, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be granted.

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*(Ord. No. 2009-03, § 7, 12-14-2009)*

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**Sec. 2-242. - End-of-contract review.**

The town will conduct a review of the work of the contractor at the end of the time period of a six-month or more contract, if it is a contract for a time period of six months or more and if it exceeds \$10,000.00. The review shall be conducted by two members of the council and with the contractor present. A written report of the review findings will be included in the contract file.

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*(Ord. No. 2009-03, § 8, 12-14-2009)*

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**Sec. 2-243. - All contractors for services over \$500.00.**

The town requires that contractors for services over \$500.00 must provide a copy of their driver's license; an insurance bond; a copy of their county business license; and must submit a W-9 form (request for taxpayer's identification number and certification).

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*(Ord. No. 2009-03, § 9, 12-14-2009)*

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**Sec. 2-244. - Cooperative purchasing.**

The purchasing agent shall have authority to join with other units of government in cooperative purchasing plans when the best interests of the town would be served thereby; provided that the purchasing agent of the town is given the authority to make purchases of supplies and equipment through the property division of the state budget and control board, without the formality of publication and receiving competitive bids.

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*(Ord. No. 2009-03, § 10, 12-14-2009)*

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**Sec. 2-245. - Professional services.**

In the case of professional services, this article shall not apply.

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*(Ord. No. 2009-03, § 11, 12-14-2009)*

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[Chapter 3 - RESERVED](#)

[Chapter 4 - ANIMALS6](#)

**State law reference—Municipal authority to enact ordinances for care and control of dogs, cats, and other animals, S.C. Code 1976, § 47-3-20; municipal powers not limited by state laws, S.C. Code 1976, § 47-3-70; required annual inoculation of pets against rabies, S.C. Code 1976, § 47-5-60; notice to health department of**

**animal suspected of rabies, S.C. Code 1976, § 47-5-80; metal inoculation tag required, S.C. Code 1976, § 47-5-60; impoundment of strays, S.C. Code 1976, § 47-3-40; disposition of strays, S.C. Code 1976, § 47-3-60; duty to contact owners, S.C. Code 1976, § 47-3-55); state falconry permit regulations, S.C. Code Reg. 123-170.**

#### **Sec. 4-1. - Definitions.**

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

*Animal* means any mammal, domestic or wild animal, of any kind or nature.

*Animal control officer* means any person appointed by the town council to carry out the requirements of this chapter.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.1, 6-2-1986)*

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#### **Sec. 4-2. - Animals at large.**

It shall be unlawful for any person having charge, care, ownership or control of any animal (dogs, cats, etc.) to let the same run at large and beyond the limits of the property of lot owned, leased or occupied by such person.

- (1) Owners of all animals unlawfully running at large shall be subject to arrest.
- (2) At the discretion of the magistrate of the towns a warrant may be issued at the request of the town policeman for the arrest of the offender or the magistrate may accept a citation given to the offender by the policeman citing the offense committed.
- (3) If it is possible for the animal to be captured, the policeman or animal control officer may impound the animal at a pound to be designated by the council.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.2, 6-2-1986)*

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

#### **Sec. 4-3. - Keeping of certain animals prohibited.**

It shall be unlawful for any person to keep any wild animals, vicious animals, reptiles or livestock.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.3, 6-2-1986)*

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#### **Sec. 4-4. - Manner of keeping and maintaining animals.**

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

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.4, 6-2-1986)*

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**Sec. 4-5. - Impoundment procedure; records to be kept.**

- (a) All animals which are found within the town in violation of this chapter may be taken into custody by the animal control officer and impounded at the pound designated by the council.
- (b) The animal control officer may take into custody any animals which are kept within the town without food, water or proper care.
- (c) All animals impounded shall be given proper care and maintenance.
- (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.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.6, 6-2-1986)*

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**Sec. 4-6. - Notice to owner of animal; disposition if not reclaimed.**

- (a) When any animal is impounded, the town, or its authorized agent, shall immediately notify the owner. If the owner is unknown, the town or its 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 ten days, the animal control officer shall dispose of the animal in a humane way.
- (b) The following shall be exempt from the ten-day impoundment restriction in subsection (a) of this section, at the discretion of the shelter manager and the animal control officer:
  - (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 disease.
- (c) This section would not apply to animals impounded under section 4-15.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.7, 6-2-1986)*

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**Sec. 4-7. - Fines.**

- (a) A fine of up to \$200.00 may be charged by the town magistrate for each infraction of the regulations in this chapter.
- (b) There shall be charged the current impoundment fee for each animal impounded.
- (c) As to dogs, and cats, in the absence of previous proof of purchase of either a current town license or a rabies inoculation, an additional fee of \$10.00 will be charged; in the absence of previous proof of purchase of both a rabies inoculation and town license, an additional fee of \$20.00 will be charged.
- (d) Fines shall be collected by the town finance director or designated appointed agent, before the animal is released to the owner after paying all town fines and any applicable pound fines.
- (e) A \$20.00 transportation fine will be issued if any animal is transported to any facility outside the town.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.8, 6-2-1986)*

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**Sec. 4-8. - Rescue of animals.**

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

authorized person.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.9, 6-2-1986)*

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**Sec. 4-9. - Dog or cat license.**

Every person owning or having the custody or possession of any dog or cat four months of age or over, within the town, shall obtain a license from the town for such dog or cat. Failure to do so will be subject to a fine of \$100.00 per animal which may be issued by the animal control officer or designated persons by the council.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.10, 6-2-1986)*

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**Sec. 4-10. - Rabies inoculation and issuance of tag.**

- (a) The town shall charge an annual license fee according to the schedule of fees for each dog or cat set by the council annually.
- (b) Dog or cat licenses shall expire on May 31 of each year. New dog and cat licenses will go on sale as of May 1 at a specified location.
- (c) Proof of rabies inoculation will be required before a town license tag is issued.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.11, 6-2-1986)*

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**Sec. 4-11. - Running at large prohibited; dogs in public to be on leash.**

- (a) No person having the ownership, possession or control of any dog shall allow such dog to run at large within the town, including the beach.
- (b) 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 feet in length and shall be under the control of the person having custody of such dog.
- (c) The litter of such dogs and other animals shall be removed and buried/disposed of from all areas, specifically including the cabana and beachfront areas. This provision also applies to animal litter on the premises of the animal owner.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.13, 6-2-1986)*

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

**Sec. 4-12. - 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.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.14, 6-2-1986)*

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**Sec. 4-13. - Vicious or dangerous dogs.**

If any dog proves vicious or dangerous, it shall be impounded or otherwise disposed of at the discretion of the animal control officer or other authorized person.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.15, 6-2-1986)*

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**Sec. 4-14. - Rabies inoculation required.**

Prior to July 1 of each year, every owner or person having the custody or possession of a dog or cat four months of age or older, shall have such dog or cat inoculated against rabies. 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 copy of the certificate shall be given to the owner, one filed with the county department of health and one 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 any assistant shall also be furnished a serially numbered metal license tag which shall at all times be attached to a collar or harness worn by the dog or cat for which the certificate and tag have been issued.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.16, 6-2-1986)*

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

**Sec. 4-15. - 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 cat or other animal which has bitten any person or any other animal within a period of ten days after such biting.
- (b) When any dog or cat or other animal bites any person within the town, such dog, cat or other animal, when identified, shall be impounded and quarantined in a designated pound by the animal control officer; or, upon request of the owner of such biting dog, cat, or other animal, impounded under the jurisdiction and observation of a licensed veterinarian, for a period of ten days to determine whether the dog, cat, or other animal has rabies. Any expense incurred for such impounding or veterinarian fee shall be paid by the owner of such animal impounded.

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*(Code 1977, § 8.110; Ord. No. 79-2, 8-9-1979; Ord. No. 86-4, § 8.110.17, 6-2-1986)*

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

**Sec. 4-16. - Unlawful interference with deer control activities.**

It shall be unlawful to obstruct governmental administration of the town's program of deer population control by menacing activities such as entering restricted areas, cruising in the restricted areas (more than one pass), sounding automobile horns or use of other noise makers, flashing headlights, racing automobile engines to create noise and all other distractions created to restrict, delay or stop the town council ordered activities for the control of the deer population within the corporate limits of the town.

## Chapter 5 - RESERVED

## Chapter 6 - BUILDINGS AND BUILDING REGULATIONS

**State law reference—Enforcement of building codes by local governments, S.C. Code 1976, § 6-9-10; codes applicable to building inspections, S.C. Code 1976, § 6-9-130; building codes amendment procedure, S.C. Code Reg. 8-240; qualifications for building codes amendments, S.C. Code Reg. 8-245; local adoption of building codes, S.C. Code Reg. 8-265; dwellings unfit for human habitation, S.C. Code 1976, § 31-15-10 et seq.; municipality may not enforce national building code provisions regulating farm structures, S.C. Code 1976, § 6-9-65(B); municipal responsibility to enforce barrier-free building design standards, S.C. Code Reg. 19-400.3(B).**

## ARTICLE I. - IN GENERAL

### **Sec. 6-1. - County flood damage and control ordinance adopted by reference.**

The Horry County Flood Damage and Control Ordinance currently codified in Horry County Code, chapter 9, is adopted as currently enacted and the same shall be administered within the town by the county.

### **Secs. 6-2—6-20. - Reserved.**

## ARTICLE II. - TECHNICAL CODES (RESERVED)

### **Secs. 6-21—6-43. - Reserved.**

## ARTICLE III. - BUILDING DEPARTMENT

### **Sec. 6-44. - Established; commissioners.**

There is hereby established a department to be called the building department, which shall be under the direction of a building commissioner appointed for a term of two years by the council. The council shall also, in its judgment, appoint one or more deputy building commissioners to serve for a term of two years. There are no salaries for these offices.

**Sec. 6-45. - Permits required.**

No building or structure or any additions thereto shall be erected unless a permit has been issued in accordance with section 6-46, procedure.

(Ord. No. 78-9, § 4.302, 8-3-1978)

**Sec. 6-46. - Procedure.**

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

*Remodeling* means that the building footprint and roof line remain the same, if they change, then it is an addition.

*Replacing* means replacing materials with like materials is not remodeling (i.e., replacing used carpet with new carpet or old roof shingles with new roof shingles is replacing and not remodeling).

(b) *Building permits for new construction, alterations or additions.* Building permits for new construction, alterations, or additions that satisfy the standards in the required technical codes shall be issued by the county building department after approval by the town building department for compliance with deed restrictions, zoning chapter, chapter 32 and flood damage prevention regulations. In order to obtain approval from the town building department the owner shall pay a fee to the town in accordance with the following schedule:

(1) Fee schedule.

<b>New construction</b>		<b>\$225.00</b>
<b>Additions</b>	<b>\$1,000.00 or less</b>	<b>\$25.00</b>
	<b>\$1,001.00 to \$5,000.00</b>	<b>\$50.00</b>
	<b>\$5,001.00 to \$10,000.00</b>	<b>\$75.00</b>
	<b>\$10,001.00 to \$20,000.00</b>	<b>\$125.00</b>
	<b>\$20,001.00 to \$30,000.00</b>	<b>\$175.00</b>
	<b>Above \$30,000.00</b>	<b>\$225.00</b>
<b>Remodeling (see definitions below)</b>		<b>\$25.00</b>
<b>Accessory Building</b>		
	<b>Pre-fab</b>	<b>\$10.00</b>
	<b>Built on site</b>	<b>\$25.00</b>
	<b>Swimming pool</b>	<b>\$100.00</b>

Failure to obtain a building permit before the project is started will result in a penalty. The fee will increase to 150 percent of the fee shown in the schedule in this subsection (b)(1) and will be payable prior to continuation of any work.

- (2) Obtain a permit from county department of health for installation of septic tanks and drainage on the lot.
- (3) Provide dimensioned survey of the lot to be built on. Survey to show ground elevation at the building site.
- (4) Furnish two complete sets of plans, including plot plan showing dimensioned location of building and accessory structures from lot lines.
- (5) Agree to maintain a chemical toilet on the job site for use of all workmen for the duration of the job.
- (6) Agree to maintain a container on job site for lunch papers, bottles, etc., to help keep site free of trash.
- (7) Agree to pay the cost of repairing damage to roads and other public property caused by trucking of construction materials and use of construction equipment. Repairs will be charged at actual cost to the

- town. During construction, parking of trucks and cars on the right of way shall be kept to a minimum.
- (8) Agree to require contractor to take precautions when clearing building site given in section 6-50.
- (c) *Submitted to county after certification.* After certification by town building department the plans shall be submitted to the county building department for their approval and a building permit.
- (1) The county building department shall issue permit, collect all fees, and issue a certificate of occupancy. The town building department shall make periodic inspections and shall require the county building department to enforce any violations of technical codes.
- (2) The building permit is void if work has not been started within six months from date issued.
- (3) All construction shall be completed within one year after start or provide building commissioner with responsible reasons for extra time needed.
- (4) All construction materials shall be removed and the lot cleaned up at the end of the job. Violations related to this section shall be considered littering and shall be subject to the penalties for littering in section 1-5.

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*(Ord. No. 78-9, § 4.303, 8-3-1978; Ord. No. 82-6, 12-13-1982; Ord. No. 99-14, 11-22-1999)*

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### **Sec. 6-47. - Expiration of building permit.**

Expiration dates on all applications for building permits shall be in accordance with the requirements of the town ordinance, from which this chapter is derived, adopting the building code. All building permits shall have an expiration date as follows:

- (1) If the work described in any building permit has not begun within six months from the date of issuance thereof, said permit shall expire.
- (2) If the work described in any building permit commences and then ceases for a period of 45 consecutive days, said permit shall expire.
- (3) If the certificate of occupancy is not issued within 18 months from the day the building permit is issued, said permit shall expire.

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*(Ord. No. 2007-04, § 4.303.1, 10-4-2007)*

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### **Sec. 6-48. - Request for an extension of building permit.**

All requests for permit extensions shall have the building commissioner's approval prior to being granted by the building official. If the work described in a building permit has extended beyond any expiration dates identified in section 6-47, the permit shall be canceled by the building official who shall give written notice to the person affected.

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*(Ord. No. 2007-04, § 4.303.2, 10-4-2007)*

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### **Sec. 6-49. - Complaints regarding a violation of building permit.**

Complaints regarding a violation. Whenever a violation of this article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the building commissioner. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this appendix.

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*(Ord. No. 2007-04, § 4.303.3, 10-4-2007)*

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**Sec. 6-50. - Clearing of building site.**

When clearing the building site, necessary precautions shall be taken to protect utility lines and adjacent property. Open burning on the lot shall be handled in accordance with the regulations of open burning, section 12-1 (which requires attendance while burning, water available on the site, and fire out by nightfall; burning shall not be started during prolonged dry spells or when winds are blowing).

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(Ord. No. 78-9, § 4.304, 8-3-1978)

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**Sec. 6-51. - Penalties.**

Any person, firm, corporation or agent who shall violate any of the provisions of this article, or fail to comply with any of the requirements thereof, shall be guilty of a misdemeanor. Each such person, firm or corporation or agent shall be deemed guilty of a separate offense for each and every day or a portion thereof during which any violation or any provision of this article is committed or continued.

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(Ord. No. 78-9, § 4.305, 8-3-1978)

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**Secs. 6-52—6-75. - Reserved.**

**ARTICLE IV. - TIME SHARING RESTRICTIONS**

**Sec. 6-76. - Definitions.**

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

*Accommodations* means any private residential structure designed for occupancy by one or more individuals.

*Facilities* means any structure, service or property whether improved or unimproved made available to a purchaser for recreational, social, family or personal use.

*Time-sharing leasing* means any arrangement, plan or similar devise, whether by membership agreement, lease, rental agreement license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, but does not receive an undivided fee simple interest in the property, for a specific period of time during any given year, but not necessarily for consecutive years, and which extends for a period of more than one year.

*Time-sharing ownership* means any arrangement, plan or similar devise, whether by tenancy in common, sale, deed or by other means, which is subject to supplemental agreement or contract for use of an accommodation or facility, whereby the purchaser receives an undivided ownership interest in and the right to use accommodations or facilities, or both, for a specific period of time during any given year, but not necessarily for consecutive years, which extends for a period of more than one year.

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*(Ord. No. 81-1, § 4.601, 3-9-1981)*

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**Sec. 6-77. - Time-sharing prohibited; penalties.**

Time-sharing ownership and time-sharing leasing of real property within the corporate limits of the town is prohibited and unlawful. Violation of this prohibition shall be punishable by a fine of \$200.00 and each day shall constitute a separate violation.

