

**THE CODE OF THE
TOWN OF McCLELLANVILLE
SOUTH CAROLINA**

ADOPTED JUNE 1, 2012

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ADOPTING ORDINANCE

ORDINANCE NO. 2012 - 3

An Ordinance Adopting and Enacting a New Code for the Town of McClellanville, South Carolina; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Manner of Amending and Supplementing Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

Be It Ordered and Ordained by the Town of McClellanville, South Carolina, in Council Assembled and By Authority thereof:

Section 1. That the Code of the Town of McClellanville, South Carolina, consisting of Chapters 1 to 13, each inclusive, and with Appendices, is hereby adopted and enacted as the “Code of the Town of McClellanville, South Carolina,” and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances of the Town passed on or before June 1, 2012.

Section 2. That all provisions of such Code shall be in full force and effect from and after June 1, 2012, and all ordinances of a general and permanent nature of the Town of McClellanville, adopted on final passage on or before June 1, 2012, and not included in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of such Code. No resolution of the Town, not specifically mentioned, is repealed.

Section 3. That whenever in such Code an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor by the Council, or whenever in such Code the doing of any act is required or the failure to do any act is declared to be unlawful by the Town Council and no specific penalty is provided therefor, the violation of any such provisions of such Code

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shall be punished by a fine of not more than five hundred dollars (\$500.00), or imprisonment for a term not exceeding thirty (30) days, or both, as provided in Section 1.11(a) of such Code.

Section 4. Any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the Town Council to make the same a part of such Code shall be deemed to be incorporated in the Code, so that reference to such Code shall be understood and intended to include such additions and amendments.

Section 5. That in case of the amendment of any section of such Code for which a penalty is not provided, the general penalty, as provided in Section 3 of this Ordinance and in Section 1.11(a) of such Code shall apply to the section as amended, or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 6. That a copy of such Code shall be kept on file in the office of the Town Clerk and Treasurer, preserved in loose-leaf form, or in such other form as the Clerk and Treasurer may consider most expedient. It shall be the express duty of the Clerk and Treasurer, or someone authorized by him, to insert in their designated places all amendments, ordinances or resolutions which indicate the intention of the Town Council to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which may be repealed from time to time by the Town Council. This copy of such Code shall be available for all persons desiring to examine the same.

Section 7. That it shall be unlawful for any person to change or alter, by additions or deletions, any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town

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of McClellanville to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1.11(a) of the Code of the Town of McClellanville, South Carolina, and in Section 3 of this Ordinance.

Section 8. That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 9. This Ordinance shall become effective on June 1, 2012.

Ratified in Town Council this 4th day of
June, 2012, in the 236th year of the
Independence of the United States of
America.

Rutledge B. Leland, III, Mayor

ATTEST:

Mary S. Duke, Clerk of Council

First Reading April 2, 2012

Second Reading June 4, 2012

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Article I. General Provisions

Section. 1.100. How Code designated and cited.

The provisions in the following chapters and sections shall constitute and be designated the “Code of the Town of McClellanville, South Carolina,” and may be so cited. Such Code may also be cited as “McClellanville Town Code.”

Section. 1.101. Definitions and rules of construction – Generally.

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

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

Computation of time. The time within which an act is to be done shall be computed by excluding the first day and including the last day; provided, however, that if the last day of the period so computed is a Saturday, a Sunday or a legal holiday, such day shall be excluded and the time period shall run until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

Council~ Town Council. The words “the Council” or “Town Council” shall mean the Town Council of the Town of McClellanville, South Carolina.

Delegation of authority. Whenever a provision appears in this Code requiring or authorizing the head of a department or other officer of the Town to do some act or perform some duty, it shall be construed to authorize such department head or other officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the

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provision specifically designate otherwise.

Gender. Words of one gender include the other genders.

In the Town. The words “in the Town” shall mean and include any territory, jurisdiction of which, for the exercise of its regulatory power, has been conferred on the Town by law.

Minor. The word “minor” shall mean any person under the age of eighteen (18) years, unless otherwise specifically provided.

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”.

Officer. A person holding a supervisory office of profit under the Town government who, by law, is required to be elected or confirmed by Town Council.

Official time standard. Whenever certain hours are named herein they shall mean Eastern Standard Time or Daylight Saving Time as may be in current use in the Town.

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.

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

Personal property includes every species of property except real property, as herein defined.

Person. The word “person” shall include a corporation, firm, partnership, association,

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organization and any other group acting as a unit, as well as an individual.

Property. The word “property” shall include real and personal property.

Real property. “Real property” shall include land, tenements, hereditaments, fixtures and appurtenances.

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

Shall / may. The word “shall” is mandatory; “may” is permissive.

Sidewalk. The word “sidewalk” shall mean any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians.

Signature or subscription includes a mark when the person cannot write.

Street The word “street” shall mean the entire width between right-of-way lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic and shall be taken to include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and approaches thereto within the Town.

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

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

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.

Section. 1.102. Same—Officers, agents, etc., of the Town.

In the construction of this Code and of all ordinances of the Town, all officers, agents,

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employees and other persons, together with all things and places therein referred to, unless a contrary intention appears, shall be construed to mean the officers, agents, employees, and other persons, things and places situate in the Town or employed by or appertaining to the Town.

Section. 1.103. Same - Acts prohibited or punishable.

In the construction of this Code and of all ordinances of the Town, all acts prohibited or punishable under this Code or under any particular ordinance, unless a contrary intent appears, shall be construed to refer to such acts when committed or occurring within the limits of the Town or in other places over which the municipal court and Town have authority or jurisdiction under the laws of the State, even though the Code or the particular ordinance only provides that such acts shall be prohibited or punishable and shall not specifically designate the jurisdiction or scope thereof.

Section. 1.104. Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code, insofar as they are the same as those of “The General Code Ordinances of the Town of McClellanville, South Carolina,” and all ordinances adopted subsequent to such Code and included herein, shall be considered as a continuation thereof and not as new enactments.

Section. 1.105. Catchlines of sections.

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

Section. 1.106. Police power extended to Town property.

The police power of the Town is hereby extended to include, as well as land within the Town, all lands or property outside the Town owned or leased by the Town or any agency of the Town and the general ordinances of the Town shall be applicable on such property.

Section. 1.107. Incorporation by reference.

All standard codes, rules, regulations and other subject matter herein or hereafter properly incorporated by reference, together with subsequent amendments thereto, pursuant to state law, and future incorporations by reference shall be kept and preserved in the office of the Town Clerk.

Section. 1.108. Effect of repeal or expiration of ordinance.

The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired. When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

Section. 1.109. Liability for violations by corporations, etc.

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

(b) Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, shall be subject and liable to punishment as well as

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such corporation or unincorporated association or organization for the violation by it of any provision of this Code, where such violation was the act or omission, or the result of the act, omission or order of any such person.

Section. 1.110. General penalty; continuing violations.

(a) Whenever in this Code or any section thereof no penalty is specifically provided for the violation of such Code or section, the court before whom an offender shall be tried may sentence him to pay a fine not exceeding five hundred dollars (\$500.00) or serve a term not exceeding thirty (30) days in jail, or both. Each day any violation of this Code or section thereof shall continue shall, unless otherwise specifically provided, constitute a separate offense.

(b) Whenever a person is accused of committing an act which is susceptible of being designated as several different offenses, the judge of the municipal court, upon the trial of such person, shall be required to elect which charge to prefer and a conviction or an acquittal upon such elected charge shall be a complete bar to further prosecution for the alleged offense.

Section. 1.111. Severability of parts of Code.

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

Section. 1.112. Ordinances not affected by adoption of Code.

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The repeal provided for in section 2 of the ordinance adopting this Code shall not affect any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of the ordinance adopting this Code;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the Town, or authorizing the issuance of any bonds of the Town or any evidence of the Town's indebtedness, or any contract or obligations assumed by the Town;
- (3) The administrative ordinances or resolutions of the Town not in conflict or inconsistent with the provisions of this Code;
- (4) Any ordinance or resolution fixing salaries of officers or employees of the Town;
- (5) Any appropriation ordinance or resolution;
- (6) Any right or franchise granted by the council to any person, firm or corporation;
- (7) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the Town;
- (8) Any ordinance or resolution establishing and prescribing the street grades of any streets in the Town;
- (9) Any ordinance or resolution providing for local improvements or assessing taxes therefore;
- (10) Any ordinance establishing fees, rates, and charges, not inconsistent with this Code;
- (11) Any ordinance establishing Town boundaries or annexing property to the Town;
- (12) Any zoning or subdivision ordinance of the Town or amendments thereto;

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- (13) Any ordinance authorizing formation of joint agencies with other governments;
- (14) Ordinances or resolutions prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, speed limits and other specific traffic regulations, not inconsistent with this Code;
- (15) Any ordinance levying taxes;
- (16) Any ordinance enacted after June 1, 2012;

nor shall such repeal be construed to revive any ordinance or part of an ordinance that has been repealed by a subsequent ordinance which is repealed by the ordinance adopting this Code.

Section. 1.113. Uniform Ordinance Summons.

Any person or entity violating any provision of the Code of the Town of McClellanville, or any code adopted pursuant thereto, within the corporate limits of the Town of McClellanville, 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 is issued and served. The uniform ordinance summons may be issued by any Town enforcement officer or any other Town employees designated by the Council as code enforcement officers. The bond amount for violation shall be prescribed by the chief municipal court judge. 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. This section does not apply to any ordinance which regulates the use of motor vehicles on the public roads. The form set forth in Appendix A to this Code is hereby adopted as the Town of McClellanville's Uniform Ordinance Summons.

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Article I – In General

Section 2.100. Form of Government.

Pursuant to Sections 5-5-10, et. seq and 5-11-10, et. seq. of the Code of Laws of South Carolina (1976), as amended, the form of government for the Town shall be the Council form.

Section 2.101. Composition and Election of Council.

The Council shall be composed of a Mayor and four Councilmen who shall be elected at large at an election held as provided in Article II of this Chapter and as provided by applicable State law.

Section 2.102. Compensation of Mayor and Council.

The Mayor and Councilmen shall receive such salaries as fixed by Council by ordinance; provided no establishment or increase in salary shall take effect during the term of Council in which such change is approved, but shall be governed by the provisions of S. C. Code § 5-7-170 (2004); and provided further, a decrease in salary shall take effect immediately if approved by a unanimous vote of all members of Council.

Section 2.103. Term of Mayor and Councilmen.

The Mayor and Councilmen shall hold office for a term of two years or until their successors shall be duly elected and qualified.

Section 2.104. Oath of Mayor and Councilmen.

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

“I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution

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of this State, to exercise the duties of the office to which I have been elected and that I will, to the best of my ability discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. So help me God.

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

Section 2.105. Ordinances – For Benefit of Municipality.

