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PART II.

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Section 1-1. How Code of Ordinances Cited and Designated

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "THE CODE OF ORDINANCES OF THE TOWN OF HEMINGWAY, SOUTH CAROLINA, 2001, as amended" and may be so cited. Hereinafter, within these chapters and sections, it shall be referred to as Code of Ordinances of Hemingway.

Section 1-2. Provisions Considered as Continuations of Existing Ordinances

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

Section 1-3. Severability of Parts of Code of Ordinances

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of the Code of Ordinances of Hemingway are severable, and if any phrase, clause, sentence, paragraph or section of this Code of Ordinances of Hemingway shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code of Ordinances of Hemingway.

Section 1-4. Descriptive Leads

The descriptive leads of the several sections of this Code of Ordinances of Hemingway are intended to indicate the contents of the section and shall not be deemed to be titles nor as any part of the section, unless expressly provided herein.

Section 1-5. Definitions and Rules of Construction

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

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

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

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

COUNCIL OR TOWN COUNCIL The words "Council" or "Town Council" shall mean the Town Council of the Town of Hemingway, South Carolina.

COUNTY The word "county" shall mean the County of Williamsburg, State of South Carolina.

GENDER Words importing masculine gender shall include the feminine and neuter.

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

NUMBER Words used in the singular number include the plural, and the plural shall include the singular number.

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

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

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

PERSONAL PROPERTY This term shall include every species of property, except real property, as defined in this section.

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

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

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

SHALL The word "shall" shall be mandatory.

SIDEWALK The word "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 intended for the use of pedestrians.

SIGNATURE OR SUBSCRIPTION This term shall include a mark when a person cannot write, with a witness to the mark.

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

STREET The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes viaducts, bridges, and 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.

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

TOWN The word "town" or "the town" shall mean the Town of Hemingway, in the County of Williamsburg, State of South Carolina , except as otherwise provided.

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

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

Section 1-6. General Penalty

Whenever, in this Code of Ordinances of Hemingway or in any ordinance or resolution of the Town, or rule, regulation or order promulgated by an 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 if required, or the failure to do any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided for the violation thereof, the violation of such provision of this Code of Ordinances of Hemingway, ordinance, resolution, rule, regulation, or order shall be punished by a fine not exceeding the penalty provided by the state law for similar offenses. Each day any violation of this Code of Ordinances of Hemingway or any such ordinance, rule or regulation shall continue, shall constitute a separate offense.

Section 1-7. Liability of Corporations and/or Agents for Violations

Any violation of the Code of Ordinances of Hemingway 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. The individual 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 of Ordinances of Hemingway, where such violation was the act or omission, or the result of the act, omission or order of any such person.

Section 1-8. Effect of Repeal or Expiration of Ordinance

The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.

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

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ARTICLE II. COUNCIL MEETINGS AND PROCEDURES

Section 2-10. Meeting for Election of Officers and Employees

At the first regular meeting of the Council after the election, as provided for in Part I of this Town Code, or as soon thereafter as practicable, all Town officers and employees provided for in this Code, and any other offices deemed necessary by the Council, shall be elected by the Council.

Section 2-11. Meetings of Council

The regular meeting of the Council shall be held at the Town Hall on the second Thursday of each month at 6:00 o'clock p.m., unless some other hour is fixed. Such meetings of the Council may be called by the Mayor in case of emergency or when, in his judgment, the good of the Town requires it. The Mayor shall call extra or special meetings when requested in writing by at least three members of the Council.

All meetings shall be open to the public, unless in the unanimous opinion of the Mayor and Councilmen a closed meeting is deemed in the best interest of the citizens of the Town and does not violate the Freedom of Information Act or other applicable laws.

Section 2-12. Mayor to Preside: Presence of Quorum

Immediately at the hour appointed for meetings, the Mayor shall take the chair and, if a quorum be present, shall proceed to business. A majority of the members of the Council shall constitute a quorum.

Section 2-13. Parliamentary Rules

Unless specifically covered elsewhere within this chapter, the proceedings of Council shall be governed by Robert's Rules of Order.

Section 2-14. Order of Proceedings of Council

Council shall set the agenda for each meeting.

Section 2-15. Addressing the Council

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

Section 2-16. Recognition of Speakers [AMENDED 12/14/06](#)

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

All meetings of the Hemingway Town Council are open to the public. The Town Council will take all actions openly as prescribed in the South Carolina Freedom of Information Act. The Town Council invites the general public, news media and town personnel to attend Town Council meetings.

Town Council urges all persons to participate through established procedures. These procedures are designed to encourage participation and to ensure the orderly management of the town.

Town Council is committed to compliance with all Federal and State laws which regulate or impinge on council actions and policies.

PROCEDURES FOR ADDRESSING THE HEMINGWAY TOWN COUNCIL

CITIZENS MUST:

- Be placed on the agenda by 5:00 p.m. on the Monday prior to the council meeting on Thursday.
- Record the following information in the public comments notebook: Name, physical address, and subject(s) to which they plan to speak.
- Plan to speak no more than three (3) minutes. Public comment section of agendas is for a total of 15 minutes. In case of other speakers, the time will be adjusted equally.
- Be recognized by the Mayor or Mayor's representative.
- Identify themselves and proceed with their comments.
- Speak in support of an individual position, not that of a group.
- Refrain from making personal attacks on town personnel, council members, and other individuals.

THE HEMINGWAY TOWN COUNCIL WILL:

- Explain the rules set by council for public participation.
- Recognize each speaker
- Receive the speaker's comments only as information.

If a response is needed, the Town Administrator will provide one in writing before the next meeting.

We are pleased that you attended this meeting. We need your continued support and understanding. Please come again.

Section 2-17. How Often Members to Speak

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

Section 2-18. Voting

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

Section 2-19. Reasons for Voting May be Recorded

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

Section 2-20. Interested Member or Mayor Not to Vote

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

Section 2-21. Ordinances - For Benefit of Town

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.

Section 2-22. Ordinances - Style

The style of all ordinances shall be "Be it Ordered and Ordained by the Town Council of the Town of Hemingway, South Carolina, in Council Assembled and by the Authority Thereof:".

Section 2-23. Ordinances - Entered in Book

The Clerk and Treasurer shall enter in a well bound book copies of all ordinances passed by the Council. The book in which ordinances are thus entered shall be known as the "Ordinances at Large of the Town of Hemingway" and shall be indexed.

Section 2-24. Ordinances - Notation of Amendment or Repeal

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

Section 2-25. Ordinances 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.

(b) 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 service rate and shall expire automatically on the sixty-first day following enactment.

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

(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 any 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.

ARTICLE III. COMMITTEES AND OFFICERS

Section 2-31. Appointment of Special Committees

All special committees shall be appointed by the Mayor unless a vote be called for by one member of the Council, in which case the special committee in question shall be elected by a majority vote of the Mayor and Council.

Section 2-32. Vacancies Among Officers of Town

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

Section 2-33. Salaries [Amended 8/13/15](#)

Except as otherwise provided, the salary of each officer of the Town elected by the Council shall be fixed, designated and regulated by resolution of the Council from time to time as the Council shall deem fit. The Mayor and Councilmen shall receive such salaries as fixed by Council, PROVIDED, no increase in salary shall take effect during the term of Council in which such change is approved, unless approved by unanimous vote of Council. Amended to \$30 to \$50 for councilmembers per month and \$100 to \$150 for mayor salary.

Section 2-34. Enforcement of Ordinances, Laws

All officers and employees of the Town shall enforce obedience to such statutes, provisions of this Code or any ordinances, resolutions or rules and regulations, or orders issued thereunder, as may relate to their regular duties, and any other statutes, provisions of this Code or ordinances, resolutions, rules, regulations or orders with those enforcement they are properly chargeable, by the proper report of any violation thereof, and by instituting such proceedings as may be necessary to such enforcement.

Section 2-35. Right of Entry

Whenever any officer or employee of the Town is required or authorized by statute, the provisions of this Code, or any ordinance or resolution, or rules and regulations or orders issued thereunder, in order to carry out his duties thereunder, to enter any premises or vehicle at any reasonable time in pursuance of such duties except as prohibited by the Constitution of South Carolina, 1895, or any statute of the General Assembly of South Carolina.

Section 2-36. Resisting or Interfering with Officers or Employees

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

Section 2-37. Terms of Officers; Removal

Each officer or employee of the Town elected by the Town Council shall be elected for such term as the Council may designate and shall be subject to removal from office or employment for any cause that the Council may deem sufficient; and each election or appointment to any office or position is made and accepted subject to the provisions of this section.

ARTICLE IV. RULES

Section 2-40. Repeal, Suspension, Alteration of Rules

Any of the provisions of this Chapter pertaining to meetings, rules or order, reading for ordinances or amendments, and conduct of meetings may be suspended at any meeting of the Council by the consent of the Mayor and three Councilmen.

ARTICLE V. THE MAYOR: POWERS AND DUTIES

Section 2-50. Mayor's Power to Vote

The Mayor shall vote on all questions coming before the Council.

Section 2-51. Mayor's Emergency Powers and Duties

In the event of a state of emergency, which shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, civil disturbance, catastrophe or for any other reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety, health, welfare or property, the Mayor may, with the approval of Council:

- (1) Issue a public proclamation declaring to all persons the existence of such a state of emergency;
- (2) In order to more effectively protect the lives, safety and property of people within the Town, define and impose a curfew applicable to all persons within the jurisdiction of the Town, during which it shall be unlawful for anyone subject to curfew to (a) be or travel upon any public street, alley or roadway or upon public property unless such travel is necessary to obtain medical assistance, (b) 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, (c) sell beer, wines, or intoxicating beverages of any kind, or possess or consume the same off one's own premises, (d) sell gasoline or any other similar petroleum products or any other combustible or inflammable substances except as expressly authorized by the provisions of the curfew imposed;
- (3) Limit the application of said curfew to any area specifically designated and described within the jurisdiction of the Town and to specific hours of the day or night;
- (4) Exempt from said 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.

The Mayor shall:

- (1) Call the Town Council into session within twenty-four hours after a state of emergency has been proclaimed;
- (2) Proclaim the end of any state of emergency and curfew as soon as circumstances warrant or when directed to do so by the Town Council.

Section 2-52. Devolution of Powers When Mayor Absent

The Council shall, at the first meeting after election, appoint one of the councilmen as Mayor Pro Tempore. It shall be the duty of the Mayor Pro Tempore to act as Mayor in the absence of the Mayor from the Town or

when the Mayor is incapable of the duties of his office. In the absence or inability to act of both the Mayor and Mayor Pro Tempore, the duties of the Mayor shall devolve on and be performed by such councilman as the Council shall name.

Section 2-55. Mayor Pro Tempore

WHEREAS, Section 5-7-190 of the South Carolina Code requires that a municipal council must elect from its membership a Mayor Pro Tempore for a term not to exceed two

years. NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Town of Hemingway in Council duly assembled and by the authority of the same:

That the Council shall, at the first meeting of the newly constituted Council after any general election for municipal council, elect one of its members as Mayor Pro Tempore for a term of two years. It shall be the duty of the Mayor Pro Tempore to act as Mayor during the absence or disability of the Mayor, or in case of a vacancy in the Office of Mayor.

NOW, be it hereby established that George Sutton shall serve as Mayor Pro Tempore until the first council meeting in September, 2002.

ARTICLE VI. TOWN CLERK AND TREASURER

Section 2-60. Town Clerk and Treasurer

The Town Council shall elect a Clerk and a Treasurer who shall hold office at the pleasure of Council. Said offices may be both held by one person.

Section 2-61. Bond

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

Section 2-62. Duties of Clerk and Treasurer

The Clerk and Treasurer shall attend all meetings of the Council, and the Clerk shall keep all records of the proceedings of the Council in a book which shall be kept for that purpose. It shall also be the duty of the Clerk to publish all ordinances and resolutions. The Treasurer shall collect all taxes and fees due the Town and keep a record of the same and of all monies belonging to the Town and pay out the same upon proper authority from the Council. The Treasurer shall also render to the Council monthly a statement of the financial condition of the Town, showing the balance on hand at the commencement of the month, all receipts and disbursements during the month, and the balance then on hand.

ARTICLE VII. TOWN ATTORNEY

Section 2-70. Town Attorney

The Town Council shall elect a lawyer of good and reputable standing who is a member of the South Carolina Bar Association as the town attorney. The town attorney must have had at least two years' experience at the bar. The attorney shall hold office for two years or until his successor is elected and qualified. The town attorney shall not be considered an officer of the Town.

ARTICLE VIII. TOWN ADMINISTRATOR

Section 2-80. Appointment

The Town Council shall appoint a Town Administrator and fix his compensation. He shall be appointed solely on the basis of his executive and administrative qualifications.

Section 2-81. Term

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

Section 2-82. Bond

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

Section 2-83. General Duties

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

- (1) To direct, supervise and coordinate administrative activities and operations.
- (2) To appoint department heads and other town employees with approval of the Council.
- (3) To suspend or dismiss department heads and other town employees with approval of the Council.
- (4) To prepare a proposed annual operating budget (in consultation with the clerk-treasurer, council budget and finance committee and department heads) and submit the proposed budget to the Town Council for review and consideration.
- (5) To have responsibility for administration of annual operating budget after adoption.
- (6) To recommend and administer personnel policies, classification, compensation and evaluation for all town employees.
- (7) To monitor the financial condition of the town, estimate present and future financial needs.
- (8) To combine or consolidate job positions within departments as necessary or prudent to maximize manpower utilization and efficiency.
- (9) To recommend and administer policies governing purchasing procedures and inventory control.
- (10) To authorize the purchase of services, materials, supplies and equipment which do not require the taking of bids, provided such items are appropriated in the annual operating budget, capital improvements budget, or revenue sharing budget.
- (11) To authorize shifts in departmental budget line items provided overall departmental budget appropriations do not change, with concurrence of finance committee.
- (12) To investigate complaints concerning administrative matters and personal performance.
- (13) To prepare and submit to the Town Council at the end of each fiscal year a complete annual report on the finance and administrative activities of the Town.
- (14) May, after informing the Mayor, delegate to other administrative officers subject to his direction and supervision the authority to exercise specified duties and responsibilities as may be considered appropriate.

(15) Provide Town Council with information, guidance, and leadership in matters of policy determination. In this area, the Town Administrator should take an active role in the pursuance of grants and other monies for municipal use.

(16) The Town Administrator should serve as a Public Relations person with all agencies connected with our municipality.

Section 2-84. Removal From Office

The Town Administrator may be removed from office by a majority vote of the members of the Town Council. Those members voting for removal shall state their reasons for such vote. The action of the Town Council in removing the Town Administrator shall be final. In all cases, the Town Administrator shall receive all accrued leave time, vacation pay, sick leave and two (2) weeks notice of his removal or severance pay for two (2) weeks where such removal is made effective immediately by a majority vote of all the members of the Town Council.

Section 2-85. Communication Between Administrative Assistant and Town Council

The Town Administrator shall relate to and communicate with the Mayor and Chairmen of Standing Council Committees and with the Town Council as a whole any and all problems, situations, and conditions which arise concerning any department or activity of the Town which, in the opinion of the Town Administrator is of significance. Except for the purpose of inquiry, the members of the Town Council shall communicate directly with the Town Administrator in any and all matters concerning any department or activity of the Town. No member of the Town Council shall give orders to any subordinate of the Town Administrator except in case of an emergency.

Section 2-86. Repeal of Conflicting Ordinance

All existing ordinances of the Town of Hemingway are hereby repealed insofar as they may be inconsistent with provisions of this ordinance.

CHAPTER 3. ADVERTISING

ARTICLE I. IN GENERAL

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3-3. Scattering Handbills
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ARTICLE I. IN GENERAL

Section 3-1. Posting on Public Property

It shall be unlawful for any person to post any placards, posters or advertisement of any kind on public property within the Town, by use of a placard, picture, paper, circular, painting or by any means or device whatsoever.

Section 3-2. Painting or Printing on Sidewalks

No person shall print, paint, or in any other way deface the sidewalks, streets or other public property of the Town for advertising or other purposes; PROVIDED, that nothing herein contained shall be construed to

prohibit the police department or any other department of the Town from marking the sidewalks for the purpose of controlling traffic or for any other Town purpose.

Section 3-3. Scattering Handbills

It shall be unlawful for any person to distribute, place, spread or scatter, or cause to be distributed, placed, spread or scattered, any handbills, posters, advertisements or any other paper or card or scraps of paper upon the sidewalks, streets, front yards, gardens, automobiles or other vehicles within the Town.

Section 3-4. Posting on Private Property

It shall be unlawful to place any such advertisement, business, political or otherwise, or any notice or sign of any nature on private property within the Town, without the consent of the owner or lessee of the property.

Section 3-5. Permits

Any person erecting an outdoor advertising sign in the Town must fill out an application from the Town Hall, and the approval of the erection of such signs be given by the building inspector when in his judgment the proposed sign does not create a safety hazard and is otherwise consistent with all regulations of the Town.

Section 3-6. Abatement of Illegal Signs

No penalty imposed by this Chapter for any violation thereof shall be construed as to relieve the violator of the duty to conform to the requirements of this Chapter. After notice of any violation of the provisions of this Chapter, every day that the offending sign is maintained shall constitute a separate offense.

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- 4-29. Acts Prohibited on Licensed Premises: Revocation of License
- 4-30. Sale of Beer or Wine After License Revoked, Cancelled or Suspended
- 4-31. Permittee Selling Draft Beer to be Approved by State Board of Health
- 4-32. Permit and Health Certificate to be Posted
- 4-33. Penalties

ARTICLE I. IN GENERAL

Section 4-1. Definitions

The words "alcoholic liquors" as used in this Chapter mean any spirituous malt, vinous, fermented, brewed or other liquors or any compound or mixture thereof by whatever name called or known which contains alcohol and used as a beverage.

The words "nonalcoholic" and "non-intoxicating" as applied to beverages shall mean all beers, ales, porter and other malt or fermented beverages containing not in excess of five percent of alcohol by weight, and all wines containing not in excess of twenty-one percent of alcohol by volume.

Section 4-2. Jurisdiction of the Municipal Court

All municipal courts and those lawfully acting as judges thereof shall try and determine all cases involving any violation of this Chapter occurring within the limits of such municipality where the penalties do not exceed a fine of two hundred dollars (\$200) or imprisonment of thirty (30) days, or a fine not exceeding the penalty provided by state law, and such criminal cases, with the right and duty of sending such cases, occurring within the municipal limits but beyond their jurisdiction to try, to the higher courts. Any persons convicted hereunder in municipal courts shall be treated as municipal prisoners.

Section 4-3. What constitutes Prior Offenses

A conviction, plea of guilty, plea of nolo contendere or forfeiture of bond for the violation within ten years, of any of the laws of this State, or of the United States, relating to alcoholic liquor shall constitute prior offense for the purpose of any prosecution, or for the purpose of imposition of sentence for any subsequent violation of this Chapter.

ARTICLE II. OFFENSES AND PENALTIES

DIVISION I. GENERALLY

Section 4-11. Unlawful Purchase - First Offense

It shall be unlawful for any person to purchase or otherwise procure any alcoholic liquor other than that purchased from licensed dealers within the State. The first offense of which is a misdemeanor and within the jurisdiction of the municipal courts.

Section 4-12. Employment of Minors - First Offense

It shall be unlawful for any minor person, according to state law, to work as an employee or otherwise in a retail, wholesale or manufacturing liquor business or business establishment or for any person knowingly to employ any person under the age of twenty-one years in any such business or business establishment. The first offense of which is a misdemeanor and within the jurisdiction of the municipal court.

Section 4-13. Drinking on Premises of Liquor Establishment - First Offense

It shall be unlawful for any person to drink alcoholic liquors on the premises of any retail, wholesale or manufacturing alcoholic liquor business or business establishment, unless the business is licensed for such purpose within the jurisdiction of the municipal court. The first offense is a misdemeanor and within the jurisdiction of the municipal court.

Section 4-14. Drinking Liquor in Public Conveyances

Any person who shall drink or possess open containers of alcoholic liquor in any public conveyance in this Town shall be deemed guilty of a misdemeanor. This section is not to apply to any railroad dining or club car. The first offense is a misdemeanor and within the jurisdiction of the municipal court.

Section 4-15. Drinking in Public Places

It shall be unlawful for any person to drink or possess open containers of any kind or alcoholic liquor or non-intoxicating beverage on the street, alleyways, highways or other public places in the Town. Any person found guilty of violating this section shall be required to pay a fine of not more than that required by state law or serve on the public works for a period of not more than thirty (30) days.

Section 4-16. Penalties

Unless otherwise provided herein, upon conviction for violation of any provision of this Chapter, the penalty shall be at the direction of the court a fine of not more than two hundred dollars (\$200) or a fine not exceeding the amount provided by state law or imprisonment for not more than thirty (30) days.

DIVISION 2. BEER, ALE, PORTER AND WINE

Section 4-21. Unlawful to Sell Unless Tax Paid

It shall be unlawful for any person to sell or permit to be sold any beer, ale, porter, wine, malt or other beverage authorized to be sold under State Statutes regulating same, on which the tax levied be not paid.

Section 4-22. Sale to Minors Under Twenty-one years

It shall be unlawful for any person to sell beer, ale, porter, wine or other malt of fermented beverage to a minor under the age of twenty-one years.

Section 4-23. Time in Which a Minor May Loiter or Frequent any Establishment Selling
Non-intoxicating Beverages

It shall be unlawful for any owner, operator or agent thereof to allow any minor under the age of sixteen to loiter or frequent a place which sells non-intoxicating beverages. Any owner, operator or agent thereof found guilty of violating this Section shall be subject to a fine not exceeding two hundred dollars (\$200) or a fine not exceeding the penalty provided by state law or imprisonment not exceeding thirty (30) days.

Section 4-24. Purchasing to Give Another Who Cannot Lawfully Purchase

It shall be unlawful for any person to purchase beer or wine and to give such beer or wine to a person to whom beer or wine cannot lawfully be sold.

Section 4-25. Purchase or Possession by Minor Under Twenty-one Years

It shall be unlawful for any minor under the age of twenty-one years to purchase, or knowingly have in his possession any beer, ale, porter, wine or any other similar malt or fermented beverage. Any such possession shall be prima facie evidence that it was knowingly possessed. This section shall not apply to any employee lawfully engaged in the sale or delivery of any such beverage in an unopened container.

Section 4-26. Sales Between Saturday Night and Monday Morning Prohibited

It shall be unlawful for any person to sell or offer for sale any wine or beer in the city between the hours of 12:00 midnight Saturday night and sunrise Monday morning, unless properly permitted.

Section 4-27. Contraband: Sunday Sales of Beer and Wine

Any place of business violating the previous section shall have all beer and wine found upon said premises declared contraband and it shall be seized as contraband liquor: PROVIDED, that the person owning or claiming such beer or wine may retain possession by delivering a cash bond in an amount equal to the price charged for a like quantity by a licensed wholesaler. The officer who shall receive the bond shall deliver a written receipt to the person posting the bond. The cash bond shall be deposited in the treasury of the municipality.

Section 4-28. Drinking or Possession on Licensed Premises at Prohibited Hours

Any person who drinks beer or wine or possesses beer or wine in an open container between the hours of twelve o'clock Saturday night and sunrise Monday morning at any place licensed to sell beer or wine shall be deemed guilty of a misdemeanor.

Section 4-29. Acts Prohibited on Licensed Premises: Revocation of License

No holder of a permit authorizing the sale of beer or wine or any servant, agent or employee of the permittee shall knowingly do any of the following acts upon the licensed premises covered by such holder's permit:

- (1) Sell beer or wine to a minor.
- (2) Sell beer or wine to any person while such person is in an intoxicated condition.
- (3) Permit gambling or game or chance.
- (4) Permit any lewd, immoral or improper entertainment, conduct or practices.
- (5) Permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the ordinances of the Town or the laws of the

State, or,

- (6) Sell, offer for sale or possess any beverage or alcoholic liquor, the sale or possession of which is prohibited on the licensed premises under the laws of the State.

A violation of any of the foregoing provisions shall be a ground for the revocation or suspension of such holder's permit by the State.

Section 4-30. Sale of Beer or Wine After License Revoked, Cancelled or Suspended

It shall be unlawful for any licensee, or any holder of a license, to sell beer or wine at wholesale or retail, to sell or offer to sell beer or wine after such license shall have been revoked or cancelled during the period of a suspension of such license.

Section 4-31. Permittee Selling Draft Beer to be Approved by State Board of Health

No person holding a retail permit to sell beer, ale, porter and other similar malt or fermented beverages, issued by the State, shall sell such beverages on draft, on tap or from kegs or other containers on the premises

described in the permit, unless approved by the rules and regulations of the State Board of Health governing eating and drinking establishment and other retail food establishments.

Section 4-32. Permit and Health Certificate to be Posted

Both the permit issued by the State and the certificate of approval issued by the State Board of Health shall be conspicuously posted on the premises.

Section 4-33. Penalties

Any violations of the provisions of this Chapter shall be a misdemeanor, and anyone violating any of the provisions thereof shall be punished at the direction of the court as limited by State statutes.

CHAPTER 5. ANIMALS AND FOWL

ARTICLE I. IN GENERAL

- Section 5-1. Definitions
5-2. Penalties
5-3. Report of Dead Animals and Fowl
5-4. Disposal of Dead Animals and Fowl
5-5. Police Powers
5-6. Cruelty to Animals
5-7. Nuisances
5-8. Bird Sanctuary

ARTICLE II. DOGS

- Section 5-20. Ferocious Dogs at Large Prohibited
5-21. Female Animals in Heat
5-22. Inoculation Required
5-23. Owner to Report Suspected Rabies
5-24. Police Power When Rabies Suspected

ARTICLE III. LIVESTOCK AND FOWL

- Section 5-40. Stables, Poultry Pens, Etc.
5-41. Livestock Running at Large
5-42. Racing and Driving Livestock
5-43. Exhibition of Animals for Service
5-44. Slaughterhouses
5-45. Animals on Sidewalks
5-46. Use of Horses, Etc. Without Permission

ARTICLE I. IN GENERAL

Section 5-1. Definitions

In this Chapter the word "animals" shall be held to include all brute creatures and domestic pets. "Dog" shall include all members of the canine family four months or more of age, including foxes and other canines.

Section 5-2. Penalties

Except as otherwise provided herein, the violation of any provision of this chapter shall be a misdemeanor and upon conviction thereof the penalty shall be a fine of not more than two hundred dollars (\$200) or a fine not exceeding the penalty provided by the state law or imprisonment of not more than thirty (30) days.

Section 5-3. Report of Dead Animals and Fowl

Any person having upon his premises any dead animal or fowl shall immediately report such animal or fowl to the health officer.

Section 5-4. Disposal of Dead Animals and Fowl

Whenever any animal or poultry shall die from any natural or other cause, except from being slaughtered or killed for the use of man, or the dead body thereof be found upon the premises of any person, be he the owner or tenant thereof, the owner of such dead animal or poultry, or the owner or tenant of the lands or premises upon which the dead bodies may be found, shall immediately and not later than twenty-four hours after discovery burn or bury or cause to be burned or buried such dead animal or poultry. When buried, the animal shall be put not less than three feet and poultry not less than one foot under the ground.

Any owner of any such animal or poultry, or any tenant on premises, having knowledge that such animal or poultry is lying dead on his premises, and who refuses or fails to bury such dead animal or poultry as aforesaid, upon conviction, shall be fined in a sum of not less than five dollars (\$5) nor more than ten dollars (\$10) to be imprisoned for a period of not more than thirty (30) days.

Section 5-5. Police Powers

Any policeman of the Town shall have power within his discretion to take up and confine or destroy any dog, cat or other animal which he may have reason to believe rabid, badly maimed or in violation of the other sections of this article.

Section 5-6. Cruelty to Animals

It shall be unlawful for any person to inflict unnecessary cruelty upon any animal, or to ride, drive or work it when sick or unfit for work, to override, overwork, overload, ride when overworked, torture, torment or to beat or whip cruelly any animal, and it shall be unlawful for any such person owning or having charge of any animal to fail to provide it with proper food, drink, shelter or protection from the weather.

Section 5-7. Nuisances

It shall be unlawful for any person or persons, firm or corporation to keep or allow to be kept on their premises or under their control any dog, cow, cat, hog, goat or any other animal or any fowl which constitutes a public nuisance due to excess noise and/or odor.

Upon complaint that an animal or fowl is creating a nuisance, the Police Department shall investigate the complaint of such animal or fowl and allow such owner or custodian five (5) days to remedy the situation.

If after the five (5) days notice, the said owner or custodian of the animal or fowl complained of does not remedy the situation, then such owner or custodian shall be summoned before the municipal judge and tried for a misdemeanor and upon conviction shall be fined not more than two hundred dollars (\$200) or a fine not exceeding the penalty provided by state law or imprisoned not more than thirty (30) days.

Section 5-8. Bird Sanctuary

It shall be unlawful to kill, shoot, attempt to shoot, trap or molest in any manner or to rob the nest of any wild bird within the Town.

ARTICLE II. DOGS

Section 5-20. Ferocious Dogs at Large Prohibited AMENDED: 12/08/2011

It shall be unlawful for any person having custody or owning any ferocious or vicious dog. Also, it shall be unlawful for any dog to run at large within the city. It shall be the responsibility of the dog owner to provide either a fence or a tether on his property for the keeping of a dog out of doors. When walking a dog on the city streets or public places, the dog owner shall make use of a tether such that the dog is always under the control of the owner.

The police officers of the city are hereby authorized to cite owners of dogs found roaming unrestrained at large within the city. Owners shall be fined as follows:

1. For the first such offense, verbal warning.
2. For the second such offense, the fine shall not exceed \$25.00.
3. For the third such offense, the fine shall not exceed \$50.00.
4. For the fourth and subsequent such offense, the fine shall not exceed \$200.00 and/or 30 days in jail.

Section 5-20. Ferocious Dogs at Large Prohibited

It shall be unlawful for any person having custody or owning any ferocious or vicious dog or other animal to allow such animal to run at large on any of the streets of the Town: PROVIDED, such animal may be allowed to roam at large if properly muzzled or otherwise restrained so as not to endanger any person or property within the Town.

Section 5-21. Female Animals

It shall be the duty of the owner, or any person having the control of any female animal to securely confine her and keep her concealed from view while she is in heat or proud.

Section 5-22. Inoculation Required

It shall be unlawful for any person to own or have in possession any dog which has not been inoculated against rabies within the preceding 12 months by a licensed veterinarian.

Section 5-23. Owner to Report Suspected Rabies

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

Section 5-24. Police Power When Rabies Suspected

Whenever a case or suspected case of rabies has occurred in the Town, the police department shall have the power, and it shall be its duty, to prevent the spread of the disease by ordering that all dogs or other domestic pets in the Town shall be locked up, restrained by a leash or muzzled, or shall order all owners or keepers of same to take such preventive measures as the police department may deem necessary, or both. The police department shall exercise this power subject to state law governing the duties of the county health department in like situations.

In the event any owner or keeper of any dog or domestic pet shall knowingly fail or refuse to comply with the order of the police department, it shall be the prerogative of the police department to seize the dog and take whatever action it deems appropriate and which is not inconsistent with state law governing the duties of the county health department in like situations.

ARTICLE III. LIVESTOCK AND FOWL

Section 5-40. Stables, Poultry Pens, Etc.

It shall be unlawful for any person to keep hogs, pigs, cows or chickens within 250 feet of any residence within the Town of Hemingway, South Carolina. No horses, cows or stock stables and chicken houses or barns shall be kept within 500 feet of any residence in town and all stables, houses and barns shall be kept in a clean and sanitary condition and the condition and the manure not allowed to accumulate and shall be subject to regulations prescribed by the health officer.

Section 5-41. Livestock Running at Large

It is hereby ordered that any horse, mare, colt, mule, ox, cattle, goat, hog, sheep or any other brute animal or fowl running at large within the Town, either by day or night, shall be impounded by the Williamsburg County Environmental Control Agency, or any such animal or fowl trespassing on public or private property or any of the sidewalks whether tied or not; or laying about the streets either by day or night shall likewise be impounded. Penalties for this violation will be that according to the Williamsburg County Environmental Control Agency.

Section 5-42. Racing and Driving Livestock

It shall be unlawful for any person to drive horses or other animals at a dangerous speed in the Town or to race horses or other animals on the streets of the Town.

Section 5-43. Exhibition of Animals for Service

It shall be unlawful for any person to exhibit upon the public streets of the Town any stallion, jackass, bull or other animal. All persons keeping such animals for service shall provide stalls enclosed from public view in which to keep said animals, or in which said animals are used for service.

Section 5-44. Slaughterhouses

No bullock, or cow, cattle, sheep, swine, calves or goats intended for sale shall be killed within the limits of the Town except at such places as the Town Council may from time to time designate in writing. Every person violating the provisions of this Section shall be subject to a fine of not more than one hundred dollars (\$100) or a fine not to exceed that provided by state law or imprisonment for not more than ten (10) days for each offense.

Section 5-45. Animals on Sidewalks

It shall be unlawful for any person to ride, drive or lead any livestock upon the sidewalks of the Town, except at regular crossings or entrances to private or business premises.

Section 5-46. Use of Horses, Etc., Without Permission

It shall be unlawful for any person to knowingly or willfully to take or use any horse, mare, mule or other animal without the consent of the owner or the person having custody of such animal: PROVIDED, the intent to steal such animal shall not be an element of the misdemeanor prescribed by this section.

CHAPTER 6. BUILDINGS

ARTICLE I. IN GENERAL

- Section 6-1. Fire Limits
6-2. Numbering of Buildings
6-3. Removal of Damaged Buildings
6-4. Penalties

ARTICLE II. BUILDING STANDARDS

- Section 6-20. Adoption of State Code
6-21. Adoption of Southern Standard Code
6-22. Building Official

ARTICLE III. PERMITS AND FEES

- Section 6-30. Permits Required
6-31. Building Plans Required: Issuance of Permit
6-32. Industrial Permits
6-33. Repairing or Remodeling Wooden Buildings in Fire Limits
6-34. Fees
6-35. Failure to Acquire Permit
6-40. Unsafe Buildings or Structures
6-41. Elimination of Unsafe Conditions
6-42. Appeals From Decision of Building Inspector Declaring Building Or Structure Unsafe
6-43. Unlawful Interference With Premises Caused to be Vacated of Unsafe Conditions

ARTICLE IV. DAY CARE FACILITIES

- Section 6-44. Day Care Facilities

ARTICLE I. GENERAL

Section 6-1. Fire Limits

The area within the following district limits shall constitute the fire district of the Town: Within the town limits of Hemingway.

Section 6-2. Numbering of Buildings

The owner of any building shall affix conspicuously on the front thereof such numbers as may be assigned to such building by the Town Clerk. The Town Clerk shall assign numbers to buildings in accordance with the plat on file in his office. The numbers are to be of such size and description as the Council may hereafter designate.

Section 6-3. Removal of Damaged Buildings

Any person having or being in possession of a residence or other buildings in the Town burned by fire, lightning, etc., and rendered unfit for use, shall remove such building from the premises within such period of time as follows; the case insurance is claimed, within ninety (90) days from the adjustment of the insurance, and incase there is no insurance, within ninety (90) days from the fire or other accident: PROVIDED, no building permit shall be required for such demolition or removal.

Section 6-4. Penalties

Any person, firm, corporation or agent who shall violate any of the provisions of this Article, or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor. Each such person, firm, corporation or agent shall be deemed guilty of a separate offense for each and every day or a portion thereof during which any violation of any provision of this Article is committed or continued and, upon conviction of any such violation, such person shall be punished by a fine not exceeding two hundred dollars (\$200) or a fine not exceeding that provided by state law or be imprisoned for not more than thirty (30) days.

ARTICLE II. BUILDING STANDARDS

Section 6-20. Adoption of State Code

All the provisions and requirements of the Southern Standard Building Code as set forth in Sections 47:1151 through 47:1261 of the 1999 Code of Laws of South Carolina and amendments thereto insofar as such provisions have application to the Town of Hemingway are hereby adopted and made a part of this Chapter as fully as though set out herein. It shall be unlawful for any person to fail or refuse to comply with the sections of the state law referred to above.

Section 6-21. Adoption of Southern Standard Code **AMENDED 09/10/15**

There is hereby adopted by the Town of Hemingway for the purpose of establishing rules and regulations for the construction, alteration, removal demolition, equipment, use and occupancy, locations and maintenance of buildings and structures--including fees, permits and penalties--that certain building code known as the Southern Standard Building Code, being particularly the 2012 edition, and any subsequent revisions or additions and amendments, save and except such portions as are hereinafter deleted, modified, amended, or provided for in this Code of which not less than one copy has been and now is filed in the office of the Clerk of the Town of Hemingway and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the Town of Hemingway.

AMENDMENT:

WHEREAS, it is the desire of the Town of Hemingway to adopt building codes in order to be more responsive to the needs of the public; and,

WHEREAS, the adoption of building codes relating to public safety, health and general welfare, is in the best interests of the citizens of the Town of Hemingway;

NOW THEREFORE, BE IT ORDAINED by the Hemingway Town Council , in session duly assembled, that the Town of Hemingway Code is amended, to adopt and incorporate by reference, as if fully set out in this ordinance, the documents stipulated in this ordinance, for use and enforcement within the jurisdiction of the Town of Hemingway. Those documents shall be known and referred to collectively as “the building codes” to include any subsequent revisions or additions and amendments to the codes listed above. **(09/10/2015)**

BUILDING CODES ADOPTED **Omitted 9/10/15**

(A) The International Building Code, 2003 Edition, as published by the International Code of Council, Inc.

- (B) The International Residential Code for One and Two Family Dwellings, 2003 Edition, as published by the International Code Council, Inc.
- (C) The International Plumbing Code, 2003 Edition, as published by the International Code Council, Inc.
- (D) The International Mechanical Code, 2003 Edition, as published by the International Code Council, Inc.
- (E) The International Fuel Gas Code, 2003 Edition, as published by the International Code Council, Inc.
- (F) The International Fire Code, 2003 Edition, as published by the International Code Council, Inc.
- (G) The National Electrical Code, 2005 Edition, as published by the National Fire Protection Association.

This ordinance shall apply to all areas within the Town of Hemingway, excluding any parcels of land owned by the State of South Carolina or the Federal Government and any buildings or structures located thereon.

Section 6-22. Building Official

There is hereby created the office of Building Inspector.

Section 6-23. Duties of Building Inspector

The Building Inspector shall determine whether or not any building or structure constitutes an unsafe building as defined in Section 6-40 and shall, upon finding such unsafe conditions to exist, give written notice stating the defects thereof to the owner, agent or person in control of such building or structure, and cause the same to be abated in accordance with the provisions of Section 6-41. If necessary, such notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Building Inspector. He shall cause to be posted at each entrance to such building or structure a notice: "This Building Is Unsafe And Its Use Or Occupancy Has Been Prohibited By The Building Inspector". In cases of emergency involving imminent danger to human life or health, the Building Inspector shall promptly cause such buildings, structures or portions thereof to be made safe or removed. The Building Inspector shall also inspect the construction of new buildings or structures and new additions to preexisting buildings or structures to insure that said construction conforms to the requirements of this section.

DIVISION 2. STANDARDS OF CONSTRUCTION

Section 6-31. Permits Required

It shall be unlawful for any person, persons, firm or corporation to erect, construct, repair, move or remodel any building or structure within the Town limits of the Town of Hemingway without first applying for and receiving from the Building Inspector a permit as hereinafter required, provided, any such building or structure may only be constructed according to the Southern Standard Building Code, provided, no permit shall be required for any minor repair or alteration costing, in the aggregate, less than one thousand dollars (\$1000).

Section 6-32. Industrial Permits

No building or premises in the Town not heretofore used for industrial purposes shall be erected or used for industrial purposes unless special permission for such erection or use is granted by the Building Inspector. Any person, firm, or corporation refused permission to erect or use a building for industrial purposes shall have the right to petition the Building Inspector to have a public hearing on the matter, which public hearing shall be granted by the Building Inspector.

Section 6-33. Repairing or Remodeling Wooden Buildings Within Fire Limits

It shall be unlawful for any person, persons, firm or corporation to repair or remodel any building or structure made of wood within the Fire limits of the Town, except major repairs or remodeling, and the plans for such repair or remodeling shall be first submitted to the Building Inspector and a permit acquired as herein provided.

Section 6-34. Fees **AMENDED 10/11/2007**

On all buildings, structures or alterations requiring a building permit, as provided in this Chapter, there is hereby levied fees in accordance with the following schedule:

(a) Permit Fees

TOTAL VALUATION	FEE
\$1000 and less	No fee, unless inspection required, in which case a \$15.00 fee for each inspection shall be charged.
\$1000 to \$50,000	\$15.00 for the first \$1000 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.
\$50,000 to \$100,000	\$260.00 for the first \$50,000 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.
\$100,000 to \$500,000	\$460.00 for the first \$100,000 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.
\$500,000 and up	\$1660.00 for the first \$500,000 plus \$2.00 for each additional thousand or fraction thereof.

(b) Moving of Building or Structures

For the moving of any building or structure, the fee shall be \$50.00.

AMENDED: 12/08/2011

AN ORDINANCE TO AMEND SECTION 6-34 OF THE BUILDING ORDINANCE TO CHANGE BUILDING PERMIT FEES

BE IT ENACTED, that there be prescribed fees set for all building development and that no permit, as set forth in the Zoning Ordinance, be issued until the fee prescribed herein shall have been paid, nor shall an amendment to a permit be approved until the additional fee, if any, shall have been paid, and that if any person commences any work on a building or structure or starts any development before obtaining the necessary permit from the Building Official, he shall be subject to the penalty of a double permit fee, and that the Building Official shall keep a permanent and accurate accounting of all permits and fees and all other monies collected. A copy of all building permit application and certificates of occupancy shall be kept on file in the Building Office for a period of three years.

THEREFORE BE IT ORDAINED THAT, on all buildings and structures, developments a fee shall be paid at the time of issuance of a permit, in accordance with the following schedule:

1. FEE SCHEDULE

TOTAL VALUATION	FEE
\$2500 OR LESS	A permit will be required, but at no charge to the owner. Contractors will need to secure a Business License.

\$2501 to \$50,000	\$50.00 for the first \$2500 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.
\$50,001 to \$100,000	\$300 for first \$50,000 plus \$4.40 for each additional thousand or fraction thereof, to and including \$100,000.
\$100,001 to \$500,000	\$500 for first \$100,000, plus \$3.30 for each additional thousand or fraction thereof, to and including \$500,000.
\$500,001 and up	\$1850 for first \$500,000, plus \$2.25 for each additional thousand or fraction thereof.

2. Inspections, if needed, will be conducted by the Town. The fee is \$50.00 for commercial inspections and \$25.00 for residential inspections. These fees are for each inspection. Exp. If a commercial property needs two inspections (electricity and plumbing) the cost will be \$100.00.
3. For the moving of any building or structure at least 1500 square feet in size, the fee shall be \$100.00. If there are extenuating circumstances caused by the moving, the Town Building Inspector will reassess the costs and make the owner aware of these additional expenses.
4. For the demolition of any building or structure, the fee shall be \$100.00
5. For every change of tenant permit for commercial buildings, the fee shall be \$25.00.
6. When the value of the proposed construction exceeds \$10,000 or a plan is required to be submitted by the applicable building codes, a plan checking fee shall be paid to the Building Official at the time of the issuance of the building permit. Said plan checking shall be equal to one-half of the building permit fee but in no case less than \$30.00.

If in the opinion of the Building Official the valuation of building or alteration of a structure appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimated cost to meet the approval of the Building Official. Permit valuations shall include total cost such as plumbing, electrical, and mechanical equipment and other systems to be a part of the structure.

Any and all ordinances in conflict herewith are hereby repealed and should any provisions of this ordinance be found to be invalid the remainder of same shall remain in full force and effect.

Section 6-35. Failure to Acquire Permit

Violations arising under Section 6-31 shall be regarded as separate violations for each day following commencement of construction and shall be punishable as separate offenses.

DIVISION 3. IMPROPER MAINTENANCE OF BUILDINGS OR STRUCTURES

Section 6-40. Unsafe Buildings or Structures

All buildings or structures which are unsafe, unsanitary, or not provided with adequate egress, or which constitutes a fire hazard, or are otherwise dangerous to human life, or which in relations to existing use constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment are, severally in contemplation of this section, unsafe buildings. All such buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition.

Section 6-41. Elimination of Unsafe Conditions

Upon receipt of written notice, the owner, agent or person in control of a building or structure declared to be unsafe shall cause the same to be made safe within the time stated in such notice by completing specified repairs or improvements or by demolishing and removing the building or structure or portion thereof. If necessary, the building shall be vacated until the unsafe conditions have been abated. In case the owner, agent or person in control shall fail, neglect, or refuse to comply with notice to repair, rehabilitate, or to demolish and remove said building or structure, or portion thereof, the Building Inspector, after having ascertained the cost, shall cause such building, structure or portion thereof to be demolished, secured or required to remain vacant. In cases of emergency, the unsafe conditions shall be abated by the Building Inspector with such assistance and at such cost as he may deem necessary. For this purpose, adjacent structures may be caused to be vacated, fences erected, public or private ways closed, or other appropriate relief measures taken. Cost incurred under this section shall be paid out of the treasury on certificate of the Building Inspector. Such costs shall be charged to the owner of the premises involved and shall be collected in the manner provided by law.

Section 6-42. Appeals From Decision of Building Inspector Declaring Building or Structure Unsafe

The owner, agent or person in control shall have the right, except in case of emergency, to appeal from the decision of the Building Inspector and to appear before the Board of Zoning Appeals at a specified time and place to show cause why he should not comply with said notice.

Section 6-43. Unlawful Interference With Premises Caused to be Vacated of Unsafe Conditions

It shall be unlawful for any person, firm or corporation or their agents or other servants to remove the "Unsafe Notice" posted on premises caused to be vacated because of unsafe conditions without written permission from the Building Inspector, or for any person to enter such building except for the purpose of making the required repairs or demolishing the same.

ARTICLE IV. DAY CARE FACILITIES

Section 6-40. Day Care Facilities

Family day care homes, group day care homes, or overnight day care facilities may be established in R-3, High Density Residential District, zoning districts upon a finding by the zoning administrator that the requirements and approval process that follow are met. In addition, family day care homes as defined by SC DHEC shall be allowed as a conditional use in R-1, Low Density Residential District, zoning district provided no more than six (6) children are registered within SC DHEC guidelines and the home has no more than one employer who must be a resident of the premises and upon a further finding by the zoning administrator that the requirements and approval process that follow are met.

1. Permitting requirements.

- (1) the proposed facility must meet the definition for either a family day care home or group

- day care home. Overnight day care facilities are allowed only in conjunction with approved family day care homes; and
- (2) proof of application for the facilities registration with the Department of Social Services is submitted and regulations for public and private child day care centers by the Department of Social Services of South Carolina are met; and
 - (3) no more than six (6) persons and registered as recipients of child care services in one (1) facility; and
 - (4) outdoor play is allowed only between the hours of 8:00 a.m. and 6:00 p.m.; and
 - (5) the facility is an accessory use of a residence occupied by the operator of the facility; and
 - (6) the proposed outdoor lighting on the facility does not unduly impact neighboring properties; and
 - (7) there are no signs advertising or identifying the property as a family day care home.

2. Approval Process.

Prior to the issuance of a zoning permit, the zoning administrator shall cause the property upon which the proposed facility is to be located to be posted for ten (10) consecutive days, advising that the occupant of the property has applied for a zoning permit to establish a day care facility at the location and supplying a phone number to call for further information. Should no objection to the permit, as hereinafter set forth, be received by the zoning administrator during the ten (10) day posting period, the zoning administrator shall, after verifying that the facility meets the requirements as set forth above, issue the zoning permit. If, prior to the expiration of time during which the property is posted, the zoning administrator is presented with a petition in opposition to the issuance of a zoning permit, signed by a majority of the owners of property located within 200 feet of any lot line of the property where the facility is proposed to be located, then the matter shall be referred to the Board of Zoning Appeals. The Board of Zoning Appeals shall, in considering the matter, prior to the issuance of the permit, verify that the facility meets the requirements as set forth above and the facility is otherwise compatible with the surrounding neighborhood based upon the size of the proposed facility, the potential for increased traffic and noise and the location of plat, loading and circulation areas.

On an annual basis, the zoning administrator shall determine whether each day care facility permitted under this section remains in compliance with all the terms of this ordinance, and shall initiate such enforcement procedures as may be appropriate. All operators of day care facilities permitted under this section shall cooperate fully with the zoning administrator and his designees, including, but not limited to, providing pertinent information upon request and affording access to that portion of the premises which is used for day care for reasonable site inspections.

CHAPTER 7. CEMETERIES

- Section 7-1. Establishment of Cemetery
7-2. Penalties

Section 7-1. Establishment of Cemetery

It shall be unlawful for any person to establish or use, within the Town, any place for the burial of the dead without permission of the Town Council. This prohibition shall not extend to burial grounds established in the Town as of the effective date of this Code, within the boundaries as established as of such date for that purpose.

Section 7-2. Penalties

Any violation of the provisions of this Chapter shall be a misdemeanor, and anyone convicted of violating any provisions thereof shall be punished at the direction of the court as limited by state statutes.

CHAPTER 8. ELECTIONS

ARTICLE I. CONDUCT OF ELECTIONS

- Section 8-1. When General Elections Held
- 8-2. Special Elections
- 8-3. Notice of Elections
- 8-4. Polling Place: Location and Time Open
- 8-5. Results of Election
- 8-6. Contest of Elections
- 8-7. Ballots: Preparation and Safeguarding

ARTICLE II. MUNICIPAL ELECTION BOARD

- Section 8-20. Supervisor of Registration
- 8-21. Appointment of Manager and Clerk
- 8-22. Oath of Officers
- 8-23. Duties of Manager and Clerk
- 8-24. Liability for Willful Neglect of Duty or Corrupt Conduct
- 8-25. Managers of Election

ARTICLE III. MAYOR AND COUNCIL

- Section 8-30. Qualifications, Election and Term
- 8-31. Oath of Mayor and Councilmen
- 8-32. Holdover by Mayor and Council

ARTICLE IV. ELECTORS

- Section 8-40. Qualifications
- 8-41. Registration Certificate to be Presented at Polls

ARTICLE I. CONDUCT OF ELECTIONS

Section 8-1. When General Elections Held

A municipal general election to fill the offices of Mayor and Councilmen shall be held on the second Tuesday of July in even numbered years.

