

Chapter 1 GENERAL PROVISIONS

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

The provisions in this and the following chapters and sections shall constitute and be designated "The Code of the Town of Cowpens, South Carolina, 2008," and may be so cited. Such Code may also be cited as "Town of Cowpens Code, 2008."

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

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

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

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

Code. Whenever the words "Code" or "this Code" are used they shall mean the Code of the Town of Cowpens as designated in section 1-1.

Computation of time. In computing any period of time prescribed or allowed by this Code the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a state or federal holiday, in which event the period runs until the end of the next day, which is neither a Saturday, Sunday nor such holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

Council or town council. The words "the town council" or "the council" shall mean the town council of the Town of Cowpens, South Carolina.

County. The word "county" shall be construed to mean the County of Spartanburg in the State of South Carolina.

Delegation of authority. Whenever a provision appears requiring the head of department or other officer of the town to do some act or to make certain inspections, it is to be construed to authorize the head of the department or other officer of the town, as the case may be, to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision designate otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms partnerships and corporations as well as to males.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

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

Number. Words used in the singular include the plural and the plural includes the singular number.

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

Officers, departments, etc. Whenever the title of an officer, department, board or other agency is given it shall be construed as though the words "of the Town of Cowpens, South Carolina" were added.

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

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

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

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

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

Public notice. Public notice shall mean a notice published at least once in a newspaper of general circulation in Spartanburg County.

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

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

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

Signature or subscription. The word "signature" or "subscription" includes a mark when the person cannot write.

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

Statute references. Whenever reference is made to state law or to the state statutes, it shall be construed to refer to the latest edition of the Code of Laws of South Carolina, as amended.

Street. The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the town.

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

Tense. Words used in the past or present tense include the future as well as the past and present.

Town. The words "the town" shall mean the Town of Cowpens in the County of Spartanburg and the State of South Carolina, except as otherwise noted.

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

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

Sec. 1-3. Catchlines, history notes and references.

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

Sec. 1-4. 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.

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

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

Sec. 1-6. 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, when numbered in accordance with the numbering system of this Code and printed or typed for inclusion herein, shall, as numbered and printed or typed or omitted, in the case of repeal, be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the council.

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

(c) If a new section not heretofore existing in the Code is added, the following language may be used: "That the Code of the Town of Cowpens, South Carolina, is hereby amended by adding a section, to be numbered _____, which section shall read as follows:" The new section may then be set out in full as desired.

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

Sec. 1-7. Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the town council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the 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 the adoption of the latest ordinance included in the supplement.

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

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, 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.

Sec. 1-8. Certain ordinances, rights, etc., not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- (1) 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;

- (2) Containing any administrative provisions of the council not in conflict or inconsistent with the provisions of this Code;
- (3) Prescribing rates for town utility services;
- (4) Granting any right or franchise and establishing any rates therefor;
- (5) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the town;
- (6) Making any appropriation;
- (7) Levying or imposing taxes, not inconsistent with this Code;
- (8) Adopting community antenna television system regulations;
- (9) Providing for local improvements and assessing taxes therefor;
- (10) Dedicating or accepting any plat or subdivision in the town;
- (11) Adopting, extending or contracting the boundaries of the town;
- (12) Prescribing the number, classification, or compensation of any town officers, employees or agents, not inconsistent herewith;
- (13) Pertaining to zoning or subdivision regulations;
- (14) Any other ordinance, or part thereof, which is not of a general and permanent nature;
- (15) Adopted after [insert date] and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the office of the town clerk.

(b) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

Sec. 1-9. Incorporation; corporate limits; official map.

- (a) All citizens of the state having resided in the town shall be deemed and are hereby declared a body politic and corporate, and the town shall be called and known by the name of Cowpens.
- (b) Extensions of the corporate limits of the town are as shown by corporate limit lines drawn on the official map of the town which is maintained in the office of the town administrator.

Sec. 1-10. Annexed property.

- (a) *Generally.* All property annexed to the town pursuant to the laws of the state shall become a part and parcel of the town upon the passage of an ordinance of annexation by the town council, and shall be subject to all the rights, privileges and duties of all other property in the town.
- (b) *Liability for town taxes.* All property annexed in the town will be liable for town taxes from the day of annexation, which taxes shall be prorated on a calendar year basis.
- (c) *Zoning classification.* All property annexed to the town shall be zoned at the highest residential classification according to the then existing zoning ordinance;

provided, however, town council may designate such other zoning classification of the property to be annexed as follows:

- (1) If the property to be annexed is vacant and the property owner requests zoning less restrictive than the existing zoning for all adjacent property, the request for zoning shall be referred to the planning commission and recommendation made thereon;
- (2) In all other cases, town council may designate the zoning of the property being annexed in the annexation ordinance after considering the existing use of the property, if any, and the zoning of adjacent property.

Sec. 1-11. General penalty; continuing violations.

Whenever in this Code or in any ordinance of the town any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or ordinance, the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance shall be punished by a fine of not more than two hundred dollars (\$200.00) or by imprisonment not exceeding thirty (30) days. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

Sec. 1-12. Municipal uniform ordinance summons.

Any person or entity violating any provision of the Code of the Town of Cowpens may be issued a uniform ordinance summons. Issuance of the uniform ordinance summons shall vest jurisdiction in the Municipal Court to hear and dispose of the charge for which the uniform ordinance summons was issued and served. The uniform ordinance summons may be issued by any town police officer or any other town employees designated as code enforcement officers. The bond amount for violations shall be prescribed by the chief municipal court judge. Town police officers or code enforcement officers are prohibited from accepting bonds. Bonds are to be posted in the manner prescribed in the uniform ordinance summons. The uniform ordinance summons shall not be used to perform a custodial arrest.

Chapter 2 ADMINISTRATION

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ARTICLE I. IN GENERAL

Sec. 2-1. Town seal.

The seal of the town shall be as follows:

The seal of the Town of Cowpens shall consist of two (2) concentric circles with the words "SOUTH CAROLINA SPARTANBURG COUNTY" in the outer ring and the words "TOWN COUNCIL COWPENS SEAL" in the center. The seal shall be affixed to all deeds, notes, and bonds, contracts and other formal documents executed on behalf of the town.

Sec. 2-2. Fiscal year.

The fiscal year of the town shall begin on the first day of July of each calendar year and shall end on the thirtieth day of June of the following calendar year.

Secs. 2-3--2-20. Reserved.

ARTICLE II. COUNCIL FORM OF GOVERNMENT

Sec. 2-21. Form of government adopted.

There is hereby adopted for the government of the town the council form of government, as provided by state law.

Sec. 2-22. Composition of council; terms; elections.

The council shall consist of the mayor and four (4) members who shall serve for terms of four (4) years each. The mayor and council shall be elected from the town at large.

Secs. 2-23--2-45. Reserved.

ARTICLE III. TOWN COUNCIL

Sec. 2-46. Regular meetings.

- (a) The town council shall hold regular meetings on the third Monday of each month or at such day and time as may be determined by council.
- (b) All regular meetings of council shall be held in the council chambers at town hall.
- (c) The clerk-treasurer shall give written public notice of all regular meetings of council at the beginning of each calendar year.

Sec. 2-47. Special meetings.

The mayor shall call special meetings of the council whenever, in his opinion, the public business may require it, or when requested by a majority vote of the members of the council. Public notice of any special or rescheduled meetings shall be posted at town hall. Such notice shall be posted as soon as is practical, but not later than twenty-four (24) hours before the meeting. No business shall be transacted at a special meeting except such as is stated in the notice.

Sec. 2-48. Meetings open to the public.

All regular and special meetings of the mayor and council shall be open to the public, provided however, council may go into executive session for purposes allowed by law upon vote of the majority of the members of council in a public vote on the question. In such event, the presiding officer shall announce the specific purpose of the executive session. No formal action may be taken in executive session.

Sec. 2-49. Notice of meetings.

The clerk-treasurer shall notify persons or organizations, local news media or other such news media as may request notification of the times, dates and places and agendas of all public meetings, whether scheduled, reschedules or called and the efforts made to comply with this requirement shall be noted in the minutes of the meetings. Notice of all meetings shall be posted at town hall and shall include the date, times, and places of such meetings and shall include the agenda for each meeting.

Sec. 2-50. Mayor/Presiding officer.

The presiding officer of the town council shall be the mayor of the town. The presiding officer shall preserve strict order and decorum at all regular or special meetings of the council. He shall state every question coming before the council, announce the decision of the council on all subjects and decide all questions of order; provided, however, that any member of the council may appeal such decision to the full council in which event a majority vote of the council shall conclusively determine such question of order. The mayor shall vote on all questions. He shall sign all ordinances and resolutions adopted by the council during his attendance.

Sec. 2-51. Mayor pro tempore.

The mayor and town council, at its first meeting of the newly constituted council after any general election for council, elect one (1) of its members as mayor pro tempore for a two year term, who shall be vested with all powers, duties and responsibilities attached to the office of mayor during the temporary absence or disability of the mayor or when the office of mayor shall be vacated by reason of death, resignation, removal or permanent disability of the mayor, until a new mayor shall have been elected and qualified.

Sec. 2-52. Council.

All powers of the town and the determination of all matters of policy shall be vested in the council and the council shall provide for the exercise thereof and for the performance of all duties and responsibilities imposed in the town by law.

Sec. 2-53. Agenda.

All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the council shall be delivered or submitted to the town administrator at least three (3) days prior to such meeting. The town administrator shall arrange a list of such matters, according to the order of business and furnish each member of the council with a copy of same prior to the council meeting and as far in advance of the meeting as time for preparation will permit. A written agenda shall be publicly posted by the clerk-treasurer. Matters not on the agenda may be considered upon request of a member unless two (2) members object.

Sec. 2-54. Call to order.

The mayor, or in his absence, the mayor pro tempore, shall take the chair at the hour appointed for the meeting and call the council to order. In the absence of the mayor or mayor pro tempore, the town administrator or his assistant shall call the council to order, at which time a temporary chairman shall be elected by the members of the council present. Upon the arrival of the mayor or mayor pro tempore, the temporary chairman shall immediately relinquish the chair upon the conclusion of the business immediately before the council.

Sec. 2-55. Roll call and voting.

(a) Before proceeding with the business of the council, the town administrator or the town clerk, shall record the names of the members present at the meeting and enter same in the minutes of each meeting.

(b) The decision on any question before the council shall be made by roll-call vote when requested by a majority of the council. When a roll-call vote shall be requested, the town administrator or the town clerk shall call the roll and take the names of all who vote aye and all who vote no. The mayor shall vote last on any roll-call vote. During the roll-call, no member shall leave the council chamber and every member shall, when his name is called, give his vote unless excused by a majority of the council present.

Sec. 2-56. Quorum.

A majority of the council members serving shall constitute a quorum for the conduct of business at any meeting, to adopt any motion or pass any measure other than motions relating to meetings and adjournments.

Sec. 2-57. Rules of debate.

(a) *Presiding officer may vote and debate.* The mayor or mayor pro tempore or such other members of council as may be presiding may move, second and debate from the chair, subject only to the limitations of debate as are imposed upon all members of the council and shall not be deprived of any of the rights and privileges of a councilmember by reason of his position as presiding officer.

(b) *Recognition by presiding officer; improper references to be avoided.* Every member desiring to speak shall address the chair and upon recognition by the presiding officer, shall confine himself to the question under debate, avoiding all personalities and indecorous language.

(c) *Interruption.* A member, once recognized, shall not be interrupted when speaking, unless it is to call him to order or as herein otherwise provided. If a member, while speaking, be called to order, he shall cease speaking until the question of order be determined and, if in order, he shall be permitted to proceed.

(d) *Closing debate.* The councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

(e) *Motion to reconsider.* A motion to reconsider any action taken by the council may be made only on the day such action was taken. Such motion must be made by a member of the council voting on the prevailing side, but may be seconded by any other member and may be made at any time and have precedence over all other motions or while a member has the floor.

(f) *Remarks of council; when entered in minutes.* A councilmember may request from the presiding officer the privilege of having an abstract of his statement on any subject under consideration by the council entered in the minutes.

(g) *Synopsis of debate; when entered in minutes.* The Town administrator, or the town clerk, may be directed by the presiding officer, with consent of the council, to enter in the minutes a synopsis of the discussion on any question coming before the council.

Sec. 2-58. Addressing council.

(a) Any person desiring to address the council shall first secure the permission of the presiding officer.

(b) Any interested parties or their authorized representatives may address the council on matters listed on the agenda at any meeting of council open to the public. Preference shall be given to those persons who may have notified the town administrator in advance of their desire to speak on the matter listed on the agenda of the council.

Sec. 2-59. Addressing council after motion made.

After a motion is made by the council, no person shall address the council without first securing the permission of the council to do so.

Sec. 2-60. Manner of addressing council; time limit.

Every person addressing the council shall step up to the microphone in front of the mayor's chair, shall give his name and address for the records and, unless special time is granted by the council, shall limit his remarks to ten (10) minutes. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the council and the person having the floor, shall be permitted to enter into any discussion either directly or through a member of the council. No question shall be asked a council member except through the presiding officer.

In matters before council which council determines and is considering opposing positions or views, council shall limit each position to a presentation of twenty (20) minutes.

Sec. 2-61. Voting requirements.

- (a) All actions of the mayor and council shall be by majority vote of members present at a public meeting.
- (b) Every member of council present shall vote on every question except when required to refrain from voting by state law.
- (c) The vote on every question shall be recorded in the council minutes by the clerk-treasurer.
- (d) Any member of the council may, if he/she desires, have his/her reasons for voting for or against any measure recorded in the minutes.

Sec. 2-62. Questions of order decided by mayor.

All questions of order shall be decided by the mayor without debate, subject to an appeal to the council.

Sec. 2-63. Minutes of meetings.

The clerk-treasurer shall keep the minutes of all public meetings of council, which shall be a matter of public record. At each council meeting the minutes of the previous meeting shall be presented for approval.

Sec. 2-64. Ordinances.

- (a) *Method of adoption.* The adoption of any ordinance shall require passage by a majority of council members voting upon two (2) separate readings, which readings shall be held at separate meetings and such meetings shall be held at least six (6) days apart.
- (b) *Style; to be signed and sealed.* The enacting style of all ordinances shall be "BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF THE TOWN OF COWPENS, IN COUNCIL ASSEMBLED:" All ordinances shall be signed by the town council and clerk, with the seal of the council affixed.

Sec. 2-65. Robert's Rules of Order.

When any point of procedure shall arise not covered by the rules set forth in this article, then Robert's Rules of Order shall determine such question of procedure.

Sec. 2-66. Rescission, suspension or alteration of rules.

- (a) Any of the rules set out in this article, except those requiring unanimous consent, can be rescinded or altered by a majority of the members present.
- (b) By common consent of all members present at a regular meeting, the rules of procedure as set forth herein may be temporarily suspended, with the exception of those rules prescribed in accordance with the laws of the state.

Sec. 2-67. Reimbursement of mayor and council members for official travel and other expenses.

- (a) The mayor and members of the town council will make their own individual decisions on attending the local, state and national meetings which are held for the purpose of furnishing information and guidance on municipal affairs as they affect the town. Each member is expected to use sound judgment and give proper regard for economical travel and lodging so that reimbursement will not exceed the limits set forth in this section.
- (b) Necessary expenses to attend educational institutes and meetings will vary from town to town and from situation to situation and each member should take these factors into consideration in seeking reimbursement for such expenses.
- (c) In situations where unusual travel expenses are incurred or are to be incurred and the same is not covered herein, Town council may authorize the payment of such expenses.
- (d) The following will constitute the method of reimbursement:
 - (1) *Transportation.* Any preferable mode of transportation may be used. Air travel will be limited to tourist class fare where available and cost of transportation to and from airports will be included. Where travel by private automobile is elected, reimbursement will be at the rate established by council from time to time. However, when the member elects to use his or her own automobile in lieu of common carrier, no reimbursement will be made for hotel, meals or parking charges incurred in route if the trip takes longer than the normal mode of travel.
 - (2) *Lodging.* The actual cost of lodging will be the basis for reimbursement. Should a member elect to arrive early or stay late, additional expenses of lodging will be personal expenses.
 - (3) *Subsistence allowance.* Subsistence expenses will be paid in a reasonable amount based on an itemized daily basis to include meals and other necessary items of subsistence. Where registration at conventions or meetings includes one (1) or more meals, the subsistence allowance will include only those meals not covered by such registration fee.
 - (4) *Miscellaneous expenses.* Reimbursement will be made for local transportation, tips, travel and other miscellaneous expenses in a necessary and reasonable amount.
 - (5) *Registration fees.* Registration fees will be reimbursed to the member if not paid in advance by the Town.

Sec. 2-68. Salaries of mayor and council members.

(a) The salaries of the mayor and members of the Town council are fixed as follows:

(1) Mayor, per annum . . . \$3,600.00

(2) Mayor pro tempore. . . \$2,400.00

(2) Member of council, per annum . . . 1,800.00

(b) The above salaries shall be effective on the date the mayor and members of the Town council, elected in the general election, take the oath of office.

Secs. 2-69--2-85. Reserved.

ARTICLE IV. OFFICERS AND EMPLOYEES*

DIVISION 1. GENERALLY

Sec. 2-86. General Employment Policy

Except as otherwise provided by law, all officers and employees of the town shall serve at the pleasure of the council and may be suspended or terminated when the council deems it necessary for the good of the town.

Sec. 2-87. Civil leave.

A municipal employee, who is called for jury duty or as a witness for the federal or state governments, or a subdivision thereof, shall be entitled to leave with pay for such duty during the required absence. The municipal employee may keep all fees received for jury duty in addition to his regular compensation.

Secs. 2-88--2-110. Reserved.

DIVISION 2. TOWN ADMINISTRATOR

Sec. 2-111. EMPLOYMENT AUTHORIZED.

The position of Town Administrator is hereby created and established to assist the Mayor and Council and governed by the provisions in this article.

Sec. 2-112. APPOINTMENT, QUALIFICATIONS, SHORT TITLE.

- (a) The council shall appoint a Town Administrator and fix his compensation.
- (b) The Town Administrator shall be appointed solely on the basis of his executive and administrative qualifications.
- (c) For the purposes of this article, the short title "Administrator" may be used.

Sec. 2-113. TERM.

The Administrator shall serve at the pleasure of the Town Council for an indefinite term.

Sec. 2-114. BOND.

The Administrator shall enter into an approved bond in such sum as prescribed by the Town Council, conditioned for the faithful and honest performance of the duties of such office. The Town shall pay the cost of such bonds.

Sec. 2-115. GENERAL DUTIES.

The Administrator shall be responsible to the Town Council for the proper administration of the policies and affairs of the town and, to that end, shall have the power and authority and be required to:

1. Direct, supervise and coordinate the administrative activities and operations.
2. Appoint, suspend or dismiss department heads with the approval of Council.
3. Appoint other town employees upon approval from Council.
4. Suspend or dismiss other town employees as provided in the Personnel Policies and Procedures Manual without approval from Council.
5. Recommend and administer personnel policies, classification, compensation and evaluation for all employees.

6. Have responsibility of all personnel files, American Disability Act files and benefit packages.
7. Prepare a proposed annual operating budget and capital program (in consultation with the Municipal Clerk, Council, department heads and financial advisors) to Town Council for review and consideration.
8. Monitor the financial condition of the town and estimate present and future financial needs.
9. Prepare a quarterly analysis of the financial condition of the town.
10. Recommend, implement and administer policies governing purchasing procedures and inventory control.
11. Combine or consolidate job positions within departments as necessary or prudent, maximizing manpower utilization and efficiency.
12. Authorize the purchase of services, materials, supplies, and equipment which do not require the taking of bids, provided such items are appropriate in the town's various fund accounts; responsible for authorizing requisitions and purchase orders and record trails.
13. Authorized shifts in departmental budget line items, with the approval of the Council, provided overall department budget appropriations do not change.
14. Authorize shifts in departmental budgets, with approval of the Council, provided overall budget appropriations do not change.
15. Investigate complaints concerning administrative matters and personnel performance with heads of departments.
16. With the approval of the Council, delegate authority to other administrative officers subject to his direction and supervision to exercise specified duties and responsibilities as may be considered appropriate.
17. Provide Council with the information, guidance, and leadership in matters of policy determination.
18. Actively investigate the opportunities available to the town in relation to federal grants, state and county shared services and money and prepare the necessary papers, etc., upon approval of the Council.
19. Attend all regular and called Council meetings, and all other meetings as he deems necessary in the function of Administrator, and keep Council informed

of all changes in updated legislation, mandates and federal and state requirements.

20. Confers with town attorney and labor attorney, along with representatives of other units of government on matters of mutual concern.

21. Monitors all town operations for conformity to the town ordinances, and Council policies and guidelines to ensure efficient operation.

Sec. 2-116. REMOVAL FROM OFFICE.

The Administrator may be removed from office by a majority vote of the Council. Those members voting for removal shall state their reasons for such a vote. The actions of the Council in removing the Administrator shall be final. In all cases the Administrator shall receive thirty (30) days notice of his removal, or severance pay for thirty (30) days where such removal is made effective by a majority vote of the Council.

Sec. 2-117. COMMUNICATION BETWEEN ADMINISTRATOR AND COUNCIL.

The Administrator shall relate to and communicate with the Council on any and all problems, situations and conditions which shall arise concerning any department of activity of the town which, in the opinion of the Administrator is of significance. Except for the purposes of inquiry, the Council shall communicate directly with the Administrator in all matters concerning any department or activity of the town. No member of the Council shall give orders to any subordinate of the Administrator, except in the case of emergency.

Sec. 2-118. Eligibility of mayor and council members for office.

The mayor and council members shall be ineligible to hold the office of town administrator for a period of two (2) years after the expiration of their respective terms of office.

Secs. 2-119 - 2-145. Reserved.

DIVISION 3. TOWN ATTORNEY

Sec. 2-146. Appointment; powers and duties generally.

The town council shall appoint a town attorney in accordance with the provisions of state law. The town attorney shall possess all powers and perform all of the duties required by the laws of the state and such other duties as may be prescribed by the town council.

It shall be the duty of the town attorney whenever called upon by the mayor and council to give advise on all legal questions which may arise in the course of the administration of the town government; whenever required to do so by the mayor and

council, he/she shall give his/her legal opinion in writing. The town attorney shall appoint or employ from time to time such person or persons to provide legal services to the town and to assist the town attorney in carrying out duties of the legal officer for the town. He/she shall draw or supervise the drawing or drafting of all ordinances and other instruments relative to the business of the town; and shall whenever notified to do so, attend the meetings of the mayor and council and perform such other duties as required by the mayor and council.

The town administrator shall appoint and supervise the town prosecutor who shall prosecute criminal and traffic cases on behalf of the town and to perform all other duties required which may be directed by the town attorney. The town prosecutor shall be appointed by the town attorney from attorneys licensed to practice in the State of South Carolina with an office for practice in the Town of Cowpens on the advice and consent of the town council.

DIVISION 4. TOWN CLERK-TREASURER

Secs. 2-147. Appointment; duties.

The council shall appoint a suitable person as clerk-treasurer. The clerk-treasurer shall give notice of council meetings to its members and the public, kept the minutes of its proceedings and perform such other duties as may be required by the mayor and council.

Secs. 2-148--2-170. Reserved.

ARTICLE V. BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. GENERALLY

Secs. 2-171--2-180. Reserved.

DIVISION 2. SAFETY REVIEW BOARD

Sec. 2-181. Composition; duties generally.

The mayor and members of council shall serve as a safety review board for the town. The Cowpens Safety Review Board shall have the responsibility of reviewing all accidents and loss reports involving town employees, vehicles, equipment or property.

The safety review board shall make a finding of responsibility, culpability, liability and amount of loss and shall recommend practices or procedures to improve safety within the town.

Sec. 2-182. Disciplinary action.

After reviewing accidents and losses involving town employees, the board may recommend appropriate disciplinary action against town employees. Any such recommendation shall be based upon the board's findings of negligence and the degree thereof. Any employee who may be directly affected by a recommendation of the board shall have at least three (3) days advance notice of the time and place of the board's meeting at which time the employee's action will be reviewed.

Secs. 2-183. Reimbursement by employees.

Whenever there is any accident resulting in a loss to the town the board may recommend that the employee responsible reimburse the town for such loss. Such reimbursement shall not exceed ten (10) percent of the actual loss for the first accident; twenty (20) percent for the second loss and for subsequent losses; provided, however, that in no event shall the reimbursement exceed the sum of three thousand (\$3,000.00) for any one loss. The amount due shall be payable to the town in lump sums or as a payroll deduction not to exceed ten (10) percent of the employee's net pay; provided no such deduction brings an employees pay below the federal minimum wage. A recommendation that the employee reimburse the town for any loss shall be made only on the basis of a finding by the board that the employee has intentionally, willfully, or recklessly abused town property. Such abuse of town property shall also be considered case for dismissal "for cause" from town employment as an alternative to reimbursement. Nothing contained herein shall be construed as a waiver of the right of the town to pursue any civil or criminal remedy that might arise from any abuse or destruction of town property.

Secs. 2-184--2-220. Reserved.

ARTICLE VI. PERSONNEL POLICIES

DIVISION 1. GENERALLY

Sec. 2-221. Administration.

The responsibility for developing and administering of personnel policies and regulations shall be vested in the town administrator.

Sec. 2-222. Applicability.

The provisions of this chapter shall apply to all employees except:

- (1) Elected officials;
- (2) Part-time officials appointed by council and to include municipal judges, recorders, the town attorney, any person or persons appointed by the town attorney and employees of advisory or special boards and commissions who work on an irregular basis.

Secs. 2-223--2-240. Reserved.

DIVISION 2. APPEALS

Sec. 2-241. Right of appeal.

Any permanent employee suspended, demoted or dismissed may appeal to the town administrator. Such appeal must be in writing stating the basis therefor and shall be delivered to the department head within ten (10) days after such notice of suspension, demotion or dismissal. From any decision of the town administrator, the employee may appeal to the appeal board as provided in this division.

Sec. 2-242. Appeal board.

- (a) For the purpose of hearing appeals for any employee suspended, demoted, dismissed or transferred, there is hereby created an appeal board which shall consist of five (5) members to be appointed by the town council to serve for terms of five (5) years each. Members of the board shall be representative of the citizens of the town.
- (b) The appeal board shall select its own chairman. At least two-thirds of the committee members shall constitute a quorum for the purpose of hearing any appeal.
- (c) If an appeal is taken by a member of a department whose head is a member of the appeal board, then such member shall be disqualified for hearing such appeal and town council may designate a temporary replacement in such case.
- (d) The appeal board shall have full power and authority to conduct orderly proceedings and may adopt such rules of procedure as will be in the best interests of the employees and the town.
- (e) The appeal board, after hearing all testimony and examining all records pertinent and relative to the grievance of an employee, shall make a report and recommendation to the town administrator as promptly as possible.
- (f) An employee who has been suspended, dismissed, transferred or demoted or who has any other grievance regarding his employment (excluding any grievance regarding

salary or pay) may file an appeal from the decision of the department had to the appeal board. Such appeal shall be filed in writing within ten (10) days after written or oral notification of any decision which may constitute a grievance on the part of the employee.

(g) The appeal board shall file a report setting forth its findings of facts, its conclusions and its recommendations with the town administrator. The town administrator shall give the decision full consideration in connection with any final decision on the grievance. The town administrator may approve the decision of the board, may modify the decision of the board or may make an independent decision without further hearing, which decision shall be final. The decision of the town administrator shall be in writing and shall be delivered to the employee or mailed to the employee at the address appearing in the personnel file of the town.

Secs. 2-243--2-260. Reserved.

ARTICLE VII. DISPOSITION OF REAL PROPERTY OWNED BY THE TOWN

Sec. 2-261. Determination of sale.

Real property owned by the town when determined by the town to be no longer needed by the town and its citizens shall be sold subject to the requirements of this article.

Sec. 2-262. Appraisal.

The town administrator or his designee shall cause the property to be appraised by one (1) independent appraiser as to value unless town council makes the determination, in its sole option, that no current appraisal is required when the property is to be sold to a nonprofit corporation at a nominal price or such other circumstances that town council determines justifies dispensing with the appraisal provided that this article does not conflict with any regulations or directives of the United States Government.

Sec. 2-263. Notice.

Notice of the sale shall be given by public advertisement in a newspaper of general circulation in the town on two (2) occasions. The property shall be posted with notice of the sale. Town council shall be provided with a copy of the notice of sale.

Sec. 2-264. Acceptance of bids.

The town will accept written bids for the property and town council shall make the final decision as to whether to accept any particular bid or to reject all bids. The bid price shall be a factor considered by council but not controlling.

Sec. 2-265. Detailed land use prior to bids.