It shall be the duty of the Council to pass, from time to time, such ordinances as in its judgment shall best promote the interest of the citizens and property holders of the Town.

Section 2.106. Style of Ordinances.

The style of all ordinances shall be “Be it ordered and ordained by the Town of McClellanville, South Carolina, in Council assembled and by the authority thereof.”

Section 2.107. Ordinances – Entered in Book.

The Clerk and Treasurer shall enter in a well-bound book copies of all ordinances passed by the Council. The book in which ordinances are thus entered shall be known as the “Code of the Town of McClellanville” and shall be indexed.

Section 2.108. Notation of Amending or Repealing Ordinances.

The Clerk and Treasurer shall write on the first page of every ordinance if the same has been

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amended or repealed, as the case may be, the words “amended” or “repealed” with a reference to the page of the ordinance book and where the amended or repealing ordinance can be found.

Section 2.109. Introduction of Ordinances.

Any member of Council may propose an ordinance. Upon request, the Town Attorney shall render assistance in the preparation of Notices and Ordinances. An Ordinance shall be deemed to be introduced when it appears on the agenda for a public meeting of Council and its title is read.

Section 2.110. Enactment of Ordinances.

(a) An ordinance to levy a tax, adopt a budget, appropriate funds, grant a franchise, license or right to use or occupy a public street or public property for commercial purpose shall be complete in the form in which it is finally passed, and in such form remain on file with the Town Clerk for public inspection at least one week before final adoption.

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

(c) Emergency ordinances may be adopted on one reading without notice or hearing by affirmative vote of two-thirds of council members present. An emergency ordinance may not levy taxes, grant, extend or renew a franchise or impose or change a service rate. An emergency ordinance is effective immediately upon its enactment and shall expire automatically on the sixty-first day following enactment.

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

(e) After the introduction of an ordinance, any member of Council or any citizen of the Town

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interested therein may request a public hearing which may be held at any time designated by Council prior to final adoption.

(f) Upon final adoption by vote of Council, an ordinance shall be signed by the Mayor or presiding member and attested by the Town Clerk, who shall file the original in Council minutes.

Section 2.111. Introduction of a Resolution.

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

Section 2.112. Adoption of a Resolution.

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

Article II. – Municipal Elections

Section 2.200. Date of Election; Term of Office.

The election of the Mayor and Council of the Town of McClellanville shall be held on the first Tuesday following the first Monday of November in each odd numbered year. There shall be a Mayor and four Councilmen, who shall take office at the first regularly scheduled meeting in January next following their election and who shall hold office for two (2) years and until their successors shall be elected and qualified.

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Sections 2.201. Vacancies; Special Elections.

A vacancy in the office of Mayor or Council shall be filled for the remainder of the unexpired term at the next regular election or at a special election if the vacancy occurs more than one hundred eighty days or more prior to the next general election.

Section 2.202. Nominations.

Candidates for municipal offices in general elections shall file a statement of candidacy indicating the office sought with the Clerk of Council no later than 12:00 noon on August 15th, or if August 15th falls on a Saturday or Sunday, not later than 12:00 noon the following Monday, and as to special elections, by 12:00 noon forty-five days prior to the special election. Each candidate must affirm in writing, that he meets, or will meet by the time of the election, or as otherwise required by law, the qualifications for the office sought. The Clerk of Council must verify that each candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought and transmit the qualified statements of candidacy to the Charleston County Board of Elections and Voters Registration, who shall then place the names of all qualified candidates timely filing statements of candidacy on the ballot. Any candidate who does not, or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office sought shall not have his name placed on the ballot.

Section 2.203. Notice of Election.

Notice of elections shall be published twice in a newspaper of general circulation in the Town. Included in each notice must 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

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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 the authority charged with conducting the election. 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.

Section 2.204. Hours Polls Open; Conduct of Elections.

The polls shall be opened at 7:00 o'clock in the forenoon and close at seven o'clock in the afternoon of the day of election and shall be held open during these hours without interruption or adjournment. In accordance with S.C. Code § 5-15-61 of the South Carolina Code, the person securing the highest number of votes for Mayor shall be declared duly elected to that office, and the four persons receiving the highest number of votes for Councilman shall be declared duly elected as such, all without regard to whether the persons so elected as Mayor and Councilman shall have received a majority or less than a majority of all the votes cast.

Section 2.205. Transfer of Authority to Conduct Elections to Charleston County Board of Elections and Voter Registration.

In accordance with the authority devolved by S.C. Code § 5-15-145 (Supp. 2003), and notwithstanding the provisions of Sections 2.204 and 2.205, the Charleston County Board of Elections and Voter Registrations is transferred the authority to conduct Town elections. The authority here transferred includes publishing proper notices of elections, insuring the provision of proper books for registration, preparing and distributing ballots and election materials, preparing and staffing the absentee ballot precinct, appointing and training poll managers,

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providing voting machines, supervising the operation of all polling places and certifying the results of the election to the Municipal Election Commission. All elections so conducted by the Charleston County Board of Elections and Voter Registration shall be in accordance with Title 7 of the South Carolina Code, as the same may be modified by Title 5 of the South Carolina Code. The Town shall reimburse the Charleston County Board of Elections and Voter Registration for all costs incurred in providing ballots, advertising elections, printing costs, poll managers' compensation and other related additional expenses incurred in its conduct of municipal elections in the Town. Poll Managers will be paid at the standard rate set by the South Carolina State Election commission for all other elections. In the event a protest is filed or litigation is commenced in connection with the conduct of municipal elections, the same shall be heard by the Municipal Election Commission and defended by the Town Attorney. The Town shall pay all fees, costs, and expenses incurred in such protest or litigation. Notwithstanding the preceding, the Town will not be responsible for attorney's fees for separate counsel retained by the Board or County or their respective officers, agents and employees in any such protest or litigation.

The Charleston County Board of Elections and Voter Registration shall provide invoices and/or other documentation to the Town of all such costs and expenses incurred in the conduct of municipal elections, protests, certification of results, litigation or other costs which may be incurred, not specifically mentioned in this ordinance.

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The following specific authority is hereby transferred to the Charleston County Board of Elections and Voter Registration:

1. Review of and decisions on challenges from candidates.
2. Review of and decisions on challenged ballots.
3. Protest filed or litigation commenced in connection with the conduct of a municipal election, shall be heard by the Charleston County Board of Elections and Voter Registration and defended by its attorney, with the Town being responsible for all fees, costs and expenses incurred in such protest or litigation.
4. Certification of results to Town Council.
5. Any and all other authority necessary to conduct a municipal election, not specifically excluded herein.

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Article III. – Council Meetings and Procedures

Section 2.300. Meeting for the Election of Officers.

At the first regular meeting of the Town Council held in any calendar year all town officers and officials shall be elected by Town Council and shall hold office for the balance of such calendar year and until their successors shall be elected and shall qualify.

Section 2.301. Duty to Attend Council Meetings.

It shall be the duty of the Mayor and Council to attend all regular and special meetings of Town Council and for any failure to attend any such meeting, a fine shall be imposed in such amount as Council may set.

Section 2.302. Date and Time of Council Meetings.

The regular meeting of Council shall be held on the first Monday of each month at 7:00 PM. Special meetings may be called by the Mayor and shall be held at such times and places as he shall designate.

Section 2.303. Minutes of Council Meetings.

The Town Clerk and Treasurer, or designee, shall attend all meetings of Town Council and shall keep minutes of the proceedings of Council in a book to be known as “The Minutes Book of Town of McClellanville, South Carolina”. Such minute book shall constitute a permanent record of the Town.

Section 2.304. Mayor to Preside; Quorum.

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Immediately at the hour appointed for any regular or special meetings of Town Council the Mayor shall take the chair and if a quorum be present shall proceed with business. In the absence of the Mayor, the Mayor Pro Tem shall preside. Any three Council members or the Mayor and any two Council members shall constitute a quorum and may transact any business of the Town by majority vote.

Section 2.305. Robert's Rules of Order.

The proceedings of council shall be conducted in accordance with Robert's Rules of Order, except as may be modified herein.

Section 2.306. Order of Proceedings of Council.

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

- (a) Reading of the minutes of the last meeting of the Council.
- (b) Reports or communications from municipal officers.
- (c) Unfinished business, ordinances, resolutions, etc., reports from committees and suggestions from members.
- (d) Report from special committee.
- (e) Report from treasury given with amount collected from all sources and payments made in accordance with vouchers approved.
- (f) Adjournment.

Section 2.307. Addressing the Council.

Every member of the Council, when about to speak, shall address the Mayor as "Mr. Mayor" and

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in speaking, shall avoid all disrespect to Council and all personalities, and shall confine himself to the subject under consideration.

Section 2.308. Recognition of Speakers.

The Mayor, when addressed by a member who rises in order, shall name the member using no title but that of “Mr.,” “Mrs.” or “Ms.”. The member who shall rise first in order shall be first heard. If several members rise about the same time, the Mayor shall decide who shall speak first.

Section 2.309. Voting.

The “yeas” and “nays” on any question shall always be recorded, when required by any member. When the question has been stated, and the first response has been made to the call of the Clerk and Treasurer, all debate shall cease and no member shall say more than “yea” or “nay”. During the call, no member shall leave the Council chamber. Every member present shall, when his name is called, give his vote unless excused by Council.

Section 2.310. How Often Members May Speak.

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

Section 2.311. Reasons for Voting May Be Recorded.

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

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Section 2.312. Interested Member or Mayor Not To Vote.

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

Section 2.313. Devolution Of Powers and Duties When Mayor Absent Or Incapacitated.

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

ARTICLE IV. - COMMITTEES OF COUNCIL

Section 2.400. Standing Committees.

There shall be the following standing committees of Town Council:

- (a) The Finance Committee to consist of the Mayor and all the councilmen. The duties of this committee shall include the preparation no later than the first day of May in any year of a budget for the following fiscal year. All matters in any way concerning the finances of the Town shall first be referred to this committee.
- (b) The Streets and Public Works Committee to consist of two members whose duties shall be to direct the repairing and building of sidewalks, roadways, drains, playgrounds and parks; to supervise all work being done by contract on all sidewalks, streets, roadways, drains, playgrounds and parks; to call for estimates for lighting the Town and to make proper repairs and supervise repairs that may occur in defective streets or defective

CHAPTER 2. ADMINISTRATION

lighting of the Town; to recommend hiring of additional personnel for cleaning, repairs or other maintenance necessary in the proper maintenance and care of all sidewalks, streets, roadways, drains, playgrounds and parks to the Finance Committee of the Council.

- (c) The Personnel Committee to consist of two members whose duties shall be to oversee the hiring, employment practices, firing, and personnel policy changes for municipal employees.

Section 4.201. Appointment and Term of Standing Committees.

At the first meeting of Council in each calendar year the Mayor shall appoint members of all standing committees to serve during that calendar year. If any Councilman has any objections to any such committee appointee, the majority of Council shall make the appointment. The Mayor shall be a member ex officio of all standing committees except the Finance Committee of which he shall be a regular member.