Section 8-2. Special Elections

In case a vacancy shall occur in the office of Mayor or any of the Councilmen, an election shall be held to fill such vacancy, and the Municipal Election Commission shall give at least sixty days previous public notice of such election. But should the vacancy occur within sixty (60) days of the general election, the Town Council may, in its discretion, refuse to order an election to fill the vacancy.

Section 8-3. Notice of Elections

At least sixty days public notice of every general or special election, except an election relative to the issue of bonds, shall be previously given by publication thereof in a newspaper of general circulation in the Town.

Section 8-4. Polling Place: Location and Time Open

The location of the polls shall be at the Hemingway Fire Department on Main Street. The chairman of the managers will open the voting place (poll) at precisely 7:00 a.m. The poll will remain open without intermission or adjournment until 7:00 p.m. in the evening of the day of election at which time the chairman will announce that the polls are closed. Any voters who are in the process of voting or present waiting to vote will be allowed to vote before the polls close.

Section 8-5. Results of Election

Immediately upon the closing of the polls at any municipal election, the managers will publicly count the votes cast and make a statement of the whole number of votes cast in the election together with the number of votes cast for each candidate for Mayor and Councilmen and report this information to the Municipal Election Commission.

The managers will certify the results to the Municipal Election Commission within one day and the Municipal Election Commission will declare the results not later than three days following the election.

The Municipal Election Commission will file a duplicate statement of the election returns in the office of the county clerk.

Whenever the difference between the number of votes received by a candidate who has been declared nominated in a primary election or who has been declared elected to an office in a general election and the number of votes received by any other candidate or candidates not declared so nominated or elected is one percent or less of the total votes cast for the office. The Municipal Election Commission will immediately order a recount of the votes. This recount may be waived by the other candidate or candidates if they do so in writing.

Section 8-6. Contest of Elections

Within forty-eight (48) hours after the polls close, any candidate may file a written notice to the Municipal Election Commission contesting the election results. Incumbents shall hold office until the dispute is settled.

Section 8-7. Appealing Commission's Decision

Within ten (10) days after the Commission's decision on the contested election, an aggrieved party may appeal the decision to the Court of Common Pleas.

Section 8-8. Number of Votes Required to Win an Election for Mayor or Councilman

The person securing the highest number of votes for Mayor will be declared elected, except in the case of a tie for the last vacancy with a run-off to be held two weeks after the election. Councilmen will be selected by the following method: When all councilmen are to be elected at large, the persons receiving the highest number of votes in number equal to the number to be chosen shall be declared elected.

NON-PARTISAN ELECTIONS

Section 8-10. Election Results

All elections in the Town of Hemingway shall be non-partisan elections. The plurality method shall be used and election results shall be determined in accordance with the following rules:

- (1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.
- (2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.

Section 8-20. Role of Municipal Election Commission

The central figure in the municipal election process is the municipal election commission. This commission is charged with conducting all municipal elections held and is responsible for supervising and conducting all municipal, special and general elections.

Section 8-21. Membership, Terms of Office and Organization of the Municipal Election Commission

The Municipal Election Commission is appointed by Council and is composed of three electors who must be residents of the municipality.

The terms of the members will be six years; except the terms of those first appointed. In this case, one member will serve a term of two years, one will serve a term of four years and one will serve a term of six years.

The commissioners at their first meeting will organize as a board by appointing one of their number as chairman of the Municipal Election Commission.

Section 8-22. Oath of Office

After the commissioners are appointed, they must take and sign the oath below. The oath will then be immediately filed in the office of the clerk of court of the common pleas of Williamsburg County, or, if there be no such clerk, in the Office of the Secretary of State.

"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 appointed, 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."

Section 8-23. Functions, Duties and Responsibilities of the Municipal Election Commission

1. Insure that proper books of registration are provided for each ward or precinct.

2. Appoint three managers of election for each polling place for each 500 electors, or portion thereof, registered to vote at the polling place.
3. Certify and place on the ballot the nominees of a party primary, party convention or petition.
4. Prepare and distribute ballots and election materials to each polling place.
5. Receive election results from the managers of election within one day of the election. Declare the results of the election not later than three days following the election.
6. Conduct hearings on contested elections, decide the issues, file a report with the clerk of the court of the county and notify the parties concerned.

Section 8-24. Liability for Willful Neglect of Duty or Corrupt Conduct

If any municipal election commissioner is found guilty and convicted of any willful neglect of any duty imposed on him by the election laws or of any corrupt conduct in executing the law, he will be guilty of a misdemeanor punishable by a fine not exceeding \$500 or imprisonment not exceeding one year.

Section 8-25. Managers of Election

The managers of election are responsible for conducting the election itself. They man the polling place, arrange the polling place, process the voters and tabulate and report the results to the Municipal Election Commission. Much of the success or failure of the election process is determined on election day. The manager is responsible for seeing to it that all voters duly qualified have the opportunity to participate in a fairly conducted election. The manager of an election is primarily responsible for the conduct of the election. A brief outline of these duties and responsibilities is listed below:

Membership and Composition of Managers of Election:

1. Managers of election are appointed by the Municipal Election Commission which appoints three managers for each polling place for each 500 electors, or portion thereof, registered to vote at that polling place.
2. Managers of election cannot be removed from office except for incompetence or misconduct.
3. Managers of election must be residents and registered electors of the respective county or adjoining county in which they are appointed to work.
4. Persons who cannot be managers or clerks of election include a candidate, his spouse, children, parents, brothers or sisters. This limitation applies only to polling places where such candidate's name appears on the ballot.

A. Organization of Managers of Elections

1. The managers may appoint a clerk to assist them in their duties. The clerk will take the same oath of office as a manager (see below).
2. The managers of election at their first meeting shall organize as a board of

managers by appointing one of their number as chairman of the board who may administer oaths.

B. Oath of Managers and Clerk

1. When the managers are appointed and when the clerk is appointed, the following oath must be taken and signed. The oath will then be immediately filed in the office of the clerk of court of the common pleas of the county in which the municipality is situated, or, if there be no such clerk, in the Office of the Secretary of State.

OATH

" 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 appointed, 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."

3. The managers, before the opening of the polls, must take and sign the following oath.

OATH

"We do solemnly swear that we will conduct this election according to the law and will allow no person to vote who is not entitled by law to vote in this election, and we will not lawfully assist any voter to prepare his ballot and will not advise as to how he should vote at this election."

C. Liability for Willful Neglect or Corrupt Conduct

Any manager at any election, general, special or primary, in this Municipality who is found guilty and convicted of willfully violating any of the duties prescribed for him by law, will be guilty of a misdemeanor and will be punished by a fine not to exceed five hundred dollars (\$500) or imprisonment in the discretion of the court.

MAYOR AND COUNCIL

Section 8-30. Qualifications, Election and Term

The officers of the Town shall be a Mayor and six Councilmen, who shall be citizens of the United States, qualified electors of the State and residents of the Town. Such officers shall be elected every four years and until their successors shall have been elected and qualified.

Section 8-31. Statement of Candidacy **REPEALED**

Each candidate shall file a statement of candidacy with the municipal election commission. The individual candidate shall file such statement with the commission not later

than thirty (30) days prior to the election and the commission shall place the name of the candidate upon the ballot.

AMENDMENT: Each candidate shall file a statement of candidacy with the municipal election commission. The individual candidates shall file each statement with the commission no later than sixty (60) days prior to the election and the commission shall place the name of the candidate on the ballot upon paying their filing fee for office. For the Mayor the filing fee shall be \$75.00 and for council the filing fee shall be \$50.00

Section 8-31. Statement of Candidacy

Each candidate shall file a statement of candidacy with the municipal election commission. The individual candidates shall file such statement with the commission no later than sixty (60) days prior to the election and the commission shall place the name of the candidate on the ballot upon paying their filing fee for office. For Mayor the filing fee shall be \$75.00 and for council the filing fee shall be \$50.00. (First reading: July 9, 2004 Second Reading: August 12, 2004)

Section 8-32. Oath of Mayor and Councilmen

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

"I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected and that I will to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. As Mayor (or Councilmen) of the Town of Hemingway, I will equally, fairly and impartially, to the best of my ability and skill, exercise the trust reposed in me, and will use my best endeavor to preserve the peace and carry into effect according to law the purpose for which I have been elected. So help me God (I so affirm)."

Section 8-33. Holdover by Mayor and Council

The newly elected officer shall not qualify within forty-eight hours after the closing of the polls, and in case a contest is filed, the old officers shall hold over until the contest is finally determined.

AN ORDINANCE TO AMEND SECTION 8-31 OF THE TOWN CODE AND AMEND PARAGRAPHS FOUR AND SIX OF THE ORDINANCE ADOPTING THE COUNCIL FORM OF GOVERNMENT

WHEREAS, the governing body of the Town of Hemingway is composed of the Mayor and six Councilmen all of whom are elected from the municipality at large for four year terms; and

WHEREAS, in the initial election, the three candidates for council receiving the highest number of votes were elected to four year terms and the next three highest to two year terms; and

WHEREAS, the election date for municipal elections is the second Tuesday in July of each even numbered year; and

WHEREAS, this ordinance was amended on May 12, 1994, to provide for the suspension of the 1994 election which would have been an election of the Mayor and three Councilmen to four year terms; and

WHEREAS, under the terms of the amended ordinance it is necessary that council set a special election at the appropriate time in such a way that the Mayor and Council seats which would have been elected in 1994 would be elected at a special election with the term of Mayor and the terms of Councilmen remaining staggered as provided by the original statute; and

WHEREAS, it is appropriate to have the special election at the time of the regularly scheduled election on the second Tuesday in July 1996. Therefore, be it ordained that

SECTION 8-31 OF THE TOWN CODE IS HEREBY AMENDED AS FOLLOWS:

A special election shall be held on the second Tuesday in July, 1996, to coincide with the regular election. The special election shall be for Mayor and three Councilmen with the term of each office being for two years, to expire in 1998, at which time the regularly scheduled election can be held for the same offices.

The regularly scheduled election shall also be held the second Tuesday in July, 1996, for three Councilmen who shall serve four year terms which will expire in the year 2000. The special election and general election shall be held together for the year 1996, after which time the election shall be as previously scheduled and provided for in order to stagger the terms of Councilmen. For the election in 1996, the three candidates for council receiving the highest number of votes shall be elected to four year terms and the next three candidates receiving the highest votes shall be elected to two year terms. The Mayor shall be elected to a two year term. The provisions for the special election shall be for the year 1996 only and regular elections with four year terms shall continue hereafter.

ELECTORS

Section 8-40. Qualifications for Voting

All electors of the Town duly qualified to vote under the constitution and the laws of the state and who have resided within the Town four months previous to the election shall be permitted to vote at elections held by the Town. Proof of residence within the Town for four months previous to the election shall be presented by any person seeking to vote.

Section 8-41. Registration

Before any person shall be entitled to vote, he shall be duly registered with the board of registration of Williamsburg County and shall present his certificate of registration by such board when he seeks to vote.

CHAPTER 9. FIRE PROTECTION

ARTICLE I. IN GENERAL

- Section 9-1. Fire Limits
9-2. False Fire Alarms
9-3. Fire Hydrants and Water Lines
9-4. Driving Over Fire Hose
9-5. Interfering With Firemen
9-6. Tampering With Fire Equipment
9-7. Following Fire Equipment too Closely
9-8. Obstructing Fire Equipment
9-9. Penalties, Generally
9-10. Penalty for Criminal Carelessness

ARTICLE II. FIRE DEPARTMENT

- Section 9-20. Fire Chief: Appointment and Term
9-21. Fire Chief: Duties and Powers
9-22. Membership
9-23. Duties of Members
9-24. Compensation
9-25. Taking Fire Equipment and Firemen Out of Town

ARTICLE III. FIRE INSPECTIONS

- Section 9-30. Annual Building Inspections
9-31. Quarterly Building Inspections
9-32. Reports of Inspections
9-33. Notice to Repair Unsafe Buildings
9-34. Fire Investigations

ARTICLE IV. FIREMEN'S INSURANCE AND INSPECTION FUND

- Section 9-41. Trustees
9-42. Receipt and Disbursement of Funds
9-43. Report to State Insurance Commissioner

ARTICLE I. IN GENERAL

Section 9-1. Fire Limits

The area within the Town limits shall constitute the fire limits of the Town.

Section 9-2. False Fire Alarms

It shall be unlawful for any person to knowingly give a false fire alarm. It shall be unlawful to give alarm of fire by activating a call box, telephoning, informing any third person that an emergency exists knowing the same to be untrue, or in any other manner, communicating falsely to the fire department that an emergency exists.

Section 9-3. Fire Hydrants and Water Lines

It shall be unlawful for any person, except a member of the fire department or a person expressly authorized thereto by the superintendent of the waterworks to open or otherwise tamper with any fire hydrant or water lines in the limits of the Town.

Section 9-4. Driving Over Fire Hose

It shall be unlawful for any person to drive a vehicle of any description over or across fire hose stretched or laid upon the ground for use at a fire, for practice of the firemen or for any other proper purpose of the fire department.

Section 9-5. Interfering With Firemen

It shall be unlawful to hinder or obstruct any fireman or other authorized person while such person is answering a fire call or any other emergency call, or to hinder or obstruct such person who is attempting to extinguish a fire or remedy any emergency while acting in an official capacity.

The failure to obey any lawful order of any official of the fire or police department at the scene of any emergency shall constitute a violation of this section.

Section 9-6. Tampering With Fire Equipment

It shall be unlawful for any unauthorized person to use, borrow or tamper with any equipment of the fire department without the express consent of the chief of the fire department.

"Equipment" shall be construed to mean all vehicles, fire fighting apparatus, supplies, facilities or other material belonging to the fire department.

Section 9-7. Following Fire Equipment Too Closely

No unauthorized person with any vehicle shall follow within five hundred (500) feet of any apparatus belonging to the department while in route to a fire nor park within three hundred (300) feet of a fire.

Section 9-8. Obstructing Fire Equipment

No person shall park any vehicle or otherwise cause any obstruction to fire equipment at a fire or at an entrance to the fire station, nor park within ten (10) feet of any fire hydrant. It shall be unlawful to interfere with or obstruct the activities of any member of the fire department who is acting in the line of duty at or proceeding to a fire.

Section 9-9. Penalties, Generally

Except as otherwise provided, it shall be a misdemeanor to violate any provision of this Chapter and upon conviction the penalty shall be a fine of not more than one hundred dollars (\$100) or imprisonment not to exceed thirty (30) days.

Section 9-10. Penalty For Criminal Carelessness

If the investigating officer shall consider that any fire be due to criminal carelessness, the person responsible for it shall be dealt with in accordance with South Carolina law.

ARTICLE II. FIRE DEPARTMENT

Section 9-20. Fire Chief: Appointment and Term

There shall be elected by the members of the fire department, a chief of the fire department who shall hold office at the pleasure of the Council.

Section 9-21. Fire Chief: Duties and Powers

The chief of the fire department shall have general superintendence and control of the fire department, subject to the control of the Council. During the progress of a fire, he shall have all rights and powers of a policeman, and, subject to the supervision and approval of the Mayor and Council, shall have power to make rules and regulations for the discipline of the fire department personnel.

Section 9-22. Membership

The volunteer fire department shall consist of a sufficient number to man and maintain the fire-fighting equipment of the Town, including the chief, the assistant chief and the captain. The names of such persons as may desire to become members of such department other than those members above specified shall be submitted by the fire chief with his recommendations to the membership of the volunteer fire department for their approval. As many of those suggested as they may deem advisable may be approved and only those shall be filled in the same manner. The membership of the volunteer fire department shall have the right in its discretion to remove any member at any time.

Section 9-23. Duties of Members

The volunteer fire department or any of its members shall be subject for call to duty any time, day or night, when needed to extinguish fires or to remedy any other emergency that may arise. At each fire, the chief will call the roll or make a list of the members present and preserve same as a record in his office.

Section 9-25. Taking Fire Equipment Out of Town

No fire-fighting equipment shall be taken out of the Town for any fire call outside the Town limits, except in accordance with rules and regulations established and adopted by the Council relative to same which may include provisions for pay for use of equipment.

ARTICLE III. FIRE INSPECTIONS

Section 9-30. Annual Building Inspections

At least once in each and every year, the building inspector shall make a general inspection of all buildings in the corporate limits and ascertain if the laws and ordinances in reference to fire protection are complied with. It shall be the duty of the building inspector to notify the occupant and owner of all premises of any defects or hazards found in this general inspection, and see they are properly corrected.

Section 9-31. Quarterly Building Inspections

Once in every three (3) months, the Building Inspector shall make a personal inspection of every building within the fire limits and shall especially inspect the basement and garret. He shall make such other inspections as may be required by the insurance commissioner all defects or hazards found by him in any building, upon a blank furnished him by the insurance commissioner. The chief of the fire department shall notify the owner or occupant of buildings of any defect or hazards and notify them to correct the same within a reasonable time

Section 9-32. Reports of Inspections

The Building Inspector shall report before the 15th of February of each and every year the number and dates of general and quarterly inspections during the preceding year ending December 31, upon blanks furnished by the insurance commissioner, and furnish such other information and make other reports as shall be called for by the insurance commissioner.

Section 9-33. Notice to Repair Unsafe Buildings

To every building which shall appear to the inspector to be dangerous to life or limb or, because of its liability to fire, bad condition of walls, overloaded construction, decay or other cause, shall be held to be unsafe, the inspector shall affix a notice of the dangerous character of the structure at a conspicuous place on the exterior wall of the building and shall give immediate notice to the owner or agent, fixing a reasonable time under the circumstances for the correction of such condition.

Section 9-34. Fire Investigation

The inspector of buildings shall investigate all fires and file a report to the State Fire Marshal as provided by Section 47:1176 to 47:1180.1 of the South Carolina Code of Laws, 1962. The Mayor, chief of the fire department, or any municipal official may be ex officio inspector of buildings.

ARTICLE IV. FIREMEN'S INSURANCE AND INSPECTION FUND

Section 9-41. Trustees

The Chief of the Fire Department, Town Administrator and the Town Clerk are hereby appointed trustees of the Firemen's Insurance and Inspection Fund, and they shall have control thereof and direct its disbursement under such rules and regulations as may be adopted by them in accordance with state law.

Section 9-42. Receipt and Disbursements of Funds

The Town Clerk and Treasurer is hereby authorized to receive the benefits of the Fireman's Insurance and Inspection Fund from the State Treasurer. All money so collected shall be set apart, and shall be paid out only upon the orders of the Board of Trustee under the rules and regulations adopted by them.

Section 9-43. Report to State Insurance Commissioner

The Town Clerk shall file with the Insurance Commissioner on a blank furnished by him a certificate that the Town has an organized fire department, also a list of the equipment and other facts that may be required by the Insurance Commissioner.

CHAPTER 10. FIREWORKS

ARTICLE I. GENERALLY

Section 10-1. Use of Fireworks Prohibited
10-2. Toy Caps Excepted
10-3. Other Exceptions

ARTICLE II. PUBLIC DISPLAYS

Section 10-20. Permits
10-21. Permissible Fireworks for Public Displays

ARTICLE III. SALE OF FIREWORKS

Section 10-30. Unlawful and Permissible Fireworks
10-31. Sale to Minors
10-32. Identification and Marking
10-33. Retail Handling
10-34. Storage Near Flammable Materials

ARTICLE IV. PENALTIES

Section 10-40. Penalties

ARTICLE I. GENERALLY

Section 10-1. Use of Fireworks Prohibited

It shall be unlawful for any person to fire, shoot or discharge any fireworks of any description within the Town, except as provided in this Chapter. The penalty for the violation of this section shall be a fine of not exceeding a fine according to state law.

Section 10-2. 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.

Section 10-3. Other Exceptions

Nothing in this Chapter shall apply:

- (a) to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other private transportation;

- (b) to illumination devices for photographic use;
- (c) to the military or naval forces of the State or United States;
- (d) to peace officers; and
- (e) 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.
- (f) to allow the discharge of items listed under Section 10-30 without adult supervision.

ARTICLE II. PUBLIC DISPLAYS

Section 10-20. Permits

Any person desiring to hold a public display of fireworks shall first secure from the fire marshal 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 of the Town, or at any location whereby, in the judgment of Council, life or property may be endangered.

Section 10-21. Permissible Fireworks for Public Displays

Nothing in this Chapter shall be construed to prohibit the shipping, sale, possession and use of fireworks for public display; and such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the Town 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.

ARTICLE III. SALE OF FIREWORKS

Section 10-30. Unlawful and Permissible Sale of Fireworks

It shall be unlawful for persons to possess, sell, offer for sale, store, or transport within the Town, 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:

- (a) Roman candles whose total pyrotechnic composition shall not exceed twenty grams each in weight;
- (b) Bottle type rockets whose pyrotechnic composition shall not exceed twenty grams each in weight;
- (c) 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;
- (d) Cone fountains whose total pyrotechnic composition shall not exceed fifty grams each in weight;
- (e) 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;
- (f) Illuminating torches and colored fire in any form whose total pyrotechnic composition shall not exceed one hundred grams each in weight;
 - (g) Sparklers whose total pyrotechnic composition shall not exceed one hundred grams each in weight;
 - (h) 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 grams each in weight; and
 - (i) Items composed of a combination of two or more articles or devices of the above enumerated approved items.

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.

Section 10-31. 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.

Section 10-32. Identification and Marking

No permissible articles of common fireworks enumerated in Section 10-30 shall be sold, offered for sale, possessed, stored or used, in the Town unless it shall be properly named to conform to the nomenclature of Section 10-30 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 authorities and the general public.

Section 10-33. 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.

Section 10-34. Storage Near Flammable Material

Fireworks shall not be sold or kept for sale in a place of business where paint, oils, varnish, turpentine or gasoline or other flammable substances are kept in unbroken containers, unless in a separate and distinct section or department of the store.

ARTICLE IV. PENALTIES

Section 10-40. Penalties

Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction, unless otherwise provided, shall be punished by a fine not exceeding that set by state law.

CHAPTER 11. HEALTH AND SANITATION

ARTICLE I. IN GENERAL

- Section 11-1. Sale of Diseased or Spoiled Food
11-2. Privies Prohibited Where Sewer Connections Available
11-3. Penalties

ARTICLE II. NUISANCES

- Section 11-10. Nuisances Defined
11-11. Power of Council to Declare Nuisances
11-12. Premises Constituting Health Nuisances
11-13. Abatement of Nuisances

ARTICLE III. GARBAGE AND REFUSE DISPOSAL

- Section 11-20. Garbage and Refuse Defined
11-21. Sweeping Onto Streets or Sidewalks
11-22. Receptacles Required
11-23. Interference With Receptacles
11-24. Industrial and Construction Waste
11-30. To Provide for the Cleaning of Vacant Lots

ARTICLE I. IN GENERAL

Section 11-1. Sale of Diseased or Spoiled Food

It shall be unlawful for any person to offer for sale any diseased or spoiled meats, fish, oysters, milk or vegetables within the Town.

Section 11-2. Privies Prohibited Where Sewer Connections Available

It shall be unlawful for any property owner to construct, erect, install, maintain or permit to remain any pit privy on any property within the Town to which a sewer connection is available. Where a sewer connection is made available, said privy must be removed and connection shall be established. Such sewer connection shall not be required if prior to 1962 a connection was made with a septic tank of a design approved by the State Board of Health.

Section 11-3. Penalties

Any person convicted of violating any provision of this Chapter shall be deemed guilty of a misdemeanor and shall be fined not more than the fine set by state law. All persons shall be required to correct or remedy any violations or defects within a specified or reasonable time after due notice, and each day thereafter that the protested conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforce removal of prohibited conditions by court order.

ARTICLE II. NUISANCES

Section 11-10. Nuisances Defined

The act of any person or corporation which endangers or causes actual injury or impairment to any person or property is hereby declared to be a nuisance.

Section 11-11. Power of Council to Declare Nuisances

The Town Council may at any time declare certain things, the existence of which may be deemed unhealthy or harmful to the citizens of the Town, nuisances. Upon the finding that a nuisance exists, the offending party shall be required to remove such nuisance as provided in Section 11-13.

Section 11-12. Premises Constituting a Health Nuisance

It shall be required of all owners or occupants of lots in the Town to at all times keep the said lots, sidewalks and setback drains adjacent thereto free from filth, trash, excessive growth of weeds and noxious plants, and to keep the sidewalks and setback drains in front of such lots free from dirt, leaves, grass and rubbish. PROVIDED, all persons, firms or corporations engaged in any trade, business, occupation or profession within the town limits shall be required to keep the sidewalks and setback drains adjacent thereto, free from excessive dirt, leaves, grass and rubbish by sweeping or cleaning such areas at least once a day, except Sundays, or as often as necessary to comply with the provisions of this Chapter. PROVIDED, all such persons shall at all times keep the back of their lots and all vacant areas of such lots free from excessive, dirt, leaves, grass or rubbish. All such refuse and garbage shall be deposited in secure containers which comply with the provisions of this Chapter.

Section 11-13. Abatement of Nuisances

Upon failure to comply with the provisions of this Article, within twenty-four (24) hours after written notice by the intendant or any member of the Town Council, the owner or occupants so served with notice shall be liable to a fine of not more than one hundred (\$100) dollars, or to imprisonment not to exceed thirty (30) days. PROVIDED, when the owner of any unoccupied lot is unknown or is not within the limits of the Town of Hemingway, the time shall be within ten (10) days after written notice. When the owner of any unoccupied lot or lots is unknown or is not within the Town limits, such written notice shall be posted on the most conspicuous part of such lot or lots; but if the owner of such lot or lots has a known agent, such written notice shall

be served upon such agent. That in case of the failure of any person to comply with such notice, either served personally or upon an agent, or posted on such lot or lots, the Town may cause such lot or lots, or sidewalks to be cleaned, or grass and weeds cut and removed and may enforce a lien upon such property for a reasonable cost thereof. That all ordinances or parts of ordinances inconsistent with this Ordinance be and the same are hereby repealed.

ARTICLE III. GARBAGE AND REFUSE DISPOSAL

Section 11-20. Garbage and Refuse Defined

- (1) Garbage: organic waste matter, both animal and vegetable, being comprised chiefly of waste food.
- (2) Refuse: waste material other than garbage.

Section 11-21. Sweeping Onto Streets or Sidewalks

It shall be unlawful for any person or his agent to put, place, sweep or throw any trash, house-sweepings, paper cups, dirt, paper, broken glass, tin cans, bottles, ashes, shavings or other garbage, waste or refuse upon any sidewalk or in an alley, street, gutter, catchbasin or other public place in the Town; EXCEPT in approved receptacles.

Section 11-22. Receptacles Required

All householders and proprietors of businesses shall provide receptacles for the removal of garbage and refuse by the Town. The receptacles shall be metal, have tight-fitting covers which shall be kept on at all times except when the receptacles are being filled or emptied, have strong handles, and be anchored or fastened so as to prevent their being overturned, and have not more than thirty (30) gallon capacity each. If one is not sufficient to hold the quantity of garbage accumulated between collections, a sufficient number of similar receptacles shall be provided. When refuse only is disposed of, it may be placed in a receptacle approved by the Town.

Section 11-23. Interference With Receptacles

It shall be unlawful for any person to interfere with the receptacles or containers or the contents thereof set out for removal by private individuals or by the Town without permission of the Town.

Section 11-24. Industrial and Construction Waste

Waste or refuse from manufacturing, assembling or processing operations will not be collected by the Town and no building materials or refuse from building operations or landscape contract work will be handled by Town forces. All large accumulations of glass, shavings or waste material of any kind resulting from building operations shall be removed by the contractor in charge of such building operations.

Section 11-30. To Provide for the Cleaning of Vacant Lots (Amended 12/09/2021)

No owner of property within the Town of Hemingway shall permit any grass or weeds or any vegetation whatsoever, not edible or planted for a useful or ornamental purpose, to grow or

remain upon such premises so as to exceed a height of twelve (12) inches or to expel any unpleasant or noxious odors or to allow any deposit of garbage, building materials or filthy accumulation of debris. Any grass, weeds or other vegetation growing upon such premises in the Town of Hemingway in violation of any of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort to the inhabitants of the Town of Hemingway.

The owner of any property determined to be in violation of this section will be notified by certified mail sent to the address listed on the tax notice of the property in violation that said property is in violation of this section and given fifteen (15) days to bring the property into compliance with this section. If the owner of the property cannot be reached via certified mail, notification of the occupant shall be deemed notification of the owner. In lieu of certified mail notification, the property owner may be personally served written notice. If neither certified mail nor personal notice is effective, a notice of violation will be posted at a conspicuous location on the property in violation for fifteen (15) days prior to action being taken.

Failure to comply with this ordinance after formal notice has been issued will result in the issuance of a daily fine up to \$500.00 in which the property owner will be responsible.

CHAPTER 12. LICENSES AND PERMITS

ARTICLE I. BUSINESS LICENSES

DIVISION I. LICENSE ADMINISTRATION

- Section 12-1. Definitions
- 12-2. All Returns to be Confidential
 - 12-3. Discount for Early Payment
 - 12-4. License Requirements and Time of Payment
 - 12-5. License Required for Each Business
 - 12-6. Un-enumerated Businesses
 - 12-7. Personal Property Tax Prerequisite to Issuance of License
 - 12-8. Refusal to Grant License
 - 12-9. Basis of License for New Businesses
 - 12-10. When License Based on Gross Income
 - 12-11. Penalty Generally

DIVISION 2. EXHIBITION AND RETENTION

- Section 12-20. Exhibition of Licenses
- 12-21. Inspection of Licenses
 - 12-22. Transfer of License
 - 12-23. Right of Entry

DIVISION 3. REMEDIAL ACTION

- Section 12-30. Complaints and Appeals

- 12-31. Late Penalties
- 12-32. Failure to Acquire License
- 12-33. False Returns
- 12-34. Discontinuing Business
- 12-35. Execution of Tax Lien
- 12-36. Revocation of License

DIVISION 4. RATES

- Section 12-50. Adoption of Schedule
12-51. Schedule of Rates

ARTICLE I. BUSINESS

DIVISION 1. BUSINESSES REQUIRING LICENSES

2022 MODEL BUSINESS LICENSE ORDINANCE

Appealed and Replace 11/4/2021

Section 1. License Required. Every person engaged or intending to engage in any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, in whole or in part within the limits of the Town of Hemingway, 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 2. Definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meaning ascribed herein. Defined terms are not capitalized when used in this ordinance unless the context otherwise requires.

“Business” means any business, 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 that 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 NAICS codes 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.

“Council” means the Town Council of the Town of Hemingway.

“Domicile” means a principal place from which the trade or business of a licensee is conducted, directed, or managed. For purposes of this ordinance, a licensee may be deemed to have more than one domicile.

“Gross Income” means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the Municipality. If the licensee has a domicile within the Municipality, business done within the Municipality shall include all gross receipts or revenue received or accrued by such licensee. If the licensee does not have a domicile within the Municipality, business done within the Municipality shall include only gross receipts or revenue received or accrued within the Municipality. In all cases, if the licensee pays a business license tax to another county or municipality, then the licensee’s gross income for the purpose of computing the tax within the Municipality must be reduced by the amount of revenues or receipts taxed in the other county or municipality and fully reported to the Municipality. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross receipts or gross revenues 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 agencies. In calculating gross income for certain businesses, the following rules shall apply:

- A. Gross income for agents shall be calculated on gross commissions received or retained, unless otherwise specified. If commissions are divided with other brokers or agents, then only the amount retained by the broker or agent is considered gross income.
- B. Except as specifically required by S.C. Code § 38-7-20, gross income for insurance companies shall be calculated on gross premiums written.
- C. Gross income for manufacturers of goods or materials with a location in the Municipality shall be calculated on the lesser of (i) gross revenues or receipts received or accrued from business done at the location, (ii) the amount of income allocated and apportioned to that location by the business for purposes of the business’s state income tax return, or (iii) the amount of expenses attributable to the location as a cost center of the business. Licensees reporting gross income under this provision shall have the burden to establish the amount and method of calculation by satisfactory records and proof. Manufacturers include those taxpayers reporting a manufacturing principal business activity code on their federal income tax returns.

“License Official” means a person designated to administer this ordinance. Notwithstanding the designation of a primary license official, the Municipality may designate one or more alternate license officials to administer particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code.

“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 Hemingway, South Carolina.

“NAICS” means the North American Industry Classification System for the United States published under the auspices of the Federal Office of Management and Budget.

“Person” means any individual, firm, partnership, limited liability partnership, limited liability company, 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 3. Purpose and Duration. The business license required 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. Except as set forth below for business licenses issued to contractors with respect to specific construction projects, each yearly license shall be issued for the twelve-month period of May 1 to April 30. A business license issued for a construction contract may, at the request of the licensee, be stated to expire at the completion of the construction project; *provided*, any such business license may require that the licensee file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

Section 4. Business License Tax, Refund.

- A. The required business license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the due date of the 30th day of April in each year, except for those businesses in Rate Class 8 for which a different due date is specified. Late payments shall be subject to penalties as set forth in Section 12 hereof, except that admitted insurance companies may pay before June 1 without penalty.
- 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 business license tax shall be computed on the combined gross income for the classification requiring the highest rate. The business license tax must be computed based on the licensee’s gross income for the calendar year preceding the due date, for the licensee’s twelve-month fiscal year preceding the due date, or on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The business license tax for a new business must be computed on the estimated probable gross income for the balance of the license year. A business license related to construction contract projects may be issued on a per-project basis, at the option of the taxpayer. No refund shall be made for a business that is discontinued.
- C. A licensee that submits a payment greater than the amount owed may request a refund. To be considered, a refund request must be submitted in writing to the Municipality before the June 1 immediately following the April 30 on which the payment was due and must be supported by adequate documentation supporting the refund request. The Municipality shall approve or deny the refund request, and if approved shall issue the refund to the business, within thirty days after receipt of the request.

Section 5. Registration Required.

- A. The owner, agent, or legal representative of every business subject to this ordinance, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year; *provided*, a new business shall be required to have a business license prior to operation within the Municipality, and an annexed business shall be required to have a business license within thirty (30) days of the annexation. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued the corresponding state alcohol, beer, or wine permit or license and will have actual control and management of the business.
- B. Application shall be on the then-current standard business license application as established and provided by the Director of the South Carolina Revenue and Fiscal Affairs Office and shall be accompanied by all information about the applicant, 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 receipts and gross revenue 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.
- D. The Municipality shall allow application, reporting, calculation, and payment of business license taxes through the business license tax portal hosted and managed by the South Carolina Revenue and Fiscal Affairs Office, subject to the availability and capability thereof. Any limitations in portal availability or capability do not relieve the applicant or Licensee from existing business license or business license tax obligations.

Section 6. 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 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. Properly apportioned income from business in interstate commerce shall be included in the calculation of gross income and is not exempted. 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 NAICS. 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. Wholesalers are exempt from business license taxes unless they maintain warehouses or distribution establishments within the Municipality. A wholesale transaction involves a sale to an individual who will resell the goods and includes delivery of the goods to the reseller. It does not include a sale of goods to a user or consumer.
- D. 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 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.
- E. 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 7. False Application Unlawful. It shall be unlawful for any person subject to the provisions of this ordinance to make a false application for a business license or to give or file, or direct the giving or filing of, any false information with respect to the license or tax required by this ordinance.

Section 8. Display and Transfer.

- A. All persons shall display the license issued to them on the original form provided by the license official in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the Municipality.
- B. A change of address must be reported to the license official within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification by the license official and compliance with zoning and building codes. Failure to obtain the approval of the license official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable, and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

Section 9. Administration of Ordinance. The license official shall administer the provisions of this ordinance, collect business license taxes, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or suspension and revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, undertake reasonable procedures relating to the administration of this ordinance, and perform such other duties as may be duly assigned.

Section 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 and to 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 business license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of business license tax shall constitute a separate offense.
- B. The license official shall have the authority to make inspections and conduct audits of businesses to ensure 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 business 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 11. Assessments, Payment under Protest, Appeal.

- A. Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the Municipality pursuant to the provisions of S.C. Code § 6-1-410, as amended. In preparing an assessment, the license official may 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 business license tax and penalties as provided herein.
- B. The license official shall establish a uniform local procedure consistent with S.C. Code § 6-1-410 for hearing an application for adjustment of assessment and issuing a notice of final assessment; provided that for particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the Municipality, by separate ordinance, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

Section 12. Delinquent License Taxes, Partial Payment.

- A. For non-payment of all or any part of the correct business license tax, the license official shall impose 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 business 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 13. Notices. The license official may, but shall not be required to, mail written notices that business 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 14. Denial of License. The license official may deny a license to an applicant when the license official determines:

- A. The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;
- B. The activity for which a license is sought is unlawful or constitutes a public nuisance *per se* or *per accidens*;
- C. The applicant, licensee, prior licensee, or the person in control of the business has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- D. The applicant, licensee, 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;
- E. The applicant, licensee, prior licensee, or the person in control of the business is delinquent in the payment to the Municipality of any tax or fee;
- F. A licensee has actual knowledge or notice, or based on the circumstances reasonably should have knowledge or notice, that any person or employee of the licensee has committed a crime of moral turpitude on the business premises, or has permitted any person or employee of the licensee to engage in the unlawful sale of merchandise or prohibited goods on the business premises and has not taken remedial measures necessary to correct such activity; or
- G. 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 as herein provided. Denial shall be written with reasons stated.

Section 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;
- B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance;
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the license application;
- D. A licensee has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- 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 may give written notice to the licensee or the person in control of the business within the Municipality by personal service or mail that the license is suspended pending a single hearing before Council or its designee for the purpose of determining whether the suspension should be upheld and the license should be revoked.

The written notice of suspension and proposed revocation shall state the time and place at which the hearing is to be held, and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this ordinance.

Section 16. Appeals to Council or its Designee.

- A. Except with respect to appeals of assessments under Section 11 hereof, which are governed by S.C. Code § 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the license official may appeal the decision to the Council or its designee by written request stating the reasons for appeal, filed with the license official within ten (10) days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.
- B. A hearing on an appeal from a license denial or other determination of the license official and a hearing on a suspension and proposed revocation shall be held by the Council or its designee within ten (10) business days after receipt of a request for appeal or service of a notice of suspension and proposed revocation. The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee. The hearing may be continued to another date by agreement of all parties. 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 or its designee shall govern the hearing. Following the hearing, the Council by majority vote of its

members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the Municipality.

- C. Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.
- D. For business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the Municipality may establish a different procedure by ordinance.

Section 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 18. Confidentiality. Except in accordance with proper judicial order or as otherwise provided by law, no official or employee of the Municipality may divulge or make known in any manner the amount of income or any financial 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 this ordinance.

Section 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 in this ordinance.

Section 20. Severability. A determination that any portion of this ordinance is invalid or unenforceable shall not affect the remaining portions. To the extent of any conflict between the provisions of this ordinance and the provisions of the South Carolina Business License Tax Standardization Act, as codified at S.C. Code §§ 6-1-400 *et seq.*, the standardization act shall control.

Section 21. Classification and Rates.

- A. The business license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current business license rate schedule, designated as Appendix A to this ordinance, which may be amended from time to time by the Council.
- B. The current business license class schedule is attached hereto as Appendix B. Hereafter, no later than December 31 of each odd year, the Municipality shall adopt, by ordinance, the latest standardized business license class schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the South Carolina Revenue and Fiscal Affairs Office. Upon adoption by the Municipality, the revised business license class schedule shall then be appended to this ordinance as a replacement Appendix B.
- C. The classifications included in each rate class are listed with NAICS codes, by sector, sub-sector, group, or industry. The business license class schedule (Appendix B) is a tool for classification and not a limitation on businesses subject to a business license tax. The classification in the most recent version of the business license class schedule adopted by the Council that most specifically identifies the subject business shall be applied to the business. The license official shall have the authority to make the determination of the classification most specifically applicable to a subject business.
- D. A copy of the class schedule and rate schedule shall be filed in the office of the municipal clerk.

NON-RESIDENT RATES

Unless otherwise specifically provided, all taxes and rates shall be doubled for nonresidents and itinerants having no fixed principal place of business within the Municipality.

APPENDIX A: BUSINESS LICENSE RATE SCHEDULE

	INCOME: \$0 - \$2,000	INCOME OVER \$2,000
RATE CLASS	BASE RATE	RATE PER \$1,000 OR FRACTION THEREOF
1	\$30.00	\$.55
2	\$35.00	\$.65
3	\$40.00	\$.75
4	\$45.00	\$.85
5	\$50.00	\$.95
6	\$55.00	\$1.05
7	\$60.00	\$1.15
8.10	\$77.00	\$.75
8.20	Set by state statute	
8.30	MASC Telecommunications	
8.40	MASC Insurance	
8.51	\$12.50 + \$12.50 per machine	
8.52	\$12.50 + \$180.00 per machine	
8.53	50.00	\$.95
8.60	\$50.00 plus \$5.00 -OR- \$12.50 per table	\$.95
9.10	\$55.00	\$1.05
9.20	\$60.00	\$1.15
9.30	\$30.00	\$.55
9.41	\$40.00	\$.75
9.42	\$6.00	\$.75
9.50	\$50.00	\$.95
9.60	\$50.00	\$.95
9.61	\$50.00	\$.95
9.70	\$66.00	\$1.30
9.80	\$0.00	\$.000226
9.81	\$0.00	\$.000226
9.90	\$50.00	\$.95

CLASS 8 RATES

Each NAICS number designates a separate subclassification. The businesses in this section are treated as separate and individual subclasses due to provisions of state law, regulatory requirements, service burdens, tax equalization considerations, and other factors that are deemed sufficient to require individually determined rates. In accordance with state law, the Municipality also may provide for reasonable subclassifications for rates, described by an NAICS sector, subsector, or industry, that are based on particularized considerations as needed for economic stimulus or for the enhanced or disproportionate demands on municipal services or infrastructure.

Non-resident rates do not apply except where indicated.

8.1 NAICS 230000 – Contractors, Construction, All Types [Non-resident rates apply].

Resident rates, for contractors having a permanent place of business within the Municipality:

Minimum on first \$2,000	\$ 77.00 PLUS
Each additional 1,000.....	\$.75

Non-resident rates apply to contractors that do not have a permanent place of business within the Municipality. A trailer at the construction site or structure in which the contractor temporarily resides is not a permanent place of business under this ordinance.

No contractor shall be issued a business license until all state and municipal qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job identifying the contractor with the job.

Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job. No deductions shall be made by a general or prime contractor for value of work performed by a sub-contractor.

No contractor shall be issued a business license until all performance and indemnity bonds required by the Building Code have been filed and approved. Zoning permits must be obtained when required by the Zoning Ordinance.

Each prime contractor shall file with the License Official a list of sub-contractors furnishing labor or materials for each project.

For licenses issued on a per-job basis, the total tax for the full amount of the contract shall be paid prior to commencement of work and shall entitle the contractor to complete the job without regard to the normal license expiration date. An amended report shall be filed for each new job and the appropriate additional license fee per \$1,000 of the contract amount shall be paid prior to commencement of new work. Only one base tax shall be paid in a license year. Licensees holding a per-job license shall file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount.

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

8.3 NAICS 517311, 517312 – Telephone Companies.

With respect to “retail telecommunications services” as defined in S. C. Code § 58-9-2200, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the “Telecommunications Collections Ordinance”). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to retail telecommunications services are set forth in the Telecommunications Collections Ordinance.

8.4 NAICS 5241 and 5242 – Insurance Companies and Brokers:

Independent agents and their employees are subject to a business license tax based on their natural class. With respect to insurers subject to license fees and taxes under Chapter 7 of Title 38 and to brokers under Chapter 45 of Title 38, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the “Insurers and Brokers Collections Ordinance”). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to insurers and brokers are set forth in the Insurers and Brokers Collections Ordinance.

8.51 NAICS 713120 – Amusement Machines, coin operated (except gambling). Music machines, juke boxes, kiddie rides, video games, pin tables with levers, and other amusement machines with or without free play feature licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(1) and (A)(2) **[Type I and Type II]**.

For operation of all machines (not on gross income), pursuant to S.C. Code §12-21-2746:

Per Machine	\$12.50 PLUS
Business license	\$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.51.

8.52 NAICS 713290 – Amusement Machines, coin operated, non-payout. Amusement machines of the non-payout type or in-line pin game licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(3) **[Type III]**.

For operation of all machines (not on gross income), pursuant to S.C. Code §12-21-2720(B):

Per Machine	\$180.00 PLUS
Business license	\$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.52.

8.6 NAICS 713990 – Billiard or Pool Rooms, all types. (A) Pursuant to SC Code § 12-21-2746, license tax of \$5.00 per table measuring less than 3½ feet wide and 7 feet long, and \$12.50 per

table longer than that; PLUS, (B) with respect to gross income from the entire business in addition to the tax authorized by state law for each table:

Minimum on first \$2,000	\$50.00 PLUS
Per \$1,000, or fraction, over \$2,000	\$.95

Business License Class 9 Schedule by NAICS Code

Appendix B

9.10 NAICS 423930 – Recyclable Material Merchant Wholesalers (Junk).

Minimum on First \$2,000	\$55.00 PLUS
Per \$1,000, or fraction, over \$2000	\$1.05

9.20 NAICS 522298 - Pawnshops.

Minimum on First \$2,000	\$60.00 PLUS
Per \$1,000, or fraction, over \$2000	\$1.15

9.30 NAICS 4411 – Automobile Dealers.

Minimum on First \$2,000	\$30.00 PLUS
Per \$1,000, or fraction, over \$2000	\$.55

9.41 NAICS 454390 - Other Direct Selling Establishments Peddlers (Regular Activities)

Minimum on First \$2,000	\$40.00 PLUS
Per \$1,000, or fraction, over \$2000	\$.75

9.42 NAICS 454390 – Other Direct Selling Establishments Peddlers (Seasonal)

Minimum on First \$2,000	\$6.00 PLUS
Per \$1,000, or fraction, over \$2000	\$.75

9.50 NAICS 713290 – Bingo Halls

Minimum on First \$2,000	\$50.00 PLUS
Per \$1,000, or fraction, over \$2000	\$.95

9.60 NAICS 711190 – Other Performing Arts Companies (Carnivals and Circuses).

Minimum on First \$2,000	\$50.00 PLUS
Per \$1,000, or fraction, over \$2000	\$.95

9.70 NAICS 722410 – Drinking Places (Alcoholic Beverages)

Minimum on First \$2,000	\$66.00 PLUS
Per \$1,000, or fraction, over \$2000	\$1.30

9.80 NAICS 31 – Manufacturing and Wholesale Interstate

Per \$1,000, or fraction, over	\$.000226
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9.90 NAICS 485310 Taxi Services.

Minimum on First \$2,000	\$35.00 PLUS
Per \$1,000, or fraction, over \$2000	\$.65

Section 12-1. License Required

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

Section 12-2. Definitions

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

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

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

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

"Gross Income" means the total income of a business, received or accrued, for one calendar year collected or to be collected from business done within the Town, excepting therefrom income from business done wholly outside of the Town on which a license tax is paid to some other Town or a county and fully reported to the Town. Gross income for brokers or agents means gross commissions received or retained,

unless otherwise specified. Gross income for insurance companies means gross premiums collected. Gross income for business license tax purposes shall not include taxes collected for a government entity, escrow funds, or funds which are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross income for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Insurance Commission, or other government agency.

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

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

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

Section 12-3. Purpose and Duration

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

Section 12-4. License Fee

- a. The required license fee shall be paid for each business hereto according to the applicable rate classification on or before the first day in May 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 of business conducted at one place. If gross income cannot be separated for classification at one location, the license fee shall be computed on the combined gross income for the classification requiring the highest rate. A license fee based on gross income shall be computed on the gross income for the preceding calendar or fiscal year, and on a twelve month projected income based on the monthly average for a business in operation for less than one year. The fee for a new business shall be computed on the estimated probable gross income stated in the license application for the balance of the year. The initial fee for an annexed business shall

be prorated for the number of months remaining in the license year. No refund shall be made for a business that is discontinued.

Section 12-5. Registration Required

a. The owner, agent or legal representative of every business subject to this ordinance, whether listed in the classification index or not, shall register the business and make application for a business license on or before May 1 of each year: *provided*, a new business shall be required to have a business license prior operation within the Municipality.

b. Application shall be on a form provided by the License Official which shall contain the Social Security Number and/or the Federal Employer's Identification Number, the business name as reported on the South Carolina income tax return, and all information about the applicant and the business deemed appropriate to carry out the purpose of this ordinance by the License Official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross income figures.

c. The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported, or estimated for a new business, without any unauthorized deductions, and that all assessments and personal property taxes on business property due and payable to the Municipality have been paid.

d. Insurance agents and brokers shall report the name of each insurance company for which a policy was issued and the total premiums collected for each company for each type of insurance coverage on a form approved by the License Official. An insurance agent not employed by a company shall be licensed as a broker.

Section 12-6. Deductions and Exemptions

a. No deductions from gross income shall be made except from business done wholly outside of the Municipality, on which a license tax is paid to some other municipality or a county, taxes collected for a government 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 by satisfactory records and proof.

b. No person shall be exempt from the requirements of this 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 State published by the Office 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 the liability for the payment of any other tax by reason of the application of this ordinance.

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

Section 12-7. False Application Unlawful

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

Section 12-8. Display and Transfer

a. All persons shall display the license issued to them on the original form provided by the License Official in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by an 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 of 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 12-9. Administration of Ordinance

The License Official shall administer the provisions of this ordinance, collect license fees, issue licenses, make or initiate investigations and audits to insure compliance, initiate denial or revocation procedures, report violations to the police department and town 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 12-10. Inspections and Audits

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

other penalties provided herein. Each day of failure to pay the proper amount of license fee shall constitute a separate offense.

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

Section 12-11. Assessments, Payment under Protest, Appeal

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

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

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

Section 12-12. Delinquent License Fees

a. For non-payment of all or any part of the correct license fee, the License Official shall levy and collect a late penalty of five (5%) percent of the unpaid fee for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any license fee remains unpaid for sixty (60) days after its due date, the License Official shall report 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 12-13. Notices

The License Official may, but shall not be required to, mail written notices that license fees are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the Municipality three (3) times prior to the due date in

each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

Section 12-14. Denial of License

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

Section 12-15. Suspension or Revocation of License

When the License Official determines:

- a. A license has been mistakenly or improperly issued or issued contrary to law; or
- b. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance; or
- c. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or
- d. A licensee has been convicted of an offense under a law or ordinance regulating business, a crime involving moral turpitude, or an unlawful sale of merchandise or prohibited goods; or
- e. A licensee has engaged in unlawful activity or nuisance related to the business;

the License Official shall give written notice to the licensee or the person in control of the business within the municipality by personal service or certified mail that the license is suspended pending a hearing before Town Council for the purpose of determining whether the license shall 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 12-16. Appeals to Council

- a. Any person aggrieved by a decision, final assessment, revocation, suspension, or a denial of a business license by the License Official may appeal the decision to municipal Council by written request stating the reasons therefore, filed with the License Official within ten (10) days after the payment of the assessment under protest or notice of denial is received. Payment under protest shall be a condition precedent to appeal.