In appropriate cases as determined by the town, the town will require potential developers prior to the invitation for bids to provide detailed land use including costs of development, schedule of development, preliminary drawings, details of financing and the town shall establish a minimum acceptable price for the property. In such cases, unless council otherwise authorizes, the minimum bid shall be seventy-five (75) percent of the appraised value. In such cases, the town shall provide for any special terms, conditions and restrictions applicable to the sale as a part of the proposal for bids.

ARTICLE VIII. FINANCES.

Division 1. Generally

Sec. 2-266 – Sec. 2-270. Reserved.

Division 2. Central Purchasing System

The provisions of §11-35-50 of the 1976 South Carolina Code of Laws require all municipalities in this state to develop and adopt procurement (purchasing) laws by ordinance.

PURCHASING AGENT. SPECIFIED DUTIES

The Administrator, or an officer of the Town designated by Town Council, shall be the Purchasing Agent for the Town. He shall be responsible for:

1. The purchase of supplies, materials and equipment and contractual services by any office, department or agency 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 office, department or agency of the town government. Such specifications shall be definite and certain and shall permit competition.
4. Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.
5. Soliciting and maintaining a current list of qualified suppliers who have requested their names to be added to a "bidders list." The Purchasing Agent shall have authority to remove 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 purchases, contracts and sales.

FORMAL CONTRACT PROCEDURE

(a) **Purchases under Two Thousand Five Hundred Dollars (\$2,500.00).** Any purchase not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) may be accomplished without securing competitive quotations if the prices are considered to be fair and reasonable. Competitive quotations need only be taken when the Purchasing Agent suspects the price may not be fair and reasonable (e.g., comparison to previous price paid, personal knowledge of the price range of the item involved). Every effort should be made to distribute such purchase equitably among qualified suppliers.

(b) **Purchases over Two Thousand Five Hundred Dollars (\$2,500.00) but not exceeding Ten Thousand and no/100 Dollars (\$10,000.00).** Insofar as it is practical, solicitations of written quotes from a minimum of three qualified sources of supply shall be made by the

requesting department and documentation of the quotes attached to the purchase requisition. The award shall be made to the lowest responsive/responsible source after all quotes are reviewed by the Purchasing Agent.

(c) **Purchases over Ten Thousand Dollars (\$10,000.00) but not exceeding One Hundred Thousand Dollars (\$100,000.00).** Insofar as it is practical, solicitations of written quotes from a minimum of three qualified sources of supply **shall be made by the Purchasing Agent.** Quotes between Twenty-Five Thousand Dollars (\$25,000.00) and One Hundred Thousand and no/100 Dollars (\$100,000.00) shall be advertised for a minimum of seven (7) calendar days electronically. Documentation of the quotes shall be attached to the purchase requisition. The award shall be made to the lowest responsible source/or bidder. For purposes of this Ordinance, a Responsible Source is a business who has the capability in all respects to perform fully the contract requirements and the tenaTown, perseverance, experience, integrity, reliability, capaTown, facilities, equipment and credit which will assure good faith performance.

(d) **Supply/service exemptions.** The following supplies and services are exempt from this Article and need not be purchase through the standard procurement process: (1) Works of art and one-of-a-kind items, such as paintings, antiques, sculptures and similar objects; (2) Published books, maps, periodicals, technical pamphlets, and other such materials; (3) Membership fees, professional dues, registration fees; (4) Postage stamps and fees; (5) utility services; (6) Advertising time or space in newspapers, radio, television, professional journals of publications; (7) Professional training; (8) the purchase of goods, products, and services from the South Carolina Department of Corrections, Divisions of Prison Industries; (9) Attorneys and legal services; (10) License agreements for computer software, after such software has been purchased subject to the provisions of this Article; (11) The procurement of copyrighted educational films, filmstrips, slides and transparencies, CD-ROM documents, databases, computer assisted instructional materials, video programs and other related materials.

COMPETITIVE SEALED BIDDING.

(a) **Conditions for Use.** Contracts amounting to One Hundred Thousand Dollars (\$100,000.00) or more shall be awarded by competitive sealed bidding except as otherwise provided. Town Council shall retain the authority to establish and approve a method of source selection other than as specified herein.

(b) **Invitation to Bid.** An Invitation to Bid shall be issued in an efficient and economical manner to at least three qualified sources on the bidders' lists appropriate for the particular procurement, and shall include specifications and all contractual terms and conditions applicable to the procurement. If three qualified sources are not available, invitations to bid shall be issued to such qualified sources as are available.

(c) **Bidder's Lists.**

i. All sources requesting to be put on a bidders' list shall be so enlisted, unless the Purchasing Agent makes a written determination that the source should not be enlisted in accordance with regulations.

ii. The Purchasing Agent shall ensure that the bidders' lists contain all identified sources interested in bidding on Town procurement. The Purchasing Agent shall periodically review the

bidders' lists and shall require the addition or deletion to such lists of sources contained therein, as deemed necessary.

SEALED BID PROCEDURES

Procedure for sealed bids for projects up to \$100,000.00 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 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 or when it is determined that the bidder is not a responsible source/bidder as defined herein.

5. **Bidder in default to Town.** The Purchasing Agent shall not accept the bid of a contractor or vendor who is delinquent in payment of taxes, license or other moneys due the Town.

6. **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 ten thousand dollars (\$10,000.00) shall not be awarded without prior approval of the Council.

(b) Lowest responsible bidder. Contracts up to \$100,000.00 shall be awarded to the lowest responsible source/bidder. In determining "lowest responsible source/bidder," in addition to price, the Purchasing Agent shall consider:

(1) The ability, capability and skill of the bidder to perform the contract and provide the service required;

(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;

(4) The quality of performance of previous contracts or services;

(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; and

(9) The number and scope of conditions attached to the bid.

7. **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 twelve (12) months.

8. **Tie bids, local vendors.** If all bids received are the same total amount or unit price, quality and service are equal, the contract shall be awarded to the local responsible bidder. If two (2) or more of such bids are submitted by local responsible bidders, the Purchasing Agent shall award the contract to one of the local responsible bidders by drawing lots in public. The Purchasing Agent, local responsible bidders and vendors should bear in mind, however, that to award a contract to a local vendor where he is not the lowest responsible bidder, or where price, quality and service are not equal, is to give preference to one minute segment of the citizenry against the best interest of the community as a whole.

9. **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 Town.

10. **Bonds.** 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 shall find reasonably necessary to protect the public interest of the Town.

11. **Competitive Sealed Proposals/Request for Proposals.**

(a) **Conditions for Use.** When a contract is expected to exceed \$100,000.00 or at such other times as Council determines that the use of competitive sealed bidding is either not practicable or not advantageous to the Town, a contract may be entered into by use of the competitive sealed proposals method.

(b) **Request for Proposals.** Proposals shall be solicited from at least three qualified sources, when such sources are available, through a Request for Proposals.

(c) **Public Notice.** Adequate public notice of the Request for Proposals shall be given provided the minimum notice period shall be fifteen (15) calendar days.

(d) **Receipt of Proposals.** No proposals shall be handled so as to permit disclosure of the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of the offeror, the number of modifications received, if any, and a description sufficient to identify the item/service offered. The register of proposals shall be open for public inspection only after contract award.

(e) **Proposal Opening.** Proposals shall be publicly opened and only the names of the offerors disclosed at the proposal opening. Contents of competing proposals shall not be disclosed during the process of negotiation. Proposals shall be open for public inspection after contract award. Late proposals shall neither be opened nor considered for award; however, the name and address of the late offeror and the time of attempted delivery shall be recorded wherever practicable.

(f) **Request for Qualifications.** Prior to soliciting proposals, the Purchasing Agent may issue a Request for Qualifications from prospective offerors. Such request shall contain at a minimum a description of goods or services to be solicited by the Request for Proposals and the general scope of the work and shall state the deadline for submission of information and how prospective offerors may apply for consideration. The request shall require information only on their qualifications, experience, and ability to perform the requirements of the contract. After receipt of the responses to the Request for Qualifications from prospective offerors, the prospective offers shall be ranked from most qualified to least qualified on the basis of the information provided. Proposals shall then be solicited from at least the top three prospective offerors by means of a Request for Proposals. The failure of a prospective offeror to be selected to receive the Request for Proposals shall not be grounds for protest.

(g) **Public Notice.** Adequate public notice of the Request for Qualifications shall be given.

(h) **Evaluation Criteria.** The Request for Proposals shall state the criteria to be considered in evaluating proposals. Price may, but need not be, an initial evaluation criteria.

(i) **Discussion with Responsive/Responsible Offerors and Revisions to Proposals.** As provided in the Request for Proposals, discussions may be conducted with responsible offerors who submit proposals determined to be eligible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conduction discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(j) **Selection and Ranking.** Proposals shall be evaluated using only the criteria stated in the Request for Proposals and there must be adherence to any weightings that have been previously assigned. Once evaluation is complete, all responsive offerors shall be ranked from most advantageous to least advantageous to the Town, considering only the evaluation criteria stated in the Request for Proposals. If price is an initial evaluation criteria, award shall be made in accordance with Section (k) herein. If price is not an initial evaluation factor, negotiations shall be conducted with the top ranked responsive offeror for performance of the contract at a price which is fair and reasonable to the Town. Should the Purchasing Agent be unable to negotiate a contract at a price which is fair and reasonable to the Town, negotiations shall be formally terminated with the top ranked responsive offeror and negotiations commenced with the second most advantageous responsive offeror, and then the third and so on until a satisfactory contract has been negotiated. In conducting negotiations, there must be no disclosure of any information derived from proposals submitted by competing offerors.

(k) **Award.** Award must be made to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the Town, taking into consideration price and the evaluation criteria set forth in the Request for Proposals, unless one of the options listed in Section (l) below is utilized. The contract file shall contain the basis on which the award is made. Procedures and requirements for notification of intent to award the contract shall be the same as those stated herein.

(l) **Other.** If, after following the procedures set forth in Section (j) above, a contract is not able to be negotiated, the scope of the Request for Proposals may be changed in an effort to reduce the cost to a fair and reasonable amount, and all responsive offerors must be allowed to submit their best and final offers. Where price was an initial evaluation factor, the using department, through the Purchasing Agent, may in his/her sole discretion, and not subject to challenge through a protest proceed in any of the following manners:

i. negotiate price with the highest scoring offeror. If a satisfactory price cannot be agreed upon, price negotiations may be conducted with the second, and then the third, and so on, ranked offerors to such level of ranking as determined by the using department and/or the Purchasing Agent;

ii. negotiate with the highest ranking offeror on matters affecting the scope of the contract, so long as the overall nature and intent of the contract is not changed. If a satisfactory contract cannot be negotiated with the highest ranking offeror, negotiations may be conducted with the second, and then the third, and so on, ranked offerors to such level of ranking as determined by the using department and/or the Purchasing Agent;

iii. change the scope of the Request for Proposals and give all responsive /responsible offerors an opportunity to submit best and final offers.

(m) **Minor Informalities and Irregularities in Proposals.** A minor informality or irregularity is one which is merely a form of some immaterial variation from the exact requirements of the request for proposals having no effect or merely a trivial or negligible effect on total price, quality, quantity, or delivery of the supplies or performance of the contract, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to offerors. The Purchasing Agent shall either give the offeror the opportunity to cure any deficiency resulting from a minor informality or irregularity in a proposal or waive any such deficiency when it is to the advantage of the Town. Such communication or determination shall be in writing. Examples of minor informalities or irregularities may, in the Town's sole discretion, include, but are not limited to:

i. failure of an offeror to return the number of copies of signed proposals required by the solicitation;

ii. failure of an offeror to furnish the required information concerning the number of the offeror's employees or failure to make a representation concerning its size;

iii. failure of an offeror to acknowledge receipt of an amendment to a solicitation, when required, but only if the amendment has no effect or merely a trivial or negligible effect on price, quality, quantity, delivery, or relative standing of offerors;

iv. failure of an offeror to furnish product literature;

v. failure of an offeror to furnish financial statements;

vi. failure of an offeror to indicate a bid number on its submission envelope;

vii. failure of an offeror to indicate his/her contractor's license number.

(n) **Cost of Proposals.** Under no circumstances will the Town be liable for any costs associated with any proposal. The offeror shall bear all costs associated with the preparation of proposals.

(o) **Rejection or Acceptance of Proposals; Waiver of Technicalities and Irregularities.** The Town shall reserve the unqualified right to reject any and all proposals or accept such proposals, as appears in the Town's own best interest. The Town shall reserve the unqualified right to waive technicalities or irregularities of any kind in solicitations made under this section. In all cases, the Town shall be the sole judge as to whether a proposer's proposal has or has not satisfactorily met the requirements to solicitations made under this section.

MATERIALS TESTING

The Purchasing Agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries, which are necessary to determine their quality and conformance with the specifications. In the performance of such test, the Purchasing Agent shall have the authority to make use of laboratory facilities of any agency of the Town government or any outside laboratory.

FINANCIAL INTEREST OF TOWN OFFICIALS AND EMPLOYEES PROHIBITED

1. No member of Council or any other 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, materials, supplies or services except when a majority of the Council determines such exception in the best interest of the town. No member of Council whose interest is involved shall vote on the question.

2. Any willful violation of this section shall constitute malfeasance in office.

3. Any officer or employee of the Town found guilty thereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the Town shall render the contract voidable by the Administrator of the Town Council.

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.

STOCK REPORTS

All offices, department or agencies of the Town government shall submit to the Purchasing Agent, at times and in such form as he shall prescribed, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn-out or scrapped.

SURPLUS STOCK

The Purchasing Agent shall have authority to transfer surplus stock to other offices, agencies or departments of the Town government.

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, unless otherwise authorized by the Council. All moneys received from such sales shall be paid into the appropriate fund of the Town.

GIFTS AND REBATES

The Purchasing Agent and every officer and employee of the Town are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the Town.

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 is hereby authorized to purchase supplies and equipment through the property division of the State Budget and Control Board, without the formality of publication and receiving competitive bids.

Sec. 2-272 – 2-290. Reserved.

ARTICLE IX. DEPARTMENTS.

Sec. 2-291. Establishment of departments.

The council may establish municipal departments, offices and agencies in addition to those required by law and may prescribe the functions of all departments, offices and agencies. All departments, offices and agencies under the directions and supervision of the town council shall be administered by an officer appointed by and subject to the direction and supervision of the town council.

Sec. 2-292 – 2-300. Reserved.

Chapter 3 ALCOHOLIC BEVERAGES

Art. I. In General, 3-1--3-20

ARTICLE I. IN GENERAL

Sec. 3-1. State law adopted.

All of the provisions and requirements of the general law of the state relative to alcoholic beverages, beer and wine, as contained in the latest edition of the Code of Laws of South Carolina as amended, are hereby adopted and made a part of this chapter to the same extent as if set out at length herein, insofar as such provisions can have application within the town, and to the extent that such ordinance is not suspended by state law. It shall be unlawful for any person to violate any provision of such state law within the town.

Sec. 3-2. Drinking whiskey, beer or other intoxicating beverages in public place prohibited; exception.

It shall be unlawful for any person to drink whiskey, rum, gin, alcoholic or other intoxicating beverages in any public place or in any other portion or in any part of any business establishment located within the corporate limits of the town. This section shall not apply to any public place licensed for the sale and consumption of alcoholic beverages by the state. The town council may grant a permit for the consumption of alcoholic beverages in public places during special events and celebrations. Any such permit will specify the times and places when alcoholic beverages may be consumed.

Secs. 3-3--3-20. Reserved.

Chapter 4 ANIMALS AND FOWL

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:

Acts deemed to be a public nuisance. It shall be unlawful for the owner of any dog, cat, fowl or other animal to keep or have within the town any such animal that:

- (1) Habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicyclists or vehicles;
- (2) Turns over garbage pails, damages gardens or public or private property, flowers or vegetables;
- (3) Barks, whines, crows or howls in an excessive, continuous or untimely fashion;
- (4) Trespasses on school grounds or private property;
- (5) Is maintained so as to cause unreasonable offense to the senses of another person by reason of noise, odor, filth, vermin or other causes.

Animal means any living thing that is not plant, either vertebrate or invertebrate.

At large means when an animal is off the property of the owner and not under the control of a competent person.

Cat means any of the cat family, domestic, other than described under "wild animals."

Circus means a commercial variety show featuring animal acts for public entertainment.

Commercial animal establishment means any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition or kennel.

Dog means all members of the canine species, including both male and female.

Grooming shop means a commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Kennel means any person, group of persons, partnership or corporation engaged in buying, selling, breeding or boarding pet animals.

Neutered male means any male animal which has been operated on to prevent reproduction.

Occasion means a public event or single act or show.

Owner means any person owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal for three (3) consecutive days or more. The owner is responsible for the care, actions and behavior of his animals.

Performing animal exhibition means any spectacle, display, act or event other than circuses, in which performing animals are used, commercially or for profit. Not to include dog shows or obedience schools not for profit.

Pet means any dog, cat or other animal kept for the pleasure of a human being.

Restraint means an animal controlled by means of a chain, leash or other like device, or is sufficiently near the owner or handler to be under his direct control and obedient to that person's commands, or on or within a vehicle being driven or parked, or within a secure enclosure.

Riding school or stable means any premises having available for hire, boarding or riding instruction, any horse, pony, donkey, mule or burro.

Spayed female means any female animal which has been operated on to prevent conception.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal means any animal constituting a physical threat to human beings or other animals or attacking persons or animals without provocation or having a tendency to do any act which might endanger the safety of persons or property repeatedly.

Wild animal means any raccoon, squirrel, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, mountain lion or any other warm-blooded animal which can normally be found in the wild state.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of non-domesticated animals operated by a person, partnership, corporation or government agency.

Sec. 4-2. Adoption of Spartanburg County Ordinance No. 263; Section 6-1.-6.29.

AN ORDINANCE TO CONTROL ANIMALS IN SPARTANBURG COUNTY. TO ESTABLISH AN ANIMAL CONTROL OFFICER AND DEFINE ITS AUTHORITY, DUTIES AND RESPONSIBILITIES; PROVIDING FOR DEFINITIONS: PROVIDING FOR IMPOUNDMENT: PROVIDING FOR ANIMALS RUNNING AT LARGE: PROVIDING FOR ANIMALS CREATING NUISANCES: PROVIDING FOR INTERFERENCE WITH ANIMAL CONTROL OFFICER: PROVIDING FOR PENALTIES FOR VIOLATIONS: PROVIDING FOR SEVERABILITY: ESTABLISHING AN EFFECTIVE DATE, AND REPEALING ORDINANCE NO. 139.

Sec. 4-3. Town declared a bird sanctuary.

The territory within the corporate limits of the town is hereby designated a bird sanctuary, and it shall be unlawful for any person to kill, trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird or wild fowl nests of their eggs within the town.

Sec. 4-4. Certain birds constituting a nuisance may be destroyed by health authorities.

(a) If starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the town, then in such event, such health authorities shall meet with representatives of the Audubon Society, Bird Club, Garden Club or Humane Society or as many of such clubs as are found to exist in the town, after having given at least three (3) days' actual notice of the time and place of the meeting to the representatives of such clubs.

(b) If as a result of the meeting no satisfactory alternative is found to abate such nuisance, then such birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under the supervision of the Chief of Police.

Sec. 4-5. Birds, snakes, fowl, dogs, cats, or other animals; declared a nuisance.

(a) It shall be unlawful for any person to keep or maintain one (1) or more birds, snakes, fowl or animals within the town in such location, in such quantities or in such manner as to unreasonably disrupt or disturb the peace and quiet of any person or to interfere with the reasonable use of property or enjoyment of life by any person, or unreasonably to cause damage, destruction, detriment or impairment to public or private property or to the value thereof, or to cause unreasonable annoyance or disturbance to any other person or to unreasonably cause offense to the senses of another person by reason of noise, odor, filth, vermin or other causes.

(b) Birds, snakes, fowl or animals kept in such manner as set out herein may be declared a nuisance and, upon a complaint being made to the town council by a person affected thereby, may be abated as provided by state law.

(c) No person shall keep or maintain a dog, cat, fowl, or other creature that barks, whines, crows or howls in excessive, continuous or untimely fashion as defined in

section 4-17. Such ownership and maintenance is declared a nuisance and shall be punishable under section 1-11.

Sec. 4-6. Keeping hogs, mountain lions, etc.

It shall be unlawful for any person to have, keep or maintain within the town any hog or pig, mountain lion or puma in any house, pen, structure, construction or device. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 4-7. Keeping of wild animals.

- (a) No person shall keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.
- (b) No person shall keep or permit to be kept any wild animal as a pet.
- (c) A temporary permit may be issued for the keeping, care and protection of an infant animal native to this area which has been deemed to be homeless.

Sec. 4-8. To Prohibit the Keeping and Raising of Cattle, Poultry Sheep, and Goats and Operating Livery Stables in Town Limits.

- (a) All persons, firms, corporations or business enterprises of any nature are hereby prohibited from keeping, raising or engaging in the production of horses, mules, donkeys, swine, sheep, goats or any neat cattle of any description or poultry or the operation of any livery stable within the town limit.
- (b) It is further provided that this ordinance shall include the keeping of any animals or poultry, which would create a nuisance or objectionable odors within the town limit.
- (c) Provided, however, this ordinance shall not restrict the keeping of cattle, horses, ponies, mules, sheep or donkeys, within the town limit if they are located at, in or at least three-fourths acre per animal and are more than 250 feet from any residential house, public eating place, or public business and provided further, that their presence does not constitute a health hazard, or constitute a nuisance by emitting objectionable odors. No swine are permitted within the town.

Sec. 4-9. Performing animal exhibitions.

- (a) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause, physical injury or suffering.
- (b) All equipment used on a performing animal shall fit properly and be in good working condition.

Sec. 4-10. Permit to ride horses or mules on town streets.

- (a) It shall be unlawful for any person owning or having custody of any horses or mules to allow the same to be ridden on any of the streets, alleys or public ways within the town without first securing a permit from the chief of police.
- (b) Any person, firm or corporation owning or having custody of any horses or mules, who fail to comply with the provisions of Section 4-10 (a) of this ordinance, shall upon conviction, be punishable under Section 1-11.

Sec. 4-11. Reckless riding or driving.

The riding of any horse or other animal unusually fast, endangering the life or limb of any citizen, or driving in any buggy or other vehicle unusually fast, endangering the life or limb of any citizen within the town, is hereby prohibited. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 4-12. Running at large--Prohibited.

- (a) It shall be unlawful for the owner or person in control of any horse, mule, ass, genet, swine, sheep, goat or any neat cattle of any description to permit such animal or any other domestic animal to run at large beyond the limits of his own land or lands leased, occupied or controlled by him. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.
- (b) Any person or persons violating the provisions of this ordinance by allowing any of said stock or animals to run at large or tie or stake same in or near the public streets of said town, or upon the premises of private individuals without their consent shall, upon conviction, be punishable under Section 1-11.

Sec. 4-13 Poisoning animals.

It shall be unlawful for any person to put or place any strychnine, other poisonous compounds or ground glass on any beef or other foodstuffs of any kind in the town with the intent to poison any animal; provided, that this section shall not apply to the poisoning of insects or worms for the purpose of protecting crops or gardens by spraying plants, crops or trees, nor to poisons used in rat extermination.

Sec. 4-14 Disposal of dead animals.

The bodies of dead animals shall be disposed of by the owner or other person having control thereof, in accordance with the directions and requirements of the town council, but in no case shall such person allow any dead animal to remain on his premises for a period longer than twenty-four (24) hours.

Sec. 4-15 Animal waste.

The owner of every animal shall be responsible for the removal of any excreta deposited by his animal on public walks, recreation areas or private property.

Sec. 4-16 Rabies control.

It shall be unlawful for any dog owner to fail to comply with the laws of the state relating to the control of rabies or to fail to provide any dog with a suitable collar or harness for the wearing of a rabies tag and to fail to see that the tag is worn by the dog at all times.

Sec. 4-17 Barking or howling; dogs or other animals.

No person shall keep or maintain a dog or other animal that barks, howls or otherwise makes or causes noise in excessive fashion. Excessive shall mean noise that is discernable and can be heard inside a neighboring residential dwelling by persons of ordinary sensibilities.

Chapter 5 BUILDINGS AND BUILDING REGULATIONS*

- Art. I. In General
- Art. II. Unsafe Buildings
- Art. III. Demolition
- Art. IV. Dwellings and Dwelling Units Unfit for Human Habitation
- Art. V. Historic Buildings
 - Div. 1. Generally
 - Div. 2. Alterations and Fire Standards
- Art. VI. Maintenance of Commercial Buildings
 - Div. 1. Generally
 - Div. 2. Duties and Responsibilities of Owner and Operator

ARTICLE I. IN GENERAL

Sec. 5-1. In General

No building, structure or land shall be used or occupied and no building or structure shall be erected, repaired, moved or altered except in conformity with the zoning ordinance of the town as set forth in Appendix B.

Sec. 5-2 – 5-10. Reserved

ARTICLE II. UNSAFE BUILDINGS

Sec. 5-11. Standard Unsafe Building Abatement Code adopted.

There is hereby adopted by the town for the purpose of establishing methods, rules and regulations for the abatement of unsafe buildings that certain code known as the Standard Unsafe Building Abatement Code, most recent edition, published by the International Property Maintenance Code, 2006 edition, which edition is on file in the office of the building official, to the same extent and in the same manner as if it were printed herein in its entirety.

Sec. 5-12. Failure of owner to comply with notice; remedy by town; collection of costs.

(a) If the owner of any unsafe building shall fail to comply with the final notice and order of the town administrator or his designated representative to repair, remedy or demolish any building determined to be unsafe in the town, the town administrator may cause such unsafe building to be determined or removed.

(b) Any and all furniture or personal property found within such building may be sold by the town and any all material resulting from the demolition of such unsafe building may be sold by the town and all proceeds thereof shall be credited against the cost of the removal or demolition. Any balance remaining from the sale of all furniture or personal property shall be held by the town clerk of the town and disbursed to such persons as shall be found entitled thereto. The demolition or removal of such building shall not preclude the prosecution of the owner for failing to comply with the provisions of this article.

(c) If the materials of such building and any furniture or personal property found therein fail to bring a sufficient amount to defray the cost of demolition or removal, then the cost of demolition or any balance remaining thereon shall constitute a lien against the real property upon which such cost was incurred. The town clerk shall maintain a ledger listing any and all liens resulting from the enforcement of this section.

Sec. 5-13. Security of dwelling units so as to prevent casual entrance by unauthorized personnel.

All units must be secured so as to preclude entrance into the dwelling units by unauthorized personnel.

Sec. 5-14. Violation of failure to secure dwelling units.

The failure of the owner of any dwelling unit to secure a residential unit within ten (10) days after written demand by the town to secure the dwelling shall constitute a violation of this Code and be subject to general penalty as contained in section 1-11 herein as a continuing violation. The town may at its option secure the dwelling and tax the costs of securing the unit as a lien upon the property.

Secs. 5-15--5-25. Reserved.

ARTICLE III. DEMOLITION

Sec. 5-26. Time limit established.

Whenever a permit is issued for the demolition, tearing down or destruction of any building or structure in the town, the owner, contractor or person securing such permit shall complete the demolition, tearing down or destruction within thirty (30) days after beginning work. Demolition is defined as the act of razing and dismantling of a building or structure or portion thereof to the ground level.

Sec. 5-27. Extension of time.

Wherever a building or structure to be demolished is of such size that it cannot be demolished within thirty (30) days, the owner, contractor or person securing the permit may apply to the town administrator for additional time within which to complete the tearing down or demolition; provided, that it is shown that work has been regularly and continuously performed and will be regularly and continuously performed until completion of the demolition.

Secs. 5-28--5-40. Reserved.

ARTICLE IV. DWELLINGS AND DWELLING UNITS UNFIT FOR HUMAN HABITATION

Sec. 5-91. Reserved.

Sec. 5-92. Standard Housing Code adopted.

There is hereby adopted by the town the Standard Housing Code, most recent edition, published by the International Property Maintenance Code, 2006 edition, which edition is on file in the office of the building official of the town.

Sec. 5-93. Declaration of existence of substandard dwellings and dwelling units.

The town council finds and hereby declares that there exist, within the corporate limits of the town, dwellings and dwelling units which are unfit for human habitation, due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or other conditions rendering such dwellings and dwelling units unsafe or unsanitary, dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the town.

Sec. 5-94. Reserved.

Sec. 5-102. Responsibility of occupant.

The occupant shall be responsible for:

- (1) Keeping water and electrical service turned on to the property at all times when the dwelling is occupied by humans;
- (2) Protecting the water system serving the dwelling by cutting off and draining the system in cold weather where cutoffs are provided by the owner;
- (3) Providing adequate covered containers with tight-fitting lids for refuse and trash and maintaining the dwelling or dwelling unit in a clean and sanitary condition, free from accumulation of filth, dirt, rubbish or garbage and free from vermin infestation or harbors. This shall be the responsibility of the occupant with the exception of the shared or public portion of multi-dwelling, which portion shall be the responsibility of the owner.