Section 4.202. Special Committees From Time To Time As Occasion May Require.

The Mayor may appoint such special committees as may be appropriate and he deems necessary for the proper function and administration of the business of the Town of McClellanville. The terms of office of the special committees shall terminate at the close of the appointed calendar year in which they shall be appointed.

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ARTICLE V. - DUTIES AND POWERS OF MAYOR

Section 2.500. Chief Executive Officer.

The Mayor shall be the chief executive officer of the Town and shall be vigilant in enforcing the laws and ordinances of the said Town.

Section 2.501. Emergency Powers Of Mayor.

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

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ARTICLE VI. - OFFICERS AND EMPLOYEES

Section 2.600. Meeting for the Election of Officers And Employees.

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

Section 2.601. Vacancies In Offices.

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

Section 2.602. Salaries.

The salary of each officer of the Town elected by the Council shall be fixed, designated and regulated by the Council from time to time as the Council shall deem fit.

Section 2.603. Enforcement Of Ordinances, Laws, Etc.

All officers and employees of the Town shall enforce obedience to such statutes, provisions of this Code or any ordinances, resolutions, or rules and regulations or orders issued thereunder, as they relate to their regular duties, and any other statutes, provisions of this Code or ordinances, resolutions, rules and regulations, or orders whose enforcement they are properly chargeable, by

CHAPTER 2. ADMINISTRATION

any measures provided therein, by the proper report of any violation thereof, and by instituting such proceedings as may be necessary to such enforcement.

Section 2.604. Right of Entry.

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

Section 2.605. Resisting Or Interfering With Municipal Officers Or Employees.

It shall be unlawful for any person to resist or interfere with any municipal officer or employee in the discharge of his duties.

Section 2.606. Term of Officers And Removal.

Each officer or employee of the Town elected by the Council shall be elected for such term as the Council may designate or as may otherwise be provided by law, and shall be subject to removal from office or employment as the Council may deem sufficient, and each election or appointment to any office or position is made and accepted with special reference to this Section.

CHAPTER 2. ADMINISTRATION

ARTICLE VII. - TOWN CLERK AND TREASURER

Section 2.700. Election.

At the time appointed for the regular election of the officers of the Town, there shall be elected by the Council an officer to be known as the Clerk and Treasurer of the Town, who shall hold such office at the pleasure of Council.

Section 2.701. Salary.

The salary of the Clerk and Treasurer shall be fixed by Council before the election of this officer.

Section 2.702. Bond.

Before entering the duties of his office, the Clerk and Treasurer shall enter into bond in such sum as may be required and in such surety company as shall be approved by the Mayor and Council and committee on finance for the faithful performance of his duties.

Section 2.703. Collection of Claims and Accounts.

The Clerk and Treasurer shall collect all claims and accounts that may be due and payable to the Town.

Section 2.704. Receipt of Town Monies.

The Clerk and Treasurer shall receive all monies belonging to the Town.

CHAPTER 2. ADMINISTRATION

Section 2.705. Issuance of Licenses and Badges.

The Clerk and Treasurer shall issue such licenses and badges for which provision may be made.

Section 2.706. Collection of License Fees.

The Clerk and Treasurer shall collect all fees for licenses that may be imposed and required by law.

Section 2.707. Bills To Be Paid.

The Clerk and Treasurer shall be responsible for the timely payment of lawful bills or other obligations of the Town in accordance with such procedure as may be established by the Council.

Section 2.708. Payment of Other Bills.

The Clerk and Treasurer shall pay such other bills as he may be ordered by the Council to pay.

Section 2.709. Deposit of Town Funds.

The Clerk and Treasurer shall deposit in such bank as the Committee on Finance may direct, all funds of the Town received by him when the same shall amount to the sum of \$200.00 or more.

Section 2.710. Account of Town Money; Monthly Balance And Report To Council.

The Clerk and Treasurer shall keep an account of all monies belonging to the Town in such form as may be required by the Finance Committee or by Council. He shall balance his accounts on the first day of every month and make a report to Council at the next meeting thereafter.

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Section 2.711. Monthly Statement.

It shall be the duty of the Clerk and Treasurer to make out a monthly itemized statement of all monies received and expended by him and deliver the same to Council.

Section 2.712. Town Financial Statement.

The Clerk and Treasurer shall make and publish in accordance with the requirements of state law a statement of the financial condition of the Town.

Section 2.713. Notice of Council Meetings.

The Clerk and Treasurer shall give notice to all members of the Council of all regular and special meetings.

Section 2.714. Town Buildings and Parks.

It shall be the duty of the Clerk and Treasurer to schedule the use of public buildings and parks.

Section 2.715. Custody of Town Seal.

The Clerk and Treasurer shall have custody of the seal of the Town and the same shall be carefully preserved and kept by him at all times in his office.

Section 2.716. Other Duties.

The Clerk and Treasurer shall perform such other duties as may be annexed to his office or that he may be required by ordinance to perform.

CHAPTER 2. ADMINISTRATION

ARTICLE VIII. - MUNICIPAL ATTORNEY

Section 2.800. Election.

There shall be elected by the Council at the time of the regular election of officers a lawyer of good reputable standing to be Municipal Attorney, who must have had at least two (2) years experience at the bar. The said attorney shall hold office at the pleasure of Council.

Section 2.801. Duties and Compensation.

It shall be the duty of the Municipal Attorney whenever requested by Council, or the necessity arises, to give his advice and direction to the Council, or any member thereof, or to the Clerk and Treasurer and employees on any and all legal matters which may arise in the course of the administration of the Town Government, or in the discharge of the duties of the said officer; and whenever required to do so by Council, shall give his legal opinion in writing. He shall draw or supervise the drawing or drafting of all ordinances, and other instruments of writing relative to the business of the municipality when required to do so by the Council or any member thereof; shall, whenever notified to do so, attend the Municipal Court of the municipality and meetings of the Council and shall take charge of prosecutions of the offenders and conduct the correspondence of all legal subjects which it may become necessary to investigate; and generally, he shall be careful that the Council and officers fall into no error of law in the administration and management of the business and affairs of the municipality. The Municipal Attorney shall receive such salary as fixed by the Council.

CHAPTER 2. ADMINISTRATION

ARTICLE IX. - MUNICIPAL JUDGE

Section 2.900. Election; Jurisdiction.

There shall be elected by the Council a Municipal Judge who shall preside over Municipal Court for a term of two years or until his successor is elected and qualified. The Municipal Judge shall have such jurisdiction of matters arising under this Code and as otherwise established by State law.

ARTICLE X. - TOWN MARSHAL

Section 2.1000. Election of Town Marshal.

There shall be elected by the Council on the day appointed for regular election by the Council of town officers, an officer whose designation shall be Town Marshal.

Section 2.1001. Term

The Marshal shall hold office at the pleasure of Council.

Section 2.1002. Salary

The Marshal may be entitled to receive and be paid a salary or compensation during office as may be provided by the Council.

Section 2.1003. Removal or Suspension.

The Council by resolution may remove or suspend from office the Marshal whenever in the judgment of Council removal or suspension may be necessary or proper.

CHAPTER 2. ADMINISTRATION

Section 2.1004. Bond of Marshal.

Before entering upon the discharge of the duties of his office, the Marshal shall enter into bond to the Town such amount as shall be fixed, and in a bonding company to be approved by the Mayor and Finance Committee for the faithful performance of his duties.

Section 2.1005. Inspection of Street Lights.

It shall be the duty of the Marshal to inspect the street lights and promptly report any deficiencies to the person or corporation responsible for lighting the Town.

Section 2.1006. Duties – Generally.

It shall be the duty of the Marshal to see that the ordinances of the Town are not violated and to serve summons and appear in Municipal Court, as necessary. The Marshal shall report all violations of ordinances, notwithstanding the party committing such is unknown. The Marshal shall likewise perform such other duties as are now, or may be hereafter annexed to his office.

Section 2.1007. Collection and Disposition of Fines and Fees.

The Marshal shall collect all fines imposed and pay over the same to the Clerk and Treasurer, taking a receipt therefore.

Section 2.1008. Patrol of Town.

The Marshal shall patrol the whole Town whenever necessary and at least each day and once during each night after nine o'clock.

CHAPTER 3. ANIMALS & FOWL

ARTICLE I. - DOGS

Section 3.100. Vicious Dog Not To Run At Large.

It shall be unlawful for the owner of any dog which attacks, or attempts to attack, or which shall worry, threaten or frighten by its vicious conduct any person or any animal in or the streets of the Town, to allow such dog to run at large within the municipality.

Section 3.101. Inoculation Required.

It shall be unlawful for any person to own, harbor, maintain or have in his possession within the Town any dog unless such dog has been inoculated against rabies within the preceding twelve (12) months by a duly licensed veterinarian or other person authorized to administer the vaccine; provided that this section shall not apply to dogs less than four (4) months old. All dogs four (4) months old not wearing an inoculation tag shall considered an estray dog.

Section 3.102. Inoculation Tags.

It shall be the duty of each person having a dog inoculated for rabies to obtain from the veterinarian at the time of inoculation a metal badge or tag so prepared as to be capable of being attached to the collar of the dog which badge or tag shall be an inscription showing that such dog has been inoculated against rabies and the year of such inoculation. This badge or tag shall at all times be attached to the collar of the dog so inoculated and it shall be unlawful for such person to fail to comply with the provisions of this section.

Section 3.103. Unauthorized Removal of Tags.

Except as otherwise provided, it shall be unlawful for any person to remove from the collar of a dog the metal tag or badge thereto attached and which was issued by a duly licensed veterinarian at the time of issuance of a certificate in accordance with this article.

CHAPTER 3. ANIMALS & FOWL

Section 3.104. Rabies - Duty of Owner to Report.

It shall be the duty of any person owning or having in his possession any dog which develops any symptoms of or is suspected having rabies to immediately notify the Town Marshal or his designee of such condition, to immediately and securely confine such dog in such a manner that there will be no opportunity for it to come in contact with any other animal or person and to keep such dog so confined and segregated until such person is notified by the Town Marshal or his designees that it can be again set at liberty or until some other disposition is made of such dog by the Town Marshal or his designee.

Section 3.105. Rabies - Power and Duties of Town Marshal.

It shall be the duty of the Town Marshal, upon receiving information that any dog is suspected of having rabies or that any dog has been bitten or injured by any other dog, to immediately make an inspection of such dog and give to the owner thereof or the person having such dog in his possession, directions as to the care or treatment of such dog. In any case in which the Town Marshal determines that any dog which he has inspected has rabies, and in any case in which he shall determine that such dog exhibits symptoms of rabies, he shall have the authority, and it shall be his duty, to immediately destroy such dog or have it destroyed.