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

Section 12-17. Permission to use streets required

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

Section 12-18. Consent, franchise or business license fee required

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

Section 12-19. Confidentiality

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

Section 12-20. Violations

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

Section 12-21. Separability

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

Section 12-22. Classification and Rates

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

b. The license fee for each Class of businesses subject to this ordinance shall be computed in accordance with the following rates.

RATES

RATE CLASS	<u>INCOME: 0-\$2000</u>	<u>ALL OVER \$2000</u>
	MINIMUM FEE	Rate per thousand or fraction thereof
1	\$27.50	\$.50
2	\$33.00	\$.60
3	\$38.50	\$.75
4	\$45.00	\$.85
5	\$50.00	\$.95
6	\$55.50	\$1.05
7	\$60.00	\$1.15
8	See individual business in	Class 8

NON-RESIDENT RATES

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

INTERSTATE COMMERCE RATE

The following declining rate applies in all Classes for gross incomes from interstate commerce:

30% of the Class Rate for all income over \$2,000

CLASS 8 RATES

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

NAICS 23 - Contractors, Construction, All Types

- A. Having permanent place of business within the municipality
- | | |
|--|--------------|
| Minimum on first \$2,000..... | \$38.50 PLUS |
| Per \$1,000, or fraction over \$2,000 from all work..... | \$.75 |
- B. Non-resident (no permanent place of business in the municipality)
- | | |
|--|--------------|
| Minimum on first \$2,000..... | \$77.00 PLUS |
| Per \$1,000, or fraction, over \$2,000)..... | \$.75 |
- (non-resident double rates do not apply)

A trailer at the construction site, or structure in which the contractor temporarily resides is not a permanent place of business under this ordinance.

The total fee for the full amount of the contract shall be paid prior to commencement of work and shall entitle contractor to complete the job without regard to the normal license expiration date. An amended report shall be filed for each new job and the appropriate additional license fee per \$1,000 of the contract amount shall be paid prior to commencement of new work. Only one base fee shall be paid in a calendar year.

No contractor shall be issued a business license until all state and municipal qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job identifying the contractor with the job.

Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job. No deductions shall be made by a general or prime contractor for value of work performed by a sub-contractor.

No contractor shall be issued a business license until all performance and indemnity bonds required by the Building Code have been filed and approved. Zoning permits must be obtained when required by the Zoning Ordinance.

Each prime contractor shall file with the License Official a list of sub-contractors furnishing labor or materials for each project.

NAICS 482 - Railroad Companies – (See Code § 12-23-210)..... \$25.00

NAICS 5171, 5172 - Telephone Companies:

a. 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, including but not limited to those services described in North American Industry Classification System (NAICS) 5171 and 5172, shall pay an annual business license fee based on gross income.

b. Pursuant to S. C. Code § 58-9-2220, the following business license tax schedule shall apply to the gross income from retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail 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.

Rate for license taxes due in the years 1999 through 2003:

three tenths of one percent (0.3 %) of gross income for the preceding year;

Rate for license taxes due in the year 2004 and each year thereafter:

[See State statute]_____of gross income for the preceding year.

For a business in operation for less than one year, the amount of business license tax authorized by this section shall be computed on a twelve-month projected income.

c. The telecommunications business license tax shall be due on January 1 in each year, beginning in the year 2000. Declining rates shall not apply. Taxes are payable without penalty by January 31 following the due date. After January 31, the delinquent penalty shall be five percent (5 %) of the tax due for each month, or portion thereof, after the due date until paid.

d. Exemptions for income from business in interstate commerce are not permitted. Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

e. Nothing in this ordinance shall be interpreted to interfere with a franchise agreement or contractual agreement entered into with a telecommunications provider prior to December 31, 1997.

f. Fees imposed by a franchise or contractual agreement with a telecommunications provider entered into prior to December 31, 1997, which expires prior to December 31, 2003 shall continue in effect until December 31, 2003.

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

h. A business license tax ordinance, adopted prior to December 31, 1997, which levied a business license tax paid by a telecommunications company higher than that levied under this ordinance, shall remain in effect through December 31, 2003.

i. As authorized by S. C. Code § 5-7-300, the Agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from telecommunications companies pursuant to S. C. Code § 58-9-2200 in the form attached hereto is approved, and the Mayor is authorized to execute it.

NAICS 5175 - **Television**, Cable or Pay,
Services using public streets..... See Consent or Franchise
Cable television services not using public streets:.....Franchise

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

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

NAICS 423930 - **Junk or Scrap Dealers** [Non-resident rates apply]
Minimum on first \$2,000..... \$55.00 PLUS
Per \$1,000, or fraction, over \$2,000..... \$1.05

NAICS 4411, 4412 - **Automotive, Motor Vehicles, Boats, Farm Machinery, Retail** –
(except auto supply stores - see 4413)
Minimum on first \$2,000..... \$27.50 PLUS
Per \$1,000, or fraction, over \$2,000.....\$.36

One sales lot not more than 400 feet from the main showroom may be operated under this license provided that proceeds from sales at the lot are included in gross receipts at the main office when both are operated under the same name and ownership.

Gross receipts for this classification shall include full sales price without deduction for trade-ins. Dealer transfers shall not be included in gross receipts.

NAICS 72241 - **Drinking Places, bars, lounges, cabarets** -

(Alcoholic beverages consumed on premises)

Minimum on first \$2,000.....	\$66.00	PLUS
Per \$1,000, or fraction, over \$2,000.....		\$1.30

NAICS 522298 - **Pawn Brokers** - All Types

Minimum on first \$2,000.....	\$60.00	PLUS
Per \$1,000, or fraction, over \$2,000.....		\$1.15

NAICS 45439 - **Peddlers, Solicitors, Canvassers, Door-To-Door Sales,**

direct retail sales of merchandise. [Non-resident rates apply]

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

Minimum on first \$2,000.....	\$38.50	PLUS
Per \$1,000, or fraction, over \$2,000.....		\$.75

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

Minimum on first \$2,000.....	\$5.50	PLUS
Per \$1,000, or fraction, over \$2,000.....		\$.75

NAICS 5241 - **Insurance Companies:**

On gross premiums collected through offices or agents located in the municipality, wherever the risk is located, or collected on policies written on property or risks located in the municipality, wherever the premiums are collected. Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute doing business within the municipality whether or not an office is maintained therein. A premium collected on property or a risk located within the municipality shall be deemed to have been collected within the municipality. [Declining rates shall not apply.]

NAICS 52411 - **Life, Health and Accident** 0.75% of Gross Premiums

NAICS 524126 - **Fire and Casualty** (Licensed in SC) 2% of Gross Premiums

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

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

On gross premiums collected on policies of companies not licensed in South Carolina, the agent or broker shall pay annually, with copy of the report showing location of the risks insured 2% of Gross Premiums

[Premiums for non-admitted business are not included in gross commissions for license under Rate Class 7 for other business.]

Notwithstanding any other provision of this ordinance, license taxes for insurance companies and brokers for non-admitted insurers shall be payable on or before May 31 in each year without penalty. Pursuant to S.C. Code §5-7-300, the agreement with the Municipal Association of South Carolina on file with the Clerk for Collection of current and delinquent license taxes from insurers and brokers is approved.

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

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

1. Operator of machine \$12.50 per machine,
PLUS \$12.50 business license for operation of all machines
(not on gross income). [§12-21-2746]
2. Distributor selling or leasing machines (not licensed by the State as an operator pursuant to §12-21-2728) - [Nonresident rates apply.] –
Minimum on first \$2,000 \$50.00 PLUS
Per \$1,000, or fraction, over \$2,000 \$.95

NAICS 713290 - Amusement Machines, coin operated - nonpayout

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

1. Operator of machine (owner of business)..... \$180.00 per machine,
PLUS \$12.50 business license for operation of all machines
(not on gross income). [§12-21-2720(B)]
2. Distributor selling or leasing machines (not licensed by the State as an operator pursuant to §12-21-2728) - [Nonresident rates apply.] –
Minimum on first \$2,000 \$50.00 PLUS
Per \$1,000, or fraction, over \$2,000..... \$.95

**NAICS 71399 - Billiard or Pool Rooms, all types -
\$5.00 stamp per table PLUS**

Minimum on first \$2,000	\$50.00 PLUS
Per \$1,000, or fraction, over \$2,000	\$.95

NAICS 71119 - **Carnivals and Circuses** –

Minimum on first \$2,000	\$50.00 PLUS
Per \$1,000, or fraction, over \$2,000	\$.95

RATE CLASS INDEX

RATE CLASS 1

<u>NAICS</u>	<u>Business Sector</u>
42	Wholesale Trade
442	Furniture and Home Furnishing Stores
445	Food and Beverage Stores
446	Health and Personal Care Stores
447	Gasoline Stations
451	Sporting Goods, Hobby, Book, Music Stores
721	Accommodation, Hotel, Motel, Inn, Camp
722	Eating Places, Food Services, Restaurants, Caterers, except drinking places
813	Membership Organizations
92	Public Administration

RATE CLASS 2

<u>NAICS</u>	<u>Business Sector</u>
4413	Automotive Parts, Tire Stores
443	Electronics and Appliance Stores
444	Building Material, Garden Equipment and Supply
448	Clothing and Accessory Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers
454	Nonstore Retailers, except peddlers
45421	Vending Machines
811	Repair and Maintenance Services

RATE CLASS 3

<u>NAICS</u>	<u>Business Sector</u>
31-33	Manufacturing
48	Transportation, except rail

RATE CLASS 4

<u>NAICS</u>	<u>Business Sector</u>
11	Agriculture, Forestry, Fishing and Hunting
21	Mining
2213	Water and Sewerage Systems
512	Motion Pictures, theaters, production
56	Administrative and Support, Waste Management and Remediation Services
711	Arts, Sports and Promoters of Events
712	Museums, Historical Sites, Zoos, Gardens
713	Amusement and Recreation, except coin-operated machines & gambling
812	Personal Care, Barber, Beauty, Laundry

RATE CLASS 5

<u>NAICS</u>	<u>Business Sector</u>
49	Warehousing and Couriers

RATE CLASS 6

<u>NAICS</u>	<u>Business Sector</u>
511	Information, Newspapers, Publishers
522	Consumer Finance, Mortgage Brokers, Credit Card Issuing, except banks and pawnshops
523	Security and Commodity Brokers
61	Education Services
62	Health Care and Social Assistance

RATE CLASS 7

NAICSBusiness Sector

515	Radio and Television Broadcasting
516	Internet Publishers
518	Internet Service Providers and Data Processing Services, on line
5242	Insurance Agencies, except brokers for non-admitted insurers
53	Real Estate and Rental and Leasing
54	Professional, Scientific, and Technical Services
55	Management of Companies and Enterprises

RATE CLASS 8NAICSBusiness Sector

2211	Electric Utilities
2212	Gas Utilities
23	Construction, all types
423930	Recyclable Material, Junk
4411	Automobile Dealers
4412	Other Motor Vehicle Dealers
45439	Peddlers, Direct Selling
482	Rail Transportation
5171	Telecommunications, wired
5172	Telecommunications, cellular
5175	Cable Television
522298	Pawnshops
5241	Insurance Carriers
52421	Brokers for Non-admitted Insurance Carriers
71119	Carnivals, Circuses
7131	Amusement Arcades, except gambling [Type I and Type II]
7132	Nonpayout Amusement Machines [Type III]
71399	Billiard Parlor, Pool Tables
72241	Drinking Places, Bars (alcoholic)

NAICS NUMERICAL INDEX

<u>NAICS Code</u>	<u>Rate Class</u>	<u>NAICS Sector Description</u>
11	4	Agriculture, Forestry, Fishing and Hunting
21	4	Mining
2211	8	Electric Utilities
2212	8	Gas Utilities
2213	4	Water and Sewerage Systems
23	8	Construction, all types
31-33 3		Manufacturing
42	1	Wholesale Trade, except junk
423930	8	Recyclable Material, Junk
44-45		Retail Trade (See type)
4411	8	Automobile Dealers
4412	8	Other Motor Vehicle Dealers and Farm Machinery
4413	2	Automotive Parts, Tire Stores
442	1	Furniture and Home Furnishing Stores
443	2	Electronics and Appliance Stores
444	2	Building Material, Garden Equipment and Supply
445	1	Food and Beverage Stores
446	1	Health and Personal Care Stores
447	1	Gasoline Stations
448	2	Clothing and Accessory Stores
451	1	Sporting Goods, Hobby, Book, Music Stores
452	2	General Merchandise Stores
453	2	Miscellaneous Store Retailers
454	2	Nonstore Retailers, except peddlers
45421	2	Vending Machines
45439	8	Peddlers, Direct Selling
48	3	Transportation, except rail
482	8	Rail Transportation
49	4	Warehousing and Couriers
511	6	Information, Newspapers, Publishers
512	4	Motion Pictures, theaters, production, music, recording
515	7	Radio and Television Broadcasting
516	7	Internet Publishers
5171	8	Telecommunications, wired
5172	8	Telecommunications, cellular
5175	8	Cable Television
518	7	Internet Service Providers and Data Processing Services, on line
522	6	Consumer Finance, Mortgage Brokers, Credit Card Issuing, except banks and pawnshops
522298	8	Pawnshops

<u>NAICS Code</u>	<u>Rate Class</u>	<u>NAICS Sector Description</u>
523	6	Security and Commodity Brokers
5241	8	Insurance Carriers
5242	7	Insurance Agencies, except brokers for non-admitted insurers
52421	8	Brokers for Non-admitted Insurance Carriers
53	7	Real Estate and Rental
54	7	Professional, Scientific, and Technical Services
55	7	Management of Companies and Enterprises
56	4	Administrative and Support, Waste Management and Remediation Services
61	6	Education Services
62	6	Health Care and Social Assistance
711	4	Arts, Sports and Promoters of Events
71119	8	Carnivals, Circuses
712	4	Museums, Historical Sites, Zoos, Gardens
713	4	Amusement and Recreation, except coin-operated machines & gambling
7131	8	Amusement Arcades, except gambling [Sec. 12-21-2720(A)(1) and (2)]
7132	8	Nonpayout Amusement Machines [Sec. 12-21-2720(A)(3)]
71399	8	Billiard Parlor, Pool Tables
721	1	Accommodation, Hotel, Motel, Inn, Camp
722	1	Eating Places, Food Services, Restaurants, Caterers, except drinking places
72241	8	Drinking Places, Bars (alcoholic)
811	2	Repair and Maintenance Services
812	4	Personal Care, Barber, Beauty, Laundry
813	1	Membership Organizations
92	1	Public Administration

ALPHABETICAL
BUSINESS CLASSIFICATION INDEX

This index is not intended to be a complete listing of all types of businesses. It is an aid in finding classifications by common name and reference to the NAICS Code. All businesses not exempt by law which are in the major groups or sectors listed under each rate class are subject to a license tax whether found in the alphabetical index or not. The License Official shall determine the proper classification of a business not listed.

NAICS CODE	RATE CLASS	BUSINESS ACTIVITY	A
311611	3	Abattoirs	
611310	6	Academies, college or university	
561440	4	Account collection services	
541211	7	Accounting (CPAs) services, certified public	
541219	7	Accounting services (except CPAs)	
711510	4	Actors, independent	
621111	6	Acupuncturists	
511140	6	Address list publishers	
561110	4	Administrative management services	
541810	7	Advertising agencies	
323110	3	Advertising materials printing	
511120	6	Advertising periodical publishers	
541850	7	Advertising services, indoor or outdoor display	
713940	4	Aerobic dance and exercise centers	
423860	1	Aeronautical equipment and supplies, wholesaling	
524210	7	Agencies , insurance	
531210	7	Agencies, real estate	
711410	4	Agents for artists, authors, entertainers, models, sports and public figures, etc.	
11	4	Agriculture (See type of operation)	
		111 Crop production	
		112 Animal production	
		113 Forestry and logging	
		114 Fishing, hunting and trapping	
		115 Agriculture and forestry support activities	
423820	1	Agricultural machinery and equipment, sale	
811412	2	Air-conditioner, window, repair and maintenance services	
238220	8	Air-conditioning installation contractors	
481211	3	Aircraft charter services, passenger	
441229	8	Aircraft dealers, retail	
423860	1	Aircraft equipment and supplies, wholesaling	
488119	3	Aircraft hangar rental	
488190	3	Aircraft maintenance and repair services	
532411	7	Aircraft rental and leasing	

722310	1	Airline food service contractors
561599	4	Airline ticket offices
485999	3	Airport limousine services (shuttle)
561621	4	Alarm systems sales with installation, maintenance, or monitoring services
441221	8	All-terrain vehicle (ATV) dealers
621910	6	Ambulance services, air or ground
713120	8	Amusement device parlors (except gambling), coin-operated; arcades
713290	8	Amusement, gambling machines, coin-operated (video poker) – PROHIBITED
812910	4	Animal grooming services
541940	7	Animal hospitals
561421	4	Answering services, telephone
238990	8	Antenna installation construction contractors
444112	2	Antenna, satellite, sales and installation
441120	8	Antique auto dealers
811420	2	Antique furniture repair and restoration shops
453310	2	Antique shops
531110	7	Apartment rental or leasing
448150	2	Apparel accessory stores
812320	4	Apparel pressing services
448130	2	Apparel stores, children's and infants' clothing
448110	2	Apparel stores, men's and boys' clothing
453310	2	Apparel stores, used clothing
448120	2	Apparel stores, women's and girls' clothing
532210	7	Appliance rental
443111	2	Appliance stores, household-type
453310	2	Appliance stores, household-type, used
811412	2	Appliance, household-type, repair and maintenance services
423720	1	Appliances, gas (except dryers, freezers, refrigerators), wholesaling
423620	1	Appliances, household-type(except gas ranges, gas water heaters), wholesaling
541990	7	Appraisal (except real estate) services
531320	7	Appraisal services, real estate
712130	4	Aquariums
541990	7	Arbitration and conciliation services (except by attorney, paralegal)
713120	8	Arcades , amusement
541310	7	Architectural (except landscape) services
541320	7	Architectural services, landscape
711310	4	Arena operators
811310	2	Armature rewinding services
561613	4	Armored car services
611610	6	Art (except commercial or graphic) instruction
453920	2	Art dealers
712110	4	Art galleries (except retail)
453920	2	Art galleries retailing art

511199	6	Art publishers
611519	6	Art schools, commercial or graphic
541430	7	Art studios, commercial
453998	2	Art supply stores
711510	4	Artist
453220	2	Arts and crafts, retail
711310	4	Arts event managers with facilities
711320	4	Arts event managers without facilities
562910	4	Asbestos removal contractors
623311	6	Assisted-living facilities with on-site nursing facilities
623312	6	Assisted-living facilities without on-site nursing care facilities
522320	6	ATM machine operator
541110	7	Attorneys' private practices
453998	2	Auction houses (general merchandise)
423990	1	Audio and video tapes and disks, prerecorded, wholesaling
443112	2	Audio equipment stores (except automotive)
532490	7	Audio visual equipment rental or leasing
541211	7	Auditing services (CPA services), accounts
441310	2	Auto supply stores
423420	1	Automatic teller machines (ATM) wholesaling
493190	5	Automobile dead storage
441110	8	Automobile dealers, new only or new and used
441120	8	Automobile dealers, used only
611692	6	Automobile driving schools
522220	6	Automobile finance leasing companies
522220	6	Automobile financing
423120	1	Automobile glass wholesaling
532112	7	Automobile leasing
812930	4	Automobile parking garages or lots
441310	2	Automobile parts dealers
532111	7	Automobile rental
485320	3	Automobile rental with driver (except shuttle service, taxis)
561491	4	Automobile repossession services
561920	4	Automobile show promoters
811121	2	Automotive body shops
811118	2	Automotive brake repair shops
711212	4	Automobile racetracks
811192	2	Automotive detailing services (cleaning, polishing)
811112	2	Automotive exhaust system repair and replacement shops
811118	2	Automotive front end alignment shops
811122	2	Automotive glass shops
811191	2	Automotive oil change and lubrication shops
811121	2	Automotive paint shops
423120	1	Automotive parts, new, wholesaling
811118	2	Automotive radiator repair shops
811111	2	Automotive repair and replacement shops, general

441320	2	Automotive tire dealers
811113	2	Automotive transmission repair shops
811118	2	Automotive tune-up shops
811121	2	Automotive upholstery shops
811192	2	Automotive washing and polishing
611512	6	Aviation schools

BUSINESS ACTIVITY

B

624410	6	Babysitting services, child day care
812990	4	Bail bonding services
445210	1	Baked ham stores
445291	1	Bakery stores, retailing only
611610	6	Ballet schools (except academic)
711130	4	Bands, dance
812111	4	Barber shops
722410	8	Bars , drinking places, lounges, taverns, alcoholic
532292	7	Beach chair, umbrella rental
448190	2	Beachwear stores, retail
812112	4	Beauty salons
721191	1	Bed and breakfast inns
517221	8	Beeper (i.e., radio pager) communication carriers
722330	1	Beverage stands, nonalcoholic, mobile
451110	1	Bicycle (except motorized) shops
532292	7	Bicycle rental
811490	2	Bicycle repair and maintenance shops without retailing bicycles
441221	8	Bicycle shops, motorized
561440	4	Bill collection services
541850	7	Billboard display advertising services
713990	8	Billiard rooms, parlors
541219	7	Billing services
713290	8	Bingo halls, parlors
621410	6	Birth control clinics
561439	4	Blueprinting services
621999	6	Blood pressure screening services
812990	4	Blood pressure testing machine concession, coin-operated
115210	4	Boarding horses
721310	1	Boarding houses
611110	6	Boarding schools, elementary or secondary
812910	4	Boarding services, pet
441222	8	Boat dealers, new and used
441222	8	Boat trailer dealers
487210	3	Boat, fishing charter, sightseeing, dinner cruises, operation
811490	2	Boat, pleasure, repair & maintenance, not retailing new boats
713930	4	Boating clubs with marinas

713990	4	Boating clubs without marinas
423860	1	Boats (except pleasure) wholesaling
336612	3	Boats (i.e., suitable or intended for personal use) manufacturing
713940	4	Body building studios, physical fitness
811121	2	Body shops, automotive
238220	8	Boiler contractors
523120	6	Bond brokerages
493110	5	Bonded warehousing, general merchandise
323121	3	Book binding shops
511130	6	Book publishers
451211	1	Book stores
541219	7	Bookkeeping services
323117	3	Books printing without publishing
424920	1	Books, wholesaling
235930	8	Boring contractors, building construction
424490	1	Bottled water (except water treating) wholesaling
454390	2	Bottled water providers, direct selling
713950	4	Bowling alleys, centers
423910	1	Bowling equipment and supplies, wholesaling
451110	1	Bowling equipment and supply stores
711310	4	Boxing event promoters
238140	8	Bricklaying construction contractors
423320	1	Bricks (except refractory) wholesaling
327121	3	Bricks, clay, manufacturing
448190	2	Bridal gown shops (except custom)
532220	7	Bridal wear rental
523120	6	Brokerages, securities
524210	7	Brokers' offices, insurance (see Class 8 for non-admitted rate)
522310	6	Brokers' offices, loan, mortgage
531210	7	Brokers' offices, real estate
		Brokers - see heading under type of operation
561720	4	Building cleaning services, janitorial
236210	8	Building construction, industrial, general construction contractors
236115	8	Building construction, residential
444110	2	Building materials supply dealers, home centers
424710	1	Bulk gasoline stations
532412	7	Bulldozer rental or leasing without operator
561621	4	Burglar alarm sales with installation, maintenance, or monitoring
485510	3	Bus charter services (except scenic, sightseeing)
561599	4	Bus ticket offices
611410	6	Business colleges or schools
541611	7	Business management consulting services
445210	1	Butcher shops

BUSINESS ACTIVITY

C

541211	7	CPAs' (certified public accountants) offices
485310	3	Cab (taxi) services
238350	8	Cabinet work on site construction contractors
517510	8	Cable TV providers (except networks)
237130	8	Cable laying
722310	1	Cafeteria food service contractors (e.g., office, hospital, school)
722212	1	Cafeterias
532210	7	Camcorder rental
423410	1	Camera equipment and supplies, photographic, wholesaling
443130	2	Camera shops, photographic
532120	7	Camper rental
721211	1	Campgrounds
713990	4	Camps (except instructional), day
445292	1	Candy stores, packaged, retailing only
424450	1	Candy wholesaling
532292	7	Canoe rental
722330	1	Canteens, mobile
424990	1	Canvas products wholesaling
454390	8	Canvassers (door-to-door), direct retail sale of merchandise
811192	2	Car detailers
532112	7	Car leasing
532111	7	Car rental agencies
811111	2	Car repair shops, general
811192	2	Car washes
453220	2	Card shops, greeting
424120	1	Cards, greeting, wholesaling
711190	8	Carnival traveling shows
238130	8	Carpentry, framing
238350	8	Carpentry, finish
532490	7	Carpet and rug cleaning equipment rental
561740	4	Carpet cleaning plants, services, including on premises cleaning
442210	1	Carpet stores
722211	1	Carryout restaurants
423850	1	Caskets, burial, wholesaling
532230	7	Cassette, prerecorded video, rental
722320	1	Caterers
238310	8	Ceiling construction contractors
444190	2	Ceiling fan stores
517212	8	Cellular telephone services
443112	2	Cellular telephone stores
423320	1	Cement wholesaling

812220	4	Cemeteries
423320	1	Ceramic construction materials (except refractory) wholesaling
444190	2	Ceramic tile stores
523930	6	Certified financial planners, customized, fees paid by client
541211	7	Certified public accountants' (CPA) offices
522210	6	Charge card issuing
481212	3	Charter air freight services
481211	3	Charter air passenger services
485510	3	Charter bus services (except scenic, sightseeing)
541710	7	Chemical research and development laboratories or services
424690	1	Chemicals (household, industrial, photographic) wholesaling
424910	1	Chemicals, agricultural, wholesaling
424440	1	Chicken & chicken products (except packaged frozen) wholesaling
112310	4	Chicken egg production
487210	3	Charter fishing boat operation
522390	6	Check cashing services
112320	4	Chicken production (except egg laying)
311615	3	Chickens, slaughtering and dressing
624410	6	Child day care
561790	4	Chimney cleaning services
442299	1	Chinaware stores
621310	6	Chiropractors' offices (centers, clinics)
453220	2	Christmas stores
111421	4	Christmas tree growing
424990	1	Christmas trees (artificial, cut) wholesaling
454390	2	Christmas trees, cut, direct selling
453991	2	Cigarette stands, permanent
424940	1	Cigarettes wholesaling
711190	8	Circuses
524291	7	Claims adjusting, insurance
812320	4	Cleaners , drycleaning and laundry service
561790	4	Cleaning (power sweeping, washing) buildings, parking lots
561740	4	Cleaning carpets
561720	4	Cleaning homes, offices, new building interiors, shopping centers
561740	4	Cleaning services, carpet and rug
561790	4	Cleaning swimming pools
621498	6	Clinics/centers, health practitioners practicing in same office
519190	7	Clipping services, news
811490	2	Clock repair shops without retailing new clocks
448310	2	Clock shops
513220	8	Closed circuit television (CCTV)
		Clothing – see also apparel
448150	2	Clothing accessories stores
811490	2	Clothing repair shops, alterations only
448140	2	Clothing stores, family
424320	1	Clothing, men's and boys', wholesaling

424330	1	Clothing accessories, women's, children's, infants', wholesaling
454319	2	Coal dealers, direct selling
448190	2	Coat stores
722410	8	Cocktail lounges
722213	1	Coffee shops, on premise brewing
713120	8	Coin-operated amusement devices; arcade (parlor), nongambling
812310	4	Coin-operated drycleaners and laundries
423990	1	Coin-operated game machines wholesaling
713990	8	Coin-operated nongambling amusement device operators
812990	4	Coin-operated personal service machine (e.g., photo, scales, etc.)
493120	5	Cold storage locker services
453220	2	Collectible gift shops (e.g., crystal, pewter, porcelain)
561440	4	Collection agencies
811310	2	Commercial & industrial machinery repair & maintenance services
236220	8	Commercial and institutional building construction management
541430	7	Commercial art services
311812	3	Commercial bakeries
236220	8	Commercial building construction
531120	7	Commercial building rental or leasing
561450	4	Commercial credit reporting bureaus
541922	7	Commercial photography services
531312	7	Commercial property managing
531210	7	Commercial real estate agencies
512110	4	Commercials, television, production
523140	6	Commodity contracts brokers' offices
238210	8	Communication equipment construction contractors
811213	2	Communication equipment repair and maintenance services
23690	1	Communications equipment wholesaling
485113	3	Commuter bus operation
423990	1	Compact discs (CDS), prerecorded, wholesaling
424690	1	Compressed gases (except LP gas) wholesaling
541519	7	Computer consultant
811212	2	Computer equipment repair and maintenance services
443120	2	Computer equipment stores
518111	7	Computer - internet service providers (ISP)
611420	6	Computer operator training
541511	7	Computer program or software development, custom
532420	7	Computer rental or leasing
611519	6	Computer repair training
541513	7	Computer systems facilities management and operation services
518210	7	Computer time leasing
532230	7	Computer video game rental
541512	7	Computer-aided design systems integration design services
334111	3	Computers, manufacturing
443120	2	Computers, retailing
423430	1	Computers, wholesaling

713990	8	Concession operators, amusement device (except gambling), ride
722330	1	Concession stands, food, mobile
327320	3	Concrete batch plants, ready-mix manufacture and distribution
423320	1	Concrete building products wholesaling
238990	8	Concrete finishing construction contractors
531311	7	Condominium managers' offices
531120	7	Conference center, no promotion of events, rental or leasing
453310	2	Consignment shops, used
532412	7	Construction machinery and equipment rental without operator
811310	2	Construction machinery & equipment repair, maintenance services
423810	1	Construction machinery and equipment wholesaling
236220	8	Construction management firms, commercial and institutional
561450	4	Consumer credit reporting bureaus
522291	6	Consumer finance companies
623311	6	Continuing care retirement communities
23	8	Contractors , construction and special trade - all types
623110	6	Convalescent homes or convalescent hospitals
445120	1	Convenience food stores
447110	1	Convenience food with gasoline stations
561920	4	Convention promoters, managers, services
532420	7	Copier rental or leasing
561439	4	Copy shops
423420	1	Copying machines wholesaling
551114	7	Corporate offices
446120	1	Cosmetics stores
424210	1	Cosmetics wholesaling
812112	4	Cosmetology salons or shops (beauty shops)
611511	6	Cosmetology schools
448150	2	Costume jewelry stores
423940	1	Costume jewelry wholesaling
532220	7	Costume rental
115111	4	Cotton ginning
624190	6	Counseling services
238990	8	Counter top construction contractors
713910	4	Country clubs
492110	5	Courier services
561920	4	Craft fair managers, organizers, promoters
451120	1	Craft supply stores
532412	7	Crane rental or leasing without operator
561450	4	Credit agencies, investigating services, reporting bureaus
522210	3	Credit card issuing (other than banks)
812220	6	Crematories (except combined with funeral homes)
115112	4	Crop dusting
111	4	Crop production, agriculture
561599	4	Cruise ship ticket offices
453220	2	Curio shops

442291	1	Curtain and drapery stores, packaged
812320	4	Curtain cleaning services
561720	4	Custodial services
337212	3	Custom architectural millwork and fixtures, manufacturing on a job shop basis
236115	8	Custom built house construction
315211	3	Cut and sew apparel contractors, men's and boys'
315212	3	Cut and sew apparel contractors, women's, girls', and infants'

NAICS	RATE	BUSINESS ACTIVITY
D		
CODE	CLASS	

445299	1	Dairy product stores
424430	1	Dairy products, wholesaling
711130	4	Dance bands
713940	4	Dance centers, aerobic
713990	4	Dance halls, dance schools, studios
518210	7	Data processing computer services
511140	6	Database and directory publishers
624120	6	Day care centers, adult
624410	6	Day care centers, child or infant
541410	7	Decorating consulting services, interior
722211	1	Delicatessen restaurants
492210	5	Delivery service
238910	8	Demolition of buildings or other structures, construction contractors
339116	3	Dental laboratories
621210	6	Dentists' offices (e.g., centers, clinics)
423450	1	Dentists' professional supplies wholesaling
452110	2	Department stores
621111	6	Dermatologists' offices
561410	4	Desktop publishing services
561611	4	Detective agencies
621420	6	Detoxification centers and clinics
811198	2	Diagnostic centers without repair, automotive
812331	4	Diaper supply services
561410	4	Dictation services
812191	4	Diet centers, non-medical
323115	3	Digital printing
722110	1	Diners , full service
487210	3	Dinner cruises
711110	4	Dinner theaters
541860	7	Direct mail advertising services
454390	8	Direct selling of merchandise (door-to-door, vehicles, stalls, street vendors)
511140	6	Directory and database publishers

713990	4	Discotheques (except those serving alcoholic beverages)
812990	4	Discount buying services
452110	2	Discount department stores
488310	3	Docking facility operations
561439	4	Document copying services
452990	2	Dollar stores
238350	8	Door and window construction contractors
722110	1	Doughnut shops
541340	7	Drafting services
561790	4	Drain cleaning services
237990	8	Dredging, general construction contractors
722410	8	Drinking places (i.e., bars, lounges, taverns), alcoholic
722211	1	Drive-in restaurants
611692	6	Driver education
713990	4	Driving ranges, golf
446110	1	Drug stores
424210	1	Drugs wholesaling
812320	4	Drycleaners
238310	8	Drywall construction contractors\
561790	4	Duct cleaning services

NAICS	RATE	BUSINESS ACTIVITY
E		
CODE	CLASS	

812199	4	Ear piercing services
532412	7	Earth moving equipment rental or leasing without operator
237990	8	Earth moving not connected with building construction
722110	1	Eating places
611699	6	Educational services, miscellaneous
112310	4	Egg production, chicken
811310	2	Electric motor repair and maintenance services
221122	8	Electric power distribution systems - franchise
444190	2	Electrical supply stores
238210	8	Electrical repair construction contractors
811118	2	Electrical repair shops, automotive
444190	2	Electrical supply stores
713120	8	Electronic game arcades, nongambling
423690	1	Electronic parts, wholesaling
811412	2	Electronic repair
443112	2	Electronic stores
238290	8	Elevator, escalator installation contractors
812210	4	Embalming services
561310	4	Employment agencies
811111	2	Engine repair and replacement shops, automotive
811411	2	Engine repair, small engine (e.g., lawnmowers)

541330	7	Engineering services
711510	4	Entertainers, independent
541620	7	Environmental consulting services
562910	4	Environmental remediation services
115310	4	Estimating timber
713940	4	Exercise centers
532292	7	Exercise equipment rental
451110	1	Exercise equipment stores
811112	2	Exhaust system repair and replacement shops, automotive
561710	4	Exterminating services

BUSINESS ACTIVITY

F

451130	1	Fabric shops
424310	1	Fabrics, textile (except burlap, felt), wholesaling
811213	2	Facsimile machine repair and maintenance services
621410	6	Family planning counseling services
441229	8	Farm machinery, retail
424910	1	Farm supplies wholesaling
722211	1	Fast food restaurants
444220	2	Feed stores
237990	8	Fence construction contractors
561730	4	Fertilizing lawns
711310	3	Festival promoters
238210	8	Fiber optic cable construction contractors
522291	6	Finance companies
523930	6	Financial investment or planning services
313311	3	Finishing plants, broadwoven fabric
561621	4	Fire alarm sales, installation, maintenance, or monitoring services
454319	2	Firewood dealers, direct selling
453998	2	Fireworks shops + \$50 State license
487210	3	Fishing boat charter operation
451110	1	Fishing supply stores
445220	1	Fish markets
713940	4	Fitness centers
531120	7	Flea market space, rental or leasing
454390	8	Flea markets, direct selling - peddlers
713210	8	Floating casinos (i.e., gambling cruises, riverboat casinos)
238330	8	Floor laying, finishing, or refinishing construction contractors
561422	4	Floral wire services
453110	2	Florists
453110	2	Flower shops
561920	4	Flower show promoters
424930	1	Flowers wholesaling
611512	6	Flying instruction

445110	1	Food , grocery stores
446191	1	Food, health supplement stores
722330	1	Food carts, mobile
722310	1	Food service contractors, concession operator, or cafeteria
448210	2	Footwear stores
424340	1	Footwear wholesaling
115310	4	Forestry services
532220	7	Formal wear rental
812990		Fortune-telling services -PROHIBITED
533110	7	Franchise agreements, leasing, selling or licensing only
488510	3	Freight forwarder
445230	1	Fruit and vegetable markets or stands, permanent
454311	2	Fuel oil (i.e., heating) dealers, direct selling
424720	1	Fuel oil wholesaling
812210	4	Funeral homes
532299	7	Furniture rental centers
442110	1	Furniture and appliance stores, new
561740	4	Furniture cleaning services
811420	2	Furniture refinishing, repair, or reupholstery shops
453310	2	Furniture stores, used

BUSINESS ACTIVITY

G

713290	8	Gambling device arcades or parlors, coin-operated
562111	4	Garbage collection services
444220	2	Garden centers
811411	2	Garden equipment repair and maintenance services
561730	4	Garden maintenance services
444210	2	Garden power equipment stores
532490	7	Garden tractor rental or leasing
811490	2	Garment alteration and/or repair shops
812320	4	Garment cleaning services
237120	8	Gas main construction
221210	8	Gas, natural, distribution - franchise
424710	1	Gasoline bulk stations and terminals
447110	1	Gasoline stations with convenience stores
447190	1	Gasoline stations without convenience stores
424720	1	Gasoline wholesaling (except bulk stations, terminals)
452990	2	General stores
541370	7	Geographic information system (GIS) base mapping services
453220	2	Gift shops and greeting card shops
115111	4	Ginning cotton
238150	8	Glass installation (except automotive) construction contractors
811122	2	Glass shops, automotive
444190	2	Glass stores

442299	1	Glassware stores
713910	4	Golf courses and country clubs
713990	4	Golf courses, miniature, pitch-n-putt, driving ranges
451110	1	Golf pro shops, sporting goods stores
445299	1	Gourmet food stores
311211	3	Grain mills
541430	7	Graphic art and related design services
424410	1	Groceries, general-line, wholesaling
445110	1	Grocery stores
624410	6	Group day care centers, child or infant
623110	6	Group homes for the disabled
561612	4	Guard services
721199	1	Guest houses
713990	4	Guide services
451110	1	Gun shops, gunsmiths

BUSINESS ACTIVITY

H

621491	6	HMO (health maintenance organization)
812112	4	Hair stylist services, hairdresser
448150	2	Handbag stores
423710	1	Hardware (except motor vehicle) wholesaling
444130	2	Hardware stores
562112	4	Hazardous waste collection services
446110	1	Health and beauty aids stores
713940	4	Health club facilities, physical fitness
446191	1	Health food stores
721110	1	Health spas
237990	8	Heavy construction equipment rental with operator
532412	7	Heavy construction equipment rental without operator
811310	2	Heavy machinery and equipment repair and maintenance services
481211	3	Helicopter passenger carriers
237310	8	Highway construction
451120	1	Hobby shops
551112	7	Holding companies
452990	2	Home and auto supply stores
442299	1	Home furnishings, miscellaneous retail
621610	6	Home health care agencies
444110	2	Home improvement centers
621399	6	Home nursing services
623110	6	Homes for the aged
487110	3	Horse-drawn carriage operation
621610	6	Hospice care services, in home
524114	8	Hospital and medical service plans, direct (insurance)
622110	6	Hospitals, general medical and surgical

721199	1	Hostels
453998	2	Hot tub stores
561110	4	Hotel management services
721110	1	Hotels
238990	8	House moving construction contractors
454390	8	House-to-house direct selling
561720	4	Housekeeping services
442299	1	Housewares stores
713990	4	Hunting clubs, recreational
114210	4	Hunting preserves

BUSINESS ACTIVITY

I

722213	1	Ice cream parlors
722330	1	Ice cream truck vendors
541213	7	Income tax return preparation services
811310	2	Industrial equipment and machinery repair, maintenance services
541710	7	Industrial research and development
624410	6	Infant day care services
518111	7	Information access services, on-line
541512	7	Information management computer systems integration design services
721191	1	Inns, bed and breakfast
115112	4	Insect control for crops
561710	4	Insect extermination services
522220	6	Installment sales financing
238310	8	Insulation construction contractors
524210	7	Insurance agencies
524114	8	Insurance carriers, health, direct
524113	8	Insurance carriers, life, disability, direct
524126	8	Insurance carriers, property and casualty, fidelity, surety, direct
524127	8	Insurance carriers, title, direct
524291	7	Insurance claims adjusting
541410	7	Interior decorator, design services
518111	7	Internet service providers (ISP)
516110	7	Internet publishers
561611	4	Investigators, private
523930	6	Investment advice consulting services

BUSINESS ACTIVITY

J

423850	1	Janitorial equipment and supplies wholesaling
561720	4	Janitorial services
811490	2	Jewelry repair shops
448310	2	Jewelry stores

423940	1	Jewelry wholesaling
624310	6	Job counseling, vocational rehabilitation
423930	8	Junk dealers, wholesaling

NAICS	RATE	BUSINESS ACTIVITY
K		
CODE	CLASS	

611620	6	Karate schools
812910	4	Kennels, pet boarding
		Kerosene - see fuel oil
811490	2	Key duplicating shops
621492	6	Kidney dialysis centers and clinics
611110	6	Kindergartens
444190	2	Kitchen cabinet (except custom) stores
337110	3	Kitchen cabinets, stock or custom wood, manufacturing
442299	1	Kitchenware stores
		Knitting mills - see textile mills

BUSINESS ACTIVITY

L

621399	6	LPNs' (licensed practical nurses) offices
561330	4	Labor leasing services
621511	6	Laboratories, medical
541380	7	Laboratories, testing (except medical)
423450	1	Laboratory equipment, dental and medical, wholesaling
442299	1	Lamp shops, electric
238990	8	Land clearing and drainage construction contractors
531190	7	Land rental or leasing
237210	8	Land subdividers and developers (except cemeteries)
541370	7	Land surveying services
541320	7	Land use planning services
562212	4	Landfills
541320	7	Landscape architectural services
561730	4	Landscape installation, care and maintenance services
812320	4	Laundries
812310	4	Laundromats
812331	4	Laundry services, linen supply
541110	7	Law offices
811411	2	Lawn and garden equipment repair and maintenance services
561730	4	Lawn care services
444220	2	Lawn supply stores
532490	7	Leasing equipment
532112	7	Leasing automobiles
444190	2	Lighting fixture stores

423610	1	Lighting fixtures, electric, wholesaling
532111	7	Limousine rental without driver
485320	3	Limousines for hire with driver (except taxis)
442299	1	Linen stores
448190	2	Lingerie stores
424710	1	Liquefied petroleum gas (LPG) bulk stations and terminals
454312	2	Liquefied petroleum gas (LPG) dealers, direct selling
424720	1	Liquefied petroleum gas (LPG) wholesaling
424520	1	Livestock auctions
522310	6	Loan brokers' or agents' offices
522291	6	Loan companies (i.e., consumer, personal, small, student)
561622	4	Locksmith services
113310	4	Logging
517110	8	Long-distance telephone carriers (except wireless)
517310	8	Long-distance telephone resellers (except satellite)
488320	3	Longshoremen services
722410	8	Lounges , cocktail
448320	2	Luggage stores
423310	1	Lumber (e.g., dressed, finished, rough) wholesaling
444190	2	Lumber retailing yards

BUSINESS ACTIVITY

M

332710	3	Machine shops
811310	2	Machine tools repair and maintenance services
423420	1	Machines, office, wholesaling
454390	8	Magazine , sales or subscriptions, door-to-door
451212	1	Magazine stands
424920	1	Magazines wholesaling
561720	4	Maid services
532420	7	Mailing equipment rental or leasing
511140	6	Mailing list compiling services
561110	4	Management services (except complete operation of business)
531312	7	Managers' offices, commercial real estate
531311	7	Managers' offices, residential real estate
561920	4	Managers, convention, trade fair or show
711410	4	Managers, entertainers, public figures, sports figures
812113	4	Manicurist services
423390	1	Manufactured (mobile) homes wholesaling
453930	2	Manufactured (mobile) home dealers
531190	7	Manufactured (mobile) home parks, sites rental or leasing
31	3	Manufacturing - food, beverages, tobacco products, textiles, apparel, leather goods
32	3	Manufacturing - wood products, manufactured (mobile) homes, prefabricated (modular) buildings, paper, printing, petroleum

		products, chemicals, gases, dyes, plastics, synthetic rubber, synthetic fibers, fertilizer, pesticides, medicine, paint, soap, film, rubber products, clay and ceramic products, glass, cement, concrete products, mineral products, etc.
33	3	Manufacturing - metals and metal products, small arms, munition, farm machinery, construction machinery, industrial machinery, commercial & service machinery, office machines, heating and air-conditioning equipment, tools, engines, pumps, elevators, computer and electronic products, communications equipment, audio and video equipment, instruments, timing devices, lighting equipment, appliances, electrical equipment, batteries, wire, transportation equipment and motor vehicles, trailers and campers, aircraft and parts, military equipment, home and office furniture, household products, medical equipment and supplies, jewelry, athletic goods, toys and games, signs, musical instruments, caskets, and Misc.
713930	4	Marina
441222	8	Marine supply dealers, boat dealers
423320	1	Mason's materials wholesaling
444190	2	Masonry (block, brick, stone) dealers
238140	8	Masonry construction contractors
448120	2	Maternity shops
442110	1	Mattress stores
812220	4	Mausoleums
624210	6	Meal delivery programs
445210	1	Meat markets
424470	1	Meats and meat products wholesaling
238210	8	Mechanical construction contractors
541330	7	Mechanical engineering services
531120	7	Medical building rental or leasing
621111	6	Medical doctors' offices
423450	1	Medical equipment and supplies wholesaling
621511	6	Medical laboratories
813410	1	Membership associations, civic or social
812220	4	Memorial gardens (i.e., burial places)
561421	4	Message services, telephone answering
492210	5	Messenger service
423510	1	Metals, ferrous and nonferrous, wholesaling
561990	4	Meter reading services, contract
311511	3	Milk processing
423840	1	Mill supplies wholesaling
713990	4	Miniature golf courses
531130	7	Miniwarehouse rental or leasing
722330	1	Mobile food stands
531190	7	Mobile (manufactured) home parks, site rental or leasing
453930	2	Mobile (manufactured) home dealers
532120	7	Mobile home rental, except on site

238990	8	Mobile home site setup and tie down construction contractors
484220	3	Mobile home towing services
517212	8	Mobile telephone communication carriers
236115	8	Modular house assembly and installation on site, construction
522390	6	Money order issuance services, not related to banking
453998	2	Monument (burial marker) dealers
423990	1	Monuments and grave markers wholesaling
327991	3	Monuments and tombstone, cut stone manufacturing
441221	8	Moped dealers
532292	7	Moped rental
522292	6	Mortgage banking (nondepository mortgage lending)
522310	6	Mortgage brokers' or agents' offices (independent)
812210	4	Mortuaries
721110	1	Motels
512199	4	Motion picture booking agencies
512131	4	Motion picture theaters
484110	3	Motor freight carrier, general
441210	8	Motor home dealers
532120	7	Motor home rental
811310	2	Motor repair and maintenance services
441221	8	Motor scooter dealers
423120	1	Motor vehicle parts and accessories, wholesaling
488410	3	Motor vehicle towing services
423110	1	Motor vehicles wholesaling
441221	8	Motorcycle dealers
532292	7	Motorcycle rental
811490	2	Motorcycle repair shops
561730	4	Mowing services
811112	2	Muffler repair and replacement shops
611610	6	Music instruction
451220	1	Music stores (e.g., cassette, compact disc, record, tape)
532299	7	Musical instrument rental
811490	2	Musical instrument repair shops
423990	1	Musical recordings wholesaling
711130	4	Musicians, independent

BUSINESS ACTIVITY

N

221210	8	Natural gas distribution systems - franchise
621399	6	Naturopaths' offices (e.g., centers, clinics)
448150	2	Neckwear stores
451130	1	Needlecraft sewing supply stores
621111	6	Neurologists' offices (e.g., centers, clinics)
519110	7	News service, syndicate
511120	6	Newsletter publishers

541840	7	Newspaper advertising representatives (independent of media owners)
711510	4	Newspaper columnists, independent (freelance)
511110	6	Newspaper publishers
424920	1	Newspapers wholesaling
451212	1	Newsstands
722410	8	Night clubs , alcoholic beverage
424990	1	Novelties wholesaling
453220	2	Novelty shops
561310	4	Nurse registries
444220	2	Nursery and garden centers
424930	1	Nursery stock (except plant bulbs, seeds) wholesaling
111421	4	Nursery stock growing
621610	6	Nursing agencies, primarily providing home nursing services
623110	6	Nursing homes

BUSINESS ACTIVITY

O

621111	6	Obstetricians' offices
621340	6	Occupational therapists' offices
531120	7	Office building rental or leasing
561720	4	Office cleaning services
423420	1	Office equipment wholesaling
532420	7	Office furniture rental or leasing
442110	1	Office furniture stores
423210	1	Office furniture wholesaling
561320	4	Office help supply services
811212	2	Office machine repair & maintenance services (except communication equip.)
532420	7	Office machinery and equipment rental or leasing
423420	1	Office machines wholesaling
561110	4	Office management services
424120	1	Office supplies (except furniture, machines) wholesaling
453210	2	Office supply stores
811191	4	Oil change and lubrication shops, automotive
424710	1	Oil, petroleum, bulk stations and terminals
424720	1	Oil, petroleum, wholesaling (except bulk stations, terminals)
454311	2	Oil, heating, retail
518191	7	On-line access service providers
621111	6	Oncologists' offices
236115	8	Operative builders
621111	6	Ophthalmologists' offices
423460	1	Optical goods (except cameras) wholesaling
446130	1	Optical goods stores (except offices of optometrists)
518210	7	Optical scanning services
621320	6	Optometrists' offices

621210	6	Orthodontists' offices
621111	6	Orthopedic physicians' offices
621111	6	Osteopathic physicians' (except mental health) offices
441222	8	Outboard motor dealers
811490	2	Outboard motor repair shops
541850	7	Outdoor display advertising services
451110	1	Outdoor sporting equipment stores

