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CHAPTER 1.. GENERAL PROVISIONS

ARTICLE I. THE CHARTER

Editor's Note.

Statutory authority for the Mayor-Council form of government can be found at Title 5, Chapter 9 of the 1976 South Carolina Code of Laws, as amended.

A reprint of that chapter is included in this code as Appendix C.

ARTICLE II. THE CODE

Editor's Note. This article derives from the 1976 South Carolina Code of Laws, the Yemassee Questionnaire and generally accepted municipal definitions.

1.201. HOW CODE DESIGNATED AND CITED.

The ordinances embraced in this and the following chapters and sections shall constitute and are designated as *The Code of Ordinances for The Town of Yemassee, South Carolina* and may be so cited. They also may be cited as the *Town Code*.

1.202. PROVISIONS CONSIDERED AS CONTINUATION OF EXISTING ORDINANCES.

The provisions appearing in this code, as far as they are the same as those ordinances existing at the time of the adoption hereof, shall be considered as a continuation thereof and not as new enactments.

1.203. SEVERABILITY OF PARTS OF CODE.

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

1.204. CATCHLINES OR CATCHWORDS OF SECTIONS.

The catchlines of the several sections of this code printed in capital letters, a different type or underlined are intended as mere catchwords to indicate or emphasize the contents of such sections, not as any part of the section, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

1.205. DEFINITIONS.

In the construction of this code and all other ordinances, the following definitions shall be observed, unless the context clearly requires otherwise:

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

BOND Where bond is required, an undertaking in writing shall be sufficient.

BUSINESS DISTRICT shall mean the territory contiguous to and including a street when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

CLERK/TREASURER shall mean the Municipal Clerk as provided by state law and may be used interchangeably with "Clerk," "Municipal Clerk" or "Town Clerk."

CODE shall mean the "Code of Ordinances," and "The Code" shall be construed to mean the Code of Ordinances for The Town of Yemassee, South Carolina.

CODE OF LAWS shall mean the 1976 South Carolina Code of Laws. When the 1976 South Carolina Code of Laws is used as a reference, i.e., (1976 SC Code §14-25-45), it shall include all amendments.

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

CORPORATE LIMITS shall mean the legal boundary of The Town of Yemassee.

COUNCIL OR TOWN COUNCIL shall mean the Mayor and Council of The Town of Yemassee.

COUNTY shall mean the Counties of Beaufort/Hampton, as appropriate.

DAY shall mean a period of twenty-four (24) hours.

DELEGATION OF AUTHORITY shall mean that whenever a provision or section of this code appears requiring the Clerk or head of a department of the town to do some act or make certain inspections, it shall be construed to authorize them to designate, delegate and authorize subordinates to perform the required act or make the required inspection, unless the terms of the provision or section expressly designate otherwise.

DHEC shall mean the South Carolina Department of Health and Environmental Control.

DOMESTIC ANIMAL shall mean any of various animals (as the horse or sheep) domesticated so as to live and breed in a tame condition.

EMERGENCY VEHICLE shall mean vehicles of the fire and police departments, ambulances and/or emergency vehicles or public service corporations as are designated or authorized by SCDOT or by the Town Council.

GENDER - See "Rules of Construction." (§1.206 of this chapter)

INTERPRETATION shall mean in the interpretation and application of any provision of this code, it shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this code imposes greater restrictions upon the subject matter than the general provision imposed by this code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

JUNK shall mean old iron, glass, paper or other waste that may be used in some form again; second hand, or worn or discarded articles, clutter, something of poor quality or of little meaning, worth or significance.

JUNKYARD shall mean a yard or area used to store sometimes resalable junk.

KEEPER AND/OR PROPRIETOR shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

LIVESTOCK shall mean animals kept or raised for use or pleasure, especially farm animals kept for use and profit.

MAY shall be permissive.

MINOR, for the purposes of this code, all references to minors shall mean persons under the age of eighteen (18) years, except in laws relating to the sale of alcoholic beverages.

(1976 SC Code §15-1-320)

MONTH shall mean a calendar month, unless defined otherwise.

MUNICIPAL CLERK shall mean "Clerk/Treasurer," "Clerk" or "Town Clerk."

MUNICIPALITY may be used interchangeably with "town" and shall mean the entire area within the corporate limits of The Town of Yemassee.

MUST shall be mandatory.

NAME OF MAYOR AND COUNCIL, TOWN COUNCIL, CLERK/TREASURER OR OTHER OFFICER shall be construed as though the words of *The Town of Yemassee* were added.

NONTECHNICAL AND TECHNICAL WORDS shall apply to the usage of such words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

OATH, SWEAR, SWORN shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the words "swear" and "sworn" shall be the equivalent to words "affirm" and "affirmed" and vice versa.

OR, AND shall be used interchangeably, if the sense requires it.

OWNER shall mean and include, when applied to a building or land, any part-owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

PERSON shall include an individual or individuals, a corporation, firm, partnership, association, organization or any other group as a unit.

PERSONAL PROPERTY shall include every species of property, except real property as defined herein.

PRECEDING, FOLLOWING shall mean the next before and the next after, respectively.

PREMISES shall mean place or places.

PROPERTY shall include real and personal property.

PUBLIC PLACE shall mean all properties owned or controlled by public entities.

REAL PROPERTY AND REAL ESTATE shall include lands, tenements and the hereditaments.

RESIDENCE shall be construed to mean the place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be deemed as his residence.

ROADWAY shall mean that portion of a street improved, designed or ordinarily used for vehicular travel.