It shall be the duty of the Town Marshal and he shall have the authority to immediately destroy or have destroyed any dog which has been bitten or injured by any other dog which he has been reliably informed that the dog injuring or biting such dog has been found to be afflicted with rabies or has exhibited symptoms thereof.

Nothing contained in this section shall be taken as abridging or limiting the power of all members of the Town Council or the Town Marshal under existing law to destroy on sight any dog exhibiting symptoms of rabies.

CHAPTER 3. ANIMALS & FOWL

Section 3.106. Nuisances - Howling, Diseased, Destructive Dogs, Vicious Animals.

The howling or barking of any dog to such an extent as to interfere materially with or affecting the health, comfort, peace or quiet of the people is hereby declared a nuisance. It shall also be a nuisance to permit a dog to molest other dogs or pet animals, or to permit a dog to damage or destroy flowers, ornamental shrubs or property of others. A diseased or mangy dog is likewise declared to be a nuisance. The harboring or keeping a vicious animal, as defined in § 3.201 (b) (1) hereof, in violation of the provisions of § 3.201 (c) hereof, is also declared a nuisance.

Any person harboring, keeping in possession or having custody or control of any dog or vicious animal which constitutes a nuisance as defined in this section, who shall fail or refuse to take such action or do such things as will abate such nuisance when required to do so in writing by the Town Marshall, to include keeping such dog or vicious animal “under restraint” or “confined” as defined in Article II of this Chapter, shall be guilty of a misdemeanor.

Section 3.107. Bitches in Heat.

It shall be the duty of the owner or any person having the control of any bitch to securely confine her and keep her concealed from view while she is in heat or proud. It shall be the duty of the Town Marshal to impound any such bitch found running at large or in a public place in the municipality.

Section 3.108. Impounding Estrays.

It shall be the duty of the Town Marshal, or other designated agent, to take up and impound all dogs found in violation of these ordinances. A fine of five dollars (\$5.00) will be paid by the owner upon claim of said dog.

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Section 3.109. Disposition of Impounded Dogs.

If the owner of any dog impounded under the provisions of the preceding section does not apply for and secure its release after the expiration of two (2) days, the Town Marshal shall have such dog turned over to the Charleston County Dog Pound. Every attempt shall be made to notify the owner.

Section 3.110. Recovery of Impounded Dogs.

The owner of any dog impounded under the provisions of this Article shall be entitled to recover such dog upon paying to the Clerk and Treasurer the sum of five dollars (\$5.00) as costs for each day the dog has been impounded and upon showing that a certification issued by a duly licensed veterinarian is in force covering such dog or upon securing such certificate from a duly licensed veterinarian.

Section 3.111. Duty of Impounding Officers.

It shall be the duty of the Town Marshal, upon receiving information that any person is owning, keeping, harboring or taming any dog not covered by a certificate issued in accordance with this Article to give such person written notice that unless such certificate is secured within two (2) days, such dog will be turned over to the Charleston County Dog Pound. At the time of such notice, it shall be the duty of the Town Marshal to impound such dog. If, upon the expiration of five (5) days from the time of the impounding of such dog, such certificate has not been secured and the dog released as provided in Section 3.111, it shall be the duty of the Town Marshal to turn such dog over to the Charleston County Dog Pound. Any dog impounded under the terms of this section shall not be returned to its owner until such owner has paid to the Clerk and Treasurer all charges and costs incident to such impounding.

CHAPTER 3. ANIMALS & FOWL

ARTICLE II. VICIOUS ANIMALS

Section 3.200. Vicious Animal Statute.

a. Intent

The purpose of this ordinance is to enable to Town of McClellanville to effectively deal with animals that are deemed to be vicious in nature as evidenced by their conduct. This ordinance does not create a leash law, nor does it seek to restrict pets from roaming on property other than that of their owners, unless otherwise restricted. The Town of McClellanville emphasizes to its citizens that they are responsible for their pets and their pet's actions at all times.

b. Definitions

(1) "Vicious animal" means any animal that when unprovoked inflicts bites or attacks a human being or domestic animal on any property other than the property where the animal resides, or in a threatening or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places.

a. A Vicious animal does not include an animal which attacks a person who is trespassing or who appears to be trespassing. A trespasser is a person who is not lawfully upon the premises of the owner, as established by South Carolina State law.

b. An animal is not a "Vicious animal" solely by virtue of its breed or species.

(2) An animal is deemed to be "under restraint" if on the premises of its owner or, if off the premises of its owner or keeper, is accompanied by its owner

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or keeper and under the physical and/or verbal control of its owner or keeper.

- (3) “Confined” means the animal must be kept securely indoors or confined in a securely enclosed fence or securely enclosed locked pen or run area upon the owner’s or keeper’s premises.

c. Keeping of Vicious Animals

It is unlawful in the Town of McClellanville for any animal owner or keeper to:

- (1) Keep a vicious animal on land owned, leased or controlled by him unless the animal is under restraint by fence, chain, or other means so that the animal cannot reach persons not on land, owned, leased or controlled by him, or keep a vicious animal or allow a vicious animal on land not owned, or leased or controlled by him unless such animal is under restraint.
- (2) Release or take out of impoundment or quarantine without proper authority any dog or cat or resist county or municipal shelter personnel engaging in the capture and impoundment or quarantine of an animal.

d. Filing a Complaint; Investigation

- (1) Except in cases of emergency, the Town of McClellanville will not investigate any matter

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regarding a vicious animal without the injured or aggrieved party submitting a signed, written complaint to the Town Administrator¹. The complaint shall include all relevant information available including, but

¹*[It is the intent of the Town at some point to provide a form for the complaining party to fill out in order to comply with this requirement. However, until that time it will be sufficient for the complaining party to draft a written complaint outlining in as much detail as possible the facts of the incident in question]*

- (2) not limited to, the date and time of the incident, the location of the incident, all witnesses to the incident and the owner of the animal in question. Emergency cases are those that involve physical injury to a person or domestic animal and that is reported to the Town Administrator and/or Marshall who shall immediately proceed with an investigation.
- (3) When the complaint is filed, the Town Administrator will notify the owner or keeper of the accused animal of the complaint and provide the owner or keeper with a copy of the complaint. The owner or keeper will be required to keep the animal under restraint pending the results of the investigation.
- (4) Upon the filing of a complaint, the Town Administrator shall contact the Town Marshals and provide him with a copy of the complaint. The Town

CHAPTER 3. ANIMALS & FOWL

Marshal or his designee shall investigate the complaint as soon as possible, preferably within 5 days of the filing of the complaint. Upon the conclusion of his investigation, the Town Marshal shall submit his findings to the Town Administrator, which will be recorded at that point.

- (5) At the conclusion of the Town Marshal's investigation, both the injured or aggrieved party and the owner or keeper of the subject animal will be notified in writing by the Town administrator of the Marshal's findings.

e. Penalty

Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, will incur the following penalties:

- (1) For a first offense, a monetary fine up to \$250 fine;
- (2) For a second and subsequent offense, a monetary fine up to \$500.

**CHAPTER 4. BUILDINGS, HOUSING, AND URBAN DEVELOPMENT
REGULATIONS**

ARTICLE I. BUILDING PERMITS

Section 4.100. Permit Required. (Amended on August 3, 2015)

It shall be unlawful for any person, firm, company or corporation to erect, modify, repair or add to any building within the Town of McClellanville without first obtaining a permit for such purpose from Charleston County Building Services, who shall issue the same upon payment of the fee hereinafter specified.

Section 4.101. Fees For Permits.

Each application for a building permit shall be accompanied by a statement under oath from the owner or contractor of the estimated cost of the erection, modification, addition or repairs referred to in such application. Fees for permits shall be set by Resolution of the Town Council, as amended from time to time as Town Council shall deem appropriate.

Section 4.102. Penalty For Violation.

Any person, firm, company or corporation who shall commence the erection, modification, addition to or repair of any building the Town of McClellanville without having first obtained a building permit as herein required shall be liable for payment of such penalty as may be established by Council in addition to the required permit fee.

**CHAPTER 4. BUILDINGS, HOUSING, AND URBAN DEVELOPMENT
REGULATIONS**

ARTICLE II. BUILDING CODES.

Section 4.200. Codes Adopted.

The Town shall enforce the mandatory codes prescribed by the state building codes council.

Section 4.201. Contracting with County Department of Building Inspection

Services.

- a) *Authority.* The mayor is authorized to enter into an agreement between the county and the town for the performance of building inspection services by the county department of building inspection services on the town's behalf with a 30-day termination option to provide services required by the Ordinances.
- b) *Compliance with state and local codes required.* Any such agreement shall require the county to perform such inspection and services in compliance with all building codes adopted by the town as well as the requirements set forth in the Statewide Building Code Act.

ARTICLE III. FLOOD DAMAGE PREVENTION

Section 4.300. Flood Damage Prevention. (Amended December 7, 2020)

- a) In order to protect public health and safety and minimize public and private losses due to flood conditions in specific areas of the town, the Charleston County Flood Damage Prevention and Protection Ordinance, as adopted by Charleston County Ordinance No. 2124 on October 6, 2020, is hereby adopted and incorporated by reference as if fully set forth in this section, mutatis mutandis.

CHAPTER 4. BUILDINGS, HOUSING, AND URBAN DEVELOPMENT REGULATIONS

- b) The Town of McClellanville declares that the Charleston County Flood Insurance Study, which was adopted by Charleston County Ordinance No. 2124 on October 6, 2020, and which includes the Flood Insurance Rate Maps (FIRM), dated January 29, 2021, copies of which are on file in the office of the Town's Zoning Administrator, the Charleston County Building Inspection Services Department, and online at charlestoncounty.org and msc.fema.gov, is hereby adopted and incorporated by reference as if fully set forth in this section. Letters of Map Change (LOMC) to these adopted maps which are duly authorized by the National Flood Insurance Program (NFIP) shall become effective immediately upon the date established by the NFIP.
- c) The requirements of this section shall be administered by the Town in conjunction with the administration of building and zoning permits, as required by Article 12 of the Town of McClellanville Zoning and Land Development Ordinance.
- d) Subsequent changes to the Charleston County Flood Damage Prevention and Protection Ordinance which are adopted by Charleston County Council following the effective date of this ordinance shall be adopted by ordinance of town council.

SECTION 2. Severability.

If any part of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, it shall be construed to have been the legislative intent of Town Council to pass said ordinance without such unconstitutional provision, and the validity of all remaining sections, subsections, paragraphs, clauses, or

CHAPTER 4. BUILDINGS, HOUSING, AND URBAN DEVELOPMENT REGULATIONS

provisions of said ordinance shall not be affected thereby. If said ordinance, or any provision thereof, is held by the final decision of a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

SECTION 3. Conflicting Ordinances Repealed.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

CHAPTER 5. FINANCE

ARTICLE I. PROPERTY TAX

Section 5.100. Assessment of Property.