		BUSINESS ACTIVITY	P
621999	6	Pacemaker monitoring services	
517211	8	Paging services	
811121	2	Paint shops, automotive	
444120	2	Paint stores	
424950	1	Painter's supplies wholesaling	
711510	4	Painters (i.e., artists), independent	
238320	8	Painting, exterior and interior, construction contractors	
812990		Palm reading services - PROHIBITED	
423930	1	Paper, scrap, wholesaling	
812930	4	Parking garages, lots, automobile	
441310	2	Parts and accessories dealers, automotive	
532299	7	Party rental supply centers	
445120	1	Party shops, convenience stores	
621111	6	Pathologists', neuropathological, offices	
561612	4	Patrol services, security	
522298	8	Pawnshops	
812990	4	Pay telephone equipment concession operators	
513210	8	Pay television networks - franchise	
621111	6	Pediatricians' offices	
454390	8	Peddlers , direct selling of merchandise (door-to-door, from vehicles or stalls, street vendors)	
611610	6	Performing arts schools (except academic)	
517212	8	Personal communication services (PCS), communication carriers	
561710	4	Pest control services	
812910	4	Pet boarding services	
812220	4	Pet cemeteries	
812910	4	Pet grooming services	
541940	7	Pet hospitals	
453910	2	Pet shops	
424990	1	Pet supplies (except pet food) wholesaling	
812910	4	Pet training services	
		Petroleum - see Gas or Oil	
424210	1	Pharmaceuticals wholesaling	
446110	1	Pharmacies	
424120	1	Photocopy supplies wholesaling	

811212	2	Photocopying machine repair and maintenance services
561439	4	Photocopying services
812921	4	Photofinishing services, developing
541922	7	Photographers, commercial
541921	7	Photographers, portraits
423410	1	Photographic equipment and supplies wholesaling
532210	7	Photographic equipment rental
811211	2	Photographic equipment repair shops
443130	2	Photographic supply stores
541921	7	Photography services, studios
713940	4	Physical fitness facilities
621340	6	Physical therapy offices
621111	6	Physicians' (except mental health) offices
621399	6	Physicians' assistants' offices
621340	6	Physiotherapists' offices
532299	7	Piano rental
451140	1	Piano stores
442299	1	Picture frame shops, custom
453998	2	Picture frames, ready made - retail
424310	1	Piece goods wholesaling
451130	1	Piece goods stores
237990	8	Pier construction
237110	8	Pipeline (e.g., gas, oil, sewer, water) construction
722110	1	Pizza parlors
561310	4	Placement agencies or services, employment
561730	4	Plant and shrub maintenance services
621111	6	Plastic surgeons' offices
423930	1	Plastics scrap wholesaling
238220	8	Plumbing construction contractors - plumbers
423720	1	Plumbing equipment, fixtures, supplies wholesaling
444190	2	Plumbing supply stores
621391	6	Podiatrists' offices
561611	6	Polygraph services
561790	4	Pool cleaning
713990	8	Pool rooms
488310	3	Port facility operation
562991	4	Portable toilet renting and/or servicing
236220	8	Post office construction
445210	1	Poultry dealers
444210	2	Power equipment stores, outdoor
237130	8	Power line construction
532490	7	Power washer rental or leasing
561790	4	Power washing building exteriors
624410	6	Pre-kindergarten, preschool centers
238120	8	Precast concrete product placement construction contractors
236116	8	Prefabricated building erection

444190	2	Prefabricated building dealers
323114	3	Print shops - commercial
561611	4	Private detective services
611110	6	Private schools, elementary or secondary
451110	1	Pro shops (e.g., golf, skiing, tennis)
541199	7	Process server services
621111	6	Proctologists' offices
445230	1	Produce markets
424480	1	Produce, fresh, wholesaling
541511	7	Programming services, custom computer
711310	4	Promoters of events
		Propane - see Liquefied Petroleum Gas
531311	7	Property manager
446199	1	Prosthetic stores
561730	4	Pruning services, ornamental tree and shrub
623220	6	Psychiatric convalescent homes or hospitals
621112	6	Psychiatrists' offices
621330	6	Psychologists' offices
541211	7	Public accountants' (CPAs) offices, certified
541219	7	Public accountants' (except CPAs) private practices
541820	7	Public relations services
423990	1	Pulpwood wholesaling
562991	4	Pumping cesspools and septic tanks

BUSINESS ACTIVITY

Q

323114	3	Quick printing - duplicating
811191	2	Quick-lube shops
523999	6	Quotation services, securities

BUSINESS ACTIVITY

R

721211	1	RV (recreational vehicle) parks
532120	7	RV (recreational vehicle) rental or leasing
441210	8	RV dealers
711212	4	Racetracks (e.g., automobile, horse)
541380	7	Radiation testing laboratories or services
811118	2	Radiator repair shops, automotive
517211	8	Radio paging services communication carriers
811211	2	Radio repair and maintenance services
515112	7	Radio stations
562211	4	Radioactive waste collecting and/or disposal
621111	6	Radiologists' offices
541380	7	Radon testing laboratories or services

482	8	Railroads
327320	3	Ready-mixed concrete manufacturing and distributing
531190	7	Real estate (except building) rental or leasing
531210	7	Real estate agents' or brokers' offices
531320	7	Real estate appraisal services
531390	7	Real estate listing services
531312	7	Real estate property managers' offices, commercial
531311	7	Real estate property managers' offices, residential
531130	7	Real estate rental or leasing of miniwarehouses & self-storage
531120	7	Real estate rental or leasing of nonresidential building (except miniwarehouse)
531110	7	Real estate rental or leasing of residential building - exempt
237210	8	Real property (except cemetery lots) development or subdivision
326212	3	Recapping tires
451220	1	Record stores
512240	4	Recording studios, sound
713990	4	Recreational day camps (except instructional)
423910	1	Recreational equipment and supplies (except vehicles) wholesaling
532292	7	Recreational goods rental
451110	1	Recreational goods stores - retail
713940	4	Recreational sports club facilities
441210	8	Recreational vehicle (RV) dealers
532120	7	Recreational vehicle (RV) rental or leasing
721211	1	Recreational vehicle parks
441210	8	Recreational vehicle parts and accessories stores
423110	1	Recreational vehicles wholesaling
423930	8	Recyclable material, junk, wholesaling
561310	4	Referral agencies or services, employment
722330	1	Refreshment stands, mobile
493120	5	Refrigerated warehousing
562111	4	Refuse collection services
562219	4	Refuse treatment and disposal, nonhazardous
624310	6	Rehabilitation job counseling and training, vocational
451211	1	Religious book stores
532310	7	Rent-all centers, miscellaneous rental
811	2	Repair services (see type of operation)
561491	4	Repossession services
561599	4	Reservation services (e.g., airline, car rental, hotel, restaurant)
623110	6	Rest, retirement homes
722110	1	Restaurants
44-45		Retail (see type of operation)
	8	4411 Automobile dealers
	8	4412 Other motor vehicle dealers
	2	4413 Automotive parts, tire stores
	1	442 Furniture & home furnishing stores

	2	443 Electronics & appliance stores
	2	444 Building material, garden equipment & supply dealers
	1	445 Food & beverage stores
	1	446 Health & personal care stores
	1	447 Gasoline stations
	2	448 Clothing & clothing accessories stores
	1	451 Sporting goods, hobby, book & music stores
	2	452 General merchandise stores
	2	453 Miscellaneous store retailers
	2	454 Nonstore retailers, except peddlers
811420	2	Reupholstery shops, furniture
713990	4	Riding stables
713990	4	Rifle clubs, recreational
713940	4	Roller skating rinks
238160	8	Roof spraying, painting or coating, construction contractors
444190	2	Roofing material dealers
423330	1	Roofing materials (except wood) wholesaling
721310	1	Rooming and boarding houses
561740	4	Rug cleaning services
442210	1	Rug stores
NAICS	RATE	BUSINESS ACTIVITY
S		
CODE	CLASS	
441222	8	Sailboat dealers
532292	7	Sailboat rental
713930	4	Sailing clubs
444190	2	Sand, retail
423320	1	Sand wholesaling
722211	1	Sandwich shops
424490	1	Sandwich wholesaling
562212	4	Sanitary landfills
444112	2	Satellite antenna sales & installation
811411	2	Saw repair and maintenance
321113	3	Sawmills
611	6	Schools (see type)
424460	1	Seafood (except canned, packaged frozen) wholesaling
445220	1	Seafood markets
561410	4	Secretarial services
523120	6	Securities brokers' offices
561621	4	Security alarm systems sales with installation, maintenance, or monitoring services
561612	4	Security guard services
531130	7	Self-storage warehousing
238220	8	Septic system construction contractors
562991	4	Septic tank cleaning services

447190	1	Service stations, gasoline
562998	4	Sewer cleaning and rodding services
221320	4	Sewer systems
443111	2	Sewing machine stores, household-type
451130	1	Sewing supply stores
811430	2	Shoe repair shops
448210	2	Shoe stores (except bowling, golf, spiked)
451110	1	Shoe stores, specialty sports footwear
424340	1	Shoes wholesaling
485999	3	Shuttle services (except employee bus)
238170	8	Siding construction contractors
444190	2	Siding dealers
487210	3	Sightseeing boat operation
487110	3	Sightseeing bus operation
238990	8	Sign contractors, installation (on buildings)
234110	8	Sign erection (i.e., highway, street) contractors
541890	7	Sign lettering and painting services
522291	6	Small loan companies
722213	1	Snack bars, soda fountains, fixed location
722330	1	Snack stands, mobile
424490	1	Soft drinks wholesaling
453220	2	Souvenir shops
713940	4	Spa - health club
621340	6	Speech therapists' offices
532292	7	Sporting goods rental
451110	1	Sporting goods stores
711310	4	Sports event managers, promoters
711410	4	Sports figures' agents or managers
453210	2	Stationery stores
424120	1	Stationery supplies wholesaling
22110	1	Steak houses
423510	1	Steel wholesaling
561410	4	Stenographic services
443112	2	Stereo stores
488320	3	Stevedoring services
523120	6	Stock brokers' offices
454390	8	Street vendors (except food)
722330	1	Street vendors, food
445110	1	Supermarkets
452910	2	Superstores (food and general merchandise)
621111	7	Surgeons' (except dental) offices
541940	6	Surgeons' offices, veterinary
621210	6	Surgeons', dental, offices
423450	1	Surgical supplies wholesaling
541370	7	Surveying and mapping services (except geophysical)
423490	1	Surveying equipment and supplies wholesaling

541360	7	Surveying services, geophysical
611620	6	Swimming instruction
561790	4	Swimming pool cleaning and maintenance
238990	8	Swimming pool construction contractors
453998	2	Swimming pool supply stores
423910	1	Swimming pools and equipment wholesaling

BUSINESS ACTIVITY		T
448190	2	T-shirt shops, custom printed
451110	1	Tackle shops (fishing)
811490	2	Tailor shops, alterations only
722211	1	Take out eating places
812199	4	Tanning salons
423990	1	Tapes, prerecorded, audio or video, wholesaling
722410	8	Taverns (i.e., drinking places)
561440	4	Tax collection services on a contract or fee basis
541213	7	Tax return preparation services
485310	3	Taxicab services
711510	4	Taxidermists, independent
517212	8	Telecommunications carriers, cellular telephone
517110	8	Telecommunications carriers, wired
532490	7	Telecommunications equipment rental or leasing
237130	8	Telecommunications line construction (e.g., telephone, telegraph)
541618	7	Telecommunications management consulting services
517110	8	Telecommunications networks, wired
517310	8	Telecommunications resellers
238210	8	Telecommunications wiring installation contractors
513310	8	Telegram services
561422	4	Telemarketing bureaus
561421	4	Telephone answering services
561499	4	Telephone billing & collection services
541870	7	Telephone directory distribution services, door-to-door
511140	6	Telephone directory publishers
811213	2	Telephone equipment repair and maintenance services
423690	1	Telephone equipment wholesaling
561422	4	Telephone solicitation services on a contract or fee basis
443112	2	Telephone stores (including cellular)
541840	7	Television advertising representatives
443112	2	Television and radio stores
515120	7	Television broadcasting stations
511120	6	Television guide publishers
517510	8	Television operations, closed circuit
532210	7	Television rental
811211	2	Television repair services

561320	4	Temporary employment services
713940	4	Tennis club facilities
561710	4	Termite control services
313210	3	Textile mills
424310	1	Textiles wholesaling
711110	4	Theaters , live theatrical production
512131	4	Theaters, motion picture
711310	4	Theatrical production managers, organizers, promoters
713110	4	Theme parks, amusement
453310	2	Thrift shops, used merchandise
561599	4	Ticket agencies, amusement, sports, theatrical, travel
444190	2	Tile stores, ceramic
423990	1	Timber and timber products (except lumber) wholesaling
115310	4	Timber valuation
321114	3	Timber, structural, treating
561599	4	Time share exchange services, condominium
441320	2	Tire dealers, automotive
811198	2	Tire repair shops (except retreading), automotive
326212	3	Tire retreading, recapping or rebuilding
423130	1	Tires, motor vehicle, wholesaling
541191	7	Title companies, real estate, abstract
524127	8	Title insurance carriers, real estate, direct
424940	1	Tobacco products wholesaling
453991	2	Tobacco stores
325992	3	Toner cartridges rebuilding
487110	3	Tour bus, scenic and sightseeing, operation
561520	4	Tour operators
713990	4	Tourist guide services
721199	1	Tourist homes
812331	4	Towel supply services
488410	3	Towing services, motor vehicle
562910	4	Toxic material removal contractors
451120	1	Toy stores
811310	2	Tractor, farm or construction equipment repair and maintenance
532490	7	Tractor, farm or garden, rental or leasing
811411	2	Tractors, lawn and garden repair and maintenance services
561920	4	Trade show managers, organizers, promoters
531190	7	Trailer park or court, residential
532120	7	Trailer rental or leasing
811113	2	Transmission repair shops, automotive
562111	4	Trash collection services
561510	4	Travel agencies
721211	1	Travel trailer campsites
441210	8	Travel trailer dealers
561730	4	Tree services, planting, trimming, removal
453998	2	Trophy shops

532120	7	Truck rental or leasing
811111	2	Truck repair shops, general
447190	1	Truck stops
488490	3	Trucking terminals, independently operated
811118	2	Tune-up shops, automotive
811490	2	Tuning and repair of musical instruments
532220	7	Tuxedo rental
561410	4	Typing services

BUSINESS ACTIVITY

U

621512	6	Ultrasound imaging centers
238910	8	Underground tank removal construction contractors
812210	4	Undertaker services
812331	4	Uniform supply services
448190	2	Uniform stores (except athletic)
451110	1	Uniform stores, athletic
812112	4	Unisex hair stylist shops
811420	2	Upholstery (except motor vehicle) repair services
561740	4	Upholstery cleaning services
451130	1	Upholstery materials stores
811121	2	Upholstery shops, automotive
621111	6	Urologists' offices
441120	8	Used car dealers
423110	1	Used cars wholesaling
453310	2	Used merchandise stores (except pawnshops)
423140	1	Used parts, motor vehicle, wholesaling

BUSINESS ACTIVITY

V

721214	1	Vacation camps
443111	2	Vacuum cleaner stores, household-type
452990	2	Variety stores
445230	1	Vegetable markets
424480	1	Vegetables, fresh, wholesaling
454210	2	Vending machine merchandisers, sale of products
541940	7	Veterinary services
811211	2	Video cassette recorder (VCR) repair services
713120	8	Video game arcades (except gambling)
713290	8	Video poker, gambling - PROHIBITED
532210	7	Video recorder rental
532230	7	Video tape rental stores
451220	1	Video tape stores
541921	7	Video taping services, special events

446191	1	Vitamin stores
561421	4	Voice mailbox services
621340	6	Voice pathologists' offices

NAICS CODE	RATE W CLASS	BUSINESS ACTIVITY
238320	8	Wall covering or removal construction contractors
444120	2	Wallpaper and wall coverings stores
493110	5	Warehousing and storage, general merchandise
493130	5	Warehousing, farm products (except refrigerated)
493120	5	Warehousing, refrigerated
531130	7	Warehousing, self storage, miniwarehouses
562112	4	Waste collection services, hazardous
562111	4	Waste collection services, nonhazardous solid
221320	4	Waste collection, treatment, and disposal through a sewer system
562213	4	Waste (except sewage) treatment facilities,
811490	2	Watch repair shops without retailing new watches
448310	2	Watch shops
811412	2	Water heater repair and maintenance services
237110	8	Water main and line construction
532292	7	Water ski rental
561990	4	Water softener services
221310	4	Water supply systems
237110	8	Water well drilling construction contractors
424490	1	Water, bottled (except water treating), wholesaling
812990	4	Wedding chapels (except churches), wedding planning
541921	7	Wedding photography services
561730	4	Weed control and fertilizing services (except crop)
812191	4	Weight loss centers, non-medical
713940	4	Weight training centers
811310	2	Welding repair services
237990	8	Wharf construction
488310	3	Wharf operation
811118	2	Wheel alignment shops, automotive
532291	7	Wheel chair rental
42	1	Wholesale (see type of product)
	1	423 Durable goods
	1	424 Nondurable goods
448150	2	Wig and hairpiece stores
424990	2	Wigs wholesaling
561720	4	Window cleaning services
811490	2	Window shade repair and maintenance shops

444190	2	Window stores
811122	2	Window tinting, automotive
442291	1	Window treatment stores
561422	4	Wire services (telemarketing services), floral
423990	1	Wood products (e.g., chips, posts, shavings, ties) wholesaling
561410	4	Word processing services
488410	3	Wrecker services (towing services), motor vehicle
238910	8	Wrecking, buildings or other structures, construction contractors

NAICS	RATE	BUSINESS ACTIVITY
X		
CODE	CLASS	

541380	7	X-ray inspection services
621512	6	X-ray laboratories, medical or dental
423450	1	X-ray machines and parts, medical and dental, wholesaling

BUSINESS ACTIVITY	Y
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713930	4	Yacht basins, operation
713930	4	Yacht clubs
532292	7	Yacht rental without crew
424310	1	Yard goods, textile wholesaling

BUSINESS ACTIVITY	Z
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712130	4	Zoos, aquariums, wild animal parks
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SECTION 12-18.2

AN ORDINANCE TO AMEND SECTION 12-18, SCHEDULE OF RATES:

SIC NUMBER	Life, Health and Accident
633-635	Minimum \$25.00
	Above \$2,000.00
	1% of gross premiums

For all categories that the existing ordinance does not have an established rate and non-resident rates shall be as proposed by Governmental Consultants.

AN ORDINANCE TO CONTROL GARAGE AND RUMMAGE SALES

Section 12-19.2.

WHEREAS, the council of the Town of Hemingway has determined that it is in the best interest of the Town to adopt certain restrictions.

NOW, therefore, be it ordained by the Governing Body of the Town of Hemingway in Council duly assembled this fourteenth day of February 1978 that:

- a. All persons, groups, organizations, etc. wishing to hold garage or rummage sales must obtain a written permit from the Town Hall.
- b. This permit must be displayed at the site of sale in a clearly visible location.
- c. Sales will be limited to two per year for any person, group, organization, etc.
- d. No person shall be allowed to barter or purchase for express purpose of selling in garage or rummage sale.

DIVISION 2. EXHIBITION AND RETENTION

Section 12-20. Exhibition of Licenses **REPEALED JULY 8, 2004 SEE SECTION 12-8**

All licenses granted under this Ordinance shall be posted in a conspicuous place, and shall at all times be subject to inspection by any officers of the Town of Hemingway. No calling, business, profession, or occupation shall be carried on elsewhere than the place named in the

license therefor unless prior authority be granted by the Clerk-Treasurer, which authority shall be endorsed on the license.

Section 12-21. Inspection of Licenses~~REPEALED JULY 8, 2004 SEE SECTION 12-10~~

It shall be the duty of the Chief of Police and Building Inspector and every policeman to investigate and report to the Town Clerk and Treasurer all persons doing business without a license. Before any action shall be taken, the Town Clerk and Treasurer must get approval from the Town Council.

Section 12-22. Transfer of License~~REPEALED JULY 8, 2004 SEE SECTION 12-8~~

No license granted under this Ordinance shall be transferable as to person or location except by special permission of the Town Council, as the Town Council may deem fit and proper, or as otherwise herein provided.

Section 12-23. Right of Entry~~REPEALED JULY 8, 2004 SEE SECTION 12-10~~

For the purpose of enforcing the provisions of this Ordinance and for the purpose of collecting the license and license fees provided for herein, the Town of Hemingway, South Carolina, its proper nominees, representatives and employees, in addition to all other powers, shall have the right and are hereby empowered to enter upon the premises or place of business of any person, firm or corporation subject of the payment of the licenses or license fees herein provided and to examine, inspect and audit the books, records and facilities of any such person, firm or corporation. The same shall promptly be made available to the Town, its nominees, representatives or employees for such purpose by any such person, firm or corporation, and the failure in.

DIVISION 3. REMEDIAL ACTION

Section 12-30. Complaints and Appeals~~REPEALED JULY 8, 2004 SEE SECTION 12-16~~

If any applicant for a license shall be dissatisfied with the decision of the Town Clerk and Treasurer with respect to the classification of the business for which the license is sought, or shall contend that the classification or tax rate is otherwise illegal, then and in either case, the applicant shall have the right to pay the license fee required by the Town Clerk and Treasurer under protest, and have the matter passed upon by the Town Council by reducing his protest to writing and filing the same with the Town Clerk and Treasurer within ten (10) days after paying the license; and the Town Council shall, as speedily as possible, adjust the license fee according to law in light of all the facts and shall make a prompt report of its findings and conclusions to the applicant.

Section 12-31. Late Penalties~~REPEALED JULY 8, 2004 SEE SECTION 12-12~~

To any license tax paid after the first day of May, there shall be added a penalty of five percent (5%) to such license tax paid within that month and a five percent (5%) penalty will be

added for each subsequent month that the tax and penalty remain unpaid until a maximum penalty of twenty-five percent (25%) is reached. At that time, the license will be automatically revoked and execution levied as provided in this Chapter. PROVIDED, any license tax that is not paid by May 1st is subject to execution at the discretion of Council.

Section 12-32. Failure to Acquire License~~REPEALED JULY 8, 2004 SEE SECTION 12-20~~

If any person or persons exercise or carry on any trade, business or profession for which a license is required by this Ordinance without first registering or taking out such license as is required, then he, she or they, besides being liable to the payment of the license fee and penalties shall be subject to a fine not exceeding one hundred dollars (\$100) or imprisonment for a time not to exceed thirty (30) days upon conviction before the Municipal Court.

Section 12-33. False Returns~~REPEALED JULY 8, 2004 SEE SECTION 12-7~~

Every person, firm or corporation required by Ordinance to obtain a license to engage in any trade, business or profession shall, on or before the first day of June of each year, register with the Town Clerk and Treasurer, under oath, on forms designated by the Town Clerk and Treasurer, providing all the information specified on such form. In the event any person, firm or corporation shall submit or file a false and untrue return or statement, then, and in that event, the Town shall have the right not only to require the payment of the true amount of license fees remaining unpaid, including penalties provided, but to require the payment of a further sum equal to the cost of the audit required to discover the false and untrue statement. Such person, firm or corporation shall be also deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not exceeding one hundred dollars (\$100) or be imprisoned not exceeding thirty (30) days, and each day of failure to pay proper amount of the license fee shall constitute a separate offense, and his license may be revoked.

Section 12-34. Discontinuing Business~~REPEALED JULY 8, 2004 SEE SECTION 12-21~~

Should a business licensed under this Ordinance, paying a minimum, discontinue operation before the end of the year for which the license was purchased, such person, firm or corporation so licensed will be required immediately to pay the Town any amount to be due in excess of the amount paid.

Section 12-35. Execution of Tax Lien~~REPEALED JULY 8, 2004~~

In addition to any penalty imposed for a violation of this Chapter, the Town Clerk and Treasurer shall issue a warrant of execution, directed to the Chief of Police, commanding him to seize and levy upon the personal property.

AN ORDINANCE

AMENDING THE BUSINESS LICENSE ORDINANCE
PROVISIONS FOR INSURANCE COMPANIES AND BROKERS
TO PROVIDE A 2% RATE FOR TITLE INSURANCE COMPANIES

BE IT ORDAINED by the Mayor and Council of the Town of Hemingway, that the Business License Ordinance is amended by changing the provisions for insurance companies and brokers to include a rate of 2% for title insurance companies, so that insurance provisions shall read as follows:

Section 1.

SIC CODE

63 Insurance Companies: On gross premiums collected through offices or agents located in the municipality, wherever the risk is located, or collected on policies written on property or risks located in the municipality, wherever the premiums are collected.

Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit.

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute doing business within the municipality whether or not an office is maintained therein. A premium collected on property or a risk located within the municipality shall be deemed to have been collected within the municipality.

631-632 Life, Health and Accident.....0.75% of Gross Premiums
(Declining rates shall not apply)

633-635 Fire and Casualty.....2% of Gross Premiums
(Declining rates shall not apply)

636 Title Insurance.....2% of Gross Premiums
(Declining rates shall not apply)

6411 Brokers for Fire & Casualty Insurers - Non-admitted:
On gross premiums collected on policies of companies not licensed in South Carolina, the broker shall pay annually, to the Municipal Association of South Carolina with a copy of the report required by the Insurance Commission showing location of the risk insured.
.....2% of Gross Premiums
(Premiums for non-admitted business are not included in broker's gross commissions for other business. Declining rates shall not apply.)

Section 2.

Notwithstanding any other provision of this ordinance, license taxes for insurance companies and brokers for non-admitted 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 due date until paid.

Section 3.

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

Section 4.

Pursuant to S.C. Code Ann.5-7-300, the Agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from insurance companies and brokers for non-admitted insurers in the form attached hereto is approved, and the Mayor is authorized to execute it.

ORDINANCE

AMENDING THE BUSINESS LICENSE ORDINANCE LEVYING A BUSINESS LICENSE TAX ON TELECOMMUNICATIONS

BE IT ORDAINED by the Mayor and Council of the Town of Hemingway, in Council duly assembled, that the Business License Ordinance is amended as follows:

SECTION 1.

Notwithstanding any other provisions of the business license ordinance, license taxes for telecommunications as described in Standard Industrial Classification (SIC) 481 and North American Industry Classification System (NAICS) 5133, including voice and data communications; radiotelephone services; cellular telephone services; paging and beeper services; leasing lines; fiber optic cable, microwave or satellite facilities; selling access and reselling use of facilities or methods to others shall pay an annual business license tax of 3% of gross receipts from all communications activities conducted in the municipality on which a business license tax has not been paid to another municipality. The tax shall be payable on or before December 31 in each year without penalty. Declining rates shall not apply. The penalty for delinquent payments shall be 5% of the tax due each month, or portion thereof, after the due date until paid.

SECTION 2.

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

SECTION 3.

Pursuant to S.C. Code Ann. Sec. 5-7-300, the Agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from telecommunications in the form attached hereto is approved, and the Mayor is authorized to execute it.

ORDINANCE NO. 12-38
AMENDING THE BUSINESS LICENSE ORDINANCE
LEVYING A BUSINESS LICENSE TAX ON TELECOMMUNICATIONS

WHEREAS, the South Carolina General Assembly has adopted Act No. 112 of 1999 which provides for municipalities to charge business license taxes and fees for the use of public rights of way to telecommunications companies; and

WHEREAS, it is necessary to amend the business license ordinance to conform to State law;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Hemingway that the Business License Ordinance is amended as follows:

SECTION 1.

a. Notwithstanding any other provisions of the Business License Ordinance, business license taxes for retail telecommunications service as defined in S.C. Code Section 58-9-2200, including but not limited to those services described in Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) 5133, shall pay an annual business license fee based on gross income.

b. Pursuant to S.C. Code Section 58-9-2220, the following business license tax schedule shall apply to the gross income from retail telecommunication services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail of mobile telecommunications services shall include only revenue from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality.

Rate for license taxes due in the years 1999 through 2003:
three tenths of one percent (0.3%) of gross income for the preceding year;

Rate for license taxes due in the year 2004 and each year thereafter;
seventy-five hundredths of one percent (0.75%) of gross income for the preceding year.

For a business in operation for less than one year, the amount of business license tax authorized by this section shall be computed on a twelve-month projected income.

SECTION 2.

- a. The rate for business licenses for retail telecommunications service for 1999 shall be 0.3% of 1998 gross income, due on October 1, 1999, and payable by January 31, 2000, without penalty.
- b. The telecommunications business license tax shall be due on January 1 in each year, beginning in the year 2000. Declining rates shall not apply. Taxes are payable without penalty by January 31 following the due date. After January 31, the delinquent penalty shall be five percent (5%) of the tax due for each month, or portion thereof, after the due date until paid.

SECTION 3.

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

SECTION 4.

- a. Nothing in this ordinance shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement in the event that the franchise or contractual agreement should expire after December 31, 2003.
- b. Fees imposed by any franchise or contractual agreement with a telecommunications provider which expires prior to December 31, 2003 shall continue in effect until December 31, 2003.
- c. All fees collected under such franchise agreement or contractual agreement shall be in lieu of fees or taxes which might otherwise be authorized by this ordinance.
- d. A business license tax ordinance, adopted prior to December 31, 1997, which levied a business license tax paid by a telecommunications company higher than that levied under this ordinance, shall remain in effect through December 31, 2003.

SECTION 5.

As authorized by S.C. Code Section 5-7-300, the Agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from telecommunications companies pursuant to S.C. Code Section 58-9-2200 in the form attached hereto is approved, and the Mayor is authorized to execute it.

AGREEMENT

FOR COLLECTION OF BUSINESS LICENSE TAXES FROM TELECOMMUNICATIONS COMPANIES BY THE MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

WHEREAS, the South Carolina General Assembly has adopted Act No. 112 of 1999 which provides for municipalities to charge business license taxes and fees for the use of public rights of way to telecommunication companies; and

WHEREAS, the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA has developed a program for statewide collection of all current and delinquent business license taxes due from establishments providing telecommunications services as defined in S.C. Code Section 58-9-2200, including but not limited to those services described in Standard Industrial Classification (SIC) 481 and North American Industry Classification System (NAICS) 5133; and

WHEREAS, participating municipalities have adopted rates permitted by S.C. Code Section 58-9-2220, delinquent penalties, and a uniform due date of January 1, for such business license taxes; and

WHEREAS, municipalities are authorized to contract for assistance for collection of business licenses taxes pursuant to S.C. Code Section 5-7-300;

NOW, THEREFORE, WITNESSETH

THIS AGREEMENT is made between the Municipal Association of South Carolina (MASC) and the Town of Hemingway this 22 day of September, 1999.

It is agreed between the parties as follows:

1. MASC will make the necessary investigations, develop a database for the Municipality, establish a procedure for determining the amount of business license taxes due, communicate with establishments providing retail telecommunications services as defined in S.C. Code Section 58-9-2200, including but not limited to those services described in Standard Industrial Classification (SIC) 481 and North American Industry Classification System (NAICS) 5133, that are subject to the business license taxes and collect all current and delinquent taxes due on October 1, 1999, and on January 1 thereafter on an annual basis.
2. MASC will bear all administrative expenses, except legal expenses, incurred in connection with the services rendered. Legal expenses incurred by the program shall be prorated to all participates indirect relationship to the disbursements of the program.
3. MASC will deposit all funds received in an appropriate account for which accurate records will be maintained. Business license taxes collected for the municipality, less the service charge herein agreed to, will be disbursed to the Municipality on or before March 1 of each calendar year and thereafter as remaining collections permit.
4. MASC is hereby designated as the exclusive agent of the Municipality for assessment and collection of telecommunications business license taxes and penalties utilizing all procedures and actions authorized by ordinance or state law, and such procedures and actions may be invoked in the same of the Municipality without further approval by the Municipality. The Municipality, pursuant to Rule 17 of the S.C. Rules of Civil Procedure and Rule 17 of the Federal Rules of Civil Procedure, specifically acknowledges the standing of MASC to prosecute a civil action for collection in its behalf and hereby ratifies any such action that MASC may commence.

5. MASC will notify all companies providing retail telecommunications services subject to this agreement and of the requirement that all business license taxes be paid directly to MASC.

6. The Municipality acknowledges that payment of all such taxes directly to MASC is an essential element of the collection program, and that no such taxes will be accepted by the Municipality from or with any establishment providing telecommunications services subject to this agreement. All communications and payments received by the Municipality will be sent to MASC.

7. The Municipality will provide MASC with a certified report on the collection of any business license taxes from telecommunications companies for the last three (3) license years prior to this agreement.

8. The Municipality agrees that MASC will retain, as compensation for services rendered, four (4%) percent of all funds collected for the Municipality pursuant to this agreement, together with any interest earned on funds held on deposit prior to disbursement.

9. The Municipality represents that this agreement has been approved by ordinance duly adopted pursuant to S.C. Code Section 5-7-300.

10. This agreement is effective through December 31, 2000, and shall continue from year to year thereafter until terminated by either party upon notice in writing given 90 days prior to December 31 of any year.

CHAPTER 13. MOTOR VEHICLES AND TRAFFIC

ARTICLE I. IN GENERAL

- Section 13-1. Definitions
13-2. Jurisdiction of Municipal Court
13-3. Powers and Duties of Council
13-4. State Driver's and Vehicle Licenses Required
13-5. Glass and Foreign Matter in Streets
13-6. Responsibility of Vehicle Owner

ARTICLE II. MOVING TRAFFIC

- Section 13-20. Adoption of State Law
13-21. Blocking Intersections
13-22. Using Vehicle for Advertising
13-23. Bicycles Prohibited in Sidewalks in Fire Zone
13-24. Reckless Operation of Bicycles
13-25. Driving Across Private Property

ARTICLE III. PARKING, STANDING, STOPPING

- Section 13-40. Blocking Streets and Alleys
13-41. Display for Sale, Washing, Greasing, Etc., Beside Roadway
13-42. Manner of Parking
13-43. Special Parking Spaces

ARTICLE I. IN GENERAL

Section 13-1. Definitions

For the purpose of this Chapter, the definitions of the South Carolina Code of Laws, 1962, Section 46:201 are hereby adopted and made a part of the Code of Laws of the Town of Hemingway, South Carolina.

Section 13-2. Jurisdiction of Municipal Court

The Municipal Court may try and determine criminal cases involving violations of the provisions of this Chapter or provisions of the South Carolina Code of Laws relating to motor vehicles and traffic occurring within the limits of the Town when the penalty prescribed by state law. The Municipal Court may have trial jurisdiction over such criminal cases the same as magistrates.

Section 13-3. Powers and Duties of Council

The Council of the Town, except as otherwise directed by this Chapter and except as otherwise directed by the Town Council, shall have the power, and is hereby authorized, to regulate the operation and parking of vehicles within the corporate limits of the Town by the erection of or placing of proper signs or markers indicating prohibited or limited parking, restricted speed areas, one way streets, play streets, through or arterial streets, parking meter spaces in parking meter zones, "U" turns, school zones, hospital zones, loading and unloading zones, quiet zones and other signs, markers and official traffic-control devices indicating the place or manner of operating or parking vehicles within the Town.

The Council, except as otherwise directed by this Chapter, shall have power to regulate the movement of pedestrians upon the streets and sidewalks of the Town by the erection or placing of proper signs or markers indicating the flow of pedestrian traffic.

The Council, except as otherwise directed by this Chapter, shall have power to designate bus stops and taxicab stands and to erect signs prohibiting the parking of vehicles other than buses and taxicabs at their respective stops and stands.

The Council, except as otherwise directed by this Chapter, shall have power to designate truck routes and to regulate the parking of vehicles of various sizes and weights.

The Council, except as otherwise directed by this Chapter, shall have the power to mark off traffic lanes on streets and parts of streets indicating and directing the flow of traffic, when in the judgment of the Council such action is necessary.

The Council shall have the power to secure all necessary signs, markers or official traffic-control devices to be erected or placed on any street or part of a street when such action is deemed necessary.

The existence of such signs, markers or official traffic-control devices at any place within the Town shall be prima facie evidence that such signs, markers or official traffic-control devices were erected or placed by and at the direction of the Council and in accordance with the provisions of this section.

Section 13-4. State Driver's License and Vehicle License Required

No person shall operate a motor vehicle on any street in the Town without a State drivers' license to operate the vehicle, which vehicle shall have valid State license tags.

Section 13-5. Glass and Other Foreign Matter in Streets

It shall be unlawful to place, throw or deposit upon any street within the Town any glass bottle, glass, nails, wire, tacks, cans or any other substance likely to injure any person, animal or vehicle upon the street. Any person who drops or permits to be dropped or thrown upon any street within the Town any destructive or injurious material shall immediately remove it or cause it to be removed. Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

Section 13-6. Responsibility of Vehicle Owner

No person shall allow, permit or let any vehicle registered in his name violate any of the ordinances of the Town: PROVIDED, all violations of parking ordinances shall be presumed to be with the knowledge of the owner of such vehicle.

ARTICLE II. MOVING TRAFFIC

Section 13-20. Adoption of State Law

All vehicles shall be operated in the Town in accordance and conformity with Title 46, Chapter 1, Article 2, Registration and Licensing of Uninsured Motor Vehicles; Chapter 4, Licenses to Drive Motor Vehicles; Chapter 7, The Uniform Act Regulating Traffic on the Highways; and all requirements of Sections 46:511 to 46:612 and 46:629, of the South Carolina Code of Laws and each subsequent Code of Amendments thereto enacted as relating to the operation of vehicles, which provisions are adopted by reference and made a part of this Chapter as if set out herein, except those provisions relating solely to the State Highway Department and those provisions the penalty for which exceeds a fine of one hundred dollars (\$100) or

imprisonment for more than thirty (30) days. Any person violating these provisions shall be guilty of misdemeanor. All owners of vehicles operating within the Town shall conform to such requirements and any person failing to conform shall be guilty of a misdemeanor.

Section 13-21. Blocking Intersections

No driver shall enter an intersection or market crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-controlled signal indication to proceed.

Section 13-22. Using Vehicle for Advertising

No person shall operate or park on any street any vehicle for the primary purpose of advertising.

Section 13-23. Bicycles Prohibited on Sidewalks in Fire Zone

It shall be unlawful for any person to ride a bicycle on any sidewalk, track and tennis courts in the Town.

Section 13-24. Reckless Operation of Bicycles

It shall be unlawful for any person to operate any bicycle in the Town in a reckless or dangerous manner.

Section 13-25. Driving Across Private Property

It shall be unlawful for any person driving a vehicle to use the driveway of any filling station or service station in the Town as a roadway or thoroughfare.

It shall be unlawful for any person driving a vehicle to make any "U" turn or other turn prohibited at any point where such turn is prohibited, and it shall be unlawful to accomplish a "U" turn by deviously going into or through private property adjoining the street where such turn is prohibited.

ARTICLE III. PARKING, STANDING, STOPPING

Section 13-40. Blocking Streets and Alleys

No person shall stop, stand, or park any vehicle upon a street other than an alley, in such a manner or under such conditions as to obstruct the well-traveled portion of the roadway, except that a driver may stop temporarily during the actual loading or unloading of passengers and/or merchandise when necessary in obedience to traffic regulations, traffic signs or at the direction of a police/law enforcement/safety officer. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of width of the roadway for the free movement of vehicular traffic. It shall be unlawful for any person to load or unload merchandise from cars, trucks or other vehicles including trailers in front of any business,

except where unable to load or unload at the rear thereof and front-door loading does not constitute a traffic hazard.

Section 13-41. Display For Sale, Washing, Greasing, Etc., Beside Roadway

No person shall stand or park a vehicle along side any roadway or in any roadway or alley for principal purpose of displaying it for sale, washing, greasing or repairing such vehicle. It shall not be a violation of this section if repairs are necessitated by an emergency, provided such repairs are minor, take a short time to complete (less than 24 hours) and do not otherwise pose a safety hazard to the general public.

Section 13-42. Manner of Parking

No person shall park a vehicle in a roadway other than parallel thereto, headed in the direction of traffic and with the curb side wheels of the vehicle within eighteen (18) inches of the edge of the roadway except angle parking shall be allowed where parking spaces have been marked off specifically allowing for angled parking. All vehicles parked in angled parking spaces shall place the front wheels toward the curb and shall not back into such spaces. All vehicles parked in areas in which parking spaces have been marked off or designated shall be parked entirely within a single space and shall not occupy any part of more than one space. The operator of any parked vehicle in an angled space shall back into the roadway only when the roadway is clear.

Section 13-42.1 Parking Prohibited in Specified Locations

- (a) No person shall stand or park a vehicle on any sidewalk provided for pedestrian traffic.
- (b) When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any streets, sidewalks, shoulders or sides of any roadway.
- (c) It shall be unlawful to park adjacent to fire hydrants in such a manner to interfere with emergency situations or vehicles.
- (d) It shall be unlawful for any person to park or stand a vehicle in a handicap zone unless that person is truly handicapped as defined in South Carolina Code 56-3-1950 through 56-3-1975 and the vehicle displays a handicap license tag, decal or other emblem approved by the Department of Transportation for the State of South Carolina or some other state or country.

Section 13-43. Special Parking Places

Council may, in its discretion, designate special parking areas or places for which sufficient cause is shown.

It shall be unlawful for any person to park or stand in a handicap zone unless that person is truly handicapped as defined in South Carolina Code 56-3-1950 through 56-3-1975 and the vehicle displays a handicap license tag, decal or other emblem approved by the Department of Transportation for the State of South Carolina or some other state or country. If the person so parking the vehicle is not handicapped, but a passenger in said vehicle is, then it shall not be a violation if the parking is necessary for the benefit of the handicapped person.

Section 13-44. Abandoned, Junked or Unoperational Vehicles

- (a) It shall be unlawful for any person to abandon a junked or unoperational vehicle upon the public streets, alleys or roadways.
- (b) If any vehicle is found by any police officer abandoned on the public streets, it shall be his duty to cause such vehicle to be removed and conveyed to a garage designated by the Chief of Police of the Town of Hemingway. The owner or person in whose name such vehicle is registered shall be given immediate personal notice or notice by certified mail, if his address can be ascertained.
- (c) If the address of such owner cannot be ascertained, then the Chief of Police shall advertise that such car has been abandoned and impounded, giving an accurate description thereof, the name of the person licensed to operate it, if a license exists, and the circumstances under which the same was found and removed. Such notice shall be published once a week for three consecutive weeks in a locally distributed newspaper. If such vehicle is not reclaimed after such advertisement, then the same shall be sold for cash to the highest bidder at such place as may be designated therefore by the Chief of Police. The terms, time and conditions of any necessary sale shall be included in the advertisement along with the notice.
- (d) The expenses of removing, keeping, advertising and selling the vehicle shall be paid from the proceeds of such sale; the balance, if any, shall be deposited with the Clerk of the Town of Hemingway, subject to the claim of the owner to be filed and proven within twelve (12) months thereafter. If no such claim is filed and proven within that time, such proceeds shall be forfeited and become the property of the Town of Hemingway. The Chief of Police shall keep a record of such vehicle, the name of registered owner, if known or ascertainable by reasonable diligence, the license tag, the circumstances under which it was found, impounded, stored and sold. The condition of reclaiming such vehicle by any such owner shall be the payment of all said expenses.
- (e) A junk automobile, for the purpose of this section, shall be any vehicle with such present value that it would not be economical to repair or restore it. An unoperational vehicle, for the purpose of this section, shall be an automobile incapable of moving under its own power without repair and in an abandoned status.
- (f) It shall be unlawful for any owner of any property in the corporate limits to permit a vehicle not having a current motor vehicle license and upon which property taxes have not been paid, to be brought upon or remain upon his property other than a licensed new car or used car dealer, garage or wrecking yard, upon property operated for such business and provided such vehicle is sheltered in such fashion to be adequate to prevent the infestation or such vehicle by snakes, mosquitoes and other insects or vermin. No person shall salvage or otherwise maintain upon his property any unoperational vehicle for the purpose of taking parts

therefrom, the purpose of storage or repair without said motor vehicle having a current motor vehicle license unless said motor vehicle is covered or sheltered as outlined above.

Section 13-45. Penalties for Violation

Any owner or operator violating any provision of this chapter for which no specific penalty is hereafter provided shall be subject to a penalty or fine of not less than \$50.00 or not to exceed that provided by state law.

Section 13-46. Enforcement of Ordinances

The Chief of Police of the Town of Hemingway or trained officer of the Hemingway Police Department shall be allowed to have any vehicle towed at owner's expense to a garage (s) designated by the Chief of Police if any provision of the ordinance is being violated and the safety of the general public is at risk by allowing the vehicle to remain if the owner/driver cannot be located within a reasonable time by reasonable means or if the owner/driver fails to move the vehicle after notice.

CHAPTER 14. MUNICIPAL COURT

ARTICLE I. GENERAL JUDICIAL POWERS

- Section 14-1. Municipal Court Established
- 14-2. Appointment of Municipal Judge
- 14-3. Appointment of Clerk of Court
- 14-4. Trial Jurisdiction of the Municipal Court
- 14-5. Jurisdiction of the Municipal Judge
- 14-6. Suspension of Fines
- 14-7. Depositing of Fines
- 14-8. Appeals
- 14-9. Making Return to General Sessions Court
- 14-10. Jury Trials
- 14-11. Jury Commissioners
- 14-12. Ministerial Recorder

ARTICLE II. JURIES

- Section 14-50. Procedure When Jury Demanded
- 14-51. Jurors Limited to One Month
- 14-52. Failure to Obey Jury Summons
- 14-53. Selection of Jury

- Section 14-60. Municipal Court and Bad Checks

ARTICLE I. GENERAL JUDICIAL POWERS

Section 14-1. Municipal Court Established

There is hereby established a municipal court for the Town of Hemingway, which shall be a part of the unified judicial system of the State of South Carolina, pursuant to Chapter 25, Title 14 of the 1976 Code of Laws of South Carolina, as amended for the trial and determination of all cases within its jurisdiction.

Section 14-2. Appointment of Municipal Judge

The court shall be presided over by one or more full-time or part-time judges, at the discretion of Council. The Municipal Judge(s) shall be appointed by council for a term of four (4) years. The compensation of the Municipal Judge(s) from time to time may be determined by Council. Vacancies shall be filled in accordance with S.C. Code Section 14-25-25.

Section 14-3. Appointment of Clerk of Court

The Council shall designate a clerk of municipal court, who shall keep such records and make such reports as may be required by the Municipal Judge or the State Court Administrator. Council may designate the municipal clerk or other municipal employees to serve as clerk of the court.

Section 14-4. Trial Jurisdiction of the Municipal Court

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

Section 14-5. Jurisdiction of the Municipal Judge

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, or both, not to exceed that provided by state law.

Section 14-6. Suspension of Fines

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.

Section 14-7. Depositing of Fines

All fines and penalties collected by the municipal court shall be forthwith turned over to the clerk for deposit to the general fund of the Town.

Section 14-8. Appeals

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.

Section 14-9. Making Return to General Sessions

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.

Section 14-10. Jury Trials

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.

Section 14-11. Jury Commissioners

The Town Council shall serve as jury commissioners for the municipal court.

Section 14-12. Ministerial Recorder

There is hereby established the office of ministerial recorder. Ministerial recorders shall be elected from time to time by Council, and shall serve at its pleasure or until the office is vacated when employment with the municipality is terminated. Ministerial recorders shall perform the powers provided by law, and shall be subject to the supervision of the Municipal Judge. Ministerial recorders shall not be law enforcement officers.

Section 14-50. Procedure When Jury Demanded

When the accused shall demand a jury, it shall be drawn from the qualified electors of the Town in the same manner as is provided for drawing of juries in the courts of magistrates. The Chief of Police or the clerk of court shall act as constable to prepare the jury list. The complainant or some officer to be designated by the court may make the challenge allowed on the part of the prosecution.

Section 14-51. Jurors Limited to One Month [AMENDED 07/11/2013](#)

No person shall be required to serve on a jury in the municipal court more often than once a year.

Section 14-52. Failure to Obey Jury Summons [AMENDED 07/11/2013](#)

If any juror, duly summoned, shall neglect or refuse to appear in obedience to any venire issued by the municipal court and shall not within forty-eight (48) hours render to the recorder or magistrate holding court and issuing the venire, a sufficient reason for his delinquency he shall forfeit and pay a fine of twenty-five dollars (\$25) to the treasury of the Town, to be assessed by such recorder or such magistrate holding the court and collected on his warrant without other process. A failure to pay forthwith such fine so assessed shall constitute a contempt of court and be punished accordingly.

Section 14-53. Selection of Jury

When the accused shall demand a jury trial, the Chief of Police, constable or other officer appointed by the court shall write and fold up eighteen (18) ballots, each containing the name of a respectable voter of the Town. He shall deliver the ballots to the magistrate, who shall put them into a box and shake them together, and the officer shall draw out one, and the person so drawn shall be one of the jury unless challenged by either party. The officer shall thus proceed until he shall have drawn six who shall not have been challenged. Neither party shall be allowed more than six (6) challenges. But if the first twelve (12) drawn shall be challenged and the parties do not agree to a choice, the last six (6) shall be the jury. When any of the six (6) jurors so drawn cannot be had or are disqualified by law to act in the case and the parties do not supply the vacancy by agreement, the officer shall proceed to prepare, in the manner before directed, ballots for three (3) times the number this deficient, which shall be disposed of and drawn as above provided.

Section 14-54: Compensation for Jurors

Each person that is called for jury duty and serves on the jury, will receive twenty dollars (\$20) for their service. If a person that is called for jury duty and does not serve on the jury, they will receive ten dollars (\$10) for their service.

Section 14-60. Municipal Court and Bad Checks

The Town of Hemingway does hereby adopt by reference the provisions of the South Carolina Code Chapter 11 of Title 34, causing violations of those statutory provisions to be violations of this municipal ordinance.

AN ORDINANCE TO MAKE IT UNLAWFUL FOR ANY RESIDENT OF THE TOWN OF HEMINGWAY, SC WHO OWN OR OPERATE ANY MOTOR VEHICLE UPON THE PUBLIC STREETS OR WAYS OF THE TOWN OF HEMINGWAY, S.C. ON WHICH PROPERTY TAXES DUE TO THE TOWN OF HEMINGWAY, S.C. ARE DELINQUENT.

BE IT ORDAINED BY THE MAYOR AND HEMINGWAY TOWN COUNCIL;

SECTION I

It shall be unlawful for any resident of the Town of Hemingway, S.C. who owes personal property taxes to the Town of Hemingway, S.C. and such taxes are delinquent and unpaid, to own or operate within the corporate limits of the Town of Hemingway, S.C. or upon the public streets or ways of said town said motor vehicle on which personal property taxes due to the Town of Hemingway, S.C. are delinquent and unpaid.

