

TOWN OF AYNOR

Code of Ordinances

11/28/2011

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CHAPTER 1

GENERAL PROVISIONS

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GENERAL PROVISIONS

Sec. 1-1 Designation and citation of Code.

That the volume of which this ordinance forms a part, contains a compilation and revision of ordinances of the Town of Aynor, South Carolina, of a general and permanent nature, and that said ordinances are hereby adopted as "The Ordinances of the Town of Aynor, South Carolina, 2010." (Code 1964 §1.1)

Sec. 1-2 Catchlines of Sections.

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

Sec. 1-3 Severability of Code.

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

Sec. 1-4 General penalty; continuing violation.

Whenever in this Code or in any ordinance or resolution of the town or rule, regulation or order promulgated by any officer or agency of the town under authority duly vested in him or it, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, where no specific penalty is provided for the violation thereof, the violation of any such provisions of this Code, ordinance, resolution, rule, regulation or order shall be punished by a fine not exceeding \$500.00 or by imprisonment for a period not exceeding 30 days; provided, however, that no penalty shall exceed the penalty provided by the state law for similar offenses. Each day any violation of this Code or any such ordinances, rules or regulations shall continue shall constitute a separate offense unless otherwise specifically provided.

Sec. 1-5 Violation of rules, regulations and orders.

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

Sec. 1-6 Liability of corporations, etc., and agents for violations.

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

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

Sec. 1-7 Repeal or expiration of ordinance.

(a) All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

(b) 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.

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

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

Nothing in this Code, or the ordinance adopting this Code, shall affect the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligations assumed by the town;
- (3) The administrative ordinances or resolutions of the town not in conflict with the provisions of this Code;
- (4) Any ordinance or resolution fixing salaries of officers or employees of the town, unless superseded;
- (5) Any appropriation ordinance or resolution;
- (6) Any right of franchise granted by the council to any person, firm or corporation;
- (7) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, closing, opening, paving, widening, vacating, etc., any street or public way in the town;

- (8) Any ordinance or resolution establishing and prescribing the street grades of any streets in the town;
- (9) Any ordinance or resolution providing for local improvements or assessing taxes therefore;
- (10) Any ordinance or resolution dedicating or accepting any plat or subdivision in the town, or providing regulations for the same;
- (11) Any ordinance annexing property to the town;
- (12) Any zoning ordinance or amendments thereto, and any ordinance establishing a board of zoning appeals, board of architectural review, or planning commission, including joint commissions;
- (13) Any ordinance or resolution regulating the erection, alteration, repair, demolition, moving or removal of buildings or other structures;
- (14) Ordinances or resolutions prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not inconsistent with this Code;
- (15) Any ordinance or resolution fixing utility rates and charges;
- (16) Any ordinance of agreement with another political subdivision;
- (17) Any ordinance concerning issuance of tax anticipation notes or other debt;
- (18) Any ordinance regulating adult-entertainment or sexually oriented businesses;
- (19) Any ordinance regarding a board of trustees of firemen's insurance and inspection fund, or concerning membership in the state firemen's association and duties accompanying said membership;
- (20) Any other ordinance or resolution, or part thereof, which is not of a general and permanent nature; or which is referred to elsewhere in this Code as continuing in effect;
- (21) All such ordinances and resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances and resolutions are on file in the clerk's office.
- (22) Nor shall the repeal be construed to revive any ordinance or part of an ordinance that has been repealed or superseded by a subsequent ordinance which is repealed by the ordinance of adoption of this Code.

Sec. 1-9 Parenthetical and reference matter.

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

not be changed by this Code. Reference matter not in parentheses is for information only and is not a part of this Code.

Sec. 1-10 Amendments to Code; effect of new ordinances; amendatory language.

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

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

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

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

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

Sec. 1-11 Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code may be prepared and printed whenever authorized or directed by the town council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the town council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, when necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

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

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(d) Organize the ordinance material into appropriate subdivisions;

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

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

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

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

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State law reference—Powers conferred upon municipalities, S.C. Code 1976, § 5-7-30; general structure and functions of all municipalities, S.C. Code 1976, § 5-7-10 et seq.; municipal powers vested in council, S.C. Code 1976, § 5-7-160; local fee imposition limitations, S.C. Code 1976, § 6-1-330; appointment of municipal attorney, S.C. Code 1976, § 5-7-230; clerk duty to file certificate of existence of fire department, S.C. Code 1976, § 23-9-380; conflicts of interest of officers and employees, S.C. Code 1976, § 5-7-130; towns over 200 population must publish financial statements, S.C. Code 1976, § 5-21-50; Municipal Bond Act, S.C. Code 1976, § 5-21-210 et seq.; bonded indebtedness of political subdivisions, S.C. Const. art. X, § 14.

ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1 Form of Government.

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

(Ord. No. 1 1-1-1977)

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

Sec. 2-2 Composition, Terms and election of the council.

The council shall be composed of a mayor and four councilmen running at large with the mayor's terms being two (2) years and the councilmen's terms being four (4) years with staggered terms of two years.

(S.C. Code 1976, § 5-15-40, Ord. No. 1, 1-1-1977, Ord. No. 4, 11-29-1976, Ord. No. 5, 11-29-1976)

Sec. 2-3 Compensation of mayor and council.

The annual salary for the mayor shall be \$8500.00 and councilmen's salary shall be \$600.00.

No ordinance changing such salary shall become effective until the date of commencement of the terms of councilmen elected at the next general election following the change.

(Ord. No. 9, 11-15-1976)

Sec. 2-4 Inaugural meeting of council.

That Mayor and Town Council who are elected in any regular election shall take office on the first working day in January following such election.

(Ord. No.8, 11-29-1976)

Sec. 2-5 Oath of mayor and councilmen.

Before entering upon the duties of their respective offices, the Mayor and Councilmen shall take the following oath, to-wit: "I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the Office to which I have been elected and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect, and defend the Constitution of this State and of the United States. So help me God. As Mayor (or Councilmen) of the Town of Aynor, I will equally, fairly and impartially, to the best of my ability, and skill, exercise the trust reposed in me, and will use my best endeavors to preserve the peace and carry into effect according to law the purposes for which I have been elected, So Help me God,"

(Code 1964 §2.4, S.C. Code 1976, § 5-15-150)

Sec. 2-6 THRU 2-19 Reserved.

ARTICLE II. MUNICIPAL ELECTIONS

(State Law Reference: Municipal election commissions, S.C. Code, Sec 5-15-90, 5-15-100.)

Sec. 2-20 Type of Election.

The members of the Aynor Town Council shall be elected from the municipality at large. The Mayor shall be elected at large.

(Ord. No. 5, 11-29-1976, Ord. No. 8, 11-29-1976, S.C. Code 1976, § 5-15-20 et seq.)

Sec. 2-21 Determination of election results under nonpartisan election and runoff election method.

All regular and special elections for the offices of Mayor and Council of the Town of Aynor after the effective date of this ordinance shall be non-partisan general elections using the election and runoff method.

(S.C. Code 1976, § 5-15-62 et seq.)

Sec. 2-22 Day of general election.

Elections shall be held on the first Tuesday in the month of November followed by a second election, if necessary, on the third Tuesday of said month.

(Ord. No. 8, 11-29-1976)

Sec. 2-23 Public Election Notice.

Public notice for any election shall be shall be given at least sixty (60) days prior to such election.

Sec. 2-24 County Election Commission.

The responsibility for the conduct of the municipal elections for the Town of Aynor shall be the responsibility of the county election commission.

Sec. 2-25 Filing Deadline.

Candidates for the offices of Mayor and Council shall file with the Municipal Election Commission in the Municipal Clerk's office at least forty-five (45) days prior to the date for the election. The Municipal Clerk shall certify the candidates to the Municipal Election Commission thirty (30) days prior to the election. A second election shall be conducted two (2) weeks after the first election between one more than the number of candidates necessary to fill offices for which no candidate received a majority of the votes cast and that election shall be between the candidates receiving the largest number of votes in the first election. The candidates receiving a majority of the votes cast in the second election shall be declared elected. No political party affiliation shall be placed on any ballot for any candidate.

(Ord. No. 8, 11-29-1976)

Sec. 2-26 THRU 2-39 Reserved.

ARTICLE III. MEETINGS OF COUNCIL

Sec. 2-40 Time of Meetings.

Regular meetings of Town Council will be determined by Mayor and Council in January of the new calendar year or upon the election of a new Mayor either through regular election or special election. (Ord. No. 2, 11-29-1976)

Sec. 2-41 Minutes of Council Meetings.

The Town Clerk shall keep the minutes of all public meetings of council which shall be a matter of permanent public record. At each council meeting the minutes of the previous meeting shall be presented for approval. Minutes shall not be considered the official record of a meeting until approved by council. Any member of council desiring to express a position on a matter voted upon by council in the minutes may do so by presenting the position in writing to council not later than the next regular meeting.

(Ord. No. 2, 11-29-1976)

Sec. 2-42 Meetings for Election of Town Officers.

At the first regular meeting of the council after the inauguration meeting, all town officers and committees shall be elected by the council. The mayor pro tempore shall serve for a term of one year. (Code 1964 §2 et seq.)

Sec. 2-43 Duty of the Councilmen to Attend Council Meeting.

It shall be the duty of the Councilmen to attend the regular meetings of the council and, when notified, to attend all extra or special meetings called by the mayor.

(Code 1964 §2 et seq.)

Sec. 2-44 Special Meetings of Council.

Special meetings of council may be held on the call of the Mayor or a majority of the members. Notice of a special meeting shall be given immediately to all available members by the Town Clerk.

(Code 1964 §2 et seq.)

Sec. 2-45 Mayor to Preside at Meetings.

The Mayor shall preside at all meetings. When the Mayor is not in attendance the duties shall fall to the Mayor Pro Tempore. In the absence of both, the members shall elect a presiding member. Except as otherwise required by State law or ordinance, all proceedings of council shall be governed by Robert's Rules of Order.

(Ord. No. 2, 11-29-1976)

Sec. 2-46 Presence of Quorum.

A majority of the councilmen serving shall constitute a quorum for the conduct of business at any meeting.

(Ord. No. 2, 11-29-1976)

Sec. 2-47 Voting Requirements.

All actions of council shall be by majority vote of members present at a public meeting. No member of council may leave the Council Chamber while in public session without permission of the presiding officer. The Mayor shall be the presiding officer and vote only to break a tie vote of council.

(Ord. No. 2, 11-29-1976)

Sec. 2-48 Appearance of Citizens.

Any citizen of the municipality shall be entitled to an appearance before council at any regular meeting concerning any municipal matter with the exception of personnel matters. Persons desiring to speak must notify the Municipal Clerk thirty (30) minutes prior to the beginning of the meeting.

(Ord. No. 2, 11-29-1976)

Sec. 2-49 Agenda.

Matters to be considered by council at a regular meeting shall be placed on a written agenda prepared by the chief administrative officer. Matters not on the agenda may be considered upon request of a council member unless two members object.

(Ord. No. 2, 11-29-1976)

Sec. 2-50 Municipal Clerk to Attend.

The Municipal Clerk may be ex officio clerk of the town council. Municipal Clerk shall give notices of meetings, attend regular and special meetings, record votes of council, keep minutes of Council meetings and perform such other duties as may be assigned.

(Ord. No. 2, 11-29-1976)

Sec. 2-51 Order of Proceedings of Council.

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

- (a) Roll call of council members by the clerk or presiding officer.
- (b) Reading of minutes of the last council meeting.
- (c) Reading of the financial report.
- (d) Petitions received and disposed of.
- (e) Reports from standing committees.
- (f) Reports from special committees.
- (g) Bills already in possession of the council shall be taken up for a second or third reading or ratification of bills as engrossed.
- (h) Introduction of bills and resolutions.
- (i) Miscellaneous business not included in any of the proceedings order.
- (j) Adjournment

Sec. 2-52 Addressing the Council.

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

Sec. 2-53 Reasons for Voting may be recorded.

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

(Code 1964 §2 et seq.)

Sec. 2-54 Voting Requirements.

(a) All actions of the council shall be by majority vote of members present at a public meeting.

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

(c) The vote on every question shall be recorded in the council minutes by the clerk.

(d) No member of council may leave the council chamber while in public session without permission of the presiding officer.

(Code 1964 §2 et seq.)

Sec. 2-57 Appeal from the Decision of the Chair.

In all cases where an appeal is made from the decision of the Chair, he shall refer the same to council, a majority of whom shall be final in its decision.

(Code 1964 §2 et seq.)

Sec. 2-58 Motion or Resolution - How Offered.

Every motion or resolution when offered, and seconded, shall be subject to the decision of the chair; such motion or resolution may be offered orally or in writing, and but one at a time shall be offered for the consideration of council, which shall be decided unless withdrawn by the mover.

(Code 1964 §2 et seq.)

Sec. 2-59 Preservation of Order.

It shall be the duty of the Chair at all meetings to preserve order inviolate, and on the first appearance of disorder, whether in language or action in a member, to call him to order, and if any member present shall refuse to come to order, and in the event of his refusal to desist from such disorder, he may be expelled by a majority of the members present.

(Code 1964 §2 et seq.)

Sec. 2-61 Adopt a Budget.

Council must adopt an annual balanced budget for the operation of the town and for capital improvements.

(Code 1964 §2 et seq.)

Sec. 2-63 THRU 2-79 Reserved.

ARTICLE IV. ORDINANCES AND RESOLUTIONS

Sec. 2-80 Ordinances Required.

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

In addition to other acts required by law to be done by ordinance, those acts of the municipal council shall be by ordinances which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any municipal department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violations;
- (3) Adopt budgets, levy taxes, except as otherwise provided with respect to the property tax levied by adoption of a budget, pursuant to public notice;
- (4) Grant, renew or extend franchises;
- (5) Authorize the borrowing of money;
- (6) Sell or lease or contract to sell or lease any lands of the municipality; and
- (7) Amend or repeal any ordinance described in items (1) through (6) above.

In matters other than those referred to in this section council may act either by ordinance or resolution.

(S.C. Code 1976, § 5-7-260)

Sec. 2-81 Form of Ordinances.

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

- (1) A title briefly describing the content;
- (2) Findings, reasons or basis for the ordinance, if desired and appropriate
- (3) An enacting clause;
- (4) Citation of any ordinance repealed;

- (5) The provisions of the ordinance including section numbers if the ordinance is to be codified or amends an existing codified ordinance;
- (6) The effective date of the ordinance;
- (7) Space for the Municipal Clerk attesting notice, if required and adoption;

Written resolutions shall be in such similar form as deemed appropriate by the Town Attorney.
(Ord. No. 2, 11-29-1976)

Sec. 2-82 Introduction of Ordinances.

An ordinance may be proposed by any member of Council or Mayor. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. A proposed ordinance may be referred to the Town Attorney for approval as to form and 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 an agenda for a public meeting of council and its title is read.
(Ord. No. 2, 11-29-1976)

Sec. 2-83 Enactment of Ordinances.

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

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

(c) Emergency ordinances may be adopted on one reading without notice or hearing by affirmative vote of two-thirds of members present. An emergency ordinance may not levy taxes, relate to a franchise or a service rate and shall expire automatically on the 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 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 and Council and attested by the Municipal Clerk, who shall file the original in the council minutes.

(g) Member of council may offer to amend any ordinance introduced,
(S.C. Code 1976, § 5-7-260, Ord. No. 2, 11-29-1976)

Sec. 2-84 Introduction of Resolutions.

A voice motion of a member shall be considered to be introduction of an oral resolution which shall require no written record other than a notation of the Municipal Clerk in the council minutes. A resolution proposed in writing shall be introduced in the same manner as an ordinance.
(Ord. No. 2, 11-29-1976)

Sec. 2-85 Adoption of Resolutions.

Written or oral resolutions may be adopted on one reading unless a public hearing is set by a majority of the members of council present.
(Ord. No. 2, 11-29-1976)

Sec. 2-86 THRU 2-99 Reserved.

ARTICLE V. COMMITTEES OF COUNCIL

Sec. 2-100 Appointment of Special Committees.

All special committees shall be appointed by the Mayor unless a ballot shall be called for.
(Code 1964 §3 et seq.)

Sec. 2-101 Appointment and Term of Standing Committees.

The standing committees shall be appointed by the Mayor at the first meeting of the council after his inauguration to serve during his term of office.
(Code 1964 §3 et seq.)

Sec. 2-102 Reference to Standing Committees.

Matters to be referred to the standing committees are such as appertain to or relate to the subject designated in the name of the committee. Whenever matters are brought before the council by petition or otherwise, connected with or related to such subjects exclusively, the matter shall be referred as a matter of course to the standing committee being in charge of such subjects.
(Code 1964 §3 et seq.)

Sec. 2-103 Reference Where Matter Concerns More than One Standing Committee.

Whenever any matter shall come before the council by petition or otherwise, which shall be connected with, or related to two or more of the subjects, with which the standing committees are especially charged, the council shall determine whether such matter shall be referred to a special committee or to a joint committee to be composed of two or more of the standing committees concerned therewith or to one of the standing committees and, in the latter case, to which one the reference is to be made.
(Code 1964 §3 et seq.)

Sec. 2-104 Investigation of and Report Upon Matters Referred.

It shall be the duty of each standing committee to examine carefully and to report upon all petitions and other matters referred to such committee by the council. It shall be the duty of each member of a standing committee to lend his aid and assistance to the proper investigation into, and report upon, all matters referred to the committee.

(Code 1964 §3 et seq.)

Sec. 2-105 Control of Appropriations by Standing Committees.

Each of the several standing committees shall control such appropriations made by the council as may appertain or relate to the subject designated in the names of the committees. Each of the standing committees is authorized to incur expenses without the prior approval of council to the extent that expenditures would be for normal operations. Any expense involving other than normal work or falling within the category of town improvement must be brought before council for advisability of securing bids on the work to be done, if, in opinion of council, such proposed work is necessary and desirable.

Sec. 2-106 Examination of Ordinances by Standing Committees; Suggestion of Revision.

It shall be the duty of each of the standing committees and the members' thereof to examine carefully the ordinances of the town appertaining to the subject with which such committee is especially charged and to endeavor to ascertain, from time to time, whether the ordinance pertaining to the subject are being properly regarded and enforced and whether these ordinances are sufficient and satisfactory, and to suggest to the council from time to time such changes in the ordinances as they may deem proper.

Sec. 2-107 Report of Violations, Etc.

Each standing committee shall report from time to time to the council such violations of ordinances as they may ascertain or any other matter connected with their particular subjects which may seem to them to be in the best interests of the town.

Sec. 2-108 Attendance at Committee Meetings.

It shall be the duty of each member of a standing committee to attend all meetings of the committee of which he is a member.

Sec. 2-109 THRU 2-119 Reserved.

ARTICLE VI. CONDUCT AND RESPONSIBILITIES OF OFFICIALS

Sec. 2-120 Charges of Disobedience or Misconduct Against Town Officials.

It shall be the duty of the mayor, in case of the disobedience or misconduct of any of the town officials elected by the council to prefer charges against any such officer, and if necessary, suspend such officer until the charges shall be heard and tried by the council.

Sec. 2-121 Hearing by Council on Charges by Mayor.

The council shall hear all charges preferred against any such officer of this town by the, mayor, and after an impartial hearing, pass such judgment and sentence, when guilty, upon such officer, as in their judgment may be meet and just.

Sec. 2-122 Suspension and Removal.

The council shall have full power to suspend any such officer, and, for sufficient cause, to remove him from office.

Sec. 2-123 Restriction as to Indebtedness.

No indebtedness shall be contracted against the town by any officer, person or board whatsoever, save upon the authority of the council, nor by any committee except within the limits of the appropriation made therefore.

Sec. 2-124 Drawing Town Funds.

Any town funds deposited shall be subject to the joint order of the Mayor Town clerk and or Town Manager.

Sec. 2-125 Rescission, Suspension or Alteration of Rule.

None of the foregoing sections shall be rescinded, suspended or altered unless it be by a majority of two-thirds of all the members of council.

Sec. 2-126 The Mayor; Duties and Powers.

The Mayor has the following powers and duties

- (1) To appoint and, when he deems necessary for the good of the municipality, suspend or remove all municipal employees and appointive administrative officers provided for by or under chapter 1 through 17, except as except as otherwise provided by law, or personnel rules adopted pursuant to Chapters 1 through 17. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (2) To direct and supervise the administration of all departments, offices and agents of the municipality.
- (3) To preside at meetings of the council and vote as other council members
- (4) To act to ensure that all laws and ordinances of the council are faithfully executed
- (5) To prepare and submit the annual balanced budget and capital program to the council
- (6) To submit to the council and make available to the public a complete report on the finances and administrative activities of the town as of the end of the fiscal year.
- (7) To make other reports concerning the operations of the municipal departments, offices, and agencies subject to his directions and supervision.

(S.C. Code 1976, § 5-9-90, Amd. Ord. No. 30, 12/12/1985, Ord. No. 31 12/12/1985, Ord. No. 32, 12/12/1985, Normal Meeting 9/18/1989, Ord. No. 56 2/18/1991, Ord. No. 57, 7/15/1991)

Sec. 2-127 Councilmen.

The Council has the following powers and duties

(a) Power to Establish and Enforce Ordinances and Rules

The councilmen, with the mayor, shall have the power under their corporate seal to establish and enforce all such rules, by-laws and ordinances respecting the finances, streets, health and police of the town as it shall appear to them proper for the security, welfare and convenience of said town and for preserving the health, peace, order and good government within the town.

(b) Councilmen's Duty to Enforce Ordinances

It shall be the duty of each councilman at all times to be vigilant and active in causing the ordinances of the town to be duly put in force.

(c) Duties of Councilman in Case of Riot

In the event of a riot and commotion, the mayor not being upon the scene, the first councilman to arrive at such place shall, until the arrival of the mayor, give directions to the Town Police as may seem proper to him.

(d) Service on Committees

It shall be the duty of the councilman to serve on the various committees to which appointed by the mayor.

Sec. 2-128 Municipal Clerk.

(a) Election and Term of Office

At the time appointed for the regular election of the officers of the town, there shall be appointed by the council an officer to be known as the Clerk of the Town, who shall hold office for the term of one year, or until his; successor is duly elected and qualified, unless removed from said by the council for sufficient cause.

(b) Salary

The Salary of the Clerk shall be fixed by the council before the election of this office.

(c) Notice of Council Meetings

The clerk shall give notice to all members of the council and the town attorney of all regular and special meetings.

(d) Minutes of Council Meetings

The Clerk shall attend all meetings of the council and keep minutes of the proceedings of the council, He shall write such minutes out in a book to be known as "The Minutes of the Meetings of the Town Council of Aynor, South Carolina. Immediately following the title of the book there shall be inscribed thereon the year contained therein, each year requiring a separate book for the accurate recordation of such minutes.

(e) Custody of Town Seal

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

(f) Other Duties

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

(S.C. Code 1976, § 5-7-220)

Sec. 2-129 Town Administrator.

The Mayor and Town Council may appoint a Town Administrator to assist the Mayor.

(Ord. No. 40, 2/29/1988, Ord. No. 56 "Mayoral powers", Ord. No. 57, 7/15/1991)

Sec. 2-130 Town Attorney.

The Town Attorney shall be appointed by the Town Council on or before July 1st and shall be appointed on an annual basis.