Sec. 5-103. Violations of article by occupant of dwelling.

Any occupant, individually, or the representative of any occupant, who interferes in the enforcement of this article or who fails to comply with any orders issued by the town council when such orders apply to the occupant of the dwelling or dwelling unit, or who shall damage, mutilate or remove or who shall cause to be damaged, mutilated or removed from or in a dwelling or dwelling unit any of its facilities or any other part or parcel of the dwelling or dwelling unit, or shall willfully or maliciously deposit any material in any plumbing fixture which results in the obstruction of the sanitary sewer or the chokage of the plumbing fixture, upon conviction thereof before the town recorder, shall be punished as provided by section 5-105. This provision shall not relieve the owner of the responsibility of relieving any plumbing chokage.

Sec. 5-104. Reserved.

Sec. 5-105. Penalty for violation of article.

The owner of any dwelling or dwelling unit unfit for human habitation under the various sections of this article who shall fail to comply with any final orders to repair, vacate or demolish such dwelling or dwelling unit issued by the town council shall be guilty of a misdemeanor. Any person removing or defacing any notice posted on any dwelling or dwelling unit by any authorized officer under the terms of this article shall be guilty of a misdemeanor, and any person, individually, or as the representative of any person, who shall otherwise violate any of the terms or provisions of this article, or interfere in any way with the enforcement thereof, or shall receive or collect rental accruing after the expiration of the time limit set forth in any final order issued by the town council or who shall damage, mutilate or remove or who shall cause to be damaged, mutilated or removed from or in a dwelling or dwelling unit any of its facilities referred to in section 5-9 shall be guilty of a misdemeanor.

Sec. 5-106. Article cumulative; not to restrict town's power to declare, abate, etc., nuisances.

Nothing in this article shall be construed to impair or limit in any way the power of the town to define or declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. The measures and procedures provided for in this article do not supersede, and this article does not repeal, any other measures or procedures which are provided by ordinance or by state law for the elimination, repair or correction of the conditions referred to in section 5-93, but the measures and procedures provided for in this article shall be in addition to the others.

ARTICLE V. HISTORIC BUILDINGS*

DIVISION 1. GENERALLY

Secs. 5-386--5-405. Reserved.

DIVISION 2. ALTERATIONS AND FIRE STANDARDS*

Sec. 5-406. Definitions.

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

Building system means any utility, mechanical, electrical, structural, egress or fire protection and safety system.

Enforcement authority means the building official and fire chief.

Historic buildings or districts means any building or area so designated by the state department of archives and history or town council being placed on the state or local register for historic buildings.

Sec. 5-407. Intent and purposes.

(a) The intent of this division is to:

- (1) Provide guidelines for the uniform application of fire and building related codes to historic buildings and structures;
- (2) Define certain terms;
- (3) Provide acceptable alternative safeguards to requirements of various fire and building code provisions where strict compliance is not practical;
- (4) Specify various hazardous conditions in historic buildings and structures which should not be permitted to exist;
- (5) Provide construction and fire safety standards for historic buildings;
- (6) Exempt historic buildings from certain laws and regulations;
- (7) Provide for other matters relative thereto.

(b) The purpose of this division is to encourage the rehabilitation, restoration, stabilization or preservation of historic buildings throughout the town and encourage the preservation of buildings and structures deemed to be historic; provided, however, such rehabilitation and preservation efforts should provide for the upgrading of the safety features of the building or structure to provide a practical level of safety to the public and surrounding property. This division also provides guidance regarding acceptable alternative solutions and encourages enforcement authorities to utilize alternative compliance concepts wherever practical to permit the continued use of historic buildings and structures without overly restrictive financial burdens on owners or occupants.

(c) This division shall not be applicable to new construction, except as specifically provided in this division.

Sec. 5-408. Application of division.

This division authorizes the enforcement authority to permit the repair, alteration, addition or change of use or occupancy of historic buildings without total compliance with any rule, regulation, code or standard for new construction requirements under the following conditions:

- (1) All noted conditions hazardous to life, based on the provisions of applicable state and local standards or codes for historic buildings, and outlined in section 5-409, shall be corrected to a reasonable and realistic degree as set forth in this division.
- (2) The degree of compliance of the building and applicable codes after changes must be below that existing before the changes.

Sec. 5-409. Hazardous conditions.

With reference to authorized historic buildings the enforcement authority should ensure that any of the conditions or defects described in this section are identified and corrected as deemed appropriate and through the utilization of appropriate compliance alternatives:

- (1) *Structural.* Any building or structure or portion thereof which is in imminent danger of collapse because of but not limited to the following factors:
 - a. Dilapidation, deterioration or decay,
 - b. Faulty structural design or construction,
 - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building, or
 - d. The deterioration, decay or inadequacy of the foundation;
- (2) *Number of exits.* Less than two (2) approved independent, remote and properly protected exitways serving every story of a building, except where a single exitway is permitted by the applicable building code;
- (3) *Capacity of exits.* Any required door, aisle, passageway, stairway or other required means of egress which is not of sufficient capacity to provide for the population of the portions of the building served and which is not so arranged as to provide safe and adequate means of egress to a place of safety;
- (4) *Mechanical systems.* Utilities and mechanical systems not in conformance with the codes in effect at the time of construction of a building which create a serious threat of fire or threaten the safety of the occupants of the building.

Sec. 5-410. Additions.

Additions to a historic building shall comply with the applicable requirements of state and local laws, rules, regulations, codes and standards for new construction. Such additions shall not impose loads either vertical or horizontal which would cause the existing building to be subjected to stresses exceeding those permitted under new construction. If the existing building does not comply with the standards provided in this division and the authorized enforcement authority finds that the addition adversely affects the performance of the total building, the authorized enforcement authority may require:

- (1) The new addition to be separated from the existing structure by at least a two-hour fire wall openings therein properly protected; or
- (2) The installation of an approved automatic fire suppression system; or
- (3) Other remedies which may be deemed appropriate by the enforcement authority.

Sec. 5-411. Minor alterations and new mechanical systems.

Minor alterations or repairs which do not adversely affect the performance or safety of the building may be made with the same or like materials. Historic buildings and structures which, in part or as a whole, do not meet the requirements of the applicable code for new construction may be altered or repaired without further compliance to any such code by utilizing the provisions of this division, provided their present degree of compliance to any applicable construction or fire safety code is not reduced. Any new mechanical systems installed shall conform to applicable codes for new construction to the fullest extent practical as approved by the authorized enforcement authorities.

Sec. 5-412. Change in use.

(a) A total change in the use or occupancy of an historic building which would cause a greater hazard to the public shall not be made unless such building is made to comply with the requirements of the applicable state and local rules, regulations, codes, and standards for the new use or occupancy; provided, however, the compliance alternative provisions of this division may be utilized by enforcement authorities where total or strict compliance with applicable state or local rules, regulations, codes or standards is not practical.

(b) When the proposed use is of equal or lesser hazard as determined by the enforcement authority, further compliance with any code for new construction is not required unless otherwise provided in this division. Alterations or repairs to an existing building or structure which do not adversely affect the performance of the building may be made with like materials. Any proposed change to the existing building or change in type of contents of the existing building shall not increase the fire hazard to adjacent buildings or structures. If the fire hazard to adjacent buildings or structures is increased, then requirements of applicable construction or fire safety codes for exterior walls shall apply.

Sec. 5-413. Change in use of a portion of a building.

(a) If a portion of a building is changed to a new use or occupancy and that portion is separated from the remainder of the building with vertical or horizontal fire separations complying with applicable state or local rules, regulations, codes or standards or with compliance alternatives, then the portion changed shall be made to comply to the applicable requirements for the new use or occupancy to the extent noted in this section.

(b) If a portion of the building is changed to a new use or occupancy and that portion is not separated from the remainder of the building as noted in subsection (a), then the provisions of the applicable state and local rules, regulations, codes and standards applying to each use or occupancy of the building shall apply to the entire building to the extent noted in this section; provided, however, if there are conflicting provisions in requirements for the various uses or occupancies, the authorized enforcement authority shall apply the strictest requirements.

Sec. 5-414. Floor loading.

Any proposed change in the use or occupancy of an existing building or portion thereof which could increase the floor loading should be investigated by a state

registered professional engineer to determine the adequacy of the existing floor system to support the increased loads. If the existing floor system is found to be inadequate, it should be modified to support the increased loads or the proposed allowable floor loading shall be reduced by and posted by the appropriate enforcement authority.

Sec. 5-415. Documentation.

When any compliance alternative is approved, the owner shall document all such changes and file same with the town and one (1) copy shall be maintained by the appropriate office for future reference.

Sec. 5-416. Compliance alternatives.

Sections 5-406 through 5-410 contain generally acceptable compliance alternatives illustrating principles which shall be applied to the rehabilitation of historic buildings by the enforcement authority. It is recognized that all building systems interact with each other; therefore, any consideration of compliance alternatives should take into account all existing and proposed conditions to determine their acceptability. The compliance alternatives are not all-inclusive and do not preclude consideration and approval of other alternatives by the enforcement authority.

(1) Compliance alternatives for an inadequate number of exits include, but are not limited to, the following:

- a. Provide connecting fire-exit balconies acceptable to the enforcement authority between buildings;
- b. Provide alternate exit or egress facilities leading to safety outside the building or to a place of safe refuge in the building or an adjoining building as acceptable to the enforcement authority;
- c. Provide an exterior fire escape or escapes as acceptable to the enforcement authority where the providing of enclosed interior or enclosed exterior stairs is not practical; or
- d. Install early fire warning and fire suppression systems.

(2) Compliance alternatives for excessive travel distances to an approved exit include the following:

- a. Install an approved smoke detection system throughout the building;
- b. Install an approved complete automatic fire suppression system;
- c. Subdivide the exit travel route with smoke-stop doors acceptable to the enforcement authority;
- d. Increase the fire resistance rating of corridor walls and doors; or
- e. Provide additional approved means of escape.

(3) Compliance alternatives for unenclosed or improperly enclosed exit stairways or vertical shafts include, but are not limited to the following:

- a. Improve enclosure of exit stairway;
- b. Add a partial fire suppression system;
- c. Add a sprinkler draft curtain; or
- d. Add a smoke detection system.

(4) Compliance alternatives for inadequate or a total lack of fire partitions or fire separation walls shall be as set forth in paragraph (3).

(5) Compliance alternatives for a lack of required protection of openings in exterior walls where fire exposure is a risk include the following:

- a. Improve fire resistance of existing openings and protect them with fire-rated windows or doors as appropriate;
- b. Seal the openings with fire-rated construction as approved by the enforcement authority; or
- c. Install an approved fire suppression system.

Sec. 5-417. Reserved.

Sec. 5-418. Damage to historic buildings.

If a historic building or structure is damaged from fire or other casualty, it may be restored to the condition prior to the fire or casualty using techniques and methods consistent with its original construction, or it shall meet the requirements for new construction of the applicable codes, standards, rules or regulations, provided these requirements do not significantly compromise the features for which the building was considered historically significant.

Secs. 5-419--5-440. Reserved.

ARTICLE VI. MAINTENANCE OF COMMERCIAL BUILDINGS

DIVISION 1. GENERALLY

Sec. 5-441. 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:

Accessory structure means a subordinate building, the use of which is incidental to that of the principal building on the same lot.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for fifty (50) percent of its perimeter. The term "building" shall be construed as if followed by the words or part thereof.

Commercial business means any business or enterprise which offers for sale goods or services or which, in any manner, conducts commerce within the town limits.

Fire official means the fire official, fire prevention department of the town or the person designated to enforce this article by the town administrator.

Mixed occupancy means any building that is used for two (2) or more occupancies classified by different occupancy use groups.

Operator means any person who has charge, care or control of premises or a part thereof, whether with or without the knowledge and consent of the owner, or any person, individually or jointly, entitled to possession regardless of whether the premises are actually occupied or not.

Physical valuation means the estimated cost to replace the building in kind.

Premises means a lot, plot or parcel of land including the buildings or structures thereon, under control by the same operator, devoted to commercial use, together with all adjacent land.

Sec. 5-442. Purpose.

It is the purpose of this article to provide a practical method for the repair, vacation or demolition of commercial buildings or structures when such buildings, from any cause, endanger the life, limb, health, property, safety, or welfare of the general public or their occupants or detract excessively from the appearance of the commercial area. The provisions of this article are cumulative with and in addition to any other remedy provided by law, including the current editions of standard codes adopted by the town.

Sec. 5-443. Scope.

The provisions of this article shall apply to all commercial buildings that are now in existence or that may be built within the town limits.

Sec. 5-444. Compliance with article.

Every commercial building and the premises on which it is situated used or intended to be used for commercial business occupancy shall comply with the provisions of this article, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this article, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building, or for the installation or repair of equipment or facilities prior to the effective date of this article.

This article establishes minimum standards for the initial and continued occupancy and use of all such buildings, and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the building, equipment or facilities contained therein except as otherwise provided in this article. Where there is mixed occupancy, any commercial business use therein shall be nevertheless regulated by, and subject to, the provisions of this article.

Sec. 5-445. Conflicting provisions.

In any case where the provisions of this article impose a higher standard than that set forth in other ordinances of the town or under the laws of the state, then the standard as set forth in this article shall prevail, but if the provisions of this article impose a lower standard than any other ordinance of the town or of the laws of the state, then the higher standard contained in any such other ordinance or law shall prevail.

Sec. 5-446. Damaged or dangerous; notice, appeal to board.

(a) Whenever any building or structure is found by the building official or fire commander to be damaged by fire, decay or other cause to the extent of fifty (50) percent of its value, the town administrator shall cause written notice to be served upon the owner thereof and upon the occupant thereof, if any, by certified mail or by personal service. Such notice shall state that it has been found that the building has or may be damaged by fire, decay or other cause to the extent of fifty (50) percent of its value, that it should be torn down and removed within thirty (30) days from the receipt of such notice and that, if the owner decided to contest such finding, a board of three (3) members will be appointed for the purpose of verifying the extent of the damage.

(b) If the owner of such building notifies the town administrator in writing of his desire to have a board of three (3) members determine the question of damage to the building, the owner shall, with such request, designate one (1) person to be a member of the board. Thereafter, the town council shall designate one (1) member, and these two (2) members shall select a third member.

(c) If such board determines, by a majority vote, that the building in question has been damaged to the extent of fifty (50) percent of its value, it shall be the duty of the owner to tear down or remove such building within twenty (20) days after the finding of the board, and it shall be unlawful to occupy or permit such building to be occupied after such finding.

(d) If the fire official determines that the condition of any building presents an imminent danger to the public health or safety, he may order the immediate vacation of the unsafe premises as well as endangered adjacent premises, and may divert traffic from streets and sidewalks.

Sec. 5-447. Historic buildings.

It is the policy of the town to encourage property owners to preserve historic buildings. To this end, the town administrator shall establish appropriate safeguards and procedures to prevent the demolition of historic buildings when reasonable to do so. These procedures shall as a minimum provide for the following:

(1) The maintenance of an inventory of historic buildings. Such inventory shall be formed upon the advice and consent of the planning and community development department and the county historical association;

(2) Any building in the historic buildings inventory shall be exempt from the provisions of this article requiring demolition except that this provision shall not be construed to limit

the authority of the town to require the demolition of any structure posing an immediate danger to life, limb or property.

Sec. 5-448. Enforcement.

The responsibility for the enforcement of this article is vested in the fire official and such other persons designated by the town administrator.

Sec. 5-449. Inspection; repairs, time limit.

The inspection of buildings and premises subject to the provisions of this article shall be made in accordance with the procedures of the Standard Unsafe Building Abatement Code except that property owners shall have thirty (30) days within which to obtain all necessary permits and commence any work required by this article. All such repairs shall be completed within a reasonable period of time but in no case shall such repairs exceed sixty (60) days except with the written approval of the fire official.

Sec. 5-450. Appeals.

Any person aggrieved by any decision of the fire official or such other person authorized to enforce this article shall have the right to appeal to the building board of adjustments and appeals. All provisions applicable to appeals set forth in the standard building code shall control appeals under this article. Notice of appeals shall be in writing and filed within thirty (30) calendar days after decision is rendered by the building official. Appeal shall be in a form acceptable to the building official.

Sec. 5-451. Violation; penalty.

Any person violating this article or after due notice shall fail to comply with orders issued by the fire official under the terms and provisions of this article shall be guilty of a misdemeanor and punished upon conviction in accordance with section 1-11.

DIVISION 2. DUTIES AND RESPONSIBILITIES OF OWNER AND OPERATOR

Sec. 5-471. Occupied buildings--Generally.

The premises of occupied buildings and all structures thereon shall be kept free of all hazards to the safety of occupants, pedestrians and other persons utilizing the premises, including but not limited to the provisions of this division.

Sec. 5-472. Same--Exterior.

(a) *Roofs.* Roofs of occupied commercial buildings shall be kept structurally sound and shall be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building.

(b) *Overhangings.* Loose and overhanging objects which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.

(c) *Foundation walls.* Foundation walls shall be kept structurally sound, free from defects and damages, and capable of bearing imposed loads safely. Where a wall of a building has become exposed as a result of demolition of adjacent buildings, such wall must have all doors, windows, vents or other similar openings closed with material of the type compromising the wall. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked so as not to detract from the

aesthetics and value of adjacent property and weatherproofed if necessary to prevent deterioration of the wall.

(d) *Chimneys, flues and vent attachments.* Chimneys, flues and vent attachments thereto shall be maintained structurally sound, free from defects and so as to capably perform at all times the functions for which they are designed. Chimneys, flues, gas vents or other draft producing equipment shall be structurally safe, durable, smoketight and capable of withstanding the action of the flue gasses.

(e) *Exterior porches, landings; balconies, stairs and fire escapes.* Exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazards of falling and the same shall be kept structurally sound and in a good state of repair.

(f) *Windows.* All windows must be tight fitting and have sashes of proper size and design. Sashes with rotten wood, broken joints or broken or loose mullions or muntins shall be replaced. All broken and missing windows shall be replaced with glass or plastic. All exposed wood shall be repaired and painted. All openings originally designed as windows shall be maintained as windows complete with seals, lintels, frame and glass unless specifically approved by the fire official for enclosure. Where the fire official approves the enclosure of a window, it must be so enclosed by either bricking the opening, blocking the opening with concrete blocks and stuccoing the exterior, or by boarding up the opening. When boarding is used, it shall be of trim fit, sealed to prevent water intrusion, and painted or stained to properly conform with the other exterior portions of the building.

(g) *Painting.* All exterior surfaces that require paint or sealing in order to protect the underlying surface from deterioration shall be so painted or sealed. All exterior surfaces that have been painted shall be maintained generally free of peeling and flaking. Where fifty (50) percent or more of the aggregate of any painted wall shall have peeling or flaking or previous paint worn away, the entire wall shall be repainted.

(h) *Cornices.* All cornices shall be made structurally sound and rotten or weakened portions shall be removed or replaced to match as closely as possible the original pattern.

(i) *Downspouts.* Sheet metal gutters and downspouts shall be replaced or repaired as necessary and shall be neatly located and securely installed.

(j) *Advertising signs, structures and awnings.* All permanent signs, billboards, awnings and the like shall be maintained in good repair at all times so as not to constitute a nuisance or safety hazard. All non-operative or broken electrical signs shall be repaired and kept in good condition or be removed.

(k) *Ground surface hazards.* Holes, excavations, breaks, projections and obstructions on walks, driveways, parking lots and parking areas and other parts of the premises which are accessible to and used by persons on the premises shall be filled and repaired, walks and steps replaced, and other conditions removed where necessary to eliminate hazards or unsafe conditions.

(l) *Curb cuts.* Where curb cuts are abandoned due to new construction, change of access or general discontinued use, such curb cut shall be closed and replaced with a standard curb and gutter arrangement.

(m) *Garbage.* No garbage or solid waste shall be stored or allowed to accumulate on the premises unless contained in trash receptacle which are in accordance with the sanitation regulations of the town.

(n) *Surfaces, etc.* All exterior surfaces shall be maintained free of cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or other similar hazardous conditions. All structures and decorative elements of building fronts and sides abutting public streets shall be repaired or replaced in a workmanlike

manner to match as closely as possible the original materials and construction techniques. Structures at the rear of buildings attached or unattached to the principal commercial structure shall be properly maintained and repaired. All miscellaneous elements on buildings, walls, and roofs and surrounding premises such as empty electrical, or other conduits, unused electric meter boxes, or unused sign brackets shall be removed.

(o) *Materials.* The purpose of this district is to permit concentrated development and redevelopment of business in the Central Business District. No metal exterior buildings are permitted in the Central Business District.

Sec. 5-473. Same--Interior.

(a) *Floors, interior walls, and ceilings.* Floors, interior walls and ceilings of every occupied commercial structure shall be structurally sound and shall be maintained in a condition compatible with its business use.

(b) *Supporting structural members.* Supporting structural members are to be structurally sound, free of deterioration and capable of bearing imposed loads safely.

(c) *Garbage.* No garbage or solid waste shall be stored or allowed to accumulate within a structure unless contained in trash receptacles that are in accordance with the sanitation regulations of the town.

Sec. 5-474. Vacant buildings.

All the provisions of this division shall apply to occupied structures and buildings. Vacant or unoccupied structures and buildings shall not be required to comply with section 5-473, but shall comply with section 5-472. All unoccupied or vacant structures or buildings shall be secured by their owners to prevent the entry of unauthorized persons or the serving as a haven or nesting place for birds, rats and other vermin.

Sec. 5-475. Duties of the operator.

(a) All parts of the premises pursuant to this division under the control of the operator shall be kept in a safe sanitary condition consistent with the business use. The operator shall refrain from performing any acts that would render other parts of the premises unsafe or unsanitary or that would obstruct any adjacent operator from performing any duty required or from maintaining his premises in a safe and sanitary condition.

(b) Where the owner would not otherwise know of a defect of any facility, utility or equipment required to be furnished under this article and the same is found to be defective or inoperable, the operator affected thereby shall upon learning of such defect provide notice to the owner.

(Secs. 5-476--5-495. Reserved.)

Chapter 6 ELECTIONS

Art. I. In General
Art. II. Reserved

ARTICLE I. IN GENERAL

Sec. 6-1. Elections to be nonpartisan.

All regular and special elections conducted in the town shall be nonpartisan elections, and no political part affiliation shall be placed on the ballot for any candidate.

Sec. 6-2. Date of general elections; public notice.

A general election to fill all offices required to be filled under the laws of the state or the ordinances of the town shall be held in odd-numbered years on the first Tuesday following the first Monday in November; a run-off election, if necessary, shall be conducted two (2) weeks after the first election.

Sec. 6-3. Candidacies created by statement.

Candidates for the office of mayor and the office of a member of town council shall file a Statement of Candidacy with the Municipal Election Commission and with the Voter Registration Office of Spartanburg County as least ninety (90) days prior to the date of the election.

Sec. 6-4. Registration Board of Spartanburg County.

Sec. 6-5. Notice of Elections.

The mayor and council shall give public notice of all general elections and special elections at least ninety (90) days prior to such elections

Sec. 6-6. Election Commission.

All authority for the conducting of municipal elections is hereby transferred to the Voter Registration and Election Commission for Spartanburg County in the following particulars:

1. The Spartanburg County Voter Registration and Election Commission shall advertise municipal elections, prepare and distribute ballots and election materials, appoint managers of election for each polling place, and otherwise supervise and conduct all municipal elections within the Town of Cowpens.

2. Immediately upon the closing of the polls at any municipal election in the Town of Cowpens, the Spartanburg County Voter Registration and Elections Commission shall begin to count and continuously count the votes cast and make a statement of the whole number of votes cast in such election together with the number of votes cast for each candidate for Mayor and Council person, canvass the vote and publicly display the unofficial results.

3. The Voter Registration and Election Commission shall thereafter certify the

results of the elections and transmit the certified results to the Town of Cowpens Council or an appointed authority representing Town government as soon as practical following the certification.

4. Hear and decide protests and certify the results of municipal elections.
5. Utilize a computer counting system with the count publicly conducted.

Sec. 6-7. Abolition of Municipal Election Commission.

The Municipal Election Commission will be abolished upon adoption of an appropriate Ordinance by the governing body of Spartanburg County accepting the responsibility for the conduct of elections for the Town and submission to the United States Justice Department and subsequent receipt of pre-clearance and positive response to the transfer of authority for conducting municipal elections which would be effected hereunder.

State law reference - - Similar provisions, S. C. Code 1976, §5-15-145.

Sec. 6-8. Regular election date.

Regular elections for the offices of Mayor and Council members shall be held in the odd numbered years on the first Tuesday after the first Monday in November.

State law reference - - Duty of council to establish time for general elections, S. C. Code 1976, §5-15-50.

Sec. 6-9. Notice of elections.

The Spartanburg County Election Commission shall publish two notices of general and special elections held in a newspaper of general circulation in the municipality. Included in each notice shall be a reminder of the last day persons may register to be eligible to vote in the election for which notice is given, notification of the date, time, and location of the hearing on ballots challenged in the election, a list of the precincts involved in the election, the location of the polling places in each of the precincts, and notification that the process of examining the return-addressed envelopes containing absentee ballots may begin at 2:00 p.m. on election day at a place designated in the notice by Spartanburg County Election Commission. The first notice must appear not later than sixty days before the election and the second notice must appear not later than two weeks after the first notice.

Sec. 6-10. Procedure for contesting results of election; appeals.

(a) Within forty-eight hours after the closing of the polls, any candidate may contest the result of the election as reported by the managers by filing a written notice of such contest together with a concise statement of the grounds therefore with the

Spartanburg County Election Commission. Within forty-eight hours after the filing of such notice, the Spartanburg County Election Commission shall, after due notice to the parties concerned, conduct a hearing on the contest, decide the issues raised, file its report together with all recorded testimony and exhibits with the Clerk of Court of Spartanburg County, notify the parties concerned of the decisions made, and when the decision invalidates the election, the Council shall order a new election as to the parties concerned.

Neither the Mayor nor any member of Council shall be eligible to participate on the issues arising in any contest in which he is a party.

(b) Within ten days after notice of the decision of the Spartanburg County Election Commission, any party aggrieved thereby may appeal from such decision to the court of common pleas. Notice of appeal shall be served on the opposing parties or their attorneys and filed in the office of the Clerk of Court within ten days. The notice of appeal shall act as a stay of further proceedings pending the appeal.

Sec. 6-11. Declaration of results.

The Spartanburg County Election Commission shall declare the results of an election not later than three days following the election.

Sec. 6-12. Time for assuming office.

Members newly elected at a regular election shall subscribe to the oath required by the Constitution and laws of the State and take office at a meeting of council on the third Monday in January in even number years, or at such other meeting as called by council which is at least forty-eight (48) hours after an election which is not contested.

Incumbents shall remain in office until protests are finally determined and successors are qualified and take office.

Officers newly elected at a special election shall subscribe to the oath required by the Constitution and laws of the State and take office at a meeting of council which is at least forty-eight (48) hours after an election which is not contested, or, for an election which is contested, at a meeting of council held after protests are finally determined.

Sec. 6-13. Determination of election results under nonpartisan election and runoff election method.

(a) Except as otherwise provided in this section, results in nonpartisan municipal elections in municipalities using the election and runoff election method shall be determined by a majority of the votes cast. A majority within the meaning of this section shall be determined as follows:

(1) When more than one person is seeking election to a single office, the majority shall be ascertained by dividing the total votes cast for all candidates by two. Any excess

of the sum so ascertained shall be a majority and the candidate who obtains a majority shall be declared elected.

(2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, the majority shall be ascertained by dividing the total vote cast for all candidates by the number of officers to be filled and by dividing the result by two. Any excess of the sum so ascertained shall be a majority and the candidates who obtain a majority shall be declared elected. If more candidates obtain a majority than there are offices to be filled, those having the highest vote (equal to the number of offices to be filled) shall be declared elected.

(b) If no candidate for a single office receives a majority of the votes cast in the first election or if an insufficient number of candidates receives a majority of the votes cast for a group of offices, a runoff election shall be held as herein provided:

(1) If no candidate for a single office receives a majority of the votes cast in the first election, a second election shall be conducted two weeks later between the two candidates receiving the largest number of votes in the first election who do not withdraw. The candidate receiving a majority of the votes cast in the runoff election shall be declared elected.

(2) If candidates for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a majority of the votes cast in the first election, a second election shall be conducted two weeks later between one more than the number of candidates necessary to fill the vacant offices. The candidates receiving the highest number of the votes cast in the second election equal in number to the number to be elected shall be declared elected.

Sec. 6-14 -- 6-20. Reserved.