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*(Ord. No. 81-1, § 4.602, 3-9-1981)*

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**Secs. 6-78—6-97. - Reserved.**

**ARTICLE V. - PROHIBITED PARKING OF CERTAIN UNITS WITHIN TOWN LIMITS**

**Sec. 6-98. - Intention.**

It is the intent of this article to prohibit parking within the town limits of those self-propelled and/or towing-type units which do not promote and preserve the residential character of the town. It is not the intent of this article to restrict the parking of units such as short wheel base vehicles capable of carrying up to 1,500 pounds and operated on a regular basis by a resident, i.e., to and from his place of business nor is it the intent of this article to prohibit temporary parking of any vehicle when such unit is connected with the performance of service type activity within the town. Parking of vehicles of any type, or other objects of any type, on public and/or service roads will be in accordance with other ordinances or proclamations promulgated by the town council.

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*(Ord. No. 84-2, § 8.101, 9-24-1984)*

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**Sec. 6-99. - Prohibited units enumerated.**

It shall be unlawful to park within the town the following units:

- (1) Garbage or trash hauling vehicles, either self-propelled or towing type.
- (2) Construction or heavy equipment of any type regardless of size when not actively engaged in projects such as construction of a dwelling, accessory building, preparation of a lot for building, etc. Exception: units owned or hired by the town for constructing and/or maintaining town property; and units of utility companies actively engaged in work within the town.
- (3) Self-propelled or towing type units regularly or irregularly used for the transport of persons. This provision applies to school buses, sightseeing buses, and trucks and vans used for commercial purposes.
- (4) Self-propelled or towing type units with a listed cargo carrying capability of more than 1,500 pounds.

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*(Ord. No. 84-2, § 8.102, 9-24-1984)*

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**Secs. 6-101—6-128. - Reserved.**

**ARTICLE VI. - BEAUTIFICATION AND TREE PROTECTION**

**Sec. 6-129. - Definitions.**

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

*Container* means plastic receptacle with lid, polyethylene plastic bag sealed or tied and weighing no more than 25 pounds, or cardboard carton secured by tying or taping and weighing no more than 25 pounds.

*Garbage* means solid waste produced by the handling, processing, preparation, cooking and consumption of animal or vegetable products used for human consumption. This definition includes any other matter that is also subject to decomposition, decay, putrefaction or generation of noxious or offensive gases or odors and may serve as a feeding or breeding material for animals, flies, or other insects.

*Hazardous materials* means poisons, acids, caustics, harmful or dangerous chemicals, infected materials, fecal matter, explosives, highly flammable materials.

*Trash* means solid waste consisting of household trash such as accumulation of paper, sweepings, dust, rags, bottles, cans or other waste material other than garbage which is attendant to residential housekeeping.

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*(Ord. No. 2006-03, § 7.101-d, 5-15-2006)*

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**Sec. 6-130. - Tree ordinance referral to electorate.**

Any proposed ordinance that in any manner, including but not limited to the imposition of penalties, seeks to limit a property owner's right to remove, trim, maintain and/or otherwise manage any tree on such owner's private property shall be referred to the electorate for approval by referendum.

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*(Ord. No. 2007-06, 11-6-2007)*

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**Sec. 6-131. - Beautification.**

(a) *Property owners (includes leasees).*

(1) Trash containers may be visible from a public road only during daylight hours of the day of scheduled pickup. Penalty for disregard of this subsection (a)(1) will result in a warning sign affixed to the offending trash container for the first and second violations. If the offense continues citations will be issued for each subsequent violation and will carry a \$25.00 fine for the first citation and up to a \$100.00 fine for further violations.

(2) Owners of an improved or undeveloped lot shall maintain such property in a litter-free and trash-free condition and yards in a reasonably neat and tidy appearance.

(3) Trees, brush, and other similar accumulations as the result of lot clearing shall be removed within a reasonable length of time, but in no instance longer than 30 days.

(4) Owners of property which is contiguous to a public road containing a median are encouraged to assist in maintaining an aesthetic appearance of the median.

(b) *Town road commissioner.* The town road commissioner shall:

(1) Ensure that the public roads are maintained in a litter-free and trash-free condition.

(2) Maintain an aesthetic appearance of the town's public property to include medians, public roads and access gates on Highway 17, and coordinate with the Briarcliffe Acres Association on those areas under its management.

(c) *Garbage and trash collections.*

(1) *Schedule for collections.* Garbage and trash shall be placed in a container defined in section 6-129, pertaining to definitions, and will be collected according to the schedule established by the town. Property owners and tenants should place their container at the roadside no earlier than 6:00 a.m. on the day of scheduled collection and the container should be removed by 8:00 a.m. the following day. Property owners and tenants shall be notified of such schedule by public notice.

(2) *Duty of owner or occupant.* It shall be the duty of the owner or the occupant of each property to comply with these provisions.

(3) *Placement of containers.* Trash/garbage containers shall be placed at the street entrance of a lot just within the property line, for collection. No container shall be put on the streets of the town at any time. In no case shall any trash/garbage impede the flow of pedestrian or vehicular traffic. Containers shall not be visible from a public road except during daylight hours on the day of scheduled pickup.

(4) *Authorized materials for pickup.* Only those materials defined above as trash/garbage are authorized for pickup under the town's service agreement. Hazardous materials, including paint and empty paint cans, are not approved for pickup. Large items, such as appliances (i.e., stoves, refrigerators, swing sets, etc.), are prohibited. Arrangements for special pickup of such items shall be made by the owner/occupant at their expense. Such materials shall comply with conditions specified under subsection (c)(3) of this section, pertaining to placement of containers.

(5) *Recycling.* The town encourages recycling and will incorporate provisions for pickup under the town's service agreement. Authorized recycling materials include newspapers, cardboard, empty bottles and other metal, glass and plastic containers which have not contained hazardous materials.

(6) *Materials from construction and land clearing.* Trash materials resulting from construction, remodeling or destruction must be removed by the contractor or the owner/occupant. Debris resulting from lot clearing must be removed by the contractor or the owner/occupant.

(7) *Home-generated medical waste.* Home-generated medical waste must be disposed of in a manner that helps minimize health risks to sanitation and landfill workers. Sharp medical materials such as needles, syringes and the like must be placed in an appropriate container that is reasonably puncture-proof with a tightfitting lid with the words "not recyclable" prior to being placed in a trash container.

(8) *Compliance, citations and penalties.* Failure to comply with any of the subsections of this section will result in notification by a designated town employee or official. The first violation shall result in a warning through verbal notification. The second violation will result in a written notification. Subsequent violations will result in citations. Citations will carry a fine of \$50.00 for the first offense and \$100.00 for each further violation.

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(Ord. No. 84-3, § 7.101, 9-24-1984; Ord. No. 99-07, § 7.101, 11-22-1999; Ord. No. 2004-01, 5-17-2004; Ord. No. 2006-03, § 7.101-c, 5-15-2006)

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## **Sec. 6-132. - Tree protection.**

(a) *Protected tree status.* The following types of trees shall have the status of protected trees:

(1) Wax myrtle trees taller than six feet; live oak (*Quercus virginiana*) trees having a caliper of two inches or more;

(2) Any other tree having a caliper of five inches or more;

(3) Any tree taller than six feet located on town-owned property or on any public right-of-way.

(b) *Policy of preservation.*

(1) Every reasonable effort shall be made by property owners, their leasees and agents to preserve protected trees. Reasonable effort is interpreted to mean that the necessity to cut a protected tree is not in conflict with maintaining the aesthetic rural appearance of the town.

(2) Property owners, their leasees and agents are honor-bound to replace a protected tree within a reasonable period of time.

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(Ord. No. 84-3, § 7.102, 9-24-1984)

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**Sec. 6-133. - Landscaping coordinator.**

- (a) A landscaping coordinator designated by the mayor shall be responsible for providing property owners intent on the clearing of lots with an understanding of this article with emphasis on the theme of maintaining the aesthetic rural appearance of the town.
- (b) Property owners are responsible for initiating subject review with the landscaping coordinator prior to undertaking any lot clearing.

*(Ord. No. 84-3, § 7.103, 9-24-1984)*

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**Sec. 6-134. - Property stewardship and nuisance abatement.**

- (a) *Duties of owners of undeveloped lots to maintain property.* Care and maintenance of undeveloped lots shall be the duty of the owner, or agent. All such property must be kept in a safe, clean and sanitary condition and free of all overgrowth, trash, garbage, litter, dead or fallen trees, and other debris.
- (b) *Accumulation of overgrowth vegetation, debris etc., declared a nuisance.* No owner, or agent, of an undeveloped lot within the town, shall permit on such lot, or upon abutting right-of-way any deleterious overgrowth, trash, litter, dead or fallen trees, or other debris so as to allow unhealthy and unsanitary conditions, or a breeding place for vermin, animals and insects or a fire hazard. Such properties are hereby declared a public nuisance.
- (c) *Notice to cut, destroy, remove, etc.*
- (1) The mayor or his/her designee, annually or near the commencement of the growing season, shall notify, by general publication in a town newsletter all such owners, or agents thereof, to cut, destroy and remove any such overgrowth or matter found growing or located on such property and to remove any trash, litter, dead or fallen trees or debris.
- (2) Upon failure, neglect or refusal of any such owner, or agent, to cut, destroy and remove any such overgrowth, trash, litter, dead or fallen trees or debris, the mayor or his/her designee shall order in writing that such condition be abated. The order may be served upon the owner, or agent, or may be delivered by certified mail.
- (d) *Action upon noncompliance.* Within 15 days after serving or mailing of notice, and upon the neglect or refusal of any such owner, or agent, to cut, destroy and remove any such overgrowth, trash, litter, dead or fallen trees or debris, the mayor or his/her designee will make arrangements to cut, destroy and remove such overgrowth, trash, litter dead or fallen trees or debris. The expense of such action will be charged against the property owner, or agent for recovery.
- (e) *Payment of charges, assessment of lien.* After causing the conditions to be remedied, the mayor, or his/her designee shall certify to the town clerk the expenses incurred in remedying the condition, whereupon such expenses shall be billed to the owner, or agent, and shall become payable within 30 days, after which a lien will be placed upon the real property which shall be payable with interest at a rate of ten percent per annum from the date of the certification until paid. The lien shall be enforceable in the same manner as a tax lien in the favor of the town and may be satisfied at any time by payment thereof, including accrued interest.

*(Ord. No. 99-07, § 7.101, 11-22-1999)*

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**Secs. 6-135—6-159. - Reserved.**

**ARTICLE VII. - DOCK CONSTRUCTION**

**Sec. 6-160. - Bulkhead and dock construction on lakes.**

The following guidelines and procedures to be established for any construction of bulkheads or docks on the lakes:

- (1) All construction activities on the lake are required to obtain a permit from the building department. A

complete set of detailed plans must be presented indicating the type of construction and a plot map indicating the location of such construction.

- (2) Plans will be reviewed by the lake committee prior to the review of the building department.
- (3) All approved projects must meet current construction standards.
- (4) No architectural improvements are allowed on docks (i.e., cabanas, closed roof seating areas, etc.).
- (5) Docks are limited in size to a measurement not to exceed ten feet by 12 feet.
- (6) If a dock is partially destroyed by more than 50 percent, then the reconstruction must comply with the current regulations.
- (7) No power or water is permitted on the docks.
- (8) Property owners with children under the age of 12 are required to have a gate access to the dock as a safety feature.
- (9) Property owners will be required to sign a statement agreeing to maintain the docks with a clause stating failure to maintain the dock would result in the removal of the dock at the owner's expense.
- (10) Property owner also agrees to maintain liability insurance on the dock and hold the town harmless from any liability.
- (11) Property owner agrees to allow access to the town for any maintenance required for the lake.

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*(Ord. No. 2006-02, 3-20-2006)*

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### **| Sec. 6-161. - Penalties.**

Failure to comply with the listed procedures in section 6-160 will result in the removal of any dock or bulkhead at the owner's expense.

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*(Ord. No. 2006-02, 3-20-2006)*

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## Chapter 7 - RESERVED

## Chapter 8 - BUSINESSES AND BUSINESS REGULATIONS

### ARTICLE I. - IN GENERAL

#### **| Secs. 8-1—8-18. - Reserved.**

### ARTICLE II. - BUSINESS LICENSING

#### DIVISION 1. - GENERALLY

#### **| Secs. 8-19—8-66. - Reserved.**

#### DIVISION 2. - TELECOMMUNICATIONS

#### **| Sec. 8-67. - Tax on retail telecommunications services.**

(a) Notwithstanding any other provisions, the business license tax for retail telecommunications services, as defined in S.C. Code 1976, § 58-9-2200, shall be at the maximum rate authorized by S.C. Code 1976, §

58-9-2220, as it now provides or as provided by its amendment. The business license tax year shall begin on January 1 of each year.

(b) In conformity with S.C. Code 1976, § 58-9-2220, the business license tax for retail telecommunications services shall apply to the gross income derived from the sale of retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the town and which are charged to a service address within the town regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another town. The measurement of the amounts derived from the retail sale of mobile telecommunications services shall include only revenues from the fixed monthly recurring charge of customers whose service address is within the boundaries of the town. For a business in operation for less than one year, the amount of business license tax shall be computed on a 12-month projected income.

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*(Ord. No. 99-08, § 1, 9-20-1999; Ord. No. 2004-05, § 1, 9-20-2004)*

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### **| Sec. 8-68. - Payment due date, delinquency penalty.**

(a) The business license tax for retail telecommunications services shall be due on January 1 of each year and payable by January 31 of that year, without penalty.

(b) The delinquent penalty shall be five percent of the tax due for each month, or portion thereof, after the due date until paid.

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*(Ord. No. 99-08, § 2, 9-20-1999; Ord. No. 2004-05, § 2, 9-20-2004)*

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### **| Sec. 8-69. - Income from interstate commerce recognized.**

Exemptions from this article for income from business in interstate commerce are hereby repealed. Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

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*(Ord. No. 99-08, § 3, 9-20-1999; Ord. No. 2004-05, § 3, 9-20-2004)*

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### **| Sec. 8-70. - Fees in lieu of taxes.**

All fees collected under such a franchise or contractual agreement shall be in lieu of fees or taxes which might otherwise be authorized by this article.

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*(Ord. No. 99-08, § 4, 9-20-1999; Ord. No. 2004-05, § 4, 9-20-2004)*

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### **| Secs. 8-71—8-99. - Reserved.**

## **DIVISION 3. - INSURANCE**

### **| Sec. 8-100. - Business license rates.**

SIC Code	NAICS Code		
63	5241	<p>Insurance companies: Except as to fire insurance, the term "gross premiums" means gross premiums collected:</p> <p>(1) On policies on property or risks located in the town; and</p> <p>(2) On policies, wherever the insured property or risk is located, that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by the insurance company's office located in the town or by the insurance company's employee doing business within the or by the office of the insurance company's licensed or appointed producer (agent) located in the town or by the insurance company's licensed or appointed producer (agent) doing business within the town.</p> <p>As to fire insurance, the term "gross premiums" means gross premiums:</p> <p>(1) Collected in the town; and/or</p> <p>(2) Realized from risks located within the limits of the town.</p> <p>Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.</p> <p>Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute doing business within the town whether or not an office is maintained therein. A premium collected on property or a risk located within the town shall be deemed to have been collected within the town. Declining rates shall not apply.</p>	
631-632	52411	Life, health and accident	0.75% of gross premiums
633-635	524126	Fire and casualty	2% of gross premiums
636	524127	Title insurance	2% of gross premiums
6411	524210	<p>Brokers for fire and casualty insurers—Non-admitted: As to brokers for non-admitted fire and casualty insurers, the term "gross premiums" means gross premiums collected by or for fire and casualty insurers not licensed in the state:</p> <p>(1) On policies on property or risks located in the town; and/or</p> <p>(2) On policies, wherever the insured property or risk is located, that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by a broker located in or doing business within the town. Brokers shall provide, with their payment of the tax, a copy of the report required by the state department of insurance showing the locations of the property or risks insured</p> <p>[Premiums for non-admitted business are not included in broker's gross commissions for other business. Declining rates shall not apply.]</p>	2% of gross premiums

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*(Ord. No. 94-05, § 1, 10-17-1994; Ord. No. 96-1, § 1, 1-15-1996; Ord. No. 2004-06, § 1, 11-15-2004)*

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**Sec. 8-101. - License taxes payment requirements for insurance companies and brokers.**

Notwithstanding any other provisions, license taxes for insurance companies and brokers for non-admitted fire and casualty insurers shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be five percent of the tax due per month, or portion thereof, after the due date until paid.