SC CODE shall mean the 1976 South Carolina Code of Laws, as amended.

SCDHEC shall mean the South Carolina Department of Health and Environmental Control.

SCDOT shall mean the South Carolina Department of Transportation.

SEAL shall mean the corporate seal of The Town of Yemassee.

SHALL shall be mandatory.

SIDEWALK shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb and the adjacent property line and intended for the use of pedestrians.

SOUTH CAROLINA 1976 CODE OF LAWS shall mean the 1976 South Carolina Code of Laws, as amended.

STATE shall mean The State of South Carolina, unless otherwise provided.

STREET shall include avenues, boulevards, highways, roads, public alleys, lanes, viaducts, bridges and the approaches thereto, and all other public thoroughfares in the town, and shall mean the entire width thereof between abutting property lines. It shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Town Council.

TAX COLLECTOR shall mean the Town Clerk/Treasurer of Yemassee.

(YQ 40)

TENANT OR OCCUPANT, when applied to a building or land, shall include any person who occupies the whole or part of such building or land, whether alone or with others.

TIME shall mean words used in the past or present tense and includes the future as well as the past and present.

TOWN shall mean all the area embraced within the corporate limits of The Town of Yemassee.

WEEK shall be construed to mean seven (7) days, Sunday through Saturday, unless it is clearly indicated to mean otherwise.

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

YEAR shall mean a calendar year, unless it is clearly indicated that the fiscal year is intended.

1.206. RULES OF CONSTRUCTION.

As used in this code and all ordinances, in all cases in which the spirit and intent may require it, the following shall apply:

1. Any word importing the singular number shall be held to include the plural and all words in the plural shall apply also to the singular.
2. All words importing the masculine gender shall apply to females also and words in the feminine gender shall apply to males.
3. All words importing the present tense also shall apply to the future.

1.207. GENERAL PENALTY. CONTINUING VIOLATIONS.

a. Whenever in this code or in any ordinance, resolution, rule, regulation or order promulgated by any agency or officer thereof 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 five hundred (\$500.00) dollars or by imprisonment for a period not exceeding thirty (30) days, or both; provided, however, that no penalty shall exceed the penalty provided by state law for similar offenses.

b. Each day a violation of this code or any ordinance, rule or regulation shall continue, it shall constitute a separate offense.

(1976 SC Code §14-25-65)

1.208. 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.

(State v. Johnson, 255 S.C. 14, 176 S.E. 2nd 575 (1970).)

1.209. OFFENSES BEYOND TOWN LIMITS.

Any person committing any offense in, at or upon lands owned by the town or leased to the town outside the limits of the town shall be deemed and considered as committing an offense against the provisions of this code and other ordinances of the town and shall be triable for the same like manner and to the same extent as other offenders.

1.210. EFFECT OF REPEAL OR EXPIRATION OF ORDINANCE.

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

1.211. AMENDMENTS TO CODE.

a. All ordinances adopted subsequent to the adoption of this Code of Ordinances, 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. In the case of repealed chapters, sections and subsections, or any part thereof by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby.

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 substantially the following, or similar language: *that Section No. ____ of the Yemassee Town Code is hereby amended as follows:* The new provisions may then be set out in full as enacted, utilizing the text and numbering system consistent with this code.

c. In the event a new section not heretofore existing in the code is to be added, the following or similar language may be used: *... that the Yemassee Town Code is hereby amended by adding a new section, to be numbered, and which shall read as follows:* The new section shall then be numbered and set out in full. The sections of this ordinance may be renumbered to accomplish consistency.

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

(Editor's Note. Please refer to Appendix B for detailed guidance when preparing ordinances.)

1.212. ALTERING CODE.

It shall be unlawful for any person to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever, which may cause the laws of this municipality to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in §1.207 hereof.

1.213. PROSECUTION WHERE DIFFERENT PENALTIES EXIST FOR SAME OFFENSE.

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the municipality, the prosecuting officer may elect under which to proceed. Not more than one recovery shall be had against the same person for the same offense.

1.214. CORPORATE LIMITS ESTABLISHED.

A map of the town, when prepared, shall indicate the territorial limits, and, when approved by the Town Council and attested by the Town Clerk, is hereby designated as the official map of the town. The corporate limits as shown thereon are declared to be true and correct.

1.215. MUNICIPAL SEAL.

The municipality shall have a seal which shall be affixed to all deeds of real estate executed on behalf of the municipality and to all notes, bonds and other evidences of indebtedness executed in behalf of the municipality, or when deemed necessary by the Town Council.

ARTICLE III. RESPONSIBILITIES OF MUNICIPALITY

Editor's Note: Title 5, Chapter 7, Section 10 of the 1976 South Carolina Code of Laws provides that:

The provisions of this chapter provide for the structure, organization, powers, duties, functions and responsibilities of all municipalities under all forms of municipal government provided for in Chapters 9 (Mayor-Council), 11 (Council) and 13 (Council-Manager) unless otherwise specifically provided for in these chapters.

The powers of a municipality shall be liberally construed in favor of the municipality and the specific mention of particular powers shall not be construed as limiting in any manner the general powers of such municipalities.

This article has been added, to set forth the authority contained in South Carolina law for all municipalities in this state.

ARTICLE IV. PENALTIES

1.401. PENALTY.

a. Any person, persons, firm, company, representative of any firm or company and otherwise violating the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor.

b. Each day during which a violation of the provisions of this chapter occurs, or each separate instance, shall be considered a separate offense punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days, or both.

(1976 SC Code §14-25-65)