(S.C. Code 1976, § 5-7-230)

Sec. 2-131 Personnel Policies.

All employees of the Town of Aynor are employed at-will and may resign or be discharged from employment at any time.

(Ord. No. 113, 6/23/2003)

Sec. 2-133 THRU 2-149 Reserved.

ARTICLE VII. PROCUREMENT CODE

(Ord. No. 110, 9/23/2002)

Sec. 2-150 Objective.

The Town of Aynor provides a centralized system for the acquisition of goods, services and construction and ensures that all goods and services are of the right quality, acquired at the right time and in a cost-effective manner at the least expense to the town.

Sec. 2-151 Applicability.

Activities and procedures of Procurement Services are regulated by, and must comply with the Town of Aynor Procurement Code.

Sec. 2-152 Required Level of Competition.

The level of competition required is determined based on the value of the contract as follows:

Up to and including \$1500 – Purchases can be made without formal bids or quotes.

\$1500 -- \$5,000 – Solicitation of verbal or written quotes from a minimum of three qualified sources of supply shall be made and documented by the purchasing agent.

\$5,001 -- \$10,000 – Solicitation of written quotes from three qualified sources of supply shall be made and documented by the Purchasing Agent.

\$10,001 -- \$25,000 -- Solicitation of written quotes from five qualified sources of supply shall be made and documented by the Purchasing Agent.

Over \$25,000 – Formal competition, with exceptions for sole source and emergencies as determined by the Mayor. A full report of the circumstances is required for sole source and emergency purchases.

Sec. 2-153 Purchasing Agent, specified duties.

The Mayor, or officer of the town designated by the Mayor, shall be the Purchasing Agent for the Town. They are responsible for:

- (1) The purchase of supplies, materials and equipment required by any office, department or agency of the town government.
- (2) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the town government.
- (3) Establishing written specifications, whenever practicable, for supplies materials and equipment required by any office, department or agency of the town government. Such specifications shall be definite and certain and shall permit competitions.
- (4) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.
- (5) Soliciting and maintaining an up to date list of qualified supplies who have requested their names to be added to a "bidders list". The purchasing agent shall have authority to remove temporarily names of vendors who have defaulted on their quotations, attempted to defraud the town or who have failed to meet established specifications or delivery dates.
- (6) Obtaining as full and open competition as possible on all purchases, contracts and sales.

Sec. 2-154 Formal Contract Procedure.

All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed twenty-five thousand dollars, shall be purchase by formal competition with a written contract from the lowest bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid requirements of this section. All sales of personal property which has become obsolete or unusable, when the estimated value shall exceed five thousand dollars, shall be sold by formal written contract or at a public auction to the highest bidder, after due notice inviting proposals and bidders.

Sec. 2-155 Bidding – Competitive, required exception.

Before purchases or contracts for supplies, materials, equipment or services exceeding twenty-five thousand dollars are made; the purchasing agent shall give ample opportunity for competitive bidding. For purchases or contracts not exceeding fifteen hundred dollars, quotes or bids are not required. Competitive bidding shall be encouraged for all contracts, purchases or sales. However, in the event of an emergency affecting the public welfare, health or safety, the provisions of this section shall not apply. A full report of the circumstances of an emergency purchase shall be filed by the purchasing agent with the Town Council and shall be entered in the minutes of the council.

Sec. 2-156 Award to lowest bidder; advertising, when required.

All contracts for town improvements, materials, equipment, or services costing more than twenty five thousand dollars shall be awarded to the lowest responsible bidder after publication in a newspaper of general circulation in the town at least five days before the last day set for receipt of proposals; provided, however, that in case of professional services, this section shall not apply. The newspaper notice required herein shall include a general description of the articles or services to be purchased and shall state where bid blanks and specifications may be secured and the time and place for opening bids.

Sec. 2-157 Bid Deposits.

When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the purchasing agent has required such. A successful bidder shall forfeit any bid deposit required by the purchasing agent upon failure on his part to enter into a contract within ten days after the award; provided, however , that the town, in its uncontrolled discretion, may waive this forfeiture.

Sec. 2-158 Sealed Bid Procedure.

(a) Sealing

Bids shall be submitted to the purchasing agent securely sealed envelope, and shall be identified on the enveloped in accordance with bid instructions.

(a) Opening

Bids shall be opened in public at the time and place stated in the public notices.

(b) Tabulation

A tabulation of all bids received shall be available for public inspections.

(c) Rejection of bids

The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual service included in the proposed contract, when the public interest will be served thereby.

(d) Bidders in default to Town

The purchasing agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, licenses, or other moneys due the town.

(e) Award of Contract

- (1) Authority in agent. The purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that contracts in excess of twenty five thousand dollars shall not be awarded without prior approval of Town Council.
- (2) Lowest Responsible Bidder. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder", in addition to price, the purchasing agent shall consider:
 - (A) The ability, capabilities and skill of the bidder to perform the contract of provide the service required.
 - (B) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 - (C) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - (D) The quality of performance of previous contracts or services;
 - (E) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services.
 - (F) The sufficiency of financial resources and ability of the bidder to perform the contract or provide the service;
 - (G) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
 - (H) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - (I) The number and scope of conditions attached to the bid

- (f) Award to other than the low bidder.

When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than 12 months.

- (g) Tie Bids.

Local vendors. If all bids received are for the same total amount of unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders, the purchasing agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the purchasing agent shall award the contract to one of the outside tie bidders by drawing lots in public. The purchasing agent, local bidders, and vendors should bear in mind, however, that to award a contract to a local vendor where he is not the lowest responsible bidder, or where price, quality and service are not equal, is to give preference to one minute segment of the citizenry against the best interests of the community as a whole.

- (h) Performance bonds.

The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonable necessary to protect the best interest of the town.

- (i) Payment Bond/Labor and Material Bond

The purchasing agent may require a Payment Bond and a Labor and Material Bond, before entering into a contract, in such form and amount, as they shall deem necessary to protect the best interest of the town.

Sec. 2-159 Materials testing

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

Sec. 2-160 Financial interest of town officials and employees prohibited.

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

Sec. 2-161 Records of open market orders and bids.

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

Sec. 2-162 Stock Reports.

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

Sec. 2-163 Surplus stock.

The purchasing agent shall have the authority to transfer surplus stock to other offices, department or agencies of the town government.

Sec. 2-164 Supplies unsuitable for public use, sale or exchange.

The purchasing agent shall have the authority to sell all supplies, which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, and in conformance with above. All monies received from such sales shall be paid into the appropriate Fund of the Town.

Sec. 2-165 Gifts and Rebates.

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

Sec. 2-166 Cooperative purchasing.

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

CHAPTER 3
RESERVED

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Local Code reference - (Amended Ord #37, 8/20/1990, amended Ord#63 12/21/1992, replaced Ord 63-A 7/22/2002)

State law reference—Municipal authority to enact ordinances for care and control of dogs, cats, and other animals, S.C. Code 1976, § 47-3-20; municipal powers not limited by state laws, S.C. Code 1976, § 47-3-70; required annual inoculation of pets against rabies, S.C. Code 1976, § 47-5-60; notice to health department of animal suspected of rabies, S.C. Code 1976, § 47-5-80; metal inoculation tag required, S.C. Code 1976, § 47-5-60; impoundment of strays, S.C. Code 1976, § 47-3-40; disposition of strays, S.C. Code 1976, § 47-3-60; duty to contact owners, S.C. Code 1976, § 47-3-55); state falconry permit regulations, S.C. Code Reg. 123-170.

ANIMALS

ARTICLE I. DEFINITIONS

For the purposes of this chapter, the following words, phrases and terms shall have the meanings and definitions ascribed to them in this chapter and such definitions shall apply unless the context clearly indicates or requires a different meaning:

Abandonment means a situation in which an owner or keeper does not transfer ownership, deserts, forsakes, and intends to give up absolutely an animal without securing another owner or without providing for adequate food, water, shelter, care, or humane disposal of a dog or cat.

Adequate Shelter means an enclosed, weatherproof dwelling accessible to an animal that is of sufficient size and nature so as to provide that animal with sufficient protection from the extremes of weather (sun, heat, cold, rain, etc.) and allow it to remain comfortable in outside conditions.

Animal means a dog or a cat. The term "animal" may be used interchangeably with both except as noted in subsections 6-36(a)(6) and 6-41(d) which shall also apply to horses.

Animal Control Officer means a person appointed by the town as an enforcement officer for the provisions of this chapter; provided, however, that no animal control officer shall have the power or authority to issue an ordinance summons unless commissioned as a code enforcement officer as provided in S.C. Code Ann., § 4-9-145, as amended.

At Large means any dog is deemed to be running "at large" when it is off the property of its owner and not under physical restraint or control of the owner or keeper by means of a leash, cage or other effective device which restrains and controls the animal.

Cat means a domestic feline of either sex.

Dangerous Animal means any dog or cat which the owner or keeper knows or reasonably should know has a propensity, tendency, or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals; or which makes an unprovoked attack that causes bodily injury to a human being and the attack occurs in a place other than the place where the animal is confined as required by S.C. Code Ann., § 47-3-720, as amended; or which commits unprovoked acts in a place other than the place where the animal is confined as required by S.C. Code Ann., § 47-3-720, as amended and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being or other domestic animal.

Dog means a domestic canine of either sex.

Exposure to Rabies means the circumstance in which any person or animal has been bitten by or exposed to any animal known or suspected to have been infected with rabies. This determination shall be made by the health department, animal control officer or a licensed veterinarian.

Feral Cat means the wild offspring of a domestic cat.

Keeper means any person feeding, harboring, sheltering, having charge of or taking care of any animal for such a period of time as to constitute responsibility for that animal unless that animal is being boarded for a fee.

Owner means a person 18 years or older who:

1. Has a property interest in an animal;
2. Keeps or harbors an animal or who has an animal in the person's care or acts as its custodian;
3. Permits an animal to remain on or about any premises occupied by the person; or
4. Provides care, shelter, or nutrition to an animal or group of animals, excepting such care, shelter, or nutrition provided on a temporary basis until such time as an animal control officer or rescue group representative can retrieve the animal/group of animals.

Pet means all domestic animals, including, but not limited to dogs and cats.

Public Nuisance means any dog or cat making loud or objectionable sounds, chasing vehicles or pedestrians, damaging property other than that of the owner or behaving in a manner which disturbs the rights of, threatens the safety of or injures a member of the general public, carries a communicable disease dangerous to other animals or humans; or has a known history of biting or attacking people or other animals or any person maintaining property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property.

Restrain means that act of keeping a dog which is under the immediate physical control of a person capable of restraining the animal, by means of a collar and leash, or by passive means of control, such as by a fence, kennel, or other confinement device.

Secure Enclosure means a securely enclosed area or structure that is:

1. Locked;
2. Capable of preventing the entry of the general public, including children;
3. Capable of preventing the escape or release of an animal;
4. Clearly marked as containing a dangerous animal;
5. Enclosed by a secure top and sides with a solid bottom or constructed in such a manner which would prevent the animal from tunneling under the secure enclosure and escaping;
6. Protected from the elements adequately for the animal's humane care; and
7. A structure such as a house, mobile home, apartment, travel trailer, or other habitation or similar structure is not a secure enclosure when any window is open, or when a screen window or a screen door or other penetrable barrier is the only obstacle preventing the animal from exiting the structure, or when any door or other opening used for entry or exit by persons or animals is accessible to the dangerous animal. Spayed female means any female dog or cat which has been operated on to prevent conception.

ARTICLE II. GENERAL PROVISIONS

Sec. 4-01 Keeping of Animals within the Town.

It shall be unlawful for any person to keep maintain or have in his possession within the town any livestock, hogs, pigs, calves or cows, horse, ponies, mules or burros, provided, that this section shall not apply to mere temporary keeping or having in possession of these animals as an incident to their immediate passage of the animals through the town or shipment therefrom.

Sec. 4-02 Keeping of Poultry within the Town.

It shall be unlawful to keep or maintain any poultry within the town, except in building structures, enclosures or upon grounds as are kept in sanitary condition, including provision of suitable and proper drainage and precaution against breeding of flies. The number of poultry shall be limited to two hens.

Sec. 4-03 Wild Animals.

(a) It shall be unlawful for any person to keep, maintain or have in his possession within the town any deer, bear, fox, monkey or other wild animal, caged or uncaged, provided, that this section shall not apply to a mere temporary keeping or having in possession of these animals as an incident to passage of the animals through the town or shipment there from. The provision of this section shall not apply to circuses, menageries or like display of animal for short intervals of time and under permit or license from the town.

(b) This section shall not apply to keeping of small wild animals in the home or immediately adjacent thereto as pets, provided that the animals are kept securely caged or that they do not become a nuisance, an annoyance to the neighborhood or a source of danger to the citizens of the community. The state health department shall have the authority to determine whether the keeping of the animal as may be permitted by this section shall be unsanitary or detrimental to the health and welfare of the community, and upon the determination that a detrimental condition exists, the further keeping of the animal shall be unlawful.

Sec. 4-04 Permit required for stables or other places of business where animals are sold, kept for hire, etc.

It shall be unlawful for any person to open, maintain, keep or conduct any stable or place of business where animals are sold, offered for sale, exchanged or kept for hire without first applying to and obtaining from the town a permit to operate the business. The application for the permit shall be in writing and shall set forth the location and the nature and probable volume of business to conduct and the precaution to be taken by the applicant against having the business become offensive to the public health, peace, and safety. The town may grant or refuse the permit in its discretion or may attach condition to the grant. Any permit shall be subject to revocation in the discretion of the town, or the imposition of further conditions, in the revocation or the imposition of further condition. No permit shall be revoked or made subject to further condition except upon notice to the holder of the permit and opportunity granted to him or be heard by the town on question involved. The town may also, in its discretion, remove any or all of the conditions attached to the grant of the permit.

Sec. 4-05 Town declared bird sanctuary.

(a) The entire area embraced within the town is hereby designated as a bird sanctuary.

(b) It shall be unlawful to trap, shoot or attempt to shoot or molest in any way or manner any wild fowl or bird or to rob bird nest or wild fowl nest. Provided that if starlings, geese or other birds are found to be congregated in such a number that they constitute a menace or nuisance to health or property in the opinion of the town, then town authorities shall take the appropriate abatement action. If no satisfactory method to move, remove or disburse the birds, then the birds may be destroyed in such number and in a manner as deemed advisable by the Town Council under the supervision of the Chief of Police.

Sec. 4-06 THRU 4-9 Reserved

ARTICLE III. DOGS, CATS AND PETS

Sec. 4-11 Pets running at large.

(a) No person having the ownership, possession or control of any pet shall allow the pet to run at large within the town.

(b) Any dog which is off the property of the person having the ownership, possession or control of the dog shall be on a leash not exceeding seven (7) feet in length and shall be under the control of the person having custody of the dog.

(c) All animals not on a leash shall be kept in a secure enclosure.

Sec. 4-12 Impoundment of pets in violation of this article.

(a) All police officers of the town, or other designated agents, are authorized and empowered to take up and impound or cause the same to be done, any pet found running at large upon the streets of the town. The Town of Aynor will charge \$25.00 for a pickup fee in addition to all other applicable charges paid to the Horry County Animal Shelter.

(b) In the event an animal is impounded for the second time within a period of 90 days from the date of the first offense the Town of Aynor will charge a fee of \$50.00 in addition to any applicable charges paid to the Horry County Animal Shelter.

Sec. 4-13 Rabies Control.

As provided in S.C. Code Ann., §§ 47-5-10 through 47-5-210, as amended, the following rules and regulations concerning rabies control shall apply:

(a) Whenever a dog or cat is affected by rabies, or suspected of being affected by rabies, or has been bitten by an animal known or suspected to be infected with rabies, the owner or keeper of the dog or cat of any person having knowledge thereof shall forthwith notify the animal control officer of the health department stating precisely where the animal may be found.

- (b) The animal control officer shall immediately inform the health department upon receipt of any information concerning an animal bite or a possible animal bite.
- (c) The animal control officer, in conjunction with the health department, shall arrange for the supervised confinement of any dog or cat which has bitten a person. The confinement may be on the premises of the owner if the owner will sign a DHEC agreement assuming total responsibility for the safe confinement of the pet or other animal, or the confinement may be at the county animal shelter with the current impoundment and boarding fees charged, or the dog or cat may be confined at a private animal shelter or a veterinary hospital at the owner's expense.
- (d) Any dog or cat which has bitten a person must be confined for a period of at least ten days. The health department or the animal control officer shall be permitted by the owner or keeper of the dog or cat to examine the same at anytime and daily if desired within the ten-day period of confinement to determine whether the animal shows symptoms of rabies. No person shall obstruct or interfere with the animal control officer or the health department in making the examination.
- (e) In the case of an animal other than a dog or cat which has scratched or bitten a person, the health department shall serve notice upon the owner of that animal that the owner shall have the animal euthanized immediately and have the brain submitted for rabies examination.
- (f) The health department shall serve notice in writing upon the owner of a dog, cat or other animal known to have been bitten by an animal known or suspected of being affected by rabies requiring the owner to confine the animal for a period of not less than six months except that animals properly treated with antirabies vaccine shall be confined for a period of not less than three months.
- (g) No person shall kill, or cause to be killed, any dog, cat or other animal, that is suspected of having been exposed to rabies or which has bitten a person, nor remove the animal from the jurisdiction of the Town of Aynor without written permission of the health department. An exception to the preceding requirement is in any circumstance in which there exists the possibility of the animal escaping or being involved in an additional biting incident, in which case the animal is to be killed and the health department notified immediately.

Sec. 4-14 Rabid Inoculation Required.

It shall be unlawful for any person to own, harbor, maintain or have in possession within the town any dog unless the dog has an effective, current inoculation against rabies administered by a duly authorized veterinarian or other person authorized to administer the vaccine, provided that this section shall not apply to dogs less than four (4) month old. All dogs over four (4) month old not wearing an inoculation tag shall be considered as a stray dog.

Sec. 4-15 Inoculation Tags.

- (a) It shall be the duty of each person having a dog inoculated against rabies to obtain from the veterinarian at the time of inoculation a metal badge or tag so prepared as to be capable of bearing an inscription showing that the dog has been inoculated against rabies and the year of the inoculation. The badge or tag shall at all times be attached to the collar of the dog so inoculated and it shall be unlawful for the person to fail to comply with the provision of this section.
- (b) Except as otherwise provided, it shall be unlawful for any person to remove from the collar of a dog the metal tag badge thereto attached and which was issued by a duly licensed veterinarian at the time of issuance of certification in accordance with this article.

Sec. 4-16 Possession of dangerous animals.

It shall be unlawful for any person to permit any fierce or dangerous animal, owned or controlled by him, to run at large upon the streets of the town, or to keep, maintain or have in possession such animal at his or her residence, place of business or elsewhere without keeping the animal in a safe enclosure or on a leash or muzzled. A dangerous animal means any dog or cat which the owner or keeper knows or reasonably should know has a propensity, tendency, or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals; or which makes an unprovoked attack that causes bodily injury to a human being and the attack occurs in a place other than the place where the animal is confined as required by S.C. Code Ann., § 47-3-720, as amended; or which commits unprovoked acts in a place other than the place where the animal is confined as required by S.C. Code Ann., § 47-3-720, as amended and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being or other domestic animal.

Sec. 4-17 Authority of Police over rabid, maimed, vicious, uncatchable dogs.

Any police officer of the town shall have power within his discretion to take up and confine or destroy any dog, which he may have reason to believe is rabid, badly maimed, vicious, or uncatchable.

Sec. 4-18 Public Nuisances.

(a) It shall be unlawful It shall be unlawful for any person to keep any animal that is a public nuisance as defined in this chapter upon their premises or on the premises of another.

Sec. 4-19 Females in heat.

It shall be the duty of the owner, or any person having the control of any female to securely confine her and keep her concealed from view while she is in heat or proud. It shall be the duty of any policeman to destroy any female in heat found running at large in the town.

Sec. 4-20 THRU 4-29 Reserved

ARTICLE IV. REGULATION OF ANIMALS DURING PARADES

Sec. 4-30 Entities Covered by This Ordinance.

HORSES, PONIES, MULES, HORSE-DRAWN VEHICLES and other SIMILAR ANIMALS or ANIMAL-DRAWN VEHICLES (herein referred to as "Animals") are specifically allowed to participate in parade functions taking place within the town limits.

Sec. 4-31 Designated Route for Covered Entities.

(a) The "Animals" mentioned above must follow a designated parade route from the assembly area to the intersection of U.S. Highway 319 and Sixth Avenue. At that point, the "Animals" are required to travel North along Sixth Avenue to its intersection with Maple Street. At that point, travel shall proceed in an easterly direction along Maple Street to its intersection with Twelfth Avenue. Travel shall then proceed in a southerly direction along Twelfth Avenue to the original assembly area of the parade. At that time, the "Animals" shall be removed from the town limits for the remainder of that particular parade day. A one (1) hour limit of time to leave town limits shall begin to run from the time "Animals" begin their travel along Twelfth Avenue.

Sec. 4-31 Responsibility for Cleanup of Waste.

Parade organizers are to be responsible for removal of all waste materials deposited by the "Animals" throughout the limits of town.

Sec. 4-32 Penalties for Violation

(a) Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

(b) Each violation of this Ordinance shall constitute a separate offense. If three (3) violations are assessed against the rider/driver of the "Animals", that individual will be banned from participating in further parades held within the town limits of Aynor.

(c) Any parade organizer or club sponsoring a parade within the town limits of Aynor shall be held to the same standard for violations, except that a third (3rd) violation shall result in the offending organizer or sponsor being banned from hosting a parade within the town limits of Aynor. Further, the banned organizer or sponsor shall not be allowed to profit from any parade proceeds obtained within the town limits of Aynor, South Carolina.

(Ord. No. 78, 2/16/1998)

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(Ord. No. 11a, 1/23/2006)

State law reference—

***Cross references:** Airports, Ch. 3; permits required for erosion control construction, § 5-24; construction on beach/dune system, § 5-25; fire prevention and protection, Ch. 8; flood damage prevention and control, Ch. 9; historic preservation, Ch. 11.5; planning, Ch. 15; land development regulations, Ch. 18; zoning, App. B.

BUILDING AND BUILDING REGULATIONS

ARTICLE I. BUILDING PERMITS

Sec. 5-01 Permit Required.

It shall be unlawful for any person to erect, modify or add to any building within the Town of Aynor without first obtaining a permit for such erection, modification or addition from the Town Council, before issuing such permits, the Town of Aynor shall determine that requests for same conform to established requirements of any town zoning ordinance that may exist.

Sec. 5-02 Duty of Zoning Committee.

It shall be the duty of the planning and zoning committee to advise the town council and mayor on the issuance of building permits and interpretations of zoning ordinances when applicable.

Sec. 5-03 Request for Permits to be Accompanied by Plans and Plat.

All requests for the erection, modification or addition to buildings must be accompanied by a plat showing dimensions and location of the lot together with the plans for the proposed construction or alteration, such plans to indicate the relationship of the proposed construction to the boundary lines of the lot involved.

Sec. 5-04 Penalty for Violation.

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 5-05 THRU 5-09 Reserved

ARTICLE II. BUILDING INSPECTIONS

Sec. 5-10 Building Inspector.