SECTION II

Personal property taxes assessed against any motor vehicle owned by any resident of the Town of Hemingway, S.C. shall be delinquent when same are past due and unpaid and have gone into execution as provided for by the ordinances of the Town of Hemingway, S.C.

SECTION III

Any person violating the provisions of this ordinance shall be subject to a fine not to exceed \$100 or imprisonment not to exceed thirty days.

SECTION IV

This ordinance shall take effect upon the date of the passage thereof.

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

TOWN OF HEMINGWAY

AN ORDINANCE PROVIDING THAT
THE CODE OF ORDINANCES, TOWN
OF HEMINGWAY, BE AMENDED BY
ADDING A SECTION TO CHAPTER 14
SECTION 100
TO WIT: "CARELESS OPERATION OF
A VEHICLE"

Be it ordered and Ordained by the Mayor and Town Council of the Town of Hemingway in Council Assembled, and by the authority thereof, in order to provide for the safety and welfare of its citizens that the following amendment to the Town Ordinance (s) be adopted:

CHAPTER 14 SECTION 100

"Careless Operation Of A Motor Vehicle". It shall be unlawful for any person to operate any motor vehicle without care and caution and due regard for the safety of persons or property. Any person failing to operate a vehicle with care and caution and due regard for the safety of persons and property shall be guilty of the offense careless operation of a vehicle. The operation of any vehicle when the same or any of its component is not in proper or safe condition shall be prima facie evidence of careless operation of a vehicle. Careless operation of a motor vehicle is unlawful and may be a lesser included offense of "Reckless Driving".

Violators of this ordinance may be charged with a minimum fine or 30 days in jail plus the state assessment fees, if applicable, in accordance with the state fine.

The fine for each category shall increase automatically with increases for state fees for each category and all fees shall be paid within thirty days of court date.

This ordinance shall be available only once in three years.

CHAPTER 15. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

Section 15-1. Penalties

15-2. Aiding or Abetting

ARTICLE II. OFFENSES AGAINST MORALITY, DECENCY AND PUBLIC WELFARE

- Section 15-10. Indecent Exposure
15-11. Bawdy Houses
15-12. Solicitation for Immoral Purposes
15-13. Information or Direction Concerning Immoral Women or Houses for Immoral Purposes
15-14. Transportation of Women for Immoral Purposes
15-15. Begging
15-16. Soliciting for Charitable Cause
15-17. Coin-operated Devices, Punch Boards, Etc.
15-18. Gambling and Games of Chance
15-19. Gambling Houses
15-20. Fortunetelling
15-21. Disturbing School
15-22. Vagrancy
15-23. Public Drunkenness or Intoxication
15-24. Drinking in Public
15-25. Sunday Sales of Merchandise

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ARTICLE I. IN GENERAL

Section 15-1. Penalties

Unless otherwise provided herein, upon conviction, the violation of any section of this Chapter shall be punishable by a fine not exceeding that provided by state law.

Section 15-2. Aiding or Abetting

It shall be unlawful for any person to council, advise, incite, abet, procure or aid any other person in the violation of any of the ordinances of the Town. Such person shall be held and deemed an accessory.

ARTICLE II. OFFENSES AGAINST MORALITY, DECENCY AND PUBLIC WELFARE

Section 15-10. Indecent Exposure

___ It shall be unlawful for any person within the Town to commit willful and malicious indecent exposure of his person in any public place, on property of others or to the view of any person on any street or highway within the Town.

Section 15-11. Bawdy Houses

The keeping of a bawdy house or disorderly house or a house of prostitution within the corporate limits of the Town shall be deemed a misdemeanor for the owner or lessee of any dwelling house, or other building situate within the corporate limits of the Town to let or sublet such dwelling house or other building to any person to be used, or with the knowledge that the same is intended to be used, and kept as a bawdy house or house of prostitution.

Section 15-12. Solicitation for Immoral Purposes

It shall be unlawful for any person in the Town to invite or entice any person upon any street, public square or enclosure in the Town to accompany, go with or follow such person to any place for immoral purposes, or to invite, entice or address any person from any door, window, porch or portico of any house or building to enter any house, go with or accompany such person to any place for immoral purposes.

Section 15-13. Information or Direction Concerning Immoral Women or House for Immoral Purposes

It shall be unlawful for any person within the Town to give information about or direct any person to, any house or place for immoral purposes, or to any immoral woman, whether the communication be by word of mouth, or direction, telephone or in writing.

Section 15-14. Transportation of Women for Immoral Purpose

It shall be unlawful for any person to transport, carry or convey, or assist by aiding, abetting, encouraging, requesting or otherwise, in transporting, carrying, conveying or accompanying by any ways and means whatsoever any woman from any point within the Town limits to any other point within the Town limits to any point outside the Town limits for any immoral purposes.

Section 15-15. Begging

It shall be unlawful for any person or persons to solicit alms or assistance in any form upon the streets or public places of the Town: PROVIDED, nothing herein shall be construed to prevent the requesting of aid in an emergency.

Section 15-16. Soliciting For Charitable Cause

It shall be unlawful for any person to beg or solicit money for the benefit of any charitable cause without first obtaining a written permit from the clerk and treasurer of the Town.

Section 15-17. Coin-operated Devices, Punch Boards, Etc.

It shall be unlawful for any person to keep on his premises or operate or permit to be operated on his premises, or to operate within the corporate limits of the Town, any vending or slot machine, punch board or pull board or other device pertaining to games of chance of whatever name or kind, except automatic weighing measuring, musical and vending machines which are so constructed as to give a certain uniform and fair return in value for each coin deposited therein, or paid for the use of such machine, punch board, pull board, or other device, and in which there is no element of chance.

Section 15-18. Gambling and Games of Chance

It shall be unlawful for any person to engage in gambling or games of chance within the corporate limits of the Town.

Section 15-19. Gambling Houses

It shall be unlawful for any person or persons to keep or maintain a gambling house or room or a place where people resort to engage in gambling or games of chance, or to permit gambling or games of chance in any building on their premises or under their control within the Town.

Section 15-20. Fortunetelling

It shall be unlawful to engage in the business, trade or profession of fortunetelling, palmistry, phrenology, clairvoyance or the prediction of future events by cards or other means or to offer to tell fortunes or predict future events by palmistry, astrology, clairvoyance, cards or other means as an inducement to promote some other business, trade or profession. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding that provided by state law.

Section 15-21. Disturbing School

It shall be unlawful:

- (1) For any person willfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this Town, (b) to loiter about such school premises or (c) to act in an obnoxious manner thereon; or
- (2) For any person to (a) enter upon any school premises or (b) loiter around the premises, except on business, without the permission of the principal or person in charge.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall pay a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000) or be imprisoned in the county jail for not less than thirty (30) days nor more than ninety (90) days.

Section 15-22. Vagrancy

All persons wandering from place to place within the corporate limits of the Town, without any known residence or residing in said Town, who have no visible or known means of gaining a fair, honest and reputable livelihood; all suspicious persons going about within the corporate limits of said Town swapping and bartering horses, (without producing a certificate of his or their good character signed by a Magistrate of the County from which said person last came); likewise, all persons who acquire a livelihood by gambling or horse racing, without other visible means of gaining a livelihood, all keepers of gaming tables, faro banks, or other banks whatsoever used for gaming known under any other denomination within the corporate limits of said Town; also, all persons who lead idle and disorderly lives, all who knowingly harbor horse thieves and felons, and those who are known to be that character and description; likewise, all

persons not following some handicraft, trade or profession, or not having some known or visible means of livelihood, who shall be able to work; all fortune tellers for fee or reward, and all sturdy beggars, are, and shall be, deemed vagrants, and upon conviction thereof shall be fined or imprisoned for a misdemeanor.

Section 15-23. Public Drunkenness or Intoxication

It shall be unlawful for any person to be upon the streets or in any place within the Town in a drunken condition.

Section 15-24. Drinking in Public

It shall be unlawful for any person or persons to drink any kind of intoxicating, alcoholic or non-alcoholic beverages on the streets, alleyways, highways or other public places in the Town.

Section 15-25. Sunday Sales of Merchandise

On the first day of the week, commonly called Sunday, it shall be unlawful for any person to engage in any worldly work, labor, business of his ordinary calling or to sell or offer for sale, publicly or privately or by telephone, at retail or wholesale to the consumer, any goods, wares, or merchandise or to employ others to engage in work, labor, business or selling or offering to sell any goods, wares or merchandise, excepting work of necessity or charity within the Town.

ARTICLE III. OFFENSES AGAINST THE PEACE

Section 15-31. Discharge of Firearms

It shall be unlawful for any person to present or point at any other person any loaded or unloaded firearm within the Town and, upon conviction therefore, any such person shall be punished by fine or imprisonment. Nothing contained herein shall be construed to abridge the right of self-defense or to apply to theatricals or live performances.

Section 15-32. Concealed Weapons

It shall be unlawful for any person to carry about his person in the Town, whether concealed or not, any dirk, metal knuckles, razor, ice pick, hawkbill knife or any spring or clasp knife or other weapon usually used for the infliction of personal injuries without a concealed weapons permit. The penalty for violation of this section shall be forfeiture of the weapon and a fine not more than \$500 and not less than \$200 or not more than ninety (90) days or less than thirty (30) days in jail.

Section 15-34. Disorderly Conduct

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

- (a) engaging in fighting or threatening, or in violent or tumultuous behavior; or

- (b) making any unreasonable noise or any offensively coarse utterance, gesture or display, or addressing abusive language to any person present; or
- (c) creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

For the purposes of this section, "public" means affecting or likely to affect any person or persons in a place to which the public or a substantial group has access; among the places included are highways, transport facilities, schools, prisons, apartment houses, places of business or entertainment, governmental buildings, or any neighborhood.

An offense under this section is a misdemeanor of the third degree if the actors purpose is to cause substantial harm or serious inconvenience, or if he persists in disorderly conduct after reasonable warning or request to desist, and upon conviction therefore he shall be subject to a fine not exceeding that provided by state law.

Section 15-35. Resisting Officer Making Arrest

Any person or persons who shall resist or obstruct any officer of the Town in the discharge of his duty, or who shall aid or abet any person or persons in resisting or obstructing any officer of said Town in the discharge of his duty, shall be deemed guilty of a misdemeanor, subject to the limitations prescribed by the S.C. Code of Laws, Section 16:105.

Section 15-36. Interfering With Worship

It shall be unlawful for any person to interfere with or disturb any public gatherings or religious worship within the Town.

Section 15-37. Instigating, Aiding or Participating in Riot

Any person, upon conviction of engaging in a riot, rout or affray when no weapon was actually used and no wound inflicted shall be subject and liable for each offense to a fine not to exceed that provided by state law.

Section 15-38. Failure to Aid Police

It shall be the duty of each and every citizen of the Town to assist the marshall or other municipal officer to arrest violators of the law when requested, and it shall be unlawful for any person to fail to do so.

Section 15-39. Discharge of Dangerous Devices

It shall be unlawful to fire or discharge, within the Town limits, any air rifle, sling shot, bow and arrow or other device which may be potentially harmful to any person or property. Any device used within the Town in violation of this section is hereby declared to be contraband, and such device shall be seized by the police and sold or destroyed.

Section 15-40. Illegal Picketing and Demonstrating

It shall be unlawful to picket, parade or march, EXCEPT in the annual Christmas Parade, unless a permit to perform such actions has been secured from the Town Administrator. To

secure a permit, said individual, group of individuals or organization will make application, duly signed by said individual organizer of said group or by an officer of said organization, and submit it unto the Town Clerk. The application will state the time, duration, purpose, the area in which said picketing, parading or marching will occur and the individual, group of individuals or organization directing and responsible for said picketing, parading or marching. In the event that the Mayor refuses to issue a permit, the applicant shall have the right to appeal to Council.

When picketing or engaging in so-called "demonstration" no person shall:

- (1) Use on the streets or public places within the Town any verbal abuse, including curses, insults or threats, or acts of violence, directed against any citizens of the State of South Carolina, or any law enforcement agency of the Town, county or state, or any officer thereof.
- (2) March, parade, protest or picket in any manner other than as permitted by this Ordinance, except with express written consent and approval of Town officials.
- (3) Engage in riotous and loud conduct which invades the privacy of homes or businesses.
- (4) Damage or destroy or injure the persons or property of others.
- (5) Block, in any manner, the streets and means of ingress and egress to places of business within the Town. This shall include, but not be limited to, "sit downs", "sit ins", "stand ins", or becoming "limp" inside or outside of such places of business or in or upon the streets of the Town.
- (6) Interfere with, in any manner, or obstruct any official of the Town in the performance of his duties.
- (7) Interfere in any manner with the attendance, during school hours, of children in the public schools, by inciting or urging them to participate in demonstrations or for any other unlawful purposes or reason, or permitting them to be or remain in churches or other places used in such demonstrations.
- (8) Picket other than in accordance with the following principles:
 - (a) In small numbers
 - (b) In a manner so as not to interfere with pedestrians or vehicular traffic
 - (c) In a manner so as not to block entrances or exits to or from picketed establishments
 - (d) No more than four (4) pickets posted at any one time at any one business establishment
 - (e) No more than two (2) business establishments picketed in the same block at the same time
 - (f) No picket trespassing upon the property of the business establishment being picketed
 - (g) Pickets patrolling on the sidewalk at a distance of not less than eight (8) feet from every other picket

- (h) No person or persons, whether in sympathy with the pickets or not, to assemble, loiter, congregate or engage in any kind of picketing of the establishment being picketed.
- (9) "Demonstrate" other than in accordance with following principles:
 - (a) Walking not more than two (2) abreast upon the public sidewalks or in groups of not more than one hundred (100) persons.
 - (b) Observe all traffic signals
 - (c) Walking close to the building line or close to the curb so as to not interfere with or obstruct other pedestrian traffic on the sidewalk
 - (d) Assemble peacefully and speak peacefully for a period of time not exceeding thirty (30) minutes, and when traffic to and from places of business or employment is not At Its peak, and in such circumstances as will not unduly disrupt the public peace, and conducted in such a manner as not to deprive the public of adequate police and fire protection.

Section 15-41. Noises

The creation and continuation of any loud, disturbing and unnecessary noises in the Town is hereby prohibited. It shall be unlawful for any person to cause, make or contribute to creating any loud or disturbing noise of such character, intensity or duration as to be detrimental to the life or health of any individual, or such noises as disturbing the quiet and peace of any citizen of the Town. The following acts among others are declared to be loud, disturbing, annoying and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive.

- (a) Blowing horns - The sounding or blowing of any horn or signal device on any automobile, motorcycle, motor bus or other vehicle, except as a danger signal if Another vehicle is approaching apparently out of control, or if in motion only as a danger signal; the creation by any signal device of any loud or harsh noise; and the sounding of such device for any unnecessary period of time.
- (b) Radios, phonographs, television, etc. - The playing of any radio, phonograph, piccolo, television or any musical instrument in such a manner or with such volume as to annoy or disturb any person, or the playing of such instrument in such manner as to annoy or disturb the quiet, comfort or repose of any person in any dwelling hotel or other residences.
- (c) Pets - The keeping of any animal or bird which by causing frequency of long continued noise shall disturb the comfort or repose of any persons in the vicinity.
- (d) Use of Vehicle - The use of any automobile, motorcycle or vehicle so out of repair; so loaded, or used or repaired in such manner, as to create loud or unnecessary

- noises, particularly trading, grinding, rattling, riveting or other disturbing noises.
- (e) Blowing Whistles - The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.
 - (f) Exhaust Discharge - To discharge into the open air the exhaust from any steam engine, stationary internal combustion engine, motor boat engine or motor vehicle except through muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (g) Devices Using Compressed Air - The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced.
 - (h) Building Operations - The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 6:00 a.m. and 10:00 p.m. on week days except in cases of urgent necessity in the interest of public safety, and then only with a permit from the Chief of Police.
 - (i) Noises Near Schools, Churches, Etc. - The creation of any excessive noise on any street adjacent to any school, institution of learning, library or court while the same is in session or adjacent to any church during church services which interfere with the work or worship in any such place or institution; PROVIDED, that signs must be displayed in such streets indicating that the same is a school, church, library or court.
 - (j) Loading and Unloading Operations - The creation of loud and excessive noises in connection with loading or unloading any vehicle, or opening and destroying bales, boxes, crates and containers.
 - (k) Bells or Gongs - The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose or any person in the vicinity thereof.
 - (j) Hawking, Peddling or Soliciting - Shouting, loud talking, drying or soliciting by peddlers, hawkers, solicitors and vendors which disturbs the quiet and peace of the neighborhood of any person therein.
 - (m) Noises to Attract Attention - The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention to any performance or event, how sale or the display or advertisement of merchandise, by the creation of noise.
 - (n) Loud Speakers or Amplifiers on Vehicles - The use of any mechanical loud speakers or amplifiers on trucks airplanes or other vehicles for advertising or other purposes, except by special permission of the Town Administrator.

- (o) Business Noises at Night Near Residence - The operation of any garage, filling station, auto repair, business, taxicab business, plant, store, factory or other place of business, between the hours of 6:00 p.m. and 10:00 a.m., in such manner as to create loud and disturbing noises, of such frequency or such volume as to annoy or disturb the quiet and comfort of any citizen and particularly the creating of disturbing noises of such frequency and volume as to annoy or disturb the quiet, comfort, peace or repose of any person in any dwelling, hotel, boarding house or other type of residence.

Any person violating this section shall be guilty of a misdemeanor and shall be punishable in accordance to state law.

ARTICLE IV. OFFENSES AGAINST PROPERTY

Section 15-50. Petit Larceny

It shall be unlawful for any person or persons to commit the crime of petit larceny within the incorporate limits of the Town. Any person who violates the provision of this section shall be guilty of a misdemeanor. Petit larceny is determined when the value of the stolen article shall be less than fifty (\$50) dollars.

Section 15-51. Damaging or Defacing Property

Any person or persons who shall injure any animal, the property of another, or who shall damage any goods, wares or merchandise, or other personal property of another person or any public property within the limits of the Town shall be deemed guilty of a misdemeanor. Any person or persons who shall damage, deface or destroy any fencing, fences, trees, shrubbery or buildings on the land of another or belonging to any other person or persons within the limits of the Town shall be deemed guilty of a misdemeanor.

Section 15-52. Failure to Leave Premises When Ordered

Any person or persons who, when requested to leave the premises of another or the house wherein any one or more persons shall conduct business (except offices of public officers) within the Town, shall refuse to do so, shall be deemed guilty of a misdemeanor.

Section 15-53. Removing, Destroying or Leaving Down Fences

Any person other than the owner, who shall remove, destroy or leave down any portion of any fence in the Town intended to enclose animals of any kind or crops or uncultivated lands or who shall leave open any gate or leave down any bars or other structure intended for a like purpose shall be guilty of a misdemeanor and shall be punished by a fine of not less than five (\$5) nor more than thirty (\$30) dollars or be imprisoned in the county jail not less than five (5) and not more than thirty (30) days.

Section 15-54. Receiving Stolen Goods

In all cases whatever when any goods or chattels or other property of which larceny may be committed shall have been feloniously taken or stolen by any person, every person who shall buy or receive any such goods or chattels or other property knowing the same to have been stolen shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment, although the principal felon be not previously convicted and whether he is amenable to justice or not: PROVIDED, that when the chattel or other property stolen shall be of a greater value than fifty (\$50) dollars, this section shall not apply.

Section 15-55. Obtaining Signature or Property by False Pretenses

Any person who shall be any false pretense or representation obtain the signature of any person to any written instrument or shall obtain from any other person any chattel, money, valuable security or other property, real or personal, if the sum of the written instrument or the value of the property so obtained does not exceed seventy-five (\$75) dollars, with the intent to cheat and defraud any person of such property, shall be guilty of a misdemeanor and the case shall be triable in the magistrate's court or like jurisdiction, and the punishment shall be not more than is permitted by law without presentment of indictment of the grand jury.

Section 15-56. Obtaining Property Under False Tokens or Letters

Whoever shall falsely and deceitfully obtain or get into his hands or possession any money, goods, chattels, jewels or other things of any other person by color and means of any false token or counterfeit letter made in any other person's name shall, upon conviction thereof, suffer such imprisonment as the court may adjudge: PROVIDED, that when the money, goods, chattels and other things so obtained exceed in value fifty (\$50) dollars then this section shall not apply.

Section 15-57. Obtaining Credit or Property With Expired or False Credit Card

It shall be unlawful for any person to knowingly use for the purpose of obtaining credit or for the purchase of goods, property or services (a) a credit card which has not been issued to such person, and which is not used with the consent of the person to whom issued, (b) a credit card which has been revoked or cancelled by the issuer of such card and notice thereof has been given to such person, (c) a credit card which has expired or (d) a credit card which is false, fictitious or counterfeit.

The term "credit card" as used in this section means an identification card, credit number, credit device or other credit document issued to a person by a business organization which permits such person to purchase or obtain goods, property or services on the credit of such organization.

The word "notice" as used in this section shall be construed to include either notice given to the purchaser in person or notice given to him in writing. Such notice in writing shall be presumed to have been given when deposited as registered or certified matter, in the United

States mail, addressed to such person at his address as it appears in the files of the issuer of the credit card.

Any person violating the provisions of this section when the amount of credit or purchase obtained is less than fifty (\$50) dollars shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding that provided by state law.

Section 15-58. Securing Property by Fraudulent Impersonation of Officer

Whoever, with intent to defraud either the State, any county or municipal government thereof or any person, shall take upon himself to act as an officer or shall in such pretensive or pretended character demand, obtain or receive from any person or any officer of the State, county or municipal government any money, paper, document or other valuable things of a less value than twenty dollars (\$20) shall be guilty of a misdemeanor and be punished by fine or imprisonment.

Section 15-59. Failing to Return Books, Etc. - Borrowed From Certain Public Institutions

Whoever borrows from any county library or municipal, school, college or other institutional library or gallery, museum, collection or exhibition any book, newspaper, magazine, manuscript, pamphlet, publication, recording, film, or other article belonging to or in the care of such library, gallery, museum, collection or exhibition under any agreement to return it and thereafter fails to return such book, newspaper, magazine, manuscript, pamphlet, publication, recording, film or other article shall be given written notice, mailed to his last known address or delivered in person, to return such borrowed article within fifteen days, and in the event that such person shall thereafter willfully and knowingly fail to return such borrowed article within fifteen days, such person shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding that provided by state law, provided the notice required by this section shall bear upon its face a copy of this section.

Section 15-60. Trespass

Every entry upon the lands of another where any horse, mule, cow, hog or any other livestock is pastured, or any other lands of another, after notice from the owner or tenant prohibiting such entry, shall be a misdemeanor and be punished by a fine not to exceed that provided by state law. When any owner or tenant of any lands shall post a notice in four conspicuous places on the borders of such land prohibiting entry thereon, a proof of the posting shall be deemed and taken as notice conclusive against the person making entry, as aforesaid, for the purpose of trespassing.

Section 15-61. Trespass for Various Purposes

Any person entering upon the lands of another for the purpose of hunting, fishing, trapping, netting, gathering fruit, wild flowers, cultivated flowers, shrubbery, straw, turf, vegetables or herbs or cutting timber on the same, without the consent of the owner or manager thereof, shall be guilty of a misdemeanor, and upon conviction thereof, shall pay a fine of not more than

twenty dollars (\$20) or be imprisoned at hard labor not more than thirty (30) days, for each and every offense.

Section 15-62. Altering and Removing Landmarks

If any person shall knowingly, wilfully, maliciously or fraudulently cut, fell, alter or remove any certain boundary tree or other allowed landmark, such person so offending shall be guilty of a misdemeanor, and upon conviction, shall be fined not exceeding that provided by state law.

Section 15-63. Fires

It shall be unlawful for any person or persons knowingly to ignite, kindle or set any fire that creates a substantial risk of injury to any person or damage to property of another within the Town.

ARTICLE V. OFFENSES AGAINST PUBLIC JUSTICE

Section 15-70. Disruption of Court or Council

It shall be unlawful for any person to interrupt the proceedings of the court of the Mayor, Mayor Pro Tempore, Recorder or Town Council, or any meeting of the Town Council, or be guilty of disorderly conduct therein, or to commit any contempt of either. Any violation of this section shall be punished by a fine according to state law. Every person found guilty and sentenced for contempt shall be entitled to the right of appeal as is provided for by the Statutes of South Carolina in appeals from the courts of municipalities and councils.

ARTICLE VI. OFFENSES AGAINST THE PERSON

Section 15-80. Assault and Battery

It shall be unlawful for any person to commit an assault or assault and battery upon any other person in the Town.

Section 15-81. Pointing Pistol or Gun at Any Person

It shall be unlawful for any person to present or point at any other person any loaded or unloaded firearm within the Town and, upon conviction thereof, any such person shall be punished by fine or imprisonment. Nothing contained herein shall be construed to abridge the right of self-defense or to apply to theatricals or like performance.

Section 15-82. Failing to Remove Doors From Abandoned Refrigerators

Any person who abandons or discards any icebox, refrigerator, ice chest or other type of airtight container of a capacity sufficient to contain any child and who neglects prior to such abandonment to remove the door, lid or other device for the closing thereof and any owner, lessee or other person in charge of property who knowingly permits any abandoned icebox,

refrigerator, ice chest or other type of airtight container or other closing device therefrom shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100) or imprisoned not more than thirty (30) days.

Section 15-83. Unlawful to Leave Abandoned Wells Open

___It shall be unlawful for any owner or tenant to permit or allow any abandoned well to remain open and unprotected, curbed or fenced in on any place or premises owned or occupied in this state. Any person convicted of allowing such abandoned well to remain open and protected, curbed or fenced in shall be fined according to state law.

ARTICLE VII. MISCELLANEOUS

Section 15-90. Junk, Old Automobiles, Etc.

It shall be unlawful for any person to accumulate or place or deposit or cause to be placed or deposited on any street, alleyway, or sidewalk or anywhere within the corporate limits of the Town otherwise than within an enclosed building or area, junk, old automobiles or old vehicles or parts of old automobiles or vehicles.

Section 15-91. Peddling Hours

No peddling shall be allowed in the Town of Hemingway before the hours of 8:00 a.m. and not after 6:00 p.m.

Section 15-92. Spitting

It shall be unlawful for any person to spit on any sidewalk, or on the walls or floors of any public building within the Town.

Section. 15-93. Penalties

Any person violating any provision of this Chapter shall be guilty of a misdemeanor and shall be fined according to the state law.

CHAPTER 17. POLICE DEPARTMENT

ARTICLE I. COMPOSITION, POWERS AND DUTIES

Section 17-1. Membership

17-2. Salaries and Tenure

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17-45. Personal Effects of Prisoners

ARTICLE I. COMPOSITION, POWERS AND DUTIES

Section 17-1. Membership

The police department of the Town shall consist of one chief and as many other police as from time to time the Council may deem necessary for the safety and good order of the Town.

Section 17-2. Salaries and Tenure

The chief and other policemen shall be appointed by the Council and their pay and tenure in office shall be governed by the Town's personnel policy.

Section 17-3. Police Aid to Other Municipalities

The Council or Mayor upon the request of the governing body or Mayor of any other incorporated municipality of the State may send any law enforcement officer or officers to assist the law enforcement officers of such requesting municipality in the performance of their duties in cases of emergency, and said Council or Mayor may request the same. A complete record of the request together with names of the officers sent shall be recorded in the minutes of the next regular or special meeting of the Council, whether officers are sent or received.

Such assistance shall be rendered only in emergencies, and such emergencies shall be declared by the Mayor of the requesting municipality or, in his absence, the Mayor Pro Tempore.

When law enforcement officers are sent to another municipality pursuant to this section, the jurisdiction, authority, right, privileges and immunities, including coverage under the Workmen's

Compensation laws, which they have shall be extended to and include the area in which like benefits and authorities are or could be afforded to the law enforcement officers of the requesting municipality and the area between the two municipalities when the officer or officers are acting within the scope of the authority conferred by this section. When so sent, they shall have the same authority to make arrests and to execute criminal process as is vested by law in the law enforcement officers of the requesting municipality, but this section shall not extend the effect of the laws of Hemingway.

Section 17-4. Powers and Duties - Generally

All members of the police department shall at all times be subject to such rules and regulations as may from time to time be prescribed by the Council. The Chief of Police may make rules and regulations and when approved by the Council, the policemen shall be subject thereto. Every policeman shall be sworn in and there upon invested with all the powers and be subject to all the duties of constables within the Town. Every policeman, when required by an ordinance of the town, shall arrest and may hold in custody by imprisonment in the jail, not exceeding forty-eight (48) hours before being brought before the Municipal Court, any person who within the corporate limits of the Town shall be guilty of or shall be engaged in, any breach of the peace, riotous or disorderly conduct, open obscenity, public drunkenness, theft, profane swearing or any other conduct, which may be disorderly or calculated to produce disorder or shall be indecent or dangerous to the good order of the Town.

ARTICLE II. RULES OF POLICE DEPARTMENT

Section 17-20. Failure to Perform Duty

Every member of the police force shall arrest or report any person or persons for the violating in any manner of the laws or ordinances of the Town. Should any member fail to do so he shall be reported and shall be liable to a fine, suspension or discharge.

Section 17-21. Personal Appearance

Each policeman, while on duty, shall be in full uniform, neatly dressed, his hair and whiskers neatly trimmed and shaved, and be fully armed as the Administration may direct or require.

Section 17-22. Drinking Intoxicants on Duty Prohibited

The drinking of any intoxicating liquors by a policeman while on duty or the appearance for duty while in an intoxicated condition is strictly prohibited.

Section 17-23. Routine Duty

Each member of the police force shall watch the conduct of all suspicious characters, prevent any obstruction of the sidewalks or streets, and disperse all crowds of a riotous or noisy nature or those disturbing the peace, and uniformly enforce all the ordinances of the Town.

Section 17-24. Penalty For Violating Rules and Regulations

Any policeman who shall fail or neglect in any way to obey and do according to the rules and regulations herein set forth, shall be liable to suspension from office or final discharge from the force, as may be ordered by the Administration.

Section 17-26. Curfew-For Juveniles (Minors)

It shall be unlawful for any minor sixteen (16) years of age or younger to loiter, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, vacant lots or any place unsupervised by an adult having lawful authority to be at such places, between the hours of 12:00 midnight and 6:00 a.m. on the following day; provided that the provisions of this section shall not apply in the following instances:

- 1 When a minor is accompanied by his or her parent, legal guardian or other adult person (over the age of twenty-one (21) years) having the lawful care and custody of the minor;
- 2 When the minor is upon an emergency errand directed by his or her parent or legal guardian or other adult person (over the age of twenty-one (21) years) having lawful care or custody of the minor;
- 3 When the minor is returning directly home from a school activity, recreational activity, or dance;
- 4 When a minor is returning directly home from a lawful employment that makes it necessary to be in the above referenced places during the prescribed period of time.
- 5 When a minor is in a motor vehicle involved in inter-state travel;
- 6 When a minor is on the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence; or
- 7 When a minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

Section 17-27. Same-Parent, Guardian, Responsible Adult, and/or child; penalty

It shall be unlawful for the parent, guardian, or other person having custody or control of any child sixteen (16) years of age or younger to permit, or by insufficient control, to allow such a child to be in or upon the public streets or any other places described herein within the city between the hours of 12:00 midnight and 6:00 a.m. the following day except in circumstances set out in section 17-26 (1) through (7). It shall further be unlawful for any child sixteen (16) years of age or younger to be in or upon the public streets or any other places described herein within the city 12:00 midnight and 6:00 a.m. the following day except in the circumstances set out in section 17-26 (1) through (7). Upon violation of this section for the first time, a warning citation

shall be issued to both the child and the parent or guardian of the child. Upon conviction of a subsequent violation of this section, a person shall be subject to a fine not to exceed two hundred dollars (\$200.00) and court costs or imprisonment in jail for not more than thirty (30) days, or work in the public works of the city for not more than thirty (30) days, or be subject to any one (1) or more of the punishments; subject to all limitations contained in the Charter of the punishments; subject to all limitations contained in the Charter of the city. Each violation of section 17-26 or 17-27 shall constitute a separate offense. Provided, however, no parent or guardian or other person having custody of any child sixteen (16) years of age or younger shall be subject to the fine or penalties noted above if, prior to the offense of the child, said parent, guardian, or responsible adult has notified the Hemingway Police Department that they have lost control of said child and are unable to prevent the child from violating this section 17-26 or 17-27. Such prior notice shall be effective for the purposes of this section 17-26 or 17-27 only when accomplished by the parent, guardian or responsible adult completely filling out and signing the attached (prescribed) form which will be kept on record by the Hemingway Police Department.

Section 17-28. Taser Policy

Town of Hemingway, South Carolina

I. Preface

The use of the taser device shall be regarded as a use of non-deadly force. All policies and procedures as well as the laws of the State of South Carolina relevant to the use of force shall pertain to the use of the taser device as a part of law enforcement operations.

II. Purpose

Officers are often confronted with situations whereby it is necessary to use physical non-deadly force in order to complete a mission or quell an assault. Officers can use the amount of physical force reasonable and necessary to overcome resistance from a person being taken into custody or to stop an unlawful assault on a third person.

III. Definitions

- A. A non-lethal, hand held electronic immobilization device that propels a pair of barbed darts attached to high-voltage insulated wires.
- B. A hand held, less than lethal, non-deadly force device used to immobilize subjects.
- C. A device used to quickly take down and restrain a suspect without causing him/her or others any harm or lasting effects.

IV. Use of Force Continuum

- A. Once the officer has decided to use the taser against a subject, only that amount necessary to immobilize the subject and effect the arrest will be used. This will typically consist of one to two five second cycles of the weapon but may be continued until the subject is properly restrained.
- B. The taser is a defensive weapon. The taser is recognized as a secondary, less-than-lethal weapon, the use of which does not necessarily preclude the use of a greater level

- of force if necessary for officer safety or the safety and protection of others.
- C. The use of taser falls between empty hands and chemical agents. This weapon may prevent the use of the ASP baton or the use of deadly force.
 - D. An officer is authorized to use the taser on a handcuffed subject who continues to fight, attempts to injure police officers or other persons, or attempts to damage property. The officer may use the taser as often as required to subdue the individual. However, once the subject is subdued the officer will immediately stop utilizing the taser.
 - E. The taser may be used in an altercation when the officer has sufficient reason to believe that:
 - 1. The subject cannot be controlled by a lesser degree of physical force.
 - 2. The use of the taser is not likely to further aggravate the situation.

V. Warning and Restrictions

- A. The taser will not be used to threaten, to elicit information or to persuade people to comply with orders; nor will it be used on people who are handcuffed, secured, passively resisting and properly in custody, with the exception of Section D above.
- B. The darts will not be aimed at the head, neck or genital area.
- C. The taser will not be used intentionally on persons or animals as a practical joke or as a form of harassment.
- D. The use of the taser shall be limited to that which is necessary for effective control, which includes the use of fleeing suspects.

VI. Use of Authorized Less-Than-Lethal Weapon

- A. The x26 Model Taser by Taser International is the only taser authorized by the Hemingway Police Department for use on duty.
- B. Many circumstances might call for the immediate use of the taser such as:
 - 1. The age, sex, or size of the offender as compared to the officer may govern the use of force.
 - 2. Knowledge of an offender's past violent behavior or possession of firearms may be considered.
 - 3. Injury or exhaustion on the part of an officer can accelerate passage through the lower levels of the force continuum.
 - 4. Actual or potential loss of an officer's firearm calls for quick acceleration through the steps as does an officer on the ground while the subject is still standing.
- C. Officers must exercise sound judgment in using a taser and realize the dangers the taser poses to the user, assisting officers and other persons not involved in the situation.
- D. When an officer has decided to use the taser, the Use of Force Continuum will be followed:
 - 1. Verbal communication and commands as well as non-verbal communication.
 - 2. Passive controls such as defensive tactic holds and basic self-defense techniques, if possible or safe to do so.
 - 3. Use of Taser
 - 4. Use of Capstun
 - 5. Use of ASP Baton

6. Use of Firearms

- E. Once the taser has been deployed and the subject is properly restrained, the officer will collect the fired cartridge and secure it as evidence in the case. The wire leads will be rolled around the cartridge with the barbed hooks placed back inside its housing. Tape will be wrapped around the cartridge to secure the wires/barbs and it will be placed in a properly marked evidence bag before being secured in an evidence locker.

VII. Use of the taser during riots, for Crowd Control and Against Armed or Barricaded Suspects.

- A. To minimize injury to a suspect, officers and citizens, and to avoid excessive property damage, the application of the taser may be necessary in circumstances where a serious danger to life and property exists and other methods of control or apprehension would be ineffective or more dangerous.
- B. The taser may be used in riot control, crowd control and against armed or barricaded subjects.

VIII. Medical Aid

- A. Officers are responsible for obtaining immediate first aid for those immobilized with a taser.
- B. The welfare, care and proper treatment of the subject in custody must be the main concern of every member of this department. When a taser is used, the subject will be transported, as soon as practical, to the Hemingway Police Department or Williamsburg County Detention Center for booking.
- C. In the event the subject is injured and the jail will not accept him/her, then the subject will be transported to a medical facility for treatment.

IX. Reporting Procedures

- A. In all situations where a taser is used, the officer(s) involved will immediately notify the Chief of Police of the use of force incident.
- B. The officer(s) involved will be complete an incident report as soon as possible which should include justification for the amount and type of force used.

X. Use of Force Review

- A. The Chief of Police will review all incident reports relating to Use of Force incidents to ensure compliance with policy, training and equipment issues.

XI. Carrying the Approved Taser

- A. Officers shall not carry or display tasers that have not been approved by the Department.
- B. Only those officers trained and qualified in the use of a taser will be allowed to carry and use this weapon.
- C. Carrying the taser on duty by officers is mandatory.

XII. Training Requirements

- A. All officers who carry or use a taser must attend and successfully complete a three hour familiarization course on the use of the weapon by a qualified taser instructor. After training, officers who carry this weapon will know the effects of the taser and

what can be expected from a subject following the weapon's use.

B. The proper use of the taser will:

1. Allow officers to better defend themselves in the event of physical attack.
2. Aid and prevent injury to officers or subjects when arrest is imminent.
3. Allow officers to protect citizens against harm, attack or injury.
4. Allow an officer to effect an arrest when violent or aggressive behavior is encountered.
5. Assist an officer to control domestic or wild animals that are displaying hostile or aggressive behavior.
6. Allow an officer to prevent the injury of other persons and to prevent damage to property subsequent to arrest.

C. The taser will be armed and activated when issued to an officer.

D. Immediately prior to deploying the taser, the officer will shout "taser". This will alert other officers in the immediately vicinity of the weapon's use, and in addition, will be advise the subject of the weapon used.

XIII. Policy of Use of Force Reports

The Chief of Police will conduct a review of all Use of Force incidents to determine patterns or trends that could indicate training needs or policy changes.

ARTICLE III. PRISONERS

Section 17-40. Assistance in Making Arrests

The Chief of Police or any policeman is hereby authorized and empowered to call upon any by-stander to assist in making any arrest when such assistance is necessary. Any person responding to such call and assisting in an arrest shall be fully protected in his actions as a policeman of the Town. It shall be unlawful for any citizen to refuse to assist when called upon.

Section 17-41. Resisting Arrest

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

Section 17-42. Escape

It shall be unlawful for any person under arrest by the Town officials or for any prisoner or convict of the Town to make or effect his escape or to endeavor or attempt to do so, or for any person to aid, abet, encourage or procure any such person under arrest, prisoner or convict to do so.

Section 17-43. Approaching or Communicating With Prisoners

It shall be unlawful for any person or persons to willfully approach nearer than 20 feet to any policeman who is making or attempting to make an arrest or while on his way to jail with his prisoner. All policemen shall have the right to order all persons away from the vicinity of the jail while any person is being placed therein or being held in custody. Any person violating any part of this section or refusing to leave the vicinity of the jail when ordered to do so by a policeman

shall be guilty of a misdemeanor. It shall be unlawful for any person except Town officials to take anything to or in any way communicate with any prisoner confined in the guardhouse or at work upon the streets of the Town unless leave to do so shall have first been obtained from the Chief of Police.

Section 17-44. Bond For Persons Arrested

The police, upon the arrest of any person for violating the ordinances of the Town, shall require the said person to give a valid bond before releasing such person; upon failure to post valid bond the officer shall imprison the said person in the guardhouse of the Town. On failure to procure said valid bond and the subsequent failure of the arrested person to appear for trial at the specified date and time as required, the said policeman shall be required to pay to the Town any fine that may be imposed by the Mayor or Town Council for his failure of duty.

Section 17-45. Personal Effects of Prisoners

Before any member of the police force locks up a prisoner, he shall take from him and turn over to the Chief or Dispatcher, all moneys, arms, etc., found on the person of such prisoner.

CHAPTER 19. PUBLIC UTILITIES

- Section 19.1 Fees For Water and Sewer
- 19.1A Waterworks Bond Ordinance
- 19.2 Sewer Definitions
- 19.3 Regulations Requiring Use of Public Sewers
- 19.4 Regulations Concerning Private Sewage Disposal
- 19.5 Regulations Concerning the Building of Sewers and Connections
- 19.6 Rate of Discharge and Character of Waters and Wastes Admissible to Public Sewers
- 19.7 Pretreatment
- 19.8 Regulations Relating to Sampling and Analysis
- 19.9 Special Regulations
- 19.10 Provisions For Power and Authority For Inspectors
- 19.11 Enforcement and Penalties
- 19.12 Billing
- 19.13 Ordinance Validity
- 19.20 Water Definitions
- 19.21 General Rules - Water
- 19.21A Cross-Connection Regulations
- 19.22 Applications and Permits
- 19.23 Bills, Payments, Discontinuance of Service
- 19.30 Rates and Schedules
- 19.40 Mandatory Payment of Fees

CHAPTER 19. WATER AND SEWER SYSTEM
ARTICLE I. SEWER SYSTEM
SECTION 19.1 INTRODUCTION

The purpose of this ordinance is to ensure the Town of Hemingway has a comprehensive ordinance to regulate the operation of the town sewer system. It is the intent of the Town to operate the system in a manner to ensure the Town meets the requirements of the NPDES permit and all other applicable regulations. To ensure compliance, penalties for violation are included in the ordinance.

CHAPTER 19. WATER AND SEWER SYSTEM

The Town Council finds and determines that the existing waterworks system and sewer system of the Town of Hemingway are closely related. The existing waterworks systems and sewer system together with all improvements, extensions, and betterment thereto which may at any time hereafter be made, shall be combined into one system, which shall thereafter be operated and known as the combined public utility system of the Town.

The said combined public utility system shall be operated on a fiscal year basis, commencing on the first day of September of each year and ending on the thirty-first day of August of the same year.

AN ORDINANCE TO AMEND SECTION 19.1A OF THE PUBLIC UTILITIES ORDINANCE TO INCREASE WATER AND SEWER RATES

Section 19.1 Fees For Water and Sewer

That every person, firm or corporation receiving the services for water and sewer from the Town of Hemingway shall pay to the said Town for such services as follows:

TOWN OF HEMINGWAY WATER RATE SCHEDULE NEW RATES APPROVED 8/11/2016							
<u>Residential Water Rate Code</u>	<u>Description</u>	<u>Min.</u>	<u>Over 2000 gallons per 1000</u>	<u>OLD</u>	<u>INC.</u>	<u>OLD</u>	<u>INC.</u>
R01	In Town Residential	20.26	1.51	18.30	1.96	1.36	0.15
R02	In Town Fireman	20.26	1.51	18.30	1.96	1.36	0.15
R03	In Town Special	20.26	0.00	18.30	1.96	0.00	0.00
R04	Outside Residential	26.74	3.09	24.15	2.59	2.79	0.30
R07	Outside Double Residential	53.48	3.09	48.30	5.18	2.79	0.30
R10	Outside Fireman/Sewer	26.74	2.79	24.15	2.59	2.52	0.27
R11	Outside Fireman/NO Sewer	26.74	3.09	24.15	2.59	2.79	0.30
R12	Outside Triple	80.21	3.09	72.45	7.76	2.79	0.30
R13	Outside Large Apartments	26.74	6.17	24.15	2.59	5.57	0.60
R31	Outside Residential (FF)	27.56	3.18	24.89	2.67	2.87	0.31
R32	Outside Double (FF)	55.07	3.18	49.74	5.33	2.87	0.31
R33	Outside Special (FF)	27.56	0.00	24.89	2.67	0.00	0.00
R34	Outside Special (FF)	27.56	0.00	24.89	2.67	0.00	0.00
R35	Outside Fireman (FF)	27.56	0.00	24.89	2.67	0.00	0.00

<u>Commercial Water Rate Code</u>	<u>Description</u>	<u>Min.</u>	<u>Over 2000 gallons per 1000</u>	<u>OLD</u>	<u>INC.</u>	<u>OLD</u>	<u>INC.</u>
C01	In Town Commercial	20.23	1.51	18.27	1.96	1.36	0.15
C04	Outside Commercial	26.74	3.09	24.15	2.59	2.79	0.30
C05	In Town Double Commercial	40.46	2.41	36.54	3.92	2.17	0.24
C07	Outside Double Commercial	53.49	6.17	48.31	5.18	5.57	0.60
C08	In Town Large Commercial	20.23	2.41	18.27	1.96	2.17	0.24
C09	Outside Large Commercial	26.74	6.17	24.15	2.59	5.57	0.60

C31	Outside commercial (FF)	27.56	3.18	24.89	2.67	2.87	0.31
C33	Outside Large Commercial (FF)	27.56	6.35	24.89	2.67	5.73	0.62

		1,250,000	Over				
Tupp	Tupperware	1,660.58	3.82	1,500.00	160.58	3.45	0.37

TOWN OF HEMINGWAY SEWER RATE SCHEDULE NEW RATES APPROVED 8/11/2016								
<u>Sewer Rate Code</u>	<u>Description</u>	<u>Min.</u>	<u>Rate per 1,000 Gallons</u>		<u>OLD</u>	<u>INC.</u>	<u>OLD</u>	<u>INC.</u>
IN TOWN					-			-
C20	In Town Commercial Sewer	17.50	1.45		15.73	1.77	1.30	0.15
R20	In Town Residential Sewer	17.50	1.45		15.73	1.77	1.30	0.15
C22	In Town Large User Sewer	17.50	4.06		15.73	1.77	3.65	0.41
C24	In Town Double Commercial Sewer	36.71	4.06		33.00	3.71	3.65	0.41
R24	In Town double Residential Sewer				33.00	3.71	3.65	0.41
OUT OF TOWN								
C21	Out of Town Commercial Sewer	24.51	2.06		22.03	2.48	1.85	0.21
R21	Out of Town Residential Sewer	24.51	2.06		22.03	2.48	1.85	0.21
C27	Out of Town Double Commercial Sewer	49.02	4.28		44.06	4.96	3.85	0.43
R27	Out of Town Double Residential Sewer	49.02	4.28		44.06	4.96	3.85	0.43
C29	Out of Town Large Commercial Sewer	21.00	4.28		18.88	2.12	3.85	0.43
C40	Out of Town Large Sewer (FF)	22.70	4.39		20.40	2.30	3.95	0.44
OTHER								
R23	Employee Sewer	18.08	0.00		16.25	1.83	0.00	0.00

Tupp	Tupperware Sewer	3,337.53	0.00428	3,000.00	337.53	0.0039	0.00043
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1st Reading July 14, 2016

2nd Reading August 11, 2017

Rates go in effect on October 1st billing.