The Assessment upon which all Town taxes shall be predicated shall be the assessment for state and county taxes as determined by the Charleston County Board of Assessors and Equalization as listed in the records of the County Auditor.

Section 5.101. Tax Books.

The tax books for the Town will be kept in the office of the Charleston County Auditor. The books shall constitute the assessment for the purpose of taxation by the Town.

Section 5.102. Property Subject To Taxation.

All property, real, personal and mixed, within the corporate limits of the Town, except such as is exempt by state law from taxation, shall be subject to taxation by the Town.

Section 5.103. Tax Levy.

At its regular meeting in June of each year the Town Council of McClellanville shall levy by ordinance a tax at such rate, not exceeding the limit permitted by law, as shall be necessary for the general purposes of the Town in accordance with the Town budget for such fiscal year.

Section 5.104. When Taxes Due & Payable; To Whom Paid.

All taxes levied by the Town Council of McClellanville shall be due and payable between the first day of November and the fifteenth day of January in each calendar year and shall be paid to the Charleston County Treasurer, Charleston, South Carolina.

CHAPTER 5. FINANCE

Section 5.105. Municipal Tax Lien.

All taxes levied upon any real or personal property, together with any penalties, when they shall have become due, shall constitute, until paid in full, a lien upon the property upon which the tax is levied paramount to all other liens, except that for the State and County taxes.

Section 5.106. Penalties.

Any tax not timely paid shall be assessed the penalties as provided by State law.

Section 5.107. Execution for Delinquent Taxes.

Any tax and applicable penalties not timely paid shall result in an execution against the defaulting taxpayer and the sale of so much of the defaulting taxpayer's estate, real, personal or both, as may be sufficient to satisfy the Town taxes with the penalties thereon in accordance with the procedure set by State law.

ARTICLE II. BUSINESS LICENSES

Section 5.200. In General.

Every person, firm, corporation or other entity engaged in or intending to engage in any trade, occupation, business or profession within the limits of the Town of McClellanville shall obtain a license therefore in the manner prescribed by the Business License Ordinance as set forth in Appendix C to this Code.

Section 5.201. Late Penalties.

Any person, firm, corporation or other entity failing to pay the tax when due shall pay, in

CHAPTER 5. FINANCE

addition to the regular amount of tax due, such penalties as may be prescribed by the Business License Ordinance as set forth in Appendix C to this Code.

Section 5.202. Failure to Register.

Any person, firm, corporation or other entity exercising or carrying on any trade, occupation, business or profession, or operating any establishment for which a license is required by this Article without first having registered as provided herein, shall, upon conviction, be liable to a monetary fine or imprisonment, or both, in accordance with State law applicable to violations of municipal ordinances.

Section 5.203. Rates.

Rates for business licenses shall be as prescribed by Town Council by an ordinance adopted for that purpose.

CHAPTER 6. FIRE PROTECTION

ARTICLE I. IN GENERAL

Section 6.100. Fire Limits.

The corporate limits of the Town shall constitute the fire district. The provision of fire service within the fire district shall be pursuant to such terms and conditions as deemed appropriate by the Town Council.

ARTICLE II. FIREARMS, FIREWORKS AND EXPLOSIVES

Section 6.200. Discharge of Firearms, and Explosives Prohibited.

It shall be unlawful to shoot or discharge any firearms, or explosives within the corporate limits of the Town of McClellanville except where the use of any explosive is reasonably had for a construction project for which a building permit shall have been obtained.

Section 6.201. Fireworks.

Section 6.201.1. Use of Fireworks (amended 11-6-2017)

Section 6.201.1. Use of Fireworks.

- (A) It shall be unlawful for any person or persons to light, fire, ignite or discharge fireworks within the corporate limits of the Town, except as provided in subsection (b) of this section. For the purposes of this section and the remaining sections of this section, "fireworks" means fireworks as defined by State statutory law including S.C. Code Section 23-35-175 and ICC Class C

CHAPTER 6. FIRE PROTECTION

Common Fireworks as described therein.

(B) Exceptions:

1. All town sponsored events are exempt from the provisions of subsection (a) including pyrotechnic companies hired by the town for enjoyment purposes. All pyrotechnic companies shall comply with any and all federal, state and municipal regulations as far as licensing, insurance and permits.
2. The discharging or shooting of fireworks on the 4th of July between the hours of 6:00 p.m. and 10:00 p.m., unless drought conditions exist and a red flag warning has been issued for the town.
3. The discharging or shooting of fireworks between the hours of 6:00 p.m. on December 31 and 1:00 a.m. on January 1.
4. The discharging or shooting of fireworks in conjunction with a special event to the extent allowed under the terms of the permit issued by town hall, with approval given by Council.
5. The provisions of this section shall not include nor prevent the possession or use of toy cap pistols and toy pistol paper caps which contain no more than twenty hundredths (0.20) of a grain of explosive mixture and fireworks known as sparklers. The use and possession of such toy cap pistols, toy pistol caps and sparklers shall be permitted at all times.

(C) Nothing contained in subsection (a) shall be construed as prohibiting the use of signals necessary for the safe operation of buses, trucks, or trains within the town.

(D) All fireworks discharged under this provision shall be under the direct supervision of a responsible adult.

CHAPTER 6. FIRE PROTECTION

(E) Enforcement and penalties:

- (1) A person who uses, fires, shoots, or discharges any fireworks within the corporate limits of the town or fails to comply with the provisions of this section shall be deemed guilty of an infraction for each occurrence of noncompliance.
- (2) An infraction is punishable by a fine up to the maximum amount allowed by state law. Each occurrence of a violation of this section shall be considered a separate and distinct infraction.

6.202.2. Toy Caps Excepted.

The term “fireworks” shall not include toy paper caps which contain less than twenty-five hundredth grains 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 lawful at all times, unless utilized in a manner to disrupt the peace.

ARTICLE III. OPEN BURNING

Section 6.300. Open Burning Prohibited.

Open burning is prohibited except as provided below:

- A. Open burning of leaves, tree branches or yard trimmings originating on the premises of private residences and burned on those premises.
- B. Open burning in connection with the preparation of food for immediate consumption.
- C. Campfires and fires used solely for recreational purposes, ceremonial occasions, or human warmth
- D. Fires purposely set to forest lands for specific management practices in accordance with

CHAPTER 6. FIRE PROTECTION

guidelines acceptable to the Department and as administered by the South Carolina Forestry Commission, Such management practices shall include:

1. Prescribed burning under existing standards for various management objectives; and
 2. Site preparation burning for purposes of clearing an area for regeneration.
- E. Fires purposely set for agricultural, control of diseases, weeds, pests, and other specific agricultural purposes in accordance with practices acceptable to the Department of Health and Environmental Control.
- F. Open burning of trees, brush, grass and other vegetable matter for genie management purposes in accordance with practices acceptable to the Department of Health and Environmental Control and the Town of McClellanville.
- G. Open burning in areas other than predominantly residential for the purpose of land clearing or right-of-way maintenance. This will be exempt only if the following minimum conditions are followed:
1. (a) Such person shall have cleared around the area to be burned and have immediately available sufficient equipment and personnel to adequately secure the fire and prevent its spread.
(b) The person starting the burning shall supervise carefully the fire and have it under control prior to leaving the area.
 2. Winds during the time of the burning must he away from any area in which the ambient air may be significantly affected by smoke from the burning if that area contains a public roadway or a residential, commercial., or industrial site,

CHAPTER 6. FIRE PROTECTION

3. The amount of dirt on the material being burned must be minimized.
 4. No heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth may be burned.
 5. The initial burning must be started only between the hours of 9:00 AM and 3:00 P.M. No combustible material may be added to the fire between 3:00 P.M. of one day and 9:00 AM the following day.
 6. No more than 2 piles 30 feet x 30 feet or equivalent may be burned within a six-acre area at one time; and
 7. In the case of land clearing, all salvageable timber and pulpwood must be removed.
- H. Burning is prohibited during periods of emergency. No burning shall be carried out during any period which the Governor has declared that an emergency exists in connection with forest fires or the fire department serving the Town deems conditions to be unfavorable.
- I. A permit to burn must be issued by the fire department serving the Town
- J. The State Forestry shall have jurisdiction within Town limits.
- K. Fires set for the purpose of training public fire-fighting personnel when authorized the appropriate governmental entity, and fires set by a private industry as a part of an organized program of drills for the training of fire-fighting personnel shall be exempt only if the drills are solely for the purpose of fire-fighting training and the duration of the burning is held to the minimum required for such purposes, Prior approval is required only for sites which are not established training sites.
- Prior notification to the Chief of the fire department serving the Town of McClellanville

CHAPTER 6. FIRE PROTECTION

and the State Forestry Commission is required.

A written report or warning to a person of a violation at one site shall be considered adequate notice of the ordinance and subsequent observed violations at the same or different site will result in appropriate legal action.

CHAPTER 7. PUBLIC HEALTH AND SANITATION

ARTICLE I. WELLS AND SEPTIC

Section 7.100. Construction of Wells and Septic Tanks.

No well or septic tank within the Town of McClellanville shall be constructed except in accordance with the rules and regulations of the South Carolina Department of Health and Environment and Charleston County Health Department. Possession of a permit from the Charleston County Health Department constitutes conclusive evidence of compliance herewith.

Section 7.101. Existing Wells and Septic Tanks.

The Town Council of McClellanville for the protection, health and welfare of the inhabitants of said Town may from time or any time require the closing of any contaminated septic tank or privy which does not comply with the requirements of the South Carolina Department of Health and Environmental Control or the Charleston County Health Department. Such action shall be taken at the expense of the property owner and in the event such property owners shall fail to take such action after due notice by the Town officials, such action taken by the Town and the costs thereof charged to such owner. Any such charge shall constitute a lien against the property where the septic tank or privy is located and be collectable in the same manner as Town taxes.

ARTICLE II. GARBAGE, REFUSE AND WEEDS

Section 7.200. Garbage and Refuse Collection.

Garbage and trash shall be collected according to such rules and regulations as the Town Council may, from time to time, adopt.

CHAPTER 7. PUBLIC HEALTH AND SANITATION

Section 7.201. Type of Garbage Container Required.

All garbage shall be placed in secure, covered containers set out adjacent to the street so as to be accessible to the driver of the collecting vehicle. No garbage or trash container shall be left on the street after collection has been made.

Section 7.202. Throwing Paper and Trash on Streets Prohibited.

No person or persons shall throw or cause to be thrown waste paper, paper bags, drinking cups or trash on the streets in Town of McClellanville.

Section 7.203. Trash, Unsightly and Unhealthy Conditions on Property/Public Nuisances.