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*(Ord. No. 94-05, § 2, 10-17-1994; Ord. No. 96-1, § 2, 1-15-1996; Ord. No. 2004-06, § 2, 11-15-2004)*

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**Sec. 8-102. - Gross income from interstate commerce.**

Any exemptions for income from business in interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

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*(Ord. No. 94-05, § 3, 10-17-1994; Ord. No. 96-1, § 3, 1-15-1996; Ord. No. 2004-06, § 3, 11-15-2004)*

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[Chapter 9 - RESERVED](#)

[Chapter 10 - ENVIRONMENT](#)

[ARTICLE I. - IN GENERAL](#)

**Secs. 10-1—10-18. - Reserved.**

[ARTICLE II. - DEBRIS](#)

**Sec. 10-19. - Placement of debris.**

The resident's responsibility to inform their contractors that it is illegal to pile yard debris and/or hurricane debris on or around fire hydrants so the hydrants are difficult to locate in an emergency and, whereas these hydrants can be damaged by the removal of the debris, the town decrees that the penalty for obstruction will be \$50.00 for the first offense, and with a secondary offense there will be a maximum penalty of \$500.00. The same penalties apply to burying street or traffic signs. The resident must oversee the clearing process of their property.

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*(Ord. No. 2000-04, 9-18-2000)*

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**Secs. 10-20—10-41. - Reserved.**

**ARTICLE III. - NUISANCES**

**State law reference—Municipal authority to adopt ordinances concerning public nuisances, S.C. Code 1976, § 5-7-80; use of buildings for lewdness declared public nuisance, S.C. Code 1976, § 15-43-10.**

**Sec. 10-42. - Enforcement.**

If an enforcement officer determines that any of the provisions of this article are being violated, he shall enforce the requirements of the provision by any and all lawful means. The enforcement officer is not required to warn a violator before the issuance of an ordinance summons or the institution of enforcement procedures. The enforcement officer may invoke a single course of enforcement or parallel courses of enforcement in his discretion as the exigencies of the circumstances demand.

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*(Ord. No. 2007-05, § 9.101.1, 11-12-2007; Ord. No. 2009-02, § 9.101.1, 7-20-2009)*

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**Sec. 10-43. - Definitions.**

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

*Abate* means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means, in such time, in such a manner, and to such an extent as the enforcement officer or hearing board shall determine to be in the best interest of the public, taking into account all facts and circumstances.

*Business days* means Monday through Friday.

*Enforcement officer* means a law enforcement officer, code enforcement official or city employee or official as may be designated in writing by the mayor or council to enforce the provisions of this article.

*Hearing board* means a board consisting of five persons who shall conduct hearings to determine issues arising in connection with the enforcement of this article. Hearing board members shall be residents of the town who are appointed by the council to serve for overlapping terms of not less than three years nor more than four years or until their successors are appointed. Initial appointments shall be as follows: three members for a term of four years and two members for a term of three years. Any vacancy in membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the hearing board. No member of the hearing board shall hold any other public office or position in the town. A majority of the members of the hearing board shall constitute a quorum of the hearing board and the hearing board shall not conduct any hearing or decide any issue unless a quorum is present at the meeting of the hearing board. A member of the hearing board shall not participate in any hearing or decision that involves property of the member or his/her immediate family. The town council may remove any member of the hearing board for cause.

*Owner* means any person who has legal or equitable title to property.

*Person* means any natural person, property owner, property manager, landlord, tenant, group, association, business corporation, nonprofit corporation, partnership, limited partnership,

limited liability company, joint venture, trust, estate or receiver having the capacity to sue or be sued.

*Premises* means any building, lot, parcel, real estate, or land or portion of land, whether improved or unimproved, occupied or unoccupied, including adjacent parking.

*Public nuisance* means each condition declared to be a public nuisance pursuant to the provisions of section 10-44. Public nuisance also means those conditions or events which an enforcement officer determines to be an unreasonable interference with the rights of the public in general, based upon facts and circumstances established after a reasonable inquiry or investigation or upon citizen report, and where, in a public place, or where the public congregates, or where the public is likely to come within the range of influence through the senses, a person unlawfully does an act or omits to perform a duty, which act or omission does any one or more of the following:

- (1) Injures, subverts or endangers the public's order, economy, resources, safety, health, welfare, comfort, or repose;
- (2) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any waters or public places or way.

*Structure* means anything constructed, built, or planted upon real estate, including any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which structure requires location on the ground or is attached to something having a location on the ground.

- (b) For the purpose of this article, words used in the present tense shall be construed to include the future tense. Words in the masculine gender shall be construed to include the feminine and neuter gender. Likewise, words used in the feminine or neuter gender shall be construed to include the masculine gender. The singular number includes the plural and the plural number includes the singular.

(Ord. No. 2007-05, § 9.101.2, 11-12-2007; Ord. No. 2009-02, § 9.101.2, 7-20-2009)

## **Sec. 10-44. - Nuisances.**

(a) *Nuisances affecting public health.* The following are hereby declared to be nuisances affecting public health:

- (1) Litter, debris, trash or refuse which is not placed within the appropriate container; or containers for waste which are not properly placed;
- (2) Leaking septic tanks or sewer lines or other sewage existing in an unsanitary manner;
- (3) Weeds or other rank growths of vegetation upon private or public property, and all other vegetation at any stage of maturity which: exceeds 12 inches in height, except for healthy trees, shrubs or plants grown in a tended and cultivated garden or plot; regardless of height, harbors, conceals or invites rodents, pests or vermin or deposits of refuse; gives off noxious odors; constitutes a fire or traffic safety hazard;
- (4) Damaged or diseased limbs of trees or trees that pose an unreasonable risk of injury to persons and/or damage to property because of their damaged or diseased condition.

A mulch pile that is not visible from the street and that conforms with the "Backyard Habitat Project" shall constitute an exception to the provisions set forth in subsections (a)(1) through (a)(4) of this section.

(b) *Nuisances offending public decency, peace and order.* The following are hereby declared to be public nuisances affecting public decency, peace and order, when such violations are of a continual, reoccurring or constant nature; provided, however, that no person shall be held liable or no structure shall be declared a nuisance in the event that person does not generate, enable or contribute to the occurrence of unlawful behavior by a management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security or other factors:

- (1) Any structure, whether commercial or residential, operated as a bawdy house, house of assignation, place of prostitution or used and maintained for the commercial or criminal purposes of unlawful sexual activity in violation of federal, state or local law;
- (2) Any structure, whether commercial or residential, where acts of sale, possession or distribution of controlled substances occur in violation of federal, state or local law;

(3) Any structure where breaches of the peace, disorderly conduct or offenses against the person found in S.C. Code 1976, § 16-5-10 et seq., occur with such disproportionate frequency when compared to frequency of law enforcement action required at other similarly situated structures, or where the intensity of law enforcement response, when required, is disproportionate to the intensity of response required at other similarly situated structures. After notice of the continuing nature of the nuisance and specific identification of the facts and circumstances that generate, enable or contribute to the nuisance, the owner, lessee, renter, management or the person in control may be held responsible for the maintenance of a public nuisance and the structure declared a public nuisance.

(c) *Nuisances affecting public welfare and safety.* The following are hereby declared to be public nuisances affecting public welfare and safety:

(1) All trees, hedges, signs or other obstructions, or any portion of the same, so located on private property which prevent persons driving vehicles approaching an intersection of streets from having a clear safe view of traffic approaching such intersection;

(2) All trees, hedges, signs or other obstructions or any portion of the same, so located on private property which interfere with or prevent persons from driving vehicles on the streets adjacent to such obstruction;

(3) All trees, hedges, signs or other obstructions or any portion of the same so located on private property which prevents the clear and unobstructed view of a fire hydrant, fire department connection, or other fire protection device, or directional or identification signage pertaining to a fire hydrant, fire department connection, or other fire protection device from a public way;

(4) Any motor vehicle that is unregistered, inoperable, derelict or abandoned on any highway or right-of-way, or other public or private property, unless such vehicle is stored inside of a building or protected from the elements by way of a complete covering.

(d) *Nuisances affecting public economy.* The following are hereby declared to be public nuisances affecting the public economy:

(1) All structures which remain unoccupied and boarded up for a period in excess of one month, and whose exterior finish is destroyed, decayed, dilapidated or deteriorated in violation of the International Property Maintenance Code, as adopted, provided however, that unoccupied structures shall not be considered a public nuisance affecting public economy if the building exterior is weathertight and maintained for purposes of appearance and security according to the International Property Maintenance Code, and the material which secures the building is compatible with the exterior in appearance, color, texture and design, and the premises are kept in compliance with all applicable building, property maintenance, zoning, and land use laws;

(2) All structures for which a building permit has been obtained and work has ceased for a period of 45 continuous days;

(3) All structures for which a building permit has been obtained and the certificate of occupancy has not been issued within 18 months of the date of issuance of the building permit;

(4) All premises continually not in compliance with applicable licensing, zoning and land use laws.

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*(Ord. No. 2007-05, § 9.101.3, 11-12-2007; Ord. No. 2009-02, § 9.101.3, 7-20-2009)*

## **Sec. 10-45. - Other nuisances.**

The enumeration of specific nuisances in this article shall not be deemed to make lawful any other act or condition declared to be a nuisance by any other town ordinance, state law, federal law, or court decision.

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*(Ord. No. 2007-05, § 9.101.4, 11-12-2007; Ord. No. 2009-02, § 9.101.4, 7-20-2009)*

## **Sec. 10-46. - Reporting emergencies and emergency action.**

Any person who directly observes a nuisance posing an emergency threat to the public health or safety or to the environment shall immediately report the incident to the town and shall provide any information requested by the enforcement officer needed to investigate or abate the potential emergency. If any nuisance exists in such a condition so menacing to the public health, peace or safety that it is necessary that it be summarily abated, the town enforcement officer, after

consultation with and concurrence from the mayor and/or council, may proceed to abate the nuisance without a hearing.

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*(Ord. No. 2007-05, § 9.101.5, 11-12-2007; Ord. No. 2009-02, § 9.101.5, 7-20-2009)*

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**Sec. 10-47. - Nuisances prohibited and unlawful.**

No person shall create any public nuisance in the town, and no person shall by inaction permit a public nuisance to occur or continue on any real property under such person's control, whether by recorded or unrecorded instrument or permission. Nor shall any person permit a public nuisance to occur or continue involving any personal property under such person's control.

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*(Ord. No. 2007-05, § 9.101.6, 11-12-2007; Ord. No. 2009-02, § 9.101.6, 7-20-2009)*

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**Sec. 10-48. - Institution of criminal process and penalty.**

Prior to commencing a proceeding to enforce the provisions of this article, an enforcement officer shall conduct a reasonable inquiry to gather facts or obtain a citizen report that sets forth facts that reasonably support the enforcement officer's determination of the existence of a public nuisance. Upon the enforcement officer's determination that a public nuisance exists, enforcement of this chapter's provisions may be accomplished by the institution of criminal process by way of uniform traffic ticket, municipal ordinance summons or warrant made by a law enforcement officer or appropriate government official. The violation of section 10-47 constitutes a misdemeanor offense that is punishable by a fine up to \$500.00 and/or by imprisonment for a period of time up to 30 days. Each day of violation constitutes a separate misdemeanor offense that is punishable by a fine up to \$500.00 and/or by imprisonment for a period of time up to 30 days. Criminal process shall commence in summary court. In its discretion, the town may also elect to avail itself of administrative remedies of a public nuisance, including applicable code sections pertaining to remediation or abatement.

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*(Ord. No. 2007-05, § 9.101.7, 11-12-2007); (Ord. No. 2009-02, § 9.101.7, 7-20-2009)*

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**Sec. 10-49. - Public abatement; notice, service.**

- (a) If a person fails or refuses to discharge the duty imposed by section 10-47 the town may concurrently serve an administrative notice to abate a public nuisance upon the owner of the property and demand that compliance must be achieved within ten business days after service of the notice, not including the date of service of the notice.
- (b) If the town elects to serve an administrative notice to abate a public nuisance upon the owner of the property, the town shall determine the identity of the person who, from the records in the county tax assessor's office, appears to be the titled owner of the property and cause a written notice of public nuisance to be served on such person by:
- (1) Personal service as attested to by affidavit of service; or
  - (2) Copy mailed to such owner at such place or address by United States certified mail return receipt requested; or
  - (3) If, after due diligence, as established by affidavit of the enforcement officer, service cannot be perfected as described in subsections (b)(1) and (b)(2) of this section, the town shall cause a copy of the aforesaid notice of public nuisance to be posted at a conspicuous location at such structure, location, or premises, which shall serve as notice to the owner and the public.

Service of the written notice of public nuisance shall be deemed effective upon the date of personal

service as attested to by affidavit of service or upon the date of delivery of certified mail as determined by return receipt, or upon the date of posting at the structure, location, or premises as determined by affidavit of the enforcement officer.

- (c) The notice to abate the nuisance shall contain, but shall not be limited to, the following information:
- (1) The street address and a brief legal description of the premises where the public nuisance is located.
  - (2) A statement that informs the owner of the property of the specific nuisance to be abated with reference to this article.
  - (3) A statement that informs the owner of the names, numbers and addresses for contact with the responsible town officials.
  - (4) A statement that informs the owner that he or his authorized representative may appeal the enforcement officer's determination of the existence of a public nuisance by serving a written demand upon the mayor for a hearing on the question of whether a public nuisance exists within ten business days of the date of service of the written notice of public nuisance, excluding town-recognized holidays.
  - (5) A statement that informs the owner that the failure to serve a written demand upon the mayor for a hearing on the question of whether a public nuisance exists within ten business days of the date of service of the written notice of public nuisance, excluding town-recognized holidays, will constitute a waiver of the right to appeal the enforcement officer's determination of the existence of a public nuisance.
  - (6) A statement that informs the owner that upon the 11th business day after service of written notice of the public nuisance the town may abate the nuisance and assess an administrative fee and all costs incurred by the town in connection with abatement of the nuisance, including the reasonable professional fees of consultants, contractors, and engineers, if any, and the reasonable fees of legal counsel, if the town determines that the services of legal counsel are necessary or advisable under the circumstances, as a lien against the property.

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(Ord. No. 2007-05, § 9.101.8, 11-12-2007; Ord. No. 2009-02, § 9.101.8, 7-20-2009)

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## **Sec. 10-50. - Appeal procedures; hearing.**

- (a) *Appeal of finding of nuisance.* The owner of the property or his authorized representative may make a written demand to the mayor for a hearing on the question of whether a public nuisance in fact exists. This written appeal stays the public abatement until such time as the matter is heard and decided by the hearing board unless the enforcement officer certifies to the hearing board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and/or property. In such case, proceedings shall not be stayed otherwise than by a restraining order granted by a court of competent jurisdiction for good cause shown. The written demand to the mayor for a hearing on the question of whether a public nuisance exists must be received by the mayor within ten business days of the date of service of the written notice of public nuisance, as determined in accordance with section 10-49 hereinabove, excluding town-recognized holidays. The written demand of the owner or his authorized representative shall include a contact number, either phone or facsimile, in order for the person to be informed of the hearing location, date and time. It shall not be a defense to the determination that a public nuisance exists that the property is boarded up or otherwise enclosed. The hearing board may affirm the enforcement officer's determination of the existence of a public nuisance and affirm the notice to abate or amend or modify the notice to abate the public nuisance, or, when appropriate under the facts presented, extend the time for compliance by the owner to such date as the hearing board may determine.
- (b) *Failure to appeal.* Failure to timely appeal within ten business days of service of the written notice of public nuisance constitutes a waiver of the right to appeal the enforcement officer's determination of the existence of a public nuisance.
- (c) *Notice of the hearing upon existence of nuisance.* By way of the contact numbers provided in the written demand of the owner of the property or his authorized representative, the mayor or town clerk shall orally and in writing advise the owner or his authorized representative of the location, date and time of the hearing at least five business days prior to the hearing, excluding town-recognized holidays. Public notice of the hearing shall also be provided at least five business days prior to the hearing, excluding town-recognized holidays.
- (d) *Time and manner of hearing upon existence of nuisance.* The hearing upon the question of whether a public nuisance exists shall be scheduled as soon as practical but in any event no later than 15 business days after the mayor's receipt of written demand for a hearing upon the question of whether a public nuisance exists, excluding town-recognized holidays. In the event that a quorum of the hearing board is not present at the designated time and location for the scheduled hearing, the town may reschedule the hearing

to be held within ten business days of the original hearing date at the same location or another location within the town. The hearing shall not be conducted under the strict South Carolina Rules of Evidence. The hearing shall be informally conducted by the hearing board. The enforcement officer shall present the facts and circumstances that resulted in his determination that a public nuisance exists and may present testimony from fact witnesses, testimony from expert witnesses, and documentary evidence in support of the existence of a public nuisance. The owner or his authorized representative or the owner's attorneys shall be given the opportunity to present testimony from fact witnesses, testimony from expert witnesses, and documentary evidence to the hearing board in the course of the hearing, and shall have the right of cross examination of the enforcement officer and witnesses presented by the enforcement officer. The board, in execution of the duties for which it is appointed, may subpoena witnesses and in case of contempt may certify such fact to the Horry County Circuit Court. A permanent record shall be made of all hearings and proceedings of the hearing board using a method of recording designated by the hearing board. A transcript of the proceedings of all hearings shall be made available to any person upon request and payment, in advance, of the estimated cost of preparation of the transcript by a court reporter. The decision of the hearing board shall be delivered orally to the appellant on the date of the hearing, and then written and mailed within ten business days of the hearing date to the owner or his authorized representative at the address provided and to the town clerk.