WATER AND SEWER RATE CODES

WATER AND SEWER RATES								
Residential Water Rate Code	Description	Minimum			Above 2000 Gallons			
		Current	Year 08-09	Year 09-10	Current	Year 08-09	Year 09-10	
R01	In Town Residential	\$14.75	\$16.53	\$18.30	\$1.10	\$1.23	\$1.36	
R02	In Town Fireman	\$14.75	\$16.53	\$18.30	\$0.00	\$0.00	\$0.00	
R03	In Town Special	\$14.75	\$16.53	\$18.30	\$0.00	\$0.00	\$0.00	
R04	Outside Residential	\$19.50	\$21.83	\$24.15	\$2.25	\$2.52	\$2.79	
R05	In Town Double Residential	\$29.50	\$33.05	\$36.60	\$1.75	\$1.96	\$2.17	
R06	In Town Triple	\$44.25	\$49.58	\$54.90	\$1.75	\$1.56	\$1.36	
R07	Outside Double	\$39.00	\$43.65	\$48.30	\$2.25	\$2.52	\$2.79	
R08	Outside Special	\$19.50	\$21.83	\$24.15	\$0.00	\$0.00	\$0.00	
R10	Outside Fireman /Sewer	\$19.50	\$21.83	\$24.15	\$0.00	\$0.00	\$0.00	
R11	Outside Fireman /No Sewer	\$19.50	\$21.83	\$24.15	\$0.00	\$0.00	\$0.00	
R12	Outside Triple	\$58.50	\$65.48	\$72.45	\$2.25	\$2.52	\$2.79	
R13	Outside Large Apartments	\$19.50	\$21.83	\$24.15	\$4.50	\$5.04	\$5.57	
R31	Outside Residential (FF)	\$20.09	\$22.49	\$24.89	\$2.32	\$2.60	\$2.87	
R32	Outside Double (FF)	\$40.17	\$44.96	\$49.74	\$2.32	\$2.60	\$2.87	
R33	Outside Special (FF)	\$20.09	\$22.49	\$24.89	\$0.00	\$0.00	\$0.00	
R34	Outside Special (FF)	\$20.09	\$22.49	\$24.89	\$0.00	\$0.00	\$0.00	
R35	Outside Fireman (FF)	\$20.09	\$22.49	\$24.89	\$0.00	\$0.00	\$0.00	
R36	Outside Triple (FF)	\$60.26	\$67.47	\$74.67	\$2.32	\$2.60	\$2.87	
COMMERICAL WATER RATES	Tupperware			\$72.45		\$4.16	\$5.57	
	C01	In Town Commercial	\$14.75	\$16.51	\$18.27	\$1.10	\$1.23	\$1.36
	C04	Outside Commercial	\$19.50	\$21.83	\$24.15	\$2.25	\$2.52	\$2.79
	C05	In Town Double Commercial	\$29.50	\$33.02	\$36.54	\$1.75	\$1.96	\$2.17
	C06	In Town Triple Commercial	\$44.25	\$49.53	\$54.81	\$1.75	\$1.96	\$2.17
	C07	Outside Double Commercial	\$39.00	\$43.66	\$48.31	\$2.25	\$3.91	\$5.57
	C08	In Town Large Commercial	\$14.75	\$16.51	\$18.27	\$1.75	\$1.96	\$2.17
	C09	Outside Large Commercial	\$19.50	\$21.83	\$24.15	\$2.75	\$4.16	\$5.57
	C12	Outside Triple Commercial	\$58.50	\$65.48	\$72.45	\$2.25	\$3.91	\$5.57
	C31	Outside Commercial (FF)	\$20.09	\$22.49	\$24.89	\$2.32	\$2.60	\$2.87
	C32	Outside Double Commercial (FF)	\$40.17	\$44.98	\$49.78	\$2.32	\$4.03	\$5.73
	C33	Outside Large Commercial (FF)	\$20.09	\$22.49	\$24.89	\$2.83	\$4.28	\$5.73

C36	Outside Triple Commercial (FF)	\$60.26	\$67.47	\$74.67	\$2.32	\$4.03	\$5.73
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Sewer Rate Code	Description	Minimu m Charge	Rate Per 1,000 Gallons
	IN TOWN		
C20	In Town Commercial Sewer	\$15.73	\$1.30
R20	In Town Residential Sewer	\$15.73	\$1.30
C22	In Town Large User Sewer	\$15.73	\$3.65
C24	In Town Double Commercial Sewer	\$33.00	\$3.65
R24	In Town Double Residential Sewer	\$33.00	\$3.65
	Out of Town		
C21	Out of Town Commercial Sewer	\$22.03	\$1.85
R21	Out of Town Residential Sewer	\$22.03	\$1.85
C27	Out of Town Dble Commercial Sewer	\$44.06	\$3.85
R27	Out of Town Dble Residential Sewer	\$44.06	\$3.85
C29	Out of Town Large Commercial Sewer	\$18.88	\$3.85
40	Out of Town Large Sewer (FF)	\$20.40	\$3.95
	OTHER		
R23	Employee Sewer	\$16.25	\$0.00
R26	Powell Special Sewer	\$29.50	\$0.00

TUPPERWARE SEWER	\$18.88	\$3.85
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Water and Sewer Tap Fees

IN TOWN

Water Taps

¾ in tap less than 100'	\$300
¾ in tap greater than 100'	Cost of materials
1 in tap or larger	Cost of materials
Development Projects	Cost to be set by Council

Sewer Taps

4 in less than 100'	\$400
4 in greater than 100'	Cost of materials

6 in tap less than 100'	\$500
6 in tap greater than 100'	Cost of materials
Development projects	Cost to be set by Council

OUT OF TOWN

Water Taps

$\frac{3}{4}$ tap less than 100'	\$500
$\frac{3}{4}$ tap greater than 100'	Cost of materials, labor, equipment use, etc. plus 10%
1 in tap or larger	Cost of materials, labor, equipment Engineering, etc. plus 10%

Sewer Taps

4 in tap less than 100'	\$600
4 in tap more than 100'	Cost of materials, labor, equipment Etc. plus 10%
6 in tap less than 100'	\$700
6 in tap greater than 100'	Cost of materials, labor, equipment Etc. plus 10%

First Reading July 23, 1998
Second Reading August 20, 1998

Mayor Richardson and Cindy Owens

AMEND A PORTION OF SECTION 19.1 OF THE PUBLIC UTILITIES ORDINANCE CONCERNING FEES FOR WATER AND SEWER

Whereas Section 19.1, Fees for Water and Sewer under Chapter 19 of the Public Utilities Ordinance for the Town of Hemingway shall be amended as to the large commercial user outside of Town also identified as large outside commercial user to clarify the current rates of that user. At present, there is only one such user. The rates for water and sewer shall be amended as follows:

The Town shall provide 1,125,000 gallons as a base for water per month and 674,000 gallons as a base for sewage per month. (Formerly 1,250,000 gallons per month water and 750,000 gallons per month sewer). The water base per year will be 13,500,000 gallons and the sewage rate per year will be 8,088,000 gallons. The

base rate for water usage will be \$0.00132846 per gallon and \$0.00445004 per gallon for sewage. The Town will bill to allow this large outside commercial user to pay a level fee for \$1,500 per month for water and \$3,000 per month for sewage. This shall be retroactive to October 2016. The annual period shall run from January 1 through December 31. For 2016, from October through December there was no adjustment required. At the end of the annual year, total usage of water and sewer for the 12 months shall be individually calculated. If the total water consumption for that year exceeds 13,500,000 gallons then the user will be billed for any excess at the existing rate per gallon. If the total usage of sewer for the annual period shall exceed 8,088,000 then the excess gallons shall be billed at the existing rate per gallon. Any adjusted amount shall be due and payable within 30 days of the amended bill. If the user uses less gallons of water and/or gallons of sewer as calculated on the annual basis, then there will be no adjustment for unused water or sewer. This amendment takes into effect a lower monthly usage of water and sewer by the user using a rate calculated by the prior base gallons per month for water and sewer divided by the prior monthly water and sewer rates respectively to come up with the dollars per gallon cost. These rates for water and sewer will stay in effect until further amended.

1st Reading was March 9, 2017 Second Reading and Public Hearing was April 13, 2017. Signed by Mayor Richardson and attested by Samantha Lewis, Town Clerk.

AN ORDINANCE

APPROVING THE FINANCING OF IMPROVEMENTS TO THE WATERWORKS AND SEWER SYSTEM OF THE TOWN OF HEMINGWAY, SOUTH CAROLINA, THROUGH THE BORROWING OF NOT EXCEEDING TWO HUNDRED FORTY THOUSAND DOLLARS PLUS CAPITALIZED INTEREST, IF ANY, FROM THE SOUTH CAROLINA INFRASTRUCTURE REVOLVING LOAN FUND, BY AGREEMENT WITH THE SOUTH CAROLINA INFRASTRUCTURE FACILITIES AUTHORITY, PURSUANT TO TITLE 11, CHAPTER 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED; PROVIDING FOR THE AGREEMENT TO MAKE AND TO ACCEPT A LOAN, THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN THE TOWN OF HEMINGWAY AND THE SOUTH CAROLINA INFRASTRUCTURE FACILITIES AUTHORITY, THE EXECUTION AND DELIVERY OF A PROMISSORY NOTE FROM THE TOWN OF HEMINGWAY TO THE SOUTH CAROLINA INFRASTRUCTURE AUTHORITY; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HEMINGWAY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

ARTICLE I

FINDINGS OF FACT

SECTION 1.1. Findings of Fact. As an incident to the adoption of this Ordinance, the Town Council ("Town Council") of the Town of Hemingway, South Carolina (the "Town") has made the following findings;

(a) The Town is a municipality created pursuant to the laws of the State of South Carolina and empowered by the provisions of Title 11, Chapter 40, Code of Laws of South Carolina, 1976, as amended (the "Act") (i) to undertake a drinking water project; (ii) to make application for and to receive assistance from the South Carolina Infrastructure Facilities Authority; (iii) to comply with regulations relating to the receipt and disposition of money of the South Carolina Infrastructure Revolving Loan Fund created by the Act; (iv) to apply for and receive state grants; (v) to enter into loan agreements; and (vi) to comply with all terms and conditions of any loan agreement.

(b) Title 6, Chapter 17, Code of Laws of South Carolina, 1976, as amended, permits the incurrence of debt for the purpose of financing facilities for the furnishing of water and wastewater treatment services and permits the securing of such indebtedness with a pledge of revenue as described below.

(c) The revenues derived from the Town's Waterworks and Sewer System (the "System") are now hypothecated and pledged to the payment of the following:

(i) the outstanding \$538,000 of an original issue of \$629,000 Waterworks and Sewer System Refunding Revenue Bond, Series 1989, dated May 8, 1989 (the Bond of 1989). The Bond of 1989 is hereinafter referred to as the "Parity Bond".

(d) The Town has determined to defray the cost of construction of the water line extension to the Wastewater Treatment Plant (the "Project") through the borrowing authorized herein. The Project will be part of the System.

(e) On February 13, 1997, Town Council adopted Resolution No. ____ authorizing application to the South Carolina Infrastructure Facilities Authority (the "State Authority") for a loan from the South Carolina Infrastructure Revolving Loan Fund created by the Act (the "Loan"), to provide for the financing of the Project.

(f) On June 26, 1997, the State Authority upon review of the Town's loan application conditionally approved the loan.

(g) The funds are to be loaned and secured pursuant to a loan agreement (the "Loan Agreement") between the town and the State Authority, and a promissory note executed and delivered by the Town registered in the name of the State Authority (the "Note"). Pursuant to the Loan Agreement, the Town will agree to use the Loan proceeds only to pay the actual eligible costs of the Project, and the Town will agree to pay to the State Authority such amounts as shall be required to provide for the payment of all amounts due with respect to

the repayment of the Loan. To secure its obligations the Town will grant to the State Authority a pledge of, and lien upon, all revenues derived from the operation of the System and all funds and accounts of the Town derived from such revenues, which pledge is on a parity with the Parity Bond. If the Town fails to collect and remit in full all amounts due to the State Authority on the date such amounts are due pursuant to the Loan Agreement or the Note, the State Authority shall notify the State Treasurer who, subject to the withholding of amounts under Article X, Section 14 of the State Constitution, shall withhold all or a portion of such funds of the State and all funds administered by the State, its agencies, boards and instrumentalities allotted or appropriated to the Town and pay to the State Authority so much as is necessary to provide for the payment of all amounts due with respect to the Note.

The 1989 Ordinance permits the issuance of further bonds on a parity with the Parity Bonds, on the following conditions. Capitalized terms used herein shall have the meanings ascribed thereto in the 1989 Ordinance.

- (1) Such Additional Bonds shall be issued to secure funds to defray the cost of improving, extending, enlarging or repairing the System or any system into which it may be combined, or to obtain funds to refund any bonds having any claim to the Revenues of the system;
- (2) There shall exist, on the occasion of the issuance of the Additional Bonds, no default in the payment of the principal of and interest of the Bond or any Additional Bonds then outstanding, and, if default in the payment of interest or principal of the Bond or any Additional Bonds then outstanding shall have taken place, that such default shall have been remedied at least six months prior thereto;
- (3) There is in each Debt Service Reserve Fund or analogous fund established for the Bond, or any Additional Bonds then outstanding, the sums which equal the sums which would have been paid therein if each monthly payment required to be paid in said funds had been paid;
- (4) There shall be established by the ordinance authorizing each issue of Additional Bonds a bond and interest fund for the benefit of such Additional Bonds, similar to that established for the Bond;
- (5) There shall be established by the ordinance authorizing each issue of Additional Bonds a debt service reserve fund substantially proportionate in amount and of like nature to that established for the Bond;
- (6) Except in the case of Additional Bonds issued for the purpose of refunding any Bonds
 - (i) the net earnings of the System (which are hereby defined as that sum which remains from gross Revenues after deducting the Expenses of Operating and Maintaining the System) for the Fiscal Year immediately preceding the Fiscal Year in which Additional Bonds are to be issued or for any twelve consecutive

month period ending not more than 180 days prior to the enactment of the supplemental ordinance authorizing such Additional Bonds (the "Test Period"), adjusted to reflect any rate increases currently adopted and to be in effect prior to or coincident with the issuance of such Additional Bonds, and determined pro forma as though such rate increases had been in continuous effect during the Test Period, shall be not less than one hundred twenty percent (120%) of the combined principal and interest requirements of the Additional Bonds, if any, then outstanding immediately prior to the proposed issuance;

(ii) For each of the five Fiscal Years following the later of the date of the delivery of such Additional Bonds or the period (if any) for which interest is funded from the proceeds of such Additional Bonds, net earnings, as shall have been forecasted by the Consulting Engineer, will be not less than one hundred twenty percent (120%) of the combined principal and interest requirements on all Bonds and Additional Bonds then proposed to be outstanding in each of such five Fiscal Years; and

(iii) For the purpose of this paragraph (6), in determining "net earnings" no account need to be taken of the principal of, and interest on, long term indebtedness or of depreciation. Both the Issuer and any purchaser of any Bonds shall be entitled to rely upon the forecast of the Consulting Engineer made in good faith as to the net earnings of the System, which are based upon historical net earnings certified by the Consulting Engineer.

It is specifically found that, pursuant to the provisions of Section 8(b) in the Ordinance authorizing the Parity Bond, appropriate payments, proportionate to the amount made for the Parity Bond, shall be made for the Note authorized herein.

It is further specifically found that the Note is issued for purposes permitted by and in full compliance with all of the provisions set forth in the 1989 Ordinance and that the Note will be on a parity with said Parity Bond.

(h) The Town is adopting this Ordinance in order to:

(i) authorize the execution and delivery on behalf of the Town of the Loan Agreement and the Note;

(ii) evidence the approval of the Project and the Loan by the Town; and

(iii) authorize the execution and delivery by, and on behalf of, the Town of such other agreements and certificates and the taking of such other action by the Town and its officers as shall be necessary or desirable in connection with the financing of the Project in order to carry out the intent of this Ordinance.

ARTICLE II

THE LOAN

SECTION 2.1 Authorization of Loan. Council hereby authorizes the Town's acceptance of the Loan from the State Authority of not exceeding \$240,000 plus capitalized interest, if any, pursuant to and in accordance with, the provisions of the Loan Agreement.

SECTION 2.2. Repayment of Loan by the Town. Council hereby authorizes the repayment of the Loan by the Town to the State Authority from revenues of the System or, if said revenues are not sufficient, from all funds administered or appropriated by the State and its agencies as the Town may become entitled to, pursuant to and in accordance with, the provisions of the Loan Agreement and the Note.

ARTICLE III

LOAN AGREEMENT AND NOTE

SECTION 3.1 Authorization of Loan Agreement and the Note. The Loan Agreement and the Note in substantially the forms attached hereto as Exhibits "A" and "B", respectively, with such changes as the executing officers shall approve (their execution to be conclusive evidence of such approval) are hereby approved and the execution and delivery of the Loan Agreement and the Note, on behalf of the Town are hereby authorized and directed. The Loan Agreement and the Note shall be executed on behalf of the Town by the Mayor and attested by the Clerk of Council (the "Clerk").

ARTICLE IV

MISCELLANEOUS

SECTION 4.1 Other Instruments and Actions. In order to implement the Loan pursuant to the Loan Agreement and Note and to give full effect to the intent and meaning of this Ordinance and the agreements and actions herein authorized, the Mayor and Clerk are hereby authorized to execute and deliver such certificates, showings, instruments and agreements and to take such further action as they shall deem necessary or desirable.

SECTION 4.2. Ordinance a Contract. This Ordinance shall be a contract between the Town and the State Authority, and shall be enforceable as such against the Town.

SECTION 4.3 Effective Date. This Ordinance shall become effective upon receiving approval on second reading by Council.

SECTION 19.2 - SEWER DEFINITIONS

A. APPLICATION - Shall mean the instrument by which sewer service is requested, and contains the names and locations of those who desire sewer service.

B. "BOD" (BIOCHEMICAL OXYGEN DEMAND) - Shall mean the quantity of oxygen utilized in the biochemical oxidation of the organic matter of said sewage on industrial wastes

under standard laboratory procedure in five (5) days at 20 degrees C, expressed milligrams per liter.

- C. BUILDING SEWER - Shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
- D. TOWN - Shall mean Town of Hemingway, South Carolina.
- E. CONTROL MANHOLE - Shall mean a manhole giving access to a building sewer at some point before the building sewer discharges mixes with other discharges in the public sewer.
- F. COOLING WATER - Shall mean the water discharged from any use such as air conditioning, cooling or refrigeration, during which the only pollutant added to the water is heat.
- G. CUSTOMER - Shall mean the actual user of the sewer service.
- H. "EPA" - Shall mean the United States Environmental Protection Agency.
- I. GARBAGE - Shall mean animal and vegetable wastes and residue from preparation, cooking and food; and from the handling, processing, storage and sale of food products and produce.
- J. INDUSTRIAL WASTEWATER - Shall mean the discharge of a liquid resulting from the processes employed in.
- K. METER MEASUREMENT - Shall mean the act of or result of determining the quantity of water supplied to a customer by an instrument or device used for such purpose and approved by the Town.
- L. "NPDES" - Shall mean the National Pollutant Discharge Elimination System as defined in Section 402 of the Federal Water Pollution Control Act. Amendments of 1972 (Public Law 92-500).
- M. "PH" - Shall mean the negative logarithm on the log of the reciprocal of the concentration of hydrogen ions in gram miles per liter of solution as determined by acceptable laboratory procedures.
- N. "MGL" - Shall mean milligrams per liter.
- O. PRETREATMENT - Shall mean the treatment of wastewater by the sewer before introduction into the publicly owned system.
- P. PROPERLY SHREDDED GARBAGE - Shall mean the waste from the preparation, cooling, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch 1.27 centimeters, in any dimension. The motor shall have a rating of 2 h.p. or greater.
- Q. PUBLIC SEWER - Shall mean pipe or conduit carrying waste water in which owners of abutting properties shall have the use, subject to control by the Town.
- R. SANITARY SEWER - Shall mean a public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which storm water, surface water, ground

water and other unpolluted wastes are not intentionally passed.

- S. SEWAGE - Shall mean a combination of the water-carried wastes from residences, businesses, buildings, institutions, and industrial establishments, together with such ground, surface, and storm water as may be present.
- T. SEWAGE FACILITIES - Includes intercepting sewers, main lines, lateral lines, trunk lines, outfall sewers, sewer treatment works, pumping stations, and other sewer related appurtenances constructed, operated and maintained by the Town.
- U. STORM WATER - Shall mean any flow occurring, during or immediately following any form of natural precipitation and resulting therefrom.
- V. SUSPENDED SOLIDS - Shall mean solids that either float on the surface or are in suspension in water, sewage, industrial waste, or other liquids, and which are removable by laboratory infiltration. The quantity shall be determined by one of the acceptable methods described in the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association.
- W. USER CHARGE - Shall mean the charge made to those person(s) who discharge normal wastewater into the Town's sewage system.
- X. USER SURCHARGE - Shall mean the charge made, in excess of the User Charge, for all wastewater over and above the loading defined as normal wastewater.

SECTION 19.3 - REGULATIONS REQUIRING USE OF PUBLIC SEWERS

A. "Reasonable Accessibility" - The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, located within the Town, abutting on any street, alley or right-of-way in which there is now located or may in the future be located within three hundred feet (300') and having sufficient grade to the Town public sewer is hereby required at the owner(s) expense to install suitable toilet facilities, therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance.

B. "Compliance Time" - The owner shall provide a connection to the public sewer within ninety (90) days of proper notice that he is being required to connect to the system.

C. "Maintenance of Lines" - It shall be the responsibility of the property owner to keep and maintain the building sewer connected to the public sewer in good repair. The owner shall be responsible for making necessary repairs, at his own expense to the building sewer when notified in sixty (60) days after receiving written notification by the Town that such repairs are necessary,

the Town may make the necessary repairs to the building sewer and shall assess the owner for the cost of the repairs.

SECTION 19.4 - REGULATIONS CONCERNING PRIVATE SEWAGE DISPOSAL

- A. It shall be unlawful for any person to connect or to permit to remain any private cesspools, or septic tanks in sewer service areas.
- B. It shall be unlawful for any owner to discharge the septic tank effluent or cesspool overflow to any open drain, ditch, stream or well penetrating water-bearing formations if cesspools and septic tanks only are available.
- C. The minimum lot area for a private sewage disposal facility shall be 12,500 square feet.
- D. Properly authorized town and health officials shall approve or reject private sewage disposal facilities in accordance with SCDHEC specifications. Permits shall be issued only by SCDHEC officials and inspected as often as necessary.

COCERNING THE BUILDING OF SEWERS AND CONNECTIONS

- A. "Application for Permit" - All persons desiring to purchase sewer service from the Town must first make application for a sewer tap to the proper town office, stating where the sewer is desired. Such application shall be made and signed by the owner of the premises where the sewer is desired or by his duly authorized agent. In signing an application for service, the applicant assumes all risks and liability for any accident. All permit fees, inspection fees, and tap charges shall be paid to the Town at the time the application is filed.
- B. "Permit" - No unauthorized person(s) shall uncover, make any connections with an opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town.
- C. "Separate Tap Required" - Owner(s) shall be required to pay for and have a separate sewer connection for each building.
- D. "Inflow Prohibited" - New connections to the public sewer system shall prohibit inflow from all sources into the system.
- E. "Proper Installation" - The connection of the building sewer into the public sewer shall conform to the Southern Building Code and other applicable rules and regulations of the Town and be the sole responsibility of the owner.
- F. "Processing Sewer Applications and Connection Inspection" - An eight dollar (\$8.00) processing charge and an eight dollar (\$8.00) inspection fee will be required from the sewer customer at the time of his connection to the sewer system.

- G. "Existing Building Sewers" - Old building sewers may be used in connection with new buildings only when they are found on examination and tested by the Town to meet all requirements of the ordinance.
- H. "Grades, Sizes, Materials, Procedures" - The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, and testing, and backfilling the trench shall conform to the requirements of the Southern Building Code and all other Town requirements.
- I. "OSHA Requirements" - All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town. In all instances, all OSHA requirements shall be met by the owner.
- J. "Heat Pump Discharge" - No heat pump discharge shall be connected to the Town sewerage system. Owners who fail to disconnect their discharges within ten (10) days of written notice will be assessed a fee of \$3.00 per month per customer in addition to other fees. Such fee shall be collected until the discharge is disconnected from the Town sewer system.

SECTION 19.6 - RATE OF DISCHARGE AND CHARACTER OF WATERS AND WASTES ADMISSIBLE TO PUBLIC SEWERS

- A. "Surface Runoff" - No person shall make connection of roof downspouts, exterior foundation drains, or other sources of runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- B. "Sanitary Wastewater" - No discharge of sanitary wastewater into the storm sewer system shall be allowed under any conditions.
- C. "Discharge Regulations" - It shall be unlawful for any person to place or cause to be placed in any part of the building sewer system any paper other than what is commonly known as toilet paper, or to place in any part of the system any material or substance likely to block, obstruct or interfere with the operation of any part of the public sewer system. Prohibited materials include, but are not limited to, grease, uncontaminated garbage, animal guts or tissues, paunch manure, bones, hair, spent lime, stone or unable dust, metal, glass, straw, wood, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, fire or explosion

hazards, ashes, sand, cinders, and similar substances. The discharge of flammable substances or materials that obstruct the flow in public sewers is also prohibited.

- D. "Uncontaminated Water" - Discharge of uncontaminated cooling water to the storm drain system is allowable but shall not be discharged into any public sewer unless the source of the supply is from its Town public water because added volume of unpolluted volume increases pumping costs.
- E. "Wastewater Limits" - Fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) Mg-L or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (0 degrees and 65 degrees centigrade) are prohibited.

Gasoline, benzene, naphth, fuel oil, or explosive liquid, solid or gases which by reason of their nature of quantity are, or may be sufficient to cause fire or explosion or be injurious in any other way to the sewerage facilities or to the operation of the system. Additional prohibited materials include but are not limited to kerosene, toluene, fylene, ethers, alcohols, hetone, aldehydes, peroxides, chlorates, perchorates, bromates, carbides, hydrides, and sulfides.

No person shall discharge any waste which will cause corrosion or deterioration of the sewage facilities. All wastes discharged to the public sewage system must have a ph value in the range 6 to 9.

No person shall discharge into public sewers any waste which by itself or by interaction with other waste may:

1. Injure or interfere with wastewater treatment, processes or facilities.
2. Constitute a hazard to humans or animals, or
3. Create a hazard in receiving waters of the wastewater treatment plant effluent.

SECTION 19.7. "PRETREATMENT"

"Industrial Cost Recovery" - Any industry discharging any waste other than normal domestic waste shall meet all provisions of Public Law 92-500 ("Water Pollution Control Act Amendments of 1972"); Public Law 95-217 ("Clean Water Act of 1977"); and all related regulations, guidelines and interpretations. Pretreatment will be required of all applicable industrial users and all facilities shall be effectively operated and maintained by the owner at this expense, subjected to requirements of these rules and regulations and all other applicable codes, ordinances and laws. For the purposes of this regulation, any waste containing more than 400 Mg-L of suspended solids, or having BOD in excess of 300 Mg-L shall be considered in violation of permissible discharges to the public sewer regardless of whether or not it contains

other substances in concentration differing appreciably from those normally found in municipal sewage.

"Control of Prohibited Wastes" - If wastewaters containing any substance in violation of Town, state or federal regulations are discharged or proposed to be discharged into the sewer system of the Town of Hemingway, the Town shall take any action necessary to:

- (a) Prohibit the discharge of such wastewater.
- (b) Require a discharger to demonstrate that in plant modifications will eliminate the discharge of such substances to a degree to be acceptable to the Town.
- (c) Require pretreatment including storage facilities, or flow equalization necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations.
- (d) Require the person or discharger making, causing or allowing the discharges to pay any added cost of handling and treating excess loads imposed on the sewage facilities.
- (e) Take such other remedial action as may be deemed to be desirable or necessary to achieve the purpose of this Ordinance.

If any accidental discharge of prohibited or regulated pollutants to the sewage facilities should occur, the industrial facility responsible for such discharge shall immediately notify the Town so that corrective action may be taken to protect the sewerage facilities. In addition, a written report addressed to the Town detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges, shall be filed by the responsible industrial facility within thirty (30) days of the occurrence of the accidental discharge.

The Town does not at this time have any industries that would require an assessment under the industrial cost recovery specifications. Such rates will be developed if the need arises.

SECTION 19.8 - REGULATIONS RELATING TO SAMPLING AND ANALYSIS

The Town shall make or cause to be made the required sample collection, analyses, and flow measurement as required in the NPDES permit. The Town shall work with state and federal regulatory agencies to ensure the discharge of the Town sewer effluent is in conformance with acceptable standards. The Town will cooperate in any inspections as required.

SECTION 19.9 - "SPECIAL REGULATIONS"

- A. "Service Area" - Sewer service will be extended to areas beyond the limits of the Town, provided; all costs are paid by the owner, the owner agrees to abide and be bound by all sewer regulations, there is sufficient capacity and grade, and it is in the best interest of the Town to do so.
- b. "Malicious Damage" - Any person convicted of malicious damage to the sewage system shall make full restitution and be subject to all penalties, civil or criminal, authorized by law.
- C. "Trespassing" - It shall be unlawful for any person to enter upon, walk, ride, swim, boat, skate, hunt, fish or trespass in any manner upon any portion of any pond, reservoir or any land or building owned, leased or controlled by the Town, and used directly or indirectly in association with the Town sewer system and related facilities.

SECTION 19.10 - "PROVISIONS FOR POWER AND AUTHORITY FOR INSPECTORS"

- A. "Responsibilities" - The sewer system including the treatment system shall be the responsibility of the Sewer Superintendent under the supervision of the Town Administrator and Council
- B. "Inspections and Tests" - Appointed officials shall have the authority to enter private property for the purpose of making inspections and tests on a customer's property.

SECTION 19.11 - "ENFORCEMENT AND PENALTIES" **AMENDED 04/14/16**

Any person willfully violating any provision of these rules and regulations shall be subject to all penalties, civil or criminal, as authorized by law. It shall be unlawful for any person to use without permission or contract of the Town any portion of the Town's sewer system. Any person using the system or causing water to be placed in the waste or sewage system of the Town without authority shall be subject to a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment of up to thirty (30) days, or both.

SECTION 19.12 - "BILLING"

"Responsibility for Sewer Bills" - The person receiving sewer service shall be primarily responsible for the payment of the monthly user charge. The owner of the property shall be secondarily responsible. In either case, if a monthly user charge is not paid in accordance with provisions of these regulations, sewer service is to be discontinued and may not be resumed except in accordance with the provisions of these regulations. When sewer shall be supplied to

more than one (1) party through a single tap, the bill for the whole service furnished through such tap shall be made to the owner of the property.

"Payment" - Bills will be rendered monthly for water and sewer service and must be paid within twenty (20) days. For charges which remain unpaid beyond the twenty day period, the customer will be assessed a penalty of ten (10) percent. If the bill is not paid by the twentieth (20th) of the following month, service will be discontinued. A cut-on fee will then be required.

"Termination of Service" - Request for discontinuance of sewer service must be received at least two (2) days prior to cut-off. All sewer charges must be paid including sewer use to the time of cut-off. No liability will be assumed by the Town for damage to the customer's property resulting from discontinuance of service.

SECTION 19.13 - "ORDINANCE VALIDITY"

These rules and regulations may be amended from time to time by the Town and the finding that any part or parts of this ordinance are invalid shall not affect the validity of other parts of the ordinance.

SECTION 19.20 WATER DEFINITIONS

- A. Application - Shall mean the instrument by which water service is requested, and contains the names and locations of those who desire water service.
- B. Town - Shall mean the Town of Hemingway, South Carolina
- C. Cross-Connection - Shall mean a connection from the authorized metered service line of water user to the water plumbing system of an unauthorized user; also a cross-connection is a connection between a piped distribution system carrying a potable public water supply and an existing secondary piping system, the water supply source of which is distinct from and unrelated physically to that of the potable public supply and may contain pollutants which could, under adverse conditions, back-flow into the public water system.
- D. Customer or Consumer - Shall mean the actual user of the water service.
- E. Owner - Shall mean the person or persons holding legal title to the serviced premises; but an owner, tenant or tenants leasing, subleasing, renting or occupying a piece of property, or agent, may make application for water service subject to the provisions of these rules and regulations.
- F. Plumbing - Shall mean all pipes, fittings and appurtenances on the property owner's side of the meter, serving only the property of the owner, including the extension from the service line up to and including all house plumbing.
- G. Service Line - Shall mean the water line from distribution main to and including the meter, meter box, corporation stop and other appurtenances installed by the Town.

H. Subdivision - Shall mean a tract of land in two or more lots, and shall include all division of land involving the dedication of a new street.

SECTION 19.21 GENERAL RULES - WATER

A. Location - No water facilities will be installed under the provisions outlined herein and accepted for ownership and maintenance by the Town except those in a dedicated public right-of-way or dedicated public easement.

B. Ownership - All water facilities and appurtenances, other than the plumbing, when installed or accepted by the Town, shall become and remain the property of the Town, and no person, by payment of a charge or fee, or by any construction of facilities accepted by the Town, may acquire any interest or right in any of these facilities, or any portion thereof, other than the privilege of having their property connected thereto and service in accordance with these regulations.

19.21 C **Amended April 14, 2016** Unauthorized Use of System. Any person who has a contract, agreement, license of permission, oral or written, with or from the Town for the use of water belonging to or furnished by the Town for certain specified purposes who shall willfully and intentionally withdraw or cause to be withdrawn water in any manner and appropriate it to their own use or to the use of any other person, for purposes other than those specified, shall be guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for up to thirty (30) days, or both. Any such person to whom such water is furnished from or by means of meter, who shall, willfully and with intention to cheat and defraud the Town, alter or interfere with such meter that also includes opening or closing of any valves or meters, turning on hydrants, or cause any water, not legally paid for, to flow from the system, shall be guilty. The first offense will be a charge of \$100 and the second offense will be a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for up to thirty (30) days, or both.

Any person who has no contract, agreement, license or permission with or from the Town for the use of water belonging to or furnished by the Town, who shall willfully withdraw or cause to be withdrawn in any manner and appropriate such water from the mains or pipes of the Town or any pipes connected therewith, for their own use or for the use of any other person, shall be charged for the first offense of \$100 and the second offense will be a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for up to thirty (30) days, or both. This shall include anyone tampering with, working on, or in any way trying to alter or damage any portion of the Town's water facility. It shall also include the opening or closing of any valves or meters, turning on hydrants, or causing any water, not legally paid for, to flow from the system.

D. Right To Not Allow Service - The payment of any costs or fees, submitting of any petition, or any other act requesting water service does not guarantee that such service shall be forthcoming. The Town shall have the right to refuse to extend service upon any reasonable

grounds, and specifically for any use required fees, or if, in the sole opinion of the Town, it is not economically feasible.

E. Maintenance by Customer - The customer shall be responsible for the installation and maintenance of all plumbing, from the meter into and including the house plumbing; and the Town shall have the right to discontinue service to any property that does not install or maintain the plumbing or abide by the Southern Building Code and the Town water and sewer specifications. Further, should the customer require water at a pressure different from that supplied by the Town, it shall be his responsibility to install the necessary device(s) to make the adjustments.

F. Liability of Town - The Town shall not be liable to consumers, owners, or any person for the failure to furnish water for any purpose or under any conditions, or for any damage that may result from the shutting off of water from the mains or reservoirs, even though no notice of the shutting off of water shall have been given. All permits and contracts for the use of water from the water system of the Town are expressly made subject to the provisions hereof.

G. By-Pass - No by-pass around any meter shall be installed unless determined by the Town to be necessary, and the installation is to be performed by the Town, and where such devices exist, the use of same shall be regulated by the Town. Unauthorized use of by-pass may result in removal of the meter as well as other penalties, civil or criminal, provided by law.

H. Cross-Connections - Cross-connections are expressly prohibited, and may result in removal of meter supplying such connection as well as all other penalties, civil or criminal, provided by law. Upon discovery of a cross-connection upon any property being furnished water through the Town water system, the owner of the property is to be notified that the cross-connection must be valved off immediately and physically discontinued. If the correction is not made within the ten (10) day period, the meter is to be removed and the meter is not to be reinstalled without payment of the full standard meter charge.

I. Inspection of Plumbing - The Town reserves the right to make a meter reading(s) and inspect the plumbing on a customer's property. This may be done in the case of an abnormally large water bill, in cases of extreme water wastage, use of water detrimental to the Town system, or other reasons deemed necessary by the Town.

J. Trespassing - It shall be unlawful for any person to enter upon, walk, ride, bathe, swim, boat, skate, hunt, fish or trespass in any manner upon any portion of any pond, reservoir, watershed or any land or building owned, leased or controlled by the Town, and used either directly or indirectly in association with the Town water system and related facilities.

K. **Amended April 14, 2016** Temporary Use of Water with Permission. It shall be lawful for an authorized person working with the Town or on behalf of the Town to temporarily provide water by turning on a meter provided that the person obtain prior permission and upon payment of the

sum of \$66.00 plus the cost of the water used and the monthly base rate. Only persons authorized by the Town may open such meter which shall be valid for two week period from issuance.

CROSS-CONNECTION CONTROL REGULATION TOWN OF HEMINGWAY

I. AUTHORITY

- A. The State Safe Drinking Water Act (1976 Code of Laws of South Carolina, Section 44-55-10 et seq.), and the South Carolina Primary Drinking Water Regulations promulgated by the South Carolina Department of Health and Environmental Control (Regulation 61-58).
- B. Ordinance Number 19.21-H Adopted by the Hemingway Water Supply System authorizing the creation and operation of a cross-connection control program.
- C. Nothing herein shall be construed to conflict with any applicable federal and state laws and regulations or with any other existing ordinances, codes or any amendments thereto.

II. PURPOSE

- A. To protect and maintain the Hemingway Water Supply System so as to continuously provide safe and potable water in sufficient quantity and pressure and free from potential hazards to the health of its consumer.
- B. To facilitate the elimination or control of any existing unprotected cross-connections between the potable water supply system and any other water system(s), sewers or waste lines, or any piping systems or containers containing polluting substances.
- C. To establish and maintain a program of cross-connection control which will effectively prevent the contamination or pollution of the potable water system by cross-connection.

III. DEFINITIONS

- A. "Approved" means accepted by the Director of the Hemingway Water Supply System or his authorized representative as meeting the required standards or specifications, or as suitable for the proposed use.
- B. "Backflow" means the undesirable reversal of the flow of water or other liquids, mixtures, gases or other substances into or towards the distribution piping of a potable supply of water from any source or sources.
- C. "Backflow Preventer" means any device or means approved by DHEC for use in preventing backflow under its prescribed limited conditions and design for use. These devices consist of: Air Gap, Reduced Pressure Backflow Preventer, Double Check Valve Assembly, Pressure Vacuum Breaker, Atmospheric Vacuum Valve Assembly, Pressure

Vacuum Breaker, Atmospheric Vacuum Breaker, Hose Bibb Breaker, Residential Dual Check, Double (or dual) Check With Intermediate Atmospheric Vent.

C.1. "Air Gap" means a physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system, vessel, vat, tank, etc. This physical separation must be a minimum of twice the diameter of the supply side pipe diameter , but never less than one (1) inch. This method or device is approved for use of High Hazard category cross connections.

C.2. "Atmospheric Vacuum Breaker" means a device which prevents back-siphonage by creating an atmospheric vent in the line when the supply line pressure falls to atmospheric (zero) or below, thereby creating a vacuum or negative pressure. This device is approved for use on Low and (intermediate) Hazards where only back-siphonage is being addressed.

C.3. "Double Check Valve Assembly" means an assembly of two (2) independently operating spring or weight loaded check valves with tightly closing shut off valves on each end of the check valves, plus properly located test cocks for the testing of each check valve. This device is approved for use on Low Hazard category cross-connections.

C.4. "Double (or dual) Check Valve With Intermediate Atmospheric Vent" means a device having two(2) spring loaded check valves which are separated by an atmospheric vent. This device is only available in small sizes through (3/4"). It has no test cocks or gate valves, and is usually used for internal protection. This device is approved for Low to (Intermediate) Hazard category cross-connections.

C.5. "Hose Bibb Vacuum Breaker" means a device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker. It is normally approved for Low Hazard category cross-connections, back-siphonage only.

C.6. "Pressure Vacuum Breaker" means a device which is identical to the Atmospheric Vacuum Breaker except that it is equipped with two tightly closing shut-off valves and an internal spring which allows it to be installed under continuous pressure. This device is only approved for use against back-siphonage backflow where Low (to Intermediate) category Hazards exist.

C.7. "Reduced Pressure Backflow Preventer" means an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the check valves. Tightly closing shut-off valves are located on each end of the check valves, and properly located on each end of the check valves, and properly located test cocks are positioned for the testing of the check valves and the relief valve. This device is approved for High Hazard category cross

connections, and may never be installed in a location or manner which will subject the device to possible flooding or allow the relief valve to become submerged under water.

C.8. "Residential Dual Check" means a device with two(2) independently operating check valves. This device is not equipped with shut-off valves or test cocks, and is approved for Low Hazard category cross connections. Residential dual checks are normally employed as a containment device installed at or in the service connection meter box.

- D. "Certified Tester" means any person holding an up-to-date backflow prevention device tester certification card issued by DHEC.
- E. "Containment" means a method of backflow prevention which requires a backflow preventer at the water service connection entrance (usually immediately down stream of the water meter).
- F. "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water, impairing the quality of the water.
- G. "Cross Connection" means any actual or potential connection or structural arrangement between a public water supply and any other source or system through which it impossible to introduce into any part of the potable system any use water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross-connections.
- H. "DHEC" means the South Carolina Department of Health and Environmental Control, including personnel authorized to act on behalf of the Department.
- I. "Director" means the Director of the Hemingway Water Supply System for the Town of Hemingway, including personnel authorized to act on behalf of the Director.
- J. "High Hazard" means an actual or potential threat to the public water supply of a physical or toxic nature to such a degree of intensity that there would be a danger to public health.
- K. "Low Hazard" means that degree of hazard which would not constitute a threat to health, but which may cause an actual or potential threat to the physical properties of the water sufficient to cause a nuisance or be aesthetically objectionable.
- L. "Owner" means any person who has legal title to, or license to operate or reside in a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present or suspected of being present.
- M. "Person" means an individual, partnership, co-partnership, cooperative, firm, company, public or private corporation, political subdivision, agency of the State, trust, estate, joint structure, company, or any other legal entity or their legal representative, agent or

assigns.

IV. ADMINISTRATION

- A. The Hemingway Water System is authorized to operate a cross-connection control program pursuant to Ordinance Number 19.21-H and in accordance with applicable DHEC laws and regulations.
- B. The owner shall allow his property to be inspected for possible cross-connections and shall follow the provisions of the Hemingway Water System's Cross-Connection Control program and DHEC regulations.
- C. The Director has the primary responsibility of enforcing the cross-connection control program and to maintain all records pertaining thereto.
- D. If the Director requires the public water supply to be protected by the containment approach, then the Owner shall be responsible for water quality beyond the outlet end of the containment device and shall implement a program of internal protection which will address each offending fixture within his facility for the purpose of protecting the health of his employees as well as the safety/potability of his product.

V. REQUIREMENTS

A. New Construction

- 1. The Director shall conduct on-site evaluations, inspections, interviews, and review of plans in order to determine the degree of hazard in question and shall prescribe backflow prevention measures (devices) which are commensurate with the degree of hazard in question. In cases where increased hazards do not dictate the need for stronger protection, a minimum of a residential dual check shall be required.
- 2. Any newly installed double check valve assembly or reduced pressure backflow preventer shall be tested by a certified tester prior to any final approval of occupancy being issued by the Director.

B. Existing Premises (Facilities)

- 1. Utilizing water customer billing records, telephone calls, personal interviews and inspections, the Director shall conduct a survey of all existing non-residential customers in order to determine which facilities will be required to install protective devices, the type of protective device(s) to be required and the length of time allowed for installation of the required device(s).
- 2. Any newly installed reduced pressure backflow preventer or double check valve assembly required on any existing facility shall be tested by a certified tester upon installation and once annually thereafter. A firm but reasonable time period is to be established by the Director for the completion of the required installation and testing of the prescribed device(s).

3. The Director shall not allow any existing cross-connection to remain unless it is protected by an approved backflow preventer which is commensurate with the degree of hazard in

question. The Director has the authority to decide whether the backflow prevention device must be installed at the service connection meter (containment approach), or whether the cross-connection in question may be adequately eliminated or protected within the facility at or near its point of origin (internal protection approach).

4. Reasonable but firm time schedules shall be implemented by the Director for compliance with testing and installation requirements.
5. The owner shall be responsible for meeting all compliance schedules, as well as for all fees, and required device testing.

VI. HAZARD, HIGH AND LOW

- A. The Hemingway Water System recognizes the threat to the public water system arising from cross-connections. All threats shall be classified by the Water System as "high", or "low" hazard, and shall require the installation of the appropriate approved backflow prevention device(s) which are consistent with DHEC regulations, and the cross connection control program.
- B. To determine the nature of existing or potential hazards, the Hemingway Water System shall initially focus on the high hazard facilities. This includes facilities which offer the potential threat of contamination of a toxic nature (i.e., chemical, bacteriological, or industrial).
- C. The owner shall be responsible for notifying the Director of any existing, proposed or modified cross-connection of which the owner has knowledge but which has not been found by the Director.
- D. If the Director determines at any time that a serious threat to the public health exists from an actual or potential cross-connection, the water service may be terminated immediately and remain terminated until the Director determines that a serious threat to the public health no longer exists.

VII. TESTING REQUIREMENTS

- A. As part of the cross-connection control program, the Director shall require annual testing by a certified tester of all backflow prevention devices. The Director may require more frequent testing as he deems necessary based upon the age and condition of the device, where there is a history of test failures, or due to the degree of hazard involved, such additional tests are warranted. All testing will be performed at the owner's expense.
- B. The certified tester performing the test shall furnish the owner with a written report of the inspection and testing results. The certified tester shall submit a copy of the test report to

the Director, and the Hemingway Water System shall be responsible for maintaining those reports for a period of five (5) years.

- C. Each newly installed device shall be tested by a certified tester after installation, but before use by the owner. Each device shall be tested annually thereafter unless the Director determines that more frequent testing is warranted.
- D. Any backflow prevention device which fails during a test must be repaired or replaced at the owner's expense. Upon completion of repairs, the device shall be re-tested at the owner's expense. High hazard cross-connection shall not be allowed to continue unprotected due to a malfunctioning backflow prevention device. A compliance date of not more than thirty (30) days after the test date shall be established for successful repair, replacement and testing of the device(s) in question.

VII. RECORDS

- A. The Director shall initiate and maintain the following records:
 - 1. Master files on cross connection surveys and inspections, including the owner's name, address, phone number and location of the device(s) if present.
 - 2. Copies of cross-connection device testing reports furnished by the certified tester.
 - 3. The most current list of DHEC approved backflow prevention devices.
 - 4. A current list of certified testers.
- B. Records shall be open for inspection by the public during normal business hours.

SECTION 19.22 APPLICATIONS AND PERMITS

A. Application for Water Tap

All persons desiring to purchase water from the Town must first make application for a water tap service to the proper Town office, stating where the water is desired and the purpose for which it is to be used. Such application shall be made and signed by the owner of the premises where the water is desired or by his duly authorized agent. In signing an application for service, the applicant assumes all risk and liability for any accident due to not placing a safety valve on his water heater or boiler, and hereby releases the Town from all claims of damage of any kind or description.

The water tap charge shall be paid at the time of making the application for service. Upon having the water turned on at the service location, the applicant will be required to pay a processing charge of sixteen dollars (\$16.00).

B. Application for Service at Location with Existing Water Tap

Upon requesting water service at a location with an existing water tap, an applicant will be

required to pay a charge of sixteen dollars (\$16.00) for the costs associated with processing the application for water service.

The person receiving water and/or sewer service shall be primarily responsible for the payment of monthly user charges. The owner of the property shall be secondarily responsible and be held liable for bill and late charges if primary user defaults on payment. In either case, if a monthly user charges becomes delinquent and is not paid in accordance with the provisions of the regulations set out in this article, water and/or sewer service is to be discontinued and may not be resumed except in accordance with the provisions of the regulations.

C. Applicant Desiring to Transfer Service From One Service Location to Another Service Location

Upon transferring from on location with an existing water tap to another location with an existing water tap, the applicant will be required to pay a charge of sixteen dollars (\$16.00).

D. Separate Tap Required

Owners shall be required to have a separate tap for each building or subsequent partition thereto that involves more than one user. In all instances where separate electrical meters are in use, a separate water and sewer tap is required. In situations where a separate tap is already in existence and cannot be changed, Section 19, 23 (D) shall apply.

SECTION 19.23

BILLS, PAYMENTS, DISCONTINUANCE OF SERVICE FOR NON-PAYMENT, LATE PAYMENT.

A. All bills, past due and current, are due on the twentieth of the month. If any past due bill remains unpaid after 5:00 p.m. on the twentieth of the month, all service to such user shall be forthwith discontinued and shall remain discontinued until such user shall have paid his past due bill, the penalty thereon, and an administrative charge of \$25.00.

B. While the Town will make every reasonable effort to see that each customer receives such Customer's bill, no responsibility will be assumed for non-delivery when same has been mailed at the post office. The customer shall supply the correct mailing address to the Town or any changes to a mailing address in writing.

19.24 **Added by Amendment April 14, 2016** Water Bill Adjustment Policy. If a customer notifies the Town of Hemingway about a possible high water bill that may be related to a broken pipe or leak as defined herein, the Town policy is to provide consideration for an adjustment for water usage charges caused by the leak or broken pipe if occurring on the customer's side of the meter.

An adjustment may occur only after all leaks or broken pipes have been repaired or an exceptional unexplained consumption has been verified by a plumber and/or head of the Town's water department and/or the Town Administrator.

To qualify for a leak adjustment, the following conditions must be met:

- (a) The leak must have been concealed and not readily detectible by a reasonable person such as a leak in an underground water service line between the meter and the exterior of the building or within the walls or under floors of the building.
- (b) The customer must submit proof to the Town that the leak has been located and repaired. The customer must present the Town with an affidavit or written statement from a licensed plumber or general contractor that the leak has been located and repaired unless the Town determines that the customer was capable of repairing the leak and the customer presents proof that such repair was made. A leak must be repaired within thirty (30) days of the due date of the bill which shows the customer has a water leak. When a customer is notified of a leak by the Town, the leak must be repaired within thirty (30) days of receiving such notice.
- (c) When a customer has a chronic leak, the Town may require the replacement of the pipe before a leak adjustment is made.

A leak is defined as a physical break, a malfunction or a failure in any outside service line, irrigation system or other underground piping system located on the premises, as well as not limited to the internal plumbing system of the building that unintentionally allows water to escape outside of the closed water system.

NO LEAK ADJUSTMENT WILL BE MADE FOR THE FOLLOWING:

- (a) Leaking faucets;
- (b) Faucets, hoses or other water outlets left running;
- (c) Leaks from frozen pipes that were exposed;
- (d) Water used for filling swimming pools, washing cars, and irrigating lawns and gardens; and
- (e) Leaks from swimming pool systems and from irrigation systems.

Only one (1) bill will be adjusted in any consecutive twelve (12) month period. The leak adjustment will only be made in the billing cycle in which the leak is repaired and a maximum of \$100.

The leak adjustment will be calculated as follows: an average for the customer will be calculated from the customer's most current six (6) monthly billings for water usage. When a customer does not have six (6) months of prior usage with the Town an adjustment will be made with the available monthly bill or bills estimated by the Town based on information that is available. The customer shall be billed for the amount of the average water bill for the previous months. This average will not include any bills that have been estimated or for periods of zero usage and/or non-occupancy of the premises.

The Town Administrator and Public Works Director must approve bill adjustments for leaks which qualify for leak adjustment under this policy. If a customer disagrees with the action taken on this adjustment, the customer will be advised of the customer's right to have the leak adjustment request heard and acted upon by the Town Council. If the customer requests a review of the leak adjustment by the Town Council, the customer's request for review will be scheduled for consideration at a regular Council meeting as soon as practicable provided that the customer shall have at least five (5) days notice of the meeting and shall be informed in writing of the time and place of the Council meeting.

SECTION 19.25 SECURITY DEPOSITS

A security deposit fee shall be charged for each new customer requesting water and/or sewer service from the Town to secure payment of bills. The security deposit is in addition to the connection fee required in Section 19.22. The security deposit shall be based on water service line connection sizes as follows:

3/4" connection	\$75.00
1" connection	\$125.00
2" connection	\$250.00
3" connection	\$300.00
4" connection	\$375.00
6" connection	\$500.00

Amended: August 9, 2012 to add the following:

The sewer security deposit is a base fee of \$75.00 in addition to the water security deposit. When service is permanently discontinued, said security deposit shall be returned without interest after first deducting any outstanding bills for water and or sewer.

SECTION 19.30 RATES AND SCHEDULES

The water and sewer rates shall be reviewed annually for verification of compliance with the User Charge System as provided in 35.2140 (c). The User Charge System shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of section 204 (b) (1) (9) of the Act and 40 CFR part 35.2140.

A separate schedule of water and sewer rates along with tap fees shall be maintained at all times and amended as necessary.

SECTION 19.40 MANDATORY PAYMENT OF FEES

If connection to the water and sewer system is not made within 90 days of availability of service, the customer shall be billed the minimum water/sewer fee regardless of whether the service is used or not.