Chapter 7 FIRE PREVENTION AND PROTECTION*

Art. I. In General

Art. II. Fire Prevention Code

Art. III. Fire Protection Service Outside Town Limits

Art. IV. Appointment of Fire Chief

ARTICLE I. IN GENERAL

Sec. 7-1. Fire limits established.

The town council shall have power and authority to equip and control a fire department for the protection of said town in such a way as they deem necessary and by ordinance to establish fire limits in said town, and to prescribe and designate the kind and character of material to be used in erecting and to plan buildings or structures within and upon that portion of said town included within such fire limits, all buildings or structures erected within such fire limits, contrary to the ordinances of the town, may be abated and removed by said town council as a public nuisance.

Sec. 7-2. Inspection of buildings by chief; right of entry; notice to remedy dangerous conditions, etc.

The chief of the fire department, or a member of the department appointed by him, shall have the right at all reasonable hours, for the purpose of examination, to enter into and upon buildings and premises within the town. Whenever the chief, or any person appointed by him, shall find stored in any building any combustible or inflammable conditions dangerous to the buildings or premises, he shall order the same to be removed or remedied at once, and such order shall be complied with by the owner or occupant of the building or premises within twenty-four (24) hours after notice.

Sec. 7-3. Inspection of buildings to inquire into fires.

The inspector of buildings of the town shall hold an inquiry into the origin of every fire occurring within the limits of the town. He may send for person and papers, subpoena witnesses and compel attendance as may Magistrates of the State.

Sec. 7-4. Inspector to make reports.

After making a complete inquiry upon such fire, the inspector of buildings shall make report in writing to the Chief Insurance Commissioner upon forms furnished by the Chief Insurance Commissioner, showing how, in his opinion, the fire originated.

Sec. 7-5. Fee for inquiry.

The inspector of buildings shall be entitled to a fee of three (\$3.00) dollars for making any such inquiry, such fee to be taxed against the person owning the property burned, if the fire was caused by faulty construction or negligence of the owner; but in case the inspector shall prove that the fire was due to lack of proper care on the part of the occupant of the house in which the fire occurred, the fee shall be paid by the occupant, except that, upon affidavit made that the occupant is in indigent circumstances and is unable to pay the fee, it shall be paid by the town. In the event the fire originated from accidental causes, the inspector shall look to the Chief Insurance Commissioner for payment of the fee out of funds which he has available for this purpose.

Sec. 7-6. Construction regulated within fire zone.

It shall be unlawful within the fire zone for any person to build, erect or construct any building of wood frame or unprotected combustible material, or to make an addition, alteration or attachment to any building or buildings of unprotected combustible material. Exterior walls constructed within the fire zone after adoption of this code shall be of non-combustible material and have a fire resistance rating of not less than 2 hours.

Sec. 7-7. Buildings not to be moved into fire zone.

It shall be unlawful to remove from without to within the fire zone any building which could not be constructed in the fire zone because of the preceding section. It shall be unlawful for any person to remodel or change the roof of any wood or frame structure within the fire zone without first obtaining a permit from the town council.

Sec. 7-8. Fire zone described.

The fire zone within the town is that area within the fire limits described as follows:

Sec. 7-9. False alarms.

It shall be unlawful for any person to give, or cause to be given, a false alarm of fire with the intent to deceive, or to interfere or use in any way the fire alarm system of the town, unless such alarm is given in case of real danger or actual fire. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 7-10. Obstructing fire hydrants.

It shall be unlawful for any person to obstruct any fire hydrant within the town by placing boxes or other articles of obstruction in or around or piling same upon such fire hydrant so as to prevent free and unimpeded access thereto by the fire department.

Sec. 7-11. Driving over fire hose.

It shall be unlawful for any person to step upon, drive over or otherwise injure any fire hose belonging to the town. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 7-12. Burning rubbish, etc.

It shall be unlawful to burn leaves, limbs or any rubbish in the open or to burn any material whatsoever so as to create or give off obnoxious smoke or odor within the town. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 7-13. Fire lanes.

Fire lanes may be established in the town from time to time by the fire chief and a schedule of such fire lanes will be on file in the town administrator's office.

Secs. 7-14--7-30. Reserved.

ARTICLE II. FIRE PREVENTION CODE

Sec. 7-31. International Fire Code adopted.

There is hereby adopted the International Fire Code, most recent edition, published by the International Property Maintenance Code, which edition is on file in the office of the building official of the town to the same extent and in the same manner as if it were printed in its entirety herein.

Sec. 7-32. Penalty for violation of code.

(a) Any person who shall violate any of the provisions of the code adopted in this article or fail to comply therewith, or who shall violate or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement or specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the town administrator or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as set forth in section 1-11. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Sec. 7-33. Approval of plans, issuance of permits, etc.

The fire inspector shall approve all plans, issue permits, inspect buildings under construction and pass on the safety of any existing buildings.

Sec. 7-34. Failure to comply with notice of inspector.

If the owner or builder erecting any new building, upon notice from the fire inspector, shall fail or refuse to comply with the terms of the notice by correcting the defects pointed out in such notice, so as to make such building comply with the law as regards new buildings, he shall be guilty of a misdemeanor, and shall be punished as such. Every day during which any defect in the building is willfully allowed to remain after notice from the inspector shall constitute a separate and distinct offense.

Sec. 7-35. Enforcement of regulations relative to explosives, ammunition and blasting agents.

It shall be the duty of the building official to enforce all regulations relative to the use of explosives, ammunition and blasting agents and the duty of the police department to enforce all regulations relative to the transportation of the explosives, ammunition and blasting agents.

Sec. 7-36. Flammable and explosive substances and the use or occupancy of premises.

The storage, handling and use of flammable or explosive substances and the use or occupancy of buildings or premises shall be in conformity with nationally recognized safe practice for the safe guarding to a reasonable degree to life and property from the hazards of fire or explosion. Compliance with the provisions of the Fire Prevention Code recommended by the National Board of Fire Underwriters shall be deemed to be prima facie evidence of compliance with such nationally recognized safe practice.

Sec. 7-37 – 7-60. Reserved.

ARTICLE III. FIRE PROTECTION SERVICE OUTSIDE TOWN LIMITS

Sec. 7-61. Conditions for service.

The Cowpens Fire District was established during 1989. No fire protection service shall be rendered outside the fire district by the Cowpens Fire Department, except under the following conditions:

- (1) To protect property within the town threatened by fire from outside the corporate limits of the town;
- (2) To go to the aid of other municipalities, the State of South Carolina, Spartanburg County, or any fire district in Spartanburg County when requested to do so by a duly authorized officer of such governmental entity;
- (3) To protect the property where reciprocal agreements for fire fighting service have been entered into, in order that said other municipalities or fire districts will furnish equipment and then to assist in fighting fires in the Town of Cowpens when requested.

Sec. 7-62 – 7-70. Reserved.

ARTICLE IV. APOINTMENT OF FIRE CHIEF

Sec. 7-71. Fire Chief Appointed.

The fire chief shall be appointed by a majority vote of town council in regular session and shall maintain his or her position until resignation or termination. Termination shall be determined by a majority vote of town council.

Sec. 7-72. Fire Chief's Duties.

It shall be the responsibility of the appointed fire chief to perform the duties including but not limited to:

1. Organization of a volunteer fire department.
2. Provide for an election to fill the following positions:
 - i. Assistant chief – to act on behalf of the fire chief in his absence and also represent the volunteer fire department in policy making.
 - ii. Secretary/Treasurer – to handle the financial statements of the volunteer fire department and to monitor and maintain a banking account.
 - iii. Liaison Officer – to act as a public relations director of the fire department to monitor and organize the fund raising programs.
3. Attend council meetings.

It shall be required for the fire chief to meet with town council in regular session and report the status of the fire department including requests for funding of equipment and materials and reports of current programs for acquirement of monies. It would be the responsibility of the appointed fire chief to attend a minimum of six town council meetings per annum.
4. Provide Financial Reports.

It shall be the responsibility of the fire chief to provide town council with detailed financial reports of monies collected from programs for fund raising, etc. and to provide current bank statements showing the volunteer fire department's solvency.

Sec. 7-73. Compensation.

It shall be the responsibility of the Town of Cowpens to compensate the position of fire chief in the amount to be determined by town council yearly. The assistance chief will receive compensation of \$75.00 per month, and the inspector will receive compensation of \$35.00 per month.

Sec. 7-74 – 7.80. Reserved.

Chapter 8 Quality of Life/Community Improvement

Art. I. In General

Art. II. Garbage and Trash Collection

Art. III. Community Improvement and Litter Control

Art. IV. Dumping and Landfilling

ARTICLE I. IN GENERAL

Sec. 8-1. Definitions.

For the purpose of this chapter, the following words, terms, and phrases, unless the context otherwise clearly requires, shall have the meanings respectively ascribed to them by this section, as follows:

Approved container means a roll out cart and bags as defined in this section.

Bags means plastic sacks designed to store and enclose garbage with sufficient wall strength to maintain physical integrity when lifted by top. Total weight of a bag with contents shall not exceed 40 pounds.

Bulky Waste means large items such as furniture, small auto parts (under 50 lbs.), excluding tires, lumber, mattresses and carpet (under 50 lbs.) whose large size precludes or complicates their handling by normal collection, processing, or disposal methods.

Construction waste or demolition waste means any and all refuse or residue resulting from construction, remodeling, repairs or demolition operations on buildings, and shall include grading, grubbing, etc., in connection with any building or landscape work on any premises, commercial and residential, or from replacement of building equipment or appliances.

Contractor means one who contracts or performs work, services or provides space for rent and receives something of value therefor.

Customers means residential units located within the Town of Cowpens eligible for and in need of the services described in this article.

Detachable container means a container of not less than ten (10) cubic yards, nor more than forty (40) cubic yards which is used for collecting, storing and transporting building material, trade waste, hazardous waste, refuse and yard trimmings. Such container is picked up by a specially equipped truck for transporting such materials to the disposal site.

Environmental inspector means any public safety officer, inspection officer, litter control officer or other town employee as may be designated an environmental inspector by the town administrator.

Furniture means any discarded wood, metal or upholstered furniture, mattresses, boxsprings or similar items.

Garbage means organic waste matter, both animal and vegetable, from houses, kitchens, restaurants, hotels, hospitals, etc., comprising chiefly waste food. Garbage does not include moisture that may be drained in the sewer.

Hazardous waste means paint, poison, acids, caustics, explosives, chemicals, petroleum derivatives, hot ashes or coals or highly contaminated material, such as human or animal waste, medical wastes and hypodermic needles, which would constitute a danger to collection personnel or to anyone who may come in contact with such waste.

Household means a house or apartment.

Householder means one who occupies a house or apartment alone or as the head of a household.

Junk means items such as, but not limited to, dilapidated furniture, appliances, machinery, equipment, building material, vehicle parts, tires or other items which are either in a wholly or partially rusted, wrecked, dismantled, or inoperative condition.

Litter means any quantity of discarded trash, junk, refuse or garbage not properly disposed of.

Major appliances means stoves, refrigerators, freezers, washing machines, television sets, hot-water heaters, etc.

Property means any real property within the town.

Refuse means cold ashes, cans, dirty rags, trash, house sweepings, paper materials, shavings, yard clippings, leaves, tree trimmings, bottles, and other similar materials.

Roll cart is defined as a receptacle with two wheels and a properly designed axle and fittings, a top lid that is to remain closed except when loading waste, with a body consisting of approximately 96 gallons in capacity, constructed of heavy plastic and having the strength to store normal household garbage and equipped with proper attachments for hydraulic loading into the collection vehicle.

Trash means old furniture, appliances, junk and similar items and shall exclude yard waste.

Weeds mean plants that are unwanted, useless or troublesome, that are injurious to people or to cultivated plants, or that are profusely growing and undesirable.

White goods mean refrigerators, stoves and ranges, water heaters, freezers, swing sets, bicycles (without tires), scrap metal, copper, and other similar domestic and commercial large appliances.

Yard waste means solid waste consisting solely of vegetative matter resulting from landscaping, maintenance and similar activities

Section 8-2. Summons Procedures

Issuance of ordinance summons.

Any person who violates any provision of the town Code or any Code adopted pursuant to this Code may be issued an ordinance summons in a form prescribed and authorized by S.C. Code Section 56-7-80 (1992 Supp.) which shall vest jurisdiction in the municipal court to hear and dispose of the charge for which the ordinance summons was issued and served. The ordinance summons may be issued by any Town law enforcement officer or any other town official designated by the Town Administrator. The amount of the bond prescribed by the municipal judge for the offense and the procedure for posting the bond by cash or money order within ten (10) days shall be noted on the ordinance summons at the time it is issued. The town official issuing the ordinance summons shall not accept a bond. The ordinance summons shall contain a notice that failure to appear before the court as required, without first posting bond, is a misdemeanor punishable by the fine of five hundred dollars (\$500.00) or thirty (30) days in jail.

Repeat violations—Notice of violation and abatement period waived.

Any violation of any provision of this Code or of any ordinance for which proper notice of violation has been provided pursuant to the applicable code section or ordinance which reoccurs, at the same location while under the same ownership, within twelve (12) months of the previous notice date, shall constitute a repeat violation. The occurrence of a repeat violation shall waive the Town's requirement to provide a notice of violation and an abatement period, if applicable, prior to issuance of an Ordinance Summons.

Service of notice of violation or orders—Notice of violation by letters or orders.

Notices of violation or orders hereunder shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally;
- (2) Sent by first class mail addressed to the last known address whose address is maintained by Spartanburg County Tax Assessor; or
- (3) A copy thereof posted in a conspicuous place on the lot affected or on or about the structure affected by such notice.

For purposes of notice of violation to properties with more than one owner, notice shall be made to the owner of record whose name and address is maintained by the Spartanburg County Tax Assessor. Co-owners jointly and severally are liable for the upkeep and maintenance of property. Such notices of violations shall:

- (1) Be in writing.
- (2) Include a description of the real estate sufficient for identification of property. This identification may be the postal address and/or tax map number of the parcel.
- (3) Include a statement of the violation or violations.
- (4) Include a correction order allowing a reasonable time to abate the violation(s). A notice of violation for all violations, except condemnations, shall allow seven (7) days from the date of postmark as a reasonable time to abate the violation(s).
- (5) When a notice of violation has been issued for a condemnation, seven (7) days from the postmark date shall be allowed as a reasonable time to contact and establish an abatement plan with the Town's planning and development services department.
- (6) Include a statement of the Town's right to file a lien on the real estate.

Transfer of ownership.

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first

furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

Sec. 8-3. Offenses subject to citation.

The following described offenses shall be subject to citation and shall not be subject to administrative review or abatement as provided in sections 8-7 and 8-8. On conviction, the offender shall be subject to the general penalties of this Code. Such offenses are:

- (1) Failure to properly contain loose litter, trash or garbage so as to prevent scattering by weather or animals.
- (2) Placing garbage roll cart and/or recycling bins on street earlier than thirty (30) minutes prior to sunset on the day before scheduled collection. Failure to remove roll cart and/or recycling bins from the street by sunrise the day following scheduled collection day.
- (3) Use of town trash cans and receptacles for deposition of household or commercial waste.
- (4) Burning refuse, garbage or trash in bulk containers.
- (5) Setting garbage, trash or other material outside of bulk containers.
- (6) Placing tires, hazardous waste, large metal objects, major appliances or furniture inside bulk containers.
- (7) Defacing, removing, tipping over or disturbing garbage and trash receptacles, and bulk containers. Removing, tampering, picking through garbage or trash set out for collection.
- (8) Placing trash for pickup earlier than one day prior to the scheduled collection day.
- (9) Placing trash for pickup after 7:00 a.m. the scheduled day of pickup.
- (10) Placing trash, yard waste or roll cart so as to block the street or sidewalk.
- (11) Placing trash, yard waste or roll cart at a location other than at the roadside of the property from which it was generated.
- (12) Raking leaves around the inlets to catch basins and storm drains.
- (13) Putting, placing or throwing garbage, yard waste, construction waste, litter, refuse or trash on a public street, public place, property of another person, corporation or agency.

- (14) Sweeping into or depositing in any gutter or street or public place the accumulation of litter or yard waste from buildings or lots. Failure to keep sidewalk and gutter in front of premises free of litter.
- (15) Failure to break down and securely fasten together cardboard boxes and other containers prior to collection.
- (16) Throwing litter from a vehicle while a driver or passenger.
- (17) Driving a truck or vehicle such that the contents are blown or deposited upon the street or other public place.
- (18) Driving or moving any vehicle, the wheels or tires of which carry or deposit in any street mud, dirt, litter or sticky substance.

- (19) Failure to cover and secure trucks or other vehicles in such a manner as to prevent littering, public or private property.
- (20) Placing garbage, refuse or trash or causing the discharge of sewage or organic filth in such a manner that transmission of infectious material to humans may result.
- (21) Sweeping or pushing litter or yard waste from buildings, property or sidewalks into streets, sidewalks or storm drains.
- (22) Failure to use trash cans provided to deposit waste in parking lots.
- (23) Throwing or depositing litter on private property.
- (24) Failure to separate yard waste from trash and into separate piles.
- (25) The owner, occupant, tenant or other person in charge of any property will be held accountable for permitting or allowing trash, yard waste, garbage or litter to remain on a street or sidewalk in violation of this chapter.
- (26) Failure to move contractor generated trash, refuse, litter or yard waste from the street after written or verbal notification.
- (27) Bringing waste material generated outside the town limits into the town for collection by town forces.

Sec. 8-4. Reserved.

Sec. 8-5. Shrubs, etc. on property adjacent to street intersections interfering with view of vehicles.

(a) *Prohibited.* It shall be unlawful for owners, tenants or occupants of property contiguous or adjacent to intersections of streets to permit or maintain on such property or lot any trees, bushes, shrubbery or other plant or any sign or structure which obstructs the view of the operators of motor vehicles or which creates a dangerous or hazardous condition.

(b) *Exception.* This section shall not be applicable to intersections in which traffic is controlled by a traffic-control signal exhibiting green, yellow and red signals.

(c) *Notification of owners to cut or remove.* The owners, tenants or occupants of such property shall, within ten (10) days after receiving written notice from the town administrator or other duly authorized agent of the town, remove such trees, bushes, shrubbery or other plant or sign or structure of any type as referred to in subsection (a) so that the vision of persons operating motor vehicles entering intersections of streets will not be obscured or obstructed thereby, and so that the approach of other vehicles may be readily observed.

(d) *Failure of owner to comply with notice; removal by town; report and collection of cost.* Upon the failure of the owner, tenant or occupant to comply with the notice of the town administrator or other duly authorized agent of the town within ten (10) days, under the provisions of subsection (c) or when such property is vacant and the owner thereof cannot be found in the town, the town administrator or other duly authorized agent of the town shall cause such weeds, hedges, shrubs or other vegetation to be cut or removed so that they will not obscure or obstruct the vision of persons operating motor vehicles entering such intersections, and will not prevent the ready observation of the approach of other vehicles, and shall report the cost thereof to the collector of town taxes, who shall add the same to the taxes assessed on such property for the next ensuing year, and the same shall become a part thereof and shall be collected in the manner prescribed by law for the collection of taxes.

(e) *Failure to remove to constitute misdemeanor.* Any owner, tenant or occupant of property who shall fail or refuse to remove or cut weeds, hedges, shrubs or other vegetation there from, after receiving notice from the town administrator or other duly authorized agent of the town, and within the time prescribed in subsection (d), shall be guilty of a misdemeanor.

Secs. 8-6. Burned-out buildings.

It is hereby declared that partially burned-out buildings are unsightly and constitute a public nuisance.

Secs. 8-7. Dilapidate buildings. (Residential and Business)

It is hereby declared that buildings, both residential and business, which are permitted by an owner to become dilapidated to the extent that rubbish, debris, and unsightly material or conditions exist, constitute a public nuisance.

ARTICLE II. GARBAGE AND TRASH COLLECTION

Sec. 8-8. Garbage containers required at businesses and residences.

- (a) All single family residences and small apartments with less than six (6) units will be provided a roll-cart by the town for disposition of all organic recyclable waste material or garbage. Each person occupying such premises shall be responsible for rolling the cart to the side of the street for collection by town forces, and shall be responsible for returning the cart after collection. This section shall not apply to persons covered by other sections of this chapter or who have mechanically collected containers.
- (b) Loose litter, trash and combustible materials, whether at business or residential places, must be placed so that the contents may not be blown about or otherwise unnecessarily scattered.
- (c) For collection, roll carts must be placed at the street side so they are easily accessible to the collectors during the designated time as herein provided.
- (d) For collection, roll carts shall be placed on the street no earlier than thirty (30) minutes prior to sunset on the day before scheduled collection. Roll carts shall be removed from street by sunrise on day following scheduled collection.
- (e) No town waste can, placed in the street by the town or by town authority, shall be used by residents or business concerns for the reception of trash or garbage originating on such premises. It being distinctly understood that such receptacles are placed for the use of pedestrians.
- (f) Garbage service will be provided to residents once per week.

Sec. 8-9. Receptacles and collection for commercial and other business establishments.

Commercial and other business establishments shall be subject to the following requirements as to location and use of containers and receptacles:

- (1) Any commercial establishment, manufacturer, wholesale or retail business, hospital, clinic, church, school, apartment building or complex, or club may be required to use a bulk container individually or jointly, depending on quantity of refuse and garbage normally accumulated. The town administrator shall determine the need for the size and number of any such containers, based on the quantity of refuse.
- (2) Any commercial establishment or retail business whose location, or volume of refuse and garbage does not, as determined by the town administrator, justify economical and practical service by self-loading equipment, may be required to accept residential-type pickup service. Such service shall be subject to the requirements and provisions applicable to household garbage collection service as set forth in section 8-12.
- (3) Users of bulk containers shall construct an adequate pad on which to place the required container, located according to town specifications, and shall maintain adequate means for access thereto. Bulk containers shall not be placed on the sidewalk, grass plot, curb, gutter or street, except that whenever business or commercial establishments have no accessible rear entrance or rear door. The town may, in such case, when the requirements of pedestrian and vehicular traffic will so permit, designate a specified size and type of bulk container or other container or receptacle and a specified location on the sidewalk, parkway or grass plot, curb, gutter or street where the same may be placed for use by such business or commercial establishment.

- (4) It shall be unlawful to burn garbage, refuse, trash or other material in bulk containers.
- (5) It shall be unlawful to set garbage, refuse, trash, or other material outside of bulk container. Such material shall not be collected by town forces.
- (6) It shall be unlawful to place discarded tires, hazardous waste, large metal objects, major appliances, furniture or such similar objects in or beside a bulk container. Any person, corporation or commercial establishment engaged in manufacturing, recapping, or assembling tires must arrange for removal from their premises of all discarded tires, as not town pickup service will be provided for such disposition.
- (7) Businesses shall purchase or rent containers from standard suppliers. Bulk containers shall be kept in proper operating condition by the user. The users thereof shall maintain such containers in sanitary condition and keep the lids closed at all times except when filling and emptying. Such containers which are damaged, destroyed or burned through abuse, neglect or improper use by the commercial and business establishment and apartment complexes, or other users, shall be replaced.
- (8) The town shall not be responsible for the removal of garbage or trash from any business or commercial establishment or apartment complex or other establishment required to obtain a bulk container due to volume of garbage or refuse, which fails to purchase or rent such bulk container for use as required herein.
- (9) The drain hole of bulk containers shall be fitted with a wire screen to prohibit rodents from entering.

Sec. 8-10. Receptacles and collection for apartment buildings and complexes.

Apartment buildings and complexes shall be subject to the following requirements as to receptacles for garbage or refuse:

- (1) All apartment buildings and groups of buildings consisting of six (6) or more apartment units in one (1) building or one (1) group of buildings are required to furnish and provide garbage containers of sufficient size so that all garbage from such buildings can be mechanically handled. Where bulk containers are utilized, it shall be the joint responsibility of the person or agency responsible for the apartment building or complex, and the occupants thereof, to see that all garbage or refuse deriving there from is placed in the bulk container at its specified location as determined by the town, with due regard for loading conditions and convenience. Any failure to place such garbage or refuse in such bulk container, which results in littering the premises, shall be unlawful. Each day of failure to comply with this section shall constitute a separate offense.
- (2) Where apartment buildings and complexes with less than six (6) units are receiving garbage service, as in the case of a household, such service shall be subject to the requirements and provisions applicable to household garbage and refuse service as set forth in section 8-12.
- (3) Prior to the issuance of a building permit, all plans for apartment buildings, groups of apartment buildings or complexes consisting of six (6) or more units, will provide for garbage containers which may be picked up mechanically.

Sec. 8-11. Disturbing, defacing, etc.

- (a) No person, except the employees or agents of the town shall, within the town, remove, deface, tip over, handle or in any manner disturb any garbage can, roll-cart,

recycling bin, bulk container or other such receptacle, or disturb the contents of the same, or in any way disturb any garbage, trash or other waste matter placed for removal, whether in a sanitary box or not, or dispose of the same in any manner whatsoever.

(b) No person, other than those under the direction of the town administrator, shall haul away, remove, plunder through, or in any way tamper with any garbage or refuse set out for collection, whether in roll carts, recycling bins, bulk container or bundled for refuse collection as provided for in this chapter, except by written consent of the town administrator.

Sec. 8-12. Collection of trash, yard waste and bundled or bulky items.

Items of a bulky nature, which cannot be placed in roll carts for regular garbage and refuse collection as provided in section 8-12, will be collected by the town on a schedule determined by section 8-16:8 provided that the following provisions are met:

(1) Household/property owners may place discarded furniture, junk, major appliances, carpet and similar items of refuse on their premises nearest to the public street for collection, no earlier than one day prior to the scheduled collection day.

(2) For collection by town forces, yard clippings, wood shavings, leaves, tree trimmings not exceeding eight (8) feet in length, and similar items shall be placed at the roadside without time restriction. Trash shall be separated from yard waste. Rocks, dirt, heavy metals, concrete, building waste, hazardous waste or other refuse from a contractor's employment shall not be included.

(3) In those instances in which the property owner has unusual amounts of debris, shrubbery and trees from work performed by the owner or person occupying the property, the town will remove the first truckload of cuttings without cost, but anything over the first truckload must be paid for in advance by the property owners, tenant or agent on the basis of a fee set by town council, at a rate of \$40.00 per hour. In the event of an act of nature, there will be no charge for removal of limbs, cuttings and other cellulosic debris.

(4) No limbs, trees, cuttings or other debris will be moved by the town as a result of work done by any contractor. It shall be unlawful to place at the curb for collection as the result of contract work any construction material, dirt, rocks, hazardous waste or any material resulting from construction, remodeling, demolition, contract landscape work. Such items shall be removed and disposed of in an appropriate manner by the contractor. The removal work shall become the responsibility of the owner of the property upon failure of the contractor to remove such debris and failure of property owner to properly identify the contractor or other person responsible for such removal work. In the event the owner, contractor, or other person performing such work shall not remove refuse of any sort, including tree limbs, shrubbery, building materials and other like refuse from the property, sidewalk, curb, or street within a one-week period of time from placement thereon, a written notification of such failure shall be mailed to the owner and/or tenant through the United States mail giving notification that the town may elect to remove, or contract to have same removed and proceed pursuant to section 8-7 and/or section 8-9 of this chapter.

(5) Commercial establishments, apartment complexes and other users of self-loading bulk containers shall not place discarded furniture, junk, appliances, machinery, and other large objects in or beside bulk containers. These items will be picked up during normal trash collection at a central location in accordance to section 8-16, paragraph (1).

(6) Any person supplying or installing major household or commercial appliances or carpeting in residences or commercial establishments in the town such as washing machines, stoves, hot water heaters and air conditioners, shall remove the old appliance, equipment or carpeting from the place of installation and dispose of same.

(7) Trash and yard waste should be placed at roadside in such a way as to not block streets or sidewalks and shall be placed at the roadside of the property on which it was generated. Householders and property owners will be liable for hazardous placement of any refuse in front of their premises. Yard waste shall be separated from trash.

(8) The cleanup period for bulky waste and trash will be conducted twice during the calendar year. The spring cleanup period will be held the last week of March and the fall cleanup period will be held the last week of September.

Sec. 8-13. Leaf collection.

Leaves should be raked to the edge of the street for collection by town forces on the schedule determined by the town forces and placed on the roadside for collection in the same manner as provided in section 8-16 above. Leaves shall not be raked around the inlets to catch basin and storm drains. Leaves shall not be bagged.

Sec. 8-14. Duty of landlords, tenants, rental agents, and storekeepers.

It shall be the duty of each landlord, tenant, rental agent or storekeeper to assure that all bulk containers, and the contents thereof, as provided for in this chapter, are available for pickup service by the town forces at such place and time as may be fixed by the town. No employee of the town shall assist in the performance of the duties of the landlords, tenants, rental agents and storekeepers, as set forth therein.

Sec. 8-15. Sanitation service fees.