(e) *Appeal determination of nuisance to circuit court.* The owner or his authorized representative and/or the town may appeal to the Horry County Circuit Court any decision of the hearing board upon the question of whether a public nuisance exists by filing with the clerk of court for Horry County a written petition that sets forth plainly, fully, and distinctly the reasons why the decision of the hearing board is contrary to law and paying the filing fees of the clerk of court. Such appeal shall be filed within 30 days after the written decision of the hearing board is mailed. The findings of fact by the hearing board are final and conclusive on the hearing of the appeal, and the Horry County Circuit Court may not take additional evidence. In the event the judge of the Horry County Circuit Court determines that the record before the hearing board is insufficient for review, the matter must be remanded to the hearing board for rehearing. In determining the questions presented by the appeal, the Horry County Circuit Court must determine only whether the decision of the hearing board is correct as a matter of law.

(f) *Appeal of assessment.* Further, in those instances where the nuisance has been abated by the town after the required notice described in section 10-49(b)(1)—(3), the owner of the property who has been served with a notice of assessment pursuant to section 10-51, or his authorized representative, may make a written demand to the mayor for a hearing to review the cost of the abatement. This written appeal stays the attachment of the lien until such time as the matter is heard and decided by the hearing board. The appeal of the assessment must be received by the mayor within ten business days of the owner's receipt of the notice of assessment. The written demand shall include a contact number, either phone or facsimile, in order for the person to be informed of the hearing location, date and time. In an appeal of the assessment of the administrative fee and costs, no testimony shall be permitted on the issue of the existence of the public nuisance. The hearing board may affirm the town's assessment of the administrative fee and the costs incurred to abate the nuisance or may, in its discretion, waive the administrative fee or the costs incurred by the town in abating the nuisance, in whole or in part, if, in the course of the hearing to review the assessments, the hearing board finds that justice and equity require such waiver.

(g) *Failure to appeal assessment of costs.* Failure to timely appeal within ten business days of service of the written notice of assessment constitutes a waiver of the right to appeal the town's assessment of the administrative fee and the costs incurred to abate the nuisance.

(h) *Notice of the hearing concerning assessments.* By way of the contact numbers provided in the written demand of the owner of the property or his authorized representative, the mayor or town clerk shall orally and in writing advise the owner or his authorized representative of the location, date and time of the hearing at least five business days prior to the hearing, excluding town-recognized holidays. Public notice of the hearing shall also be provided at least five business days prior to the hearing, excluding town-recognized holidays.

(i) *Time and manner of hearing upon assessments.* The hearing upon the appeal of assessments shall be scheduled as soon as practical but in any event no later than 15 business days after the mayor's receipt of written demand for a hearing concerning the assessments, excluding town-recognized holidays. In the event that a quorum of the hearing board is not present at the designated time and location for the scheduled hearing, the town may reschedule the hearing to be held within ten business days of the original hearing date at the same location or another location within the town. The hearing shall not be conducted under the strict South Carolina Rules of Evidence. The hearing shall be informally conducted by the hearing board. The enforcement officer may present testimony from fact witnesses, testimony from expert witnesses, and documentary evidence in support of the assessment. The property owner or his authorized representative or the owner's attorneys shall be given the opportunity to present testimony from fact witnesses, testimony from expert witnesses, and documentary evidence to the board in the course of the hearing, and shall have the right of cross examination of the enforcement officer and witnesses presented by the enforcement

officer. The board, in execution of the duties for which it is appointed, may subpoena witnesses and in case of contempt may certify such fact to the Horry County Circuit Court. A permanent record shall be made of all hearings and proceedings of the hearing board using a method of recording designated by the hearing board. A transcript of the proceedings of all hearings shall be made available to any person upon request and payment, in advance, of the estimated cost of preparation of the transcript by a court reporter. The decision of the hearing board shall be delivered orally to the appellant on the date of the hearing, and then written and mailed within ten business days of the hearing date to the owner or his authorized representative at the address provided and to the town clerk.

(j) *Appeal of assessments to circuit court.* The owner or his authorized representative and/or the town may appeal to the Horry County Circuit Court any decision of the hearing board upon the question of assessment of costs by filing with the clerk of court for Horry County a written petition that sets forth plainly, fully, and distinctly the reasons why the decision of the hearing board is contrary to law and paying the filing fees of the clerk of court. Such appeal shall be filed within 30 days after the written decision of the hearing board is mailed. The findings of fact by the hearing board are final and conclusive on the hearing of the appeal, and the Horry County Circuit Court may not take additional evidence. In the event the judge of the Horry County Circuit Court determines that the record before the hearing board is insufficient for review, the matter must be remanded to the hearing board for rehearing. In determining the questions presented by the appeal, the Horry County Circuit Court must determine only whether the decision of the hearing board is correct as a matter of law.

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*(Ord. No. 2007-05, § 9.101.9, 11-12-2007; Ord. No. 2009-02, § 9.101.9, 7-20-2009)*

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#### **Sec. 10-51. - Liability for costs.**

In the event of refusal or neglect of a person to cause such public nuisance to be abated within the time provided herein, the enforcement officer shall report such person's refusal or neglect to abate the public nuisance to the mayor and town council. The mayor and town council may then direct the expenditure of public resources to abate the nuisance condition. The cost of abatement shall include an administrative assessment of \$500.00 in addition to the actual costs incurred by the town in connection with abatement of the nuisance, including the reasonable professional fees of consultants, contractors, and engineers, if any, and the reasonable fees of legal counsel, if the town determines that the services of legal counsel are necessary or advisable under the circumstances, and costs incurred to establish a lien against the property. The responsible person, owner or lien holder of the property shall be served with a written notice of assessment within seven days of the completion of the abatement. The notice of assessment shall include the administrative fee and a statement of costs incurred by the town, attested to by affidavit of the enforcement officer, and shall be issued and served, as provided for in section 10-49(b)(1)—(3) upon the owner of the property, who shall make payment within 30 days of the date of service. Upon the expiration of the 30-day period, if the amount has not been paid in full and the owner of the property who has been served with a notice of assessment in accordance with section 10-49(b)(1)—(3) of this article has failed to make a written demand upon the mayor for a hearing to review the cost of the abatement, the town may cause a lien in that amount to be filed with the Horry County clerk of court and with the town clerk. The lien shall be of record in the county courthouse and the office of the town clerk in the book of liens, until paid or recovered, or otherwise released. Collection of the lien by way of recovery or foreclosure may be instituted by the town's legal counsel on behalf of the town.

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*(Ord. No. 2007-05, § 9.101.10, 11-12-2007; Ord. No. 2009-02, § 9.101.10, 7-20-2009)*

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#### **Secs. 10-52—10-75. - Reserved.**

### ARTICLE IV. - NOISE

## **Sec. 10-76. - Prohibited.**

(a) *General prohibition.* It shall be unlawful for any person to make, continue or cause to be continued any excessive, unusually loud noise or any noise which either disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the town.

(b) *Specific prohibition.* It shall be unlawful for any person in the town to maintain and/or operate in any building, motor vehicle including motorcycles or premises in the town any radio or television device or mechanical or musical instrument or sound-creating or transmitting device of any kind whereby the sound therefrom is cast upon the public streets or beach in such a manner as to create unreasonably loud, excessive or disturbing noise or where such noise disturbs the quiet repose of persons in any dwelling or can be heard to the annoyance or inconvenience of travelers upon any street or of persons in neighboring premises.

(1) *Excessive noise—Activation of horn or sound-producing device.* Except as required by law, no person shall activate or cause to be activated within the town, any horn or sound-producing device except an alarm signals for fire or security.

(2) *Same—Operation of vehicle.* It shall be unlawful for any person in the operation of a motor vehicle including motorcycles to cause or allow any loud, excessive or unusual noise in the operation or use of such motor vehicle upon any street of the town, or for any person to race the engine of any motor vehicle, while such vehicle is not in motion.

(3) *Same—Animals.* It shall be unlawful for any person to own, possess or harbor any animal that frequently, or for continued duration howls, barks or makes other sounds that create excessive noise across a residential area. For purposes of this section, the term "barking dog" means a dog that barks, bays, cries, howls or makes any other noise continuously or excessively for a period of five minutes or barks intermittently for ten minutes or more to the disturbance of any person, particularly between 11:00 p.m. and 7:00 a.m., and regardless of whether the dog is physically situated in or upon private property provided; however, that a dog shall not be deemed a barking dog if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon the property in or upon which the dog is situated.

(4) *Hours of operation for tools and equipment.* It shall be unlawful to operate or permit the operation of tools or equipment used in construction, drilling, demolition equipment, or lawn maintenance equipment before 7:00 a.m. or after 10:00 p.m. except for emergency work authorized by the town.

(5) *Hours of operation for sound equipment.* It shall be unlawful for any person to play any sound producing, amplifying or transmitting device in such a manner or with such volume particularly between 11:00 p.m. and 7:00 a.m. to annoy, disturb the quiet, comfort or repose of persons in any residence.

(Ord. No. 2006-08, § 8.112(a), (b), 11-20-2006)

## **Sec. 10-77. - Same—Undue hardship.**

Application for permission to hold a public event that may violate the provisions of this article, shall be made to the town. Such permission, if granted, shall be valid only at the times, dates, and specific location, and upon the condition specified by the town.

(Ord. No. 2006-08, § 8.112(c), 11-20-2006)

## **Sec. 10-78. - Enforcement.**

(a) *Standards.* The standards for enforcement are as follows:

(1) An excessive, unusually loud noise is defined as any sound which is plainly audible at a distance of 50 feet from its source or from any public road, particularly between 11:00 p.m. and 7:00 a.m.

(2) Complaints of one or more persons and/or of an enforcement officer are prima facie evidence that a sound endangers the comfort, repose, health, peace or safety of others in violation of this section.

(b) *Factors.* In the enforcement of standards established in this section, an enforcement officer may be required to exercise judgment in determining if a particular noise is sufficiently loud or otherwise so offensive

that it would disturb other persons in the vicinity. When exercising such determination, the enforcement officer shall consider the following factors:

- (1) Volume of the noise.
- (2) Intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or unnatural.
- (5) Volume and intensity of background noise, if any.
- (6) Proximity of noise to residence.
- (7) Time of day or night the noise occurs.
- (8) Duration of noise.
- (9) Whether the noise is recurrent, intermittent, or constant.

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*(Ord. No. 2006-08, § 8.112(c), (d), 11-20-2006)*

## [Chapter 11 - RESERVED](#)

## [Chapter 12 - FIRE PREVENTION](#)

### **| [Sec. 12-1. - Regulation of open burning.](#)**

(a) Open burning is a privilege regulated by the town and shall be allowed only through a permit issued by the town clerk. Open burning is defined as any burning of yard waste (grass clippings, bush or branch cuttings, etc.) or open camp-type fires. Any property owner desiring to have open burning on their property shall obtain an open burning permit before engaging in the activity. Construction waste burning is not permitted.

(b) An open burning permit may be obtained from the town clerk during regular business hours by completing an application with proof of identification and proof of general liability in an amount not less than \$100,000.00/\$300,000.00. The permit may be issued as long as the City of North Myrtle Beach does not have a burning ban in effect or the state has not issued a red flag alert. The permit shall be issued to allow burning on one specific date and shall be effective only during the hours of 7:00 a.m. to dusk of that specific date. It shall not be transferable, and no more than five permits shall be issued for any specific date.

(c) Open burning is the responsibility of the property owner who shall make certain that such fires are constantly attended to, and shall have adequate hand tools (spade, rake, etc.) and readily available hose attached to an adequate water supply in order to maintain control of such fire. The fire shall be completely extinguished by dusk with adequate water to ensure that no active coals are intact.

(d) Open burning shall not be permitted unless the air is relatively calm. The fire shall be completely extinguished if weather conditions change such that winds exceed seven miles per hour or gusty conditions develop.

(e) Open burning shall take place in a relatively open area of the property owner's lot, that is an area without overhanging branches, and shall be no closer than 20 feet from any structure or power line.

(f) Open burning must be immediately extinguished if the town clerk or the police receive a complaint regarding smoke or size of the fire.

(g) The town is hereby authorized through its agent to extinguish any open fire not in compliance with this chapter.

(h) Any person in violation of this chapter shall receive a warning on the first offense. Should a second offense occur, a citation shall be issued and a fine of \$500.00 levied.

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*(Ord. No. 2008-02, 9-15-2008)*

## [Chapter 13 - RESERVED](#)

## [Chapter 14 - LAW ENFORCEMENT<sup>9</sup>](#)

Editor's note—The county police department provides law enforcement protection for the town pursuant to an interlocal agreement with the town.

**Sec. 14-1. - Chief of police.**

The town council may appoint a chief of police, who shall carry out law enforcement duties as established by the council.

**Sec. 14-2. - Special policemen.**

The mayor and chief of police may in case of an emergency or of a mob or riot, appoint as many special policemen as in their judgment are necessary. Such special policemen to be paid such sum as may be agreed upon. In the absence of the mayor and chief of police the council shall have the same authority granted to them by this section.

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*(Code 1977, § 8.103)*

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**Sec. 14-3. - Resisting arrest.**

It shall be unlawful to resist arrest and any person doing so shall be guilty of a misdemeanor.

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*(Code 1977, § 8.104)*

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**Sec. 14-4. - Unlawful to approach within 20 feet of a person being arrested.**

It shall be unlawful for any person or persons to willfully approach nearer than 20 feet to any policeman who is making or attempting to make an arrest. All policemen shall have the right to order all persons away from the vicinity while any person is being held in custody. Any person violating any provision of this chapter or refusing to leave the vicinity when ordered to do so by a policeman shall be guilty of a misdemeanor.

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*(Code 1977, § 8.105)*

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Chapter 15 - RESERVED

Chapter 16 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

**Sec. 16-1. - Littering.**

Any person throwing, depositing or disposing of trash, garbage or other litter on the road right-of-way, C.P. Sons, or the beach, shall be guilty of a misdemeanor, and upon conviction shall be fined for each such offense. Construction workers on a building site in the town shall use the container

provided for disposal of trash or else be guilty of an offense.

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(Ord. No. 78-10, 7-6-1978; Ord. No. 82-4, 10-11-1982)

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**Secs. 16-2—16-18. - Reserved.**

**ARTICLE II. - BEACHES**<sup>10</sup>

**State law reference—Coastal municipalities' criminal jurisdiction over piers and other structures and waters of the ocean, S.C. Code 1976, § 5-7-150; extension of police jurisdiction and authority of municipalities bordering on high tide line or navigable body of water, S.C. Code 1976, § 5-7-140; coastal municipality may enforce regulations necessary for persons' safety on beach, S.C. Code 1976, § 5-7-145.**

**Sec. 16-19. - Definitions.**

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

*Access* means the area of land extending from the public street to the beach which has been provided for the purpose of access to the beach.

*Beach* means the area lying between the mean low-water mark of the Atlantic Ocean and the primary dune line. Also those lands subject to periodic inundation by tidal and wave actions so that no vegetation is established.

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(Ord. No. 92-02, 6-15-1992)

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**Sec. 16-20. - Horses prohibited.**

It shall be unlawful for any person to have a horse upon the beach or access at any time.