Section 7.203.1. Definitions. The following words and terms when used in this section shall for the purpose of this section have the meanings respectively ascribed to them by this section:

- (a) *Abatement* means the removal, stoppage, prostration, or destruction of that which causes or constitutes a nuisance, whether by breaking or pulling it down, or otherwise destroying, or effacing it.
- (b) *Owner* means the owner of record based on the Charleston County tax assessor's or probate records of the property on which the alleged public nuisance exists at the time of the violation.
- (c) *Property* means any real property, premises, structure or location on which a public nuisance is alleged to exist.
- (d) *Public nuisance* means any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk

CHAPTER 7. PUBLIC HEALTH AND SANITATION

subspace, dock, wharf or landing dock; or any lot, land, yard, premises or location which in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, damage or injury to any one or more individuals in the Town, in any one or more of the following particulars:

- (1) By reason of being a menace, threat and/or hazard to the general health and safety of the community.
- (2) By reason of being a fire hazard.
- (3) By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property.

Public nuisances shall also include but not be limited to the following acts, omissions, conditions or things:

- (4) All obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian cross-walk.
- (5) All abandoned vehicles as defined in this Code.
- (6) Carcasses of animals not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
- (7) Decayed animals, trash, rubbish, or discarded materials in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

CHAPTER 7. PUBLIC HEALTH AND SANITATION

- (8) Any abandoned mechanical equipment including but not limited to refrigerators, freezers, air conditioners, heat pumps, boilers or furnaces.
- (9) Any animal that when unprovoked inflicts bites or attacks a human being or domestic animal on any property other than the property where the animal resides, or in a threatening or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places.

Section 7.203.2. Public nuisances prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town.

Section 7.203.3. Public nuisance; abatement. (amended 11-2-2015)

Whenever a complaint is made to the Town Administrator of the existence of a public nuisance, as defined in § 702.3.1, (s)he shall cause to be inspected the property on which it is alleged that such public nuisance exists. Should it be determined that a public nuisance exists, the same shall be documented by photographs and reports of findings of inspections, all of which shall be maintained in Town Hall. Notwithstanding anything in this subpart to the contrary, the Town Administrator shall not investigate a complaint or inspect any property unless the complaining party, or someone on his or her behalf, has attempted to resolve the situation giving rise to the alleged nuisance with the owner of the property where the nuisance is alleged to exist and provides the Town Administrator a letter, with the owner of the affected property being a copied

CHAPTER 7. PUBLIC HEALTH AND SANITATION

recipient, delineating the attempt(s) made to resolve the situation, to include the date(s) of the attempt(s) and any responses thereto.

(a) The owner of the property shall be determined from the records in the county tax assessor's office and a written notice shall be served on the owner by leaving a copy of the notice at the usual place of residence or business of such owner, or address of such owner shown in the county tax assessor's records, or by copy mailed to such owner at such place or address by United States certified mail return receipt. If service of such written notice is unable to be perfected by any of the methods described above, a copy of the aforementioned said notice shall be published in a newspaper of general circulation in the Town once a week for two (2) consecutive weeks, and a copy of the aforesaid notice shall be left with the individual, if any, in possession of such property on which it is alleged such public nuisance exists, or if there is no individual in possession thereof, a copy of the notice shall be posted at such structure, location or premises.

(b) The aforesaid notice to the owner of the property shall state clearly and concisely the findings with respect to the existence of a public nuisance. The notice shall further state that unless the owner thereof shall cause the abatement of the public nuisance, pursuant to the orders contained in the notice, the public nuisance shall be abated by the Town at the expense of the owner.

(c) Any person who is the record owner of the premises, location or structure at the time an order pursuant to this section is issued and served upon him, shall be responsible for complying with that order, and liable for any costs incurred by the Town therewith, notwithstanding the fact that he conveys his interests in the property to another after such order was issued and served.

CHAPTER 7. PUBLIC HEALTH AND SANITATION

(d) It shall not be a defense to the determination that a public nuisance exists that the property is boarded up or otherwise enclosed.

(e) Within thirty (30) days after the postmark, or publication or posting if applicable, of a notice to abate a nuisance, the owner of the affected property shall remove and abate such nuisance, or if the nuisance cannot reasonably be removed and abated in such time, the owner of the affected property shall commence the removal and abatement of the nuisance and contact the Town Administrator, who shall then establish a time by which the nuisance shall be removed and abated. The owner of the affected property shall then proceed in a diligent manner to remove and abate the nuisance within the time established by the Town Administrator.

(f) The owner or occupant of the property who has been served with a notice pursuant to this section that a public nuisance exists and that it must be abated within thirty (30) days, may, within ten (10) calendar days after receipt of such notice, make a written demand for a hearing on the question of whether a public nuisance in fact exists. The hearing as allowed under this section shall be held as soon as practical, but in any event no later than thirty (30) calendar days following receipt by the Town of the written demand, and at least two (2) days notice of the hearing shall be given to the individual who made the written demand for the hearing. The individual requesting the hearing shall be advised of the time and location of the hearing and the right to present evidence and to be represented by counsel. The hearing shall be informal and the decision of the board, as defined hereafter, shall be final.

(g) The hearing shall be conducted by the McClellanville Building Codes Board of Appeals. The board may affirm, amend or modify the notice and/or order, or extend the time for compliance by the owner by such date, all as the majority of the board may determine.

CHAPTER 7. PUBLIC HEALTH AND SANITATION

(h) As an alternative to the above procedure, Council, at its discretion and after considering the complexity, cost, time required and other factors, may refer the matter to Charleston County. If referred to Charleston County, it will be addressed under the Charleston County Code which has been adopted by the Town of McClellanville.

Section 7.203.4. Abatement by Town; cost of abatement; court action.

(a) If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Town shall cause the abatement or removal of such public nuisance.

(b) In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall become a lien upon the real estate and shall be collectable in the same manner as municipal taxes. Nothing contained in this article shall prohibit the Town from exercising its rights to cause an action to abate such nuisance to be commenced in the name of the Town in a court of competent jurisdiction in accordance with the provisions of the state statutes.

Section 7.203.5. Building Official.

Nothing herein shall be construed to limit the authority or powers of the Building Official as is otherwise provided in this Code.

Section 7.203.6. Misdemeanor.

The maintenance of a public nuisance constitutes a misdemeanor punishable by a fine of up to \$500 and/or imprisonment for up to 30 days, and nothing in this section shall be construed as limiting the ability of the Town to prosecute a violation of this section before the Town

CHAPTER 7. PUBLIC HEALTH AND SANITATION

magistrate or any other court of competent jurisdiction.

ARTICLE III. SMOKING IN GOVERNMENT SERVICES BUILDING

Section 7.400. Findings.

Town Council makes the following findings:

- (1) It has been shown that the smoke produced by the smoking of cigarettes, cigars and pipes is both hazardous and detrimental to the health, welfare and comfort of smokers and nonsmokers; and
- (2) The surgeon general has reported that smoking is a significant cause of cancer, heart disease and lung disorders in smokers and passive smokers (those inhaling the smoke of others); and
- (3) The Town Council of McClellanville in furtherance of its duty to provide such regulations as may be necessary to protect the health of its citizens and minimize the incidents of disease of its population, and to provide a working environment for its employees and the general public which is reasonably free of hazards and distractions, such as smoke, and in furtherance of the objectives of the Clean Indoor Air Act of 1990, deems it to be in the public interests to regulate smoking in the Government Services Building of the Town.

Section 7.401. Definitions.

- (1) *Smoking* means the lighting or carrying of a lighted cigarette, cigar, pipe, or similar device or any other lighted “smoking materials.”
- (2) *Smoking materials* includes cigars, cigarettes and all other manner of smoking

CHAPTER 7. PUBLIC HEALTH AND SANITATION

devices intended to be used for the purposes of inhaling and exhaling smoke.

Section 7.402. Smoking prohibited.

Smoking is prohibited in the Government Services Building of the Town.

Section 7.403. Notice.

A sign shall be placed at the entrance to the Government Services Building informing the public that smoking is prohibited by Town ordinance.

Section 7.404. Penalty.

A person convicted of violating the provisions hereof shall be subject to a fine of not less than ten dollars nor more than twenty-five dollars.

CHAPTER 8. OFFENCES

ARTICLE I. MISCELLANEOUS

Section 8.100. Disorderly Conduct.

It shall be unlawful to conduct oneself in a disorderly manner with the purpose to cause public inconvenience or, annoyance or recklessly creating a risk thereof by:

- (a) engaging in fighting or threatening to engage in violent or threatening behavior.
- (b) making unreasonable noise or using offensively coarse language or gesture or display, or addresses of abusive language to persons present; or
- (c) creating a hazardous or physically offensive condition that serves no legitimate purpose of the act.

For the purpose of this section “public” means affecting or directed to any person or persons in a place to which the general public or a substantial group has access, among the places included being transport facilities, schools, prisons, apartment complexes, places of business or entertainment and governmental buildings.

Section 8.101. Reserved.

Section 8.102. Lottery or Game of Chance.

State law shall govern with respect to offenses relating to the conduct and participation in lotteries and games of chance.

Section 8.103. Reserved.

Section 8.104. Indecent Words, Phrases, Etc.

CHAPTER 8. OFFENCES

No person shall write any indecent, obscene, scurrilous or profane words or make any indecent, obscene, scurrilous or profane pictures, marks or figures on any wall, fence, house, sidewalk or structure.

Section 8.105. Drinking In Public Places.

No person shall drink any beer or alcoholic beverages on the streets or public places in the Town; provided however, that nothing herein shall be construed to prevent Council from allowing on-premises consumption of beer or alcoholic beverages at Town facilities under such conditions as it deems appropriate when the same are rented for private functions or used by the Town for special events.

Section 8.106. Reserved.

Section 8.107. Assaulting, or Interfering with an Officer.

No person shall assault or interfere with the marshal of any other officer of the town in the performance of their duty.

ARTICLE II. GAMBLING VESSELS

Section 8.200. Prohibition.

The governing body of the Town of McClellanville, South Carolina, in accordance with the authority delegated by home rule and Section 3-11-300 of the Code of Laws of South Carolina, 1976, as amended, hereby prohibits within its jurisdiction the docking and embarkation or disembarkation of passengers aboard gambling vessels, as defined in Section 3-11-100(1) of the 1976 Code, as amended, that provide gambling aboard voyages that depart from the jurisdiction

CHAPTER 8. OFFENCES

of the Town of McClellanville, leave the territorial waters of the State of South Carolina, sail into United States or international waters, and return to the territorial waters of the State of South Carolina without making an intervening stop, as defined in Section 3-11-100(3) of the 1976 Code, as amended. Nothing herein shall be construed to prohibit, regulate or otherwise apply to passenger cruise liners, as defined by Section 3-11-100(5) of the 1976 Code, as amended, nor shall this ordinance apply to vessels described in Section 3-11-400(A) of the 1976 Code, as amended.

Section 8.201. Penalty.