The Town Building Inspector and it shall be his duty to report to the mayor and council the conditions of buildings inspected by him. In the event of the absence or inability to perform the duties of building inspector, all duties imposed on him by this ordinance may be performed by a duly appointed and approved by the mayor and council.

Sec. 5-11 Action by Building Inspector Upon Finding Structure Unsafe

If any building or part of a building or other structure or anything attached to or connected with any building or other structure in the Town of Aynor be reported by the building inspector to be dangerous or unsafe, so as to endanger life and limb, or be a serious fire hazard to surrounding property, it shall be the duty of the Chief of Police and Building Inspector to inspect the said structure, and if, in their opinion, the same be dangerous, they shall immediately notify the owner, agent or other party having

an interest in said structure to cause the same to be made safe and secure, or removed, as may be necessary.

Sec. 5-12 Removal or Repair of Dangerous Structures.

The person or persons notified shall be allowed a period of three (3) days following the service of such notice in which to commence the securing or removal of the same as expeditiously as can be done; provided, however, that in cases where public safety requires immediate action, the Chief of Police or Building Inspector may enter upon the premises with such workmen and assistants as may be necessary and cause the said structure to be repaired, taken down or otherwise secured without delay, and the necessary precautions taken for the protection of passersby.

Sec. 5-13 Refusal by Owner to Comply with Notice of Inspector.

If the owner, agent or other party interested in the said unsafe structure having been notified, shall deem the requirements of the notice to be unjust, he may, within the time specified hereof, request of the Mayor and Town Council that a survey of the premises be made by three disinterested persons, one to be appointed by the Mayor of the town, one by the owner or other interested party, and the third to be chosen by these two, and a report of such survey shall be reduced to writing and a copy served upon the owner or other interest party and on the Mayor.

Sec. 5-14 Action to be Taken on Report of Survey.

Whenever the report of any such survey shall declare the structure to be unsafe or dangerous to life and limb, the Mayor of the Town of Aynor, shall, upon the refusal or neglect of the owner or other interested party to remedy such conditions, instruct the Chief of Police to cause such unsafe and dangerous structure to be taken down or otherwise made safe; the cost and charges shall become a lien upon said estate to be collected according to law but without prejudice to the right which the owner thereof may have to recover the same from any lessee or other person liable for the expense of repairs.

Sec. 5-15 Penalty for Violation.

Upon the citation of any structure as unsafe or dangerous by the Chief of Police or Building Inspector, if the owner or other interested party after being notified thereof in writing shall refuse or neglect to cause said structure to be taken down, or otherwise made safe said owner shall be subject to a fine of not less than five nor more than twenty-five dollars for each day said unsafe and dangerous structure is allowed to stand after noon of the third day following the receipt of said notice, or in the event of a request of arbitration. Said fine shall be applicable immediately upon the service of the return made by said arbitrators upon the owner of the property or other interested party.

Sec. 5-16 THRU 5-19 Reserved

CHAPTER 6 FLOOD DAMAGE PREVENTION ORDINANCE

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Local Code reference - (Ord. No. 150, 9/28/2009)

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FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I. GENERAL STANDARDS

Sec. 6-01 Statutory Authorization.

The Legislature of the State of South Carolina has in SC Code of Laws, Title 5 and Title 6, and amendments thereto, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry

Sec. 6-02 Findings of Fact.

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

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

Sec. 6-03 Statement of Purpose and Objective.

(a) It is the purpose of this ordinance to protect human life and health, minimize property damage, and encourage appropriate construction practices to minimize public and private losses due to flood conditions by requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(b) Uses of the floodplain which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion are restricted or prohibited. These provisions attempt to control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters, and control filling, grading, dredging and other development which may increase flood damage or erosion. Additionally, the ordinance prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

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

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

Sec. 6-04 Applicability.

(a) This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Aynor as identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study, dated 9/17/2003 with accompanying maps and other supporting data that are hereby adopted by reference and declared to be a part of this ordinance.

(b) Upon annexation any special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for the unincorporated areas of Horry County, with accompanying map and other data are adopted by reference and declared part of this ordinance.

Sec. 6-05 Establishment of Development Permit.

A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

Sec. 6-06 Compliance.

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

Sec. 6-07 Interpretation.

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

Sec. 6-08 Partial Invalidity and Severability.

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

Sec. 6-09 Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on

rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Amor or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Sec. 6-10 Penalties for Violations.

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

Sec. 6-11 THRU 6-19 Reserved

ARTICLE II. DEFINITIONS

Sec. 6-20 Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

- (1) Accessory Structure - structures that are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
- (2) Addition (to an existing building) - an extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction regardless as to whether the addition is a substantial improvement or not. Where a firewall or load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.
- (3) Agricultural structure - a structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Agricultural structures are not exempt from the provisions of this ordinance.
- (4) Appeal - a request for a review of the local administrator's interpretation of any provision of this ordinance.

- (5) Area of shallow flooding - a designated A0 or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
- (6) Area of special flood hazard - the land in the floodplain within a community subject to a one percent or greater chance of being equaled or exceeded in any given year.
- (7) Base flood - the flood having a one percent chance of being equaled or exceeded in any given year.
- (8) Basement - means any enclosed area of a building that is below grade on all sides.
- (9) Building - any structure built for support, shelter, or enclosure for any occupancy or storage.
- (10) Coastal High Hazard Area - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to velocity wave action from storms or seismic sources.
- (11) Critical Development - development that is critical to the community's public health and safety, is essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, fire stations, nursing homes, wastewater treatment facilities, water plants, and gas/oil/propane storage facilities.
- (12) Development - any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- (13) Elevated building - a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls parallel to the flow of water.
- (14) Executive Order 11988 (Floodplain Management) - Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
- (15) Existing construction - means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM, or before January 1, 1975, for FIRMS effective before that date.
- (16) Existing manufactured home park or manufactured home subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before January 2010, 1997.

- (17) Expansion to an existing manufactured home park or subdivision - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).
- (18) Flood - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation of runoff of surface waters from any source.
- (19) Flood Hazard Boundary Map (FHBM) - an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.
- (20) Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- (21) Flood Insurance Study - the official report provided by the Federal Emergency Management Agency which contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.
- (22) Flood-resistant material - any building material capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.
- (23) Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (24) Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.
- (25) Functionally dependent facility - a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

- (26) Functionally dependent use- a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- (27) Highest Adjacent Grade - the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.
- (28) Historic Structure - any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior (DOI)) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places; (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified (1) by an approved State program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs. Some structures or districts listed on the State or local inventories MAY NOT be "Historic" as cited above, but have been included on the inventories because it was believed that the structures or districts have the potential for meeting the "Historic" structure criteria of the DOI. In order for these structures to meet NFIP historic structure criteria, it must be demonstrated and evidenced that the South Carolina Department of Archives and History has individually determined that the structure or district meets DOI historic structure criteria.
- (29) Increased Cost of Compliance (ICC) - applies to all new and renewed flood insurance policies effective on and after June 1, 1997. The NFIP shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under Section 1361. It provides coverage for the payment of a claim to help pay for the cost to comply with State or community floodplain management laws or ordinances after a flood event in which a building has been declared substantially or repetitively damaged.
- (30) Limited storage - an area used for storage and intended to be limited to incidental items that can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant or breakaway material, void of utilities except for essential lighting and cannot be temperature controlled. If the area is located below the base flood elevation in an A, AE and A1-A30 zone it must meet the requirements of Article IV.A.4 of this ordinance.
- (31) Lowest Adjacent Grade (LAG) - is an elevation of the lowest ground surface that touches any of the exterior walls of a building or proposed building walls.
- (32) Lowest Floor -the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

- (33) Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- (34) Manufactured Home Park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (35) Mean Sea Level - the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).
- (36) National Geodetic Vertical Datum (NGVD) - as corrected in 1929, elevation reference points set by National Geodetic Survey based on mean sea level.
- (37) North American Vertical Datum (NAVD) - datum point established at Pointe-au-Pe`re on the St. Lawrence River, Quebec Province, Canada, based on the mass or density of the earth. The datum listed as the reference datum on Flood Insurance Rate Maps should be used for Elevation Certificate and flood proofing certificate completion.
- (38) New construction - structure for which the start of construction commenced after (the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard) or (specific date). The term also includes any subsequent improvements to such structure.
- (39) New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or before January 20". 1997.
- (40) Primary Frontal Dune - a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and subject to erosion and overtopping from high tides and waves during coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
- (41) Recreational vehicle - a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and, (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (42) Repetitive Loss - a building covered by a contract for flood insurance that has incurred flood-related damages on 2 occasions during a 10 year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average,

equaled or exceeded 25% of the market value of the building at the time of each such flood event.

- (43) Section 1316 of the National Flood Insurance Act of 1968 - The act provides that no new flood insurance shall be provided for any property found by the Federal Emergency Management Agency to have been declared by a state or local authority to be in violation of state or local ordinances.
- (44) Start of construction - for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
- (45) Structure - a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other man-made facility or infrastructure that is principally above ground.
- (46) Substantial damage - damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Such repairs may be undertaken successively and their costs counted cumulatively. Please refer to the definition of "substantial improvement".
- (47) Substantial improvement - any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
- (A) Any project of improvement to a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions (does not include American with Disabilities Act compliance standards); or,
 - (B) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

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

(49) Variance - is a grant of relief from a term or terms of this ordinance.

(50) Violation - the failure of a structure or other development to be fully compliant with these regulations.

Sec. 6-21 THRU 6-29 Reserved

ARTICLE III. ADMINISTRATION

Sec. 6-30 Designation of Local Administrator.

The Building Inspector or their designee is hereby appointed to administer and implement the provisions of this ordinance.

Sec. 6-31 Adoption of Letter of Map Revisions (LOMR).

All LOMRs that are issued in the areas identified in Article I Section D of this ordinance are hereby adopted.

Sec. 6-32 Designation of Party Responsible for Biennial Report.

The Building Inspector or their designee is hereby designated as the party responsible to submit the Biennial Report to FEMA.

Sec. 6-33 Development Permit and Certification Requirements.

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

- (1) A plot plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either the Duties and

Responsibilities of the Local Administrators of Article III.E.11 or the Standards for Subdivision Proposals of Article N.B and the Standards for streams without Estimated Base Flood Elevations and/or Floodways of Article 1V.C. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either the duties or responsibilities of the local administrators of Article 1II.E. 11 or the standards for subdivision proposals of Article IV.B.13 and the standards for streams without estimated base flood elevations and/or floodways of Article IV.C.

- (2) Where base flood elevation data is provided as set forth in Article 1.D or the duties and responsibilities of the local administrators of Article 1II.E. 1 1 the application for a development permit within the flood hazard area shall show:
 - (A) the elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures, and
 - (B) If the structure will be flood proofed in accordance with the Non-Residential Construction requirements of Article IVB.2 the elevation (in relation to mean sea level) to which the structure will be flood proofed.
- (3) Where base flood elevation data is not provided as set forth in Article 1.D or the duties and responsibilities of the local administrators of Article 1II.F. 1 1, then the provisions in the standards for streams without estimated base flood elevations and/or floodways of Article IV.C must be met
- (4) Alteration of Watercourse: Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include a description of the extent of watercourse alteration or relocation, an engineering report on the effects of the proposed project on the flood- carrying capacity of the watercourse and the effects to properties located both upstream and downstream, and a map showing the location of the proposed watercourse alteration or relocation.

(b) Certifications

- (1) Flood proofing Certification - When a structure is flood proofed, the applicant shall provide certification from a registered, professional engineer or architect that the non-residential, flood proofed structure meets the flood proofing criteria in the nonresidential construction requirements of Article IV.B.2.
- (2) Certification During Construction - A lowest floor elevation or flood proofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or flood proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, or flood proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. Any work done prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data

submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

- (3) As-built Certification - Upon completion of the development a registered professional engineer, land surveyor or architect, in accordance with SC law, shall certify according to the requirements of Article III.D.2a, 2b, and 2c that the development is built in accordance with the submitted plans and previous predevelopment certifications.

Sec. 6-34 Duties and Responsibilities of the Local Administrator .

Shall include, but not be limited to:

- (a) Permit Review - Review all development permits to assure that the requirements of this ordinance have been satisfied.
- (b) Requirement of Federal and/or state permits - Advise permittee that additional federal or State permits may be required, and if specific federal or State permits are known, require that copies of such permits be provided and maintained on file with the development permit.
- (c) Watercourse alterations
 - (1) Notify adjacent communities and the South Carolina Department of Natural Resources, Land, Water, and Conservation Division, State Coordinator for the National Flood Insurance Program, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (2) In addition to the notifications required watercourse alterations per Article III.E.3a, written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.
 - (3) If the proposed project will impact the configuration of the watercourse, floodway, or base flood elevation for which a detailed Flood Insurance Study has been developed, the applicant shall apply for and must receive approval for a Conditional Letter of Map Revision with the Federal Emergency Management Agency prior to the start of actual construction.
 - (4) Within 60 days of completion of an alteration of a watercourse, referenced in the certification requirements of Article III.D.2.d, the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.
- (d) Floodway encroachments- Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Article IV.B.5 are met.

- (e) Development Proposals- Require development proposals for proposed developments prior to signing off on and CLOMRs or LOMRs.
- (f) Adjoining Floodplains-Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
- (g) Notifying Adjacent Communities- Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood-related erosion hazards.
- (h) Certification requirements
 - (1) Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in Article III.D.2.b
 - (2) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed, in accordance with the flood proofing certification outlined in Article III.D.2.a.
 - (3) When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the non-residential construction requirements outlined in Article IV.B.2.
- (i) Certification Map Interpretations- Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (j) Prevailing Authority- Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in Article IV.B.7.b.
- (k) Use Of Best Available Data-When base flood elevation data or floodway data has not been provided in accordance with Article LD, obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to the standards for subdivision proposals outlined in Article IV.C.4, in order to administer the provisions of this ordinance. Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data from a federal, state, or other source. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.
- (l) Special Flood Hazard Area/topographic Boundaries Conflict- When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site the property owner may apply and be approved for a Letter of Map

Amendment (LOMA) by FEMA. The local administrator in the permit file will maintain a copy of the Letter of Map Amendment issued from FEMA.

- (m) On-Site inspections- Make on-site inspections of projects in accordance with the administrative procedures outlined in Article III.F.4.
- (n) Administrative Notices- Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in Article III.F.
- (o) Records Maintenance- Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.
- (p) Annexations and Detachments- Notify the South Carolina Department of Natural Resources Land, Water and Conservation Division, State Coordinator for the National Flood Insurance Program within six (6) months, of any annexations or detachments that include special flood hazard areas. The community must incorporate applicable maps from surrounding jurisdictions into this ordinance within 90 days of date of the annexation.
- (q) Federally Funded Development- The President issued Executive Order 11988, Floodplain Management May 1977. E.O. 11988 directs federal agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments must go through an eight-step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.
- (r) Substantial Damage Determination- Perform an assessment of damage from any origin to the structure using FEMA's Residential Substantial Damage Estimator (RSDE) software to determine if the damage equals or exceeds 50 percent of the market value of the structure before the damage occurred.
- (s) Substantial Improvement Determinations- Perform an assessment of permit applications for improvements or repairs to be made to a building or structure that equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur.
- (t) The market values shall be determined by one of the following methods:
 - (1) The current assessed building value as determined by the county's assessor's office or the value of an appraisal performed by a licensed appraiser at the expense of the owner; or,
 - (2) One or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of South Carolina. The appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, less depreciation for functionality and obsolescence and site improvements. The Marshall & Swift Residential Cost Handbook shall be used to determine costs for buildings or structures.

- (3) Real Estate purchase contract within 12 months prior to the date of the application for a permit.

Sec. 6-35 Administrative Procedures.

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

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

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

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

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

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

- (1) the building or property is in violation of the Flood Damage Prevention Ordinance,
- (2) a hearing will be held before the local administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
- (3) following the hearing, the local administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(g) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he/she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the administrator may prescribe; provided that where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(h) Appeal: Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(i) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

(j) Denial of Flood Insurance under the NFIP: If a structure is declared in violation of this ordinance and the violation is not remedied then the local administrator shall notify the Federal Emergency Management Agency (FEMA) to initiate a Section 13 16 of the National Flood insurance Act of 1968 action against the structure upon the finding that the violator refuses to bring the violation into compliance with the ordinance. Once a violation has been remedied the local administrator shall notify FEMA of the remedy and ask that the Section 13 16 be rescinded.

(k) The following documents are incorporated by reference and may be used by the local administrator to provide further guidance and interpretation of this ordinance as found on FEMA's website at www.fema.gov:

- (1) FEMA 55 Coastal Construction Manual
- (2) All FEMA Technical Bulletins
- (3) All FEMA Floodplain Management Bulletins
- (4) FEMA 348 Protecting Building Utilities from Flood Damage
- (5) FEMA 499 Home Builder's Guide To Coastal Construction Technical Fact Sheets

Sec. 6-36 THRU 6-39 Reserved

ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 6-40 General Standards.

Development may not occur in the floodplain where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new

structures cannot be located out of the floodplain and that encroachments onto the floodplain are minimized. In all areas of special flood hazard the following provisions are required:

(a) Anchoring - All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of structure.

(b) Flood Resistant Materials and Equipment - All new construction and substantial improvements shall be constructed with flood resistant materials and utility equipment resistant to flood damage.

(c) Minimize Flood Damage - All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages,

(d) Critical Development - shall be elevated to the 500 year flood elevation or be elevated to the highest known historical flood elevation (where records are available), whichever is greater. If no data exists establishing the 500 year flood elevation or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates 500 year flood elevation data,

(e) Utilities - Electrical, ventilation, plumbing, heating and air conditioning equipment (including ductwork), and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of the base flood plus one (1) feet. This requirement does not preclude the installation of outdoor faucets for shower heads, sinks, hoses, etc., as long as cut off devices and back flow devices are installed to prevent contamination to the service components and thereby minimize any flood damages to the building,

(f) Water Supply Systems - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system,

(g) Sanitary Sewage Systems -New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding,

(h) Gas Or Liquid Storage Tanks - All gas or liquid storage tanks, either located above ground or buried, shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

(i) Alteration, Repair, Reconstruction, Or Improvements - Any alteration, repair, reconstruction, or improvement to a structure that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance. This includes post-FIRM development and structures.

(j) Non-Conforming Buildings or Uses - Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however, nothing in this ordinance shall prevent the repair, reconstruction, or replacement of an existing building or structure located totally or partially within the floodway, provided that the bulk of the building or structure below base flood elevation in the floodway

is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance,

(k) American with Disabilities Act (ADA) - A building must meet the specific standards for floodplain construction outlined in Article IV.B, as well as any applicable ADA requirements. The ADA is not justification for issuing a variance or otherwise waiving these requirements. Also, the cost of improvements required to meet the ADA provisions shall be included in the costs of the improvements for calculating substantial improvement.

Sec. 6-41 Specific Standards.

In all areas of special flood hazard (Zones A, AE, AH, AO, A1-30) where base flood elevation data has been provided, as set forth in Article 1.D or outlined in the Duties and Responsibilities of the Local Administrator Article III.E., the following provisions are required:

(a) Residential Construction - New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor elevated no lower than one (1) foot above the base flood elevation. No basements are permitted. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the elevated buildings requirements in Article IV B.4.

(b) Non-Residential Construction

- (1) New construction or substantial improvement of any commercial, industrial, or nonresidential structure (including manufactured homes) shall have the lowest floor elevated no lower than one (1) foot, whichever is greater, above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the elevated buildings requirements in Article IV B.4. No basements are permitted. Structures located in A-zones may be flood proofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
- (2) A registered, professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in the flood proofing certification requirements in Article III.D.2.a. A variance may be considered for wet-flood proofing agricultural structures in accordance with the criteria outlined in Article V.D of this ordinance. Agricultural structures not meeting the criteria of Article V.D must meet the non-residential construction standards and all other applicable provisions of this ordinance. Structures that are flood proofed are required to have an approved maintenance plan with an annual exercise. The local administrator must approve the maintenance plan and notification of the annual exercise shall be provided to it.

(c) Manufactured Homes.

- (1) Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to

an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (2) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions for residential construction in Article 1V.B. I of this ordinance must be elevated so that the lowest floor of the manufactured home is elevated no lower one (1) foot than above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
- (3) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with Section 40-29-10 of the South Carolina Manufactured Housing Board Regulations, as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis at least 36 inches or less above the grade at the sight, reinforced piers or other foundation elements of at least equivalent strength shall support the chassis. When the elevation of the chassis is above 36 inches in height an engineering certification is required.
- (4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood-prone areas. This plan shall be filed with and approved by the local administrator and the local Emergency Preparedness Coordinator.

(d) Elevated Buildings.

New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

- (1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet all of the following minimum criteria:
 - (A) Provide a minimum of two openings on different walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. If there are multiple enclosed areas, each area must have openings in its exterior walls.
 - (B) The bottom of each opening must be no more than 1 foot above the higher of the interior or exterior grade immediately under the opening,
 - (C) Only the portions of openings that are below the base flood elevation (BFE) can be counted towards the required net open area.

- (D) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (E) Fill placed around foundation walls must be graded so that the grade inside the enclosed area is equal to or higher than the adjacent grade outside the building on at least one side of the building.
- (2) Hazardous Velocities - Hydrodynamic pressure must be considered in the design of any foundation system where velocity waters or the potential for debris flow exists. If flood velocities are excessive (greater than 5 feet per second), foundation systems other than solid foundations walls should be considered so that obstructions to damaging flood flows are minimized.
- (3) Enclosures below BFE
 - (A) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 - (B) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose a single storage area and must be void of utilities except for essential lighting as required, and cannot be temperature controlled.
 - (C) One wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in the specific standards outlined in Article W.B. I, 2 and 3.
 - (D) All construction materials below the required lowest floor elevation specified in the specific standards outlined in Article 1V.B 1,2 and 3 should be of flood resistant materials.
 - (e) Floodways.

Located within areas of special flood hazard established in Article I.D, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the local administrator.
- (2) If Article IV.B.5a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article IV.

- (3) Stream crossings for any purpose (i.e. timber harvesting operations), if temporary, shall be permitted in accordance with floodway requirements of Article IV.B.5 and the temporary development provisions of Article N.B.11. Otherwise, the development shall comply with all applicable flood hazard reduction provisions of Article IV.
- (4) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of Article IV B.3 are met.
- (5) Permissible uses within floodways may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also, lawns, gardens, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. Substantial development of a permissible use may require a no-impact certification. The uses listed in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations or changes to the floodway configuration.

(f) Recreational Vehicles.

- (1) A recreational vehicle is ready for highway use if it is:

- (A) on wheels or jacking system
- (B) attached to the site only by quick-disconnect type utilities and security devices; and
- (C) has no permanently attached additions

- (2) Recreational vehicles placed on sites shall either be:

- (A) on site for fewer than 180 consecutive days; and,
- (B) Be fully licensed and ready for highway use, or meet the development permit and certification requirements of Article III.D, general standards outlined in Article IV.A, and manufactured homes standards in Article IV.B.3.

(g) Map Maintenance Activities.