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(Ord. No. 92-02, 6-15-1992)

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**Sec. 16-21. - Overnight sleeping on beach prohibited.**

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

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(Ord. No. 92-02, 6-15-1992)

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**Sec. 16-22. - Use of surfboards and skimboards.**

No person shall use a surfboard or skimboard in a manner that endangers bathers, swimmers, surfers, and other persons in the water. Surfboard leashes (seven-foot maximum length) must be worn at all times. Surfboarding and skimboarding will not be permitted within 200 feet of the cabana beach-access stairs from June 1 through October 1. A marker will be installed showing the distance of 200 feet on both sides of the stairs.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-23. - Littering.**

It shall be unlawful for any person to throw or deposit any glass, bottle, glassware, can, paper or other materials, or any garbage, waste or refuse of any kind on the beach or in the water.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-24. - Shark fishing prohibited.**

It shall be unlawful for any person to bait, fish for, or otherwise attract sharks to an area within one mile of the beach nor shall any person, in any manner, chum for any marine life.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-25. - Nudity.**

It shall be unlawful for any person to appear in the nude on the beach or access.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-26. - Animals on beaches.**

Any animal on the beach must be on a handheld leash not to exceed seven feet in length and under the control of the person having custody of the animal. Any animal refuse shall be removed from the beach or access by the person having custody of the animal.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-27. - Motorboats, sailboats, etc.**

No person shall use any equipment in a manner that endangers bathers, swimmers, surfers or other persons in the water. Sailboats, motorboats, catamarans, and jet skis shall remain at least 400 feet from the shoreline, with the exception of entrance to and exit from the ocean. Sailboats, motorboats, catamarans, and jet skis may only be launched and/or retrieved in that area specified for launching and retrieving.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-28. - Use of rental tricycles.**

Use of rental tricycles or similar type vehicles will be prohibited on the beach from the hours of 9:00 a.m. to 5:00 p.m. from June 1 to October 1.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-29. - Driving on beach prohibited.**

Motor-driven vehicles, including golf carts, are prohibited from driving on the beach at all times. Police and emergency vehicles are the exception.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-30. - Surf fishing restricted.**

No person shall surf fish in a manner that endangers swimmers, surfers and other persons in the water. Surf fishing will not be permitted within 200 feet of the cabana beach-access stairs at any time. A marker will be installed showing the distance of 200 feet on both sides of the stairs.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-31. - Discharge of weapons on beach.**

The discharge, or cause to be discharged, by any person of any firearm of any kind or nature, air rifle, pellet gun, sling shot or any similar device on the beach or its access is prohibited.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-32. - Maximun swimming distance.**

No person shall be in the ocean waters a distance of more than 50 yards (150 feet) from the

point where the ocean adjoins the Strand.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-33. - Commercial activities and solicitation on beach.**

It shall be unlawful for any person, organization, society, association or corporation, or any agent, member or representative thereof, directly or indirectly:

- (1) To solicit property, business or financial assistance of any kind;
  - (2) To distribute free product samples, admission passes or entry tickets;
  - (3) To conduct any sales or rental business;
  - (4) To sell or offer to sell any article, good publication, subscription; or
  - (5) Other thing of value;
- in the area defined as the beach or access.

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*(Ord. No. 92-02, 6-15-1992)*

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**Sec. 16-34. - Fireworks prohibited on beach.**

It shall be unlawful for any person to use fireworks on the beach or access at any time.

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*(Ord. No. 92-02, 6-15-1992)*

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**Secs. 16-35—16-56. - Reserved.**

ARTICLE III. - WEAPONS

**Sec. 16-57. - Discharge of weapons prohibited.**

The discharge, or cause to be discharged, by any person of any firearm of any kind or nature, air rifle, pellet gun, sling shot, or any similar device, within the corporate limits of the town is hereby prohibited and is declared to be unlawful.

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*(Ord. No. 81-7, 10-12-1981)*

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Chapter 17 - RESERVED

Chapter 18 - PARKS AND RECREATION

**Sec. 18-1. - Regulations affecting public lakes.**

The following are regulations affecting public lakes for use of residents and their guest of the town for recreation, peaceful relaxation and quiet enjoyment and to protect the water quality along with the animal and plant habitat in addressing the environmental concerns:

- (1) The use of lake water for drinking or cooking is strictly prohibited.
- (2) No swimming or diving is allowed.
- (3) Those who engage in boating do so at their own risk, assuming all liability for all such activity.
- (4) Electric trolling motors only, all other power boats or motors are strictly forbidden.
- (5) All persons using the lakes must wear a federally approved flotation device at all times.
- (6) The rules of safe boating must be followed at all times.
- (7) Fishing is strictly "hook and release," by hook and line.
- (8) No netting, hard lines, etc.
- (9) Wildlife in and around the lakes is not for human consumption.
- (10) No littering, dumping or fill is permitted in the lakes.
- (11) Lake usage is at your own risk.
- (12) Residents less than 12 years of age must be accompanied by an adult.
- (13) Nonresidents must have a permit that can be obtained from the town office.
- (14) A state fishing license is required.

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*(Ord. No. 2006-01, 3-20-2006)*

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Chapter 19 - RESERVED

Chapter 20 - PLANNING

ARTICLE I. - IN GENERAL

**Secs. 20-1—20-18. - Reserved.**

ARTICLE II. - PLANNING COMMISSION

**Sec. 20-19. - Established.**

There is hereby established a planning commission for the town which shall have the powers and duties as provided in S.C. Code 1976, § 6-29-310, et seq.

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*(Ord. No. 99-01, § 1, 2-15-1999)*

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**Sec. 20-20. - Composition.**

The planning commission shall consist of five members appointed by town council for terms of three years, staggered so that one-third of the members shall have terms expiring in each year. Members shall serve until their successors are appointed and qualified. No member of the planning commission shall be the holder of an elected public office in the town.

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*(Ord. No. 99-01, § 3, 2-15-1999)*

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**Sec. 20-21. - Compensation.**

Members of the planning commission shall serve without compensation. Reimbursement for actual expenses incurred in the performance of official duties may be reimbursed from budgeted funds pursuant to reimbursement policies and procedures for employees of the town.

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*(Ord. No. 99-01, § 3, 2-15-1999)*

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**Sec. 20-22. - Removal of members.**

Members of the planning commission may be removed at any time by town council for cause. The existence of cause shall be discussed by the council in executive session as permitted by the Freedom of Information Act, S.C. Code 1976, § 30-4-70(a)(1), and the determination of removal shall be by vote in public session declaring a vacancy in the position without a statement of cause. Any fact which, in the discretion of the council, is deemed to adversely affect the public interest, including lack of attendance at meetings, may constitute cause.

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*(Ord. No. 99-01, § 4, 2-15-1999)*

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**Sec. 20-23. - Organization and rules of procedure.**

The planning commission shall organize, elect officers, and adopt rules of procedure as required by S.C. Code 1976, § 6-29-360.

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*(Ord. No. 99-01, § 5, 2-15-1999)*

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**Sec. 20-24. - Public hearings.**

The planning commission shall hold all public hearings on amendments to the zoning chapter, chapter 32, and map pursuant to S.C. Code 1976, § 6-29-760(A).

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*(Ord. No. 99-01, § 6, 2-15-1999)*

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[Chapter 21 - RESERVED](#)

[Chapter 22 - STORMWATER](#)

## ARTICLE I. - IN GENERAL

### **| Sec. 22-1. - Purpose.**

The purpose of this stormwater chapter is to protect, maintain, and enhance the environment of the town and the public health, safety, and general welfare of the citizens of the town and to prevent and/or minimize the pollution of our natural coastal waters: the Briarcliffe Lakes, White Point Swash, and the Briarcliffe Cabana marsh and beach waters. It is in the public interest that the quality of our waters be maintained and preserved for the enjoyment of present and future generations.

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*(Ord. No. 2008-05, § I(A), 10-20-2008)*

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### **| Sec. 22-2. - Objectives and rationale.**

A stormwater regulation sets a community-wide standard for managing stormwater, and complements education programs and incentives for maintaining phase II NPDES standards.

- (1) Gives the town the ability to prohibit illicit connections to the town's stormwater system. Illicit connections include the following:
  - a. Failed septic tanks;
  - b. Washing machines discharging to roadside ditches;
  - c. Animal waste;
  - d. Garbage;
  - e. Litter;
  - f. Intentional vehicle oil;
  - g. Antifreeze;
  - h. Paint; and
  - i. Other household chemical dumping.
- (2) Protect, maintain, and enhance the short-term and long-term public health, safety, and general welfare. This objective will be achieved by:
  - a. Establishing minimum requirements and procedures to control the adverse effects of increased stormwater runoff associated with both future land development and existing developed land within the town;
  - b. Providing proper management of stormwater runoff to minimize damage to public and private property and reduce the effects of land disturbing activities on land and stream channel erosion;
  - c. Protecting, preserving, and enhancing water quality and fish and wildlife habitat within the town and in downstream receiving waters; and
  - d. Alleviate street and property flooding.
- (3) Comply with state and federal (EPA) stormwater regulations developed pursuant to the Clean Water Act. These requirements include:
  - a. Control pollutants from stormwater discharges associated with commercial and industrial activity and the quality of stormwater discharge from residential, commercial and industrial developments;
  - b. Prohibit illicit connections to the stormwater drainage system;
  - c. Control discharges to the stormwater drainage system from spills and dumping or disposal of materials other than stormwater; and
  - d. Control, through intergovernmental agreements, contribution of pollutants from one municipal system to another.

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*(Ord. No. 2008-05, § I(B), 10-20-2008)*

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### **| Sec. 22-3. - Definitions.**

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

*Best management practices (BMPs)* means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices.

*Failed system* means any sewage disposal system that does not adequately treat and dispose of sewage that consequently creates a public or private nuisance or threat to public health and/or environmental quality, as evidenced by, but not limited to, one or more of the following conditions:

- (1) Failure to accept sanitary sewage into the building sewer. Building sewage backs up in the structure.
- (2) Discharge of sanitary sewage to a basement, subsurface drain, surface drain or surface water unless expressly permitted by DHEC.
- (3) Sanitary sewage rising to the surface of the ground over or near any part of an onsite sewage disposal system or seeping down-gradient from the drainfield at any change in grade, bank or road cut.
- (4) Any deterioration or damage to any onsite sewage disposal system that would preclude adequate treatment and disposal of wastewater (i.e., damage from a vehicle driven over the drainfield or septic tank).
- (5) A septic tank that is not constructed to be watertight (e.g., bottomless tank) as required to hold wastewater for primary treatment prior to discharging to a drainfield.
- (6) The presence of a grease trap to which kitchen waste is discharged and which is not connected to the septic tank or drainfield.

*Impervious surface* means a surface, which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. This term includes, but is not limited to, most conventionally surfaced streets, roofs, sidewalks, driveways, and parking lots.

*Post-development conditions* means those conditions which are expected to exist, or do exist, after alteration, resulting from human activity, of the natural topography, vegetation, and rate, volume or direction of stormwater runoff.

*Primary drainage system* means the system that includes the major drainage facilities and appurtenances for conveying stormwater and surface water from watershed.

*Receiving bodies of water* means any water bodies, watercourses or wetlands into which surface waters flow either naturally, in manmade ditches, or in a closed conduit system.

*Runoff* means the part of rainfall that is not absorbed into the ground, but as surface water, flows from or over the land.

*Secondary drainage system* means the system that includes minor storm sewer systems, ditches, swales, and appurtenant structures and systems for conveying stormwater and surface water.

*Sedimentation facility* means any structure or area, which is designed to retain suspended sediments from collected stormwater runoff.

*SMS4* means any conveyance or system of conveyances that is owned or operated by a small local government entity designed for collecting and conveying stormwater, which is not part of a publicly owned treatment works.

*Swale* means a structural measure with a lining of grass, riprap or other materials, which can function as a detention structure or BMP and convey stormwater runoff without causing erosion.

*Water body* means any natural or artificial pond, lake, reservoir or other area which ordinarily or intermittently contains water and which has a discernible shoreline.

*Watercourse* means any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, street, roadway, swale or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, or banks.

*Watershed* means a drainage area or drainage basin contributing to the flow of stormwater into a receiving watercourse or water body.

*Wetlands* means low lying areas that typically exhibits standing water where the US Army Corps of Engineers and or SCDHEC/OCRM have approved delineation.

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*(Ord. No. 2008-05, § I(C), 10-20-2008)*

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#### **| Sec. 22-4. - Acronyms.**

<b>NPDES</b>	<b>National Pollutant Discharge Elimination System</b>
<b>MS4s</b>	<b>Municipal separate storm sewer systems (SMS4—Small)</b>
<b>Phase II</b>	<b>70 SC communities;</b>
<b>NOI</b>	<b>Notice of intent</b>
<b>SCDHEC</b>	<b>South Carolina Department of Health and Environmental Control</b>
<b>OCRM</b>	<b>Office of Ocean and Coastal Resource Management</b>
<b>EPA</b>	<b>(Federal) Environmental Protection Agency</b>
<b>BMP</b>	<b>Best management practices</b>
<b>TMDL</b>	<b>Total maximum daily loads</b>
<b>MEP</b>	<b>Maximum extent practical</b>
<b>EPA's CWA</b>	<b>Clean Water Act; SC Pollution Control Act</b>
<b>Outfall</b>	<b>A point source where a municipal storm sewer discharges to waters of the state</b>
<b>Stormwater</b>	<b>Stormwater runoff and surface runoff and drainage</b>
<b>SWMP</b>	<b>Stormwater management program</b>
<b>CWSEC</b>	<b>Coastal Waccamaw Stormwater Education Consortium 303(d)—list of impaired waters</b>
<b>WQ</b>	<b>Water quality</b>
<b>CMWS</b>	<b>(B and C) Center for Marine and Wetland Studies</b>
<b>DNR</b>	<b>Department of Natural Resources</b>
<b>DOT</b>	<b>Department of Transportation</b>
<b>NPS</b>	<b>Nonpoint source pollution</b>
<b>NEMO</b>	<b>Nonpoint education for municipal official</b>

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*(Ord. No. 2008-05, § I(D), 10-20-2008)*

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#### **| Sec. 22-5. - Notification of violation; penalty.**

For any violation of the provisions of this chapter for which a fine or penalty is not stated, the violator will receive written notification of the violation by the town and, if not corrected within 30 days, the town will issue a misdemeanor citation levying a fine up to \$500.00 for each day of the continuing violation or up to 30 days in jail.

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*(Ord. No. 2008-05, § V(D), 10-20-2008)*

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**Sec. 22-6. - Amendments.**

This article may be amended in the manner as prescribed by law for its original adoption. Before the town council amends this article, it must seek the advice of the stormwater utility pursuant to the local intergovernmental agreement which will make a recommendation for each amendment within 30 days of this request.

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*(Ord. No. 2008-05, § V(B), 10-20-2008)*

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**Secs. 22-7—22-26. - Reserved.**

**ARTICLE II. - STORMWATER CONTROL**

**Sec. 22-27. - Construction site stormwater runoff control.**

- (a) No person shall conduct any land disturbing activity that will displace sediment onto adjacent lots or roads both during and after construction. The property must be designed to account for all grading and drainage issues that will keep the stormwater from running off their property and creating a nuisance.
- (b) All construction projects that will disturb land in excess of one-half acre shall comply with the stormwater management requirements (such as a silt fence) as detailed by the local intergovernmental agreement (consistent with the Horry County Stormwater Ordinance No. 17.7-26 through 17.7-61). The resident must obtain a permit from the county stormwater department.

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*(Ord. No. 2008-05, § II, 10-20-2008)*

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**Sec. 22-28. - Post-construction stormwater management in new development or redevelopment.**

- (a) The owner shall maintain all temporary and permanent on-site stormwater management facilities and BMPs required by this article during and after site development, unless the facility is officially accepted by the town. The owner shall provide adequate ingress and egress for town personnel to inspect the premises at reasonable times. For purposes of this section, the term "owner" shall also mean homeowner association or other collective member organizations.
- (b) Should the owner fail to properly maintain the drainage system, stormwater management facilities, and BMPs as required by this chapter and the Horry County Ordinance No. 17.7-26 through 17.7-61, the town building commissioner shall give written notice to the owner of record as appears on the latest property tax rolls, by certified mail, of the nature of the violation and order the corrective action necessary. Should the owner fail, within a reasonable amount of time up to 30 days from the date of the notice, to take corrective action to the satisfaction of the building commissioner or appeal the notice and order, the town may enter upon the lands, take corrective action as the building commissioner may deem necessary, and place a lien on the property of the owner for the costs thereof.
- (c) For new construction, or addition, in excess of 1,000 square feet on any lot adjacent to a town lake, a vegetated buffer must be created or maintained for at least ten feet to the water's edge. A view corridor can be created of a lawn to the water's edge if it does not exceed one-third of the lot's shoreline. The purpose of a buffer is to reduce erosion, stabilize banks, encourage infiltration of stormwater runoff, control sedimentation, and provide a vegetated area that shades the water and encourages and aquatic species.

**Secs. 22-29—22-59. - Reserved.**

**ARTICLE III. - ILLICIT DISCHARGE DETECTION AND ELIMINATION**

**Sec. 22-60. - Prohibitions; exceptions; accidental discharge.**

(a) *Prohibited.* It is unlawful for any person to throw, drain, run, or otherwise discharge to any component of the town's stormwater system, including streets, highways, rights-of-way, or to cause, permit or suffer to be thrown, drain, run, or allow to seep or otherwise discharge into such system, any organic or inorganic matter that shall cause or tend to cause pollution or blockages to such waters, as provided for in this article.