Anyone violating the provisions of this ordinance shall be assessed a civil penalty of one hundred dollars per passenger for each violation, with an aggregate total in penalties not to exceed fifty thousand dollars per gambling vessel for a twenty-four hour period. For the purposes of this ordinance, “per passenger” is defined as the total number of passengers allowed on a vessel pursuant to its United States Coast Guard certificate of documentation or equivalent foreign documentation. In addition, violations of this ordinance are subject to injunctive relief.

Section 8.202. Severability.

If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid or unconstitutional, such holding shall not affect the constitutionality or validity of the remaining portions of the chapter, the council hereby declaring that it would have passed each and every section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, items, subitems, subparagraphs, sentences, clauses, phrases, or words thereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

CHAPTER 9. STREETS, SIDEWALKS, PARKS AND TREES

ARTICLE 1. STREETS AND SIDEWALKS

Section 9.100. Encroachments.

No person, firm, company or corporation shall erect any building, fence or other structure that shall encroach upon any street or sidewalk of the town.

Section 9.101. Abutting Owners to Keep Sidewalks Clean.

The owner of every vacant lot and the occupant of every building abutting on a sidewalk in the Town of McClellanville shall maintain such sidewalk in a clean and passable condition free from trash, rubbish, grass and weeds. When a building is occupied by more than one tenant or other occupant, the duties herein imposed shall be that of the property owner and all such occupants.

ARTICLE II. PARKS AND TREES

Section 9.200. Destroying or Injuring Trees, Shrubs and Flowers.

It shall be unlawful to cut down, mutilate or damage any tree, shrub or flower growing in any public street or park of the Town of McClellanville

ARTICLE III. VIOLATIONS

Section 9.300. Penalty.

Any persons violating the provisions of this Chapter shall upon conviction be fined not more than \$200 nor imprisoned not more than 30 days

CHAPTER 10. TRAFFIC AND MOTOR VEHICLES

ARTICLE I. STATE LAW ADOPTED

Section 10.100. Uniform Act Regulating Traffic on Highways.¹

The provisions of §§ 56-5-10, et seq., Code of Laws of South Carolina, 1976, as amended, insofar as they are applicable to motor vehicles and the operation thereof in the Town of McClellanville, are hereby adopted as the law relating to motor vehicles and the operation of the same on the streets of the Town and each section, paragraph, part or parcel thereof is hereby adopted and made a part of this chapter the same as if such section, paragraph, part or parcel were written herein.

¹[For jurisdiction of Municipal Court, see §§ 14-25-10 et. seq., 5-7-140. 56-1-510, 56-5-6150 Code of Laws of South Carolina, 1976, as amended.]

Section 10.101. Speed Limits.

Speed limits for the various streets in the Town of McClellanville, as may from time to time be adopted by Council shall be conspicuously posted, and it shall be unlawful to drive any vehicle at a speed in excess of any such posted limit.

Section 10.102. Careless Driving or Riding.

It shall be unlawful for any person to drive or ride any 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 or riding. The operation of any vehicle when the same or any of its appliances is not in proper or safe condition shall be prima facie evidence of careless driving or riding.

ARTICLE II. STOPPING, STANDING AND PARKING

CHAPTER 10. TRAFFIC AND MOTOR VEHICLES

Section 10.200. General.

Any unoccupied and unattended vehicle found violating the terms of this article may be removed, impounded and/or ticketed by any police officer or duly authorized person and shall be surrendered to the duly identified owner thereof only upon payment of cost of impounding and/or the ticket.

Section 10.201. Owner Responsible for Illegal Parking.

No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street in any violation of any of the provisions of this article or other ordinances of the Town regarding the standing or parking of vehicles.

Section 10.202. Authority of Town Marshal to Promulgate Special Regulations.

The Town Marshal, with the approval of the Town Council, shall have authority to make, promulgate and enforce special regulations as to parking, nonparking and time limits for parking and cause to be placed signs, signals, and other traffic control devices for the purpose of enforcing the same. Any person failing or refusing to obey any such regulations shall be guilty of a misdemeanor.

Before any such regulations shall become effective, notice thereof shall be published at least once in a newspaper published in the county.

Section 10.203. Parking Prohibited for Certain Purposes.

No person shall stand or park a vehicle in such a manner as to create a public or private nuisance upon any roadway for the purpose of:

- (1) Displaying .it for sale.

CHAPTER 10. TRAFFIC AND MOTOR VEHICLES

- (2) Advertising of any nature whatsoever.
- (3) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

Section 10.204. Parking Within Lines Indicating Parking Space.

Wherever lines have been painted to indicate parking space, vehicles shall be parked entirely within those lines.

Section 10.205. Trucks or Vehicles More Than Twenty Feet Long.

No person shall stop, stand or park a truck or other vehicle having an overall length of more than twenty (20) feet at any point upon any street, except that such bus, truck or other vehicle may be stopped or parked for such length of time as may be necessary for the pickup and loading or unloading and delivery of passengers or materials. For the purpose of this section, a trailer and its tractor unit and a bus, truck, or vehicle with attached trailers shall be considered one vehicle.

Section 10.206. Camping, Sleeping, Residing, etc., in Parked Motor Vehicles, etc.

No person shall camp, camp out, sleep, lodge or take up residence in any camper, van, bus, or other motor vehicle on the public streets or in any park or public place.

Section 10.207. Unattached Trailers.

No person shall park a trailer or allow the same to stand at any point upon any street.

Section 10.208. Running Engines or Other Equipment While Stopped or Standing on Street.

CHAPTER 10. TRAFFIC AND MOTOR VEHICLES

No person shall allow the engine or other mechanical equipment on a motor vehicle stopped or standing on a public street to continue to operate longer than five (5) minutes, unless movement of such vehicle is prevented by traffic control signals or is physically blocked by other vehicles.

Section 10.209. Blocking Driveways.

No person shall stop, stand or park a vehicle in front of a public or private driveway.

ARTICLE III. ENFORCEMENT.

Section 10.300. Issuance of Traffic Citations.

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

Section 10.301. Consequences of Failure to Comply with Traffic Citation.

(a) The traffic citation authorized by § 10.301 shall be increased by an additional amount if bond is not posted by the specified date on the citation and that failure to comply with the requirements of the citation shall result in the issuance of a summons.

(b) Any vehicle parked on any street or other public property, whether in an authorized or unauthorized zone, which is found to be the subject of twenty five dollars (\$25.00) or more in past due or outstanding traffic citations is hereby declared to be a public nuisance.

(c) Any vehicle identified as a public nuisance may be impounded by the Town by giving

CHAPTER 10. TRAFFIC AND MOTOR VEHICLES

authorization to a commercial towing or wrecker service or by other means to tow the vehicle away and store in a safe place until claimed by the owner.

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

Section 10.302. Restrictions on Cancellation or Solicitation of Cancellation of Traffic Citations or Summons.

No person shall cancel or solicit cancellation of any traffic citation or summons. The judge or associate judge of the municipal court shall have sole authority to cancel, void or dismiss any traffic citation or traffic summons.

Section 10.303. Penalty.

It shall be a misdemeanor for any person to violate any of the provisions of this Chapter, unless such violation is by the law of the State declared to be a felony.

Whoever violates any provision of this Chapter for which no penalty is otherwise provided shall be subject to a fine up to five hundred (\$500) dollars and/or imprisonment up to thirty (30) days; provided however no penalty shall exceed the penalty provided by state law for similar offenses.

A separate offense shall be deemed committed for each day a violation occurs or continues.

CHAPTER 11. FRANCHISES

ARTICLE I. UTILITIES

Section 11.100. Utilities.

Ordinances authorizing franchises for South Carolina Electric and Gas Company and Berkeley Electric Cooperative are set forth in Appendix D and Appendix E to this Code.

CHAPTER 12. ZONING

ARTICLE I. ZONING AND LAND DEVELOPMENT

Section 12.100. Zoning and Land Development.

The zoning and land development ordinance for the Town of McClellanville is set forth in Appendix F to this Code.

To view the Zoning and Land Development follow this link

<http://www.townofmcclellanville-sc.net/zord/contentss.htm>

CHAPTER 13. FEES

ARTICLE I. BOAT LAUNCHING USE PERMITS

Section 13.100. Findings.

By Deed dated March 12, 1991, recorded in R.M;C, Office for Charleston County, in Book G201 at Page 370, the State of South Carolina conveyed to the Town of McClellanville (Town) 4.27 acres, more or less of highland, lowland and marshlands (the Property). At the time of the transfer and at all time subsequent thereto, ~the Property included a dock, .a. boat launching i-amp, a fire tower and an area for parking. in support of these uses. The Property now also serves as the site of Town Hall.

From the time of the transfer of the Property to the Town until July 1, 1995, the County of Charleston assisted the Town with the costs of maintaining the boat launching ramp and parking area by providing the manpower, labor, materials and supplies required to keep the boat launching ramp and parking area related to it in a reasonably safe condition for use by the public. As of July 1, 1995, all such costs became the sole responsibility of the Town.

In 1993, the Town adopted a comprehensive plan to address the direction of the growth and development of the Town. A primary goal of the plan was the enactment of regulations to preserve the Town's architecture and atmosphere as a rural village. In response to the plan, and in furtherance of protecting the historic, rural atmosphere of the Town, Town Council, on June 28, 1993, enacted a comprehensive zoning ordinance which, among other things, created a historic district and an architectural review board to oversee and approve development therein, arid which further included regulations governing density, lot size and tree preservation. Since 1993, the comprehensive plan and zoning ordinance have been updated to reflect the continued goal maintaining and protecting the historic, rural atmosphere of the Town.

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The Property is located in the historic district, off of Pinckney Street. Pinckney Street is a two-lane right of way, and is the only access to U.S. Highway 17. All uses in the 'Town along Pinckney Street are either residential or small village-type commercial ventures. The Property can only be accessed by vehicle from Pinckney Street, which necessitates that vehicles travel through the center of the historic district for use of the Property or of any amenities on it.

During the course of its ownership of the Property, Town Council has noticed and experienced a dramatic increase in the number of persons, both residents and non-residents, 'using the boat launching ramp, the dock, and related parking on the Property to access the waters of Jeremy Creek. Along with the increased use of the ramp, the dock, and the related parking area has come increased traffic, congestion, noise and litter. At certain times of the year, it is not unusual for the boat ramp to be in use 24 hours a day, and for vehicles to occupy all parking spaces at the landing and on properties as far as % mile away. Increased use has. affected the durability and stability of the launching ramp, the dock and the related parking area, and the influx of traffic has deleteriously affected the quality of life in the Town. To address these circumstances, Town Council determined to undertake a study and implement a plan whereby the boat launching ramp, the dock, the parking area and other support facilities may be improved an maintained in safe condition for use by the public in manner that does not adversely affect the quality of life in the Town.