(a) Each non-taxpaying, nonprofit, eleemosynary institution shall pay a fee for the provision of sanitation services and the collection and disposal of refuse and garbage by the town which fee shall be set from time-to-time by the council. A schedule of such fees is on file in the town administrator's office.

(b) Each taxpaying property receiving commercial garbage service from the town shall pay to the town a commercial garbage landfill fee to cover the cost of garbage disposal which fee shall be set from time-to-time by the council. A schedule of such fees is on file in the town administrator's office.

Sec. 8-16. Sufficient containers required at loading docks.

It shall be unlawful for any person or corporation maintaining a loading or unloading area to fail to provide refuse receptacles for loose debris, paper, packaging materials and other trash. Loading area shall be kept free of litter at all times. The number of containers necessary for each area shall be determined by the town administrator.

Secs. 8-17--8-30. Reserved.

ARTICLE III. COMMUNITY IMPROVEMENT AND LITTER CONTROL

Sec. 8-31. Placing of garbage, refuse, or litter on public or private property prohibited.

It shall be unlawful for any person to put, place or throw any litter, garbage, refuse, trash or yard waste on any public street, alley or other public place in the town or upon the property of another person, corporation, or agency except in containers or areas lawfully provided therefore.

Sec. 8-32. Unauthorized disposal.

It shall be unlawful for any person to deposit household garbage or refuse in any litter receptacle maintained in a park, on a sidewalk, at any other location for control of litter by motorists and pedestrians, or at any other unauthorized disposal site.

Sec. 8-33. Depositing in public places.

(a) No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles or in authorized private receptacles for collection.

(b) No person shall throw or deposit litter in any park within the town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this article.

Sec. 8-34. Placing in receptacles to prevent scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other private place or upon private property.

Sec. 8-35. Sweeping into gutters.

No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk and gutter in front of their premises free of litter.

Sec. 8-36. Compressing and disposal of boxes, containers, etc.

Cardboard boxes and other containers placed on the sidewalks, streets or alleys for the purpose of being collected by the sanitation division will be broken down and securely fastened together and deposited on sidewalks so as not to impede traffic or be blown onto the street. Large boxes will be used as containers to hold the smaller broken-down boxes and all loose packing materials so stored in the boxes so as to prevent its [them from] being blown onto the sidewalk or street. No boxes, crates or other

containers will be placed in any garbage receptacle in the town without being broken down, crushed or smashed into its own compact size.

Sec. 8-37. Thrown by persons in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town or upon private property.

Sec. 8-38. Caused by truck loads.

(a) No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the town, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substance, litter or foreign matter of any kind. Provided, however, where circumstances are such that mud and dirt are necessarily or unavoidably deposited on the streets, it will be the duty and responsibility of the operator or owner of such vehicle involved to clean up and remove such mud and dirt from the public streets.

(b) It shall be unlawful for any person, firm, corporation, institution or organization to transport any loose materials likely to fly out by truck or other vehicle within the town unless said material is covered and secured in such a manner as to prevent litter on public or private property. This section shall apply alike to the person or corporation in control of the operation of the vehicle.

Sec. 8-39. Occupied private property.

No person shall throw or deposit litter on any occupied private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Sec. 8-40. Responsibility of owner of premises.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

Sec. 8-41. Restaurants and other business establishments.

(a) *Notice to remove.* The environmental inspector is hereby authorized and empowered to notify the owner of any restaurant or other business establishment, or the agent of such owner, to dispose of litter on such property in accordance with the provisions of this chapter when, upon investigation, it appears that litter is not being disposed of as required by the provisions of this chapter.

(b) *Action upon noncompliance.* Upon the failure, neglect or refusal of any owner or agent so notified he/she will be issued a summons for violating state law.

Sec. 8-42. Property to be kept clean.

It shall be unlawful for any owner, agent, occupant, or lessee of property within the town to:

- (1) Deposit garbage in any but flyproof, rodentproof and watertight receptacles.
- (2) Place garbage, refuse or trash, or cause the discharge of sewage or any other organic filth into or upon any place, in such manner that transmission of infectious material to human beings may result therefrom.
- (3) Place outside of any building any discarded furniture, icebox, refrigerator, stove, water heater or other major appliances, machinery, equipment, mattress, building material, or any accumulation of trash and refuse which is not completely enclosed within a building, except as allowed in section 8-16 for trash collection by town forces.
- (4) Sweep or push litter from buildings, property or sidewalks into streets, sidewalks and storm drains. Sweepings shall be picked up and put into household or commercial receptacles.
- (5) Allow the accumulation of loose or trapped litter at such locations as fences, wall bases, grassy or planted areas, borders, embankments, or other similar collecting points. Owners, agents, occupants or lessees whose properties include a town right-of-way shall be responsible for keeping up to and including the curb and gutter or street line free of litter.

Sec. 8-43. Parking lots to have containers; alternate procedures.

(a) *General requirements.* All parking lots and establishments with parking lots shall provide refuse receptacles distributed within the parking area at a rate of one (1) receptacle for every ten thousand (10,000) square feet of parking area or fraction thereof. Such receptacles shall be weighted or attached to the ground as necessary to prevent spillage. It shall be the responsibility of the owner or the administrator of the parking lot to collect the refuse and trash deposited in such containers and store this material in an approved location for collection. It shall be the obligation of all persons using parking lot areas to use such refuse receptacles or containers as hereinabove provided for the purposes intended, and it shall be unlawful for any person or persons to dump, scatter, or throw upon such parking lot area any refuse, garbage or trash of any kind.

(b) *Alternate procedures.* The owner or landlord of any parking area may present for approval an alternate plan for the abatement of trash and litter in the parking lot. The public works director shall be authorized to approve alternate trash and litter abatement plans based on the following criteria:

- (1) The extent to whether the activities conducted on the premises are likely to generate accumulation of trash and litter in the parking lot.
- (2) Number and location of trash receptacles available for patrons and employees to dispose of trash before leaving the premises.
- (3) Whether the owner or landlord has in place or proposes a regular program for the collection and disposal of trash and litter that may be deposited on the parking lot by employees or patrons or by passing vehicles.

The town administrator shall continuously review the effectiveness of alternate trash collection plans. If it appears that the alternate trash and litter abatement plan is not sufficient to effectively control the accumulation of trash and litter in the parking lot, the public works director shall require such modifications to the plan as may be necessary to abate the trash and litter problem.

Sec. 8-44. Construction waste to be contained.

It shall be unlawful for any construction and/or demolition contractor to fail to control loose debris, paper, building material waste, scrap building material, employee lunch/coffee break discards, and other trash produced by those working on a site. All such material shall be contained by the end of each working day and the site shall be kept in a reasonably clean and litter-free condition. The number and type of refuse receptacles, bulk containers, detachable containers, or other approved method of containing waste material shall be determined by the size of the job. Dirt, mud, construction materials, or other debris deposited upon any public or private property as a result of the construction or demolition shall be immediately removed by the contractor. Construction sites shall be kept orderly at all times.

Sec. 8-45. Reserved.

ARTICLE IV. DUMPING AND LANDFILLING*

Sec. 8-46. Dumping and landfilling.

(a) *Certain materials prohibited.* It shall be unlawful for any person to dump, deposit or fill on any land in the town the following materials, which shall be dumped and deposited in a sanitary landfill certified by the South Carolina Department of Health and Environmental Control:

- (1) Residential garbage, commercial food processing waste, etc.
- (2) Discarded furniture, appliances, auto tires, vehicles, etc.
- (3) Materials which create conditions allowing the harborage or breeding of vectors and rodents.
- (4) Hazardous waste (solids or liquids).

(b) *Conditions generally.* All dumping or filling of land shall conform to the following conditions:

- (1) Inert materials, such as construction debris, lumber, trees, stumps, brush, rubble, etc., may be disposed of as follows:
 - a. The maximum depth of each layer of fill materials shall be six (6) feet.
 - b. Each layer will be covered with dirt to a depth of not less than six (6) inches.
 - c. The final cover dirt shall be not less than two (2) feet.
 - d. All cover dirt shall be compacted to maintain the thicknesses in subsections (c)(1)c. and d. above.
 - e. All dumping and filling shall be made in such a manner that the surrounding community and environment will be protected from unreasonable noise, dirt and odors.
- (2) Dumping or filling over sanitary or storm sewers is prohibited without providing such protection to the pipes and system as is required and approved by the town engineer.
- (3) No natural surface drainage will be altered to such an extent that the adjacent or adjoining property owners will be adversely affected.
- (d) *Prohibited in floodplain.* Filling or dumping is prohibited at any place within the floodplain, as shown on the zoning maps of the town; provided, however, that upon written application and upon showing that such dumping or filling in the floodplain will have no adverse effect upon the public or surrounding property, the zoning board of adjustment and appeals may grant a special exception on conditions prescribed by it.
- (e) *Residential lots.* No permit shall be required for filling on a residential lot; provided, that the following conditions are met:
 - (1) No material shall be placed on a residential lot except clean, compactible dirt.
 - (2) In the event filling is done over a storm sewer or sanitary sewer, approval must first be obtained from the respective agency.
 - (3) No filling shall be permitted which will materially alter the natural surface drainage so as to adversely affect an adjoining landowner.
- (g) *Penalty.* Any person violating the provisions of this section shall be guilty of a misdemeanor and may be required to remove any material dumped in violation hereof or to correct any condition caused by such dumping.

Sec. 8-47. Nuisance.

Whatsoever is dangerous to human health, or whatsoever renders the ground, water, air or food a hazard or an injury to human health, is hereby declared a nuisance.

Sec. 8-48. Abate Nuisance.

If any person shall refuse or neglect to abate a nuisance on his property, after his attention shall have been called to the same by the town council or by any town officer, the town council shall have the power and authority to have such nuisance abated at the expense of the owner of the property whereon it exists.

Sec. 8-49 – 8-60. Reserved.

Chapter 9 YARD SALES

Article I, In General.

Sec. 9.1. Defined.

For the purpose of this article, the term “yard sale” means the sale of any new or used personal property, which sale is conducted on or about the premises of a private residence, non-profit organization, business, or eleemosynary organization, by the owner or occupant and which sale is open to the public.

Sec. 9.2. Merchandise not to be purchased or brought on premises for sale.

No new or used merchandise shall be purchased or brought on the premises for the purpose of selling the same at a yard sale.

Sec. 9.3. Permit.

Any person planning a yard sale must come to town hall and request a permit, at no cost. This permit must be posted at the site on the day of the yard sale. The maximum number of permits allowed shall be four (4) per year, not to exceed two (2) per quarter, per calendar year for any location, lot or premises.

Sec. 9.4. Sunday sales.

No yard sales will be permitted on Sunday.

Sec. 9.5 – 9.10. Reserved.

Sec. 9-11 Business License:

- (a) Section 12-36-510 of the Code of Laws of South Carolina, 1976 states that a South Carolina retail license is not required of a person conducting a yard sale if the sale is conducted no more than once a quarter. If no South Carolina retail license is required for a yard sale, the town will not require a business license for such sale.
- (b) If a person conducts sales more frequently than once a quarter, a state retail license would be required. If a state retail license is obtained for yard sales, than a business is being conducted and the owner would be required to obtain a town business license. In most residential areas of the town a business license cannot be issued because no business activity is allowed in neighborhoods.

Sec. 9.12 – 9.20. Reserved.

Chapter 10 BUSINESS LICENSE ORDINANCE

Sec. 1. License Required.

Every person engaged or intending to engage in any calling, business, occupation or profession listed in the rate classification index portion of this ordinance, in whole or in part, within the limits of the Town of Cowpens, South Carolina, is required to pay an annual license fee for the privilege of doing business and obtain a business license as herein provided.

Sec. 2. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meaning ascribed herein:

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

“Charitable Purpose” means benevolent, philanthropic, patriotic, or eleemosynary purpose which does not result in personal gain to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization. A charitable organization shall be deemed a business subject to a license tax unless the entire net proceeds of its operation, after necessary expenses, are devoted to charitable purposes.

Compensation in any form to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

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

“Gross Income” means the total income of a business, received or accrued, for one calendar year collected or to be collected from business done within the Town, excepting therefrom income from business done wholly outside of the Town on which a license tax is paid to some other Town or a county and fully reported to the Town. Gross income for brokers or agents means gross commissions received or retained, unless otherwise specified. Gross income for insurance companies means gross premiums collected. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds which are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross income for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Insurance Commission, or other government agency.

“License Official” means a person designated to administer this ordinance.

“Municipality” means the Town of Cowpens, South Carolina.

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

Sec. 3. Purpose and Duration.

The business license levied by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. Each license shall be issued for one year and shall expire on December 31. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by Council.

Sec. 4. License Fee.

- a. The required license fee shall be paid for each business subject hereto according to the applicable rate classification on or before the 31st day of January in each year, except for those businesses in Rate Class 8 for which a different due date is specified.
- b. A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the license fee shall be computed on the combined gross income for the classification requiring the highest rate. A license fee based on gross income shall be computed on the gross income for the preceding calendar or fiscal year, and on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The fee for a new business shall be computed on the estimated probable gross income stated in the license application for the balance of the license year. The initial fee for an annexed business shall be prorated for the number of months remaining in the license year. No refund shall be made for a business that is discontinued.

Sec. 5. Registration Required.

- a. The owner, agent or legal representative of every business subject to this ordinance, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year; *provided*, a new business shall be required to have a business license prior to operation within the Municipality.
- b. Application shall be on a form provided by the License Official which shall contain the Social Security Number and/or the Federal Employer's Identification Number, the business name as reported on the South Carolina income tax return, and all information about the applicant and the business deemed appropriate to carry out the purpose of this ordinance by the License Official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross income figures.
- c. The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported, or estimated for a new business, without any unauthorized deductions, and that all assessments and personal property taxes on business property due and payable to the Municipality have been paid.
- d. Insurance agents and brokers shall report the name of each insurance company for which a policy was issued and the total premiums collected for each company for each type of insurance coverage on a form approved by the License Official. An insurance agent not employed by a company shall be licensed as a broker.

Sec. 6. Deductions, Exemptions, and Charitable Organizations.

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

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

c. Charitable organizations which have exemptions from state and federal income taxes shall be exempt from a business license tax only in cases where the sponsors, organizers, directors, trustees, or persons who exercise ultimate control of the organization receive no part of the proceeds of operation, and all proceeds are devoted to charitable purposes as defined by this ordinance. Payment of necessary costs of operation and wages to non-management employees will not disqualify a charitable organization from exemption.

Sec. 7. False Application Unlawful.

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

Sec. 8. Display and Transfer.

a. All persons shall display the license issued to them on the original form provided by the License Official in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the Municipality.

b. A change of address must be reported to the License Official within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification by the License Official and compliance with zoning and building codes. Failure to obtain the approval of the License Official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

Sec. 9. Administration of Ordinance.

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

Sec. 10. Inspection and Audits.

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

b. The License Official shall make systematic inspections and random audits of all businesses within the Municipality to insure compliance with the ordinance. Financial information obtained by inspections and audits shall not be deemed public records, and the License Official shall not release the amount of license taxes paid or the reported gross income of any person by name without written permission of the licensee. Statistics compiled by classifications are public records.

Sec. 11. Assessments, Payment under Protest, Appeal.

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

b. A notice of assessment shall be served by certified mail. An application for adjustment of the assessment may be made to the License Official within five (5) days after the notice is mailed or the assessment will become final. The License Official shall establish by regulation the procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment.

c. A final assessment may be appealed to the municipal Council only by payment in full of the assessment under protest within five (5) days and the filing of written notice of appeal within ten (10) days after payment pursuant to the provisions of this ordinance relating to appeals to Council.

Sec. 12. Delinquent License Fees, Partial Payment.

a. For non-payment of all or any part of the correct license fee, the License Official shall levy and collect a late penalty of five (5%) percent of the unpaid fee for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any license

fee remains unpaid for sixty (60) days after its due date, the License Official shall report it to the municipal attorney for appropriate legal action.

b. Partial payment may be accepted by the License Official to toll imposition of penalties on the portion paid; *provided*, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

Sec. 13. Notices.

The License Official may, but shall not be required to, mail written notices that license fees are due. If notices are not mailed there shall be published a notice of the due date in a newspaper of general circulation within the municipality three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

Sec. 14. Denial of License.

The License Official shall deny a license to an applicant when the application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact, or when the activity for which a license is sought is unlawful or constitutes a public nuisance *per se*. A decision of the License Official shall be subject to appeal to Council as herein provided. Denial shall be written with reasons stated.

Sec. 15. Suspension or Revocation of License.

When the License Official determines:

A. A license has been mistakenly or improperly issued or issued contrary to law; or

B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance; or

C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or

D. A licensee has been convicted of an offense under a law or ordinance regulating business, a crime involving moral turpitude, or an unlawful sale of merchandise or prohibited goods; or

E. A licensee has engaged in an unlawful activity or nuisance related to the business;

the License Official shall give written notice to the licensee or the person in control of the business within the municipality by personal service or certified mail that the license is suspended pending a hearing before Council for the purpose of determining whether the license should be revoked. The notice shall state the time and place at which the hearing is to be held, which shall be at a regular or special Council meeting within thirty (30) days from the date of service of the notice, unless continued by agreement. The notice shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this ordinance.

Sec. 16. Appeals to Council.

- a. Any person aggrieved by a decision, final assessment, revocation, suspension, or a denial of a business license by the License Official may appeal the decision to the municipal Council by written request stating the reasons therefor, filed with the License Official within ten (10) days after the payment of the assessment under protest or notice of denial is received. Payment under protest shall be a condition precedent to appeal.
- b. An appeal or a hearing on revocation shall be held by the municipal Council within thirty (30) days after receipt of a request for appeal or service of notice of suspension at a regular or special meeting of which the applicant or licensee has been given written notice, unless continued by agreement. At the hearing all parties shall have the right to be represented by counsel, to present testimony and evidence and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council shall govern the hearing. Council shall by majority vote of members present render a written decision based on findings of fact and application of the standards herein which shall be served upon all parties or their representatives and shall be final unless appealed to a court of competent jurisdiction within ten (10) days after service.
- c. No person shall be subject to prosecution for doing business without a license until the expiration of ten (10) days after notice of denial or revocation which is not appealed or until after final judgment of a circuit court upholding denial or revocation.

Sec. 17. Permission to use streets required.

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

Sec. 18. Consent, franchise or business license fee required.

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

Sec. 19. Confidentiality.

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any official or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this ordinance. Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns. Any license data may be shared with other public officials or employees in the performance of their duties, whether or not those duties relate to enforcement of the license ordinance.

Sec. 20. Violations.

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

Sec. 21. Separability.

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

Sec. 22. Classification and Rates.

- a. The sectors of businesses included in each Rate Class are listed with the United States North American Industry Classification System (NAICS) codes. The alphabetical index in this ordinance is a tool for classification, not a limitation on businesses subject to a license tax. The License Official shall determine the proper class for a business according to the applicable NAICS manual, whether or not the business is listed in the alphabetical index. A business class which is not listed in the rate class or numerical indexes is not subject to a license tax.
- b. The license fee for each Class of businesses subject to this ordinance shall be computed in accordance with the following rates:

| RATES | | |
|---------------------------------------|--|------------------------|
| RATE CLASS | MINIMUM FEE | |
| | INCOME: 0 - \$2000 | ALL OVER \$2000 |
| | Rate per Thousand or fraction thereof | |
| 1 | \$ 40.00 | \$ 1.25 |
| 2 | \$ 40.00 | \$ 1.25 |
| 3 | \$ 45.00 | \$ 1.25 |
| 4 | \$ 45.00 | \$ 1.25 |
| 5 | \$ 50.00 | \$ 1.35 |
| 6 | \$ 50.00 | \$ 1.35 |
| 7 | \$ 60.00 | \$ 1.50 |
| 8 See individual business in Class 8. | | |

NON-RESIDENT RATES

Unless otherwise specifically provided, all minimum fees and rates shall be doubled for non-residents and itinerants having no fixed principal place of business within the municipality.

| DECLINING RATES | |
|--|--|
| Declining Rates apply in all Classes for gross income in excess of \$1,000,000 | |
| Gross Income in \$ Millions | Percent of Class Rate for each additional \$1,000 |
| 0 - 1 | 100% |
| 1 - 2 | 90% |
| 2 - 3 | 80% |
| 3 - 4 | 70% |
| 4 - 5 | 60% |
| 5 - 6 | 50% |
| 6 - 7 | 40% |
| Over 7 | 30% |

CLASS 8 RATES

Each NAICS Number designates a separate subclassification. The businesses in this section are treated as separate and individual subclasses due to provisions of State law, regulatory requirements, service burdens, tax equalization considerations, etc., which are deemed to be sufficient to require individually determined rates. Non-resident rates do not apply except where indicated.

NAICS 23 - **Contractors, Construction, All Types**

A. Having permanent place of business within the municipality

Minimum on first \$2,000..... \$50.00 PLUS
Per \$1,000, or fraction over \$2,000 from all work..... \$ 1.35

B. Non-resident (no permanent place of business in the municipality)

Minimum on first \$2,000..... \$100.00 PLUS
Per \$1,000, or fraction, over \$2,000)..... \$ 2.70

(non-resident double rates do not apply)

A trailer at the construction site, or structure in which the contractor temporarily resides is not a permanent place of business under this ordinance. The total fee for the full amount of the contract shall be paid prior to commencement of work and shall entitle contractor to complete the job without regard to the normal license expiration date. An amended report shall be filed for each new job and the appropriate additional license fee per \$1,000 of the contract amount shall be paid prior to commencement of new work. Only one base fee shall be paid in a calendar year. No contractor shall be issued a business license until all state and municipal qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job

identifying the contractor with the job. Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job. No deductions shall be made by a general or prime contractor for value of work performed by a sub-contractor. No contractor shall be issued a business license until all performance and indemnity bonds required by the Building Code have been filed and approved. Zoning permits must be obtained when required by the Zoning Ordinance. Each prime contractor shall file with the License Official a list of sub-contractors furnishing labor or materials for each project.

NAICS 482 - Railroad Companies – (See Code § 12-23-210).....

NAICS 5171, 5172 - Telephone Companies:

Section 1.

a. Notwithstanding any other provisions of the Business License Ordinance, the business license tax for “retail telecommunications services,” as defined in S.C. Code section 58-9-2200, shall be at the maximum rate authorized by S.C. Code section 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. The rate for the 2005 business license tax year shall be the maximum rate allowed by State law as in effect on February 1, 2005. Declining rates shall not apply.

b. In conformity with S.C. Code section 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 municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. 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 municipality. For a business in operation for less than one year, the amount of business license tax shall be computed on a twelve-month projected income.

Section 2.

a. For the year 2005, the business license tax for “retail telecommunications services” shall be due on February 1, 2005, and payable by February 28, 2005, without penalty. For years after 2005, 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 (5 %) of the tax due for each month, or portion thereof, after the due date until paid.

Section 3.

Exemptions in the business license ordinance 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.

Section 4.

- a. Nothing in this ordinance shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement in the event that the franchise or contractual agreement should expire after December 31, 2003.
- b. All fees collected under such a franchise agreement or contractual agreement expiring after December 31, 2003, shall be in lieu of fees or taxes which might otherwise be authorized by this ordinance.

Section 5.

As authorized by S.C. Code section 5-7-300, the agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from telecommunications companies pursuant to S.C. Code section 58-9-2200 in the form attached hereto is approved, and the Mayor is authorized to execute it. Notwithstanding the provisions of the Agreement, for the year 2005, the Municipal Association of South Carolina is authorized to collect current and delinquent license taxes in conformity with the due date and delinquent date for 2005 as set out in this Ordinance and is further authorized, for the year 2005, to disburse business license taxes collected, less the service charge agreed to, to this municipality on or before April 1, 2005, and thereafter as remaining collections permit.

Section 6.

All previous ordinances, or portions of ordinances, in conflict with this ordinance are hereby repealed.

NAICS 5175 - **Television**, Cable or Pay,
 Services using public streets..... See Consent or Franchise

Cable television services not using public streets:
 Minimum on first \$2,000..... \$60.00 PLUS
 Per \$1,000, or fraction, over \$2,000..... \$1.50

NAICS 22112 - **Electric Power Distribution** See Consent or Franchise

NAICS 22121 - **Natural Gas Distribution** See Consent or Franchise

NAICS 423930 - **Junk or Scrap Dealers** [Non-resident rates apply]

Minimum on first \$2,000..... \$100.00 PLUS
 Per \$1,000, or fraction, over \$2,000..... \$2.70

NAICS 4411, 4412 - **Automotive, Motor Vehicles, Boats, Farm Machinery, Retail** - (except auto supply stores - see 4413)

Minimum on first \$2,000..... \$100.00 PLUS
 Per \$1,000, or fraction, over \$2,000..... \$2.70
 One sales lot not more than 400 feet from the main showroom may be operated under this license provided that proceeds from sales at the lot are included in gross

receipts at the main office when both are operated under the same name and ownership. **Gross receipts for this classification shall include full sales price without deduction for trade-ins.** Dealer transfers shall not be included in gross receipts.

NAICS 72241 - Drinking Places, bars, lounges, cabarets - (Alcoholic beverages consumed on premises)

Minimum on first \$2,000..... \$80.00 PLUS
Per \$1,000, or fraction, over \$2,000..... \$2.50

NAICS 522298 - Pawn Brokers - All Types

Minimum on first \$2,000..... \$80.00 PLUS
Per \$1,000, or fraction, over \$2,000..... \$2.50

NAICS 45439 - Peddlers, Solicitors, Canvassers, Door-To-Door Sales,
direct retail sales of merchandise. [Non-resident rates apply]

A. Regular activities [more than two sale periods of more than three days each per year]

Minimum on first \$2,000..... \$80.00 PLUS
Per \$1,000, or fraction, over \$2,000..... \$2.50

B. Seasonal activities [not more than two sale periods of not more than three days each year, separate license required for each sale period]

Minimum on first \$2,000..... \$50.00 PLUS
Per \$1,000, or fraction, over \$2,000..... \$2.00

NAICS 5241 - Insurance Companies:

Except as to fire insurance, "gross premiums" means gross premiums collected (1) on policies on property or risks located in the municipality, and (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 municipality or by the insurance company's employee doing business within the municipality or by the office of the insurance company's licensed or appointed producer (agent) located in the municipality or by the insurance company's licensed or appointed producer (agent) doing business within the municipality.

As to fire insurance, "gross premiums" means gross premiums

(1) collected in the municipality, and/or
(2) realized from risks located within the limits of the municipality. Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit. 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 municipality whether or not an office is maintained therein. A premium collected on property or a risk located within the municipality shall be deemed to have been collected within the municipality. Declining rates shall not apply.

NAICS 52411 - Life, Health and Accident0.75% of Gross Premiums

NAICS 524126 - **Fire and Casualty**2% of Gross Premiums

NAICS 524127 - **Title Insurance**2% of Gross Premiums

NAICS 524210 - Brokers for Fire and Casualty Insurers - non-admitted:

As to brokers for non-admitted fire and casualty insurers, “gross premiums” means gross premiums collected by or for fire and casualty insurers not licensed in South Carolina

(1) on policies on property or risks located in the municipality and/or (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 municipality. 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.

..... 2% of Gross Premiums

[Premiums for non-admitted business are not included in broker's gross commissions for other business. Declining rates shall not apply.] Notwithstanding any other provisions of this ordinance, 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. Pursuant to S.C. Code §5-7-300, the agreement with the Municipal Association of South Carolina on file with the Clerk for collection of current and delinquent license taxes from insurers and brokers is approved.

NAICS 713120 - Amusement Machines, coin operated (except gambling)

Music machines, juke boxes, kiddie rides, video games, pin tables with levers, and other amusement machines with or without free play feature licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(1) and (A)(2) – **[Type I and Type II]**

1. Operator of machine \$12.50 per machine, PLUS \$12.50 business license for operation of all machines (not on gross income). [§12-21-2746]
2. Distributor selling or leasing machines (not licensed by the State as an operator pursuant to §12-21-2728) - [Nonresident rates apply.] - Minimum on first \$2,000 \$50.00 PLUS Per \$1,000, or fraction, over \$2,000 \$1.35

NAICS 713290 - Amusement Machines, coin operated - nonpayout

Amusement machines of the nonpayout type or in-line pin game licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(3) - **[Type III]**

1. Operator of machine (owner of business)..... \$180.00 per machine, PLUS \$12.50 business license for operation of all machines (not on gross income). [§12-21-2720(B)]
2. Distributor selling or leasing machines (not licensed by the State as an operator pursuant to §12-21-2728) - [Nonresident rates apply.] -

Minimum on first \$2,000 \$50.00 PLUS
Per \$1,000, or fraction, over \$2,000 \$1.35

NAICS 71399 - **Billiard or Pool Rooms**, all types -

\$5.00 stamp per table PLUS

Minimum on first \$2,000 \$50.00 PLUS
Per \$1,000, or fraction, over \$2,000 \$1.45

NAICS 71119 - **Carnivals and Circuses** -

Minimum on first \$2,000 \$200.00 PLUS
Per \$1,000, or fraction, over \$2,000 \$2.00

Chapter 11 MOTOR VEHICLES AND TRAFFIC

Art. I. In General

Art. II. Operation of Vehicles

Art. III. Stopping, Standing and Parking

 Div. 1. Generally

 Div. 2. Impoundment of Abandoned, Wrecked or Illegally Parked Vehicles

Art. IV. Pedestrians

Art. V. Railroad

Art. VI. Miscellaneous

ARTICLE I. IN GENERAL

Sec. 11-1. Short title.