(b) *Exceptions.* The town exempts the following from the prohibition provision in subsection (a) of this section:

(1) Water line flushing performed by a government agency, diverted stream flows, rising groundwaters, and polluted groundwater infiltration.

(2) Unpolluted pumped groundwater.

(3) Discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential carwashing, flows from riparian habitats and wetlands, and street washwater.

(4) Discharges or flows from firefighting.

(5) Other unpolluted water.

(c) *Accidental discharge.* In the event of an accidental discharge to the town drainage system of any material or substance other than stormwater runoff, the stormwater department per the intergovernmental agreement shall be informed immediately of the nature, quantity and time of occurrence of the discharge. The person responsible shall take immediate steps to contain, treat or take other actions to minimize the effects of the discharge on the town drainage system and receiving streams. The person responsible shall also take immediate steps to ensure no recurrence of the discharge.

**Sec. 22-61. - Illicit connections.**

(a) It is unlawful for any person to connect any pipe, open channel, or any other conveyance system to the town drainage system that discharges anything except stormwater discharges that are identified on the county approved stormwater management and sediment control plan.

(b) Improper connections in violation of this article must be disconnected and redirected to an acceptable outlet, as approved by the stormwater utility pursuant to the intergovernmental agreement.

**Sec. 22-62. - Miscellaneous requirements.**

(a) The town prohibits the improper or ineffective disposal of waste (faulty or inadequate septic systems). All private septic and sewer systems must be maintained or repaired so as to meet commonly understood standards of performance to prevent contamination of soil and water. All residences on a floodplain (Ocean View, Palmetto and Beach Drive) must connect to the available sewer system operated by the City of Myrtle Beach within five years of the effective date of the ordinance from which this chapter is derived, or sooner if their septic system is faulty or fails.

(b) If an illegal discharge is detected, the local regulatory authority, DHEC, will be called pursuant to the

intergovernmental agreement to confirm the faulty or failed system. The town recognizes that DHEC has the authority to enter private property after 24-hour notice to test any private systems in the town pursuant to S.C. Code 1976, § 48-1-50. If DHEC finds a violation, written notice will be given to the owner of the property to repair or replace the system. If the owner does not begin the process of repair or replacement within ten days, the town will issue a misdemeanor citation to the owner of the property and a fine levied of \$500.00 for every additional ten days the system is not repaired or replaced, or up to 30 days in jail.

(c) Dog waste. Residents must be prepared to promptly pick up their dog (pet) waste on town property and on other people's property and properly dispose of it. Failure to comply shall result in a fine of \$50.00.

(d) The discharge of any pool cannot go directly into any waters of the town or state or any MS4 owned drainage system. If the owner has any questions regarding a discharge, the owner should refer to the county stormwater utility. Failure to comply shall result in a fine of \$50.00.

(e) It is illegal for any person to intentionally litter the public areas. Failure to comply shall result in a fine of \$50.00.

(f) All persons shall dispose of paint, antifreeze, oil, and other chemicals in proper receptacles and shall not intentionally dump onto the soil, into storm drains or ditches or into septic systems.

(g) Any remodeling of an existing residence that extends the square footage of a residence by 500 square feet or more, or adds a bedroom or a room with a door that could be used as a bedroom, or complete reconstruction of a residence, the owner must apply for a new septic permit from SCDHEC.

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*(Ord. No. 2008-05, § IV(C), 10-20-2008)*

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## **Sec. 22-63. - Liability.**

Neither the approval of a plan under the provisions of this article nor the compliance with the provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor shall it impose any liability upon the county for damage to any person or property.

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*(Ord. No. 2008-05, § V(C), 10-20-2008)*

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## Chapter 23 - RESERVED

## Chapter 24 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

(RESERVED)

## Chapter 25 - RESERVED

## Chapter 26 - TAXATION11

**State law reference—Municipal power to levy taxes on all property not otherwise exempted by general law, S.C. Code 1976, §§ 5-7-30, 5-21-110; authority of local governments to assess taxes and fees, S.C. Code 1976, § 6-1-300 et seq.; collection of delinquent ad valorem taxes by municipalities, S.C. Code 1976, § 5-7-300; alternative procedure for collection of property taxes, S.C. Code 1976, § 12-51-40 et seq.; municipal authority to exempt certain manufacturing establishments from ad valorem taxation, S.C. Const. art. X, § 3(g); property tax levies shall be uniform, S.C. Const. art. X, § 6; any tax levied shall distinctly state the public purpose for which tax proceeds will be applied, S.C. Const. art. X, § 5.**

## ARTICLE I. - IN GENERAL

### **| Secs. 26-1—26-18. - Reserved.**

## ARTICLE II. - PROPERTY TAX

### **| Sec. 26-19. - Real property taxation.**

Real property shall be taxed, and said taxes shall be enforced and collected, in accordance with state law.

## Chapter 27 - RESERVED

## Chapter 28 - TRAFFIC AND MOTOR VEHICLES

### **| Sec. 28-1. - Careless operation of vehicle.**

It shall be unlawful for any person to operate any vehicle without care and caution and due regard for the safety of persons or property. Any person failing to operate a vehicle with care and caution and due regard for the safety of persons and property shall be guilty of the offense careless operation of a vehicle. The operation of any vehicle when the same or any of its components is not in proper or safe condition shall be a prima facie evidence of careless operation of a vehicle. Careless operation of a vehicle is unlawful and may be a lesser included offense of reckless driving.

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*(Ord. No. 94-02, § 8.112, 5-16-1994)*

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### **| Sec. 28-2. - Penalty.**

Violators of this chapter may be charged with a maximum fine of \$200.00 or 30 days in jail plus the state assessment fees, if applicable.

### **| Sec. 28-3. - Speed limit.**

It shall be unlawful to drive a motor vehicle at speeds exceeding 25 mph on the roads in the Town of Briarcliffe Acres, except that maximum speeds on U.S. Highway 17 within town limits are not regulated by this chapter.

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*(Ord. No. 87-3, 9-21-1987)*

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### **| Sec. 28-4. - Motor driven vehicles prohibited on the beach.**

Motor driven vehicles, except police and emergency vehicles, are prohibited from driving on the beach at all times.

[Chapter 29 - RESERVED](#)

[Chapter 30 - UTILITIES](#)

(RESERVED)

[Chapter 31 - RESERVED](#)

[Chapter 32 - ZONING<sup>12</sup>](#)

\*Federal law references—Preservation of local zoning authority concerning wireless telecommunications facilities, 47 USC 322(c)(7); limited federal preemption of state and local zoning laws affecting amateur radio facilities, *Memorandum Opinion and Order*, PRB-1, 101 FCC 2d 952 (1985) and 47 CFR 97.15(b); Religious Land Use and Institutionalized Persons Act, 42 USC 2000cc et seq.

**State law reference—Zoning ordinances and purposes, S.C. Code 1976, § 6-29-710; zoning districts, S.C. Code 1976, § 6-29-720; board of zoning appeals, S.C. Code 1976, § 6-29-780.**

[ARTICLE I. - IN GENERAL](#)

**| [Sec. 32-1. - Authority and enactment.](#)**

- (a) *Authority and purpose.* In pursuance of authority conferred by the general statutes of South Carolina, 1978 Code of Laws, title 6, chapter 29, article 5, and for the purpose of:
- (1) Promoting the health, safety, morals, or general welfare of the town;
  - (2) Lessening congestion in the streets, securing safety from fire;
  - (3) Providing adequate light and air;
  - (4) Preventing the overcrowding of land;
  - (5) Avoiding undue concentration of population;
  - (6) Facilitating the adequate provision of transportation, police and fire protection, water, wastewater treatment, schools, parks, disaster evacuation, and other public facilities;
  - (7) Protecting scenic areas, and to secure safety from flooding, in accordance with a comprehensive plan;
- the Town Council of Briarcliffe Acres does ordain and enact into law the articles and sections set forth in this chapter.
- (b) *Objectives.* The objectives of this chapter are:
- (1) To guide development in accordance with the plans of the founding fathers of Briarcliffe Acres;
  - (2) To protect, promote and improve the public health and general welfare of the community;
  - (3) To secure safety from floods, fire, panic and other dangers;
  - (4) To provide for adequate light and air;
  - (5) To prevent overcrowding of land;
  - (6) To avoid undue concentrations of population;
  - (7) To protect scenic areas comprising beachfront areas, sand dunes, salt and fresh water lakes, parks, highway buffer strips, walks, roads—some with landscaped islands; and
  - (8) Other public requirements.

To accomplish these stated objectives this chapter and the accompanying zoning map have been designed to maintain the town as a single-family residential community on 40,000 square feet or

larger building sites, except for the portion of the town which lies west of Route 17, which is owned by the Lutheran Church and was annexed into the town for use as a church, school, or other community purposes.

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(Ord. of 3-15-1999, § 4.401)

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### **Sec. 32-2. - Short title.**

This ordinance shall be known as the "Zoning Ordinance of the Town of Briarcliffe Acres, South Carolina" and the map herein referred to, which is identified by the title of "Zoning Map of the Town of Briarcliffe Acres, South Carolina" dated July 1, 1978, and all explanatory material thereon are hereby adopted and made part of this chapter. Also included as part of this chapter is the "Flood Control Map, Briarcliffe Acres, South Carolina."

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(Ord. of 3-15-1999, § 4.402)

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### **Sec. 32-3. - Definitions.**

Unless otherwise stated the following words shall, for the purpose of this ordinance, have the meaning herein indicated. Words used in the present tense include future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not directory. The word "used" or "occupied," as applied to any land or building shall be construed to include the word "intended," "arranged," or "designed" to be used or occupied.

*Accessory building or use* means a building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such building or use.

*Alley* means any public or private way set aside for public travel, 20 feet or less in width.

*Alteration of building* means any change in the supporting members of a building (such as bearing walls, columns, or girders), any addition or reduction to a building, any change in use, or any relocation of a building from one location of position to another.

*Buffer* means a plant material acceptable to the building commissioner which has such growth characteristics as will provide an obscuring screen not less than six feet in height.

*Buildable area* means that portion of any lot which may be used or built upon in accordance with the regulations governing the given zoning district within which the particular lot is located once the various front, side, and rear yard requirements required for the district have been subtracted from the total lot area.

*Building* means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, or chattel.

*Building height* means the vertical distance measured from the natural grade at the building line to the highest point of the roof.

*Dwelling* means a building designed or used as permanent living quarters for one family.

*Family* means one or more persons occupying a single dwelling unit provided that all

members are related by blood or marriage, but further provided that domestic servants employed on the premises may be housed on the premises.

*Flood* means an overflow of lands not normally covered by water that results in significant adverse effects in the vicinity.

*Lot* means a parcel of land which fronts on and has access to a street and which is occupied or intended to be occupied by a building with customary accessories and open space.

*Lot, corner*, means a lot which has frontage on more than one street, provided, however, that no corner lot shall qualify as a double frontage lot unless said corner lot has frontage on three or more streets.

*Lot line* means the boundary dividing a given lot from a street, alley, or adjacent lots.

*Lot of record* means a lot, the boundaries of which are filed as legal record on Briarcliffe Acres Plat, dated October 1, 1954, and recorded in Plat Book No. 17, Page 41, in the Horry County Courthouse.

*Motor home* means a vehicular unit designed to provide temporary living quarters built into an integral part of or permanently attached to a self-propelled motor vehicle chassis or van which unit contains a permanently installed independent life support system, such as a gas or electric refrigerator, a toilet with exterior evacuation, heating or air conditioning with onboard power source separate from the vehicle engine, a potable water supply system, or a separate electric power supply.

*Nonconforming use* means any structure or land lawfully occupied by a use that does not conform to the use regulations of the district in which it is situated.

*Outdoor advertising* means an attached, freestanding or structural poster panel or painted sign for the purpose of conveying some information, knowledge or idea to the public.

*Principal building* means a building in which is conducted the main or principal use of the lot on which said building is located.

*Residence* means a building arranged or designed to provide living quarters for one family.

*Story* means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy other than for a domestic employee shall not be counted as a story.

*Street* means any public or private way set aside for public travel. The word street shall include the words "road," "highway," and "thoroughfare."

*Structure* means anything constructed or erected, the use of which requires location on the ground, or attachment to something having a location on the ground.

*Yard* means an open space on the same lot with a principal building, open, unoccupied and unobstructed by buildings from the ground to the sky except as otherwise provided in this chapter.

*Front yard* means the yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building, including covered porches. On corner lots the yard on both sides of the principal building fronting on a street is considered to be a front yard. (See Diagram A.)

DIAGRAM A

CD32:7

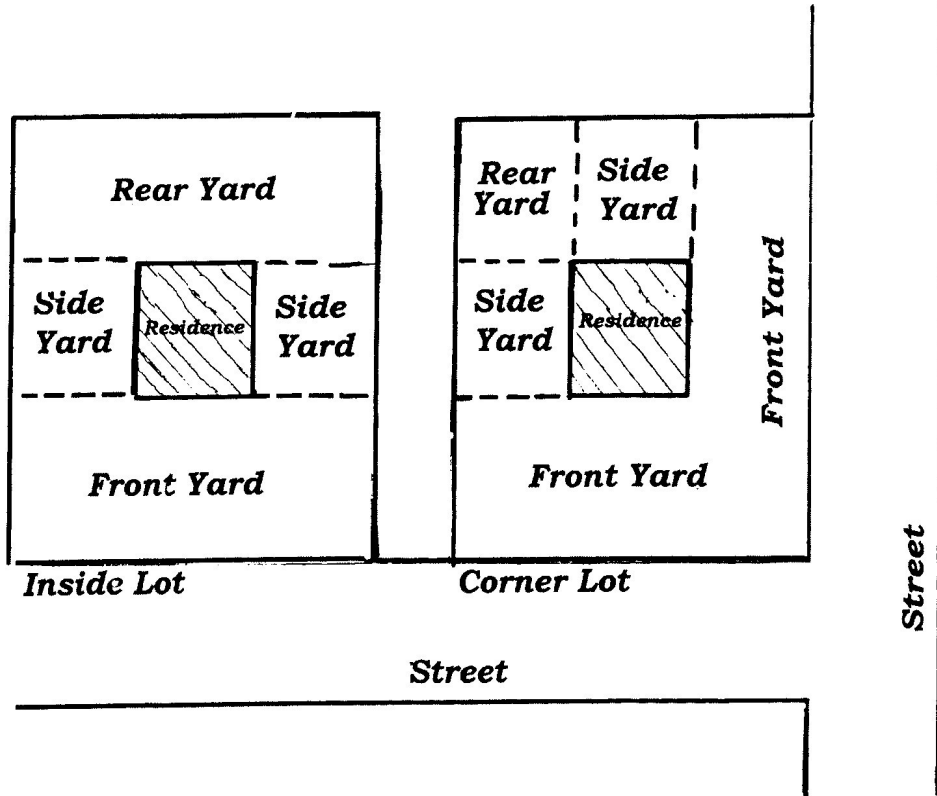


DIAGRAM A

ZONING

§ 32-3

*Rear yard* means the yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building, including covered porches. On corner lots, the rear yard shall be the area enclosed by the two side yards and the side lot lines. (See Diagram A.)

*Side yard* means a yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches.

(Ord. No. 95-2, 3-20-1995; Ord. of 3-15-1999, § 4.413)

**Secs. 32-4—32-24. - Reserved.**

## ARTICLE II. - ZONING DISTRICTS

### DIVISION 1. - GENERALLY

#### **| Sec. 32-25. - Establishment of zoning districts; boundaries.**

(a) *Establishment of districts.* For the purpose of this chapter, the Town of Briarcliffe Acres, South Carolina, is hereby divided into three classes of districts as follows:

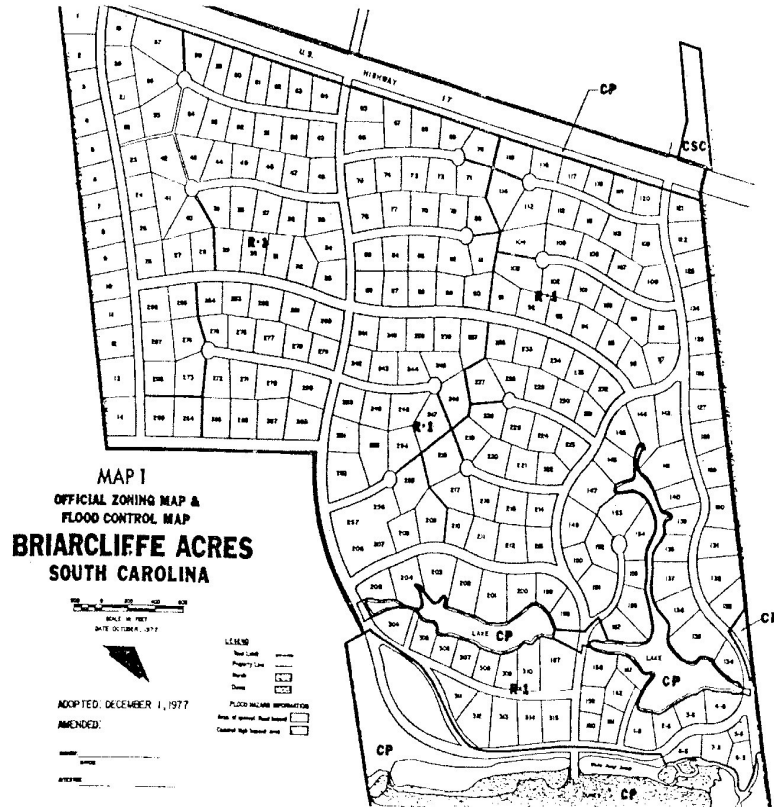
- (1) Single-family residential: R-1 district-low density.
- (2) Conservation preservation: CP district-conservation area.
- (3) Church, school, community uses: CSC district.