The National Flood Insurance Program (NFIP) requires flood data to be reviewed and approved by FEMA. This ensures that flood maps, studies and other data identified in Article 1.D accurately represent flooding conditions so appropriate floodplain management criteria are based on current data. The following map maintenance activities are identified:

- (1) Requirement to Submit New Technical Data-

- (A) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA

within six months of the date such information becomes available. These development proposals include:

- i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 - iv. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Article IV.B.13.d.
- (B) It is the responsibility of the applicant to have technical data, required in accordance with Article N.B.7, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall also be the responsibility of the applicant.
- (C) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
- i. Proposed floodway encroachments that increase the base flood elevation; and
 - ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- (D) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Article IV B.7.
- (E) Conditional Letter of Map revisions (CLOMR) and/or Letters of Map Revision (LOMR) must go through the variance process outlined in Article V.
- (2) Right to Submit New Technical Data - The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the local jurisdiction and may be submitted at any time.
- (h) Accessory Structures.
- (1) A detached accessory structure or garage, the cost of which is greater than \$3,000, must comply with the requirements as outlined in FEMA's Technical Bulletin 7-93 Wet Flood proofing Requirements or be elevated in accordance with Article IV Section B(I) and B (4) or dry flood proofed in accordance with Article IV B (2).

(2) If accessory structures of \$3,000 or less are to be placed in the floodplain, the following criteria shall be met:

- (A) Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas),
 - (B) Accessory structures shall be designed to have low flood damage potential,
 - (C) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,
 - (D) Accessory structures shall be firmly anchored to prevent flotation, collapse or lateral movement of the structure,
 - (E) Service facilities such as electrical and heating equipment shall be installed in accordance with Article N.A.5; and
 - (F) Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with Article N.B.4a
- (i) Swimming Pool Utility Equipment Rooms.

If the building cannot be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:

- (1) Meet the requirements for accessory structures in Article N.B.8
 - (2) The utilities must be anchored to prevent flotation and shall be designed to prevent water from entering or accumulating within the components during conditions of the base flood.
- (j) Elevators.
- (1) Install a float switch system or another system that provides the same level of safety necessary for all elevators where there is a potential for the elevator cab to descend below the BFE during a flood per FEMA's Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas.
 - (2) All equipment that may have to be installed below the BFE such as counter weight roller guides, compensation cable and pulleys, and oil buffers for traction elevators and the jack assembly for a hydraulic elevator must be constructed using flood resistant materials where possible per FEMA's Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas.
- (k) Temporary Development.

Certain types of structures (e.g. fruit stands, construction site offices, portable toilets, etc.) may be situated temporarily on flood-prone property without having to comply with the elevation or flood

proofing criteria of Article N.B. 1 and Article N B.2, respectively, provided that the following criteria are met:

- (1) All applicants must submit to the local administrator, prior to the issuance of the development permit, a written plan for the removal of any temporary structures or development in the event of a hurricane or flash flood warning notification. The plan shall be reviewed and approved in writing, and must include the following information:
 - (A) A specified time period for which the temporary use will be permitted,
 - (B) The name, address and phone number of the individual responsible for the removal of temporary structures or development;
 - (C) The time frame prior to the event at which any structures will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (D) A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed,
 - (E) Designation, accompanied by documentation, of a location outside the floodplain to which any temporary structure will be moved;
 - (F) A determination of permanent structures which would be adversely affected by increased flooding upstream or downstream, and a method for covering this liability, such as a performance bond; and,
 - (G) A plan to restore the area to its natural condition once the temporary permit expires or the temporary use is terminated, whichever is first.
- (2) The structure is mobile, or can be made so, and is capable of being removed from the site with a maximum of four (4) hours warning.
- (3) The structure will not remain on the property for more than 180 days.
- (I) Fill.

An applicant shall demonstrate that fill is the only alternative to raising the building to meet the residential and non-residential construction requirements of Article IV B(1) or B (2), and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. The following provisions shall apply to all fill placed in the special flood hazard area:

- (1) Fill may not be placed in the floodway unless it is in accordance with the requirements in Article IV.B.5a.
- (2) Fill may not be placed in tidal or non-tidal wetlands without the required state and federal permits.

- (3) Fill must consist of soil and rock materials only. A registered professional geotechnical engineer may use dredged material as fill only upon certification of suitability. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain.
 - (4) Fill used to support structures must comply with ASTM Standard D-698, and its suitability to support structures certified by a registered, professional engineer.
 - (5) Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion.
 - (6) The use of fill shall not increase flooding or cause drainage problems on neighboring properties.
 - (7) Fill may not be used for structural support in the coastal high hazard areas.
 - (8) Will meet the requirements of FEMA Technical Bulletin 10-0 1, Ensuring That Structures Built On Fill in or Near Special Flood Hazard Areas Are Reasonable Safe from Flooding.
- (m) Standards for Development Proposals.
- (1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
 - (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all development proposals classified as a major development by the Land Development Regulations of the Town of Aynor.
 - (5) If the area of special flood hazard is identified as an area of open space and is deeded as such, then a hydrologic and hydraulic engineering analysis that generates base flood elevations for the subdivision proposal would not be required.
 - (6) The applicant shall meet the requirement to submit technical data to FEMA in Article N B.7 when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

Sec. 6-42 Standards for Streams without Established Base Flood Elevations and/or Floodways.

Located within the areas of special flood hazard (Zones A and V) established in Article I.D, are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

(a) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within 100 feet of the stream bank unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If Article IV.C. 1 is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of Article IV and shall be elevated or flood proofed in accordance with elevations established in accordance with Article III.E. 1 1.

(c) Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data. Refer to FEMA Floodplain Management Technical Bulletin 1-98 Use of Flood Insurance Study (FIS) Data as Available Data. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.

When base flood elevation (BFE) data is not available from a federal, state, or other source one of the following methods may be used to determine a BFE For further information regarding the methods for determining BFEs listed below, refer to FEMA's manual Managing Floodplain Development in Approximate Zone A Areas:

(1) Contour Interpolation

(A) Superimpose approximate Zone A boundaries onto a topographic map and estimate a BFE.

(B) Add one-half of the contour interval of the topographic map that is used to the BFE.

(2) Data Extrapolation - A BFE can be determined if a site within 500 feet upstream of a reach of a stream reach for which a 100-year profile has been computed by detailed methods, and the floodplain and channel bottom slope characteristics are relatively similar to the downstream reaches.

(3) Hydrologic and Hydraulic Calculations- Perform hydrologic and hydraulic calculations to determine BFEs using FEMA approved methods and software. These methods include, but are not limited to the following:

- i. HEC-RAS 3.1.1 and up
- ii. HEC-1 4.0.1 and up
- iii. HEC-2 4.6.2
- iv. HEC-HMS 1.1 and up
- v. FLO-2D
- vi. QUICK-2
- vii. SFD
- viii. WSPRO

Sec. 6-43 Standards for Streams with Established Base Flood Elevations but without Floodways.

(a) Along rivers and streams where Base Flood Elevation (BFE) data is provided but no floodway is identified for a Special Flood Hazard Area on the FIRM or in the FIS.

(b) In areas where non-encroachment zones are shown no encroachments including fill, new construction, substantial improvements, or other development shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Sec. 6-44 Standards for Areas of Shallow Flooding (A0 Zones)

Located within the areas of special flood hazard established in Article 1 .D, are areas designated as shallow flooding. The following provisions shall apply within such areas:

(a) All new construction and substantial improvements of residential structures shall have the lowest floor elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three (3) feet above the highest adjacent grade.

(b) All new construction and substantial improvements of non-residential structures shall:

- (1) Have the lowest floor elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three (3) feet above the highest adjacent grade; or,
- (2) Be completely flood-proofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) All structures on slopes must have drainage paths around them to guide water away from the structures.

Sec. 6-45 THRU 6-49 Reserved

ARTICLE V. VARIANCE PROCEDURES

Sec. 6-50 Establishment of Appeal Board.

The Board of Zoning Appeals as established by the Town of Aynor, shall hear and decide requests for variances from the requirements of this ordinance.

Sec. 6-51 Right to Appeal.

Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court.

Sec. 6-52 Historic Structures.

Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Sec. 6-53 Agricultural Structures.

Variances may be issued to wet flood proof an agricultural structure in accordance with Technical Bulletin 7-93, Wet Flood proofing Requirements for Structures Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program, document number FIA-TB-7, dated 12/93, and available from the Federal Emergency Management Agency (FEMA). In order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of Article V.H, this section, and the following standards:

(a) Use of the structure must be limited to agricultural purposes as listed below:

- (1) Pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment,
- (2) Steel grain bins and steel frame corncribs,
- (3) General-purpose barns for the temporary feeding of livestock that are open on at least one side;
- (4) For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures that were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of Article N.B.2 of this ordinance; and,
- (5) Detached garages and storage sheds solely used for parking and limited storage in connection with agricultural uses only, which are no greater than 400 square feet in area.

(b) The agricultural structure must be built or rebuilt, in the case of an existing building that is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation.

(c) The agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement. All of the structure's components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, hydrodynamic, and debris impact forces. Where flood velocities exceed 5 feet per second, fast-flowing floodwaters can exert considerable pressure on the building's enclosure walls or foundation walls.

(d) The agricultural structure must meet the venting requirement of Article IV.B.4 of this ordinance.

(e) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation (BFE) so that they are contained within a watertight, flood proofed enclosure that is capable of resisting damage during flood conditions in accordance with Article IV.A.5 of this ordinance.

(f) The agricultural structure must comply with the floodway encroachment provisions of Article IV.B.5 of this ordinance.

(g) Major equipment, machinery, or other contents must be protected. Such protection may include protective watertight flood proofed areas within the building, the use of equipment hoists for readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risk to lives and that the contents will be located to a specified site out of the floodplain in accordance with the temporary development provisions of Article N.B. 11.

Sec. 6-54 Considerations.

In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (8) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (9) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and,
- (10) Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the Special Flood Hazard Area and no other alternative locations for the structure are available.

Sec. 6-55 Findings.

Findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land, Water and Conservation Division, State Coordinator's Office, must be taken into account and included in the permit file.

Sec. 6-56 Floodways.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to insure the project is built in compliance with the CLOMR for which the variance is granted the applicant must provide a bond for 100% of the cost to perform the development.

Sec. 6-57 Conditions.

Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. The following conditions shall apply to all variances:

(a) Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(c) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(d) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

(e) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

(f) Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with Article III.F.5 of this ordinance.

Sec. 6-58 THRU 6-59 Reserved

ARTICLE VI. LEGAL STATUS PROVISIONS

Sec. 6-60 Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance

This Ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance January 20th. 1997, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Aynor enacted on January 20th, 1997, as amended, which are not reenacted herein, are repealed.

Sec. 6-61 Effect upon Outstanding Building Permits

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Chief Building Inspector or his authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of sixty (60) days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

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PUBLIC SAFETY

ARTICLE I. POLICE DEPARTMENT

Sec. 7-01 Election of Chief of Police.

There shall be hired by the Mayor and the council on the day appointed for the regular election by the council of town officers, an officer whose designation shall be chief of police of the town, and as many assistant police officers as may be deemed necessary.

Sec. 7-02 Duties – Generally.

It shall be the duty of the chief of police as well as the other police officers of the town to see that the ordinances of the town are not violated and to arrest and carry before the recorder any person violating any of the ordinances and any person against whom a citizen shall swear out a warrant for a violation of any ordinance or who is charged with committing a breach of peace within the corporate limits of the Town of Aynor, S. C. The police officers shall report all violations of the ordinances, notwithstanding the party committing such is unknown. The chief of police and assistant police officer shall likewise perform such other duties as are now, or may be hereafter annexed to their respective offices.

Sec. 7-03 THRU 7-10 Reserved

ARTICLE II. MUNICIPAL COURT

Sec. 7-11 Established.

There is hereby established a municipal court for the Town of Aynor, which shall be a part of the unified judicial system of the State of South Carolina, pursuant to Act No, 480 of 1980, section 14-25-910 for the trial and determination of all cases within its jurisdiction.

Sec. 7-12 Municipal Court Judge.

(a) The court shall be presided over by one or more full-time or part-time judges, at the discretion of Mayor and council. The municipal judge(s) shall be appointed by Mayor and council for a term fixed by council not to exceed four (4) years, or who shall serve at the pleasure of Mayor and council. The compensation of the municipal judge(s) shall be as from time to time may be determined by Mayor and council, Vacancies shall be filled in accordance with S. C. Code Section 14-25-25.

(b) The Mayor has the power to designate a municipal judge in the case of temporary absence, sickness, or disability of the regular municipal judge.

Sec. 7-13 Municipal Court Clerk.

The Mayor and council shall designate a clerk of municipal court, who shall keep such records and make such reports as may be required by the municipal judge and or the State Court Administrator Administration. Council may designate the municipal employee to serve as clerk of the court.

Sec. 7-14 Jurisdiction.

The municipal court shall have jurisdiction to try all cases arising under the ordinances of the Town. The court shall also have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates. The court shall have the power to punish for contempt of court by imposition of sentences up to the limits imposed on municipal courts.

Sec. 7-15 Decisions.

Whenever the municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine or imprisonment as outlined by state law and statute.

Sec. 7-16 Sentence Suspension.

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

Sec. 7-17 Municipal Court Escrow Account.

(a) The clerk of municipal court, in accordance with generally accepted accounting principles and under the authority and directives of the state court administration, shall receive all monies, establish and maintain an escrow account, and disburse all funds as directed by the municipal judge.

(b) The Municipal Court Account shall be maintained in a separate demand deposit account. Any and all interest resulting there from shall be transferred to the general fund of the Town of Aynor. There shall be two signatories on this account, being the Mayor and the Town Clerk of the Town of Aynor.

(c) Disbursement from the Municipal Court Account shall be limited to refund of bond and transfer of fines to the Town of Aynor

(d) The Mayor may designate persons to receive bonds and receipt the same as he/she may deem necessary, provided that police officers may not accept cash bonds. Those persons shall be bonded by a cash surety equal to but not to exceed that required of a police officer by that State of South Carolina.

Sec. 7-18 Right to Appeal.

Any party shall have the right to appeal from the sentence or judgment of the municipal court, to the Court of General Sessions. Notice of intention to appeal, setting forth the grounds for appeal, shall be given in writing and served on the municipal judge or the clerk of the municipal court within ten days after sentence is passed or judgment rendered, or the appeal shall be deemed waived. The party

appealing shall enter into a bond, payable to the Town to appear and defend such appeal at the next term of the Court of General Sessions or shall pay the fine assessed. [S.C. Code 14-25-95]

Sec. 7-19 Court of General Session.

In the event of an appeal, the municipal judge shall make a return to the Court of General Sessions as provided by S.C. Code Section 14-25-105.

Sec. 7-20 Right to Jury Trial.

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

Sec. 7-21 THRU 7-30 Reserved

ARTICLE III. FIREWORKS

(Ord. No 25, 3/12/1984)

Sec. 7-31 Use of Fireworks Prohibited.

It shall be unlawful for any person to fire, shoot or discharge any fireworks of any description, except as provided in this Article. Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 7-32 Exceptions

(a) Toy Caps Excepted.

The term "fireworks" shall not include toy, paper pistol 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 permitted at all times. [S.C. Code 5 66-553.2]

(b) Other Exceptions.

Nothing in this Article shall apply to the sale or use of blank cartridges for ceremonial, theatrical or athletic events nor as applying to the transportation or use of fireworks solely for agricultural purposes. [S.C. Code 5 66-554]

Sec. 7-33 Permits

Any person desiring to hold a public display of fireworks shall first secure from the Town of Aynor a written permit to hold such display at least ten (10) days prior to the date of the display. PROVIDED, no permit shall be issued to allow any public display of fireworks within the fire limits, or at any location whereby, in the judgment of Council, life or property may be endangered. [S.C. Code § 66-555.1]

Sec. 7-34 Permissible Fireworks For Public Displays.

Nothing in this Article shall be construed to prohibit the shipping, sale, possession and use of fireworks for public displays; and such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulations of the Interstate Commerce Commission as "Class B Fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes.

Sec. 7-35 Sale of Fireworks.

(a) Permissible fireworks

It shall be unlawful for persons to possess, sell, offer for sale, store, or transport any fireworks other than the permissible fireworks herein enumerated. The permissible fireworks consist of ICC Class C, "Common Fireworks" only, in the regulations of the Interstate Commerce Commission, for the transportation of explosives and other dangerous articles, and shall include the following:

- (1) Roman candles whose total pyrotechnic composition shall not exceed twenty grams each in weight;
- (2) Bottle type rockets whose pyrotechnic composition shall not exceed twenty grams each in weight;
- (3) Cylindrical fountains whose total pyrotechnic composition shall not exceed seventy-five grams each in weight and whose inside diameter shall not exceed three-fourths inches;
- (4) Cone fountains whose total pyrotechnic composition shall not exceed fifty grams each in weight;
- (5) Wheels whose total pyrotechnic composition shall not exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel and the inside bore of driver tubes shall not be over one-half inch;
- (6) Illuminating torches and colored fire in any form whose total pyrotechnic composition shall not exceed one hundred grams each in weight;
- (7) Sparklers whose total pyrotechnic composition shall not exceed one hundred grams each in weight;
- (8) Firecrackers and salutes with casings, the external dimensions of which do not exceed one and one-half inches in length and one-quarter inch in diameter, and other items designed to produce an audible effect, the total pyrotechnic composition of which does not exceed two grains each in weight;
- (9) Items composed of a combination of two or more articles or devised of the above enumerated approved items.

(10) No component of any device listed in this section which is designed to produce an audible effect shall contain pyrotechnic composition in excess of two grains in weight excluding propelling or expelling charges. [S.C. Code § 16-551]

(b) Sale to Minors.

It shall be unlawful to sell or offer for sale any fireworks to children under the age of fourteen (14) years unless accompanied by a parent or guardian.

(c) Identification and Marking.

No permissible articles of common fireworks enumerated in above shall be sold, offered for sale, possessed, stored or used, unless it shall be properly named to conform to the nomenclature of § 7.506 hereof and unless it is certified as "Common Fireworks" on all shipping cases and by imprinting on the article to be of sufficient size and so, positioned as to be readily recognized by law enforcement authorities and the general public. [S.C. Code 5 66-552]

(d) Retail Handling.

All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original packages, and all fireworks kept for sale on front counters must remain in original packages, except where an attendant is on constant duty at all times at counters where such fireworks are on display: PROVIDED, however, that fireworks in open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty. Signs reading "FIREWORKS FOR SALE - NO SMOKING ALLOWED" shall be displayed in the section of the store set aside for the sale of fireworks. [S.C. Code 5 66-559.]

(e) Storage Near Flammable Materials.

Fireworks shall not be sold or kept for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept in unbroken containers, unless in a separate and distinct section or department of the store. [S.C. Code 66-560]

ARTICLE IV SPECIAL EVENTS

Sec. 7-40 - Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) Activity means a parade or public meeting or assembly or picketing.
- (2) Funeral procession means a single direct movement from a mortuary, church, residence, or other facility to the place of burial of a human body, under direction of an authorized funeral director.
- (3) Noise variance means a grant from town council to a petitioner to exceed the legal noise limit, pursuant to subsection 9-1-21(h).
- (4) Parade means a march or procession of any kind.

- (5) Picketing means the stationing of persons, at the outside of a place or building for the purpose of publicizing alleged grievances or persuading the public not to do business with the affected establishment.
- (6) Public meeting or assembly means a planned or organized gathering of a group of persons, or any ceremony, show, exhibition or pageant which may reasonably be expected to result in the gathering of a group of persons, upon any public street, park or other public grounds.
- (7) Special event means an inside or outside event, and may be advertised and promoted inside or outside the town.
- (8) Street means a public right-of-way, or way, place of whatever nature, publicly maintained and open for use to the public for purposes of vehicular or pedestrian travel. Streets include highways, alleyways, sidewalks, and other public areas that accommodate vehicular or pedestrian traffic.
- (9) Vendor means any person who sells or offers to sell any goods, food, or beverage within a special event venue.

Sec. 7-41 - Exceptions.

This article shall not apply to any of the following:

- (a) Funeral processions.
- (b) A governmental agency acting within the scope of its functions.
- (c) Students going to and from school classes or participating in educational activities, providing such activities are authorized by the school district and are under the immediate direction and supervision of the school authorities authorized by the school district to approve and supervise such activity.
- (d) School and town-sponsored athletic events.

Sec. 7-42 - Public conduct during a meeting, assembly or parade.

- (a) It is unlawful for any person to unreasonably obstruct, impede or interfere with any parade or public meeting or assembly or with any person, vehicle or animal participating in such parade, meeting or assembly for which a permit has been granted in accordance with the provisions of this article.
- (b) Town Council or their designate agent shall have the authority, when he deems necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting part of the route of a parade. The town shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.
- (c) Upon the request of the event sponsor and with the approval of town council, coolers and/or dogs may be prohibited at any special event during the hours of operation of such event. Service Animals assisting persons who are visually impaired and animals under the control of on-duty law enforcement personnel are exempted from this prohibition. In such cases where a prohibition of coolers and/or dogs has been approved by town council the event sponsor will be responsible for providing public notice of same prior to the event and for posting appropriate signage at the special event.

Sec. 7-43 - Picketing.

When picketing, no person shall:

- (a) Use on the streets or public places any verbal abuse, including curses, insults or threats, or acts of violence, directed against any person or place;
- (b) Engage in riotous and loud conduct which invades the privacy of homes or businesses;
- (c) Damage or destroy or injure the person or property of others;
- (d) Block, in any manner, the streets and means of ingress and egress to any place of business, residence or establishment;
- (e) Interfere with, in any manner, or obstruct any official or person in the performance of his duties;
- (f) Interfere, in any manner, with the attendance, during school hours, of children in the public or private schools by inciting or urging them to participate in demonstration or for any other unlawful purpose or reason, or permitting them to be or remain in churches or any other places used in such demonstrations;
- (g) Picket other than in accordance with the following principles:
 - (1) In small numbers.
 - (2) In a manner so as not to interfere with pedestrians or vehicular traffic.
 - (3) In a manner so as not to block entrances or exits to or from picketed businesses, residences or establishments.
 - (4) No more than four pickets posted at any one time at any one business, residence or establishment.
 - (5) No more than two businesses, residences or establishments picketed in the same block at the same time.
 - (6) No picket to trespass upon the property of the business, residence or establishment being picketed.
 - (7) Pickets to patrol on the sidewalk at a distance of not less than eight feet from every other picket.
 - (8) No person, whether in sympathy with the pickets or not, shall assemble, loiter, congregate or engage in any kind of picketing of the business, residence or establishment being picketed except those picketing in their official capacity.

Sec. 7-44 - Permit required.

It is unlawful for any person to hold, manage, conduct, aid, participate in, form, start or carry on any parade or public meeting or assembly or picketing or event as defined in this article, in or upon any public street, park or other public grounds in the town unless and until a permit to conduct such meeting, assembly, parade or picketing has been obtained in compliance with the provisions of this article.

Sec. 7-45 - Special event permit application and charges.

- (1) Application for special event permits under this article may be obtained by contacting town hall during normal business hours and must be filed with the town planning department not less than 30 days in advance of the proposed activity. Late applications may be accepted if filed sufficiently in advance of

the date of the proposed activity to enable Town Council or their designate agent to determine that such activity will meet the requirements set forth in Section 3-1-38.

- (2) Charges may apply to each application as determined by the town department(s) affected by the special event and the amount of services, property, permits, etc. that are necessary to assure the event will be held with the health and safety of the public in mind. The schedule of charges shall be in such an amount as is established from time to time by ordinance.
- (3) The Town of Aynor, at its discretion, may choose to waive all or any portion of charges for special events held by bona fide non-profit organizations that are recognized under Section 501(c)(3) of the Internal Revenue Code.