This chapter may be known and cited as "The Traffic Ordinance."

Sec. 11-2. Adoption of state law.

It is hereby adopted by reference and made a part hereof as if set forth in full those provisions of the state law known as the "Uniform Act Regulating Traffic on Highways" (SC Code Section 56-5-10 et seq.)

Sec. 11-3. Definitions.

The following words and phrases when used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them in this section:

Authorized emergency vehicle means vehicles of the fire department, police department and such emergency vehicles as are designated and authorized to use the privileges of authorized emergency vehicles by permit of the public safety director and ambulances when carrying an ill or injured person suffering from:

- (1) Poisoning;
- (2) Excessive bleeding, which cannot be controlled by immediate first aid; and,
- (3) Such injury and illness that the attending physician designates that rapid transportation is required.

Business district means the territory contiguous to and including a highway when fifty (50) percent or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

Crosswalk means that portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections. Any portion of a roadway distinctly indicated for pedestrian crossings by lines or other markings on the surface.

Driver means every person who drives or is in actual physical control of a vehicle.

Intersection means the area embraced within the prolongation or connection of the later curblines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

Motor vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Official time standard means whenever certain hours are named herein they shall mean standard time in use in this town.

Official traffic-control devices means all signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Official traffic signal means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Park means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

Pedestrian means any person afoot.

Parking lot means any lot, building or structure whereon or wherein a vehicle may be parked, placed or allowed to stand.

Public safety officer means every officer of the municipal police department or any officer authorized to direct or regulate or to make arrests for violation of traffic regulations.

Private road or driveway means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Railroad means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

Railroad train means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

Residential district means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with dwellings or dwellings and buildings in use for business.

Right-of-way means the privilege of the immediate use of the roadway.

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

Safety zone means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Standing means any stopping of a vehicle, whether occupied or not.

Stop means complete cessation of movement.

Stop or *stopping* means any stopping of a vehicle except when necessary to avoid conflict with other traffic or in compliance with the direction of a public safety officer or traffic-control sign or signal.

Street or *highway* means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purpose of vehicular traffic.

Traffic means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances, either single or together while using any street for purposes of travel.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power and used exclusively upon stationary rails or tracks.

Sec. 11-4. Obedience to traffic laws.

Any person doing any act forbidden by this chapter or failing to perform any act required thereby shall be deemed guilty of a misdemeanor.

Sec. 11-5. Authority and power of certain officials.

- (a) The town administrator or chief of police is hereby authorized and empowered to make and promulgate regulations governing the control and movement of traffic in the town not inconsistent with this chapter; which, when made and promulgated, shall be considered a part of this chapter and shall have

the same effect as if incorporated herein.

Sec. 11-6. Opening door on traffic side of vehicle.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

Sec. 11-7. Persons propelling pushcarts or riding bicycles or animals.

Every person propelling any pushcart or riding a bicycle or an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

Sec. 11-8. Unnecessary noise.

- (a) It shall be unlawful for any person to unnecessarily blow any horn or employ the unnecessary use of any other sound signal.
- (b) The use of any cut-out, exhaust whistle, loudspeaker or siren by any person in the operation of a motor vehicle in the town is prohibited except by the operator of an authorized emergency vehicle in an actual emergency.

Secs. 11-9--11-30. Reserved.

ARTICLE II. OPERATION OF VEHICLES

Sec. 11-31. Funeral processions, etc.

(a) Funeral processions shall be identified as such by the display of lights on each vehicle; each driver in a procession shall drive as near to the right-hand edge of the roadway as practical and follow the vehicle ahead as [near as] is practical and safe.

(b) No driver of a vehicle shall drive between the vehicles comprising a funeral procession while they are in motion and when such vehicles are conspicuously designated. This provision shall not apply at intersections where traffic is controlled by traffic-control systems or a police officer.

Sec. 11-32. Limitation on turning around.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in the business district of the town and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

Sec. 11-33. Driving through safety zones, private driveways filling stations, etc.

(a) No vehicle shall at any time be driven through or within a safety zone.

(b) No vehicle shall at any time be driven through or across any private driveway or filling station premises for the purpose of avoiding any traffic-control device.

Sec. 11-34. Careless operation of motor vehicles prohibited.

No person shall operate any motor vehicle without care and caution and full regard for the safety of persons and property. Any person failing to do so shall be guilty of careless driving. The operation of any vehicle when the same or any of its parts are not in proper or safe condition shall be prima facie evidence of careless driving. Speeding, failure to obey a traffic control device or other acts of careless operation of a motor vehicle as described by state law shall be prima facie evidence of a violation of this section.

Sec. 11-35. Only licensed operators may drive vehicle.

No vehicle shall be operated within the town limits other than by a properly licensed driver. Every person operating a motor vehicle in the town must have in his possession at all times his drivers license.

Sec. 11-36. Vehicles not be driven on sidewalk.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

Secs. 11-37 -- 11-55. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING

DIVISION 1. GENERALLY

Sec. 11-56. Parking prohibited in certain places.

(a) No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals of a public safety officer.

(b) No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic.

(c) The chief of police is hereby authorized to establish and regulate parking zones and regulate permissible parking periods which shall be enforceable upon the posting of said regulations. It shall be unlawful for any person to allow a vehicle to remain parked in a manner inconsistent with the posted parking regulations.

Sec. 11-57. Parking for display, repairs, etc.

No person shall stand or park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying it for sale;
- (2) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

Sec. 11-58. Handicapped parking violations.

(a) It is unlawful to park any vehicle in a parking place designated for a handicapped person unless the vehicle bears the distinguished license plate or placard provided by the State of South Carolina or any other state for handicapped persons. This provision shall apply to all designated handicapped parking places on public and private property including streets, parking facilities in the town, shopping centers, business and commercial establishments which provide parking spaces designated for handicapped persons.

(b) The provisions of South Carolina law including but not limited to Title 56, Chapter 3 are incorporated herein.

(c) Any person, firm or corporation violating the provisions of this section upon conviction shall be fined not more than two hundred dollars (\$200.00) or imprisoned for not more than thirty (30) days.

Sec. 11-59. Owner responsible for illegal parking.

No person shall allow or permit any vehicle registered in his name to stand or park in any street in the town in violation of any of the ordinances of the town regulating the standing or parking of vehicles.

Sec. 11-60. Loading zones.

It shall be unlawful for any person to park any vehicle in any area designated and marked as a loading zone between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sundays.

Sec. 11-61 Parking of vehicles in the town.

(a) *Parking of commercial vehicles and buses in residential district prohibited.*

(1) No person shall park, store, or knowingly permit any other person to park or store a commercial vehicle on any street, road or right-of-way within the town in a residential district or on any residential lot at any time of day or night.

(2) A commercial vehicle includes a vehicle that is (a) a tractor-trailer; or (b) a cab or tractor without trailer; or (c) transports sixteen (16) or more passengers; or (d) used to transport hazardous materials; or (e) having more than six (6) tires and which bears any sign or marketing which advertises or identifies any business or commercial interest. The above restrictions shall not apply to private or public school buses.

(3) Moving or delivery vans being loaded or unloaded for a period not to exceed forty-eight (48) hours are exempt from this section without a permit but periods in excess of forty-eight (48) hours will require a permit from the town building official.

(4) Trailers used in construction, renovations or improvement activities shall be allowed on the construction site with a permit issued by the town building official.

(b) *Parking of trucks over three-quarters ton on town streets.* No truck exceeding three-quarters ton shall park on any street within the town limits between the hours of 6:00 p.m. and 6:00 a.m.; provided, however, that the operator of such truck may park for the purpose of eating and other personal needs for a period not exceeding one (1) hour. No such truck shall park on any street within the town limits between the hours of 6:00 a.m. and 6:00 p.m. except for the purposes of loading and unloading and no such truck shall be permitted to remain parked.

Subsection (b) is subject to subsection (a) above and in the event of conflict, subsection (a) above controls.

Sec. 11-62. Commercial, etc., parking lots to have dustproof and waterproof hard surface.

All commercial parking lots, bus or trucking terminal lots and lots used in connection with the operation of drive-in restaurants shall be paved with a dustproof and waterproof hard surface, meeting the requirements of the town, and such paving shall be maintained for so long as such use continues; provided, that this section shall not apply to lots used temporarily for such purposes.

Sec. 11-63. Maintenance of parking lots.

All public parking lots and entrances, including commercial parking lots, trucking terminals, used car lots, drive-in restaurants, garages or any lots used in connection with office buildings or any other business shall be kept and maintained so as not to allow any dirt, gravel, debris or refuse whatsoever to be blown, washed, carried or transmitted in any way from such lot onto or across public sidewalks or public streets.

Sec. 11-64. Cruising.

(a) No person shall drive or permit a motor vehicle under his care, custody or control to be driven past a traffic control point three (3) times within a two-hour period after 7:00 p.m. Monday through Friday or before 6:00 a.m. on such days and after 12:00 noon on Saturdays, Sundays and holidays or before 6:00 a.m. on such days in or around a posted no cruising area so as to contribute to traffic congestion, obstruction of streets, sidewalks, or parking lots, impediment of access to shopping centers or other buildings open to the public, or interference with the use of property or conduct of business in the area adjacent thereto.

(b) At every point where a public street becomes or provides ingress to a no cruising area, there shall be posted a sign which designates "no cruising" areas.

(c) The definition of a "no cruising area" is as follows: An area designated "No Cruising," wherein no person shall drive or permit a motor vehicle under his care, custody, or control to be driven past a traffic control point three (3) times within a two-hour period in or around this area so as to contribute to traffic congestion, obstruction of streets, sidewalks, or parking lots, impediment of access to shopping centers or other buildings open to the public, or interference with the use of property or conduct of business in the adjacent area.

The town administrator shall designate such areas.

(d) A traffic control point as used in this section means any point or points within the no cruising area established by the public safety department for the purpose of monitoring cruising.

(e) No violation shall occur except upon the third passage by the same traffic control point within the aforementioned two-hour period.

(f) A violation of this section shall be subject to penalty in accordance with section 11-5 of this Code.

(g) This section shall not apply to in-service emergency vehicles, taxicabs for hire, buses and other vehicles being driven for business purposes.

Sec. 11-65. Parking prohibited in fire lanes or fire zones.

It shall be unlawful to park in spaces reserved as fire lanes or fire zones within the Town of Cowpens. It shall be unlawful for drivers of unauthorized vehicles to park in spaces which are designated as fire lanes or fire zones and are so marked, whether such spaces are located on public roads or streets or on private property which is used as a public parking lot and is posted in accordance with Section 23-1-15, S.C. Code Ann.

Penalties for violations. Any person who violates this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars (\$200.00) or imprisoned for not more than thirty (30) days. Any unpaid fine or portion of unpaid fine shall attach to the motor vehicle tax of the registered owner of vehicle in violation.

Secs. 11-66 – 11-100. Reserved.

DIVISION 2. IMPOUNDMENT OF ABANDONED, WRECKED OR ILLEGALLY PARKED VEHICLES

Sec. 11-101. Removal from streets; towing charges.

Whenever a police officer finds a motor, or other vehicle, that has been abandoned or wrecked upon the public streets or ways of the town, or that has been parked in violation of a town ordinance, such officer may, with the approval of the chief of police have such vehicle removed by any wrecker service on the approved list and the same shall be held until claimed by the legal owner or is otherwise disposed of, as provided by this division, or other applicable law.

Sec. 11-102. Notification to owner.

It shall be the duty of the investigating official to advise the owner of such vehicle, and if such vehicle shall be a motor vehicle, the owner shall be construed to be the registered owner thereof as shown by the records of the state of its registration at such owner's last-known address, within seventy-two (72) hours, by registered mail, of the fact that such vehicle has been impounded, setting forth the reasons for such impounding.

Sec. 11-103. Storage charges.

Storage charges for impounded vehicles stored on town property shall be a minimum of three dollars (\$3.00) per day if retained over five (5) hours, a weekly charge of fifteen dollars (\$15.00) and a monthly charge of sixty dollars (\$60.00).

Sec. 11-104. Release of vehicle to owner.

No impounded vehicle shall be released until all towing and storage charges have been paid to the wrecker service and proper evidence of ownership exhibited.

Sec. 11-105. Payment of charges under protest; return of charges when owner found not guilty.

Should any owner of an impounded vehicle pay the charges provided in this division under protest and he is found to be not guilty of the violation of any traffic law of the town, such person shall be refunded the money paid "under protest" without interest.

Sec. 11-106. Sale of unclaimed vehicles; disposition of proceeds.

If at the expiration of thirty (30) days from the date of the impounding of a vehicle, the rightful owner thereof has not claimed the same and paid the charges herein provided, the director of public safety shall advertise and sell such vehicle, after due notice published in a local newspaper once a week for three (3) weeks, to be sold for the towing, storage and advertising charges thereon, and any money received from the sale over and above the amount due for such charges shall be placed in an escrow account to be held for the rightful owner of such vehicle until proper evidences submitted by the person entitled thereto.

Sec. 11-107. Declared health hazard and nuisance.

The having, parking or placing of any motor vehicle which does not have a current motor vehicle license upon any property located within the town is hereby declared to be a public health hazard and a nuisance and the owner of the property on which such vehicle is located shall be guilty of a misdemeanor.

Sec. 11-108. Maintenance on private property unlawful.

It shall be unlawful for any person to salvage or otherwise maintain upon his property any inoperable motor vehicle for the purpose of taking parts therefrom.

Sec. 11-109. Exceptions.

Provisions of this article shall not apply to any motor vehicle which is the subject of litigation in any court of this state and shall not apply to motor vehicles located on the place of business of any licensed new or used car dealer, or in those cases, where the unlicensed or inoperable vehicle is covered or sheltered in such fashion as is adequate to prevent moisture from accumulating.

Sec. 11-110. Establishment, "No Thru Truck Route" - Palmetto Street

Pursuant to motion duly made, seconded and passed by the Town Council, with two readings, January 18, 1998 and February 16, 1998, that the within Ordinance be enacted.

The following "No Thru Truck Route" which runs east of Main Street from Linda Street to Main Street. Signs shall be posted accordingly, so that all truck drivers will be aware of this "No Thru Truck Route" for Palmetto Street, State Road No. S-42-568. Effective February 16, 1998.

Secs. 11-111. -- 11-150. Reserved.

ARTICLE IV. PEDESTRIANS

Sec. 11-151. Hitchhiking prohibited.

No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle.

Sec. 11-152. Runners, joggers to wear reflective clothing or devices.

(a) *Required.* No person shall run or jog in any public street or highway open to motor vehicle traffic during the time from one-half hour after sunset to one-half hour before sunrise, or at any other time when there is not sufficient natural light to render discernible persons, vehicles and substantial objects on the street or highway at a distance of five hundred (500) feet ahead, unless such person is wearing reflective clothing or a reflective device. The reflective clothing or reflective device shall be worn on the person and be of sufficient size and reflective capacity to be seen at a distance of not less than five hundred (500) feet to the person's front and rear when illuminated by two (2) standard automobile headlights operating at the lawful lower beam setting. For the purposes of this section, the public street or highway shall not include the sidewalk or crosswalk.

(b) *Penalty.* A violation of this section shall constitute a misdemeanor, punished upon conviction by a fine of not more than one hundred dollars (\$100.00) or by imprisonment not exceeding thirty (30) days. Each day of violation will constitute a separate offense.

Secs. 11-153. – 11-160. Reserved.

ARTICLE V. RAILROAD

Sec. 11-161. Speed of engines.

It shall be unlawful for any railroad engine to be run within the corporate limits of the town at a greater rate of speed than thirty-five (35) miles per hour.

Sec. 11-162. Obstructing streets.

No engine, or cars, or train of cars shall obstruct any of the streets of the town by remaining thereon for a longer period of than five (5) minutes.

Secs. 11-163—11-170. Reserved.

ARTICLE VI. SKATEBOARDING

Sec. 11-171. Regulation of use of skateboards, in-line skates, and roller skates.

- (a) It shall be unlawful for any person upon roller skates, in-line skates, skate boards or other similar wheeled devices to:
 - (1) Go upon any roadway designed for vehicular traffic;
 - (2) Use these devices in a town-owned or leased parking garage or surface lot;
 - (3) Go upon any sidewalk or street in the Central Business District as defined by the Zoning Ordinance for the Town of Cowpens on public property or private property opened to the public or use any other wheeled apparatus that damages brick, masonry or wooden surfaces.
- (b) Persons riding roller skates, in-line skates, skate boards or other similar wheeled devices on a sidewalk shall exercise due care for the safety of others using the sidewalk.
- (c) *Penalty.* Any person violating this section shall be guilty of a misdemeanor and upon conviction, shall be subject to a maximum fine of \$50.00. Upon a second or subsequent conviction for a violation of this section, said person shall be fined up to \$500.00 and/or imprisoned for not more than 30 days.
- (d) This section shall not apply to the town park and recreation programs and events.

Secs. 11-172 – 11-180. Reserved.

Chapter 12 MUNICIPAL COURT

Sec. 12-1. Established.

There is hereby established a municipal court for the town, which shall be a part of the unified judicial system of the state, pursuant to state law, for the trial and determination of all cases within its jurisdiction.

Sec. 12-2. Appointment, term, compensation of judge; filling of vacancy.

The court shall be presided over by a municipal judge appointed by council for a term of two (2) years. The municipal judge shall be appointed by council for a term fixed by council not to exceed four (4) years, or shall serve at the pleasure of council. The compensation of the municipal judge shall be as from time to time may be determined by council. Vacancies shall be filled in accordance with state law.

Sec. 12-3. Designation, duties of clerk of court.

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

Sec. 12-4. Jurisdiction.

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

Sec. 12-5. Maximum penalty to be imposed by court.

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

Sec. 12-6. Authority of judge to suspend sentences.

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

Sec. 12-7. Disposition of fines and penalties.

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

Sec. 12-8. Appeals.

(a) Any party shall have the right to appeal from the sentence or judgment of the municipal court to the court of general sessions. Notice of intention to appeal, setting forth the grounds for appeal, shall be given in writing and served on the municipal judge or the clerk of the municipal court within ten (10) days after sentence is passed or judgment rendered, or the appeal shall be deemed waived. The party appealing shall enter into a bond, payable to the town to appear and defend such appeal at the next term of the court of general sessions or shall pay the fine assessed.

(b) In the event of an appeal, the municipal judge shall make a return to the court of general sessions as provided by state law.

Sec. 12-9. Right to jury trial.

Any person to be tried in the municipal court may, prior to trial, demand a jury trial, and such jury when demanded, shall be composed of six (6) persons drawn from the qualified electors of the town in the manner prescribed by law. The right to a jury trial shall be deemed to have been waived unless demand is made prior to trial.

Sec. 12-10. Appointment of jury commissioners.

The town council shall appoint three (3) persons to serve as jury commissioners for the municipal court who shall hold office at the pleasure of town council.

Sec. 12-11. Failure of juror to appear.

Any juror who, being duly summoned, shall neglect or refuse to appear in obedience to any summons issued by a municipal court, and shall not within forty-eight (48) hours render to the municipal judge a sufficient reason for his delinquency, may be punished for contempt.

Sec. 12-12. Right to record pleadings.

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

Chapter 13 OFFENSES AND MISCELLANEOUS PROVISIONS

Art. I. In General

Art. II. Offenses Against Property

Art. III. Offenses Against Public Peace

Art. IV. Offenses Against Public Health

Art. V. Offenses Against Public Safety

Art. VI. Offenses Against Public Morals

Art. VII. Drug Paraphernalia and Counterfeit Drugs

Art. VIII. Loitering for Purpose of Drug-related Activity

Art. IX. Illegal Purchase of Contraband

Art. X. Miscellaneous Provisions

ARTICLE I. IN GENERAL

Sec. 13-1. Masks or hoods; wearing in public demonstrations, parades, etc.

Any person who shall or may hereafter engage in a parade, procession, cavalcade, caravan or public demonstration as a party thereto shall not wear a mask or hood of any kind which would prevent recognition of his identity by any member of the police department of the town. This section shall not apply nor is it designed to apply to the wearing of masks or costumes by any person twelve (12) years old or younger who is engaged upon celebration of Halloween upon the streets and alleys of the town, nor shall this section apply to funeral processions in any event. For the purpose of enforcing this section, a cavalcade or caravan shall mean more than three (3) automobiles or motor vehicles upon a common enterprise.

Secs. 13-2--13-25. Reserved.

ARTICLE II. OFFENSES AGAINST PROPERTY

Sec. 13-26. Damaging public property prohibited.

It shall be unlawful for any person to damage, mutilate or destroy any property of whatsoever kind or nature belonging to or under the control of the town or the town authorities.

Sec. 13-27. Damaging, destroying, etc., personal property prohibited.

(a) It shall be unlawful for any person to willfully, unlawfully or maliciously cut, tear, break or otherwise injure or destroy any personal property, equipment or goods and chattels of another.

(b) Any person violating the provisions of this section, when the injury or loss of property affected by such act is less than two hundred fifty dollars (\$500.00), shall be guilty of a misdemeanor.

Sec. 13-28. Trespass after notice.

It shall be unlawful for any person to enter upon the lands of another within the corporate limits of the town, after notice from the owner or tenant prohibiting the same. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 13-29. Indecent or obscene writings, figures, etc.

It shall be unlawful for any person to be guilty of any disorderly, lewd or indecent conduct by making or placing any obscene, indecent or profane writings, pictures, figures or marks on any sidewalk, street, fence, or on the outside walls or inside walls, partitions or doors of any house, structure or building or on any part of any structure or building.

Sec. 13-30. Placing advertising matter on poles prohibited.

It shall be unlawful for any person to tack, post or in any way fasten any sign, bill or notice on any telegraph, telephone or electric light pole within the town. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 13-31. Removal of mobile signs violating town ordinance; redemption of sign by owner.

(a) Any mobile signs placed in violation of the zoning ordinance, this Code or any other ordinance of the town, may be moved and towed in by town authorities.

(b) The owner of such mobile sign may redeem same within thirty (30) days by the payment of a fine of fifteen dollars (\$15.00) and any and all other costs in connection with the towing and storage of such sign, and upon evidencing a valid business license.

Secs. 13-32--13-55. Reserved.

ARTICLE III. OFFENSES AGAINST PUBLIC PEACE

Sec. 13-56. Disorderly conduct.

(a) It shall be unlawful for any person to engage in disorderly conduct, which shall consist of any one (1) or more of the following:

(1) Acting in a violent or tumultuous manner toward another, whereby any person is placed in danger of his life, limb or health;

(2) Acting in a violent or tumultuous manner toward another, whereby the property of any person is placed in danger of being destroyed or damaged;

(3) Causing, provoking or engaging in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;

(4) Using "fighting words" directed towards any person who thereby becomes outraged and thus creates turmoil;

(5) Congregating with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and refuse to clear such public way when ordered by the town public safety officers or other lawful authority;

(6) Being drunk or under the influence of alcohol, or any narcotic or hypnotic drug or any stimulant or depressant on any street or public place to such an extent as to be of annoyance to any other person or as to jeopardize persons or property or as to menace the public peace and safety.

(b) This section shall not apply to peaceful picketing, public speaking or other lawful expressions of opinion not in contravention of other laws.

(c) Any person convicted of violating any provision of this section shall be guilty of a misdemeanor.

Sec. 13-57. Disturbing town council.

It shall be unlawful for any person to molest, disturb, interfere with or interrupt any meeting of the town council, or assault, strike, menace, insult, molest or abuse the mayor or any of the council members thereof during their attendance at any meeting, or while otherwise in the proper discharge of his duty as such mayor or council member.

Sec. 13-58. Mechanical loudspeakers, sound amplifiers, etc., restricted.

(a) The operation or use of any mechanical loudspeaker, sound amplifier or other device whatsoever for the increase in intensity of sound in the town, except when installed within the confines of an enclosed building or vehicle, is hereby declared to be unlawful and to constitute a public nuisance, except at those times and at those places provided in this section.

(b) The town administrator may grant a temporary permit for the use of mechanical loudspeakers or other sound amplifiers at public functions and occasions when the use thereof is for the benefit and enjoyment of the attending public.

(c) The town administrator may grant a permit for the use of a loudspeaker or sound amplifier on the roof of a public building or in a tower or steeple for the purpose of playing patriotic and religious music for a period of fifteen (15) minutes in any given two-hour period between the hours of 8:00 a.m. and 9:00 p.m.

(d) The town administrator may grant a permit for the use of mechanical loudspeakers at reasonable locations on the Central Business District for the purpose of playing music.

(e) Any person using, operating or permitting the use or operation on his property, or property under his control, of any loudspeaker, sound amplifier or other device whatsoever for the increase in intensity of sound in the town, except when installed within the confines of an enclosed building or vehicle, or special permit set forth herein, shall be guilty of a misdemeanor.

Sec. 13-59. Loud and unnecessary noises restricted.

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

(b) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this and the preceding section, but such enumeration shall not be deemed to be exclusive, namely:

(1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the town, except as a danger warning, the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one (1) operated by hand or electric; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) *Radios, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located or from the person carrying same shall be a violation of this section.

(3) *Loudspeakers, amplifiers, etc., for advertising.* The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 6:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(5) *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper town authorities.

(6) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) *Defect in vehicle or loud.* The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(8) *Loading, unloading, opening, etc., boxes, etc.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(9) *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 9:00 p.m. and 7:00 a.m. and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 9:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(10) *Adjacent to schools, courts, churches, hospitals, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(11) *Hawkers, peddlers, etc.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(12) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(13) *Transporting metal rails, pillars and columns.* The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(14) *Pile drivers, hammers, etc.* The operation between the hours of 10:00 p.m. and 6:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(15) *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(16) *Refrigerating or air cooling equipment.* The operation of any refrigerating or air cooling equipment used in connection with any building, structure or vehicle unless noise is muffled or such equipment is equipped with muffler device to deaden such noise.

Sec. 13-60. Rioting; fighting; breach of peace.

Any person creating any disturbing noise or making or creating any brawl, riot, affray, fighting or indulging in any profane, obscene or vulgar language, or acting in a tumultuous, disorderly or indecent and vulgar manner, within the corporate limits of the town, shall be guilty of a misdemeanor.

Sec. 13-61. Unlawful assembly.

(a) It shall be unlawful for any person within the town to congregate and assemble in any street, avenue, alley, road or highway or in or around any public building or enclosure or any park or reservation or at the entrance of any private building or enclosure, and engage in loud and boisterous talking or other disorderly conduct or to insult or make rude or obscene gestures or commentaries or observations on persons passing by or in their hearing or to crowd, obstruct or incommode the free use of any such street, avenue, alley, road, highway or any of the foot pavements thereof or the free entrance into any public or private building or enclosure.

(b) It shall be unlawful for any person to curse, swear or make use of any profane language or indecent or obscene words or engage in any disorderly conduct in any street, avenue, alley, road, highway, public park or enclosure, public building, church or assembly room or in any other public place or in any street, avenue, alley, road, highway, public park or enclosure, or other building or in any premises other than those where the offense was committed. Any person violating the provisions of this section shall be guilty of a misdemeanor.

Sec. 13-62. Failure to leave premises when requested by owner, proprietor, etc., prohibited.

Any person failing or refusing immediately to vacate and leave the premises of any business or other establishment, whether public or private, when so requested by the owner, proprietor, manager or other person in charge shall be guilty of a misdemeanor.

Sec. 13-63. Use of language intending to incite persons to violence.

It shall be unlawful for any person to be upon any public property, public street, public road, or any property open to the public and to utter or use any profane, vulgar or indecent language, racial or religious slurs or other derogatory comments which are offensive to and directed to another person with the possible consequence of violence.

Secs. 13-64--13-85. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC HEALTH

Sec. 13-86. Glue sniffing prohibited.

(a) As used in this section, the phrase "glue containing a solvent having the property of releasing toxic vapors or fumes" shall mean and include any glue, cement, or other adhesive containing one (1) or more of the following chemical compounds: acetone, an acetate, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, or toluene.