(b) *Rules concerning district boundaries.* The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the Town of Briarcliffe Acres, South Carolina," dated July 1, 1978, and all amendments thereof, which is part of the ordinance from which this chapter is derived, and which is on file in the office of the clerk. Unless otherwise specifically indicated on the map, the boundaries of districts are lot line or the center line of streets or alleys or such lines extended, the corporate limit line, or a centerline of streams or other water bodies. Questions concerning the exact location of district boundaries, shall be determined by the building commissioner.

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*(Ord. of 3-15-1999, § 4.403)*

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**Sec. 32-26. - Nonconforming uses; parking; floodplains; signs; fences; and other provisions.**

- (a) *Continuance of nonconforming uses.* Any lawful use of any building or land existing at the time of the enactment of the ordinance (from which this chapter is derived) or whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of this chapter with the following limitations:
- (1) No building or land containing a nonconforming use shall hereafter be extended unless such extensions shall conform with the provisions of this chapter for the district in which it is located.
  - (2) Provided, however, that a nonconforming use may be extended throughout those parts of the building which were manifestly arranged or designed for such use prior to the time of enactment of the ordinance (from which this chapter is derived).
  - (3) Any nonconforming building which has been damaged by fire or other causes may be reconstructed and used as before unless the building commissioner determines that the building is damaged to the extent of more than 75 percent of the structure in which case any repair or reconstruction shall be in conformity with the provisions of this chapter.
  - (4) When a nonconforming use of any building or land has ceased for a period of 90 days, it shall not be reestablished or changed to any use not in conformity with the provisions of this chapter.

(5) All nonconforming outdoor advertising signs shall be required to conform to the provisions of this chapter within three years from December 1, 1977, upon official notification by the building commissioner.

(b) *Off-street automobile parking.* Off-street automobile parking space shall be provided for every lot on which any of the following uses are hereafter established:

(1) Dwellings with at least two spaces for every dwelling unit.

(2) Any building in the CSC district with at least one space for every 300 square feet of building area.

(c) *Inclusion of floodplain provisions.* For the purpose of this chapter, land considered subject to flood shall be that land lying below the elevation of the one percent probable flood as shown on the Flood Control Map of Briarcliffe Acres. No permit shall be issued for the construction of any building or for any use within the flood prone areas until the plans for such construction have been submitted to the Briarcliffe Acres building commissioner. The building commissioner may make his approval subject to such conditions to carry out the purpose of this district in accordance with flood damage prevention regulations. Where in the opinion of the building commissioner, topographic data, engineering, and other studies are needed to determine the effects of flooding; the building commissioner may require the applicant to submit such data or other studies prepared by a registered professional engineer or other technical persons.

(d) *Outdoor signs.* No outdoor sign shall be erected or displayed in the town unless such sign falls within the following categories set forth below and also complies fully with the requirements pertaining to such signs:

(1) *Real property signs.* Signs advertising property for sale, rent, or lease shall not exceed four square feet in area. The number of signs shall not exceed one per lot. No such sign shall be placed closer than five feet from the street in front of or beside the advertised property. No real property advertising sign shall be erected in CP zones or on any road rights-of-way. All real property advertising signs shall be removed within 48 hours following the execution by both parties of a rental or lease of the advertised property. With regard to properties listed for sale, all real property signs shall be removed within 48 hours following conclusion of sale of advertised property.

(2) *Informational signs.*

a. Signs displaying the name of a building contractor or subcontractor shall not exceed 16 square feet in area and shall not be placed closer than 15 feet from the property line where the contractor is engaged. No such sign shall be erected or displayed on any road right-of-way. All such signs shall be removed within 24 hours following completion of the job, or the occupancy of the premises, whichever comes first.

b. Residents may display their names on a post erected at the head of the street on which their houses are located. Such signs shall not exceed 120 square inches in area. Similar signs may be displayed on the resident's property but located at least five feet from any property line except when such names or numbers are displayed on the owner's mailbox.

c. No permanent advertising signs of a commercial or semi-commercial nature shall be erected or displayed on any property within the town.

d. Traffic signs and other police informational signs shall be erected only on approval of the town council and shall be of a size and type the town council deems necessary.

e. No-trespassing, no-parking, and privacy signs may be erected by the town road department in CP districts. Such signs may be of the size and type that will ensure the protection of the sand dunes, the safety of the residents, the privacy of the cabana area, etc. Approval shall be obtained from Briarcliffe Acres Association and town council before proceeding.

f. Signs in the CSC district shall be noncommercial and of the type and size specified by church authorities. However, signs of a temporary nature advertising fish-fries, cake sales, etc. on the premises may be displayed for up to 30 days in advance of the event and then removed.

g. Any signs erected or displayed in violation of this chapter shall be removed by the building department, or by such other town official, as the case may be, without notice.

(e) *Fences.* Fences erected on any lot within an R-1 residential district shall comply with the following requirements:

(1) *Fronting a street.* No fence, except an approved decorative type, shall be installed in the front yard of any property. On corner lots, the yard on both sides of a building fronting on a street is considered front yard. (See definitions section 32-3, "front yard"). A decorative fence having a maximum height of 36 inches and of a design approved by the planning commission before installation may be permitted along the property lines of a front yard.

(2) *Property line and privacy fences.* A property line or privacy fence may be installed with a maximum nominal height of six feet from natural grade, except that along the northeastern and southwestern perimeters of the town, and the perimeter along US-17 Highway the maximum nominal height may be eight feet. The construction and design of all such fences must have the approval of the building department before installation. No such fence shall extend into the front yard.

(3) *Animal enclosures.* The maximum height of an animal enclosure shall be a nominal eight feet from natural grade. All enclosures shall be located in the rear yard at least ten feet from any property line. (See definitions section 32-3, "rear yard.")

(4) *Swimming pool enclosures.* All outdoor swimming pools shall be enclosed with a substantial barrier or fence of minimum four-foot height, and any access gates thereto shall be kept locked when not in use. All swimming pools that are nonconforming shall be required to conform to the provisions of this chapter within 180 days of enactment.

(f) *Prohibited parking.* It shall be unlawful to park or store any recreational vehicle or motor home on any residential lot, roadway, or street, except as permitted in section 32-59.

(Ord. No. 95-2, 3-20-1995; Ord. of 3-15-1999, § 4.405)

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## **Sec. 32-27. - Application of regulations.**

Except as herein provided:

(1) *Use.* No building or land shall hereinafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.

(2) *Street frontage.* No dwelling shall be erected on a lot which does not abut on at least one street for at least 50 feet, except that lots fronting on cul-de-sacs may have a minimum road frontage of 30 feet if the lot is at least 100 feet in width at the building line.

(3) *Corner lots.* Minimum width of side yard along an intersecting street shall be 40 feet on each street.

(4) *One principal building on a lot.* Only one principal building and its customary accessory buildings may hereafter be erected on any lot except in the CSC district where there may be more than one principal building on a lot provided that the building commissioner does not find them to be incompatible with each other for reasons of public health, safety and welfare.

(5) *Reduction of lot size.* No lots shall be reduced in area so that yards, lot area per family, lot width, building area or other provisions of this chapter shall not be maintained. This section shall not apply when a portion of a lot is acquired for public purposes.

(6) *Yard and other spaces.* No part of a lot or other open space required about any building for the purpose of complying with the provisions of this chapter shall be part of a yard or open space required under this chapter for another building.

(7) *Customary accessory buildings in residential districts.* Accessory buildings are permitted provided they are located in the rear of the lots and not closer than ten feet to any property line. The construction or replacement of accessory buildings or structures on the property can not be started until the principal single family building has officially been completed.

(8) *Building area.* On any lot, within an R-1 residential district, the area occupied by all buildings including accessory buildings, shall not exceed 15 percent of the total area of such a lot.

(9) *Height and density.* No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the district in which it is located.

(10) *Annexations.* All territory which may hereafter be annexed to the Town of Briarcliffe Acres, South Carolina, shall be considered to be in the R-1 low density residential district until otherwise classified.

(11) *Mobile homes.* Mobile homes are excluded from R-1, single-family districts, and CP, conservative preservation districts.

(12) *Home occupations.* No professional or business activities are permitted in R-1 districts.

(13) *Utility services.* Any and all changes in existing services planned by any utility company shall require written approval of the building commissioner before proceeding. All new utility services within the VE17, AE16 and AE13 zones on the most current Flood Insurance Rate Map (No. 45051C0353F) shall be underground.

(14) *Foundations and elevations.* Foundations and first floor elevations all residential buildings in the area known as "C," outside of the established floodplain areas "A" and "B":

a. Shall have one of the following types of foundations for structural support:

1. A reinforced concrete slab on concrete footings.

2. Brick masonry curtain walls with interior masonry piers supported on concrete footings.

b. And the elevation of the first floor of any new residence shall not exceed a height of 48 inches above the elevation of the highest natural grade at placement of the building on said lot.

(Ord. of 3-15-1999, § 4.404)

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**Secs. 32-28—32-57. - Reserved.**

**DIVISION 2. - PARKING**

**Sec. 32-58. - Unlicensed vehicles.**

Wrecked or unlicensed vehicles are not permitted in residential zones unless in an enclosed garage.

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*(Ord. of 3-15-1999, § 4.405.7.1)*

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**Sec. 32-59. - Permitted parking.**

Recreational vehicles or motor homes may be parked on residential lots:

- (1) For a period not exceeding seven-consecutive days, provided they are not used for purposes of human habitation, and further provided that the same vehicle shall not be parked within the corporate limits of the town more than once in any 30-day period.
- (2) If the vehicles are within a completely enclosed structure and are not visible from outside said structure.

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*(Ord. No. 95-2, § 4.405.7, 3-20-1995; Ord. of 3-15-1999, § 4.405)*

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**Secs. 32-60—32-76. - Reserved.**

**DIVISION 3. - USES AND REQUIREMENTS**

**Sec. 32-77. - Provisions concerning use districts.**

(a) *R-1 low density residential district.* It is the purpose of this classification to establish a district of low density residential areas along with open spaces which appear likely to develop in a similar manner. The requirements for this district are designed to protect the essential characteristics of the district, to promote and encourage an environment for family life and to prohibit all business and professional activities. In order to achieve the intent of the R-1 (low density) residential district, as shown on the zoning map for the Town of Briarcliffe Acres, South Carolina, the following permitted use is one single-family dwelling per lot.

(b) *CP conservation preservation district.* It is the purpose of this classification district to preserve and/or control development within certain lands, marsh and/or water areas of the town which possess great natural beauty and to maintain them in their natural state, to preserve the character of the town, more specifically the salt and fresh water lakes and marshes which are important ecologically, being breeding grounds for fish, oysters, crabs, birds and other life forms. The oceanfront sand dunes protect our coastline and the low-lying lots behind them from massive wave damage during a hurricane. The 40-foot buffer strip along Highway 17 is heavily forested and reduces noise and pollution caused by trucks and cars. Generally, the entire area of the town has been developed to maintain the natural pine and live oak cover essential to a bird sanctuary. The following uses shall be permitted:

- (1) *Recreational.* Fishing, recreational boating, swimming or nature study; and
- (2) *Special exceptions.* No permit shall be issued for the construction of any buildings, structures, roads, bridges, parking lots, utility lines or for any use within the district until plans have been submitted to the building commissioner for his review and approval.

(c) *CSC church, school, community uses district.* It is the purpose of this classification to establish a district that provides an area for churches, schools, municipal offices, and other community uses that will allow easy

and safe access, provide sufficient space for parking and allow these uses to be clustered on single lots when such multiple uses are compatible and not detrimental to the public health, safety or welfare. The following uses shall be permitted:

- (1) Church, synagogue, temple or other places of worship;
- (2) Municipal offices; and
- (3) School, kindergarten, pre-school nursery, or day care center.

*(Ord. of 3-15-1999, § 4.406)*

**Sec. 32-78. - Area, yard, and height requirements.**

District	Minimum Lot Size		Minimum Yard Requirements from Property Line			Maximum Height of Structures	
	Area (sq. ft.)	Lot width at building line (ft.)	Front (ft.)	Side (ft.)	Rear (ft.)	Stories	Feet
R-1	40,000	100	50	20	30	2	35
CSC	80,000	100	50	10	30	2	45

*(Ord. of 3-15-1999, § 4.407)*

**Secs. 32-79—32-99. - Reserved.**

**ARTICLE III. - EXCEPTIONS AND MODIFICATIONS**

**Sec. 32-100. - Lot of record.**

When the owner of a lot consisting of one or more adjacent lots of official record at the time does not own sufficient land to enable him to conform to the yard or other requirements of this chapter, an application may be submitted to the board of zoning appeals for a variance from the terms of this chapter, in accordance with variance provisions established by this chapter. Such lot may be used as a building site, providing, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the board of zoning appeals.

*(Ord. of 3-15-1999, § 4.408.1)*

**Sec. 32-101. - Adjoining and vacant lots of record.**

With regard to a plat of land consisting of one or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths as required by this chapter, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subject to the requirements of this chapter.

*(Ord. of 3-15-1999, § 4.408.2)*

**Sec. 32-102. - Front yards.**

The front yard requirement in this article for dwellings shall not apply to any lot where the average depth of the existing front yards on developed lots, located within 100 feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.

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*(Ord. of 3-15-1999, § 4.408.3)*

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**Sec. 32-103. - Exception on height limits.**

The height limitations of this section shall not apply to church spires, cupolas and domes not intended for human occupancy; water towers, chimneys, flagpoles, residential television and radio receiving antenna and tower, or masts, amateur radio and citizen band antenna towers or masts.

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*(Ord. of 3-15-1999, § 4.408.4)*

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**Secs. 32-104—32-134. - Reserved.**

**ARTICLE IV. - ENFORCEMENT**

**Sec. 32-135. - Enforcement officer.**

The provisions of this chapter shall be administered and enforced by the municipal building commissioner. This official shall have the right to enter upon any premises necessary to carry out his duties in the enforcement of this chapter.

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*(Ord. of 3-15-1999, § 4.409.1)*

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**Sec. 32-136. - Building permit required.**

It shall be unlawful to commence the excavation for or the construction of any building including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until a building permit has been issued for such work including a statement that the plans, specifications, and the intended use of such building in all respects conform to the provisions of this chapter. For detailed procedures to obtain a building permit and clear building site, see town Code, section 6-46.

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*(Ord. of 3-15-1999, § 4.409.2)*

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**Sec. 32-137. - Procedure.**

Building permits for new construction, alterations, or additions, that meet the building codes adopted by the town, shall be issued by the county building department after approval by the town building department for compliance with deed restrictions, federal floodplain regulations, and zoning chapter. For detailed procedure to obtain a building permit and clear building site, see town Code, section 6-46.

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*(Ord. of 3-15-1999, § 4.409.3)*

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### **Sec. 32-138. - Penalties.**

Any person, firm, corporation or agent who shall violate any of the provisions of this chapter, or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$100.00 nor more than \$200.00 for each offense. Each such person, firm, corporation or agent shall be deemed guilty of a separate offense for each and every day or a portion thereof during which any violation or any provision of this chapter is committed or continued.

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*(Ord. of 3-15-1999, § 4.409.4)*

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### **Sec. 32-139. - Remedies.**

In case any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the building commissioner or any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to the other remedies may institute injunction, mandamus or other appropriate action in proceeding to prevent the occupancy or use of such building.