Sec. 7-46 - Findings required. Town Council or their designated representative shall issue a permit as provided for in this article when, from a consideration of the application and from such other information as may otherwise be obtained, they find that:

- (1) The conduct of such activity will not substantially interrupt the safe and orderly movement of other traffic.
- (2) The concentration of persons, animals and vehicles will not unduly interfere with proper fire and police protection of, or ambulance service to, areas where the activity will take place or areas contiguous to such area.
- (3) The conduct of such activity will not unduly interfere with the movement of firefighting equipment enroute to a fire, or the movement of other emergency equipment.
- (4) The conduct of such activity is not reasonably likely to cause injury to persons or property.
- (5) Such activity is not to be held for the sole purpose of advertising the goods, wares, or merchandise of a particular business establishment or vendor.

Sec. 7-47 - Guidelines. Town Council or their designated representative, when considering the granting or denial of a permit as provided for in this division shall make his decision applying the following guidelines:

- (1) Any restrictions contained in a permit shall be limited to reasonable time, place and manner.
- (2) If the applicant requests a permit specifying the time, place or manner that, in the opinion of the town council would interfere with the safe, normal usage of the town streets by the public, alternate time, place and manner shall be discussed with the permit applicant.
- (3) A permit may be refused only if, after discussions with the permit applicant, it appears that the activity would present a clear and present danger of serious interference with the normal use of the streets even after exploring alternative time, place and manner restrictions.
- (4) The possibility of mere public inconvenience, annoyance or unrest shall not be deemed sufficient grounds for denial of a permit.
- (5) Special event requests that include any of the following conditions shall be presented to town council for consideration:
 - a. Any special event, except town-sponsored events, that exceeds three days in duration.

- b. Public consumption of alcohol.
 - c. Closure of all or any part of a town park to the public.
 - d. Temporary closure of major street(s).
 - e. The attachment of items to public property.
 - f. Any special event request that will require a waiver of the town's noise ordinance.
 - g. Any special event request that, in the opinion of the town council, should be decided by town council.
- (6) Exceptions for recurring events: Town Council or their designated representative may make a decision on recurring special event requests, including those with conditions listed in subsection 3-1-38(5), items a—f, provided the request for the initial event was approved by council and there are no significant changes.

Sec. 7-48 - Conditions.

Town Council or their designate agent shall have authority to impose such conditions as are necessary to insure that all of the findings mentioned in Section 7-46 shall exist during the continuation of the activity.

Sec. 7-49 - Prior application.

Town Council reserves the right to limit the proximity or number of concurrent or overlapping special events when the determination is made that town resources are inadequate to meet the demands of the multiple special events, or that the events will result in a concentration of people, vehicles or activity adverse to the public health, safety and welfare. In case of such refusal, he shall forthwith send the applicant a written notice that he may apply for an alternate time and place.

Sec. 7-50 - Notice of issuance or denial.

Town Council or their designated agent shall act upon the fully completed special permit application within ten days of the filing thereof exclusive, however, of Saturdays, Sundays and legal holidays. If he disapproves of the application, he shall mail to the applicant within that ten-day period notice of the denial and the reason for it.

Sec. 7-52 - Appeal procedure.

The applicant shall have the right to appeal the denial of a permit to the court. A notice of appeal shall be filed with the town within ten days after receipt of notice of the denial. The town council shall act upon the appeal at its next meeting following receipt of the notice of appeal.

Sec. 7-53 - Permit contents.

Conditions to the issuance of any permit shall be set forth in the permit.

Sec. 7-54 - Duty of permittee.

- (a) A permittee under this article shall comply with all terms and conditions of the permit and with all applicable laws and ordinances.
- (b) A copy of the special event permit shall be carried by the person heading or leading the activity or displayed on location and shall be exhibited upon demand of any town official.

Sec. 7-55 - Permit revocation.

The Town Council may revoke any permit issued under this article upon the failure of the permittee to comply with the terms and conditions of the permit or if the activity, because of the manner in which it is being conducted or for any other reason, is jeopardizing those elements of the public safety or welfare set forth in Section 7-46.

Sec. 7-56 - Penalties.

Any person who violates any provision of this article shall severally for each such violation be guilty of a misdemeanor.

Secs. 7-57, thru 7-59 - Reserved.

Article IV. Firearms and Explosives

Section 7-60 Discharge of Firearms, ETC., Explosives, Prohibited

(a) It shall be unlawful for any person to discharge any gun, rifle, pistol, other firearm, explosive or any other device within the Town limits.

(b) It shall be unlawful for any person to discharge any firearm, air rifle, BB gun, dart gun, sling shots or like devices calculated to disturb or endanger anyone. Special dispensation may be granted when determined viable and safe by the Town Council or designee.

Section 7-60 thru 7-67 Reserved

CHAPTER 8
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Local Code Reference - (Code 1964 §15, Amended Ord. No. 64, 1/12/1981)

OFFENSES - MISCELLANEOUS

ARTICLE I. IN GENERAL

Sec.8-01 Drinking in Public Places.

It shall be unlawful to openly display or consume any beer or wine in or from any unsealed container on any public street or sidewalk, in any public parking area, or at any public gathering place, excepting premises specifically licensed for public consumption of beer or wine therein; provided that this charge shall not be asserted when any other charge is made relating to or growing out of consumption of beer, wine or whiskey.

Sec. 8-02 Pool Rooms.

(a) It shall be unlawful for any person or persons to play pool within the limits of the Town of Aynor from the hours of 11:00P.M. until 7:00 A. M. Monday through Friday and from 11:00 P.M. Saturday until 7:00 A.M. Monday.

(b) It shall be unlawful for any operator of a pool room within the Town of Aynor to allow any person or persons to play pool in his pool room from 11:00P.M. until 7:00 A. M. Monday through Friday and from 11:00 P.M. Saturday until 7:00 A.M. Monday.

(c) It shall be unlawful for any person or persons under the age of 18 years to play pool within the limits of the Town of Aynor. This applies to playing on tables without permit from parents or guardian by said persons under 18 years of age.

(d) It shall also be unlawful for the operator of a pool room to allow a person less than 18 years of age to play pool in his pool room without a permit from his parents or guardian.

Sec. 8-03 Juke Box.

(a) That no juke box shall be played during the hours of 11:00P.M. until 7:00 A. M. Monday through Friday and from 11:00 P.M. Saturday until 7:00 A.M. Monday.

(b) Any person or persons who allows juke box played in his place or business during the hours stated in the provisions shall be subject to a penalty as provided in Section 1-4 of this Code.

Sec. 8-04 THRU 8-19 Reserved

ARTICLE II. STATE OF EMERGENCY

(amended Ord#56 2/18/1991, amended Ord#57, 7/15/1991)

Sec. 8-20 Declaration of State of Emergency.

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

In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the Town of Aynor, South Carolina, or threatening damage to or destruction of property, the Mayor of the Town of Aynor, South Carolina, is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency, and in order more effectively to protect the lives, safety and property of people within the Town, to define and impose a curfew applicable to all persons within the jurisdiction of the Town.

In the absence of or the inability of the Mayor to perform the duties of his office, the Mayor Pro-Tem shall have all the power and authority granted by this ordinance

Sec. 8-21 Curfew.

The Mayor is hereby authorized and empowered to limit the application of such a curfew to any area specifically designated and described within the corporate limits of the Town and to specific hours of the day or night; and to exempt from the curfew policemen, firemen, doctors, nurses and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the Town or to protect property within said Town.

The Mayor shall proclaim the end of such state and curfew as soon as circumstances warrant or when directed to do so by the Town Council.

During the existence of a proclaimed state of emergency when a curfew has been imposed, it shall be unlawful for any one subject to such curfew:

(a) To be or travel upon any public street, alley, roadway, sidewalk, or upon public property, unless in search of medical treatment and/or drugs and/or food or other commodity or service immediately necessary to sustain life and health of himself or members of his family during the period of the curfew.

(b) To possess off one 's own premises, buy, sell , give away, or otherwise transfer or dispose of any explosives, firearms, ammunition, or dangerous weapon of any kind, the term "explosive" as used herein being defined in its broadest sense as any substance or device capable of inflicting injury to person or damage to property, and expressly including so-called "Molotov cocktail".

(c) To sell beer, wines, or intoxicating beverages or narcotics of any kind (including marijuana) of possess or consume the same off one's own premises

(d) To sell or transport gasoline or any other similar petroleum products, or any other inflammable substances, except as expressly authorized by the provisions of the curfew imposed.

Sec. 8-22 Violations.

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 8-23 THRU 8-29 Reserved

ARTICLE III. NOISE ORDINANCE

(amended Ord. No 66, 12/9/1995)

Sec. 8-30 Certain Noises prohibited.

(a) It shall be unlawful for any person to make, create, assist in creating permit, continue or cause to be continued, any excessive, unnecessary or unusually loud noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

(b) It shall be unlawful to drive, operate, test, race or in any manner run any motor or engine, with the exceptions hereinafter stated, within the town, without an adequate and sufficient muffler thereon, or any motor which creates a loud unusual, annoying or disturbing noise.

(c) It shall be unlawful to repair, tune, adjust or test any motor regulated by this section, or by the operation thereof, resulting in the creation of loud, unnecessary, unusual, disturbing or annoying noise within the town in any place other than in a licensed garage or repair shop, inside the building, any the repairing, tuning, adjusting or testing of any motor shall be done only in a manner as not to create any loud, unnecessary, unusual, disturbing, or annoying noise.

Sec. 8-31 Definition.

(a) An "Excessive, unnecessary or unusually loud noise, "is defined as follows:

(1) Any noise created by any loud speakers, amplifiers as part of a band, orchestra or musical group, radios, nickelodeons, piccolos, juke boxes, phonographs or other mechanical or automatic music box or music machine which is audible beyond the premises, place of business, or vehicle of the operator thereof, or beyond the limits of public streets or highways when operated thereon, by any owner, lessee, custodian thereof, or any other person, for himself or another. The enumeration of the sound devices shall not be deemed to be exclusive; or

(2) Any other sound which is plainly audible at a distance of 200 feet from its source.

(b) Engines; "adequate muffler"

A muffler which does not permit the creation of a motor noise greater than that permitted by properly functioning mufflers on passenger automobiles; and in any event any motor creating a noise which may be heard as far as one block away, under ordinary conditions, shall be prima facie evidence of sufficient noise to constitute a violation of the sections.

Sec. 8-32 Exemptions.

Exempted from the provisions of this article are:

(d) lawnmowers, agricultural and industrial equipment Sections 66-4 to 66-6 shall not apply to the operation of lawn mowers, fogging machines, power saws and like equipment operated upon private premises for the care and maintenance of the grounds and the premises, or upon any public premises under the authority of the town, or by permit of the town administrator and chief of police.

(e) noises of safety signals, warning devices and emergency pressure relief valves;

(f) noises resulting from any authorized emergency vehicles when responding to an emergency call or acting in time of emergency

(g) noises resulting from emergency warnings or announcements by police officers of the town, county or state, or by any person by the expressly authorized

(h) reasonable and necessary sounding of automobile horns or other warning devices as may be required by traffic conditions, although the indiscriminate blowing of automobile horns or sounding of other warning devices in a manner as to disturb the peace unnecessarily shall be and is prohibited by the terms of section 8-51; and

(i) reasonable and necessary sounding of automobile horns or other warning devices as may be required by traffic conditions, although the indiscriminate blowing of automobile horns or sounding of other warning devices in a manner as to disturb the peace unnecessarily shall be and is prohibited by the terms of section 8-51; and

Sec. 8-33 Penalty.

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

CHAPTER 9 CEMETERIES

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Local Code Reference - (Code 1964, Ord. No. 24 12/13/1982, Ord. No. 45, 6/20/1988, Ord. No. 59, 9/16/1991, replaced 7/28/2008, amended 4/27/2009)

State law reference—

Cross references -

CEMETERIES

ARTICLE I. GENERAL

Sec. 9-01 Authority.

That the Aynor Cemetery is an asset of the Town of Aynor and the care thereof shall remain the responsibility of the Aynor Town Council and their designees, whereby no authority is granted nor relinquished regarding the implementation or change of rules and regulations concerning said Cemetery. The Aynor Town Council does hereby hold and maintain absolute authority in regards to any and all policies concerning the Aynor Cemetery

Sec. 9-02 Cemetery Committee.

(a) The Aynor Town Council shall appoint a Cemetery Committee consisting of the Mayor, Town Clerk and at least three citizens of the Town of Aynor. The Mayor shall serve as Chairperson of the Committee. The committee shall have the responsibility of assisting the Mayor and Council in implementing this ordinance. No term of service shall be set for the three committee members. A committee member may resign or the Town Council may remove a committee member should it become necessary.

(b) That the Aynor Town Council, as a grantor and in the consideration of such a sum as may from time to time be determined by Council, may convey to a person or persons burial plots for interment purposes only. These plots remaining at all times subject to the rules and regulations hereafter stated or as may be implemented by the Aynor Town Council.

Sec. 9-03 Prohibited Materials.

(a) For the best interest and protection of the plot owner, memorials even for temporary use, made of cement, artificial stone, composition, wood, tin or iron shall not be permitted.

(b) That the Town of Aynor and the Aynor Town Council shall not be responsible for the care or replacement of any items removed from the Cemetery by the Aynor Town Council or their designee, when such removal is necessary to maintain the beauty of the Cemetery. Any items removed by the Town of Aynor will be stored one (1) month and then disposed of. This does not include storage of old or outdated artificial arrangements that are no longer appropriate. Disposal of such will be immediately.

Sec. 9-04 Damage and Defacing.

That it is unlawful for any person to damage, deface or destroy in any manner the beauty of the Cemetery.

Sec. 9-05 Fee Structure.

(a) Gravesites may be purchased by full-time resident taxpayers of Aynor for themselves and for resident relatives living in the Taxpayer's home. Lots may be purchased individually or up to a maximum of four gravesites at the rate of \$1,400.00 per site.

(b) Verification of residency will be required if unknown by town official selling the gravesite or lot. Acceptable forms would be a valid driver's license, current voter registration card, real estate tax bill, utility bill.

(c) All other purchases, including persons not living in the Town Limits of Aynor, South Carolina, shall be \$2,100.00 per gravesite

(d) The Town of Aynor or the Cemetery Committee must be notified of all burials including cremations scattering. A member of the cemetery committee will measure and mark each gravesite for burial.

(e) No individual gravesite may be opened for burial purposes until the full amount of the individual gravesite has been paid in full.

(f) A \$300.00 opening fee shall be charged for the opening and closing of the gravesite for each burial.

(g) Grantee may elect to pay the full amount of the sum total of all gravesites within a designated plot at the time of purchase.

(h) Grantee may elect to finance the gravesites within a plot over a period not to exceed one year from the date of purchase.

(1) Grantee will pay a down payment greater than or equal to 50% of the purchase price of the plot.

(2) All gravesites within a plot must be paid in full before burial within a plot.

(i) All persons buried in the Town of Aynor Cemetery will be buried in a vault. Cremated remains are to be buried in a cremation interment container approved by a certified crematorium.

(j) No headstone may be erected until the full purchase price of the plot has been received by the Town of Aynor and a plan for the headstone has been submitted and approved by the Town of Aynor or the Cemetery Committee.

(k) That upon full payment, Grantee shall be given a written certificate of ownership, subject to the content of this ordinance and future policy as may be determined by the Aynor Town Council.

(l) No transfer or assignment of any plot, or interest therein, shall be valid. If the owner wishes to sell the lot, it may only be sold back to the Town of Aynor at the cost it was originally purchased.

Sec. 9-06 Care of Grounds.

(a) The planting by the public of any type bush, tree, flower, shrub or any other plant is strictly prohibited

(b) The Aynor Town Council reserves the right to remove any and all flowers, potted plants, artificial flowers, wreaths or baskets of flowers when deemed in the best interest of maintaining the Aynor Cemetery.

(c) The Town of Aynor reserves the right to remove all flowers, potted plants, artificial flowers, wreaths or baskets of flowers when they become withered, faded or for any other reason. All flowers shall be placed in an appropriate vase or urn. Artificial flowers must be removed and renewed periodically. All urns or vases shall be removed from a lot if they are showing significant signs of deterioration or are causing problems in mowing. The Town of Aynor is ordered to make such removals when it is in the best interest of the cemetery.

(d) The Town of Aynor will remove any loose object or ornamentation that presents a hazard for the cemetery workers or the public due to the potential for becoming entangled in maintenance equipment and or being projected by the equipment. Ornamentation objects of glass, ceramics, cement, rock or metal. Examples include, glass vases, picture frames with glass, ceramic or glass angels, lambs, etc., metal objects, lanterns, or solar crosses. If removed by the Town of Aynor, such items will be stored for one (1) month and then disposed of.

(e) Temporary ornamentation, flowers and wreaths, accompanying a funeral service may be left on the surface of the grave for a period of up to ten (10) days after the funeral

(f) Holiday decorations are permitted in the cemetery. They must be removed within 30 days after the holiday. Decorations not removed within the specified time shall be removed and disposed of by the Town of Aynor. No notice will be given before the removal of said decorations.

(g) The cemetery is not responsible for the loss of any plantings or decorations by any cause whatsoever

Sec. 9-07 THRU 9-19 Reserved

ARTICLE II. MONUMENTS

Sec. 9-20 Monuments.

The Town of Aynor or the Cemetery Committee must be notified when a monument is to be placed in the cemetery and said monument must conform to all requirements of the Aynor Cemetery.

Sec. 9-21 Family Monuments.

All family monuments must be approved by the Mayor, or Cemetery Committee or the Aynor Town Council prior to being placed in the Town of Aynor Cemetery. To avoid the appearance of congestion,

only one central or family memorial can be placed on a family lot. All other markers are to be placed flush with the grass. No slabs, or ledgers shall be placed over the graves.

Sec. 9-22 Size of Monuments.

The base of the monument on a one grave plot must not exceed 3 feet in length and on a double grave site shall not exceed 6 feet in length. The base of a monument for plots containing more than two (2) grave sites shall not exceed sixty-five (65%) of the grave space.

Sec. 9-23 Foot marker.

Each grave site shall be identified by a permanent foot marker at least 24 inches by 12 inches (24"x12") in size. Permanent foot markers shall be constructed of the same material as specified for permanent headstone markers, and said foot markers shall be placed at the grave site within ninety (90) days following burial.

Sec. 9-24 Foundation.

(a) Monuments are to have a prepared foundation with 2 inch finished concrete around the base, flush with the ground. The foundation is to be on a line with the lot, if set at the back of the lot. When the monument goes in the center of the lot it must be centered. The foundation to be at least six inches thick with a minimum of three twenty four (24") inch deep concrete pylons on a two grave plot. A one grave plot must have a minimum of two twenty four inch (24") deep pylons. Monuments longer than six feet will have an additional pylon for each three feet of length.

(b) Nothing except appropriate flowers may be placed on the monument or around the base of the monument once it is placed in the Cemetery. The Town of Aynor will remove unauthorized items. Monuments and markers must be of good granite, marble or bronze, free from defects.

(c) Any loose object or ornamentation placed on a monument that presents a hazard for the cemetery workers or the public due to the potential for becoming entangled in maintenance equipment and or being projected by the equipment. Ornamentation objects of glass, ceramics, cement, rock or metal. Examples include, glass vases, picture frames with glass, ceramic or glass angels, lambs, etc. metal objects, lanterns or solar crosses. If removed by the Town of Aynor, such items will be stored for one (1) month and then disposed of.

(d) Double headstones or markers are allowed on two grave lots and can be used on other plots as long as the monument goes in the center of the plot. No other upright monument will be allowed on a plot. All other graves on the plot to be marked by flush markers.

(e) If a monument is not placed properly in the cemetery or is unsightly, the contractor shall be required to correct the situation. If this is not done the Town of Aynor has the right to make the correction or adjustment and bill the plot owner for it. The contractor shall have 60 days to correct such work.

(f) No permanent corner post are to be moved and no corner post are to be placed in the old section of the cemetery by the lot owner, except with the permission of the Town of Aynor or the Cemetery Committee. No corner post will be placed in the new section of the Aynor Cemetery.

(g) No coping, fences or any enclosure is allowed. No rock or stone is to be placed on the gravesite

(h) The cemetery is not responsible for any damage to memorials, which may occur by any cause whatsoever.

Sec. 9-25 Mausoleums.

The Town of Aynor will no longer allow the placement of mausoleums in the Aynor Cemetery.
Exception: The one mausoleum already placed in the Aynor Cemetery shall remain.

Sec. 9-26 Cremated Remains.

(a) Interment of cremated human remains: A limited number of gravesites shall be made available to the public of interment of cremated human remains. For purposes of this type of burial only, a single gravesite may, in the purchaser's discretion, be divided into two plots for the interment of two (2) separate urns containing cremated human remains. It is specifically noted that no more than two (2) urns shall be placed in one (1) full-size gravesite.

(b) A \$300.00 opening fee shall be charged for the opening and closing of the gravesite for each interment of cremated human remains.

(c) Each gravesite used for purposes within this section of the Ordinance shall be lined or filled with a vault approved by a certified crematorium prior to the interment of the urn containing cremated human remains

(d) Urns used for interment of cremated human remains as anticipated in this section of the Ordinance shall be approved by a certified crematorium for the purposes stated herein

(e) Cremation Interment Container means the outer container must be a rigid container composed of concrete, steel, bronze, fiberglass or some similar material in which an urn is placed before being interred in the ground and which is designed to withstand prolonged exposure to the elements and to support the earth about the urn.

(f) Scattering area: The Southwest corner of the Aynor Cemetery, more specifically plots 53, 54 and 55 of the Aynor Cemetery shall be the scattering area for cremated remains, which have been removed from their container, may be mixed or placed on top of the soil or ground cover.

(g) A \$300.00 scattering fee shall be charged for the scattering of cremated remains.

CHAPTER 10

TRAFFIC AND MOTOR VEHICLES

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TRAFFIC AND MOTOR VEHICLES

ARTICLE I. GENERAL

Sec. 10-01 Traffic Laws of the State of South Carolina.

All the provisions and requirements of the general law of South Carolina in regard to motor vehicles and traffic, insofar as such provisions can have application within the town are hereby adopted and made a part of this ordinance as fully as through set out verbatim herein.

Sec. 10-02 Speed Limit.

The speed limits within the town shall be as posted.

Sec. 10-03 Bicycle Lights.

Every bicycle operating in the Town of Aynor at night shall be equipped with a lamp on the front exhibiting a white light visible from a distance of five hundred (500) feet to the front and with a lamp to the rear exhibiting a red light visible from a distance of at least five hundred (500) feet to the rear except that a red reflector meeting the requirements of this section may be used in lieu of a red light.

Sec. 10-04 Penalty for Violation.

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 10-05 THRU 10-19 Reserved

ARTICLE II. PARKING

Sec. 10-20 Banning Parking on Motor Vehicles on Private Property.

(Ord. No. 13, 10/9/1978)

(a) The parking of motor vehicles on private property within the municipal boundaries of the Town of Aynor, unless prior written consent of the owner of the property has been given to allow the said person to park his vehicle on said owner's property.