CHAPTER 20. STREETS AND SIDEWALKS

ARTICLE I. IN GENERAL

- Section 20-1. Littering
20-2. Bicycles on Sidewalks in Fire Zone
20-3. Obstructions Prohibited
20-4. Games in Street Prohibited
20-5. Removing or Tampering With Street Lights
20-6. Doors or Gates Opening Onto Sidewalks
20-7. Removal of Barricades or Lights Placed at Excavations or Obstructions

ARTICLE II. PERMITS

- Section 20-20. Excavations
20-21. Barricades and Night Lights for Excavations
20-22. Breaking Curbing and Constructing Entrances
20-23. Parades
20-24. Speaking, Exhibiting, Entertaining
20-25. Street Names
20-26. Protection and Planting of Trees and Shrubs on Public Property
20-27. Removal of Branches and Trees on Private Property

ARTICLE I. IN GENERAL

Section 20-1. Littering

It shall be unlawful for any person to put, place or throw any trash, house-sweepings, paper cups, garbage, shavings or other refuse upon any sidewalks or in any public streets, public alleys, beaches or other public places in the Town, except in receptacles of the type required by this Chapter. No person shall deposit in or sweep into any street, sidewalk, beach or in any gutter or catchbasin of the Town, any paper, trash, rubbish, broken glass, tin cans, bottles, fruit or

vegetables, peelings or any other refuse, ashes or waste. Such materials shall be accumulated as herein before specified and placed in receptacles, as defined in the Code. Nor shall any householder or storekeeper, by himself or agent, cause to be swept from any house, yard, store or elsewhere, any dirt or refuse in or upon the sidewalks or public ways of the Town.

Section 20-2. Bicycles on Sidewalks in Fire Zone

Is shall be unlawful for any person to ride a bicycle on any sidewalk in the Town limits.

Section 20-3. Obstructions Prohibited

It shall be unlawful for any person to place any obstruction upon or cause to be obstructed in any manner any street, sidewalk or public way, or part thereof, within the Town so as to hinder the passage of persons, vehicles or other travel thereon difficult, inconvenient, dangerous or impossible except as otherwise provided in this Chapter; provided that this section shall not apply to any employee of the Town, County or State while such employee is immediately and actively engaged in the maintenance, improvement or construction of any street, sidewalk or public way in the Town.

Section 20-4. Games in Streets Prohibited

No person shall play any game, throw any rocks or missiles on any street or sidewalk.

Section 20-5. Removing or Tampering With Street Lights

It shall be unlawful for any person to break any lamp or electric light or to remove any electric light bulb from or otherwise tamper with any of the street lights within the corporate limits of the Town.

Section 20-6. Doors or Gates Opening Onto Sidewalks

No person shall allow any door or gate owned by him to swing open onto the Town sidewalks.

Section 20-7. Removal of Barricades or Lights Placed at Excavations or Obstructions

It shall be unlawful for any person to remove any barricade, or remove or extinguish any light which may be placed as a signal at night, to warn persons of danger from ditches, trenches, building materials, scaffolds, excavations, impediments or obstacles of any descriptions whatever, within the corporate limits of the Town.

ARTICLE II. PERMITS

Section 20-20. Excavations

It shall be unlawful for any person to dig up, mutilate or make excavations in any paved or clayed street or sidewalk of the Town for laying pipe or for any other purpose without a permit issued by the Town.

Section 20-21. Barricades and Night Lights for Excavations

It shall be unlawful for any person having acquired a permit under the previous section to allow any such trench, ditch or excavation in any street, sidewalk or public place of the Town to remain open without sufficient barricades at all times to protect the public, or between sunset and sunrise, unless such trench, ditch or excavation has sufficient number of lights properly displayed around it as danger signals to prevent accidents to persons or property.

Section 20-22. Breaking, Curbing and Constructing Entrances

It shall be unlawful for any person to break or destroy the curbing of any streets of the Town, or to otherwise deface the same or to construct any entrance into property on any of the paved streets of the Town, unless such person shall have first obtained a permit to do so, from the Town.

Section 20-23. Parades

No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the Chief of Police (or other appropriate official or body). Exceptions shall include funeral processions, students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities, or a governmental agency acting within the scope at its functions.

A person seeking issuance of a parade permit shall file an application with the Chief of Police on forms provided by such officer. An application for a parade permit shall be filed with the Chief of Police not less than forty-five (45) days nor more than one hundred eighty (180) days before the date on which it is proposed to conduct the parade. The application for a parade permit shall set forth the following information: the name, address and telephone number of the person seeking to conduct such parade, if the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization, the name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct, the date when the parade is to be conducted, the routes to be traveled including the starting point and the termination point, the approximate number of persons who, and animals and vehicles which, will constitute such parade, the type of animals, and description of the vehicles, the hours when such parade will start and terminate, a statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traveled, the location by streets of any assembly areas for such parade, the time at which units of the parade will begin to assemble at any such assembly area, the interval of space to be maintained between units of such parade, if the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the Chief of Police a communication in writing from the person proposing to hold the parade, authorizing the

applicant to apply for the permit on his behalf and any additional information which the Chief of Police shall find reasonably necessary to a fair determination as to whether a permit should be issued.

The Chief of Police, where good cause is shown therefore, shall have the authority to consider any application hereunder which is filed less than thirty (30) days before the date such parade is proposed to be conducted.

There shall be paid at the time of filing the application for a parade permit a fee of twenty-five dollars (\$25.00).

The Chief of Police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that: (a) the conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route; (b) the conduct of the parade will not require the diversion of so great a number of police officers of the Town to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the Town; (c) the conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the Town other than that to be occupied by the proposed line of march and areas contiguous thereto; (d) the concentration of persons, animals and vehicles at assembly points at the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas; (e) the conduct of such parade will not interfere with the movement of fire fighting equipment enroute to a fire; (f) the conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance; (g) the parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute; and (h) the parade is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held for private profit.

The Chief of Police shall act upon the application for a parade permit within fourteen (14) days after the filing thereof. If the Chief of Police disapproves the application, he shall mail to the applicant within fourteen (14) days after the date upon which the application was filed, a notice of his action, stating the reasons for his denial of the permit.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the Town Council. The appeal shall be taken five (5) days after notice. The Town Council shall act upon the appeal within three (3) days after its receipt.

The Chief of Police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five (5) days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief

of Police. An alternate parade permit shall conform to the requirements of, and shall have the effect of a parade permit under this Ordinance.

Immediately upon the issuance of a parade permit, the Chief of Police shall send a copy thereof to the following: (a) the Mayor (Town Administrator or other head); (b) the Town Attorney; (c) the Fire Chief; (d) the Public Works Director; (e) the Postmaster; (f) the General Manager or responsible head of each public transportation utility, the regular routes of whose vehicles will be affected by the route of the proposed parade.

Each parade permit shall state the following information: (a) Starting time; (b) Minimum speed; (c) Maximum speed; (d) Maximum interval of space to be maintained between the units of the parade; (e) The portions of the streets to be traversed that may be occupied by the parade; (f) The maximum length of the parade in miles or fractions thereof; (g) Such other information as the Chief of Police shall find necessary to the enforcement of this Ordinance.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.

No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

No driver of a vehicle, street car or trackless trolley shall drive between the vehicles of persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The Chief of Police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this Ordinance.

The Chief of Police shall have the authority to revoke a parade permit issued hereunder upon application of the standards for issuance as herein set forth. _

Section 20-24. Speaking, Exhibiting, Entertaining

No preaching, lecturing or speaking exhibition or entertainment of any nature will be permitted on the streets, sidewalks, or public ways of the Town, unless a written permit for the same be obtained from the Town.

Section 20-25. Street Names

No person shall name any street or change the name of any street except upon consent of Council as indicated by resolution.

Section 20-26. Protection and Planting of Trees and Shrubs on Public Property

- (a) No person, firm or corporation shall cut, trim, prune, break, remove, climb, destroy, mutilate, or injure in any manner whatsoever, any tree or ornamental shrub located within the right-of-way of any public street or in any public park without the written authorization of the city manager or his designee. If denied by Town Manager, petitioner may request a hearing before Council. Upon such request, the Town Manager shall report his findings and recommendations to the Council which shall render a final decision after the hearing. For purposes of this section, trees and ornamental shrubs located within the right-of-way of any public street or in any public park shall be termed "Public Trees".
- (b) Authorization to cut, trim, prune or remove any public tree shall be in writing and shall detail the manner and extent to which the public tree(s) may be cut, trimmed, pruned, or removed. All pruning, cutting, trimming, and removal shall be done in accordance with any policies on tree trimming, pruning and removal as adopted by the town and amended from time to time.
- (c) Any person, firm or corporation, whether employed by the town or not, who shall cut, prune, remove, mutilate, or destroy or otherwise injure, including, but not limited to: Putting nails into or wire around any tree or suffocating the root system by concreting or impacting the ground around any tree or shrub without first obtaining the written permission, herein before provided, shall be guilty of a misdemeanor.
- (d) Any person, firm, corporation who violate the provisions of this code shall be guilty of a misdemeanor punishable by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 30 days, or both. Each day of the violation shall be considered a separate offense.
- (e) It is hereby declared to be a the intention of the council that the sections, paragraphs, sentences, clauses, and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, or section of this code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this code.
- (f) The Town of Hemingway recognizes that preserving and maintaining urban trees is important as they not only add beauty but help reduce air and noise pollution, reduce soil erosion and save energy by providing shade and blocking wind. Hemingway has stepped up its efforts to better manage and preserve the trees within its boundaries.

Section 20-27. REMOVAL OF BRANCHES AND TREES ON PRIVATE PROPERTY

- (a) The Town will have the authority to prune or remove branches on trees on private property which:

- (1) Block visibility at an intersection
- (2) Are dead or diseased and overhang a public way
- (3) The tree poses a hazard to existing building or utilities
- (4) Are otherwise hazardous to the public

CHAPTER 21. TAXATION

- Section 21-1. Council as Investigating Board
- 21-2. Clerk and Treasurer to Collect Taxes
- 21-3. Use of Proceeds
- 21-4. Tax Liens - Paramount to All Other Liens, Exception
- 21-5. Same - When Attaches
- 21-6. Tax Levy
- 21-7. Basis of Property Value: Amount of Assessment
- 21-8. Assessed Valuation Entered on Tax Books
- 21-9. Due Date and Penalty for Late Payment
- 21-10. Procedure When Property to be Moved From Town
- 21-11. Real Property to be Sold When Returned Delinquent, Personal Property Need Not Be Sold First
- 21-12. Officers Invested With Powers and Duties to Collect Delinquent Taxes
- 21-13. Execution Against Defaulting Taxpayers
- 21-14. Clerk to List Tax Executions: Copy to Collecting Officer
- 21-15. Form of Execution Order
- 21-16. Tax Sale - Notice to Mortgages, etc.: Compliance With State Law
- 21-17. Execution, Execution Costs, Levy of Warrant or Execution
- 21-18. Sale of Property
- 21-19. Payment of Successful Bidder
- 21-20. When Town to Buy Land - Passage of Title to Town
- 21-21. Redemption of Real Property
- 21-22. Cancellation of Sale Upon Redemption
- 21-23. Personal Property Not Subject to Redemption
- 21-24. Execution and Delivery of Tax Title: Costs and Fees
- 21-25. Tax Deeds as Evidence of Title, etc.
- 21-26. Delinquent Taxes and Motor Vehicles

Section 21-1. Council as Investigating Board

The Council shall constitute a board for investigating all matters relating to the assessment and listing of property for taxation, or for relief of taxpayers, and it shall be the duty of the Council that there is real or personal property within the Town which has not been returned, assessed or listed for taxation, or is listed on the County Auditor's books as being outside of the Town, or is improperly assessed, or is listed in the name of the wrong person or is a double entry, or is listed through error as being in the Town, or in case any other irregularity appears or exists,

it shall be the duty of the Council to forthwith report or cause to be reported, the same to the County Auditor, or other county or state officials, to the end that no property liable for Town taxes shall escape taxation by the Town, or its proper assessment or listing, or shall be improperly taxed.

Section 21-2. Clerk and Treasurer to Collect Taxes

All taxes for the year shall be collected by the Clerk and Treasurer.

Section 21-3. Use of Proceeds

The proceeds of the annual property tax levy together with other income of the Town, shall be used for general municipal purposes to pay all current indebtedness and to pay the principal interest on outstanding bonds or coupons of the Town which may become due and payable during the fiscal year.

Section 21-4. Tax Liens - Paramount to All Other Liens, Exception

The taxes, assessments, license taxes and penalties legally assessed shall constitute a lien on the property upon which the same were made until paid in full, which lien shall be paramount to all other liens except liens for County and State taxes.

Section 21-5. Same-When Attaches

As soon as any property within the Town is listed with the auditor of the County for taxation, such tax assessment shall immediately become a lien on such property.

Section 21-6. Tax Levy

The Council shall impose by ordinance an annual tax at such are, in its discretion, as will yield an amount necessary for the general purposes of the Town, not exceeding the limit permitted by law. Such tax shall be levied by Council on the property within the corporate limits as assessed for taxation for County and State purposes as provided in this chapter. Such tax rate shall remain the same from year to year unless changed by ordinance.

Section 21-7. Basis of Property Value: Amount of Assessment

The basis of value for taxation of real estate, personal property, stock in trade or other taxable property within the Town shall be taken from the books of the auditor of Williamsburg County and such assessments shall be the same as levied by the County Auditor in any particular calendar year.

Section 21-8. Assessed Valuation Entered on Tax Books, Alterations as Directed by County Auditor

The Clerk and Treasurer shall enter the assessed valuation, fixed as provided in the preceding section, upon his tax books and thereafter shall make only such alterations on his books as may be directed by the County Auditor.

Section 21-9. Due Date and Penalty for Late Payments

All taxes shall be due and payable January 15th of each year. Taxes paid between January 16th and January 31st of each year will be subject to a penalty of five per cent (5%) for late payment; taxes paid between February 1st and February 28th of each year will be subject to a penalty of ten percent (10%) for late payment; taxes paid between March 1st and March 31st of each year will be subject to a penalty of fifteen percent (15%) for late payment; taxes paid between April 1st and April 30th of each year will be subject to a penalty of twenty percent (20%). Taxes will go into execution May 1st.

Section 21-10. Procedure When Property to be Moved From Town

In case any property within the Town listed with the County Auditor for taxation is about to be taken or removed from the jurisdiction of the Town before taxes are due and payable for any year, the Clerk and Treasurer shall immediately issue his execution on such property and the tax collector shall proceed to collect the taxes due on such property.

Section 21-11. Real Property to be Sold When Returned Delinquent, Personal Property Need Not Be Sold First

___All real property returned delinquent by the Clerk and Treasurer, upon which the taxes shall not be paid by distress, or sale of personal property, or otherwise, shall be seized and sold as provided by law. The distress and sale of personal property shall not be a condition precedent to seizure and sale of any real property hereunder.

Section 21-12. Officers Invested With Powers and Duties to Collect Delinquent Taxes

___The Chief of Police and Clerk and Treasurer are hereby invested with all the rights, powers and privileges, and are hereby charged with all the duties of the officers designated for the enforcement and collection of delinquent taxes by the constitution and laws of the state and all amendments thereto.

Section 21-13. Execution Against Defaulting Taxpayers

___Immediately upon the expiration of the time allowed by ordinance for the payment of taxes in any year, the Clerk and Treasurer shall issue, in the name of the Town under the seal of the corporation, a warrant or execution against any defaulting taxpayer in the Town, signed by his/her official capacity directed to the tax collector requiring and commanding him to levy the same by distress and sale of so much of the defaulting taxpayers estate, real or personal, or both, as may be sufficient to satisfy the taxes or assessments due by such defaulter, specifying therein the aggregate amount of all his taxes or assessments due the Town.

Section 21-14. Clerk to List Tax Executions: Copy to Collecting Officer

The Clerk and Treasurer shall prepare, in duplicate, an itemized list of all tax executions turned over to the tax collector, which list shall set forth the name, year and amount of each execution, and in addition, the Clerk and Treasurer shall submit the duplicate of the same to the

Chief of Police and the original to be retained by the Clerk, signed by the Chief of Police showing that he has received the listed executions.

Section 21-15. Form of Execution Order

Such execution shall be substantially in the following form:

By _____, Clerk of the Town of Hemingway,
To _____, Chief of Police of the Town of Hemingway.
Whereas _____, has been assessed for the year _____
the sum \$ _____ dollars tax assessment in accordance with levy duly and legally levied
by the Town Council of the Town of Hemingway to defray the expenses of the Town of
Hemingway, which sum he has failed to pay. These, are therefore, in the name of the Town of
Hemingway strictly to charge and command you to levy by distress and sale of the personal
property, and if sufficient personal property cannot be found, then by distress and sale of the real
property of the said _____, charges hereof; and for so
doing this shall be your sufficient warrant. Given Under My Hand And Seal Of The Town Of
Hemingway, South Carolina This _____ day of _____ 20____.
_____, Clerk and Treasurer , Town of

Hemingway, South Carolina.

Real Estate Assessment	\$ _____
Personal Property Assessment	\$ _____
Street Duty	\$ _____
Penalty	\$ _____
Total Tax	\$ _____
Execution Cost	\$ _____
Levy and Advertising	\$ _____
Total	\$ _____

Section 21-16. Tax Sale - Notice to Mortgages, etc.: Compliance With State Law

Whenever any real estate is levied upon for taxes by the Tax Collector, it shall be his duty, before proceeding to advertise the same for sale as now provided by law, to give twenty days written notice of such levy to the owner of each mortgage contained on the list filed with him in the manner provided. See Volume 6, Article III, Sections 65-2742 through 65-2748, inclusive, S.C. Code, 1962, as amended.

Section 21-17. Execution, Execution Costs, Levy of Warrant or Execution

On May 1st next following the year in which the property taxes became due, the Treasurer shall add an execution cost of five percent (5%) of all property taxes and penalties remaining unpaid and shall issue, in the name of the Town, a warrant or execution in duplicate against each defaulting taxpayer in his jurisdiction, signed by him in his official capacity, directed to the Chief of Police who is authorized and directed to collect delinquent taxes, penalties, and costs, requiring and commanding him to levy such warrant or execution by distress and sale of so much

of the defaulting taxpayer's estate, real or personal, or both, as may be sufficient to satisfy the taxes, penalties, and costs, and the Chief of Police shall:

a. Mail via "Certified Mail, return receipt requested--deliver to addressee only" Notice of delinquent property taxes, penalties and costs, to the person at the address shown on the tax receipt or at a more correct address known to such officer. The notice shall specify that if not paid on or before May thirtieth, the property will be duly advertised and sold for delinquent property taxes, penalties, and costs on the first Monday in June as provided herein and return receipt of this "Certified Mail" notice shall be deemed equivalent to "levying by distress" hereinabove prescribed; and

b. In the event the certified notice has been returned, take exclusive possession of the property against which such taxes were assessed, by posting a notice at one or more conspicuous places on the premises, in the case of real estate, reading "Seized by person officially charged with the collection of delinquent taxes of political subdivision to be sold for delinquent taxes", the posting of which notice shall be equivalent to levying by distress, seizing and taking exclusive possession thereof, or by taking exclusive possession of personalty; and

___c. the person officially charged with the collection of delinquent taxes, penalties and costs then due, and shall proceed to properly advertise, as now provided by law, the property for sale once a week for three successive weeks for sale in June next. The advertisement shall be entitled "Delinquent Tax Sale" and shall include, among other things, the description of the property, a reference to the County Auditor's map-block-parcel number being sufficient for a description of realty, the number of acres or lots and buildings, and the total of the taxes plus penalties.

Section 21-18. Sale of Property

Upon failure of taxes and penalties to be paid in full before twelve o'clock a.m. on the first Monday in June following the year in which the taxes became due, the property duly advertised shall be sold by the Chief of Police at public auction at the front door of the Town Hall beginning at twelve o'clock a.m. for cash payable in full on same date. In case defaulting taxpayer has more than one item advertised to be sold, no item shall be sold provided the sale of one or more preceding items sold shall bring sufficient funds to cover all of defaulting taxpayer's delinquent taxes and penalties.

Section 21-19. Payment of Successful Bidder

The successful bidder at the delinquent tax sale shall pay cash to the Chief of Police in the full amount of the bid on the day of the sale. Upon payment, the Chief of Police shall furnish the purchaser a receipt for the purchase money and annex such receipt to the duplicate warrant with the endorsement thereon of his actions thereunder. Title shall not be made until the expiration of twelve months from the date of such sale and then only if the property sold be not redeemed.

See Volume 6, Article IV, Section 65-2761 through 65-2776, inclusive, S.C. Code, 1962 as amended. All delinquent tax sale moneys shall be turned over to the Clerk and Treasurer.

Section 21-20. When Town to Buy Land: Passage of Title to Town

In case there is no bid equal in amount to the delinquent taxes together with all penalties named in the warrant or execution against the property, the Clerk and Treasurer, shall buy the land for the Town as the actual purchaser thereof, for the amount of such taxes and penalties. The Chief of Police shall execute title to the Town in the same manner as to any other purchaser, and shall put the Town or its authorized officer or agent in possession of the premises as provided by law. The land so sold to the Town shall be treated as an asset of the Town.

Section 21-21. Redemption of Real Property

The defaulting taxpayer, any grantee from the owner, or any mortgage or judgement creditor may within twelve months from the date of such delinquent tax sale redeem each item or real estate by paying to the person officially charged with the collection of delinquent taxes and penalties, together with eight percent (8%) on the whole amount of the delinquent tax sale bid if redeemed in the first year after the sale.

Section 21-22. Cancellation of Sale Upon Redemption

Upon the real estate being redeemed, the Chief of Police shall cancel the sale in the tax sale book and note thereon the amount paid, by whom and when. The successful purchaser, at the delinquent tax sale, shall promptly be notified by mail to return the tax sale receipt to the Chief of Police in order to be expeditiously refunded the purchase price plus the interest accumulated, as above provided.

Section 21-23. Personal Property Not Subject to Redemption

For personal property, there shall be no redemption period subsequent to the time that such property is struck off to the successful purchaser at the delinquent tax sale. Upon payment therefor by the successful purchaser and delivery of the duplicate warrant (i.e. tax receipt) with description thereof and notation thereon by the Chief of Police:

"Sold to _____ at Delinquent Tax Sale on _____.
_____. (Person officially charged with collection)
_____ to the successful purchaser of personal property delinquent taxes. _____ shall be considered the successful purchaser's bill of sale and right of possession.

Section 21-24. Execution and Delivery of Tax Title: Costs and Fees

Upon failure of the defaulting taxpayer, any grantee from the owner, or any mortgage or judgement creditor, to redeem realty within the time period hereinabove allowed for redemption, the person officially charged with the collection of delinquent taxes shall within twenty days make a tax title to the purchaser or the purchasers assignee and delivery of the tax title to the

Clerk of Court shall be considered "Putting the purchaser (or assignee) in possession". The tax title shall include, among other things, the name of the defaulting taxpayer, the date of the execution, the date the realty was posted and by whom if such be the case, and the dates each certified notice was mailed to the party or parties of interest, to whom mailed and whether or not received by the addressee. The successful purchaser (or assignee) shall be responsible in the amount of fifteen dollars for the cost of the tax title plus any documentary stamps necessary to be affixed and recording fees. The successful purchaser (or assignee) shall pay such amounts to the person officially charged with the collection of delinquent taxes before delivery of the tax title to the Clerk of Court and upon payment the person officially charged with the collection of delinquent taxes shall then be responsible for promptly transmitting the tax title to the Clerk of Court for recording fee and documentary stamps cost therewith. In case the tax sale of an item produced in cash above the full amount due in taxes, penalties and costs, such overage shall belong to the defaulting taxpayer to be claimed or assigned according to law. However, if neither claimed or assigned within five years of date of public auction tax sale, the overage shall escheat to the general fund of the governing body. Prior to the escheat date unclaimed overages shall be kept in a separate account and shall be invested so as not to be idle and the governing body of the political subdivision shall be entitled to the earnings for keeping the overage.

Section 21-25. Tax Deeds as Evidence of Title, etc.

All deeds of conveyance made by the Chief of Police under the authority of this chapter, whether executed to the Town or to any other person, shall be held and taken as prima facie evidence as of a good title in the holder, that all proceedings have been regular and that all requirements of ordinances and the law have been completely complied with.

Section 21-26. Delinquent Taxes and Motor Vehicles

It shall be unlawful for any resident of the Town of Hemingway, S.C. who owes personal property taxes to the Town of Hemingway, S.C. and such taxes are delinquent and unpaid, to own or operate within the corporate limits of the Town of Hemingway or upon the public streets or ways of said Town said motor vehicle on which personal property taxes due to the Town of Hemingway are delinquent and unpaid.

Personal property taxes assessed against any motor vehicle owned by any resident of the Town of Hemingway, shall be delinquent when same are past due and unpaid and have gone into execution as provided for by the ordinances of the Town of Hemingway.

Any person violating the provisions of this ordinance shall be subject to a fine not to exceed \$100.00 or imprisonment not to exceed thirty days.

CHAPTER 22. TRAILERS AND TRAILER PARKS

ARTICLE I. IN GENERAL

- Section 22-1. Registration Fees
22-2. Water and Sewer Tap Fees
22-3. Registration Fee to be Credited to Water and Sewer Fees
22-4. Failure to Pay Water and Sewer Fees

ARTICLE I. IN GENERAL

Section 22-1. Registration Fees

Any person maintaining or establishing a house trailer within the Town for the purpose of occupancy shall be required to pay a registration fee of five dollars (\$5), and such fee must be paid before moving any such trailer into Town.

Section 22-2. Water and Sewer Tap Fees

Within seven (7) days after moving any house trailer into Town, any person maintaining or establishing such trailer shall be required to pay the applicable water and sewer tap fees as provided in Chapter 19 of this Code. No water and sewage services shall be provided until fees are paid.

Section 22-3. Registration Fee to be Credited to Water and Sewer Fees

If the applicable water and sewer fees are paid within the seven (7) days grace period provided herein, any registration fee paid for the privilege of moving a house trailer into Town shall be credited to such water and sewer fees, and the water and sewer fees shall be reduced by the amount of the registration fee paid.

Section 22-4. Failure to Pay Water and Sewer Fees

Upon the failure to pay the water and sewer fees as required herein, the person maintaining or establishing any such house trailer shall be required to move such trailer out of Town and upon such failure, any registration fee paid for the privilege of moving such house trailer into Town shall be forfeited.

CHAPTER 23. TRAINS: SPEED, CROSSINGS, MISCELLANEOUS VIOLATIONS

ARTICLE I. IN GENERAL

- Section 23-1. Definitions
23-2. Speed of Engines
23-3. Poison Spray on Railroad Right-of-Way
23-4. Unlawful Sounding of Whistles
23-5. Penalties

ARTICLE II. CROSSINGS

- Section 23-20. Stop Signs: At Crossings
23-21. Use of Crossing Emblem for Advertising
23-22. Signs at Crossings
23-23. Blocking of Streets by Trains
23-24. Bells to be Rung at Crossings: Exceptions
23-25. Automatic Signaling Devices at Crossings
23-26. Failure to Heed Warning Devices

ARTICLE III. ROADBEDS

- Section 23-40. Construction and Maintenance
23-41. Drainage
23-42. Notice to Repair

ARTICLE I. IN GENERAL

Section 23-1. Definitions

- (a) "Grade Crossing" as used in this Chapter means a crossing at grade of a public street or highway over a track or tracks of a railroad.
- (b) "Railroad" as used in the Chapter is a carrier of persons or property upon cars, other than street cars, operated on stationary rails.
- (c) "Railroad Train: as used in this Chapter is a steam engine, electric or other motor, with or without cars coupled thereto and operated upon rails, other than a street car.
- (d) "Railroad Signal" or "sign" as used in this Chapter is any sign, signal, or device erected by authority of a public body or official or a railroad and intended to give notice of the presence of railroad tracks or the approach of railroad trains.

Section 23-2. Speed of Trains

It shall be unlawful to run a train on any railroad within the Town faster than a speed allowed by the State law.

Section 23-5. Penalties

It shall be unlawful to violate any of the provisions of this Chapter, and, except as otherwise provided, anyone convicted therefore, shall be subject to a fine not exceeding that provided by state law.

ARTICLE II. CROSSINGS

Section 23-20. Stop Signs at Crossings

It shall be unlawful to fail to stop at signs erected at grade crossings. The Town Council has authority to designate particularly dangerous highway grade crossings of railroads and erect stop

signs thereat. No stop signs shall be erected without the approval of the State Highway Department.

Section 23-21. Use of Crossing Emblem for Advertising

It shall be unlawful for any person to use for advertising purposes the kind of cross usually used as a crossing sign by railroads.

Section 23-22. Signs at Crossings

Railroads shall erect and maintain warning signs at crossings within the Town whenever directed by the Town Council.

Section 23-23. Blocking of Streets by Trains

Any person who shall be in charge or control of an engine or a car upon the track of the railroad company, who shall stop any one of them upon or across any of the streets of the Town longer than five (5) consecutive minutes shall be deemed guilty of a misdemeanor.

Section 23-24. Bells to be Rung at Crossings: Exceptions

It shall be unlawful for any engine or locomotive or steam railroads to cross any street crossing or grade within the Town unless warning is given by the ringing of bells, as occasion demands, within at least fifty (50) yards of such crossing. PROVIDED, that at all street crossings where watchmen are stationed, or electric signal devices operated, this section shall not apply.

Section 23-25. Automatic Signaling Devices

Any railroad company whose tracks cross any street at grade within the Town may hereafter be designated by the Town Council, continue or install and maintain any automatic signal device in compliance with the requirements of the Town Council heretofore or hereafter adopted, which signals shall be operated to indicate danger upon the approach of a train or locomotive, and which signals shall be in lieu of all other warnings and signals required by the Ordinances of the Town.

Section 23-26. Failure to Heed Warning Devices

Any person disregarding the warning signals required to be given by any railroad whose tracks any street at grade within the Town shall be guilty of a misdemeanor.

ARTICLE III. ROADBEDS

Section 23-40. Construction and Maintenance

It shall be the duty of every officer, agent or representative of every railroad company entering the Town to construct and keep in good repair, under the direction of the superintendent of streets and subject to his approval, the roadbed of all public streets and sidewalks across or

along the roadbed of each such railroad company, and for a reasonable distance on each side thereof.

Section 23-41. Drainage

It shall be the duty of every office, agent or representative of every railroad company entering the Town to construct and maintain all necessary drains along, across or under its roadbed or along any public street or sidewalk, under the direction of the superintendent of streets, and subject to his approval.

Section 23-42. Notice to Repair

It shall be the duty of every officer, agent or representative of every railroad company to do and perform, at the expense of every such railroad company, all the work required in sections 23-40 and 23-41, under the direction and subject to the approval of the superintendent of streets, within five (5) days from notice by him to such officer, agent or representative thereof, orally or in writing, to do so.

CHAPTER 24. PURCHASING

Section 24-10. Purchasing Agent: Specified Duties

24-20. Formal Contract Procedure

24-21. Bidding-Competitive: Required Exception

24-22. Award to Lowest Bidder: Advertising When Required

24-23. Bid Deposits

24-24. Sealed Bid Procedures

24-25. Materials Testing

24-30. Financial Interest of Town Officials and Employees Prohibited

24-40. Records of Open Market Orders and Bids

24-50. Stock Reports

24-60. Surplus Stock

24-70. Supplies Unsuitable for Public Use, Sale or Exchange

24-80. Gifts and Rebates

24-90. Cooperative Purchasing

24-91. Purchase Orders

24-95. Procedures for Protest

Section 24-10. Purchasing Agent: Specified Duties

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

(A) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the Town government.

- (B) The storage and distribution of all supplies, materials, and equipment required by any office, department or agency of the Town government.
- (C) 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 of competition.
- (D) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in store-rooms or warehouses.
- (E) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to "bidders list". The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the town or who have failed to meet established specifications or delivery dates.
- (F) Obtaining as full and open competition as possible on all purchases, contracts and sales.
- (G) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

a) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

b) Affirmative steps shall include:

1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

5) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (g)(b) (1) through (5) of this section.

Section 24-20. Formal Contract Procedure

All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed five thousand dollars, shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid the 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 responsible bidder, after due notice inviting proposals and bidders.

Section 24-21. Bidding--Competitive: Required Exception

Before any purchases or contracts for supplies, materials, equipment or services exceeding five hundred dollars are made, the purchasing agent shall give ample opportunity for competitive bidding. For purchases or contracts not exceeding twenty-five hundred dollars, oral bids may be accepted. All other bids shall be in writing. 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 filled by the purchasing agent with the Town Council and shall be entered in the minutes of the Council. Purchases made under state contract purchasing or from state surplus property shall be exempt from this competitive bidding process.

Section 24-22. Award to Lowest Bidder: Advertising When Required

All contracts for Town improvements, materials, equipment, or services costing more than 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, shall state where bid blanks and specifications may be secured and the time and place for opening bids.

Section 24-23. 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.

Section 24-24. Sealed Bid Procedures

Procedure for sealed bids shall be as follows:

- (A) Sealing - Bids shall be submitted to the purchasing agent securely sealed in an envelope, and shall be identified on the envelope in accordance with bid instructions.
- (B) Opening - Bids shall be opened in public at the time and place stated in the public inspection.
- (C) Tabulation - A tabulation of all bids received shall be available for public inspection.
- (D) Rejection of Bids - The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the

proposed contract, when the public interest will be served thereby.

(E) 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.

(F) Award of Contract:

(1) Authority in Agent - The purchasing agent shall have the authority to award contracts within the preview of this article; provided, however, that contracts in excess of twenty five hundred 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, capacity and skill of the bidder to perform the contract or 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, judgement, experience and efficiency of the bidder;

(d) The quality or 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 the 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 location of the bidder to the Town and the ability of the bidder to provide present and future maintenance and service for the use of the subject of the contract;

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

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

(H) Tie bids:

(1) Local Vendors. If all bids received are for the same total amount or 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.

(I) Performance bonds. The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as he shall find reasonably necessary to protect the best interest of the Town.

(J) 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 he/she shall deem necessary to protect the best interest of the Town.

Section 24-25. Materials Testing

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

Section 24-30. Financial Interest of Town Officials and Employees Prohibited

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

Section 24-40. Records of Open Market Orders and Bids

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

Section 24-50. Stock Reports

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

Section 24-60. Surplus Stock

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

Section 24-70. 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 Section 2. All monies received from such sales shall be paid into the appropriate Fund of the Town.

Section 24-80. 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.

Section 24-90. Cooperative Purchasing

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

Section 24-91. Purchase Orders

No supplies, materials or maintenance (exceeding two hundred dollars) may be obtained without a purchase order signed by the Town Administrator or in his absence the department head or Mayor.

Section 24-95. Procedures for Protest

The aggrieved bidder must submit the formal protest to the Town Administrator within ten working days after he/she knows, or should have known, of the occurrence of the action that is being protested.

1. The Director of Procurement Services may issue a written determination on the protest.
 - a. If it is determined that no violation of rules or statutes has occurred, the Town Administrator shall inform the protesting party and any other interested parties by a letter setting forth the reasons for the determination.
 - b. If it is determined that a violation of rules or statutes has occurred in a case where a contract has not been awarded, he/she shall so inform the protesting party and other interested parties by a letter setting forth the reasons for the determination and the appropriate remedial action.
 - c. If it is determined that a violation of rules or statutes has occurred in a case where a contract has been awarded, he/she shall so inform the party and any interested parties by a letter setting forth the reasons for the determination, which may include ordering the contract void.
2. The protesting party or an interested party may appeal the decision of the Town

Administrator.

- a. The appeal must be in writing and must be received in Town Hall for the Mayor and Town Council in ten working days after the date of the Administrator's determination.
3. The decision issued in writing by the Mayor and Town Council shall be considered as the final administrative action.

CHAPTER 26. BASE NUMBERING SYSTEM

"FOR THE TOWN OF HEMINGWAY REGULATING THE NUMBERING OF PROPERTIES AND PRINCIPLE BUILDINGS, ESTABLISHING A BASE NUMBERING SYSTEM, PROVIDING THE METHODS OF IMPLEMENTING SAID SYSTEM AND PROVIDING FOR THE ENFORCEMENT THEREOF:

WHEREAS, the Town Council of the Town of Hemingway authorized pursuant to the Constitution and General Laws of the State of South Carolina to enact such Ordinances as shall appear necessary and proper for the security, general welfare, and convenience of such Town of for preserving health, peace, order and government therein and to protect property located within its boundaries and its citizens, and;

WHEREAS, the provision of vital public services to the residents of the incorporated portion of the Town and other public bodies including such services as police, fire, sanitation, sewage and emergency medical services is adversely affected by the failure to have in effect within the incorporated portion of the Town a uniform numbering system for buildings and property and the Town Council finds that the Ordinance herein enacted will secure the public safety and render the provision of such vital public services more economical, efficient and effective;

NOW THEREFORE BE IT ORDAINED IN TOWN COUNCIL DULY ASSEMBLED AS FOLLOWS:

ARTICLE I GENERAL PROVISIONS

Section 26-10. Uniform Numbering System

A uniform system of numbering properties and principal buildings shall be established and maintained by the Town Administrator, which is filed in the Town Hall, is hereby adopted for use in the Town of Hemingway.

Section 26-11. Assignment of Numbers

(a) All properties or parcels of land within the incorporated limits of the Town of Hemingway shall hereafter be identified by reference to the uniform numbering system adopted herein; provided, further that all existing numbers of property and buildings not now in conformity with provisions of this ordinance shall be changed to conform to the system herein adopted.

(b) All numbers shall be assigned by the Town Administrator. All buildings north of east-west streets and east of north-south streets shall bear even numbers, and likewise all buildings on the south side of east-west streets and west of north-south streets shall bear odd numbers. All streets running more nearly north-south shall be numbered as north-south streets and all streets running more nearly east-west shall be numbered as east-west streets.

(c) No building shall be assigned more than one number.

Section 26-12. Location of Numbers

(a) When each house or building has been assigned its respective number or numbers, the owner, occupant, or agent shall place or cause to be placed upon each house or building controlled by him the number or numbers assigned under the uniform system as provided.

(b) Such numbers shall be placed on existing buildings on or before the effective date of this ordinance, and within twenty (20) days after the assigning of the proper number in the case of numbers assigned after the effective date of this ordinance. The cost of the numbers shall be paid for by the property owner. Residential numbers used shall not be less than three (3) inches in height and business numbers shall not be less than four (4) inches in height. These numbers shall be made of a durable and clearly visible material and shall be in a contrasting color from the building.

(c) The numbers shall be conspicuously placed immediately above, on or at the side of the proper door of each building so that the number can be seen plainly from the street line. Whenever any building is situated more than one hundred (100) feet from the street line, the number must be placed near the walk, driveway, or common entrance to such building and upon a mail box, gate post, fence, post or other appropriate place so as to be easily discernible from the street line.

Section 26-20. Administration

(a) Whenever any house, building or structure shall be erected or located in the Town of Hemingway after the establishment of the uniform system of numbering provided for herein has been completed, in order to preserve the continuity and uniformity of numbers of the houses, buildings and structures, it shall be the duty of the owner to procure the correct number or numbers as designated by the Town Administrator for the said property and to immediately fasten the said number or numbers assigned upon said building as provided by this ordinance. No building permit shall be issued for any house, building or structure until

the owner has procured from the Town Hall the official number of the premises. Final approval of any structure erected, repaired, altered or modified after the effective date of this ordinance shall be withheld by the Town building inspector until permanent and proper numbers have been affixed to said structure.

Section 26-30. Portions of Town of Hemingway to Which This Ordinance Apply

The provisions of this Ordinance shall be applicable only in all portions of the Town of Hemingway.

ARTICLE II PENALTIES

Section 26-40. Penalties

Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine not exceeding two hundred (\$200.00) dollars or to imprisonment for a term not exceeding thirty (30) days. Each day which such violation continues shall constitute a separate offense.

Amended 10/11/12

Chapter 28 Flood Damage Prevention Ordinance

Town of Hemingway Municipal, Regular Phase

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ARTICLE I. GENERAL PROVISIONS		
Section A	<u>Statutory Authorization.</u> The Legislature of the State of South Carolina has in SC Code of Laws, Title 5, Chapters 7, 23, and 25 (Articles 5 and 7) and Title 6, Chapter 7, 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. Therefore, the Hemingway Town Council of Hemingway, South Carolina does ordain as follows:	
Section B	<u>Findings of Fact .</u> The Special Flood Hazard Areas of The Town of Hemingway 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.	

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, floodproofed, or otherwise unprotected from flood damages.

Section C

Statement of Purpose and Objectives. 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. 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 flood waters or which may increase flood hazards to other lands.

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.

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 which evaluate resource conditions and human needs.

Section D

Lands to Which this Ordinance Applies. This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Town of Hemingway as identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated April 2, 1986, with accompanying maps and other supporting data, and any revision thereto, which are hereby adopted by reference and declared to be a part of this ordinance. Upon annexation any special flood hazard areas identified by the Federal Emergency Management Agency in its Flood Insurance Study for the unincorporated areas of Williamsburg County, with accompanying map and other data, and any revision thereto, are adopted by reference and declared part of this ordinance.

Section E

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.

- Section F** **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.
- Section G** **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.
- Section H** **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.
- Section I** **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 _____(local unit) 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.
- Section J** **Penalties for Violation.** 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 that \$500.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Hemingway from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE II. DEFINITIONS

- Section A** **General.** 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** - structure which is 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 fire wall 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 AO 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 which is below grade on all sides.

9- Building – see structure.

10- 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.

11- 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.

12- 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.

13-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 practical alternative.

14- Existing construction - means, for the purposes of determining rates, structures for which the start of construction commenced before April 2, 1986.

15- 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 April 11 1985.

16- 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).

17- 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.

18- 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.

19- 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.

20- Flood Insurance Study - the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

21- Flood-resistant material - any building material capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage

which requires more than low-cost cosmetic repair. Any material which 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 lumber are acceptable flooring materials. Sheet-type flooring coverings which restrict evaporation from below and materials which are impervious, but dimensionally unstable are not acceptable. Materials which absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2-93, *Flood-Resistant Materials for Buildings Located in Special Flood Hazard Areas in Accordance with the National Flood Insurance Program*, document number FIA-TB-2, dated 4/93, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

22- 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.

23- Freeboard – 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- 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.

25- Highest Adjacent Grade - the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

26 - 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.

27- Increased Cost of Compliance – applies to all new and renewed flood insurance policies effective on or 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.

28 - Limited storage - an area used for storage and intended to be limited to incidental items which 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 Section 410.5 of this ordinance. If the area is located below the base flood elevation in an V, VE and V1-V30 zone it must meet the requirements of Section 450.9 of this ordinance.

29- Lowest Adjacent Grade (LAG)- is an elevation of the lowest ground surface that touches any deck support, exterior walls of a building or proposed building walls.

30- Lowest Floor - the lowest floor of the lowest enclosed area (including basement). Any 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 an enclosure is not built so as to render the structure in violation of other provisions of this ordinance.

31- 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".

32- Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

33- 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).

34- National Geodetic Vertical Datum (NGVD) of 1929 – as corrected in 1929 elevation reference points set by National Geodetic Survey based on mean sea level.

35 - North American Vertical Datum (NAVD) of 1988 –vertical control, as corrected in 1988, used as the reference datum on Flood Insurance Rate Maps.

36- New construction - structure for which the start of construction commenced after April 11, 1985. The term also includes any subsequent improvements to such structure.

37- 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 after April 11, 1985.

38 - 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.

39- 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.

40 – Section 1316 of the National Flood Insurance Act of 1986 – 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.

41- 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.

42- 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.

43- 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. Please refer to the definition of “substantial improvement”.

44- 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 which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either: (1) 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, (2) any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure. 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.

45- 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.

46- Variance - the grant of relief from a term or terms of this ordinance.

47 – Violation – the failure of a structure or other development to be fully compliant with these regulations.

ARTICLE III. ADMINISTRATION

Section A **Designation of Local Administrator.** The Town Administrator is hereby appointed to administer and implement the provisions of this ordinance.

Section B **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.

Section C **Development Permit and Certification Requirements.** 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:

a- 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 floodplain administrator of Article III.E.11 or the Standard for Subdivision Proposals of Article IV.B and the Standards for streams without Estimated base Flood Elevations and Floodways of Article IV.C. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. 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 floodplain administrator of Article III.E.11 or the standards for subdivision proposals of Article IV.B.12 and the standards for streams without estimated base flood elevations and floodways of Article IV.C.

b- Where base flood elevation data is provided as set forth in Article I. D. or the duties and responsibilities of the local floodplain administrator of Article III.D.11 the application for a development permit within the flood hazard area shall show:

1- the elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures, and

2 - if the structure will be floodproofed in accordance with the Non-Residential Construction requirements of Article IV.B.2, the elevation (in relation to mean sea level) to which the structure will be floodproofed.

c- If no base flood elevation data is provided as set forth in Article I.D or the duties and responsibilities of the local floodplain administrator of Article III.D.11, then the provisions in the standards for streams without estimated base flood elevations and floodways of Article IV. C must be met.

d- 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.

2. Certifications

a- Flood proofing Certification -When a structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the non-residential, floodproofed structure meets the floodproofing criteria in non-residential construction requirements of Article IV.B.2 and Article IV.E.2 (b).

b –Certification During Construction - A floor elevation or floodproofing 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 floodproofing 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 floodproofed 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 same. 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. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. 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.

c-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.C.2a, 2b, and 2c that the development is built in accordance with the submitted plans and previous pre-development certifications.

D. **Duties and Responsibilities of the Local Administrator.** Duties of the local administrator shall include, but not be limited to:

1 Permit Review- Review all development permits to assure that the requirements of this ordinance have been satisfied.

2 Requirement of Federal and/or state permits- Review proposed development to assure that all necessary permits have been received from those government agencies from which approval is required by Federal or State Law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

3- Watercourse Alterations –

a. Notify adjacent communities and the South Carolina Department of Natural Resources, Land Resources and Conservation Districts 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.

b- In addition to the notifications required water course alterations per Article III.D.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.

c. If the proposed project will modify 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 construction.

d. Within 60 days of completion of an alteration of a watercourse, referenced in the certification requirements of Article III.C.2.d, the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.

4 Floodway encroachments- Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Article IV.B.5 are met.

5 Adjourning Floodplains – Cooperate with the neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

6 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.

7 Certification requirements -

a- Obtain 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.C.2.b.

b- Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with the floodproofing certification outlined in Article III.C.2.a

c- When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with non-residential construction requirements outlined in Article IV.B.2.

8 Map Interpretation- 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.

9-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,

10-Use of Best Available Data- When base flood elevation data or floodway data has not been provided in accordance with Article I.D, 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. 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.

11 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. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the local administrator in the permit file.

12 On-Site inspections- Make on-site inspections of projects in accordance with the administrative procedure in Article III.E.

13 Administrative Services- Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in Article III.E.

14- Records Maintenance -Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.

15-Annexations and Detachments. Notify the Land Resources and Conservation Districts Division, within six (6) months, of any annexations or detachments that include special flood hazard areas.

16 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.

17 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.

18 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 start of construction.

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 where “substantial improvement” will occur.

The market values shall be determined by one of the following methods:

- a- 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 within the past 6 months.
- b- 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 the cost of site improvements and depreciation for functionality and obsolescence.
- c- Real Estate purchase contract within 6 months prior to the date of the application of a permit.

Section E Administrative Procedures.

1- 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.

2- 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.

3- 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.

4- Periodic Inspections: The local administrator and each member of his 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.

5- Violations to be Corrected: When the local administrator finds violations of applicable State and local laws, it shall be his 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.

6- 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:

- a- the building or property is in violation of the Flood Damage Prevention Ordinance;
- b- 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,

c - following the hearing, the local administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

7- 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 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.

8- 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.

9 - 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.

10 – Denial of Flood Insurance under the NFIP: If a structure is declared in violation of this ordinance and after all other penalties are exhausted to achieve compliance with this ordinance then the local floodplain administrator shall notify the FEMA to initiate a Section 1316 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 floodplain administrator shall notify FEMA of the remedy and ask that the Section 1316 be rescinded.

11 – The following documents are incorporated by reference and may be used by the local floodplain administrator to provide further guidance and interpretation of this ordinance as found on FEMA’s website at www.fema.gov.

A FEMA 55 Coastal Construction Manual

B All FEMA Technical Bulletins

C All FEMA Floodplain Management Bulletins

D FEMA 348 Protecting Building Utilities from Flood Damage

E FEMA 499 Home Builder’s Guide to Coastal Construction Technical Fact Sheets

ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

A 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:

1-Anchoring All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

2-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 in accordance with Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency.

3- Minimize Flood Damage All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;

4- 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,

5- 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 two (2) feet.

6 Water Supply Systems- All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

7 Sanitary Sewage Systems- New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, Onsite waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding,

8 Gas or Liquid Storage Tanks – All gas or liquid storage tanks, either located above ground or buried, shall be anchored to prevent floatation and lateral movement resulting from hydrodynamic and hydrostatic loads.

9 Alteration, Repair, Reconstruction or Improvements- Any alteration, repair, reconstruction, or improvement to a structure which 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.

10- 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.

11- American with Disabilities Act (ADA). A building must meet the specific standards for floodplain construction outlined in Section 410, 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.

B. Specific Standards. In all areas of special flood hazard (Zones A, AE, AH, AO, A1-30, V and VE) where base flood elevation data has been provided, as set forth in Article I.D or outlined in the Duties and Responsibilities of the local floodplain administrator Article III.E, the following provisions are required:

1- Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor elevated no lower than two feet 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 flood waters shall be provided in accordance with the elevated building requirements in Article IV B.4.

2- Non-Residential Construction . A) New construction or substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes)

shall have the lowest floor elevated no lower than two feet above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated building requirements in Article IV B.4. No basements are permitted. Structures located in A-zones may be floodproofed 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. B) 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 floodproofing certification requirements in Article III.C.2.a A variance may be considered for wet-floodproofing 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 which are floodproofed are required to have an approved maintenance plan with an annual exercise. The maintenance plan must be approved by the local administrator and notification of the annual exercise shall be provided to same.

3- Manufactured Homes.

a - 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 two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

b - 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 of Section 410.31 of this ordinance must be elevated so that the lowest floor of the manufactured home is elevated no lower than two feet above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

c - 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 29-29.10 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, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.

d - 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.

4- 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 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.