As part of its study, the Town Council authorized a survey of Town residents and persons living in reasonable proximity to the Town for input regarding the use of the launching ramp, the dock and the parking area, and regulations concerning the same. Town Council held numerous public hearings on the subject and solicited suggestions from neighboring communities and the Division of Natural Resources of the State of South Carolina. Town Council further appointed a Boat

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Landing Advisory Committee to gather information and to report to Council concerning improvements, use and regulation of the boat launching ramp, the dock and parking area and anticipated expenses that may be associated therewith.

It is evident to Town Council that unless monies are expended to improve the boat launching ramp; the dock, the parking area and other support facilities, the same will rapidly deteriorate and will be of no beneficial use. It is evident to Town Council that the cost of improvements and maintenance will be sizeable, and that fairness dictates that the users of these facilities, whether residents of the Town or not, should be required to contribute a reasonable share of these costs so as to mitigate the burden of these costs on Town's general fund. Town Council recognizes that Town residents now contribute to the costs of maintaining and improving these facilities by virtue of property taxes and/or rents paid, but nonetheless deems it appropriate to charge a reasonable fee to these users as they specially benefit from the Town's resources dedicated to these facilities. It is further evident to Town Council that the general welfare demands that reasonable measures to protect these facilities and to preserve the quality of life within the Town must be implemented.

It is the intention of Town Council in enacting this ordinance to provide a system by which the boat launching ramp, the dock, the parking area, and other support facilities at the Property can be improved and maintained for public use, access and enjoyment without the burden on either the Town's general fund or its quality of life.

Section 13.101. Boat Landing Use Permit.

Except for special events as hereafter set forth, from and after 'the effective date hereof, it shall be unlawful for any person to launch watercraft from the ramp on the Property or to utilize the parking area related thereto without first acquiring a permit from the Town of McClellanville.

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Section 13.102. Permits Authorized. (amended August 3, 2020)

From and after the effective date of this Ordinance, the Town of McClellanville shall make available for public purchase boat landing use permits. Permits authorized include annual permits only.

Annual permits: An annual permit shall entitle the holder thereof to launch watercraft from the boat launching ramp on the Property 24 hours a day, 365 days a year, to use the dock and its facilities, and to the use of the related parking area, as parking spaces are available. The term of each annual permit shall be for one (1) year, from January 1 to December 31, Annual permits shall be assigned to a vehicle designated by the applicant. The standard cost of an annual permit is established as follows:

- (A) McClellanville residents - \$50.00 per year.
- (B) Non-residents - \$100.00 per year, per permit.

Any additional annual permits assigned to the same address shall be at standard costs.

To qualify as a McClellanville resident, proof of residing or owning real property in the Town must be provided when applying for a permit.

Section 13.103. Issuance/Renewal.

Permits shall be issued and renewed, as applicable, in accordance with such procedures as Town Council may, from time to time, establish.

Section 13.104. Display.

The permit must be affixed to the left portion of the rear window of the vehicle to which it is assigned. No person holding a permit shall transfer, or assign to, or otherwise allow the use of that permit by, any other person or use the permit on any vehicle other than that to which it was

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assigned.

Section 13.105. Boat Landing Use Fee Account.

An interest bearing, restricted account known as the Town of McClellanville Boat Landing Use Fee Account is hereby established, and all revenues received from the fees established by this ordinance shall be deposited in said account, along with such other monies as Town Council may from time to time appropriate.

Section 13.106. Use of Funds.

Any and all revenues derived from the boat landing use fees, or any interest that may accrue thereon, shall be used by the Town for the sole purpose of improving, operating and maintaining the boat launching ramp, the dock, the related parking area, and any other support facilities on the Property, and for reasonable administrative costs associated therewith.

Section 13.107. Special Events.

Nothing in this Ordinance shall be construed to preclude the Town Council from allowing the launching of watercraft from the ramp, the use of the dock, or the use of the parking area related to the Property by persons not holding permits when such launching and use is related to Town sanctioned special events such as fishing tournaments, bird counts, turtle nesting sightings, lighthouse preservation activities and the Jeremy Creek clean-up.

Section 13.108. Exemptions.

Any and all agents, representatives and employees of the State of South Carolina, particularly its Division of Natural Resources, and the United States of America, including the U.S. Fish and

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Wildlife Service and U.S. Army Corps of Engineers, while acting in the course and scope of their employment, or in an official capacity, are exempt from the provisions of this ordinance, and the same shall have right of access to and use of the boat launching ramp, the dock and the parking area at any and all times while so acting.

Nothing herein shall be construed as requiring any fee for pedestrian access to the boat launching ramp, dock, related parking area or other support facilities on the Property.

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Article II: Permits for Commercial Film Activities Within Town Limits

(Adopted August 3, 2020)

Sec. 13-200. – Definitions.

- A. "**Charitable Films**", as used in this Chapter, shall mean commercials, motion pictures, television, videotapes, or still photograph produced by a nonprofit organization, which qualifies under section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes or photos.
- B. "**High Impact Filming**", as used in this Chapter, shall mean any film activities that involve intermittent traffic control or pedestrian control on any sidewalk, road, park, or other public area; submits requests for street closures (strongly discouraged); films on a Friday, Saturday, or Sunday; actively films, active base camp, or truck arrival prior to 8am or after 6pm; filming that includes lighting; utilizes crews of more than 15 people or more

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than 4 vehicles; filming that includes special effects including smoke, loud sounds, or any other potential disturbances.

High impact filming activities may also be defined as those which involve extenuating circumstances including, but not limited to, extended hours, displacement of more than 50% of residential on-street parking on a given block, special effects, period shots, extensive set dressing, nighttime lighting, loud noises, gunshots, street closures, or base camps or working trucks parked on residential streets.

- C. **“Low Impact Filming”**, as used in this Chapter, shall mean filming that will not disturb wildlife, residents, businesses, or visitors; does not include traffic or pedestrian control on any public property including sidewalks, or roads; does not utilize more than 4 public parking spaces; limited to 8am-6pm filming Monday through Thursday; maintains a crew of fewer than 15 people and/or 4 vehicles; and utilizes no special effects (fire, smoke, amplified sounds).
- D. **"Motion Picture, Television, Still Photograph"**, as used in this Chapter, shall mean and includes all activity attendant to staging or shooting commercial motion pictures, television shows or programs, and commercials.
- E. **"News Media"**, as used in this Chapter, shall mean the filming or videotaping for the purpose of spontaneous, unplanned television news broadcast by reporters, photographers or cameramen.

Sec. 13.201- Permit required.

No person shall use any Town street, alley, sidewalk, park, pier, way or other public property owned or controlled by the Town for the purpose of taking commercial motion pictures or television pictures or commercial still photography without first applying for and receiving a

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permit from the Town Manager or his/her designee, provided that the provisions of this Chapter shall not apply to or be construed to affect:

- A. Reporters, photographers or cameramen in the employ of a newspaper, news service, or similar entity engaged in on the spot broadcasting of news events concerning those persons, scenes or occurrences which are in the news and of general public interest; or
- B. The filming or videotaping of Motion Pictures solely for private family use; or
- C. Charitable films: projects which qualify under section 501(c)(3) of the Internal Revenue Code.

Sec. 13.202 – Application Requirements and Fees

A. Low Impact Filming

- a. The application, which is merely a formality for notice, must be submitted 3 business days prior to filming along with supporting insurance documentation. A copy of the application will be retained at Town Hall in case issues or questions arise.
- b. The Applicant is responsible for notifying immediately adjacent and any other affected residents and businesses 24 hours prior to filming.
- c. Low impact filming must obtain a business license and pay a fee of \$100 per day.

B. High Impact Filming

- a. Project application must be received 5 business days in advance of filming
- b. The applicant must meet with Council's Film Committee for approval of the project; if the project is approved, applicant would work with staff on specifics (e.g. shooting dates, specific locations)

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- c. If approved, the filming company is required to notify in writing, all businesses and residents affected by the proposed activity, a copy of which shall be provided to the Town. Notification will take place following Town approval but no less than three (3) business days prior to the planned activity. Exceptions may be made in special situations. Earlier notification may be required in cases where planned activities may have a significant impact on the normal activities of the area. The Location Manager shall advise the Town in writing of any homes where residents are unreachable. Exceptions to this rule may be made in the case of residents who are not available.
A wider radius of notification may also be required if the nighttime shot involves loud noises, special effects, or more extensive lighting than usual.
- d. High impact filming must obtain a Town business license and pay a filming fee of \$500 per day.
- e. Lighting for filming, both during the day and at night, should be oriented away from neighboring residences wherever possible, and should not interfere with the safe movement of traffic.
- f. The Town will require at least one off-duty Charleston County Officer to assist during the duration of any high-impact filming at the expense of the applicant. The Town must be notified by Charleston County that they have been retained for services.

Sec. 13.203 – Insurance Requirements

An insurance certificate must also be submitted for all filming activities with the application. All

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productions are required to maintain public liability insurance policies for filming on location within the Town. The following policy amounts are required:

General Liability Insurance	\$1,000,000
Automobile Liability	\$1,000,000
Worker's Comp and Employer's Liability	\$1,000,000

Sec. 13.204 – Parking and Noise Requirements

All equipment or support vehicles not in immediate use shall be parked so as not to cause any interference to pedestrians or vehicular traffic and shall follow all parking rules of the Town (to include but not limited to: fire hydrants, driveways, tires off roadway, facing flow of traffic, etc.). Production companies are responsible for complying with the Town's noise ordinance, unless special permission is given by Town Council. Wherever possible, base camps and dressing room trailers shall be parked away from neighboring residences, and/or steps taken to control noise from generators, slamming doors, engines, etc., in the early morning before 8 A.M. and after 6 P.M.

Sec. 13.205 - Public Property

Production companies are responsible for returning any public rights of way used for filming, base camp, or equipment purposes to their original condition in a timely manner, and for repairing damage to foliage, grass, or public property.

Sec. 13.206 – Traffic Control

Approval must be obtained prior to any filming activity which would disrupt the normal flow of traffic. Traffic control, if needed, must be handled through a contract with Charleston County Sheriff's Department. The Town retains the right to determine the number of officers needed. Intermittent holding of traffic shall not exceed three (3) minute intervals except when specifically

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approved in the filming permit. Interruptions of traffic on State maintained streets requires additional approval from the South Carolina Department of Transportation.

Sec. 13.207 – Prohibited Filming

A. The following activities are prohibited and exceptions may only be granted by Council:

- a. Intermittent Traffic Control that exceeds 3 minutes at a time
- b. Fireworks or fires
- c. Filming that alters Town property (signs, amenities, parks and playgrounds)
- d. Road Closures

Sec. 13.208 - Hold Harmless.

Every applicant/permittee shall provide insurance and bonds as prescribed in regulations issued by the Town Administrator pursuant to the Guidelines which are available upon request.

Sec. 13.209 - Violation—Penalty.

Any person violating any of the provisions of this Chapter shall be subject to the provisions of Section 9.300.