This ordinance shall be in effect so long as the property owner posts his property with no parking signs.

(b) Violation of this ordinance shall be punishable by a fine of not more than \$50.00 and/or 30 days at public works.

Sec. 10-21 8th Ave Parking Spaces.

(Ord. No.36, 6/9/1986)

(a) A number of marked parking spaces, not to exceed one-half of the total spaces, located on the west side of 8th avenue between North Main Street and South Main Street will be designated as 2 hours parking spaces between the hours 7:00 a.m. to 5:00 p.m.

(b) The Chief of Police will erect signs marking these spaces as 2 hours parking only, between the hours 7:00 a.m. and 5:00 p.m.

(c) Any vehicle parked in these designated spaces for more than 2 hours during the period from 7:00 a.m. to 5:00 p.m. shall subject the owner/driver to a fine not to exceed one-hundred dollars (\$100.00) or imprisonment not to exceed thirty (30) days for each separate offense and subject the vehicle to be towed away at the owner's expense.

Sec. 10-22 THRU 10-29 Reserved

ARTICLE III. TOWING

Sec. 10-30 Wrecker Service Rotation List.

(Ord. No. 34, 6/9/1986)

(a) A list of wrecker services interested in such rotation upon request will be provided at all times by the Aynor Dispatcher/Jailers

(b) Acceptance to such list shall be decided by the Aynor Town Council.

(c) A business License must be obtained

(d) The list shall be for the sole benefit of the Polic3 Department

(e) A reasonable amount of time will be given to each wrecker service and when not feasible the next on rotation shall be called

(f) A wrecker service eligible for rotation shall possess and use a storage yard and shall be within one (1) mile of the town limits of Aynor and shall provide 24 hour wrecker service.

CHAPTER 11

STREETS, SIDEWALKS, PARKS AND TREES

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STREETS, SIDEWALKS, PARKS AND TREES

ARTICLE I. PROTECTION OF STREETS AND SIDEWALKS

Sec. 11-01 Survey of Street Line Prerequisite to Fence.

No person shall build any fence along the line of a street before having the line of such street surveyed by a surveyor or civil engineer and approved by the Town council.

Sec. 11-02 Encroachment Upon Street by Fence.

No person shall build any fence that encroaches upon any street of the town.

Sec. 11-03 Protection of Sidewalks when Crossing with Vehicles.

No person shall pass over in passing to or from a lot to the street any sidewalk of the town with a vehicle of any kind unless the sidewalk is protected by an inclined plane expending from the edge of the walk to the level of the street and/or lot below.

Sec. 11-04 Approval of Council as Prerequisite to Sign.

No person, shall erect, construct or paint any sign or advertisement on any of the streets or other property, within the corporate limits of the town unless the same be first approved by the council.

Sec. 11-05 Meddling or Interfering with Street.

No person shall render traveling or the passage of vehicles dangerous or difficult by meddling or interfering with the street.

Sec. 11-06 Obstruction in Street.

No person shall place any obstruction in the streets of the town.

Sec. 11-07 Penalty for Violation.

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 11-08 THRU 11-19 Reserved

ARTICLE II. CLEANLINESS OF SIDEWALKS

Sec. 11-20 Abutting Owners must Keep Sidewalks Clean.

It shall be and is hereby made the duty of the occupant of every building and the owner of every vacant lot abutting on a sidewalk in the Town of Aynor to keep and maintain such sidewalk to the curb line thereof in a clean and proper condition, and free from trash, rubbish, and unsightly grass and weeds.

Sec. 11-21 Responsibility of Tenants to Keep Sidewalks Clean.

Wherever any building abutting on any such sidewalk is divided into several apartments, offices or other divisions, and so occupied by more than one tenant or occupant, the duty and responsibility for the maintenance of the sidewalk on which such building abuts shall devolve upon each and every tenant occupying the said building or any part thereof jointly and severally.

Sec. 11-22 Notification and Penalties for not Cleaning.

When any sidewalk or portion thereof shall appear to be in a dirty or improper condition or shall appear unsightly by reason of trash, rubbish, grass or weeds being thereon, it shall be the duty of the chief of police to notify the occupant of the building or buildings or owner of a vacant lot abutting on such sidewalk or portion thereof, or in case of building, divided into offices, apartments, or tenants to notify anyone other than one of the tenants or occupants of such building or any part thereof of the condition of such sidewalk and unless within five (5) days after such notification such occupant or owner shall cause such trash, rubbish or weeds to be cut and the sidewalk put in a clean and proper condition, such occupant or owner shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be required to pay a fine of not less than twenty-five (\$25) dollars or be imprisoned for not more than ten (10.) days.

Sec. 11-23 Flowers and Lawn Grass Permitted.

The occupant of any building or portion thereof, or the owner of a vacant lot which abuts on any sidewalk shall have the right to put flowers or lawn grass in any unpaved portion of the sidewalk on which the building or lot abuts, and any person who shall willfully or wantonly destroy or remove such flowers or lawn grass so planted shall be liable to a fine not to exceed one hundred (\$100) dollars or imprisonment not to exceed thirty (30) days, provided, however, that such flowers or lawn grass shall not be planted or maintained so as to interfere with or restrict the ordinary and customary use of the said sidewalk by pedestrians.

Sec. 11-24 THRU 11-39 Reserved

ARTICLE III. TREES ON PUBLIC PROPERTY

Sec. 11-40 Destruction and Injury of Trees Prohibited.

Any person or persons who shall willfully break down, destroy, injure, mutilate or remove any tree or trees already planted or hereafter to be planted, or any of the boxes which shall or may encompass them or shall walk upon or injure any grass plots, planted by the Town of Aynor in its parks, in any street, land, alley or open Court within the said Town of Aynor, for each and every such offense, be subject to a penalty of not exceeding one hundred (\$100) dollars, or imprisonment not exceeding thirty days (30); and in case said trees or boxes shall be injured or mutilated by teams, horses or motor vehicles, the owner or drivers of such teams, horses, or motor vehicles, shall for each and every offense be subject to a penalty of not exceeding one hundred (\$100) dollars, or imprisonment not exceeding thirty (30) days; and it shall not be lawful to cut away the limbs or branches of any tree or trees already planted, or hereinafter to be planted, for the purpose of erecting posts or suspending wires for electric lights, telegraph or telephone, or fire alarm service without the express permission, in writing, of the town council of the Town of Aynor, under a penalty of one hundred (\$100) dollars or imprisonment not exceeding thirty (30) days for each and every offense and violation of this section.

CHAPTER 12
RESERVED

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State law reference—

Cross references:

TAXATION

ARTICLE I. ASSESSMENT OF PROPERTY

Sec. 13-01 Assessment.

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

Sec. 13-02 Tax Books.

It shall be the duty of the town clerk under the direction and supervision of the town council, to copy and make up the town tax books there from. The books so made shall constitute the assessment for the purpose of taxation by the town.

Sec. 13-03 Property Subject to Taxation.

All property real and personal, within the corporate limits of the town shall be subject to taxation by the town.

Sec. 13-04 THRU 13-9 Reserved

ARTICLE II. PROPERTY TAX LEVY

Sec. 13-10 Uniformity.

All taxes levied shall be uniform in respect to persons and property within the jurisdiction of the town.

Sec. 13-11 Annual Tax Levy.

The council shall impose by ordinance an annual tax at such rate in its discretion as will yield an amount necessary for the general purposes of the town not exceeding the limit permitted by law, exclusive of any tax levied with respect to any outstanding bond issues. Such tax shall be levied by the council on the property within the corporate limits of the town as assessed for taxation for county and state purposes as heretofore provided in this ordinance.

Sec. 13-12 Annual Tax for Payment of Interest on Bonds, Sinking Fund.

In addition to the annual tax, the council shall have the right to levy such further annual tax as may be necessary to pay the interest on all outstanding bonds issued by the town and to create the necessary sinking funds for the redemption of said bonds at their respective maturities.

Sec. 13-13 When Taxes Due and Payable; to Whom Paid.

Any person owning or possessing taxable property within the town as of January 1 of every calendar year shall be subject to taxation for the ensuing year; such tax to be payable to the town between the period of September 15th through December 31st.

Sec. 13-14 Public Notice.

It shall be the duty of the town clerk to publish in the local newspapers the amount of the millage imposed by council for purposes to taxation for the ensuing year, such notice to appear thirty (30) days prior to the date taxes are due for collection. In addition, the clerk shall post the following notice on the town bulletin board and in several conspicuous places within the town: "TAX NOTICE, The clerk's office located in town hall will be open on September 15th through December 31st inclusive, for the collection of taxes due the Town of Aynor, S C. After December 31st the following penalties will be added: January (2.7%), February (4.7%), March (6%), April 1st thru the 15th (10%); After April 15th and extra (5) % plus \$3.00. Office hours 9:00 A.M. to 5:00 P.M. daily."

Sec. 13-15 Notification to Taxpayer of Taxes.

The town clerk shall notify each taxpayer by mail of the amount and due date of taxes.

Sec. 13-16 THRU 13-29 Reserved

ARTICLE III. DELINQUENT TAX PROCEDURE

Sec. 13-30 Penalty for Nonpayment of Taxes.

All taxes not paid by the 31st day of December shall be delinquent and the following penalties will be added: After December 31st the following penalties will be added: January (2.7%), February (4.7%), March (6%), April 1st thru the 15th (10%); After April 15th and extra (5)% plus \$3.00. Office hours 9:00 A.M. to 5:00 P.M. daily."

Sec. 13-31 Execution for Delinquent Taxes.

If the taxes and penalties are not paid on the 31st day of December of the following year, the clerk or other authorized official shall issue in the Name of the town an execution, in duplicate, signed by the clerk or duly authorized official, directed to the chief of police of the town requiring and commanding him to levy the same by distress and sale of so much of the defaulting taxpayer's estate, real, personal or both, as may be sufficient to satisfy the municipal taxes with the penalties thereon of such defaulters, and shall specify the aggregate amount of taxes and penalties.

Sec. 13-32 Lien.

Taxes so levied and the penalties for nonpayment shall constitute a lien upon the property on which the said tax is levied.

Sec. 13-33 Fees and Charges for Such Execution.

The tax collector or clerk and the chief of Police shall be allowed the same fees and costs in the enforcement of such executions and For sales there under as are allowed to the county tax collector and sheriff respectfully. These costs and fees shall be enforceable and collectible in the same manner as fees and costs under county and state executions, and on sales there under; provided such fees shall be paid to the Town of Aynor.

Sec. 13-34 Levy of Executions.

Under such execution, the chief of police shall seize and take exclusive possession of as much of the defaulting taxpayer's estate, real or personal or both, as may be necessary to raise the sum of money named therein, and said charges thereon.

Sec. 13-35 Suspension of Sale Upon Claim of Previous Payment or Unjust Assessment of Taxes.

In case the defaulting taxpayer, after levy of execution, shall allege that the taxes have been paid or are unjustly assessed against him, he can and may have such sale suspended provided that before the sale he satisfies the chief of police that he has paid all taxes in the arrears accompanied with his affidavit that such taxes have been paid, or are unjustly assessed against him, and within twenty (20) days thereafter take such steps as are provided and within this ordinance for correction of unjust assessment, or to prove payment, and prosecute the same to a successful result within a reasonable time.

Sec. 13-36 Presumption From Failure to Raise Such Claim of Previous Payment of Unjust Assessment.

In case the defaulting taxpayer, after the levy of the execution, makes no payment and files no affidavit, as herein provided, he shall be deemed in law to have waived all exception to possible omission, errors or irregularities in the assessment of the tax and in all preliminaries to the sale as prescribed by law, and to have admitted that all preliminary steps to the assessment and sale, and the assessment and sale are in accordance with requirements of the law.

Sec. 13-37 Advertisement of Tax Sale.

The chief of police shall give notice of and advertise all sales made by him under the provisions of this ordinance in the same manner as tax sales by sheriffs are required by law to be noticed and advertised, and according to the usage and custom in such cases.

Sec. 13-38 Conduct of Such Sale.

After such advertisement, the chief of police shall sell the property levied upon at public outcry before the entrance to the town hall in the Town of Aynor at such time as may be determined and stated in notice and advertisement of sale.

Sec. 13-39 Receipt and Duplicate Warrant Given to Purchaser.

Upon compliance by the purchaser with the terms of the sale the chief of police shall give to such purchaser a receipt for the purchase money and shall annex such receipt to the duplicate execution. The chief of police shall endorse such duplicate execution with a statement of his actions there under.

Sec. 13-40 Purchase of Land at Tax Sale by Town.

In case there no bid equal in amount to the taxes named in the execution, in addition to any taxes due to the state and county on such property, the corporation buy counsel shall buy the land for the town, as the actual purchaser thereof, for the amount of such taxes and penalties, costs and charges, and the chief of police shall issue his receipt, and if not redeemed, thereafter execute title, to the town, as to any other purchaser, and in the manner above provided, and shall put it or its authorized agent i n possession of the premises, The land so sold and purchased and delivered to the town shall be treated by it as assets of the town and be sold at such times and in such manner as by it shall be deemed most advantageous to it.

Sec. 13-41 Disposition of Proceeds of Sale.

After deducting from the proceeds of the sale, the costs and expenses thereof, the chief of police shall pay over the remainder to the clerk who shall apply it to the payment of taxes due from the defaulting taxpayer, and retain the balance, if any, for disposition according to law.

Sec. 13-42 Redemption.

The owner, his successor in title, or any mortgage creditor may within one year from the day of such sale redeem such property by paying to the chief of police the taxes, penalties, cost and expenses of the sale, together with seven (7) percent interest of the whole amount of the purchase price of the land so sold. Thereupon the chief of police shall refund to the purchaser the amount paid on his bid with interest above stated. The bid by the purchaser shall be then canceled. The owner or his successor in title shall remain in possession of his land. Should any mortgagee redeem land as above permitted, then the amount so paid by him for taxes, charges, costs and penalties, shall be added to the mortgage debt or other lien, with same incidents as to priority and with same rate of interest and collectible in the same way as the original mortgage debt.

Sec. 13-43 Waste During Redemption Period.

In the event waste or damage to the premises is threatened by the owner or any other party during the redemption period, the purchaser at a tax sale may apply to the Court of Common Pleas, or other court of competent jurisdiction, or a judge thereof for an injunction against such waste and for the appointment of a receiver to take charge of the property.

Sec. 13-44 Title to Purchaser Upon Failure to Redeem.

The chief of police shall not make title to the purchaser until the expiration of the redemption period. Upon failure of defaulting taxpayer or other party interested to redeem said land so sold for taxes within

one year as stated; the chief of police shall make title to the purchaser and put the purchaser in possession of the property sold and conveyed.

Sec. 13-45 Chief of Police's Bond to Cover Money Collected by Him Pursuant to Executions.

The town shall be protected by the official bond of the chief of police for the proper collection and payment by him to the clerk of all moneys received by him pursuant to executions delivered to him.

Sec. 13-46 Responsibility of Chief of Police for Execution and Collection.

The chief of police shall be responsible for all executions delivered to him and for all funds realized there under. He shall keep a proper account thereof.

Sec. 13-47 Proceedings Before Town Council for Relief of Taxpayer.

The town council shall hear and determine, upon satisfactory proof, the petition of any taxpayer praying relief for any cause, and especially on the ground that all taxes due upon the property have been paid or that portions of such taxes have been paid, and an offer to pay the balance, accompanied by the sum admitted to be owing. The council shall grant such relief in the premises as may be just.

Sec. 13-48 THRU 13-69 Reserved

ARTICLE IV. HOSPITALITY FEE

Sec. 13-70 Authority.

This chapter is enacted pursuant to the authority of Title 5, Code of Laws of South Carolina (1976), including without limitation, S.C. Code Ann. Section 5-7-10 (Supp. 1992) and S.C. Code Ann. Section 5-7-30 (Supp. 1992), which provide, in relevant part, that municipalities may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the municipality and further provide that municipalities may establish uniform service charges.

Sec. 13-71 Declaration of Purpose and Intent.

This Article is enacted to preserve the general health, safety and welfare of the general public within the Town of Aynor, South Carolina, by creating a uniform fee, to establish a fund. to pay, in whole or in part, for the current and future preservation and maintenance of public facilities related to the use of the Town; public transportation improvements such as street construction, storm drainage, right-of-way acquisitions, median and right-of-way enhancements and landscaping, walkways and bikeways; public park facilities; public parking; equipment necessary for the provision of police, fire and other public safety activities; and for the costs associated with the promotion and marketing of the Town of Aynor.

Sec. 13-72 Hospitality Fee.

A uniform fee equal to two percent (2%) is hereby imposed on all gross proceeds derived from:

(a) The rental or charges for any room(s), campground space(s), lodging(s) or sleeping accommodation(s) furnished to transients by any hotel, inn, tourist court, tourist camp, residence, motel, campground or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. This fee shall not apply if the facility consists of less than six (6) sleeping rooms contained in a single building if the building is used as the owner's primary place of abode. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety (90) continuous days are not considered proceeds from transients. The fee imposed by this subsection (1) shall not apply to additional guest charges as that term is defined in S.C. Code Ann. Section 12-36-920(B).

(b) The sale of all food and beverages served by a restaurant, hotel, motel or other food service facility within the Town of Aynor. In addition, the fee shall be imposed for all food and beverages prepared or modified by convenience stores or grocery stores within the Town of Aynor.

(c) Paid admissions to places of amusement within the Town of Aynor. Provided, however, that those places of admission which are specifically exempted from payment of the state license tax on admissions established in S.C. Code Ann. Section 12-21-2420 shall also be exempt from this hospitality fee.

Sec. 13-73 Payment of Fee.

(a) Payment of the fee established herein shall be the responsibility of the consumer of the services or products described in Section 20.38. The fee shall be paid at the time of delivery of the services or products to which the fee applies and shall be collected by the provider or seller of the services or products.

(b) The fees collected by the seller or provider of the services or products as required under Section shall be remitted to the Town of Aynor on a monthly basis along with such return or form as may be established by the Town for such purpose.

(c) Fees and required reports shall be submitted to the Town of Aynor by the twentieth (20th) day of the month and shall cover sales of the previous month. All fees not timely remitted shall be subject to a penalty of ten percent (10%). The Town's failure to collect the fee imposed by this Article shall not relieve any establishment subject to the Article from making the required remittance.

(d) Upon request from any person required to collect and remit the fees established herein, that person shall be allowed to remit fees every twenty-eight (28) days instead of monthly if that person submits sales tax returns to the State of South Carolina on a twenty-eight (28) day schedule. In such case, the twenty-eight (28) day period shall be the same as the period used for the state tax return, and remittances shall be submitted to the Town within twenty (20) days following the period covered by the return.

(e) Notwithstanding the provisions of (3) and (4) above, when the total tax for which any person is liable under this Ordinance does not exceed one hundred dollars (\$100) for any month, a quarterly remittance may be made on the twentieth (20th) day of the month following the end of the quarter for which the 'tax is due. Such quarterly payments shall only be authorized if the provider also submits sales tax returns to the State of South Carolina on a quarterly basis.

(f) Any provider violating any provision of this Article shall be deemed guilty of an offense and shall be punished by a fee of not more than Five Hundred and No/100 Dollars (\$500.00) or by imprisonment for not more than thirty (30) days, or both. Court costs, attorney's fees, and/or state assessments will be collected in addition to each fine. Each day a violation of this Ordinance continues shall constitute a separate offense.

Sec. 13-74 Hospitality Fee Account.

The revenue account, which is to be known as the Town of Aynor Hospitality Fee Account, shall be established and all revenues received from the hospitality tax shall be deposited into this account. The principal and any accrued interest from the account shall be used only as allowed in Section 20.41 below.

Sec. 13-75 Permitted Use of Funds.

The Town Council of Aynor, South Carolina, is hereby authorized to utilize the funds collected from the imposition of the hospitality fee for the following purposes:

(a) Capital improvements to the Town's public facilities such as its parks, public parking, public access and restrooms. This listing is for example only, and is not to be construed as a limitation on possible capital improvements.

(b) Transportation improvements including construction and resurfacing of streets, stormwater drainage, sidewalks, bikeways, landscaping, and all related costs including right-of-way acquisition and engineering design.

(c) Acquisition of property and construction of passive and/or active parks, including related facilities such as playground equipment, sports facilities and community recreation buildings.

(d) Acquisition of property and construction of facilities for police and fire services; acquisition of capital equipment to provide police, fire and other public safety services.

(e) Payment of bonded indebtedness required to provide the services and uses referenced above.

(f) Costs associated with promoting and marketing the Town of Aynor.

(g) Administrative costs associated with collecting, accounting for and applying the hospitality fees.

Sec. 13-76 Authorization to Use.

Authorization to utilize revenues from the hospitality fee account shall be through the annual budget adopted by the Town Council of Aynor, South Carolina.

Sec. 13-77 Effective Date.

This article shall become effective July 1, 2019

Sec. 13-78 Severability.

If any word, phrase, sentence, section or portion of this Article is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, then such word, phrase, sentence, section or portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining words, phrases, sentences, sections or portions thereof.

If any word, phrase, sentence, section or portion of this Article is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, then such word, phrase, sentence, section or portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining words, phrases, sentences, sections or portions thereof.

CHAPTER 14
RESERVED

CHAPTER 15

HEALTH, SANITATION & NUISANCES

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HEALTH, SANITATION & NUISANCES

ARTICLE I. GARBAGE COLLECTION

Sec. 15-01 Definitions.

Garbage. Includes all animals, fruit and other vegetable matter and all organic refuse resulting from the preparation of food, This is to include any cartons, cans, bottles, or other containers which may causes fly breeding or draw flies and other insects.

Trash. Include grass, ashes, metal ware, broken glass, crockery, stoneware and all other non-perishable wastes. It shall be unlawful to put out any hot ashes or live coals.

Sec. 15-02 Type of Garbage Container Required.

All garbage shall be placed in town approved roll-out carts. Each single family residence which is occupied or has the water turned on must possess a town approved cart. They shall be set out adjacent to the street and accessible to the driver or pick-up man on the collecting vehicle, garbage or trash container shall be left on the street after collection has been made.

Sec. 15-03 Bulk Container.

Bulk containers are authorized per the specifications as set forth by the Town. Distributors of bulk containers who wish to sell or lease such containers in the Town are subject to approval of the Town.

Sec. 15-04 Defective Container.

Any garbage or trash container which becomes worn out, rusted or destroyed to the extent that it will no longer satisfactorily hold the refuse, or if the container becomes hazardous to the hands of the collectors or pick-up man by reason of sharp edges, it shall be the duty of the driver of the garbage or trash truck to report the same to the clerk of the Town of Aynor.

Sec. 15-05 Collection of Garbage and Trash.

Garbage and trash shall be collected according to the schedule established by Mayor and Council. Property owners and tenants will be notified of such schedule by public notice.

Sec. 15-06 Uniform Garbage Fee.

- (a) Each residence and business establishment shall be required to pay a garbage fee on a monthly basis within the corporate town limits.
- (b) The fee shall be determined by Mayor and Council and shall be set in equal amounts for all residences or business establishments.
- (c) The fees shall be billed along with regular water billing and may not be separated.

Sec. 15-07 Building Waste.

Building waste from construction or repair will not be hauled by the garbage and trash collectors.

Sec. 15-08 Abnormal Collection.