(b) No person shall, for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of his brain or nervous system, intentionally smell or inhale the fumes from any glue containing a solvent having the property of releasing toxic vapors or fumes; provided, that nothing in this section shall be interpreted as applying to the inhalation of any anesthesia for medical or dental purposes.

(c) No person shall, for the purpose of violating subsection (b) use, or possess for the purpose of so using, any glue containing a solvent having the property of releasing toxic vapors or fumes.

(d) No person shall sell, or offer to sell, to any other person any tube or other container of glue containing a solvent having the property of releasing toxic vapors or fumes, if he has reasonable cause to suspect that the product sold, or offered for sale, will be used for the purpose set forth in subsection (b).

(e) Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 1-11.

Secs. 13-87--13-110. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC SAFETY

Sec. 13-111. Abandoned iceboxes, refrigerators, etc.

(a) It shall be unlawful for any person to store, place or permit any discarded, abandoned or unused icebox, refrigerator, deep freeze or similar container of an airtight character in any place where the same is accessible to children, without first removing and rendering completely inoperable all automatic catches or locks on the exterior of all doors thereof so as to prevent any person or child from becoming imprisoned therein.

(b) This section shall not apply to the delivery, transfer or removal of any such icebox, refrigerator, deep freeze or container from one (1) location to another while in transit; provided, that such icebox, refrigerator, deep freeze or container shall not be left unattended for longer than fifteen (15) minutes at any one (1) time, and shall be checked for the presence of persons or children therein.

(c) Any person violating any provision of this section shall be guilty of a misdemeanor.

Sec. 13-113. Fireworks.

(a) It shall be unlawful within the limits of the town, for any person to sell or expose for sale, keep, store, maintain, have in possession, transport, give or pass any squibs, torpedoes, firecracker or any other type or form of fireworks, including salutes, Roman candles, fountains, balloons carrying any lighted substance, cannon, cane, sky rockets, bombs or other similar articles of fireworks, which will be fired, lighted, ignited, set off or thrown. Cap pistols and caps for same are expressly excluded from the operation of this section.

(b) Before any fireworks will be permitted for public exhibition in connection with fairs or other special celebrations, permission shall first be obtained from the town administrator, and such fireworks shall be under the supervision of an expert, who shall be present in order to handle, maintain or fire same, and in such case of exhibition, the parties in charge of same shall be held strictly responsible for any damage to person or property resulting from the use of such fireworks. All fireworks being held in storage for special exhibition shall be in a closed wooden box until they are used.

(c) All public exhibitions of fireworks permitted under this section shall be concluded not later than 10:00 p.m.

(d) Any person violating the provisions of this section shall be guilty of a misdemeanor.

Sec. 13-114. Hours of discharge.

No discharge of fireworks will be permitted after the hour of 10:00 p.m. with the exception of New Year's Day, Christmas Eve and Fourth of July with the time limitation of discharge being 1:00 a.m.

Sec. 13-115. Breaking arrest; escape from jail, etc.

(a) It shall be unlawful for any person to break arrest, to escape from town jail or to escape from the custody of any person lawfully having charge of prisoners.

(b) Any person violating this section shall be guilty of a misdemeanor.

Sec. 13-116. Impersonating officers, etc., prohibited.

It shall be unlawful for any person, not lawfully authorized to do so, to act as a police officer, officer or official of the town and it shall be unlawful for any person to falsely impersonate any officer, official or police officer of the town and, in such pretensive or pretended character, obtain or receive from any person any money, paper, document or other valuable thing. Any person violating this section shall be guilty of a misdemeanor.

Sec. 13-117. Air guns, slingshots, etc.

(a) It shall be unlawful for any person to fire or shoot any air gun, air pistol or other like gun or pistol by any other name whatsoever called, or to shoot or use any slingshot weapon or any other weapon of like kind, the shooting of which may cause damage or accident to any person or property, upon any of the streets, lanes or public places of the town or within one hundred (100) yards of such streets, lanes or public places. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

(b) The chief of police may give written permission for the holding of target practice or other public shooting of firearms at such specified times and under such circumstances as will ensure that no damage, injury or accident to any person or property will result. The granting of such a permit shall place the full and complete responsibility upon such person or organization of taking all precautions necessary to prevent damage or injury to any person or property within the town.

Sec. 13-118. Carrying firearms into or near public gatherings prohibited.

It shall be unlawful for any person to carry into or near any public gathering any loaded or unloaded firearm and, upon conviction thereof, any such person shall be guilty of a misdemeanor and shall forfeit such weapon to the town.

Sec. 13-119. Presenting or pointing loaded or unloaded firearm at another person prohibited.

It shall be unlawful for any person to present or point at any other person any loaded or unloaded firearm and, upon conviction thereof, any such person shall be guilty of a misdemeanor, and shall forfeit such weapon to the town. Provided, however, nothing contained in this section shall be construed to abridge the right of self defense or to apply to theaters or like professions.

Sec. 13-120. Children prohibited from carrying weapons.

It shall be unlawful for any person under the age of sixteen (16) years to carry, within the corporate limits of the town any rifle, shotgun or firearm. Any person violating the provisions of this section shall be guilty of a misdemeanor.

Secs. 13-121--13-140. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS

Sec. 13-141. Gambling.

(a) *Prohibited.* No person shall within the corporate limits of the town, at any time or place, game or play for money or other stakes at any sort of game with cards, dice, coins or any other device or thing of whatsoever quality or denomination the same may be. Any person violating this subsection shall be deemed guilty of a misdemeanor and, upon conviction thereof, in addition to the penalty provided by law, shall forfeit all the stakes and everything that may have been bet on the game or used in connection with it.

(b) *Resorts declared nuisances.* All places where persons are permitted to resort for the purpose of gambling within the corporate limits of the town are hereby declared nuisances, and the keeper, manager or proprietor of such places shall be guilty of a misdemeanor.

(c) *Frequenting gambling houses.* Any person who, without a legitimate excuse, frequents or visits any gambling house, or is present at any place whatsoever where gambling is going on, within the corporate limits of the town, shall be guilty of a misdemeanor.

Sec. 13-142. Slot machines.

It shall be unlawful for any person to keep or permit to be kept on his premises, or to operate within the corporate limits of the town, any slot machine of any name or kind, except automatic weighing, measuring, musical and vending machines, which are so constructed as to give a certain uniform and fair return in value for each coin deposited therein and in which there is no element of chance. Any person who shall violate this section shall be guilty of a misdemeanor.

Secs. 13-143--13-199. Reserved.

ARTICLE VII. DRUG PARAPHERNALIA AND COUNTERFEIT DRUGS

Sec. 13-200. Counterfeit drugs.

Any person who shall distribute or sell any substance under the pretense that said substance is an illegal drug, illegal narcotic or controlled substance when said substance is in fact not an illegal drug, illegal narcotic or controlled substance shall be guilty of the sale of counterfeit drugs for the purposes of this section and upon conviction shall be deemed guilty of a misdemeanor.

Sec. 13-201. Definitions.

(a) The term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this division. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales or balances used, intended for use, or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in compounding controlled substances.

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, ceramic pipes with or without screens, permanent screens, hashing heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

- e. Roach clips, meaning objects used to hold burning material such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons, and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;
 - k. Chillums;
 - l. Bongs;
 - m. Ice pipes or chillers.
- (b) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
 - (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.
 - (3) The proximity of the object, in time and space, to a direct violation of this division.
 - (4) The proximity of the object to controlled substances.
 - (5) The existence of any residue of controlled substances on the object.
 - (6) Direct or circumstantial evidence of the intent of an owner or anyone in control of the object, to deliver it to persons whom he knows or should reasonably know, intend to use the object to facilitate a violation of this division; the innocence of any owner, or of anyone in control of the object, as to a direct violation of this division shall not prevent a finding that the object is intended for use, or designed for use as a drug paraphernalia.
 - (7) Instructions, oral or written, provided with the object concerning its use.
 - (8) Descriptive materials accompanying the object which explain or depict its use.
 - (9) National and local advertising concerning its use.
 - (10) The manner in which the object is displayed for sale.
 - (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
 - (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
 - (13) The existence and scope of legitimate uses for the object in the community.
 - (14) Expert testimony concerning its use.

Sec. 13-202. Possession of drug paraphernalia.

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this division. Any person who violates this section is guilty of a misdemeanor.

Sec. 13-203. Manufacture or delivery of drug paraphernalia.

It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonable should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test,

analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this division. Any person who violates this section is guilty of a misdemeanor.

Sec. 13-204. Delivery of drug paraphernalia to a minor.

Any person eighteen (18) years of age or over who violates section 13-203 by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior is guilty of a special offense.

Sec. 13-205. Advertisement of drug paraphernalia.

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of this advertisement, in whole or in part, is to promote the sale of any objects designed or intended for use as drug paraphernalia. Any person who violates this section is guilty of a misdemeanor.

Sec. 13-206. Civil forfeiture.

(a) Any of the items of personal property listed in section 13-201 hereof which is legally confiscated by the town will be forfeited. Any such property will be secured by the public safety department for a period of ten (10) days and thereafter the town will either destroy and sell such thereof as may be used for legitimate purposes.

(b) Property subject to be forfeited under this division may be seized by the public safety department upon process issued by the municipal judge. Seizure without process may be made if the seizure is incident to an arrest or a search under a search warrant.

Sec. 13-207--13-299. Reserved.

ARTICLE VIII. LOITERING FOR PURPOSE OF DRUG-RELATED ACTIVITY

Sec. 13-300. Loitering.

(a) It is unlawful for any person to loiter in or near any thoroughfare, place open to the public, or near any public or private place, in a manner and under circumstances, manifesting the purpose to engage in drug-related activity contrary to any of the provisions of state law.

(b) Among the circumstances which may be considered in determining whether such purpose is manifested are:

(1) Such person is a known unlawful drug user, possessor or seller. For the purpose of this article, a "known unlawful drug user, possessor or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession, or sale of any of the substances referred to by state law, or such person has been convicted of any violations of any of the provisions of that law or substantially similar laws of the town; or a person who displays physical characteristics of drug intoxication or usage, including but not limited to, dilated pupils, glassy eyes, slurred speech, loss of coordination or motor skills, or a person who possesses drug paraphernalia as defined by state law.

(2) Such person has been given due notice, either verbal or written, on any occasion prior to any arrest, within one (1) block of the area where the arrest occurred, or such person is currently subject to an order or term of probation prohibiting his or her presence in a high drug activity geographic area.

(3) Such person behaves in such a manner as to raise a reasonable suspicion that such person is engaging or is about to engage in an unlawful drug-related activity, either sale, possession or purchase, including by way of example only, such person acting as a lookout or flagging down vehicles or pedestrians.

(4) Such person is physically identified by the officer as a member of a gang or association which has [as] its principal purpose illegal drug activity.

(5) Such person transfers small objects or packages for currency or any other thing of value in a furtive fashion which would lead the officer to believe or ascertain that a drug sale has or is about to occur.

(6) Such person takes flight upon the appearance of a law enforcement officer or public safety officer.

(7) Such person endeavors to conceal any object which reasonably could be involved in an unlawful drug-related activity.

(8) The area involved is by public repute known to be an area of unlawful drug use and trafficking.

(9) Any vehicle involved is registered to a known unlawful drug user, possessor, seller, or a person for whom there is an outstanding warrant from a crime involving drug-related activity.

Sec. 13-301. Article cumulative.

The provisions of this article are intended as cumulative and selective, and shall not repeal any other ordinance involving the same subject matter.

Sec. 13-302. Severability.

If any provision of this article is held invalid, such invalidity shall not affect any other provision, or the application thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Sec. 13-303. Violation; penalty.

Any person who violates the provisions of this article is guilty of a misdemeanor, and upon conviction shall be imprisoned for up to thirty (30) days and be subject to a fine of not more than two hundred dollars (\$200.00), or both.

Secs. 13-304--13-399. Reserved.

ARTICLE IX. ILLEGAL PURCHASE OF CONTRABAND

Sec. 13-400. Prohibiting illegal purchase or attempt to purchase contraband.

No person shall offer to purchase, negotiate the terms of a purchase, or attempt to purchase, contraband in the town. For purposes of this article, the term "negotiate" shall include, but not be limited to, inquiries as to the availability of contraband for sale, examination of contraband or contraband facsimile for the purpose of determining quantity or quality, or any other overt act which a reasonable person would believe to be the initiation of a process designed to purchase contraband. The term "contraband" shall be defined as any substance the possession of which is unlawful under the provisions of Title 44, Chapter 53 of the Code of Laws of South Carolina (1976), as amended.

Secs. 13-401--13-499. Reserved.

ARTICLE X. MISCELLANEOUS PROVISIONS

Sec. 13-510. False information to law enforcement officers.

It is unlawful for any person to give any false information including a fictitious name or the name of another person, false or fictitious dates of birth and social security numbers to any law enforcement officer on any type of official report. These reports shall include but are not limited to Traffic Accident Reports, Incident Reports, Arrest Reports and Uniform Traffic Tickets. Any person violating the provisions of this section is guilty of a misdemeanor and must be punished by a fine not to exceed five hundred dollars (\$500.00) or by a term of imprisonment not to exceed thirty (30) days.

Chapter 14 PLANNING

ARTICLE I. In General.

The Zoning Ordinance for the Town of Cowpens is hereby attached and made Appendix B of this manual.

Secs. 14-1 – 14-25. Reserved.

Chapter 15 POLICE

Article I. Wrecker Ordinance.

Sec. 15-1 – 15-14. Reserved.

Sec. 15-11. Wrecker Ordinance Regulations.

Whereas, the town council of the Town of Cowpens proposes the following regulations shall be followed by all wrecker services utilized by the town.

- (a) No town police officer shall hold any financial interest or any form of ownership interest in any wrecker service.
- (b) Unless the owner or driver of a vehicle is incapacitated or unavailable, the owner or driver of a wrecked or disabled vehicle shall have the right to the wrecker service of his/her choice. Before calling any wrecker service to tow a wrecked or disabled vehicle, the investigating officer on the scene shall, if practical, determine the owner's or driver's preference of wrecker services and the wrecker service designated by the owner or driver shall be called.
- (c) All wreckers shall be equipped with legally authorized lighting and other safety equipment to protect the motoring public. Such equipment shall be maintained in good working order.
- (d) Equipment such as brooms, shovels, etc., must be carried on all wreckers whereby to remove glass and other debris from the highway. The highway shall be cleaned by the wrecker service prior to leaving the scene of any accident.
- (e) Wrecker services shall be available to the town and to the public on a twenty-four hour basis.
- (f) In no event shall any police officer recommend any wrecker service to the owner of a wrecked or disabled vehicle nor shall any police officer ever recommend the services of a particular wrecker service in the performance of his duties.
- (g) Wreckers shall respond only upon the request of the proper police authority. Response under any other condition may result in removal from the wrecker list.
- (h) The wrecker rotation list shall be administered fairly and in a manner designed to ensure that all wrecker services on the list have an equal opportunity to the towing business arising from the rotation list.
- (i) Wrecker services shall be called from the rotation list in the order which they appear on the list. If a particular wrecker service is unavailable when called, it shall be passed over and the next wrecker service on the list shall be called to the scene.
- (j) Separate rotation lists shall be maintained for heavy duty wreckers. Where the services of a heavy duty wrecker are needed and where the owner or driver has no preference as to which wrecker service he/she desires, a heavy duty wrecker shall be called from the heavy duty wrecker rotation list.
- (k) The wrecker service must have a wrecker of sufficient size and strength to handle the job. The town shall have the right not to call a wrecker service which in its opinion fails to meet the qualifications. Under these conditions, the wrecker service not called shall remain on the top of the rotation list.
- (l) Each wrecker owned by any wrecker service on a vehicle rotation list shall be equipped with a towing log. The towing log shall be maintained by the wrecker service at the request of the town's police officer. The wrecker log format shall

- be designed by the police department. Each wrecker service owner shall be responsible for producing this towing log.
- (m) Charges for work performed must be reasonable. Reasonable charges for daytime towing (7:00 a.m.-7:00 p.m.) will be \$125.00 and reasonable charges for nighttime towing (7:00 p.m.-7:00 a.m.) will be \$175.00.
 - (n) Wrecker operators must conduct themselves in a proper manner at all accident scenes and in a proper manner when dealing with the public.
 - (o) It shall be unlawful for any person to solicit wrecker business in the town.
 - (p) A wrecker service may secure assistance from another wrecker service when necessary to do the job. Only one (1) bill is to be submitted to the owner or operator for the work performed.
 - (q) When a wrecker service or wrecker driver is unable to answer a call, the police shall be promptly notified to the fact and the reason of unavailability.
 - (r) Each wrecker service on the rotation list must place a sign on the door of each of its wreckers indicating the company name, address, and telephone number. This sign shall be painted on the door of the wrecker or otherwise permanently affixed to the door. The letters of the sign must be no less than two (2) inches in height. If the wrecker is registered in a name other than that of the wrecker service, the owner's name must also appear on the door in letters no less than one (1) inch in height. All lettering on wreckers shall be plainly visible and shall be in a color which contrasts to that of the wrecker.
 - (s) Any wrecker service on the rotation list shall carry liability insurance on its wrecker and premises in an amount no less than one hundred thousand dollars (\$100,000.00).
 - (t) Any wrecker service on the rotation list shall carry garage keepers liability insurance covering the customer's vehicle in an amount no less than twenty-five thousand dollars (\$25,000.00).
 - (u) Each wrecker service shall be responsible for securing personal property in a vehicle at any accident scene as best it can and the wrecker service shall be responsible for reasonably attempting to preserve personal property in a vehicle which is about to be towed from an accident scene. In no event, however, shall a wrecker service be responsible for personal items which do not come into the possession of the wrecker service.
 - (v) Any complaints from wrecker services regarding any incident involving the police department or its cooperation of the wrecker list must be received within thirty (30) days of the alleged incidents.
 - (w) Any wrecker service on the rotation list shall live within four (4) miles of the town limits.

Sec. 15-12. Penalty for violation.

Failure of any wrecker service to comply with the regulations as stated may result in their removal from the town wrecker list by the chief of police or punishment in accordance with this ordinance.

Secs. 15-13 – 15-20. Reserved.

ARTICLE II. PARADES AND MOTORCADES

Sec. 15-21. To regulate parades and motorcades.

No parade, motorcade or other combination of vehicles or persons tending to obstruct the free use of the streets of the town shall be permitted within the town limits, except in accordance with a permit issued by the chief of police, and the chief of police may, within his discretion, specify a license fee not in excess of fifty (\$50.00) dollars to be paid by any person or organization requesting permission to use the streets of the town for the purpose of holding such parade, motorcade or other combination of persons or vehicles.

Chapter 16

RESERVED

Chapter 17 STREETS AND SIDEWALKS

Art. I. In General

Art. II. Assessments for Permanent Improvements

Art. III. Assessments for Permanent Improvements to Correct Drainage Problems

Art. IV. Numbering Streets and Buildings

Art. V. Construction of Utilities and Other Public Works Within Street Rights-of-way and Easements

Art. VI. Obstructions and Encroachments

Art. VII. Setback Lines

ARTICLE I. IN GENERAL

Sec. 17-1. Throwing wastepaper or trash on streets or sidewalks.

It shall be unlawful for any person to throw or deposit or permit to be thrown or deposited any wastepaper or trash of any kind on any of the streets or sidewalks of the town.

Sec. 17-2. Scattering dirt, sand, ashes, etc., from vehicles.

It shall be unlawful for any person to scatter from any vehicles or otherwise, on the streets of the town, any dirt, rock, sand, ashes, manure, brick, pieces of wood, paper or other material or trash.

Sec. 17-3. Placing glass, etc., on streets.

(a) No person shall throw or deposit upon any street any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such street.

(b) Any person who drops, or permits to be dropped or thrown, upon any street any destructive or injurious material shall immediately remove such material or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

Sec. 17-4. Breaking or removing street lights.

It shall be unlawful for any person to break any lamp or electric light or to remove any electric light bulb from any of the streetlights within the corporate limits of the town.

Sec. 17-5. Mutilating sidewalks.

Any person mutilating or in any way defacing any sidewalk within the corporate limits of the town shall be deemed guilty of a misdemeanor.

Sec. 17-6. Painting signs on sidewalks.

It shall be unlawful for any person to paint any sign on any of the sidewalks of the town; provided, however, signs on sidewalks in the town used in connection with a safety or civic improvement program may be permitted in those instances where the location, size and color are approved by the town administrator.

Sec. 17-7. Obedience to "street closed" signs, etc.

Wherever any street or sidewalk improvements shall be under construction, and barricades erected for their protection and to warn traffic away, or "street closed" signs displayed, it shall be unlawful for any person to disregard such barricades or signs and

enter or walk upon any such street or sidewalk, or drive or cause to be driven thereon any animal or vehicle.

Sec. 17-8. Streets on recorded plats to comply with subdivision regulations.

(a) Any and all streets shown on a recorded plat but unopened and not accepted for maintenance by the town or opened and not accepted for maintenance by the town, shall be governed with regard to widths of right-of-way, preparation of road bed, storm drainage, paving and other related matters by the subdivision regulations of the town. No such street shall be accepted for maintenance until such regulations shall be complied with. Provided, however, that the regulation and its requirements shall not apply to a condominium regime.

(b) The provisions of this section shall also apply to any street which is not subject to the jurisdiction of the planning commission.

Sec. 17-9. Selling or offering for sale any merchandise, refreshments, etc., on certain town streets prohibited.

(a) It shall be unlawful for any person to sell or offer for sale any goods, wares, merchandise or refreshments upon the streets of the town adjacent to, bordering or in the vicinity of public playgrounds, parks, ball parks and amusement areas.

(b) Any person violating this section shall be guilty of a misdemeanor.

Sec. 17-10. Auction sales on streets prohibited.

It shall be unlawful for any person to sell or expose for sale at public auction upon the streets of the town any goods, wares, merchandise, stock or other property of whatsoever kind, unless permission has been granted by the proper town official. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 17-11. Use of streets for organized walks and bike races in connection with raising funds or promoting an activity or cause.

(a) Any person desiring to use the sidewalks, streets or street rights-of-way in connection with the raising of funds or promoting a civic activity through the use of organized bike races, walks, jogging or other like activity to be conducted at a specified time, in a specified area or over a designated course, shall obtain a permit from the town administrator or his designated representative.

(b) The town administrator will issue a permit to any sponsor or organization upon the filing of an application not less than ten (10) working days prior to the beginning of the event intended to be conducted within the sidewalks or streets of the town. The application shall give the following information:

- (1) Name of organization;
- (2) Purpose of organization;
- (3) Purpose of the event;
- (4) Location or locations;
- (5) Date of event; and
- (6) Such further information as the town administrator may require.

(c) The sponsor or organizer of any such event intending to use public streets or sidewalks of the town in connection with a publicized promotion or fund-raising activity shall take such safety precautions and measures as may be prescribed by the chief of police.

Sec. 17-12. Picketing or patrolling.

(a) *Filing information required.* Any person who shall picket, patrol or conduct similar activities in and upon the sidewalks and streets of the town, or on the premises or in front of any factory, store or business establishment in the town or any person immediately directing or controlling such picketing, patrolling or similar activities, shall file with the town, at the office of the director of public safety, not later than twenty-four (24) hours after such picketing, patrolling or similar activity begins, the following information, which shall be prepared in duplicate, the original of which will be left with the director of public safety or at his office, and the duplicate will be carried by the individual filing same, at all times:

- (1) Name;
- (2) Permanent address;
- (3) Spartanburg area address;
- (4) Place being patrolled or picketed, giving street address and street number, if available;
- (5) Hours and days during which pickets or patrols will be maintained;
- (6) Purpose of such picketing or patrolling;
- (7) Name of employer and amount of compensation, if any, to be received for such picketing, patrolling or other similar activity.

(b) *Date of filing information.* All persons required to file the reports under subsection (a) of this section shall file same in accordance with the terms of this section and, at least once each month, on or before the first day of each calendar month during the continuance of such picketing, patrolling or other similar activity. The report required hereunder shall be sworn to before a notary public for the state.

(c) *Penalty for failure to file or filing false report.* Any person failing to file the report required under subsection (a) of this section or any person filing a false report shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 1-11. Each and every day during which a person pickets, patrols or conducts such similar activities in front of a business establishment or upon the streets or sidewalks of the town and fails to comply with the provisions of this section shall constitute and be a separate violation.

Sec. 17-15. Dumping, moving, etc., dirt, gravel, excavated material, etc.

(a) *Protection of drainage and water flow.* Any person causing or directing the dumping, moving or placing of any earth, sand, gravel, rocks, stone or other excavated material upon any property in the town shall do so with due regard to existing drainage of water and drainage problems created thereby and shall so construct such fill or dumping to take care of any water which may wash upon any street or public way or upon adjacent property.

(b) *Overflow onto public or private property prohibited.* No person shall, when hauling any earth, sand, gravel, rocks, stone or other excavated material over any public street, or other public place, allow such materials to blow or spill over or upon such street or place or adjacent private property.

(c) *Removal of overflow required.* When any earth, sand, gravel, rocks, stone or other excavated material is caused to be deposited upon or to roll, flow or wash upon any public place or way or upon any adjacent property, the person responsible therefor shall cause the same to be removed from such public place or way within two (2) hours or from adjacent property within twenty-four (24) hours. If it is not so removed the town administrator shall cause such removal from the public place or way, and the cost of such removal shall be paid to the town by the person who failed to remove such material.

Secs. 17-16--17-35. Reserved.

Chapter 18 TAXATION

Sec. 18-1. Annual tax levied.

The town council shall impose, by ordinance, an annual tax as it shall deem necessary for general corporate purposes on all real estate lying within the corporate limits of the town and on all personal property within the corporate limits of the town; except any real or personal property which is exempt from taxation by the constitution and laws of the State of South Carolina. Such tax shall be levied by the town council based on the assessed valuation of the tax purposed as determined by Spartanburg County.

Chapter 19 TOWN OF COWPENS FLAG

Sec. 19-1. Battle of Cowpens.

The town council has found, as a matter of fact, that the Revolutionary War, Battle of Cowpens, fought nearby on January 17, 1781 was the turning point of the Revolutionary War and that the town derived its name because of the fame and good name that the battle brought to the community.

Sec. 19-2. Cowpens Battle Flag.

The town council finds that the State of South Carolina has designated the "Cowpens Battle Flag" as the official Bicentennial Flag and that it is fitting and proper that this famous flag be designated as the official flag for the Town of Cowpens.

Chapter 20 NUISANCES

Art. I. In General

Art. II. Weeds, Brush and Debris

Art. III. Mosquitoes

Art. IV Vehicles

ARTICLE I. IN GENERAL

Sec. 20-1. Prohibited.

(a) It shall be unlawful for any person to create, allow or maintain a nuisance on his premises or lot, or on any lot or premises occupied by him, or on any lot or premises belonging to another of which such person acts as agent.

(b) The following acts or things, among others, are hereby declared nuisances, but such enumeration shall not be deemed to be exclusive: Making or creating noises of such a character as to be of actual physical discomfort to persons of ordinary sensibilities; allowing stagnant water, decaying animal matter, decaying vegetables or fruits, or anything causing offensive odors or whatsoever is dangerous to human life or health to remain on such lot or premises; allowing anything whatsoever which renders the air, food or water or other drink unwholesome to remain on such lot or premises.

(c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 20-2

Committing nuisance on public or private property—Generally.

Any person who shall be guilty of committing a nuisance in or about any cemetery, church yard, school yard or public building or place, or on private premises in the Town shall be deemed guilty of a misdemeanor.

(Code 1979, § 15-33)

Sec. 20-3

Same—Managing property, etc., so as to commit.

It shall be unlawful for any person to conduct such person's self or to manage or allow to be used or managed any property, real or personal, belonging to or controlled by such person in such a manner as to result in a nuisance to such person's neighbors or to the public, or to knowingly aid, assist or abet therein.

(Code 1979, § 15-32)

Sec. 20-4

Same—On private property generally.

(a) It shall be unlawful for any person to fail or refuse to abate a public nuisance on such person's property or on property controlled by such person within the Town.

(b) Each day that this section shall be violated shall constitute a distinct and separate offense; provided, however, that if the nuisance is of such a nature that it cannot be abated immediately, it shall be a defense to a prosecution under this section that the defendant in good faith has commenced: (1) to abate such nuisance; and (2) is proceeding with the abatement thereof with reasonable diligence; but even though a defendant shall have commenced the abatement thereof, the failure to complete the abatement with reasonable diligence shall make the defendant liable to prosecution and conviction hereunder.

(c) In the event that a corporation shall violate this section, the corporation and its managing officers, and each of them, shall be equally guilty of the violation of this section and any one, or some, or all of them, may be charged with a violation of this section, and upon conviction punished hereunder.

(Code 1979, § 15-30)

Sec 20-5

Same—Prosecution of corporation for maintaining.