- a** - Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
- 1** - 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;
 - 2** - The bottom of all openings shall be no higher than one foot above the higher of the interior or exterior grade immediately under the opening;
 - 3** - Only the portions of openings that are below the base flood elevation (BFE) can be counted towards the required net open area.
 - 4** - Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and,
 - 5** - 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.

b - **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.

c) Enclosures below Lowest Floor

- 1** - 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).
- 2** - The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, must be void of utilities except for essential lighting as required for safety, and cannot be temperature controlled.
- 3** One wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specific standards outlined in Article IV.B.1, 2 and 3.
- 4** - All construction materials below the required lowest floor elevation specified in the specified standards outlined in Article IV.B 1, 2, 3, and 4 shall be of flood resistant materials.

5- 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 flood waters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

- a** - No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted unless
- 1)** 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)** A conditional Letter of Map revision (CLOMR) has been approved by FEMA. A Letter of Map Revision must be obtained upon completion of the proposed development.
- b)-** 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.
- c)-** 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 and the encroachment standards of Article IV.B.5 are met.
- d)-** 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-rise 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.

6) Recreational Vehicles

a. A recreational vehicle is ready for highway use if it is:

- 1) on wheels or jacking system
- 2) attached to the site only by quick-disconnect type utilities and security devices; and
- 3) has no permanently attached additions

b. Recreational vehicles placed on sites shall either be:

- 1) on site for fewer than 180 consecutive days; or
- 2) 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 and B.4.

7) 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 I.D accurately represent flooding conditions so appropriate floodplain management criteria are based on current data. The following map maintenance activities are identified:

a) Requirement to Submit New Technical Data

1) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical or scientific data reflecting such changes be submitted to FEMA as soon as practicable, but no later than six months of the date such information becomes available. These developments proposals include; but not limited to:

- a) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - b) 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;
 - c) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 - d) Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Article IV.C.1.
- 2) It is the responsibility of the applicant to have technical data, required in accordance with Article IV.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.
- 3) The local floodplain administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
- a) Proposed floodway encroachments that increase the base flood elevation; and

b) 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.

4) Floodplain development permits issued by the local 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.

B) 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.

8- Accessory Structures.

A) A detached accessory structure or garage, the cost of which is greater than \$3000, must comply with the elevated structure requirements outlined in FEMA's Technical Bulletin 7-93 Wet Floodproofing Requirements or be elevated in accordance with Article IV Section B (1) and B (4) or dry floodproofed in accordance with Article IV B (2).

B) When accessory structures of \$3000 or less are to be placed in the floodplain, the following criteria shall be met:

1 - Accessory structures shall not be used for any uses other than the parking of vehicles and storage;

2- Accessory structures shall be designed to have low flood damage potential;

3 - Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

4- Accessory structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure;

5- Service facilities such as electrical and heating equipment shall be installed in accordance with Article IV. A.5;

6- Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with Article IV.B.4a, and

7-Accessory structures shall be built with flood resistance materials in accordance with Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08 and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

9) 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:

a) Meet the requirements for accessory structures in Article IV.B.8

b) 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.

10 Elevators –

a) 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 descent below the BFE during a flood per FEMA's Technical Bulletin 4-93 Elevator Installation for Building Located in Special Flood Hazard Areas.

b) 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 Building Located in Special Flood Hazard Areas.

- 11- 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) and 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:
- a- Fill may not be placed in the floodway unless it is in accordance with requirements of Article IV.B.5a;
 - b- Fill may not be placed in tidal or nontidal wetlands without the required State and federal permits;
 - c- Fill must consist of soil and rock materials only. Dredged material may be used as fill only upon certification of suitability by a registered professional geotechnical engineer. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain;
 - d- Fill used to support structures must comply with ASTM Standard D-698, and its suitability to support structures certified by a registered, professional engineer;
 - e- Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion; and,
 - f- The use of fill shall not increase flooding or cause drainage problems on neighboring properties.
 - g-Fill may not be used for structural support in the coastal high hazard areas.
 - h- Will meet the requirements of FEMA Technical Bulletin 10-01, Ensuring That Structures Built on Filling or Near Special Flood Hazard Areas are Reasonable Safe from flooding

12. Standards for Subdivision Proposals and other Development

- a- All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- b-** All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c-** All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,
- d-**The applicant shall meet the requirement to submit technical data to FEMA in Article IV B.7 when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

C. 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:

- 1- 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 subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
- 2- 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.
- 3-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 floodproofed in accordance with elevations established in accordance with Article III.E.11

4-. Data from preliminary, draft, and final Flood Insurance Studies constitutes best 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.

5-When base flood elevation 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:

- a) Contour Interpolation
 - 1) Superimpose approximate Zone A boundaries onto a topographic map and estimate a BFE.
 - 2) Add one-half of the contour interval of the topographic map that is used to the BFE.
- b) Data Extrapolation- A BFE can be determined if a site within 500 feet upstream of a reach of a stream reach for which 100-year profile has been computed by detailed methods and the floodplain and channel bottom slope characteristics are relatively similar to the down stream reaches. No hydraulic structures shall be present.
- c) Hydrologic and Hydraulic Calculations-Perform hydrologic and hydraulic calculations to determine BFEs using FEMA approved methods and software.

D. Standard for Streams with Established Base Flood Elevations but without Floodways- 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.

- 1) 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 (1) foot at any point within the community.

E. Standards for Areas of Shallow Flooding (AO 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:

- 1- 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.
- 2- All new construction and substantial improvements of non-residential structures shall:
 - a - 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,
 - b- be completely floodproofed 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 buoyance.
- 3- All structures on slopes must have drainage paths around them to guide water away from the structures.

ARTICLE V. VARIANCE PROCEDURES

- A Establishment of Appeal Board.** The Town of Hemingway Board of appeals as established by the Hemingway Town Council shall hear and decide requests for variances from the requirements of this ordinance.
- B Right to Appeal.** Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court.
- C 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.
- D Functional Dependant Uses-** Variances may be issued for development necessary for the conduct of a functionally dependant use, provided the criteria of this Article are met, no reasonable alternative exist, and the development protected by methods that minimize flood damage and create no additional threat to public safety.
- E Agricultural Structures.** Variances may be issued to wet floodproof an agricultural structure provided it is used solely for agricultural purposes. 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:
- 1-** use of the structure must be limited to agricultural purposes as listed below:
 - a- pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment;
 - b- steel grain bins and steel frame corn cribs;
 - c- general purpose barns for the temporary feeding of livestock which are open on at least one side;
 - d- for livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures which were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of Section 410.2 of this ordinance; and,
 - 2-** the agricultural structure must be built or rebuilt, in the case of an existing building which is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation;
 - 3-** 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;
 - 4-** the agricultural structure must meet the venting requirement of Section 410.51 of this ordinance;
 - 5-** any mechanical, electrical, or other utility equipment must be located above the base flood elevation so that they are contained within a watertight, floodproofed enclosure which is capable of resisting damage during flood conditions. The structure must comply with Section 400.4 of this ordinance;
 - 6-** the agricultural structure must comply with the floodway encroachment provisions of Section 410.8 of this ordinance; and,
 - 7 -** major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed 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 Section 410.6.

- F. **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 flood waters 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.
- G. **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 Resources and Conservation Districts Division, State Coordinator's Office, must be taken into account and included in the permit file.
- H. **Floodways.** Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- I. **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:
- 1- Variances may not be issued when the variance will make the structure in violation of other federal, State, or local laws, regulations, or ordinances.
 - 2- Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 3- 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.
 - 4- Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation 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.
 - 5- The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

6- 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 Section 330.5 of this ordinance.

ARTICLE VI. LEGAL STATUS PROVISIONS

- A 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 enacted February 10, 2005, 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 thereunder 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 Hemingway enacted on February 10, 2005, as amended, which are not reenacted herein are repealed.
- B 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.
- C Effective Date.** This ordinance shall become effective upon adoption.

CHAPTER 28. DROUGHT RESPONSE ORDINANCE

Section 28-10. Declaration of Policy, Purpose and Intent

Purpose: 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 Hemingway 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 Council of Hemingway.

Whenever, in the judgement of the government body of the Town of Hemingway it becomes necessary to conserve water in the service area, due to drought, the Mayor 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 (Section VIII).

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

Section 28-11. 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 supplies by the Town of Hemingway.

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, and 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 and making recommendations for action to the South Carolina Water Resources Commission and/or the Governor.

Essential Water Use: Water used specifically for fire fighting, maintaining instream 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.

Section 28-12. Non-Residential Water Use

Non-residential water use categories, other than water use, may be 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 or private or public property, except as otherwise 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 fire fighting.
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.

Section 28-13. Responses 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 Mayor shall coordinate an appropriate response to the level of drought which exists.

Proclamations setting forth response to the various drought alert phases shall be made by the Mayor 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 or 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 Hemingway 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:

* Reduce aesthetic, domestic, landscaping, and water-based recreational activities such as swimming pools, water slides, and other related water activities.

- (c) Electric Power Generation

- (d) Residential:

- * Reduce water use to seventy-five gallons per person per day, and a maximum of 300 gallons per household per day.
- * 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 the Town of Hemingway 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:

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

(b) Commercial, Industrial and Institutional

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

(c) Electric Power Generation

(d) Residential:

- * Restrict water use to seventy-five gallons per person per day, and a maximum of 300 gallons per household per day.
- * Limit water-based recreational activities to new facilities that require filling such as swimming pools, water slides, and other related water activities.
- * Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design and maintenance.
- * 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 the Town of Hemingway 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:

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

(b) Commercial and Industrial:

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

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

Section 28-14. 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, approved, or installed unless such action is in compliance with provisions of this Ordinance.

Section 28-15. Water Rates

In the event of an extreme drought related water shortage, the Town of Hemingway is hereby authorized to monitor water use and limit households to 75 gallons per household member per day. Domestic water use above this limit will be subject to a surcharge of \$.50 per gallon. Institutional, commercial, industrial, and recreational water users will be subject to water use surcharges of \$.50 per 1000 gallons of water used if the Town of Hemingway deems that adequate conservation measures have not been implemented.

Section 28-16. Rationing

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

Section 28-17. Fines and Penalties

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

<u>Violation</u>	<u>Classification</u>	<u>Penalty</u>
First Offense	Infraction	\$ 20.00
Second Offense	Infraction	\$ 50.00
Third and subsequent offense within the same drought period	Misdemeanor	\$100.00

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 Hemingway may 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, hereby established at \$10.00, and any other costs incurred by the Town of Hemingway in discontinuing service. In addition,

suitable assurances must be given to the Town that the same action shall not be repeated during the drought or water shortage.

Section 28-18. Enforcement

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

Management employees of the Town of Hemingway, Department of Public Works and Fire Department have the duty, and 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.

Section 28-19. 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 provision of this Ordinance shall file a petition for variance with the Town of Hemingway within ten days after such curtailment becomes effective.

When the Drought Ordinance has been invoked by the Town of Hemingway by an action independent of the Water Resources Commission, all petitions for variances shall be reviewed by the Town Council of Hemingway. When the Drought Ordinance has been invoked by the Town Council, acting on the direction of the Water Resources Commission, persons using less than 25,000 gallons of water per day shall file a petition for variance with the Town Council of Hemingway, and persons using in excess of 25,000 gallons of water per day shall file a petition for variance with the Water Resources Commission within ten days of the effective date of water use curtailment or reduction. The Water Resources Commission shall respond to requests for variance within five days of receipt of information or within twenty days of declaration of the curtailment, whichever comes first. Petitions shall contain the following:

- A. Name and address of the petitioner(s).
- B. Purpose of water use.
- C. Specific provision from which the petitioner is requesting relief.
- D. Detailed statement as to how the curtailment declaration adversely affects the petitioner.
- E. Description of the relief desired.
- F. Period of time for which the variance is sought.
- G. Economic value of the water use.
- H. Damage or harm to the petitioner or others if petitioner complies with Ordinance.
- I. Restrictions with which the petitioner is expected to comply and the compliance date.

- J. Steps the petitioner is taking to meet the restrictions from which variance is sought and the expected date of compliance.
- K. Other pertinent information.

In order for a variance to be granted, petitioner must show which of the following conditions apply:

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

The Town Council 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 more of the aforementioned conditions is met. The governing body of the Town of Hemingway 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 Hemingway.

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

Variances granted by the Town Council shall be subject to the following conditions, unless waived or modified by the Town Council.

- A. Variances granted shall include a timetable for compliance.
- B. Variances granted shall expire when the water shortage no longer exists, unless the petitioner has failed to meet specified requirements.

Section 28-20. Status of the Ordinance

In the event that any portion of this Ordinance is held to be unconstitutional for any reason, the remaining portions of the Ordinance shall not be affected.

The provisions of this Ordinance shall prevail and control in the event of any inconsistency between this Ordinance and other rules and regulations of the Town of Hemingway.

CHAPTER 29. GARBAGE AND REFUSE DISPOSAL

Section 29-10. Garbage and Refuse Defined

- (1) Garbage: organic waste matter, both animal and vegetable, being comprised chiefly of waste food.
- (2) Refuse: waste material other than garbage.

Section 29-11. Sweeping Onto Street or Sidewalk

It shall be unlawful for any person or his agent to put, place, sweep, or throw any trash, house-sweepings, paper cups, dirt, paper, broken glass, tin cans, bottles, ashes, shavings, or other garbage, waste or refuse upon any sidewalk or in any alley, street, gutter, catchbasin or other public place in the Town: Except in approved receptacles.

Section 29-12. Dumping in City Limits Prohibited

There shall be no dumping of garbage, trash, debris or any form of solid waste within the Town limits except such items as designated by Council; at such times as designated by Council; in such places as designated by Council and only under provisions stipulated by Council.

No person or business located outside the Town limits shall bring garbage or refuse into the Town for collection.

Section 29-13. Refuse Containers to be Provided by Owner

Refuse containers shall be provided by the owner, tenant, lessee, or occupant of the premises. Refuse containers shall be maintained in good condition. Any container that does not conform to the provisions of this Ordinance or that may have ragged or sharp edges or any other defect which may hamper or injure the person collecting the contents thereof, shall be promptly replaced on notice.

All loose materials other than boxes shall be placed in plastic bags prior to placement in the dumpster.

Section 29-14. Garbage Container - Type and Placement

Garbage containers shall be made of metal or plastic, equipped with tight fitting covers and have a capacity of 32 gallons or less. Containers shall be placed at points accessible from the street or public alley and at ground level. If one container is not sufficient to hold the quantity of garbage or refuse, a sufficient number of similar receptacles shall be provided. All garbage and refuse shall be drained of liquid before being deposited for collection.

Section 29-15. Boxes, Cartons, Containers to be Broken Down

All residential and commercial boxes, cartons, and containers shall be broken down to the smallest possible dimension. Any of the items mentioned herein not meeting the stipulated requirements shall not be picked up by the Town Sanitation Department.

Section 29-16. Leaves, Clippings, Pine Cones and Similar Debris and Limbs and Boards - Requirements for Sanitation Pick Up

All leaves, clippings, pine cones and similar debris must be placed in an approved container and all limbs and boards must not exceed ten feet in length. Any debris not meeting the requirements stated herein will not be collected by the Town Sanitation Department. Failure to meet requirements upon notification will result in a fee of \$10.00 as prescribed in Section 29-21.

Section 29-17. Frequency of Garbage Collection

The Town under normal circumstances will pick up residential garbage and waste on Wednesdays. The Town Council shall have the authority to collect garbage and waste at other such times and intervals as deemed necessary for the health and sanitation of the community.

Section 29-18. Use of Town Dump

No employee or elected official shall allow any person, business, etc. to deposit materials at the Town dump which does not comply with SCDHEC regulations. All materials placed at the dump must be done at a time when a Town employee is present, except for tree surgeon companies.

Section 29-19. Industrial and Construction Waste

Waste and refuse from manufacturing assembling or processing operations will not be collected by the Town and no building materials or refuse from building operations or landscape contract work will be handled by Town employee. All accumulations of glass, wood, brick, shavings or waste material of any kind resulting from building operations shall be removed by the contractor in charge of such building operations.

Section 29-20. Service to Out-of-Town Residents

There shall be no collection of garbage from any establishment or home outside the corporate limits unless the same is authorized by Council.

Section 29-21. All Water Subscribers to Pay Sanitation Fee for Non-Compliance with Ordinance

Each water subscriber within the municipal limits of the Town of Hemingway who does not comply with this ordinance shall be required to pay a monthly sanitation fee. The fees so charged shall be in addition to the charge made for water and sewerage and shall, in all instances, where any person or business shall be liable for a water bill, be added thereto and become a part thereof. The Town of Hemingway reserves the right to exempt those from sanitation fees that it is unable to serve.

Section 29-22. Billing and Penalties

The monthly sanitation fee shall be added to the monthly water bill and shall be due and payable on the same day as the water and sewer bill. A ten percent (10%) late fee shall be added if not paid by the late fee date for water users. If any sanitation fee remains unpaid on the cut-off date for water, water service shall be discontinued and remain discontinued until such subscriber shall have paid the past due sanitation fees and penalties.

Section 29-23. Sanitation Fees Set by Council

All fees for sanitation service shall be set by Town Council and are subject to change from time to time without notice.

Section 29-24. Sanitation Fees

Monthly fees for sanitation service shall be determined by the following:

Residential (up to three 35 gallon cans)-----\$5.00

Small Business (up to three 35 gallon cans)-----\$12.50

Commercial Dumpsters-----\$2.60 per cubic yard

Updated 09/01/10

CODE	DESCRIPTION	RATE	NEW RATE AFFECTED 09/01/10
S1	IN TOWN RESIDENTIAL COLLECTION	9.00	10.00
S2	SMALL BUSINESS COLLECTION	16.50	17.50
S13	OUT OF TOWN RESIDENTIAL COLL	14.50	15.50
S14	OUT OF TOWN GARBAGE	23.50	24.50
S15	OUT OF TOWN-2 CARTS (RESIDENTIAL	29.00	30.00
S16	OUT OF TOWN-2 CARTS BUSINESS	47.00	48.00
S18	SMALL BUSINESS + ONE EXTRA	31.00	32.00
S19	IN TOWN RESIDENTIAL + ONE EXTRA	16.95	17.95
S20	SMALL BUSINESS + TWO EXTRA	45.50	46.50

AMENDED 09/08/2011

CODE	DESCRIPTION	RATE	NEW RATE AFFECTED 09/08/11
S1	IN TOWN RESIDENTIAL COLLECTION	10.00	12.00
S2	SMALL BUSINESS COLLECTION	16.50	17.50
S13	OUT OF TOWN RESIDENTIAL COLL	14.50	15.50
S14	OUT OF TOWN GARBAGE	23.50	24.50
S15	OUT OF TOWN-2 CARTS (RESIDENTIAL	29.00	30.00
S16	OUT OF TOWN-2 CARTS BUSINESS	47.00	48.00
S18	SMALL BUSINESS + ONE EXTRA	31.00	32.00
S19	IN TOWN RESIDENTIAL + ONE EXTRA	16.95	17.95
S20	SMALL BUSINESS + TWO EXTRA	45.50	46.50

AMENDED 10/01/2015

CODE	DESCRIPTION	RATE	NEW RATE AFFECTED 10/01/15
S1	IN TOWN RESIDENTIAL COLLECTION	12.24	12.74
S2	SMALL BUSINESS COLLECTION	17.50	18.00
S13	OUT OF TOWN RESIDENTIAL COLL	15.50	16.00
S14	OUT OF TOWN GARBAGE	24.50	25.00
S15	OUT OF TOWN-2 CARTS (RESIDENTIAL	30.00	30.50
S16	OUT OF TOWN-2 CARTS BUSINESS	48.00	48.50
S18	SMALL BUSINESS + ONE EXTRA	32.00	32.50

S19	IN TOWN RESIDENTIAL + ONE EXTRA	17.95	18.45
S20	SMALL BUSINESS + TWO EXTRA	46.50	47.00

CHAPTER 30 SETOFF DEBT COLLECTION PROGRAM

Section 30-1. Setoff Debt Collection Ordinance

Relating to the recovery of collection costs as a part of delinquent debts collected pursuant to the Setoff Debt Collection Act.

WHEREAS, the Town of Hemingway is a claimant agency as defined in the Setoff Debt Collection Act, S.C. Code Ann. § 12-56-10, et seq (the Act) and is therefore entitled to utilize the procedures set out in the Act to collect delinquent debts owed to the Town of Hemingway;

AND WHEREAS, “delinquent debt” is defined in the Act to include “collection costs, court costs, fines, penalties, and interest which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made;”

AND WHEREAS, the Town of Hemingway has contracted with the Municipal Association of South Carolina to submit claims on its behalf to the SC Department of Revenue pursuant to the Act;

AND WHEREAS, the Municipal Association of South Carolina charges a fee for the services it provides pursuant to the act;

AND WHEREAS, the fee charged by the Municipal Association of South Carolina is a cost of collection incurred by the Town of Hemingway that arises through contract, and is therefore properly considered as a part of the delinquent debt owed to the Town of Hemingway as that term is defined in the Act;

AND WHEREAS, the Town of Hemingway also incurs internal costs in preparing and transmitting information to the Municipal Association, which costs are also collection costs that are a part of the delinquent debt owed to the Town of Hemingway;

AND WHEREAS, the Town of Hemingway desires to recover its internal costs of collection by charging a fee that will be added to the delinquent debt;

NOW THEREFORE, be it enacted by the Mayor and Council of the Town of Hemingway as follows:

1. The Town of Hemingway hereby imposes an administrative fee in the amount of \$25.00 to defray its internal costs of collection for any delinquent debts that are sought to be collected pursuant to the provisions of the Setoff Debt Collection Act, S.C. Code Ann. § 12-56-10 et. seq.

This fee is hereby declared to be a collection cost that arises by operation of law and shall be added to the delinquent debt and recovered from the debtor.

2. The Town of Hemingway hereby declares that the administrative fee charged by the Municipal Association of South Carolina is also a collection cost to the Town, which shall also be added to the delinquent debt and recovered from the debtor.

3. All Ordinances in conflict with this Ordinance are hereby repealed.

4. This Ordinance shall be effective on the date of final reading, provided however, that this ordinance is declared to be consistent with prior law and practice and shall not be construed to mean that any fees previously charged to debtors as costs of collection under the Act were not properly authorized or properly charged to the debtor.

CHAPTER 31

TOWN OF HEMINGWAY FAIR HOUSING

Section 31-1 Title

31-2 Policy

31-3 Definitions

31-4 Purpose of Law, construction: effect

31-5 Unlawful Housing Practices

31-6 Blockbusting

31-7 Exemptions from Housing Provisions

31-8 Establishment of Procedures for Conciliation

31-9 Finding of Housing Board of Appeal: Nature of Affirmative Action

31-10 Investigations, Powers, Records

31-12 Conspiracy to Violate this Chapter Unlawful

31-13 Fair Housing Month

31-99 Penalty

Section 31-1. Title

This chapter shall be known and may be cited as the Town of Hemingway, South Carolina “Fair Housing Ordinance”.

Section 31-2. Policy

It is the policy of the Town of Hemingway that no person shall be discriminated against in the sale or rental of housing on the basis of race, color, religion, sex, national origin, handicap or familial status.

Section 31-3. Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Conciliation Agreement” A written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both complainants and respondent and witnessed by a duly authorized enforcing agent who will also be so designated by the Town of Hemingway.

“Conciliation Failure” Any failure to obtain a conciliation agreement between the parties to the discrimination charge or a branch thereof.

“Discrimination” Any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitations, refusal, denial or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, handicap, or familial status or the aiding, abetting, inciting, coercing or compelling thereof.

“Housing Accommodations (Improved and unimproved property)” A building structure lot or part thereof which is used for or occupied as of home or residence of one or more individuals.

“Real Estate Broker or Real Estate Salesman” An individual who, on behalf of others, for a fee, commission, salary or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon whereby he undertakes to promote the sale, purchase, exchange, rental or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these.

“Real Estate Operator” Any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trust, incorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the town or county or any of its agencies or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereof, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

“Real Property.” Building, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, mobile homes, and hereditaments, or any interest in the above.

Section 31-4. Purpose of Law, Constitution: Effect

(A) The general purposes of this chapter are:

- (1) To provide for execution within the Town of Hemingway of policies embodied in Title VIII of the Federal Civil Rights Act of 1968, as amended.
- (2) To safeguard all individuals within the Town of Hemingway from discrimination in housing opportunities because of race, color, religion, national origin, sex, handicap or familial status; thereby to protect their interest in personal dignity and freedom from humiliation; to secure the town against domestic strife and unrest which would menace its democratic institutions; to preserve the public health and general welfare; to further the interests, rights and privileges of individuals with the Town of Hemingway.

Section 31-5. Unlawful Housing Practices

It is an unlawful practice for a real estate owner or operator or for a real estate broker, real estate salesman, or an individual employed by or acting on behalf of any of these to:

- (A) Refuse to sell, exchange, rent or lease or otherwise deny to or withhold real property from an individual because of his or her race, color, religion, national origin, handicap, familial status or sex;
- (B) Discriminate against an individual because of his or her race, color, religion, national origin, handicap, familial status, or sex in terms, conditions or privileges of this sale,

exchange, rental or lease of real property or in the furnishing of facilities or services in connection therewith;

- (C) Refused to receive or transmit a bona fide offer to purchase, rent, or lease real property from an individual because of his or her race, color, religion, national origin, handicap, familial status or sex;
- (D) Refuse to negotiate for the sale, rental or lease of real property to an individual because of his or her race, color, religion, national origin, handicap, familial status or sex;
- (E) Represent to an individual that real property is not available for inspection, sale, rental or lease when it fact I so available, or to refuse to permit an individual to inspect real property because of his or her race, color religion, national origin, handicap, familial status or sex;
- (F) Print, circulate, post or mail or cause to be printed, circulated, posted or mailed an advertisement or sign or to use a form of application for the purchase, rental , or lease or real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification or discrimination as to race, color, religion, national origin, handicap, familial status or sex or an intent to make such a limitation, specification or discrimination.
- (G) Offer, solicit, accept, use or retain a listing of real property for sale, rental, or lease with the understanding that an individual may be discriminated against in the sale, rental or lease of that real property or in connection therewith because of race, color, religion, national origin, handicap, familial status or sex;
- (H) Otherwise deny to or withhold real property from an individual because of race, color, religion, national origin, handicap, familial status or sex.

Section 31-6. Blockbusting

It is an unlawful practice for a real estate owner or operator, real estate broker, a real estate salesman, a financial institution, employee of any of these, or any other person, for the purpose of producing a real estate transaction from which he may benefit financially.

- (A) To represent that a change has occurred or will or may occur from the composition with respect to race, color, religion, national origin, handicap, familial status or sex of the owners or occupants in the block, neighborhood, or areas in which the real property is located; or
- (B) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located. Penalty, see Section 31-99.

Section 31-7. Exemptions From Housing Provisions

(A) Nothing in Section 31-5 will apply:

- (1) To the rental of housing accommodations in a building which contains housing accommodations for not more than four families living independently of each other, if the owner or member of his family resides in one of the housing accommodations.
- (2) To the sale of single-family dwellings provided that a private individual owner who does not own more than three such single-family houses, does not advertise the sale of rental of such houses in newspaper, magazine, or

advertising circular, and does not employ the services of a real estate operator, real estate broker, or real estate salesman.

- (3) To the rental of one room or one rooming unit in a housing accommodation by an individual if he or a member of his family resides therein.

- (B) A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwelling which it owns or operates for other than a commercial purpose to person of the same religion, or from giving preference to such person, unless membership in such a religion is restricted on account of race, color, national origin, handicap, familial status or sex.

Section 31-8. Provisions for Enforcement

- (A) The Town of Hemingway may sue in a civil act for appropriate remedies to enforce the provisions of this chapter, including temporary restraining orders and mandatory and prohibitory injunctions.
- (B) In addition to appropriate civil and/or equitable remedies for enforcement of this chapter, a violation of this chapter shall constitute a misdemeanor punishable as provided by law. Each day of non-compliance with the provisions of this chapter constitutes a separate and distinct violation.

Section 31-9. Establishment of Procedures for Conciliation

- (A) The Town of Hemingway shall designate an agent to investigate, make determination of probable cause, and seek to conciliate apparent violations of this chapter. Conciliation efforts may be initiated by any person said to be subject to discrimination as defined in this chapter.
- (B) The Town of Hemingway shall establish a Hearing Board which in turn shall adopt formal rules and procedures to hear complaints and make appropriate findings. Such procedures shall be made known to all parties of a given charge of discrimination. Hearing Board which in turn shall adopt formal rules and procedures to hear complaints and make appropriate findings. Such procedures shall be made known to all parties of a given charge of discrimination. Hearings by the Board shall commence whenever the agent acting on behalf of the Town of Hemingway decides a conciliation failure has occurred and the respondent agrees to participate in the Hearing Board proceedings. Hearings open to the public may be initiated by the responding party at any time during the conciliation process.

Section 31-1-. Finding of Housing Board of Appeal: Nature of Affirmative Action

- (A) If the Housing Board determines that the respondent has not engaged in an unlawful practice, the Board shall state its findings of fact and conclusions of law and shall issue an order dismissing the complainant. A copy of the order shall be delivered to the complainant, the respondent, the Town of Hemingway's attorney, and such other public officers and persons as the board deems proper;
- (B) If the Housing Board determines that the respondent has engaged in an unlawful practice, it shall state its findings of fact and recommendations to the Housing Officer. The Housing Officer shall in appropriate cases, obtain an arrest warrant for violation of this chapter from the Town of Hemingway recorder.

Section 31-11. Investigations, Powers, Records

- (A) In connection with investigation of a complaint filed under this chapter, the enforcing agent at any reasonable time may request voluntary access to premises, records, and documents relevant to the complaint and may request the right to examine, photograph, and copy evidence.
- (B) Every person subject to this chapter shall make, keep and preserve records relevant to the determination of whether unlawful practices have been or are being committed, such records being maintained and preserved in a manner and to the extent required under the Civil rights Act of 1968 and any regulation promulgated thereunder.

Section 31-12. Conspiracy to Violate this Chapter Unlawful

It shall be an unlawful practice for a person, or for two or more persons to conspire:

- (A) To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, or proceedings or hearing under this chapter.
- (B) To aid, abet, incite, compel or coerce a person to engage in any of the acts or practices declared unlawful by this chapter; or
- (C) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder; or
- (D) To resist, prevent, impede or interfere with the enforcing agent, Housing Board, or any of its members or representatives in the unlawful performance of duty under this chapter.

Penalty, see Section 31-99.

Section 31-13. Fair Housing Month

The Town of Hemingway Council proclaims April as Fair Housing Month.

Section 31-99. Penalty

Any violator of this chapter may be prosecuted in the Town of Hemingway Recorder's Court and upon finding of guilt, the violator may be fined in an amount not to exceed \$500 or imprisoned for a period not to exceed 10 days.

CHAPTER 32 REGULATED ADULT BUSINESS

Section 708.4 Regulated Adult Business

(1) Generally. A regulated adult business shall be defined as any business activity, club or other established which permits its employees, members, patrons, or guests on its premises to exhibit any specified anatomical areas before any other person or persons.

(1) Location. No regulated adult business shall be permitted:

- (a) On any lot or parcel within 500 feet of any zoning district within which residential uses are permitted.
- (b) On any lot or parcel within 500 feet of any other lot or parcel on which a regulated adult business is located;
- (c) On any lot or parcel within 500 feet of any lot or parcel on which a church or other house of worship is located;

- (d) On any lot or parcel within 500 of any lot or parcel on which a primary or secondary school is located;
 - (e) On any lot or parcel within 500 feet of any lot or parcel on which a public playground, public swimming pool or public park is located.
 - (f) In the Town of Hemingway, adult regulated businesses can only be located in the Heavy Industrial Zone (H1).
- (2) Definition of anatomical areas. For the purposes of this section 708, specified anatomical areas are defined as less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.
 - (3) Parking requirements. Regardless of the zoning district within which it is located, regulated adult businesses shall be required to provide one on-premises parking space for each 100 square feet of gross floor space within its building.
 - (4) Signs and other visible messages. All regulated uses shall be permitted signs and visible messages based on the allowable sign area of the zoning district in which they are located: provided:
 - 1. Signs
 - (a) Sign copy shall be limited to verbal description of material or services available on the premises; and
 - (b) Sign copy may not include any graphic or pictorial depiction of material or services available on the premises.
 - 2. Other visible messages.
 - (a) Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing or services offered on the premises.

Section 708.5 Regulated sexually oriented adult business.

(1) Generally. A regulated sexually oriented business shall be defined as any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Regulated businesses shall include, but not limited to: adult arcades, adult markets, adult motion picture theaters, adult theaters, and adult video rental/sale stores as hereinafter defined in section 708.5.3

(2) Location. No regulated sexually oriented business shall be permitted:

- (1) On any lot or parcel within 500 feet of any zoning district within which residential uses are permitted;
- (2) On any lot or parcel within 500 feet of any other lot or parcel on which a regulated sexually oriented business or a regulated adult business is located;
- (3) On any lot or parcel within 500 feet of any lot or parcel on which a church or other house of worship is located;
- (4) On any lot or parcel within 500 feet of any lot or parcel on which a state-licensed day care center or school (grades kindergarten through 12) is located;

- (5) On any lot or parcel within 500 feet of any lot or parcel on which a public playground, public swimming pool or public park is located;
- (3) Definitions. For the purposes of this section, the following definitions apply:
- (1) Adult Arcade. An establishment where, for any form of consideration, one or more machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic, electronic or computer generated reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specifies anatomical areas as defined hereinafter.
- (2) Adult market. An establishment that has as a substantial portion (over 25 percent of total retail space) of its stock-in-trade and offers for sale or rent, for any consideration, any one or more of the following: Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (3) Adult motion picture theater. An establishment where, for any form of consideration, films, motion pictures, video cassettes slides, or similar photographic reproductions are shown, and in which a substantial portion (25 percent) of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
- (4) Adult theater. A theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.
- (5) Specified anatomical areas. Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.
- (6) Specified sexual activities. As herein specified, sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, public region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; (4) excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 3 of this subsection.
- (4) Parking requirements. Regardless of the zoning district within which it is located, a regulated sexually oriented business shall be required to provide on on-premise parking space for each 100 square feet of gross floor space within its building.
- (5) Signs and other visible messages. All regulated uses shall be permitted signs and or visible messages based on the allowable sign area of the zoning district in which they are located; provided;
- (1) Signs
- (1) Sign copy shall be limited to alphanumeric description of material or services available on the premises; and
- (2) Sign copy shall not include any graphic or pictorial depiction of material or services available on the premises.

(2) Other visible messages.

- (1) Messages which are visible or intended to be visible from outside the property (such as on or with doors or windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing or services offered on the premises.

Section 708.6 Nonconforming sexually oriented businesses.

Notwithstanding any conflicting provisions of this zoning ordinance, any regulated sexually oriented business which was lawfully operating in the city immediately prior to the effective date of this ordinance that is thereafter found to be in violation of Section 708.5 shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two years from the initial date of nonconformity. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If a nonconforming use is discontinued for a period of ninety days or more it may not be re-established. If two or more sexually oriented businesses are within 500 feet of one another and are otherwise in a permitted location, the sexually oriented business which was first established and continually operating at its present location shall be considered the conforming use and the later-established business shall be considered nonconforming. A sexually oriented business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a church, house of worship, daycare center, school. Playground, public swimming pool, or public park within 500 feet of the sexually oriented business.

CHAPTER 33 TATTOOING REGULATIONS

Sec. 15-27.1 Unlawful to perform tattooing on minors without parental consent.

It shall be unlawful to perform tattooing on any person under the age of 18 unless that person's parent or legal guardian accompanies the person to the tattooing business and provides written consent.

Sec. 15-27.2 Verification that the customer on whom the tattooing is performed is 18 years of age or older or has the consent of a parent or guardian.

The tattoo vendor shall, prior to performing any tattooing make sure that the customer to be tattooed is 18 years or older or has the consent of a parent or legal guardian to be tattooed. If the customer is less than 18 years of age, they must bring a parent or legal guardian to the premises and the parent or legal guardian must sign a consent form giving their permission for the tattooing of the customer.

In the event that the customer is 18 years of age or older, the tattooing vendor shall assure him or herself of the age of the customer by viewing two forms of identification, one of which shall be a picture form of identification.

The types of identification accepted shall be legal forms of identification such as a birth certificate, drivers license, state identification card or military identification card. The vendor shall make a written record of all of the pertinent information on these two forms of identification and shall maintain this written record for inspection by competent authorities for the period of three years from the date the service is rendered.

Sec. 15-27.3 Written statement of costs and the written name and signature of the person performing the tattooing required.

- (a) No tattooing vendor shall commence any tattooing for a customer without first furnishing to the customer a written statement showing the final cost of the tattooing. It shall also contain the signature and written name of the person performing the tattooing and the written name and signature of the person receiving the tattooing or the signature of the parent or legal guardian.
- (b) No part of the requirements may be waived.

Sec. 15-27.4 Signature required.

A tattooing vendor shall conspicuously post at all entrances to its premises and above the location within the business where tattooing is performed, on a sign not less than 18 inches in height and 24 inches in width, as approved by the police chief, the following notice:

“CITY CODE REQUIRES THAT A WRITTEN STATEMENT OF TOTAL COSTS BE FURNISHED TO THE CUSTOMER PRIOR TO THE COMMENCEMENT OF TATTOOING AND THAT THE CUSTOMER BEING TATTOOED BE AT LEAST EIGHTEEN YEARS OF AGE OR HAVE THE CONSENT OF A PARENT OR LEGAL GUARDIAN.”

Sec. 15-27.5 These regulations are required by the Town of Hemingway. The facility must be approved by DHEC and also issue a license.

Sec. 15-27.6 Locations.

In the Town of Hemingway, tattoo parlors can only be located in the Heavy Industrial Zone. (HI)

Chapter 34 TAXICABS

- 34-1 Definitions
- 34-2 Compliance; exceptions
- 34-3 Ownership of vehicle required.
- 34-4 Lease of vehicles to third parties.
- 34-5 Application for operator's business license; contents
- 34-6 Age limit of licensees; residency requirement.
- 34-7 Taxicab license fee.
- 34-8 Liability insurance requirement.
- 34-9 Notice of cancellation of insurance
- 34-10 Issuance of license.
- 34-11 Identification markings.
- 34-12 Report of suspicious persons.
- 34-13 Vehicles from other areas.
- 34-14 Employment of driver without taxicab driver permit prohibited.
- 34-15 Revocation of taxicab driver permit.
- 34-16 Appeals.

Sec. 34-1. Definitions.

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

Taxicab means any motor vehicles used for or engaged in transportation of passengers for hire or compensation, except vehicles commonly known as buses.

Sec. 34-2. Compliance; exceptions.

No person shall drive a taxicab or engage in the business of operating taxicabs upon the town streets until that person has complied with this article. This article shall not apply to vehicles operating under a special franchise or to vehicles transporting person to or from school or college.

Sec. 34-3. Ownership of vehicle required.

It shall be unlawful for any person to engage in the business of operating or maintaining taxicabs in the town pursuant to a license issued in accordance with this section unless such person shall be the bona fide owner of the motor vehicle so operated or maintained. All such persons shall deposit with the town a copy of certificate or other satisfactory evidence covering each vehicle so operated or maintained.

Sec. 34-4. Lease of vehicles to third parties.

It shall be unlawful for any person to engage in the business of operating or maintaining taxicabs in the town, pursuant to a license issued in accordance with this section, to rent or lease any motor vehicle, the operation of which is covered under such license, to any other person without first surrendering to the town for cancellation the license covering the operation of such motor vehicle as a taxicab.

Sec. 34-5. Application for operator's business license; contents.

- (a) Any person desiring a license to operate a taxicab business shall file any application for a license upon a form furnished by the Town, provided that the license shall be issued within thirty (30) days after a written application has been made.
- (b) The application referred to in subsection (a) shall give the full name, age, and home address of the applicant and shall state whether or not he has been convicted of a violation of any town ordinance or of any state or federal law and, if so, the number of times, the dates, and the nature of the violations and all other information that shall be required.
- (c) If the applicant for a license to operate a taxicab business is a firm or corporation, the requirements of subsections (a) and (b) of this section shall be complied with by each member of the firm or by the principal or managing officer of the corporation in charge of actual operation of the business in the Town.

Sec. 34-6. Age limit of licensees; residency requirement.

- (a) No license for the operation of a taxicab business or a taxicab driver's permit shall be issued to any person under the age of twenty-one (21) years.
- (b) No license for the operation of a taxicab business shall be issued to any person who has not, for a period of six (6) months immediately prior to the date of the application therefore resided in the county.

Sec. 34-7. Taxicab license fee.

The taxicab business must pay a business license fee for the operation of the business plus an additional fee of twenty-five (\$25) dollars per year per taxicab.

Sec. 34-8. Liability insurance requirement.

No license shall be issued by the town to any person to operate a taxicab or other like vehicle within the town unless the vehicle is covered by a paid-in-full annual liability insurance policy with limits of at least \$100,000 per individual; \$200,000 per incident; and \$25,000 for property damage. Proof of such annual paid-in-full insurance coverage must be exhibited to the Town by delivering a copy of the liability insurance policy for each vehicle insured and a paid receipt for the premium indicating that the annual insurance coverage is paid-in-full.

Sec. 34-9. Notice of cancellation of insurance.

Each policy of insurance required under this section shall contain a clause authorizing and directing the insurer to notify the town of any cancellation thereof, and immediately upon notice of cancellation, the town shall revoke the license to operate a taxicab or other like vehicle within the town.

Sec. 34-10. Issuance of license.

- (a) The town clerk shall collect, correlate, and submit to the town council the application and all other reports of information and findings required under this section, together with a report of any additional pertinent information and a recommendation.
- (b) The town council shall review the application, finding, and report and recommendations and shall authorize the issuance of a license to operate a taxicab business if it finds that the applicant therefore has complied with all requirements of this section and is fit, willing, and able to perform public transportation and to conform to this chapter and that further taxicab service in the town is required by public convenience and necessity. In making these findings, the town council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant.
- (c) Upon authorization by the town council the town clerk shall issue to the applicant a license to operate a taxicab business upon payment to the town of the license fee required.

Sec. 34-11. Identification markings.

Upon the issuance of any license for the operation of a taxicab business, the licensee shall paint or affix to each side and the rear of each vehicle operated under his license, in letters at least two (2) inches high, the number of the license and the name of the holder thereof, or, in the alternative, he shall place on the top near the front a sign which may be illuminated designating the vehicle as a taxicab and giving the license number. Magnetic signs may be substituted for the required signs.

Sec. 34-12. Report of suspicious persons.

Every taxicab driver shall report to the police department any suspicious person or activity coming to his attention as soon as possible or immediately upon the discharge of any such person from his vehicle.

Sec. 34-13 Vehicles from other areas.

Taxicabs or other public vehicles for hire, having no town license or whose place of business is not in the town, may bring passengers into town but shall not solicit any passengers for any destination within or outside the town limits.

Sec. 34-14. Employment of driver without taxicab driver's permit prohibited.

It shall be unlawful for any person engaged in the business of operating or maintaining taxicabs pursuant to this section to permit the driving of such taxicab in the town by any person to whom a taxicab driver's permit shall not have been granted and currently in effect.

Sec. 34-15. Revocation of taxicab drivers permit.

A taxicab driver's permit shall be revoked upon bond forfeiture, guilty plea or conviction in connection with the violation of any town ordinance or state statute relating to the operation of motor vehicles.

Sec. 34-16. Appeals.

Upon the failure of the town to issue a taxicab driver's permit or upon the town's revocation of a taxicabs driver's permit, such aggrieved applicant or licensee shall have the right to appeal to the town council and be heard in connection therewith.

CHAPTER 35

HOSPITALITY TAX

PROVIDING FOR A LOCAL HOSPITALITY TAX ON THE SALES OR PREPARED MEALS AND BEVERAGES IN ESTABLISHMENTS LICENSED FOR ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES, BEER OR WINE

WHEREAS, the General Assembly of the State of South Carolina amended Title 6, Chapter 1, of the 1976 Code to provide for a Local Hospitality Tax, effective July 1, 1997:

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Town of Hemingway in Council duly assembled, pursuant to Section 6-1-700, et. seq. of the Code, as follows:

Section 35-1. There is hereby imposed a Local Hospitality Fee of two percent on the gross proceeds of the sale of prepared meals and beverages in establishments within the Town of Hemingway licensed for on-premises consumption of alcoholic beverages, beer or wine (hereinafter "vendor"). Payment of the hospitality tax established hereby shall be the liability of the customer.

Section 35-2. The tax imposed by this ordinance shall be collected from the customer when payment for meals or beverages is tendered and shall be held in trust for the benefit of the Town until remitted as provided in Section 3 below.

Section 35-3. (Amended 9-13-2012) Payment of the hospitality tax established herein shall be remitted by the vendor to the Town of Hemingway on a monthly basis, along with such return or form as may be established by the Town for such purposes, not later than the 25th day of the month and shall cover the tax due for the previous month. Any tax not timely remitted shall be subject to a penalty of five (5%) percent of the sum owed for each month or portion thereof until paid. The failure to collect from the customer the tax imposed by this ordinance shall not relieve the vendor for making the required remittance.

Section 35-4. The failure of any vendor subject to this ordinance to remit to the Town the tax imposed by the provisions of this ordinance shall constitute a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for up to thirty (30) days, or both.

Section 35-5. There is hereby established a special account to be known as the Local Hospitality Tax Account into which the taxes remitted shall be deposited by the Town and used solely for the purposes provided by law.

Section 35-6. This ordinance is subject to the constitution and the laws of the State of South Carolina. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 35-7. This ordinance shall become effective on February 9, 2012.

DONE AND RATIFIED IN COUNCIL DULY ASSEMBLED, BY POSITIVE MAJORITY,
THIS 9TH DAY OF FEBRUARY 2012.

1st Reading: December 8, 2011

2nd Reading: February 9, 2012

Hospitality Fee

Listing Of Included & Exempt Items

INCLUDED ITEMS	EXEMPT ITEMS
• Produce cut, sliced, cored, or modified in store • Salads made in store • Sandwiches/Subs prepared on site • Bakery items cooked/baked on site • Coffee brewed in store • Seafood steamed/cooked on site • Grilled hamburger and hot dogs • Packaged dinners cooked on site • Fountain drinks • Any food prepared or modified on site by employee or contractor • Any food cooked on site • Any prepared foods or meals that are subject to South Carolina sales tax • Any served beverage, inclusive of beer, wine and liquor • Ice Cream Parlors	• Canned or bottled drinks sold on site from vending machines • Canned or bottled drinks which are not sold for immediate on-site consumption • Fruit consolidated into a basket • Items repackaged in store for bulk sale but not prepared or modified for immediate consumption • Pre-packaged dinners that are not cooked or modified on site • Pre-packaged cans, boxes, or jars of food • Bags of chips, pretzels, nuts, candy or other pre-packaged food items

- **Sec. 36-1. - Tax imposed.**

A local accommodations tax of two (2.0) percent is created and is imposed on every person that is engaged in the business of furnishing accommodations to transients for consideration within the municipal boundaries of the Town of Hemingway.

- **Sec. 36-2. - Tax further enumerated.**

A uniform fee equal to two (2) percent is hereby imposed on all gross proceeds derived from the rental or changes for any rooms, campground spaces, lodging, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. 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. This fee imposed by this section shall not apply to additional guest charges as that term is defined in S.C Code 1976, § 12-36-920(B).

- **Sec. 36-3. - Payment of tax.**

Payment of the local accommodations tax shall be the liability of the transient(s) described in [section 36-2](#). The local accommodations tax shall be paid at the time of delivery of the service to which the tax applies and shall be collected by the provider of the services, and shall be held in trust by the provider until remitted as provided herein.

- **Sec. 36-4. - Collection of tax; remitting tax to local governing body; frequency determined by estimated average amounts.**

(1) The local accommodations tax imposed by this section is due and payable in monthly installments on or before the twenty-fifth day of each month. Every person liable for the fee shall make a true and correct return to the town in such form as it may prescribe and remit the fee therewith. A return is considered timely filed if the return is mailed and has a postmark dated on or before the date the return is required to be filed.

(2) Any person violating any provision of this article shall be deemed guilty of an offense and shall be subject to punishment upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent fees, penalties, and costs provided for herein.

(3) In case of a failure to make a true and correct return or a failure to file the return, the town shall make a return upon such information as it may be able to obtain, assess the fee due thereon, and add a penalty of ten (10) percent, whereupon the town shall mail notice to the person liable for the fee and, in the case of failure to pay the fee within ten (10) days after the mailing of any such notice, the town shall add an additional penalty of ten (10) percent.

- **Sec. 36-5. - Inspections and audit.**

For the purpose of enforcing the provisions of this section, the license inspector, or another authorized agent for the town, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations, and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours written notice. In the event that an audit reveals that the remitter has filed false information, the costs of the audit shall be added to the correct amount of fees determined to be due, in addition to the penalties provided herein. The Town Clerk, or another authorized agent of the town, may make systematic inspections of all businesses within the town to ensure compliance with this section. Records of inspections shall not be deemed public records.

- **Sec. 36-6. - Penalties.**

It is a violation of this article to:

(1) Fail to collect the local accommodations tax;

- (2) Fail to remit to the town any local accommodations tax collected;
- (3) Fail to file a local accommodations tax return;
- (4) Knowingly provide false information on a local accommodations tax return;
- (5) Fail to provide books and records to the Town Clerk, or other authorized agent of the town, for inspection, examination, or audit after seventy-two (72) hours written notice.

- **Sec. 36-8. - Administrative fee.**

The costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one (1) percent.

- **Sec. 36-9. - Local accommodations tax account.**

The revenue account to be known as "Town of Hemingway Local Accommodations Tax Account," shall be established and all revenues received from the local accommodations tax shall be deposited into this account. The principal and any accrued interest from this account shall be expended only as permitted herein.

- **Sec. 36-10. - Permitted uses of funds.**

The town council is hereby authorized to utilize the funds collected from the imposition of the local accommodations for the following purposes:

- (1) Use of revenue from local accommodations tax.
 - a. Tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;
 - b. Tourism-related cultural, recreational, or historical facilities;
 - c. Highways, roads, streets, and bridges providing access to tourist destinations;
 - d. Advertisements and promotions related to tourism development; or
 - e. Water and sewer infrastructure to serve tourism-related demand.
 - f. Any other use that will be accepted by state law.

- **Sec. 36-11. - Authorization for use.**

Authorization to utilize revenues from the local accommodations tax account shall be approved by the Hemingway Town Council, duly adopted by the town.

Be it ordained by the Mayor and Town Council members of the Town of Hemingway.

1st Reading : September 10, 2015

2nd Reading : October 1, 2015

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