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*(Ord. of 3-15-1999, § 4.409.5)*

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### **Sec. 32-140. - Enforcement of zoning regulations.**

It shall be unlawful to construct, reconstruct, alter, change the use of or occupy any land, building or other structure without first obtaining written approval of the town building department and a building permit from the county building department in accordance with town Code, chapter 4, article (section 6-46, pertaining to procedure); and the town building department shall not issue any written approval unless the requirements of this chapter and of any ordinance or resolution adopted pursuant to it are complied with. A violation of any ordinance or resolution adopted pursuant to the provisions of this chapter is hereby declared to be a misdemeanor under the laws of the state, and upon conviction thereof, an offender shall be punished in the discretion of the court. In case any building or structure is or is proposed to be erected, constructed reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any ordinance or resolution adopted pursuant to this chapter, the building official or other appropriate administrative officer, town attorney, or any adjacent or neighboring property owner who would be specially damaged by such violation, may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate the violation, or to prevent the occupancy or the building, structure, or land. Each day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues shall be deemed a separate offense.

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*(Ord. of 3-15-1999, § 4.409.6)*

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**Secs. 32-141—32-163. - Reserved.**

**ARTICLE V. - BOARD OF ZONING APPEALS**

**Sec. 32-164. - Membership.**

The board of zoning appeals shall consist of three members, appointed by the Town Council of Briarcliffe Acres. The members shall serve for overlapping terms of not less than three nor more than five or thereafter until their successors are appointed. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members may be removed for cause by the town council. None of the members shall hold any other public office or position in the municipality.

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*(Ord. of 3-15-1999, § 4.410.1)*

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**Sec. 32-165. - Organization, meetings, rules.**

The board shall elect one of its members chairman, who shall serve for one year or until he is reelected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the town council or of the board of zoning appeals. The board shall adopt rules in accordance with the provisions of this article. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

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*(Ord. of 3-15-1999, § 4.410.2)*

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**Sec. 32-166. - Procedure and powers of the board.**

- (a) Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality. Such appeal shall be taken within 30 days from the date the appealing party has received actual notice of the action from which the appeal is taken, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of appeals notice of appeal specifying the ground thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- (b) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings may not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
- (c) The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and

give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney. Public notice of all hearings of the board shall be provided by publication in a newspaper of general circulation in the town at least 15 days in advance of the hearings. In cases involving variances, conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property.

(d) The board of zoning appeals shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.

(2) To hear and decide appeals for variance from the requirements of the zoning ordinance from which this chapter is derived when strict application of the provisions of the chapter would result in unnecessary hardship.

(3) A variance may be granted in an individual case of unnecessary hardship if the board makes an explains in writing the following findings:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;

b. These conditions do not generally apply to other property in the vicinity;

c. Because of these conditions, the application of the chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

1. The board may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance. Other requirements may be prescribed by this zoning chapter.

2. In granting a variance, the board may attached to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

(4) In exercising the its' powers, the board of zoning appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The board in the execution of the duties for which appointed may subpoena witnesses and in case of contempt may certify such fact to the circuit court having jurisdiction. All final decisions and orders of the board must be in writing and be permanently filed in the office of the board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest by certified mail.

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*(Ord. of 3-15-1999, § 4.410.3)*

### **Sec. 32-167. - Contempt of board of zoning appeals.**

In case of contempt by any party, witness or other person before the board of appeals, the board may certify such fact to the circuit court of the county wherein such contempt occurs and the judge of the court, in open court or in chambers, after hearing may impose the penalty as authorized by law.

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*(Ord. of 3-15-1999, § 4.410.4)*

### **Sec. 32-168. - Appeal from board of zoning appeals to circuit court.**

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

after the decision of the board is mailed.

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*(Ord. of 3-15-1999, § 4.410.5)*

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**Sec. 32-169. - Notice of appeal and filing of transcript, supersedeas.**

Upon the filing of an appeal, the clerk of the circuit court shall give immediate notice thereof to the secretary of the board and within 30 days from the time of such notice the board shall file with the clerk a certified copy of the proceedings had before the board of zoning appeals, including a transcript of the evidence heard before it, if any, and the decision of the board. The filing of an appeal in the circuit court from any decision of the board shall not ipso facto act as a supersedeas, but the judge of the circuit court may in his discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

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*(Ord. of 3-15-1999, § 4.410.6)*

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**Sec. 32-170. - Hearing and decision of court upon appeal; costs.**

At the next term of the circuit court or, in chambers, upon ten days' notice to the parties, the presiding judge of the circuit court of the county shall proceed to hear and pass upon the appeal on the certified record of the board proceedings. The findings of fact by the board of appeals shall be treated in the same manner as a finding of fact by a jury and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the board of zoning appeals for rehearing. In determining the questions presented by the appeal, the court shall determine only whether the decision of the board is correct as a matter of law. In the event that the decision of the board is reversed by the circuit court, the board is charged with the costs, and the costs must be paid by the governing authority, which established the board of zoning appeals.

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*(Ord. of 3-15-1999, § 4.410.7)*

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**Sec. 32-171. - Appeal to supreme court.**

Any party in interest who is aggrieved by the judgment rendered by the circuit court upon such appeal may appeal in the same manner as provided by law for appeals from other judgments of the circuit court in law cases.

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*(Ord. of 3-15-1999, § 4.410.8)*

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**Sec. 32-172. - Financing.**

The council may appropriate such monies, otherwise unappropriated, as it deems fit to finance the work of the board of zoning appeals and to generally provide for the board of zoning appeals and to generally provide for the enforcement of any zoning regulations and restrictions authorized under this chapter which are adopted and may accept and expend grants of money for

those purposes from either private or public sources, local, state, or federal.

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*(Ord. of 3-15-1999, § 4.410.9)*

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**Secs. 32-173—32-197. - Reserved.**

**ARTICLE VI. - AMENDMENTS**

**Sec. 32-198. - Authority.**

This chapter, including the official zoning map, may be amended from time to time by the town council as herein specified, but no amendment shall become effective unless it shall have been proposed by or shall first have been submitted to the planning commission for review and recommendation. The planning commission shall have 30 days within which to submit its report. If the planning commission fails to submit a report within a 30-day period, it shall be deemed to have approved the proposed amendment.

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*(Ord. of 3-15-1999, § 4.411.1)*

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**Sec. 32-199. - Requirements for change.**

When the public necessity, convenience, general welfare, or good zoning practice justifies such action, and after the required review and report by the planning commission, the town council may undertake the necessary steps to amend the zoning ordinance (from which this chapter is derived).

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*(Ord. of 3-15-1999, § 4.411.2)*

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**Sec. 32-200. - Procedure for amendments.**

Requests to amend the zoning ordinance (from which this chapter is derived) shall be processed in accordance with the following requirements:

- (1) *Initiation of amendments.* A proposed amendment to the zoning ordinance (from which this chapter is derived) may be initiated by the planning commission, or by the owner or owners of the property proposed to be changed, provided, however, that action shall not be initiated for a zoning amendment affecting the same parcel or parcels of property or any part thereof, and requesting the same change in district classification by a property owner or owners more often than once every 12 months.
- (2) *Application procedure.* Application forms for amendment requests shall be obtained from the planning commission. Completed forms, together with an application fee to cover administrative costs, plus any additional information the applicant feels to be pertinent, shall be filed with the planning commission. Any communication purporting to be an application for an amendment shall be regarded mere notice to seek relief until it is made in the form required. Applications for amendments must be submitted, in proper form, at least 30 days prior to a planning commission meeting in order to be heard at that meeting. Application fees shall be forwarded by the planning commission to the town clerk who shall supervise the application of same to the costs of advertising and other administration expenses. The planning commission, at regular

meetings, shall review and prepare a report, including its recommendation for transmittal to the town council. All meetings of the planning commission shall be open to the public. At a meeting, any party may appear in person, or by agent, or by attorney.

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(Ord. of 3-15-1999, § 4.411.3)

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**Sec. 32-201. - Action by commission to make changes.**

- (a) *Special interest.* Following action by the planning commission, all papers and data pertaining to the application shall be transmitted to the town council for final action.
- (b) *Public hearings.* Before enacting an amendment to the ordinance (from which this chapter is derived,) the town council or planning commission shall hold a public hearing thereon; notice of place and time of which shall be published in a newspaper of general circulation in the county at least 15 days in advance of the scheduled public hearing date.
- (c) *Public notice.* Conspicuous notice shall be placed on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. The notice shall be posted at least 15 days prior to the public hearing.
- (d) *Changes in the zoning map.* Following final action by the town council any necessary changes shall be made to the official zoning map. A written record of the type and date of such change shall be maintained by the town clerk.

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(Ord. of 3-15-1999, §§ 4.411.4—4.411.7)

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**Secs. 32-202—32-225. - Reserved.**

**ARTICLE VII. - LEGAL STATUS PROVISIONS**

**Sec. 32-226. - Conflict with other ordinances.**

In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the town, the most restrictive shall in all cases apply.

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(Ord. of 3-15-1999, § 4.412.1)

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**Sec. 32-227. - Validity.**

If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional.

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(Ord. of 3-15-1999, § 4.412.2)

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**CODE COMPARATIVE TABLE - 1977 CODE**

\*This table gives the location within this Code of those sections of the 1977 Code which are included herein. Sections

of the 1977 Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

<b>1977 Code Section</b>	<b>Section this Code</b>
<b>2.105.1—2.105.7</b>	<b>2-7—2-13</b>
<b>1.101</b>	<b>1-1</b>
<b>1.102</b>	<b>1-4</b>
<b>1.103</b>	<b>1-3</b>
<b>1.104</b>	<b>1-2</b>
<b>1.105</b>	<b>1-5</b>
<b>1.106</b>	<b>1-6</b>
<b>1.107</b>	<b>1-7</b>
<b>1.108</b>	<b>1-8</b>
<b>1.109</b>	<b>1-9</b>
<b>2.100</b>	<b>2-1</b>
<b>2.101</b>	<b>2-2</b>
<b>2.102</b>	<b>2-3</b>
<b>2.103</b>	<b>2-4</b>
<b>2.104</b>	<b>2-5</b>
<b>2.105</b>	<b>2-6</b>
<b>2.106</b>	<b>2-14</b>
<b>2.107</b>	<b>2-15</b>
<b>2.108</b>	<b>2-16</b>
<b>2.109</b>	<b>2-17</b>
<b>2.110</b>	<b>2-18</b>
<b>2.201</b>	<b>2-40</b>
<b>2.202</b>	<b>2-41</b>
<b>2.203</b>	<b>2-42</b>
<b>2.204</b>	<b>2-43</b>
<b>2.301</b>	<b>2-62</b>
<b>2.302</b>	<b>2-63</b>
<b>2.303</b>	<b>2-64</b>
<b>2.304</b>	<b>2-65</b>
<b>2.305</b>	<b>2-66</b>
<b>2.306</b>	<b>2-67</b>
<b>2.307</b>	<b>2-68</b>
<b>2.308</b>	<b>2-69</b>
<b>2.309</b>	<b>2-70</b>
<b>2.310</b>	<b>2-71</b>
<b>2.311</b>	<b>2-72</b>
<b>2.312</b>	<b>2-73</b>
<b>2.313</b>	<b>2-74</b>
<b>2.314</b>	<b>2-75</b>
<b>2.315</b>	<b>2-76</b>
<b>2.316</b>	<b>2-77</b>
<b>2.317</b>	<b>2-78</b>
<b>2.318</b>	<b>2-79</b>
<b>2.401</b>	<b>2-102</b>
<b>2.402</b>	<b>2-103</b>
<b>2.403</b>	<b>2-104</b>
<b>2.404</b>	<b>2-105</b>
<b>2.405</b>	<b>2-106</b>

**\*This table gives the location within this Code of those ordinances which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.**

<b>Ordinance Number</b>	<b>Date</b>	<b>Section</b>	<b>Section this Code</b>
78-1	2-1978	2-	2-44
78-10	6-1978	7-	16-1
78-9	3-1978	8-	6-44—6-46
<a href="#">STATE LAW REFERENCE TABLE</a>		4.304, 4.305	6-50, 6-51
79-1	5-1979	4-	28-4
79-2	9-1979	8-	4-1—4-15
81-1	9-1981	3-	6-76, 6-77
81-2	9-1981	3-	2-128, 2-129
		2.801—2.803	2-200—2-202
81-7	10-12-1981		16-57
82-4	10-11-1982		16-1
82-6	12-13-1982		6-46
84-2	9-24-1984	8.101, 8.102	6-98, 6-99
84-3	9-24-1984	7.101—7.103	6-131—6-133
86-4	2-1986	6-	4-1—4-4
		8.110.6—8.110.11	4-5—4-10
		8.110.13—8.110.17	4-11—4-15
87-3	9-21-1987		28-3
88-4	10-17-1988		2-44
92-02	6-15-1992		16-19—16-34
94-02	5-16-1994	8.112	28-1
94-05	10-17-1994	1—3	8-100—8-102
95-2	3-20-1995		32-3
			32-26
		4.405.7	32-59
96-1	1-15-1996	1—3	8-100—8-102
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99-01	2-15-1999	1	20-19
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		4.404	32-27
		4.405	32-26
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		4.405.7.1	32-58
		4.406, 4.407	32-77, 32-78
		4.408.1—4.408.4	32-100—32-103
		4.409.1—4.409.6	32-135—32-140
		4.410.1—4.410.9	32-164—32-172
		4.411.1—4.411.3	32-198—32-200
		4.411.4—4.411.7	32-201
		4.412.1, 4.412.2	32-226, 32-227
		4.413	32-3
99-08	9-20-1999	1—4	8-67—8-70

\*This table shows the location within this Code, either in the text or notes following the text, of references to the South Carolina Code of Laws.

<b>S.C. Code of Laws</b>	<b>Section this Code</b>
<b>5-7-10 et seq.</b>	<b>Ch. 2</b>
<b>5-7-30</b>	<b>Ch. 2</b>
	<b>Ch. 26</b>
<b>5-7-80</b>	<b>Ch. 10, Art. III</b>
<b>5-7-130</b>	<b>Ch. 2</b>
<b>5-7-140</b>	<b>Ch. 16, Art. II</b>
<b>5-7-145</b>	<b>Ch. 16, Art. II</b>
<b>5-7-150</b>	<b>Ch. 16, Art. II</b>
<b>5-7-160</b>	<b>Ch. 2</b>
<b>5-7-220</b>	<b>Ch. 2, Art. V</b>
	<b>2-6</b>
<b>5-7-230</b>	<b>Ch. 2</b>
	<b>Ch. 2, Art. VI</b>
<b>5-7-250</b>	<b>Ch. 2, Art. III</b>
<b>5-7-300</b>	<b>Ch. 26</b>
<b>5-9-20 et seq.</b>	<b>2-1</b>
<b>5-9-30</b>	<b>2-18</b>
<b>5-15-10 et seq.</b>	<b>Ch. 2, Art. II</b>
<b>5-15-90</b>	<b>2-43</b>
<b>5-15-100</b>	<b>2-43</b>
<b>5-15-150</b>	<b>2-5</b>
<b>5-21-50</b>	<b>Ch. 2</b>
<b>5-21-110</b>	<b>Ch. 26</b>
<b>5-21-210 et seq.</b>	<b>Ch. 2</b>
<b>6-1-300 et seq.</b>	<b>Ch. 26</b>
<b>6-1-330</b>	<b>Ch. 2</b>
<b>6-9-10</b>	<b>Ch. 6</b>
<b>6-9-65(B)</b>	<b>Ch. 6</b>
<b>6-9-130</b>	<b>Ch. 6</b>
<b>6-29-310 et seq.</b>	<b>20-19</b>
<b>6-29-360</b>	<b>20-23</b>
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<b>6-29-720</b>	<b>Ch. 32</b>
<b>6-29-760(A)</b>	<b>20-24</b>
<b>6-29-780</b>	<b>Ch. 32</b>
<b>7-1-10 et seq.</b>	<b>Ch. 2, Art. II</b>
<b>7-13-75</b>	<b>2-43</b>
<b>12-51-40 et seq.</b>	<b>Ch. 26</b>
<b>15-43-10</b>	<b>Ch. 10, Art. III</b>
<b>16-5-10 et seq.</b>	<b>10-44</b>
<b>23-9-380</b>	<b>Ch. 2</b>
<b>30-4-70(a)(1)</b>	<b>20-22</b>
<b>30-4-80</b>	<b>Ch. 2, Art. III</b>
<b>30-4-90</b>	<b>2-63</b>
<b>31-15-10 et seq.</b>	<b>Ch. 6</b>
<b>47-3-20</b>	<b>Ch. 4</b>
<b>47-3-40</b>	<b>Ch. 4</b>
<b>47-3-50</b>	<b>4-11</b>