Normal seasonal yard trimmings and pruning's in reasonable quantities will be removed by the town. Abnormal quantities of trimmings or any lot clearing, tree removals or stumps shall be transported to the dump by the owner or contractor. In doubtful cases, prior agreement shall be worked out with the Town.

Sec. 15-09 Notice.

Whenever and wherever a condition shall exist which, in the opinion of the enforcement officer having jurisdiction over the area, or his authorized representative, constitutes a public health nuisance, it shall be his duty to notify in writing the person or persons, firm or corporation, responsible for its continuances, of the character of the public health nuisance and give the person, persons, firm or corporation a reasonable length of time to abate it. However, whenever and wherever a nuisance is of a character as to require, in the interest of the public health, immediate abatement or discontinuance, the local health director may bring a preceding for immediate action in the court of the county in which the nuisance exists for the abatement of such nuisance and the court may upon hearing and for good cause enjoin the continuance of the condition creating the nuisance, irrespective of all other remedies at law.

Sec. 15-10 Penalty.

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4

Sec. 15- 11 THRU 15-19 Reserved

ARTICLE II. LITTERING

Sec. 15-20 Littering.

No person or persons shall throw or cause to be thrown any waste paper, paper bag, drinking cup or other garbage on the street, highways or sidewalks of the Town of Aynor.

(Ord. No. 64)

Sec. 15- 21 THRU 15-29 Reserved

ARTICLE III. LOT MAINTENANCE

Sec. 15-30 Cars and Maintenance of Lots.

All property owners within the corporate limits of the Town of Aynor are required to keep all lots, both vacant and occupied lots, in a clean and sanitary condition; they are required to keep weeds, trash, garbage, brush, paper, glass, undergrowth and other residue from collection on such lots, in order to promote the health of the citizens of the Town of Aynor.

Sec. 15-31 Notice to Owners.

In the event a property owner failing to comply with the provisions of this ordinance then such property owner will be given a ten (10) day notice by the Police Chief of the Town of Aynor, and upon such property owner failing to clean up such lot or lots and the cost of such cleaning shall be charged to the owner or owners and the Chief of Police shall mail such charges to the owner or owners and demand immediate payment therefore along with a penalty of \$300.00 for each piece of property so cleaned.

Sec. 15-32 When Owner Refuses to Pay.

In case of refusal to pay by any property owner so notified and charged for such work, the chief of police shall turn over such uncollected accounts to the town clerk, who shall charge such delinquent payments to the name of the property owner and collect same when taxes are paid, Such uncollected payments shall constitute a lien on the property involved.

Sec. 15-33 Penalty.

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 15- 34 THRU 15-39 Reserved

ARTICLE IV. YARD DEBRIS

Sec. 15-40 Yard Trimmings.

Normal seasonal yard trimmings and/or pruning's in reasonable quantities will be removed by the Town. For purposes of this section, a reasonable quantity of debris would be no greater than six (6) feet by six (6) feet in diameter with a height of four (4) feet or less. Abnormal amounts of trimmings, along with any lot clearing, tree removal or stump removal, shall be removed and disposed of by the owner or contractor.

Sec. 15-41 Open Yard Burning.

Burning of leaves and limbs in reasonable quantities will be allowed unless a complaint is filed with the Town by a citizen who is allergic to smoke or where smoke inhalation would create a health hazard to

the general public. If a complaint is made to the Town by the persons referenced herein, the fire must be extinguished at that time. There shall be no burning of household waste.

Sec. 15- 42 THRU 15-49 Reserved

ARTICLE V. NUISANCES

Sec. 15-50 Enforcement.

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

Sec. 15-51 Definitions.

- (a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - (1) Abate means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means, in such time, in such a manner, and to such an extent as the enforcement officer or hearing board shall determine to be in the best interest of the public, taking into account all facts and circumstances.
 - (2) Business days means Monday through Friday.
 - (3) Enforcement officer means a law enforcement officer, code enforcement official or city employee or official as may be designated in writing by the mayor or council to enforce the provisions of this article.
 - (4) Hearing board means a board consisting of five persons who shall conduct hearings to determine issues arising in connection with the enforcement of this article. Hearing board members shall be residents of the town who are appointed by the council to serve for overlapping terms of not less than three years nor more than four years or until their successors are appointed. Initial appointments shall be as follows: three members for a term of four years and two members for a term of three years. Any vacancy in membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the hearing board. No member of the hearing board shall hold any other public office or position in the town. A majority of the members of the hearing board shall constitute a quorum of the hearing board and the hearing board shall not conduct any hearing or decide any issue unless a quorum is present at the meeting of the hearing board. A member of the hearing board shall not participate in any hearing or decision that involves property of the member or his/her immediate family. The town council may remove any member of the hearing board for cause.
 - (5) Owner means any person who has legal or equitable title to property.
 - (6) Person means any natural person, property owner, property manager, landlord, tenant, group, association, business corporation, nonprofit corporation, partnership, limited partnership,

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

- (7) Premises means any building, lot, parcel, real estate, or land or portion of land, whether improved or unimproved, occupied or unoccupied, including adjacent parking.
- (8) Public nuisance means each condition declared to be a public nuisance pursuant to the provisions of sections 15-52 thru 15-56. Public nuisance also means those conditions or events which an enforcement officer determines to be an unreasonable interference with the rights of the public in general, based upon facts and circumstances established after a reasonable inquiry or investigation or upon citizen report, and where, in a public place, or where the public congregates, or where the public is likely to come within the range of influence through the senses, a person unlawfully does an act or omits to perform a duty, which act or omission does any one or more of the following:
 - (A) Injures, subverts or endangers the public's order, economy, resources, safety, health, welfare, comfort, or repose;
 - (B) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any waters or public places or way.
- (9) Structure means anything constructed, built, or planted upon real estate, including any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which structure requires location on the ground or is attached to something having a location on the ground.
- (a) For the purpose of this article, words used in the present tense shall be construed to include the future tense. Words in the masculine gender shall be construed to include the feminine and neuter gender. Likewise, words used in the feminine or neuter gender shall be construed to include the masculine gender. The singular number includes the plural and the plural number includes the singular.

Sec. 15-52 Nuisances affecting public health.

The following are hereby declared to be nuisances affecting public health:

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

- (e) The maintenance of any barn, stable, chicken yard or manure pile in such manner that the same is breeding place for flies or liable to become so if within 500 feet of a residence.
- (f) The deposit of garbage in anything but fly-proof and watertight receptacles, where residences are less than 500 feet apart.
- (g) The accumulation of water in which mosquito larvae may breed.
- (h) No house refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste of any kind shall be thrown upon any street, road, or public place; and no such refuse, putrescible or decaying animal or vegetable matter shall be kept in house, cellar, or adjoining outhouses or premises for more than forty-eight hours.

Sec. 15-53 Nuisances offending public decency, peace and order.

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

- (a) Any structure, whether commercial or residential, operated as a bawdy house, house of assignation, place of prostitution or used and maintained for the commercial or criminal purposes of unlawful sexual activity in violation of federal, state or local law;
- (b) Any structure, whether commercial or residential, where acts of sale, possession or distribution of controlled substances occur in violation of federal, state or local law;
- (c) Any structure where breaches of the peace, disorderly conduct or offenses against the person found in S.C. Code 1976, § 16-5-10 et seq., occur with such disproportionate frequency when compared to frequency of law enforcement action required at other similarly situated structures, or where the intensity of law enforcement response, when required, is disproportionate to the intensity of response required at other similarly situated structures. After notice of the continuing nature of the nuisance and specific identification of the facts and circumstances that generate, enable or contribute to the nuisance, the owner, lessee, renter, management or the person in control may be held responsible for the maintenance of a public nuisance and the structure declared a public nuisance.

Sec. 15-54 Nuisances affecting public welfare and safety.

The following are hereby declared to be public nuisances affecting public welfare and safety:

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

- (b) All trees, hedges, signs or other obstructions or any portion of the same, so located on private property which interfere with or prevent persons from driving vehicles on the streets adjacent to such obstruction;
- (c) All trees, hedges, signs or other obstructions or any portion of the same so located on private property which prevents the clear and unobstructed view of a fire hydrant, fire department connection, or other fire protection device, or directional or identification signage pertaining to a fire hydrant, fire department connection, or other fire protection device from a public way;
- (d) Any motor vehicle that is unregistered, inoperable, derelict or abandoned on any highway or right-of-way, or other public or private property, unless such vehicle is stored inside of a building or protected from the elements by way of a complete covering.
- (e) The maintaining or carrying on or manufacture of chemicals, or any other trade or manufacture in such manner as to be menace to the public health through improper or inadequate disposal of dust, wastes, or fumes.

Sec. 15-55 Nuisances affecting public economy.

The following are hereby declared to be public nuisances affecting the public economy:

- (a) All structures which remain unoccupied and boarded up for a period in excess of one month, and whose exterior finish is destroyed, decayed, dilapidated or deteriorated in violation of the International Property Maintenance Code, as adopted, provided however, that unoccupied structures shall not be considered a public nuisance affecting public economy if the building exterior is weather tight and maintained for purposes of appearance and security according to the International Property Maintenance Code, and the material which secures the building is compatible with the exterior in appearance, color, texture and design, and the premises are kept in compliance with all applicable building, property maintenance, zoning, and land use laws;
 - (b) All structures for which a building permit has been obtained and work has ceased for a period of 45 continuous days;
 - (c) All structures for which a building permit has been obtained and the certificate of occupancy has not been issued within 18 months of the date of issuance of the building permit;
 - (d) All premises continually not in compliance with applicable licensing, zoning and land use laws.
- (10) Any business serving the public or any industry shall at all times be properly policed and staffed so as to maintain a safe, sanitary, and tidy condition. Any such building, business, or industry shall at all times be properly ventilated, free from dust, vapors, and gases that might be detrimental to the public health; and free from obnoxious odors that are objectionable to the esthetic senses. All furniture and fixtures in such buildings used by patrons or employees shall be kept clean and in good repair at all times.

Sec. 15-56 Other nuisances.

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

Sec. 15-57 Reporting emergencies and emergency action.

Any person who directly observes a nuisance posing an emergency threat to the public health or safety or to the environment shall immediately report the incident to the town and shall provide any information requested by the enforcement officer needed to investigate or abate the potential emergency. If any nuisance exists in such a condition so menacing to the public health, peace or safety that it is necessary that it be summarily abated, the town enforcement officer, after consultation with and concurrence from the mayor and/or council, may proceed to abate the nuisance without a hearing.

Sec. 15-58 Nuisances prohibited and unlawful.

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

Sec. 15-59 Institution of criminal process and penalty.

Prior to commencing a proceeding to enforce the provisions of this article, an enforcement officer shall conduct a reasonable inquiry to gather facts or obtain a citizen report that sets forth facts that reasonably support the enforcement officer's determination of the existence of a public nuisance. Upon the enforcement officer's determination that a public nuisance exists, enforcement of this chapter's provisions may be accomplished by the institution of criminal process by way of uniform traffic ticket, municipal ordinance summons or warrant made by a law enforcement officer or appropriate government official. The violation constitutes a misdemeanor offense that is punishable by a fine up to \$500.00 and/or by imprisonment for a period of time up to 30 days. Each day of violation constitutes a separate misdemeanor offense that is punishable by a fine up to \$500.00 and/or by imprisonment for a period of thirty (30) days.

CHAPTER 16
RESERVED

CHAPTER 17 UTILITIES

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UTILITIES

ARTICLE I. SANITARY SEWER

(Ord. No. 41, 3/21/1998, Ord. No. 60, 1/20/1992, Ord. No. 60-A, 9/20/1999)

Sec. 17-01 Connection to Sanitary Sewer Required.

(a) It shall be the duty of every owner of occupied real estate which is located within 250 feet of any sewer collector line to make proper connections with such System within 90 days hereafter, or within 90 days after such System has been placed in service by the Town, as the case may be, and to utilize the System for the disposal of all sewage and other waste originating on the premises. The connections shall be forthwith made and for the purposes of the penal provisions herein, each day during which the building shall not be connected to the collector line shall be a separate offense and separately punishable.

(b) Any person desiring connection to the System or any service furnished by the Town shall make application to the Clerk of the Town (the Clerk). The application shall contain the applicant's name, address and the uses for which the service is desired.

(c) Within 90 days hereafter or within 90 days after the System has been placed in use, as the case may be, the Clerk shall notify the Mayor of the Town (the Mayor) and each member of the Town Council of the Town (the Council) of every owner of occupied real estate within the Town which has not made proper connection with the System. The Mayor and Council shall be responsible for collecting the penalties as hereinafter provided from such persons for each day for which such persons failed to connect to the System.

(d) The Town shall be entitled to recover from the owners, in any court of competent jurisdiction, all expenses for labor and materials employed or used in the connection of buildings to the System. The Council shall also have the right to have connections made and fixtures furnished for owners of occupied real estate who fail to make such connection and to collect all expenses for labor and materials employed or used in connection therewith.

(e) Any person who shall in the future become an owner of occupied real estate within the service area of the System as it exists at that time shall be required to make proper connection with the System within 90 days after becoming the owner of such occupied real estate. The Clerk shall notify the Mayor and the Council of any violations of this provision. The Mayor and the Council shall be responsible for enforcing the terms of this provision in accordance with the provisions as stated above.

(f) Owners of occupied real estate who fail to make connection with the System upon the terms as provided herein shall be subject to a penalty of up to \$200 per day for such time as they fail to make connection to the System. The Mayor and the Council shall be responsible for collecting such penalties.

Sec. 17-02 Unlawful Acts; Penalties for Violations.

(a) It shall be unlawful for any person to alter, change, deface, remove or otherwise tamper with or change any water meter, or to make any connection to the System without written permission, or to reconnect service when it has been discontinued for nonpayment of a bill for service, until such bill has been paid in full, including the re-connection fee.

(b) It shall be unlawful for any person to break, injure or destroy any ditch, culvert, sewer or gutter, to throw any dirt or other obstruction into these facilities, or to fill them up either totally or partially without approval of the Town.

(c) Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 17-03 Denial of Service.

Utility service shall not be furnished to any user or consumer who is in debt to the Town for any reason whatsoever, except for ad valorem taxes.

Sec. 17-04 THRU 17-19 Reserved

ARTICLE II. WATER WORKS

(Ord. No. 44, 44-A, 44-B, 46, 48Ord#58 8/27/1991 amended rates 12/16/1991)

Sec. 17-20 Purpose.

The management of the areas vital water resources and the healthy provision of potable water service depend upon a comprehensive coordinated water utility system with all property owners and users carrying their proportionate share of the cost of these facilities. Through a consolidated, well-coordinated planning and provision of these facilities and use by all of the property owners and residents, water will not only be used more efficiently but can be provided at a less expensive rate and is less damaging to the environment.

Sec. 17-21 Required Connections and Disconnections.

Every building within the Town limits and used as a residence, business, or other institution and which is situated on a parcel of land located within two hundred fifty (250) feet of any water main operated and maintained by Grand Strand Water & Sewer shall be connected thereto and shall utilize the same for water. Such water connection shall be made immediately. For the purpose of a penal provision, any connections not made following thirty (30) days written notification by the Town shall constitute a separate offense and punishable as a misdemeanor each day such building is not connected to said water system.

No person shall drill wells for new and/or existing buildings for the purpose of providing a domestic water supply. In addition, an existing well which is used for the purpose of providing potable water shall be metered if said building or other structure receives sewer service and does not lie within two hundred fifty (250) feet of any water main operated and maintained by Grand Strand Water & Sewer.

Any water well to be drilled for irrigation purpose only must first receive a permit from the Town Council. This permit may, at the discretion of the Town Council, be issued if the Town Council deems it is in the best interest of the Town and at a price to be determined by the Town Council.

Sec. 17- 22 THRU 17-29 Reserved

ARTICLE III. DROUGHT RESPONSE ORDINANCE

(Ord. No. 42, 9/21/1987)

Sec. 17-30 Declaration of Policy, Purpose, and Intent.

To achieve the greatest public benefit from domestic water use, sanitation, and fire protection and to provide water for other purposes in an equitable manner, the Town of Aynor adopts the following regulations and restrictions on the delivery and consumption of water.

This Ordinance is hereby declared necessary for the preservation of public health, safety, and welfare and shall take effect upon its adoption by the Town of Aynor.

Whenever, in the judgment of the governing body of Town of Aynor, it becomes necessary to conserve water in the service area, due to drought, the Town of Aynor is authorized to issue a Proclamation that existing drought conditions prevent fulfillment of the usual water-use demands. The Proclamation is an attempt to prevent depleting the water supply to the extent that water-use for human consumption, sanitation, fire protection, and other essential needs become endangered.

Immediately upon the issuance of such a Proclamation, regulations and restrictions set forth under this Ordinance shall become effective and remain in effect until the water shortage is terminated and the Proclamation rescinded.

Water uses, regulated or prohibited under this Ordinance, are considered to be non-essential and continuation of such uses during times of water shortage are deemed to constitute a waste of water, subjecting the offender(s) to penalties.

The provisions of this Ordinance shall apply to customers within the jurisdiction of the Town of Aynor.

Sec. 17-31 Definitions.

For the purposes of this Ordinance, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and waterfalls.

Commercial and industrial water use: water use integral to the production of goods and/or services by any establishment having financial profit as their primary aim.

Conservation: reduction in water use to prevent depletion or waste of the resource.

Customer: any person, company, or organization using water supplied by Grand Strand Water & Sewer with the Town Limits.

Domestic water use: water use for personal needs or for household purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Drought Alert Phases:

Moderate Drought: when the Palmer Index reaches the -1.50 to -2.99 range and moderate drought conditions have been verified by best available information, 2nd conditions indicate this situation is expected to persist.

Severe Drought: when the Palmer Index reaches the -3.00 to -3.99 range and severe drought conditions have been verified by best available information.

Extreme Drought: when the Palmer Index reaches or falls below -4.00 and extreme drought conditions are verified by best available information.

Drought Response Committee: a committee composed of state and local representatives, created for the purpose of coordinating responses to water shortages within drought management areas (see attachment) and making recommendations for action to the South Carolina Water Resources Commission and/or the Governor.

Essential water use: water used specifically for firefighting, maintaining flow requirements, and to satisfy federal, state, or local public health and safety requirements.

Even numbered address: street addresses, box numbers or rural route numbers ending in 0, 2, 4, 6, 8, or letters A-M; and locations without addresses.

Institutional water use: water used by government, public and private educational institutions, public medians and rights of way, churches and places of worship, water utilities, and other lands, buildings, and organizations within the public domain.

Landscape water use: water used to maintain gardens, trees, lawns, shrubs, flowers, athletic fields, rights of way and medians.

Odd numbered address: street addresses, box numbers or rural route, numbers ending in 1, 3, 5, 7, 9, or letters N-Z.

Palmer Index: a measure of the severity of a drought, or a wet spell, in an area. Dry conditions are associated with negative values, wet conditions with positive values, and normal conditions have a value of zero.

Water shortage: lack of adequate available water to meet normal demands due to lower than normal precipitation, reduced stream flows or soil moisture, and/or lowering of the potentiometric surface in wells which causes water supplies to be less than usual.

Sec. 17-32 Non-Essential Water Use.

Non-essential water use categories, other than essential water use, maybe curtailed during severe or extreme drought. Some examples of non-essential water uses follows:

(a) Residential and Institutional:

- (1) Washing down sidewalks, walkways, driveways, parking lots, tennis courts, or other hard surfaced areas.
- (2) Washing down buildings or structures for purposes other than immediate fire protection.
- (3) Flushing gutters or permitting water to run or accumulate in any gutter or street.
- (4) Washing any motor bike, motor vehicle, boat, trailer, airplane, or other vehicle in public or private garages or elsewhere.
- (5) Maintaining fountains, reflection ponds, and decorative water bodies for aesthetic or scenic purposes, except where necessary to support aquatic life.
- (6) Filling or maintaining public or private swimming pools.
- (7) Sprinkling lawns, plants, trees, and other flora on private or public property, except as otherwise provided under this Ordinance.

(b) Commercial and Industrial:

- (1) Serving water routinely in restaurants.
- (2) Increasing water levels in scenic and recreational ponds and lakes, except for the minimum amount required to support fish and wildlife.
- (3) Irrigating golf courses and any portion of its grounds, except as otherwise provided under this Ordinance.
- (4) Obtaining water from hydrants for construction purposes, fire drills, or for any purpose other than firefighting.
- (5) Serving customers who have been given a 10 day notice to repair one or more leaks and has failed to comply.
- (6) Expanding commercial nursery facilities, placing new irrigated agricultural land in production, or planting or landscaping when required by site design review process.

Sec. 17-33 Response to Moderate, Severe, and Extreme Drought Alert Phases.

Levels of drought, as set forth in the South Carolina Drought Response Act of 1985, are moderate, severe and extreme. Proclamations issued by the Town of Aynor shall coordinate an appropriate response to the level of drought which exists.

Proclamations setting forth responses to the various drought alert phases shall be made by the Town of Aynor and are to be based upon drought monitoring data, recommendations, declarations, and/or notifications supplied by the regional Drought Response Committee or the South Carolina Water Resources Commission.

(a) Moderate Drought Alert Phase: If conditions indicate that a moderate drought condition is present and is expected to persist, the Water Resources Commission shall activate the Drought Information Center and notify municipal and county governments in the affected drought areas by certified mail. The Commission will also issue press releases concerning the drought conditions to the news media.

(1) Goal:

(A) A fifteen percent voluntary water use reduction for agricultural, commercial, industrial, institutional, and electric power generation purposes.

(B) A thirty percent voluntary water use reduction for residential customers.

(2) General Responses:

(A) Issue a Public Notice of Drought Conditions on water supply and demand in a newspaper of general circulation within the affected community and region. This statement shall include a list of non-essential water uses.

(B) Institute an increased water supply system maintenance effort to identify and correct water leaks.

(C) Encourage customers of the Town of Aynor to comply with the listed voluntary water-use restrictions in all categories while moderate drought conditions exist.

(3) Water-Use Restrictions:

(A) Agriculture, Irrigation and Livestock:

Implement conservation techniques; explore different water saving methods, and use alternative sources.

(B) Commercial, Industrial, and Institutional:

(C) Reduce aesthetic, domestic, landscaping, and water-based recreational activities such as swimming pools, water slides, and other related water activities

(D) Residential:

- i. Reduce water use to seventy five gallons per person per day, and a maximum of 300 gallons per household per day.
- ii. Reduce domestic, landscaping, and water-based recreational activities such as swimming pools, water slides, and other related water activities.

(b) Severe Drought Alert Phase: A drought of this severity usually requires an official declaration and implementation of mandatory water use restrictions by the SC Water Resources Commission. In such cases, the Commission will notify municipal and county governments in the affected drought areas by certified mail, and Issue press releases concerning the drought conditions to the news media.

(1) Goal:

(A) A fifteen percent water use reduction for agricultural, commercial, industrial, institutional, and electric power generation purposes.

(B) A thirty percent water use reduction for residential customers.

(2) General Responses:

(A) Issue a Public Notice of Drought Conditions on water supply and demand in a newspaper of general circulation within the affected community and region. This statement shall include a list of water use curtailment measures.

(B) Require customers of Grand Strand Water & Sewer within the Town to comply with the listed water-use restrictions in all categories while severe drought conditions exist.