In the event of the prosecution of a corporation for violating section 8-5 a summons shall be issued, based upon an affidavit conforming in all respects to an affidavit supporting the issuance of a warrant of arrest, against the corporation, requiring the corporation to appear in the municipal court on a certain day and hour, to answer the charge, and served upon some officer or agent of such corporation, together with a copy of the affidavit, and upon proof thereon, the municipal court shall have jurisdiction of such corporation; and, in the event a corporation shall be sentenced hereunder to pay a fine not exceeding two hundred dollars (\$200.00), and shall not pay it within five (5) days, the Town clerk shall issue an execution therefor against the corporation to the chief of police, directing and commanding the chief to levy upon the property of the corporation to satisfy the execution and costs, in substantially the same manner as provided by law for the collection of executions on judgments in courts of record in civil actions. Upon receipt of any such execution, the chief of police, in enforcing the same, shall proceed in all respects as prescribed by state law for sheriffs of the state in the collection and enforcement of executions, issued to them under judgments in civil actions, and all sales thereunder shall be made at the front door of the county courthouse.

(Code 1979, § 15-31)

Sec 20-6

Depositing waste in unsanitary manner.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town or in any area under the jurisdiction of the Town, any human or animal excrement, garbage, or other objectionable waste.

(Code 1979, § 24-58; Ord. of 3-8-83)

Sec. 20-7 - Littering.

It shall be unlawful for any person to dump, throw upon, deposit, or leave trash, refuse, garbage, cans, bottles, wrecked cars or any other litter on any property belonging to another without permission from the owner thereof or on, along or upon any public street, parking lot, sidewalk, park or other public property within the Town limits in violation of this Code.

(Code 1979, § 12-4)

Sec. 20-8. - Property maintenance.

The Town has adopted the current edition of the International Property Maintenance Code, regulation and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that properties and structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the Town of Cowpens.)

Sec. 20-9. - Violation penalties.

Any person, who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws.

The penalty for failure to abate a notice of violation within the prescribed set time limit shall not exceed five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days, or both; and any court cost and assessments. Each day that a violation continues after the abatement period shall be deemed a separate offense.

Sec. 20-10. Guidelines for removal.

A lot less than one (1) acre shall be cleaned entirely. A lot greater than one (1) acre shall have a buffer cleared one hundred fifty (150) feet from an adjacent structure or public street.

Sec. 20-11. Alleys.

Owners and occupants of properties which abut an alley shall be responsible for clearing alleys up to the center point of such alley.

Sec. 20-12. - Unlawful accumulations; weeds, etc.

(a) It shall be unlawful for any person to place upon property of another, with or without permission of the owner, material, trash, garbage, offal, building materials, glass, wood, automobiles, automobile parts, tires, refrigerators, appliances, or other matter deleterious to good health and public sanitation which accumulation in any manner becomes unsightly or may be a nuisance causing injury to the health or welfare of the residents or the public in the vicinity, or causing damage to the neighboring property.

(b) Parcels of land consisting of two (2) acres or more must also be maintained in accordance with this section, within one hundred (100) feet of public thoroughfares and adjacent property lines of parcels in different ownership.

(c) All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees and shrubs; provided, however, this term shall not include cultivated flowers and gardens. For purposes of enforcement action, the residential property owner, tenant and/or any occupant of the property may be held responsible for violations of this section jointly or severally. (Code 1979, § 12-19)

Sec. 20-13. - Accumulation of rubbish and garbage.

All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish and garbage. Rubbish and garbage are defined as per the International Property Maintenance Code.

For purposes of enforcement action, the residential property owner, tenant and/or any occupant of the property may be held responsible for violations of this section jointly or severally.

Sec. 20-14. - Violation penalties.

Any person, who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws.

The penalty for failure to abate a notice of violation within the prescribed set time limit shall not exceed five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days, or both; and any court cost and assessments. Each day that a violation continues after the abatement period shall be deemed a separate offense.

(Code 1979, § 12-20)

Sec. 20-15. - Abatement of violation.

The imposition of the penalties prescribed shall not preclude the legal officer of the Town from instituting appropriate action to restrain, correct or abate a violation. If the notice of violation is not complied with the Town may provide for employees of the municipality or any person employed for that purpose may go upon the property to correct the conditions and may provide that the cost of such shall become a lien upon the real estate.

(Code 1979, § 12-21)

Sec. 20-16. - Appeals.

Appeals shall be covered by the same procedures as defined in the International Property Maintenance Code.

(Code 1979, § 12-22)

Sec. 20-17. Cost of removal; collection.

In the event that the town, by its agents or employees, enters onto the property to take corrective action, the amount of the cost of correcting the conditions of said property shall be filed with the finance department. The finance department shall prepare an invoice for this (these) cost(s). A copy of this invoice shall be sent to the violator. The violator will have thirty (30) days from the date of the invoice to pay without a delinquency penalty. This delinquency penalty will be charged at a rate of 1.5% per month. A second and final invoice will be sent if payment is not made by the invoice due date. These costs shall be a lien against the real property upon which such cost was incurred. These liens shall be filed with the Register of Mesne Conveyance (RMC). All costs incurred by the Town of Cowpens in preparing, recording, collecting and defending such lien shall be included therein, including but not limited to, reasonable attorney fees, costs, and disbursements.

Sec. 20-18. - Motor vehicles.

Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in the state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purpose.

For purposes of enforcement action, the residential property owner, tenant and/or any occupant of the property may be held responsible for violations of this section jointly or severally.

Sec. 20-19. - Violation penalties.

Any person, who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. The penalty for failure to abate a notice of violation within the prescribed set time limit shall not exceed five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days, or both; and any court cost and assessments. Each day that a violation continues after the abatement period shall be deemed a separate offense.

Sec. 20-20. - Obstructing, abusing, etc. Town officers or employees.

It shall be unlawful for any person to resist, obstruct, abuse or interfere with any officer or employee of the Town in the discharge of such officer's or employee's duty, by word, act or otherwise, or to aid or abet any person in resisting or obstructing any officer or employee of the Town in the discharge of such duty.

(Code 1979, § 15-7)

State law reference— Opposing law enforcement officer, S.C. Code 1976, § 16-9-320.

Sec. 20-21. - Nuisances

It shall be unlawful for the owner, occupant, renter, lessee or person having control or management of any public or private land or structure within the Town to permit a public nuisance to develop thereon or therein. Public nuisances include, but are not limited to, the following conditions which may constitute an endangerment to the health, safety or general welfare of Town residents, property owners, businesspersons or visitors. Such conditions may undermine property values, community appearance or aesthetic well-being, the rights of individuals or of the community, or foster potentially hazardous, unsafe or unhealthy conditions.

(a) *Exterior use or storage of indoor furniture.* The use or storage of furniture which is upholstered or not designed for outdoor use in an uncovered or exposed area, including unenclosed porches, in which it is likely to decay, decompose or retain moisture causing a health hazard or diminution in the value of neighboring properties is prohibited.

(b) *Exterior use or storage of household appliances.* The external or outdoor storage or use of refrigerators, freezers, stoves, air conditioners and any other indoor appliances shall be unlawful, except where specifically permitted by law.

Sec. 20-22. - Residential vehicle, trailer and lawn equipment sales.

The sale of automobiles, trailers and other motorized transportation and equipment from residentially zoned lots is generally prohibited, except under the following conditions: Not more than two (2) personal vehicles per consecutive twelve-month period may be put up for sale and displayed on a residentially zoned lot. The cumulative sales and display period for the two (2) vehicle sales shall not exceed ninety (90) days per consecutive twelve-month period. Commercial vehicles may not be sold from residentially zoned property.³

For purposes of enforcement action, the residential property owner, tenant and/or any occupant of the property may be held responsible for violations of this ordinance jointly or severally.

For purposes of this section, "personal vehicles" shall include, but not be limited to: passenger vehicles, RVs, motorcycles, motorbikes, scooters, boats, personal watercraft, noncommercial trailers, pieces of motorized lawn equipment, etc.

For purposes of this section, "commercial vehicles" shall be defined as any nonpersonal vehicle designed, used or maintained for the transportation of persons, goods, property, equipment or things used in trade, business, service provision or commerce in general. Commercial vehicles also include, but are not limited to, buses, vans and other vehicles seating more than nine (9) persons used for the transportation of people; commercial-size trailers, construction and heavy equipment.

Secs. 20-23--25 Reserved

ARTICLE II. WEEDS, BRUSH AND DEBRIS

Sec. 20-26. Definitions.

- (1) *Vacant lot*: Any undeveloped lot, tract or parcel in the town.
- (2) *Occupied property*: A lot containing any structure.
- (3) *Wooded lots*: Any property containing trees of a size and density that prohibits cleaning with a bush hog or mechanical cleaning equipment.
- (4) *Unsafe lots*: Lots having steep and difficult topography (gullies, ravines, swamps, etc.), as determined by the town administrator or other designated officer of the town.

Secs. 20-27. Other remedies.

The town may also sue the record property owner and obtain judgment against such owner for the costs of corrections, as mentioned above.

Secs. 20-28--20-50. Reserved.

ARTICLE III. MOSQUITOES

Sec. 20-51. Definitions.

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

Health officer means the town administrator of the Town of Cowpens or his designee.

Sec. 20-52. Collections of water in which mosquitoes may breed prohibited.

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

Sec. 20-53. Collections of water defined.

The collection of water considered by section 20-52 shall be held to be those contained in ditches, ponds, pools, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, except horse troughs in frequent use, urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets or other similar water containers.

Sec. 20-54. Methods of treatment.

The method of treatment of any collections of water that are specified in section 20-53, directed toward the prevention of breeding of mosquitoes, shall be approved by the health officer and may be any of the following:

- (1) Screening with wire netting of at least sixteen (16) meshes to the inch each way or any other material which will effectually prevent the ingress or egress of mosquitoes;
- (2) Complete emptying every seven (7) days of unscreened containers, together with their thorough drying or cleaning;
- (3) Using a larvicide approved and applied under the direction of the health officer;
- (4) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven (7) days;
- (5) Cleaning and keeping sufficiently free of vegetable growth and other obstructions, and stocking with mosquito-destroying fish; absence of half-grown mosquito larvae shall be evidence of compliance with this measure;
- (6) Filling or draining to the satisfaction of the health officer;
- (7) Proper disposal of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water.

Sec. 20-55. Mosquito larvae as evidence of breeding.

The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there. Failure to prevent such breeding within three (3) days after notice by the health officer shall be deemed a violation of this article.

Sec. 20-56. Right of entry of health officer.

The health officer shall enforce the provisions of this article and for this purpose, he, or any person acting under his authority, may at all reasonable times enter in and upon any premises within his jurisdiction.

Sec. 20-57. Persons responsible.

The person held under this article to be responsible for the correction of conditions on premises giving rise to or likely to give rise to the breeding of mosquitoes shall be the owner, and in his absence, the agent of the owner of the premises; provided, that any tenant causing or permitting such conditions without the consent of the owner or agent shall be held responsible. Where a trespasser or other person is known to cause or to have caused the condition without the consent of the owner, agent or tenant, then such person will be held responsible.

Chapter 21 SWIMMING POOLS

Sec. 21-1. Adequate enclosure required.

Every person owning land on which there is situated a swimming pool shall erect and maintain thereon an adequate enclosure either surrounding the property or pool area sufficient to make such body of water inaccessible to small children. Any swimming pool below natural grade containing eighteen (18) inches or more water in depth at any point shall be located in a yard having an adequate enclosure to make such body of water inaccessible to small children. Such enclosures, including gates therein, must be not less than four (4) feet above the underlying ground; all gates must be self-latching with latches placed four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children.

Sec. 21-2. Natural barriers.

A natural barrier, hedge, pool cover or other protective device approved by the town may be used so long as the degree of protection afforded by the substituted devices or structures is not less than the protection afforded by the enclosure, gate or latch described in this chapter. The town administrator may make minor modifications in the requirements of this chapter for good cause shown in individual cases where the protection required by this chapter is substantially afforded and the other requirements of this chapter are substantially complied with.

Sec. 21-3. Equipment shall be enclosed; drainage.

Pumps, filters and other mechanical and electrical equipment for public and semi-public swimming pools shall be enclosed in such a manner as to be accessible only to authorized persons and not to bathers. Construction and drainage shall be such as to avoid the entrance and accumulation of water in the vicinity of electrical equipment.

Sec. 21-4. Exemptions to chapter.

The provisions of this chapter shall not apply to lakes, rivers, streams and similar bodies of water, which are publicly-owned over which the state or the town has control and jurisdiction or to portable pools above grade containing not more than forty-eight (48) inches of water at its deepest point.

Chapter 22 OUTDOOR ASSEMBLIES

Sec. 22-1. Permit required; exceptions.

- (a) No person shall engage or participate in, aid, form or start any parade, event, block party, performance or filming unless a permit is obtained from the chief of police.
- (b) This section shall not apply to the following:
 - (1) Funeral processions supervised by a licensed mortuary.
 - (2) A parade, event or performance that is under the control of town authorities and is conducted with town limits.

Sec. 22-2. Application of permit.

- (a) Generally. A person seeking the issuance of a parade, event, block party, performance or filming permit shall file an application with the Chief of Police. The chief of police may authorize a town official to enforce this section. Upon receipt of the application, the town official shall notify the appropriate staff members, who will make a recommendation to the chief of police as expeditiously as possible.
- (b) Filing period: processing fee. An application for any permit required by this section shall be made to the town official, accompanied by a non-refundable processing fee in accordance with the schedule of permit fees as fixed from time to time by the town council. The application shall be filed not less than 15 days before the date on which the parade, block party, performance, demonstration or filming is to be conducted. An application for a major event held for two or more consecutive days shall be filed not less than 60 days before the first date of the proposed activity. However, where good cause is shown, the chief of police or his designee shall have the authority to consider any application which is filed less than 15 days before the date sought.
- (c) Contents. The application shall be signed by the applicant and shall include but not be limited to the following:
 - (1) The name, date of birth, address and telephone number of the person seeking to conduct such parade, event, block party, performance or filming.
 - (2) The name, address and telephone number of the headquarters of the organization, and of the authorized and responsible head of such organization.
 - (3) The date when the proposed parade, event, block party, performance or filming is to be conducted.
 - (4) The route to be traveled, the starting point and the termination point, or the area sought to be used or closed off for the parade, event, block party, performance or filming.
 - (5) The approximate number of persons, animals and vehicles participating, and the types of animals and a description of the vehicles.

(6) The time when the parade, event, block party, performance or filming will start and terminate.

(7) The location, by streets, of any assembly area and the time of such assembly for parades.

(8) Provisions for sanitation facilities, crowd, noise, traffic control and parking.

(9) A description of food and beverages to be sold or distributed.

(10) The individuals or entity that will benefit, if revenue is anticipated to be generated by the activity.

Sec. 22-3. Issuance of permit; conditions.

(a) Criteria for issuance. The chief of police shall issue a permit for a proposed parade, event, block party, performance or filming unless he finds that:

(1) The conduct of the parade, event, block party, performance or filming will substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(2) The conduct of the parade, event, block party, performance or filming will require the diversion of so great a number of police officers of the town to properly police the line of movement and of contiguous areas that adequate police protection cannot be provided to the remainder of the town.

(3) The concentration of persons, animals, equipment or vehicles at assembly points or other areas will substantially interfere with adequate fire and police protection or ambulance service to areas near such areas, or will hinder the movement of firefighting equipment;

(4) The conduct of the parade, event, block party, performance or filming is reasonably likely to result in violence to persons or property, causing serious harm to the public;

(5) The parade, event, block party, performance or filming is to be held for the primary purpose of advertising a product, goods or services, and is designed to be held primarily for profit;

(6) The route has been requested previously and is disruptive to residents or businesses: or

(7) Any proposed use of public property, right-of-way or facilities will interfere with the normal use of the property, right-of-way or facility by the town or the general public.

(b) Liability Insurance. The chief of police may require proof of public liability insurance in an amount equal to the towns liability under the Government Tort Claims Act of the State of South Carolina, and require the execution of a hold

harmless agreement to indemnify the town in the event it is held liable for any injuries or damage as a result of the event.

- (c) Notification of town agencies of issuance of a permit, a copy shall be sent to the fire chief, chief of police, and any other department affected.
- (d) Compliance with other laws. The granting of any permit required by this article shall not eliminate:

(1) Requirements for any business license or any other permits which may be prescribed by any other federal, state or local statutes, ordinances, rules or regulations.

(2) Compliance with any other applicable federal, state or local statutes, ordinances, rules or regulations; or

(3) Compliance with regulations regarding the concentrations of persons, animals, equipment or vehicles at assembly points or other areas which substantially damages planting or landscaping on public or private property. Adequate cleanup and sanitation must be provided.

The chief of police is authorized to develop rules and regulations in order to further the purposes of this article.

Sec. 22-4. Notice of action on application.

The chief of police shall act upon the application for a permit required by this article within ten working days, notifying the applicant by mail of his decision. If the application is disapproved, the reasons therefore shall be set out in writing.

Sec. 22-5. Approval of permit under alternative date, time route or conditions.

The chief of police, in denying an application for a permit under this article, shall be empowered to authorize the conduct of the parade, event, block party, performance or filming on a date, at a time, or over a route and under different conditions from that requested by the applicant.

Sec. 22-6. Duties of permittee.

- (a) Generally. A permittee under this article shall comply with all permit directions and conditions.
- (b) Display or carrying of permit. The permittee, individual, or any representative of the organization shall display the permit or carryout upon his person during the parade, event, block party, performance or filming.
- (c) Special event vendor's permits. No event which features businesses or organizations providing goods or services for compensation shall be issued an event permit, unless the permittee under this article shall obtain for each such business or organization a special vendor's permit from the town in accord with such measures as the chief of police shall prescribe. Each permittee must designate an individual who will be responsible for identifying all vendors and for collecting on behalf of the town all fees as provided in this section. The special

event vendor's permit shall be valid for no longer than the duration of the permitted event, up to a maximum period of two months. The fee charged for the special event vendor's permit shall be in accord with any fee schedule which may be adopted and amended from time to time by council.

Sec. 22-7. Public Conduct.

- (a) Interference. No person shall unreasonably hamper, obstruct, impede, interfere with any parade, event, block party, performance or filming, or with any person, vehicle or animal participating or used in the event.
- (b) Driving through parade or event. No driver of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles are in motion and are conspicuously designated as a parade, nor shall any driver drive around or through any event or a properly designated or barricaded area.
- (c) Parking on parade route or event location. The chief of police shall have the authority to prohibit or restrict the parking of vehicles along a street or area properly designated or posted for a parade, event, block party, performance or filming, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.
- (d) Glass containers. No glass bottle, containers or cans may be sold or distributed on the public right of way, and no patron may carry a glass bottle, container or can on the public right of way during a parade, event, block party, performance or filming. It shall be unlawful for any vendor to sell beverages in glass containers for off-premises consumption at parades, events, block parties, performances or filming.

Sec. 22-8. Payment of cost of services and equipment provided by the town.

The chief of police may impose reasonable fees and requirements upon the applicant as are necessary to cover the cost of public services and equipment provided by the town for the event. The applicant or sponsor shall be responsible for cleanup after an event. A bond may be required.

Sec. 22-9. Refraining from loud talk and abusive language.

Any person who shall assemble or picket under Section 22-1 through 22-9 of this Code shall refrain from loud boisterous talk, abusive language, or catcalls or any language that would interfere with the peaceful progress of pedestrians or vehicular traffic of other individuals lawfully assembled.

Chapter 23 PARKS, PLAYGROUNDS AND RECREATIONAL FACILITIES

Art. I. In General

Art. II. Parks and Recreation Advisory Committee

ARTICLE I. IN GENERAL

Sec. 23-1. Definition of "public parks."

Wherever the words "public parks" occur in this chapter, they shall be construed to refer to all municipally owned or municipally maintained parks of the town, whether located wholly within, wholly without, or partly within or partly without, the corporate limits of the town.

Sec. 23-2. Injury to shrubbery, flowers, etc.

It shall be unlawful for any person to break, pluck, walk, step on or in any way injure or destroy any shrub, flower or bush, or to dig, uproot, tear up or injure or destroy any shrub, flower or bush, or to dig, uproot, tear up or injure any sod or grass in any of the public parks, or to walk, drive, sit or go upon any space or area in any of the public parks where a "keep off" sign has been posted.

Sec. 23-3. Injury to buildings, benches, fence, etc.

It shall be unlawful for any person to write on, cut, deface, injure or break any part of any building, or other structure, or any chair, seat, bench or fence in any of the public parks, or to upset any benches, chairs, seats, etc., in any public park.

Sec. 24-4. Leaving trash, etc., in parks.

It shall be unlawful for any person to deposit or leave, or permit to be deposited or left in any public park any trash, paper, box, can, bottle, food fragments or other unsightly substance, except in receptacles provided especially for that purpose, or to dump or throw any trash, stones, bottles, food fragments or refuse of any kind in any stream, swimming pool or fountain in any of the public parks.

Sec. 23-5. Motor vehicles regulated.

It shall be unlawful for any motor vehicle to be driven in any of the driveways in any public park at a greater rate of speed than ten (10) miles per hour, nor shall any such vehicle be parked in any of the driveways without being drawn well to the right, so as not to impede, obstruct or interfere with the free passage on the driveway of other vehicles and traffic, and, at night, both moving and parked motor vehicles must be provided with adequate lights, front and rear.

Sec. 23-6. Intoxicating liquors; disorderly conduct, etc.

It shall be unlawful for any person to carry into any public park any intoxicating liquors, or to drink the same therein, or to be therein under the influence of intoxicants, or to use any profane, vulgar or indecent language, or to commit any nuisance, or to engage in any unseemly, obnoxious or disorderly conduct, or to engage in any game of chance, or in betting or wagering in any public park.

Sec. 23-7. Profane, vulgar or obscene language.

It shall be unlawful for any person to stand, congregate upon or be upon any public property or roadway and while so standing or congregating to utter or use any profane, vulgar or obscene language in the hearing of or against persons in, upon or using public parks or playgrounds so as to interfere with or disturb or interrupt activities being carried on in such public parks or playgrounds or to interfere with or disturb persons using such parks or playgrounds.

Sec. 23-8. Advertising matter.

It shall be unlawful for any person to erect any billposters or to post or tack up or otherwise display any bills or advertising signs, or to distribute handbills in any public park.

Sec. 23-9. Sale of merchandise prohibited; exceptions.

It shall be unlawful for any person, except such as may have a permit or concession from the town council, to sell, or offer for sale, within any public park any cold drinks, fruits, eatables, cigars, tobacco or other merchandise.

Sec. 23-10. Duties of chief administrative officer.

The administration, improvement, development, conduct and supervision of parks, park areas, street and highway planting, playgrounds, recreational centers and other recreational facilities and activities shall be vested in the chief administrative officer of the town government, subject to such rules and regulations as may be prescribed by town council.

Secs. 23-11--23-30. Reserved.

ARTICLE II. PARKS AND RECREATION ADVISORY BOARD

Sec. 23-31. 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:

Governing body means the mayor and town council.

Municipality means the Town of Cowpens, South Carolina.

Sec. 23-32. Created; composition; compensation; terms of members; vacancies.

(a) The planning of a parks and recreation system and the development of its programs shall be vested in the governing body of the municipality. The governing body shall appoint a Parks and Recreation Board composed of five (5) members. The first five members of the board shall be appointed for staggered terms of one through five years. Successors to the initial governing board shall be appointed for a term of five years each year. Thereafter as vacancies occur in membership of such board, such vacancies shall be filled by the town council for the unexpired term of the individual position that may have been created by death, resignation or otherwise. Members of the Park and Recreation Board shall continue to serve until their successors are appointed.

(b) The authority of this board shall be advisory in nature.

(c) The members of such committee shall serve without compensation and shall be chosen solely because of their interest in the areas of parks and recreation.

Sec. 23-33. Duties.

The planning of a park and recreation system and development of its programs shall be vested in the Park and Recreation Board of the Town of Cowpens. Immediately after the creation and appointment of this board, they shall immediately survey the needs of the town and make recommendations to the town council for implementing the plans and recommendations of said board.

Sec. 23-34. Purchase of property generally.

For any or all of the purposes mentioned in this ordinance, the town may purchase on time or partly for cash with balance on time or deferred payments and interest thereon with mortgages or deed of trust on the land purchased, or with or by means of an instrument in writing retaining title thereto in the vendor, or enter into any other contractual arrangement whereby provision is made that such notes, claims or other instruments for deferred payments and interest thereon, and all lawful charges shall not be a charge against the general credit of the town or be a general liability thereof, but that the liability shall only extend to and be a charge against the land so purchased or acquired. Such method of acquisition provided for in this section shall not be considered or deemed exclusive but cumulative and in addition to all other methods of acquisition or lands or interest therein for public purposes heretofore, hereafter or by other provisions in this ordinance provided.

Secs. 23-35 – 23-50. Reserved.

Chapter 24 FIREWORKS

Sec. 24-1. To regulate the possession, sale, storage, and use of fireworks in the Town of Cowpens; To provide for certain licenses, permits and fees with respect to fireworks; To make certain actions unlawful and to provide penalties for violation thereof.

Sec. 24-2. Permissible Fireworks.

It shall be unlawful for persons to possess, sell, offer for sale, storage, transport or use within the town any fireworks other than permissible fireworks herein enumerated. The permissible fireworks consist of Federal Department of Transportation Class C "Common Fireworks" only and shall mean such articles of fireworks as are enumerated as Federal Department of Transportation Class C "Common Fireworks" in Title 49, Code of Federal Regulations, part 173.100.

Sec. 24-3. Definitions.

For the purpose of this ordinance, the following terms, unless the context clearly indicates otherwise, shall mean:

- (a) *Town* – Town of Cowpens, South Carolina
- (b) *Common Fireworks* – Fireworks devices suitable for use by the public designed primarily to produce visible effects by combustion and are classified by the Federal Department of Transportation Class C "Common Fireworks" in Title 49, Code of Federal Regulations, part 173.100.
- (c) *Retailer* – A person or firm purchasing fireworks for resale to consumer.
- (d) *Wholesale Distributor* – A person or firm selling fireworks to jobbers or retail dealers.
- (e) *Jobber* - A person or firm selling fireworks to retail dealers only.

Sec. 24-4. Selling fireworks without a license.

Any person selling fireworks without first obtaining the required license or operating with an expired license shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$200.00 or imprisoned for not more than 30 days or both.

Sec. 24-5. Labeling Fireworks.

No permissible articles of common fireworks shall be sold, offered for sale, possessed, stored or used in the State unless they shall be properly named and labeled and conformed to the nomenclature requirement of applicable state and federal law and unless they are certified as Federal Department of Transportation Class C "Common Fireworks" on all shipping cases. The labeling and nomenclature required by this section shall be printed on the article and shall be of sufficient size and so positioned as to be readily recognizable by law enforcement officials and the general public.

Sec. 24-6. Paper Caps.

The term "fireworks" shall not include toy paper caps which contain less than 25/100 of a grain of explosive compounds, toy pistols, toy canes, toy guns or other devices using paper caps and the sale and use of these items shall be permitted at all times.

Sec. 24-7. Storage.

All retailers shall store permissible fireworks in the original unbroken containers in which such fireworks were shipped and received. No fireworks shall be displayed in windows or where the sun may shine through glass onto the fireworks. At all places where fireworks are stored or sold, the area used by the patrons shall be obstructed with clear access to an outside door. Such areas where fireworks are stored shall have posted signs containing the words "NO SMOKING" in letters not less than four inches high on the contrasting background.

Sec. 24-8. Combustible Materials.

Fireworks shall not be sold or kept for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, in unbroken containers, unless in a separate and distinct section or department of the store.

Sec. 24-9. Miscellaneous.

It shall be unlawful :

- (a) to offer for sale or to sell permissible fireworks to children under the age of fourteen (14) years unless accompanied by a parent.
- (b) to explode or ignite fireworks within six hundred (600) feet of any church, hospital, asylum, school, auditorium, coliseum, service station or bulk storage plant.
- (c) to explode or ignite fireworks within one hundred (100) feet of where fireworks are stored, sold or offered for sale.
- (d) to ignite or discharge any permissible fireworks within or throw the same from any motor vehicle.
- (e) to place or throw any ignited fireworks into or at any motor vehicle.

Sec. 24-10. Fireworks exceeding classification limits.

It shall be unlawful in the Town of Cowpens to possess, sell, store, advertise for sale, manufacture or transport fireworks commonly known as M-100, M-80, ground salutes or any other fireworks which exceed the classification limit of Federal Department of Transportation Class C "Common Fireworks". Each such device shall constitute a separate offense and any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than \$200.00 or shall be imprisoned for not more than 30 days for each offense.

Sec. 24-11. License fees.

Each licensee under this ordinance shall pay an annual business license fee of two (2%) percent of the gross revenue.