(3) Water-Use Restrictions:

(A) Agriculture, Irrigation and Livestock:

- i. Implement conservation techniques; explore different water saving methods, and use alternative sources.
- ii. Restrict irrigation use from 7:00 p.m. to 7:00 a.m. and prohibit water runoff.

(B) Commercial, Industrial, and Institutional:

- i. Prohibit aesthetic water use.
- ii. Reduce domestic water use to minimum levels necessary for maintaining health and safety.
- iii. Limit water-based recreational activities to new facilities that require filling such as swimming pools, water slides, and other related water activities.
- iv. Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design and maintenance

- v. Restrict landscape watering to Wednesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even numbered addresses.

(C) Residential:

- i. Restrict water use to seventy -five gallons per person per day, and a maximum of 30 gallons per household per day.
- ii. Limit water-based recreational activities to new facilities that require filling such as swimming pools, water slides, and other related water activities.
- iii. Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design and maintenance.
- iv. Restrict landscape watering to Wednesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even numbered addresses.

(c) Extreme Drought Alert Phase: The SC Water Resources Commission will notify municipal and county governments in the affected drought areas by certified mail, and issue press releases concerning the drought conditions to the news media. Water-use restrictions imposed during extreme drought conditions are mandatory.

(1) Goal:

- (A) A fifteen percent water use reduction for agricultural, commercial, industrial, and electric power generation purposes.
- (B) A thirty percent water use reduction for institutional and residential customers.

(2) General Responses:

- (A) Issue a Public Notice of Drought Conditions on water supply and demand in a newspaper of general circulation within the affected community and region. This statement shall include a list of water use curtailment measures.
- (B) Require customers of Grand Strand Water & Sewer within the Town to comply with the listed water -use restrictions in all categories while extreme drought conditions exist.

(3) Water-Use Restrictions:

(A) Agriculture, Irrigation and Livestock:

- i. Implement conservation techniques; explore different water saving methods, and use alternative sources.
- ii. Restrict irrigation use from 7:00 p.m. to 7:00 a.m. and prohibit water runoff.

(B) Commercial and Industrial:

- i. Prohibit aesthetic water use.
- ii. Reduce domestic water use to minimum levels necessary to maintain health and safety.
- iii. Prohibit water-based recreational activities that require filling such as swimming pools, water slides, and other related water activities.
- iv. Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design and maintenance.
- v. Restrict landscape watering to Wednesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even numbered addresses.

(C) Institutional:

- i. Prohibit aesthetic water use.
- ii. Reduce domestic water use to minimum levels necessary to maintain health and safety.
- iii. Prohibit water-based recreational activities that require filling such as swimming pools, water slides, and other related water activities.
- iv. Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design and maintenance.
- v. Restrict landscape watering to Wednesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even numbered addresses.

(D) Residential:

- i. Restrict water use to fifty-five gallons per person per day, and a maximum of 220 gallons per household per day.
- ii. Reduce domestic water use to minimum levels necessary to maintain health and safety.
- iii. Prohibit water-based recreational activities that require filling such as swimming pools, water slides, and other related water activities.
- iv. Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design and maintenance.
- v. Restrict landscape watering to Wednesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even numbered addresses.

Sec. 17-34 New Water Service Connections.

Correspondence regarding water availability, pipeline extension agreements, and applications requesting service, received and dated after the date of this Ordinance, shall include conditions relating to water shortages.

No applications for new, additional, further expanded, or an increase in size of water service connections, meters, service lines, pipeline extensions, mains, or other water service facilities of any kind shall be allowed, a proved, or installed unless such action 2s in compliance with provisions of this Ordinance.

Sec. 17-35 Water Rates.

In the event of an extreme drought related water shortage, the Town of Aynor is hereby authorized to monitor water use and limit households to 110 gallons per household member per day. Domestic water use above this limit will be subject to a surcharge of \$.10 per gallon.

Institutional, commercial, industrial, recreational water users will be subject to a water use surcharges of \$10.00 per 1000 gallons of water used if the Town of Aynor deems that adequate conservation measures have not been implemented.

Sec. 17-36 Rationing.

In the event that a drought threatens the preservation of public health and safety, the Town of Aynor is hereby authorized to ration water.

Sec. 17-37 Fines and Penalties.

Except as otherwise stated herein, violators of any provision of this Chapter shall be penalized.

Violation	Classification	Penalty
First Offense	Infraction	\$10.00
Second Offense	Infraction	\$20.00
Third and subsequent offense within the same drought period	Misdemeanor	\$50.00

The aforementioned fines and penalties may be in lieu of, or in addition to, any other penalty provided by law.

After issuing one warning by certified mail, the Town of Aynor may require that Grand Strand Water & Sewer disconnect the water service of any person or customer whenever it is determined that such person has failed to comply with the provisions of this Ordinance. Services disconnected under such circumstances shall be restored only upon payment of a reconnection charge, as required by Grand Strand Water & Sewer. In addition, suitable assurances must be given to the Town of Aynor that the same action shall not be repeated during the drought or water shortage.

Sec. 17-38 Enforcement.

Law officers of the Town of Aynor police force shall, in addition to duties imposed by law, diligently, enforce the provisions of this Ordinance.

Mayor or their designees are hereby authorized to enforce the provisions of this Ordinance and shall have the power and authority to issue written notices to appear when violations of this Ordinance occur during any declared moderate, severe, or extreme drought or water shortage.

Sec. 17-39 Variances.

Persons not capable of immediate water use reduction, or curtailment, because of equipment damage or other extreme circumstances, shall commence gradual reduction of water use within twenty-four hours of the declaration of water use curtailment/reduction and shall apply for a variance from curtailment.

Persons requesting exemption from the provisions of this Ordinance shall file a petition for variance with the Town of Aynor within ten days after such curtailment becomes effective.

When the Drought Ordinance has been invoked by the Town of Aynor, all petitions for variances shall be reviewed by the Town of Aynor

(a) Petitions shall contain the following:

- (1) Name and address of the petitioner(s).
- (2) Purpose of water use.
- (3) Specific provision from which the petitioner is requesting relief.
- (4) Detailed statement as to how the curtailment declaration adversely affects the petitioner.
- (5) Description of the relief desired.
- (6) Period of time for which the variance is sought.
- (7) Economic value of the water use.
- (8) Damage or harm to the petitioner or others if petitioner complies with Ordinance.
- (9) Restrictions with which the petitioner is expected to comply and the compliance date.
- (10) Steps the petitioner is taking, to meet the restrictions from which variance is sought and the expected date of compliance.
- (11) Other pertinent information.

(b) In order for a variance to be granted, petitioner must show one or more of the following conditions:

- (1) Compliance with the Ordinance cannot be technically accomplished during the duration of the water shortage.
- (2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

The Town of Aynor may, in writing, grant temporary variances for existing water uses otherwise prohibited under the Ordinance if it is determined that failure to grant such variances would cause an emergency condition adversely affecting health, sanitation, or fire protection for the public or the petitioner and if one or of the aforementioned conditions is met. The governing body of the Town of

Aynor shall ratify or revoke any such variance at their next scheduled meeting. Any such variance so ratified may be revoked by later action of the governing body of the Town of Aynor.

No such variance shall be retroactive or otherwise justify any violation of this Ordinance occurring prior to the issuance of the variance.

(c) Variances granted by the Town of Aynor shall be subject to the following conditions, unless waived or modified by the Town of Aynor.

(1) Variances granted shall include a timetable for compliance.

(2) Variances granted shall expire when the water shortage no longer exists, unless the petitioner has failed to meet specified requirements.

CHAPTER 18
RESERVED

CHAPTER 19

LICENSES, PERMITS AND BUSINESS REGULATIONS

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Franchise Fee (Ord#79 2/16/1998)

Telecommunication Company (Ord#79 2/16/1998, Amended Ord #93 11/16/1998 Ord#93-A 9/20/1999, Amended Ord#121 9/27/2004)

Pawnbrokers (Ord#43, 4/18/1988)

Yard Sales (Ord#55 8/20/1990, Amended Ord 55-A 8/18/1997, Ord 55-B, 9/22/2003)

Privilege License (Ord #15 1980, unknown ordinance 11/18/1991 Repealed 3-2018 New 18-01 3-2018)

ARTICLE I. GENERAL

Section 19-01. License Required.

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

Section 19-02. Definitions.

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

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

“Charitable Organization” means an organization that is determined by the Internal Revenue Service to be exempt from Federal income taxes under 26 U.S.C. section 501 (c) (3), (4), (6), (7), (8), (10) or (19).

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

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

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

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

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

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

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

Section 19-03. Purpose and Duration.

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

Section 19-04. License Tax.

A. The required license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the 31st day of March in each year, except for those businesses in Rate Class 8 for which a different due date is specified.

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

Section 19-05. Registration Required.

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

B. Application shall be on a form provided by the License Official which shall contain the

Social Security Number and/or the Federal Employer's Identification Number, the business name as reported on the South Carolina income tax return, and all information about the applicant and the Licensee and the business deemed appropriate to carry out the purpose of this ordinance by the License Official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross income figures.

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

Section 19-06. Deductions, Exemptions, and Charitable Organizations.

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

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

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

A Charitable Organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a Charitable Organization as defined in this ordinance, or (2) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a Charitable Purpose as defined in this ordinance. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

Section 19-07. False Application Unlawful.

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

Section 19-08. Display and Transfer.

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

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

Section 19-09. Administration of Article.

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

Section 19-10. Inspection and Audits.

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

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

Section 19-11. Assessments, Payment under Protest, Appeal.

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

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

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

Section 19-12. Delinquent License, Taxes, Partial Payment.

A. For non-payment of all or any part of the correct license tax, the License Official shall levy and collect a late penalty of five (5%) percent of the unpaid tax for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any license tax remains unpaid for sixty (60) days after its due date, the License Official shall report it to the municipal attorney for appropriate legal action.

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

Section 19-13. Notices.

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

Section 19-14. Denial of License.

The License Official shall deny a license to an applicant when the License Official determines:

A. The application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact; or

B. The activity for which a license is sought is unlawful or constitutes a public nuisance per se or per accidents; or

C. The applicant, Licensee or prior Licensee or the person in control of the business has been convicted of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude, or an unlawful sale of merchandise or prohibited goods; or

D. The applicant, Licensee or prior Licensee or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the Municipality or in another jurisdiction; or

E. The applicant, Licensee or prior Licensee or the person in control of the business is delinquent in the payment to the Municipality of any tax or fee; or

F. The license for the business or for a similar business of the Licensee in the Municipality or another jurisdiction has been denied, suspended or revoked in the previous license year.

A decision of the License Official shall be subject to appeal to Council as herein provided. Denial shall be written with reasons stated.

Section 19-15. Suspension or Revocation of License.

When the License Official determines:

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

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

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

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

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

F. A Licensee is delinquent in the payment to the Municipality of any tax or fee,

the License Official shall give written notice to the Licensee or the person in control of the business within the Municipality by personal service or certified mail that the license is suspended pending a hearing before Council for the purpose of determining whether the license should be revoked.

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

Section 19-16. Appeals to Council.

A. Any person aggrieved by a decision, final assessment, proposed revocation, suspension, or a denial of a business license by the License Official may appeal the decision to the Council by written request stating the reasons therefore, filed with the License Official within ten (10) days after service by certified mail or personal service of the notice of decision, final assessment, proposed revocation, suspension or denial.

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

Section 19-17. Consent, franchise or license required for use of streets.

A. It shall be unlawful for any person to construct, install, maintain or operate in, on, above or under any street or public place under control of the municipality any line, pipe, cable, pole, structure or facility for utilities, communications, cablevision or other purposes without a consent agreement or

franchise agreement issued by the Council by ordinance that prescribes the term, fees and conditions for use.

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

Section 19-18. Confidentiality.

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

Section 19-19. Violations.

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

Section 19-20. Severability.

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

Section 19-21. Classification and Rates.

A. The Class Structure Model by the North American Industry Classification System code, designated as Appendix B to this ordinance, and the Class Structure Model by rate class, designated as Appendix C to this ordinance, may be amended by the Council from time to time, and current copies shall be filed in the office of the municipal clerk. Appendices B and C are tools for classification and not a limitation on

businesses subject to a license tax. The License Official shall determine the proper class for a business according to the applicable NAICS code.

B. The license tax for each class of businesses subject to this ordinance shall be computed in accordance with the Rate Schedule, designated as Appendix A to this ordinance, which may be amended by the Council from time to time and a current copy filed in the office of the municipal clerk.

ARTICLE II. SPECIAL PROVISIONS

Sec. 19-22 Amusement Machine.

Amusement machines (excluding video poker) license pursuant to S.C. Code 12-21-2720(A)(3) is \$12.50 per machine.
(Ord. No. 65, 12/1993)

Sec. 19-23 Insurance Companies.

(SIC CODE 63 or NAICS CODE 5241)

(a) Definitions

(1) Except as fire insurance, "gross premiums" means gross premium collected

(A) on policies on property or risks located in the municipality, and

(B) on policies, wherever the insured property or risk is located, that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or services by the insurance company's office located in the municipality or by the insurance company's employee doing business within the municipality or by the office of the insurance company's licensed or appointed producer (agent) located in the municipality or by the insurance company's licensed or appointed producer (agent) doing business within the municipality.

(2) Fire insurance, gross premiums" means gross premiums

(A) collected in the municipality, and/or

(B) realized from risks located within the limits of the municipality.

(3) Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.

(4) As to brokers for non-admitted fire and casualty insurers, "gross premiums" means gross premiums collected by or for fire and casualty insurers not licenses in South Carolina

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

(B) on policies, wherever the insured property or risk is located, that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by a broker located in or doing business within the municipality. Brokers shall provide, with their payment of the tax, a copy of the report required by the State Department of Insurance showing the locations of the property or risks insured. (Premiums for non-admitted business are not included in broker's gross commissions for other business. Declining rates shall not apply.)

(b) Applicability

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute doing business within the municipality whether or not an office is maintained therein. A premium collected on property or a risk located within the municipality shall be deemed to have been collected within the municipality. Declining rates shall not apply.

(c) Fees

SIC CODE	NAICS CODE		
631-632	52411	Life, Health and Accident	.75% Gross Premiums
633-635	524126	Fire and Casualty	2% Gross Premiums
636	524127	Title Insurance	2% Gross Premiums
6411	524210	Brokers for Fire and Casualty Insurers-Non-admitted:	2% Gross Premiums

Notwithstanding any other provisions of this ordinance, license taxes for insurance companies and brokers for non-admitted fire and casualty insurers shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

(d) Collection Agreement

The agreement with the Municipal Association of South Carolina, pursuant to S.C. Code section 5-7-300, for collection of current and delinquent license taxes from insurance companies and brokers for non-admitted fire and casualty insurers shall continue in effect.

Sec. 19-24 Pawnbrokers.

(Ord. No. 43, 4/18/1988)

(a) Definition

Any person, firm or corporation who loans money on pledge of personal property or other thing of value, other than securities or printed evidences of indebtedness, or who deals in the purchasing of personal property or other thing of value on condition of selling it back again at a stipulated price, is hereby declared and defined to be a "pawnbroker."

(b) License Requirement

No person, firm or corporation shall establish, conduct or operate the business of a pawnbroker without first having obtained a license and must comply with creation of a permit.

Application for pawnbroker's license shall be made to the clerk of the Town of Aynor.

(c) Review requirement

No person, firm or corporation within the town limits shall establish, conduct or operate the business of a pawnbroker as that term is defined in the Code of Laws of the State of South Carolina without first having obtained a Certificate of Authority from the South Carolina Department of Consumer Affairs and a business license from the town.

(d) Subject to revocation

Any license granted under the provisions of this Ordinance may be revoked, for cause, by the mayor or as otherwise provided for, or committed under, any other ordinance of the Town or the laws of the State.

(e) Required Reporting

- (1) Every pawnbroker licensed under the provisions of this Ordinance shall provide the Police Department a copy of all items and shall list brand and serial number of each item if available on item.
- (2) It shall be the duty of every pawnbroker to report immediately to the police department any article pledged with him or which is sought to be pledged with him if he shall have reason to believe that the article was stolen or lost, and found by the person attempting to pledge it in the case of a lost article.
- (3) It shall be the duty of every pawnbroker to report immediately to the police department any article pledged with him or which is sought to be pledged with him if he shall have reason to believe that the article was stolen or lost, and found by the person attempting to pledge it in the case of a lost article.

(f) Age Requirement

- (1) No pawnbroker shall have any business dealings as pawnbroker with any person less than 18 years of age except with the written consent of the parent or guardian of the minor to each particular transaction.
- (2) No pawnbroker's license shall be issued to any person who is not 21 years of age or over; and no pawnbroker shall employ a person of less than 21 years of age to assist him in his business.

Sec. 19-25 Public Conveyances and Carriers.

(a) Permit Required

No person, persons, firm or corporation shall engage, carry on, or operate a business commonly known as the Taxi-Cab business within the corporate limits of the Town of Aynor at any time during the fiscal year hereafter without first having, paid to the Town of Aynor a license or privilege tax therefor for the said year or any part thereof.

(b) Insurance Required

No privilege license shall be insured to the operator of any taxi-cab until satisfactory and conclusive proof has been submitted to the town Clerk showing that such operator has secured for each taxicab operated or to be operated, personal and property liability insurance in any amount less than that required by state law and shall file a certificate of such insurance with the town clerk.

(c) Revocation of Permit

Any license issued to the operator of a taxicab may be suspended or revoked by the town council in the event such operator, operators, or their agents shall be convicted of violating any of the municipal ordinances or State laws in reference to the operation of motor vehicles.

(d) Penalty

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 19-26 Peddlers, Hawkers and Itinerant Salesmen.

(a) Peddlers, Hawkers, Itinerant Salesmen, Etc., Forbidden

The practice of peddlers, solicitors, hawkers, and itinerant salesmen going in and upon private residence within the corporate limits of the Town of Aynor, without first having been requested or invited so to do by the owner or owners, occupant or occupants of said private resident for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable as such nuisance as a misdemeanor.

(b) Farm Produce Excepted

The provisions of this ordinance shall not apply to the sale, or soliciting of order for the sale, of milk, dairy products, vegetables, poultry, eggs and other farm and garden produce so far as the sale of the commodities named herein is now authorized by law.

(c) Penalty

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 19-27 Exhibition and Public Amusements.

(a) Shows and Exhibits Without License Prohibited

No Traveling show or exhibition shall be permitted to set up or operate within the corporate limits of the town without first obtaining a permit and license from the town clerk pursuant to such regulations as may be established by the mayor or council.

(b) Palmistry, Fortune Telling and Phrenology Prohibited

The practice of palmistry or fortune telling and phrenology is strictly forbidden within the corporate limits of the Town of Aynor and the soliciting of customers for any such practices by way of pamphlets, cards or otherwise is hereby prohibited.

(c) Penalty for Violation

Any person, persons, firms or corporations violating the provisions of this ordinance shall be subject to punishment under section 1-4.

Sec. 19-28 Telecommunication Company.

(Ord. No.79, 2/16/1998, Ord. No.93, 11/16/1998 Ord. No. 93-A, 9/20/1999, Ord. No. 121, 9/27/2004)

(a) Applicability

Notwithstanding any other provisions of the Business License Ordinance, business license taxes for retail telecommunications service as defined in S. C. Code § 58-9-2200 shall be at the maximum rate authorized by S.C Code section 58-9-2220, as it now provides or as provided by its amendment. The business license tax year shall begin on January 1 of each year. The rate for the 2005 business license tax year shall be the maximum rate allowed by State law as in effect on February 1, 2005. Declining rates shall not apply.

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

(b) Payments

For the year 2005, business license tax for “retail telecommunications services” shall be due on February 1, 2005 and payable by February 28, 2005, without penalty. For years after 2005, the business license tax for “retail telecommunications services” shall be due on January 1 of each year and payable by January 31 of that year, without penalty.

The delinquent penalty shall be five percent (5%) of the tax due for each month, or portion thereof, after the due date until paid.

(c) Exemptions

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

(d) Existing Agreements

Nothing in the Ordinance shall interfere within continuing obligations of any Franchise agreement or contractual agreement should expire after December 31, 2003.

All fees collected under such a franchise or contractual agreement expiring after December 31, 2003, shall be in lieu of fees or taxes, which might otherwise be authorized by this Ordinance.

Sec. 19-29 Franchise Fee.

(Ord. No. 79, 2/16/1998)

(a) Permission to use streets required

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

(b) Consent or franchise fee

The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be based on gross revenues derived from activities in the municipality, the length of lines installed in streets and public places, or other formula deemed appropriate by council. No consent fee or franchise fee shall be construed to be in lieu of a business license tax based on gross revenue unless specifically provided by ordinance. Credits for business license taxes paid may be applied to fees set by ordinance granting consent or a franchise when specifically authorized by the ordinance.

Sec. 19- 30 THRU 19-39 Reserved

ARTICLE III. YARD SALES

(Ord. No. 55 8/20/1990, Ord. No. 55-A 8/18/1997, Ord. No. 55-B, 9/22/2003)

Sec. 19-40 Garage and Yard Sales Defined.

A garage or yard sale is hereby defined as a public offering of used goods conducted within the town limits of Aynor.

Sec. 19-41 Permit Required.

Application for permission to conduct a garage or yard sale must be made to the Town Clerk at least one (1) day prior to date of sale. The approved permit shall be displayed prominently at the site of sale and shall be valid for one (1) day only. All participants in a joint sale shall be named on the permit.

Sec. 19-42 Permit Fees.

Fees to conduct garage or yard sales shall be fixed from time to time by the Town Council and Mayor.

Sec. 19-43 Place of Sale.

All sales on public property within the confines of the town shall be held at the Aynor Town Park under the picnic shelter. The shelter may be divided into eighteen (18) sections, with each vendor occupying one (1) section. Each section shall require a separate permit together with the applicable permit fee. No materials shall be stapled or taped to the picnic shelter either prior to, during or after the sale.

Sales on private property shall be held at the residence of an approved permit holder. Sales shall be limited to two consecutive days once a month or separate days twice a month not to exceed a total of two days per month. Sales on both public and private property shall not exceed a total of six days per year.

Debris of both public and private property sales shall be removed at the conclusion of sale.

Sec. 19-44 Times of Sale.

Both public and private sales shall be limited to the hours between seven o'clock A.M. (7:00 A.M.) and four o'clock P.M. (4:00 P.M.). Sales at the picnic shelter shall be limited to the first Saturday of each month. No Sunday sales shall be allowed.

Sec. 19-45 Display of Goods for Sale.

Goods for sale shall not be displayed on public property except as specified within this ordinance. Goods displayed on private property shall not impede the visibility or travel of passing pedestrians and/or motorists.

Sec. 19-46 Posting of Bills or Advertisements.

No posting of bills or other advertising materials shall be allowed in the public right-of way. This provision specifically includes, but is not limited to, public utility poles.

Sec. 19-47 Alcoholic Beverages Prohibited.

No alcoholic beverages shall be allowed on the premises during a sale on public property.

Sec. 19-48 Public Address System Prohibited.

No public address system may be used to advertise a pending sale or to attract the public to an ongoing sale.

Sec. 19-49 Right to Inspect Sale Premises.

The Town, by an approved representative, may enter public or private premises showing evidence of conducting a sale to enforce the provisions of this Ordinance. Any premises or vendor in violation of this Ordinance will be stopped from further activity.